

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 29th SEPTEMBER 2010

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

[9:36]

### **PUBLIC BUSINESS – resumption**

#### **1. Recycling of waste materials: identification of suitable sites (P.97/2010) (continued)**

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

Very well, we return to the debate on projet 97, the proposition of the Deputy of St. John and I have seen next Senator Perchard.

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

Sir, sorry, just before we commence, can I just ask to make a note that unfortunately I cannot be present for much of today because I am attending the examination in public on the Island Plan. The dates were changed. I appreciate it is not strictly States business but just for the record, just so Members know where I am. Can I also make a note that tomorrow I am also, for part of the day - possibly like yourself - involved with the official parties with the visit of the Princess Royal.

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

Can I also say exactly the same as the first part of that. I will be away at the Island Plan.

##### **1.1 Senator J. L. Perchard:**

If Members are like me, when a proposition arrives in the post you have a quick look at it and this is one I looked at and I thought: “Yes, very good” and on closer examination the other day I, like the Chief Minister, had my reservations. I am a little cautious about it. Why I am cautious is that the proposition clearly requests that we identify a single area of land that has to be in public ownership. I am confused by that. Why a single area of land that has to be in public ownership? Surely we want the best possible area of land suitable for recycling? Or maybe more than one area of land, not a single area. Recycling on an industrial scale is usually a bad neighbour and it may be that the best sites are not in public ownership. Reference in this debate thus far has only been made to the recycling on inert waste but, of course, as we know, there are many forms of recycling that need space, green waste, cardboard, plastic, cans, furniture, household goods, cars, vehicles and industrial equipment to mention just a few, not to mention the sticky subject of food waste. If we are to be practical here today, we will recognise that all these various types of recycling activities need to be undertaken on the Island and will need more than one site. But, on balance, when I read again the proposition this morning, this proposition does not prohibit the search for the right sites and more than one site. It strangely requests the Ministers to look for one site in public ownership but, as I say, it does not prohibit the search for other sites. So with that in mind I will support the proposition but I am suspicious that ... I offer a word of warning, recycling of any material, it seems to me, should be undertaken by the private sector. It is not an area where the public sector should be involving itself. This is not a role of Government. When I read the proposition it does imply the Government wants to put its heavy hand in here. I say that the Ministers should go away, identify any viable sites and give planning consent, detailed specific planning consent, for what activity can take place on that site, and encourage the private sector to go out and be competitive and do a good job of recycling, and pass on this work from the public sector into the private sector. So with that, I will be supporting the proposition and I urge Members to do the same because this proposition does not prohibit the search for the right sites and multiple sites.

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

It still surprises me, although it should not having been here 17 years, that there does appear to be a collective amnesia expressed by this Chamber when it suits us. I have forgotten what I am going to say next, there you go. Seriously, we just had Senator Perchard tell us that waste recycling or

whatever, in any shape or form, is not a role for the Government. So where was he in 2005 or 2008 or 2009 when we were discussing the waste strategy for the Island and outlining responsibilities not only for the Planning and Environment Department but for Transport and Technical Services in helping to deliver higher recycling across the board? To refresh some Members' minds - and some of these things were alluded to by Deputy Le Claire yesterday - there are 3 streams that this House has decided it wants to be involved with. The first one, in P.72/2005, it states that the solid waste strategy committed the department - that is T.T.S. (Transport and Technical Services)- to developing an enclosed composting facility and a vote of £4.212 million was allocated. It was £4.212 million that was allocated. The comprehensive site evaluation process considering over 30 private and public sites all over the Island, the very thing that is being called for by the Deputy of St. John, was undertaken and confirmed that La Collette was the preferred location for the composting operation by Ministerial decision in November 2007. It went on further to bind this House and the department to deliver through a planning application to be submitted at the earliest possible opportunity with construction commencing - this is of composting facilities - in 2009 on the approved site, the recommended site, and the improved facility operational during 2010. Since that time what have we done? Well, we have backtracked - and this is the fundamental point I want to make - we have backtracked collectively, independently and individually on this House having made the decision to provide this facility by a particular point in time. It has been done in a fashion that was not picked up by very many Members, if any, through the withdrawal of the monies and the funding in a previous business plan in terms of the capital allocations and were left in limbo. Now, are we the Government or are we not? It strikes me that when individual departments - and I am not pointing any fingers here by any means - collectively decide that they do not wish to deliver on something that the States have collectively decided then these issues are just put on the shelf and allowed to expire, hopefully without any comment from Scrutiny Panels or any other Members until such a stage as we can move on to where the departments wanted to be in the very first place. That is not good Government. It might well be for the individual departments because they get their own way, but certainly in terms of what we are doing here collectively deciding on what we are going to do, I think we are probably wasting our time in that respect. That annoys me, particularly when the public are upset that we are being paid to spend time in this House to effectively contribute - value adding - to the decision-making in a way that justifies our remuneration. If indeed being here does not mean anything and decisions are going to be taken by the House only to be ignored then there is not much point. Likewise, within the operating rules of the House we do not have any system ... and perhaps it is something that the P.A.C. (Public Accounts Committee) or the P.P.C. (Privileges and Procedures Committee) can pick up in terms of having a list which is kept up to date by all the individual departments to advise any States Member at any particular time of their term of office which decisions having been made in the past have been carried out.

[9:45]

Perhaps it could be something for scrutiny to consider. There should be a register, I feel, to tell us at any point in time what we are not delivering on that has been collectively decided upon. So where am I going on this? Not only did we decide to have a spanking new facility for composting green waste in the most sustainable fashion possible, and we have gone back on that, we also decided in 2005 and 2008 to introduce a new permanent re-use and recycling centre collecting recyclables and the public green waste by 2011. Again, if you look in the budget plans, although there has been an attempt - which has been gratefully received by the T.T.S. - to provide a stopgap situation at Bellozanne to allow the public to bring greater quantities of recyclables to be recycled in the most sustainable fashion, that is not a permanent re-use centre. That was envisaged to allow a second thing that we decided upon, which was a bigger facility to allow commercial opportunities to be afforded by European and international recycling companies to tender for the construction or the operation of an all-singing, all-dancing recycling centre. Out of which would have given us the

opportunity - because I do not think it is going anywhere at the moment, there are no monies, it is not in the look-forward things to be delivered, and we have not identified a particular site - for this Island at some future stage to come forward with recommendations to increase the amount of recycling that takes place on the Island, to increase our green credentials and, indeed, to save a stack of money because burning waste does cost money. Recycling: generally at the moment, why are individual commercial operatives getting involved? Because they can make money out of it. If they can make money then I think it is incumbent upon this House to encourage, if that is the only thing we can do, those commercial opportunities to take place working with other bodies within the Island and indeed something else that we agreed to, which was to be working and investigating opportunities to bulk-up the amount of materials that could be recycled by working with Guernsey and other partners. Again, we do not appear to be doing much of that. So we agreed that there was going to be a further recycling of commercial waste, including separation of cardboard, metal and timber on a significantly larger scale through separate collections at separation by 2011. It is not there. We also decided ... so before T.T.S. come back and tell me: "Well, we have got the centre for recycling" it was to provide a recycling centre for the reception and recycling - and this is further recycling - to enhance those opportunities which I do not think can be applied to what we are doing at Bellozanne completely. What else did we do? Yes, and here is the good one... and this is something that the Deputy of St. John has missed, and I do not blame him because he has been out of this House for a while, perhaps he did not do the right trawl. But item 8 in the proposition that was agreed in 2005 was that it was incumbent upon the committee to be charged to develop improved aggregate recycling facilities and bring forward for the approval of the States proposals for a future inert waste disposal site. If I am not wrong that is the very thing that the Deputy of St. John is asking us to do today, and quite rightly. But the essence of the point I am hoping to make, and hoping to have made, is that this House does itself no justice in taking significant decisions, spending large hours of debating time and officer time, and everybody else's time, going around and around in circles trying to value add to the best possible, and then to just throw the papers in the bin and forget about where we are. There has to be a better way. I am not convinced that necessarily having, as has been mentioned by the Chief Minister, a single site for everything is the best way forward. I think there might well be difficulties and, indeed, when the research was being undertaken by the various bodies who looked into the provision of these 3 separate facilities, it was stated on many occasions that perhaps more than one facility was the better way to do it. Not least of which to minimise the emissions of transporting vehicles for the public taking their materials to whichever site it was going to be, or to minimise the intrusion of all of those vehicles into perhaps more urban areas and to provide the kind of disturbances that those residents would not appreciate. But that said, these are meat and drink issues to the Island Plan review. I also find it strange that within the mineral strategy section ... and that was another report that was produced and put on one side for whatever reason and still has not seen the light of day in terms of debate in this Chamber, although elements of it have been incorporated into the new Island Plan, and rightfully so. Within that there were suggestions that a particular quarry in the middle of the Island should be the centre for the recycling of inert materials. Now, unless that has changed, unless we are not going there, this perhaps could accommodate the wishes for the Deputy of St. John and, indeed, to all of us when we decided that this is what we wanted in 2005. But it is not certain, has not been put to bed, and I do not know because it is a commercial property whether or not it is the intention of the States through Planning gains or functions or permissions to encourage the facility to be used in that way perhaps by purchasing the quarry at great public expense when the quarrying facility has been extinguished. That said, the left hand still does not know what the right is doing because in the last couple of years we have given permission to this quarry in the centre of the Island to continue to mine and cut stone into the near future. So all of this really points to the fact that I really do not think we know what we are doing half the time, and when we do think we know what we are doing and we have decided on things, then those decisions, if the individual departments or perhaps the Ministers or perhaps whoever pulls the strings in some of these things decides that it was not really the thing that was desired, these things do not happen. So

I am making a plea - I think there is room certainly within the discussions that are being undertaken down at La Collette and the harbour - to look again through the planning process to see whether or not some type of commercial thread, which is apparently supported by Transport and Technical Services, to facilitate the bulking-up of waste materials for shipping and to reduce prices should not be further considered. But I do know that because we do not have an overall strategic planning guidance that is expressly delivered by the Planning Department, and in a lot of cases the Planning Department is not particularly involved and a lot of these decisions have been taken by the other commercial quango bodies that the States have set up. I think, perhaps, that if indeed those bodies are the ones who are actually the prime motivators for delivering particular policies and the bottom line is the finances of the scheme, then I think the wider picture in terms of the benefits to the Island might well be forgotten about, to the detriment to the Island. I think, in summing up, I can support the generality of the 3 departments working together to deliver what they decided they should deliver in 2005, but it might well be that the wording as put forward by the Deputy of St. John needs to be selectively interpreted in order to allow perhaps consideration of multi facilities to take place if indeed the opportunity for providing one all-singing, all-dancing site to do everything - which we probably all know in our heart of hearts is more difficult to achieve, and perhaps that is the game plan - then that might be a better way of dealing with it. So I think we should support this and I hope Members will.

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

May I ask the Minister for the Environment, who has just spoken, to compile those documents that he has spoken from today and circulate them to us in a small report so some new Members who were not present at the time can be aware of the decisions that have already been taken, please?

**The Bailiff:**

Deputy, will you be willing to do that?

**Deputy R.C. Duhamel:**

I thank Deputy Le Claire for the promotion. I am Assistant Minister for the Environment but I am happy to provide any of the documents that I have mentioned, yes.

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

I am minded to support this proposition although, like Senator Perchard, I am concerned at the narrowness of it. Restricting it solely to publicly-owned sites does rather limit the field, if you will excuse the pun. Senator Perchard also said that it is not the role of Government to be involved in recycling and I agree, but it is definitely the role of Government to be involved in identifying and - at the planning stage - accepting whether a site is suitable. So we are involved in the round, in the system. As Deputy Green said yesterday ... **[Aside]** As he said yesterday, this House has committed itself to recycling, not necessarily to doing the recycling work itself but it has committed itself to try and encourage and promote recycling. I think that this particular piece of work would be a good start down that path. I know that the Deputy of St. John and I have been involved in talking about sites for various recycling plants in the past and maybe I could suggest that the 2 departments, as Deputy Duhamel has pointed out, have an extensive amount of paperwork on this subject and maybe they could recycle them and produce this report.

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

I really feel we are making heavy weather of this particular proposition and it almost seems embarrassing that it does not appear that the Ministers are talking to each other. We have had the Minister for Planning and Environment stand up and support it. We have had the Assistant Minister with responsibility for Environment getting up and saying he supports it. I just wonder really why we are spending that amount of time. I also should mention that we are not reinventing the wheel. Deputy Duhamel - I mentioned this last night and it will save me repeating it because he did not say it this morning - was a member of the Planning Committee some 15, 16 years ago; the

former Senator Tomes was a member of Property Services in those days and I was a member of the Agricultural and Fisheries Committee, and the 3 of us were tasked with going around the Island to identify satellite composting sites, and we did so. That was done without the need of coming to the House, it was a commonsense approach. We identified it; indeed we did have these satellite composting sites around. A lesson was learnt because they were successful at the start to a degree but really it was found at the end of the day that it is probably because you needed a certain amount of utensils to make the actual composting work we eventually had a more central site. However, what I am trying to get at is we are not reinventing the wheel; I cannot see why we are really spending all this amount of time when I think the general consensus is this is a commonsense proposal. I agree, as I think Senator Perchard and one or 2 other Members have mentioned, that it might need tweaking because I think if we can identify a better site which is in private ownership then that may well be one of those that can be put forward. But really, Members, I would ask that... in fact, the Chief Minister is not here, nor the Deputy Chief Minister, but can someone on the Council of Ministers please accept this to save us wasting our time. Thank you.

**The Bailiff:**

The alternative way, of course, Deputy, is for no further Members to speak and move to the vote. Deputy Tadier.

[10:00]

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

In some ways you feel that Members cannot win because if they bring a proposition which is too broad it is told to be exactly that, that it is vague and they want to pin the Member down; and then if it is too specific or something is not quite right the more pedantic of us will say that we are providing a straitjacket for Members and that we cannot support it. I think if we look at the wording here... and we are simply being asked by the Deputy of St. John to identify an area of land - okay, in public ownership which I know certain Members are uncomfortable with - but that is really all it is asking us to do and when that has been done, to come back to the States and to work on it from there. So it is really not asking us to do it all now, it is really just trying to move things on. As we have heard from Deputy Duhamel, in the past the States have been slow on this issue and even not really fulfilled their obligations. I think irrespective of what previous decisions were in the States, it is quite obvious that the States do have an obligation, even if it is just in the organisation of recycling, to have a hand in that. We know we already do that. We provide facilities, we provide - even at Parish level - for rubbish to be collected and for some of that rubbish to be recycled. So I think to say that the States should not have any part in recycling is clearly not true. We already do. Okay, the States in the current climate are not going to be able to undertake the last mile, so to speak, of recycling but of course we know that the public/private partnership is going to have to continue and it is going to have to be strengthened, I think, if recycling is to be done at its optimum level. I do have a couple of questions though that I would like to seek clarification on from the Deputy of St. John. I am not fully sure at the moment of how the public and private aspects will work, so if a public site is identified what will happen to all those numerous private sites around the Island? Will they be obliged to only operate from this one site under contract? Because that seems problematic; I am not sure if that is what the Deputy is proposing or if it would simply be a central hub where the public can go to or whether it is where rubbish which is collected at the Parish level for recycling is taken to that site and how the 2 will mesh, so to speak. We need to be aware, even at this stage, of the unintended and intended consequences of that. On a more general point of recycling, I do have to ask ... we do seem to need to continue to have a more joined-up approach. It is great in my opinion that some of the Parishes have a kerbside collection scheme and that is what I think needs to be promoted in Jersey right across the board. We know that it has happened in many countries and we have had these debates before with examples of Canada being given where for the last 20 or so years they have already had different



crates which they put out on different days, and other jurisdictions have just one box of recyclables which then get taken away and sorted. It is a lot easier. To make recycling the optimum value it has to be done on as large a scale as possible. So what I would like to be seeing... and this is probably for another time but from the Minister for Transport and Technical Services is to see if we can have an Island-wide service rather than having eventually 12 Parishes with their own little service for kerbside collection; if that can be done on an Island-wide basis on a rota. It would be interesting to see how this site, if and once it has been identified, could be used for that purpose. So I think that question: I would like to know about how this would mesh. I would also ask how the Scrutiny Panel feels about this proposition. It is not a criticism by any means but I would like to know perhaps why the Deputy thought of lodging it individually rather than as a panel. Of course, that is his prerogative but whether the panel is supportive and what their wider thoughts on the issue are.

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

The Connétable of St. Mary indicated that she had put her light on before me so I am quite happy to defer to her.

**The Bailiff:**

I am sorry, I had not spotted it.

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

I have been trying to get your attention.

**The Bailiff:**

I do apologise. You can go next then.

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

Can I give the Assembly notice that I am going to propose the closure motion under Article 84. We do seem to be making an awful meal of this.

**1.6 The Connétable of St. Mary:**

I am grateful to the Constable of St. Brelade for allowing me to go, this will be very quick. I have been listening very intently and the speeches of Senator Perchard and Deputy Duhamel made a great deal of sense to me. I certainly did not need to be reminded of many of the things that Deputy Duhamel said, having been involved in some of the consultations. This proposition is not doing what people think it does. This is simply ... and I am sorry to say this to Deputy Tadier but we do need to go by what the wording of the proposition is. This is asking the 3 Ministers concerned to look at a site already - a site, one site - in public ownership. My concern is, as has been mentioned, we have to find the best site. The best site may in fact be one or 2 other sites, it may be a combination. The sites need to be readily accessible. We are talking about large vehicles; we are talking about large amounts of material. It may well be that the recycling cannot be done on Island for some things that we choose to recycle; therefore, we should be near a transport link or at least somewhere where we are not moving material from one side of the Island and then moving it back again. We have to consider very carefully what we do here. We have to consider the best site. The best site may simply not be in public ownership yet or in the future. I cannot understand why we would seek to limit the focus of any work the Ministers might do to search for one site on public land. That seems to me to be fettering them when they could be spending the time and resources looking for the best site. This is a seductive proposition and I will not be supporting it. Thank you.

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

It is, I think, incumbent on me to explain a load of rubbish. In fact what I mean by that is the nature of this business, because I think it is quite important that Members do understand what this particular area the Deputy is focusing on is all about. Effectively, this is about mixed loads and the

report which Members will have received last week regarding the skip operation did comment on the fact that there had been a policy change which had developed the situation. This is not quite the case. In effect, my department started charging what it was costing to receive mixed waste and at present it is £120 for a mixed skip at Bellozanne. This, of course, has driven those who feel they can provide the service at lesser expense to provide it from whichever property they have at their disposal. I do not think it is incumbent on the States to be subsidising that operation. There is a cost to providing an operation successfully and commercially and we cannot be seen, in my view, to support any operation which is not doing it in the proper way. I fully concur with the Chief Minister it is not the business of the States to identify a publicly-owned site and interfere with the ways of commerce. Commerce will find its own level and I think it is important we do stand back from that. Notwithstanding that, I think it is important that my department and Planning and Property Holdings are in communication. I see nothing wrong with that. Members must also understand that any waste-related operations are challenging and generally not welcomed by the community surrounding them. I think I heard Deputy Duhamel mention having identified compost sites throughout the Island. Well, they have all been contentious, there is no question about that, and I recall well the contentious response from residents of Clos Saut Falluet in the Parish of St. Peter when composting took place on the site adjacent to the airport. Certainly not welcomed locally. As Members may recall, due to the fuel farm hazard risks at La Collette my department undertook a similar exercise to review all sites in States ownership with the suitability to become a green waste reception site. This resulted in a temporary solution in Bellozanne Valley with a longer term proposal at Warwick Farm. Both locations were chosen not because they were suitable but because they were the least worst options. This example highlights the issues with any waste-related process, and I have sympathy with the industry which is trying to operate within the Island. My department does not control States land, that is the responsibility of Property Holdings, but we are currently reviewing our land use and property and need to meet our C.S.R. (Comprehensive Spending Review) targets, as do other departments, to consolidate our operations on the various sites. This may, in the near future, free-up some land. This land will then be utilised by Property Holdings to generate income and has to be charged at commercial rates. Why should it be subsidising any specific area of the private commerce in the Island? The 2 main areas where waste operations occur are La Collette and Bellozanne. La Collette is currently in a state of change and has very little scope for additional operations. I am happy to show Members around at any time to demonstrate this. Next year Bellozanne will stop operating the Energy from Waste plant and my department is currently redesigning the public recycling areas to enhance the facilities and provide a more efficient service. In doing this we will free-up some space within the valley where the temporary green waste reception site is located at gate 14, and any reuse of this site would require planning and I believe, quite rightly, would cause a great deal of objections from the residents who have been very understanding about the green waste operations. I did receive, as did other Members, a letter from residents living next to a skip operation in St. John and I note not one but 2 lawyers had appended their names. I can understand why the Minister for Planning and Environment feels aggrieved that he has been pummelled by the recent report, which in my view his department was simply trying to help out. The saying: "You cannot please all of the people all of the time" certainly pertains here. We must be careful not to buckle to what must be described as N.I.M.B.Y-ating (Not in My Backyard) from perhaps rich lawyers in St. John, dare I say, at the expense of the inhabitants of areas such as Bellozanne Valley and Clos Saut Falluet and Warwick Farm. We have to take the broader view. Clearly the Deputy has answered the request of his constituents - and I fully understand and respect that - by bringing this proposition, but I consider that we have an obligation to look at the whole Island. While recommending that Members reject this proposition I invite the Deputy, as Chairman of the Environment Scrutiny Panel, to come and look at the information already in my department and understand better the present situation and assist in the difficult process of finding suitable sites and - as the Deputy of St. Martin says - adopt a commonsense approach to this difficult problem. Thank you.

**The Bailiff:**

Does any other Member wish to speak? Very well, I call upon the Deputy of St. John to reply.

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

I am pleased that Members have had time overnight to reflect. Several Members, including the last speaker, are quite negative in their response and they are still, in a lot of cases, living in the dark ages. I was on Public Services as the Vice-President at one time and I do know the problems with recycling and all that goes with it, having had responsibility in a number of areas, at the same time working alongside Deputy Duhamel and many others. So all I am asking is for the 3 departments to review sites across the Island. Whether the proposition may seem narrow ... it does say, in fact, sites if you look at the last line: "... across the Island and identify the details of suitable sites identified for this purpose". That is the exact last line. I want what is best for Jersey. Given my background as a plumber, the way I put things down in writing may not be quite as correct as somebody who works in a lawyer's office and the like. That said, I think Members got the gist of what I am trying to do. Well, I am sure they did because it has been picked up. What we require ... nobody is asking for a site for nothing. People are prepared to pay. What we require is a skip sorting area where people can come along and they can sort their skips legally. We need to help the Minister. The Minister quite clearly said yesterday that he was happy ... the Minister for Planning and Environment was happy to take this on board and work with T.T.S. and with Property Services to try and locate an area within the Island to make this happen. I have not heard anybody from Property Services speak this morning; they may have done but I do not recall them speaking on this.

[10:15]

The only person, of the 3 departments I have mentioned, who has been against in fact is the current Minister for T.T.S. I thank the Minister for having invited me to go and have a look at his files but I am sure they have only increased by that much since I was on that particular committee. I note that Deputy Montfort Tadier asked about sorting the skips. Yes, once again the site would be for sorting skips, not for running businesses continually. So people could actually go down there and legally rent an area that can be charged at commercial rate for sorting skips. Not for running big operations out of, it is a sorting area. That is what we are talking about here. We are not talking about something covering tens of vergées, we are talking about ... and if you look at the Yellow Pages of the telephone directory where you only see 16 or 17 actual skip companies, most of those have got sites of their own which are in the white area, i.e. which are legitimate. There are several which are in the grey area or the black area which are operating legally on a site but that site is not permitted to sort. So these companies need somewhere to sort their waste so that we could all be singing from the same hymn sheet. Really, Members, we want to do what is right. We signed up in 2005, again in 2008, to do recycling and yet I hear the Constable of St. Mary basically saying you do not have this quite right. I am saying look at the bigger picture. Go out there, look at the big picture, think back. I know in St. John we do our recycling in a certain way; other Parishes do it somewhat differently. Other people will be taking on board kerbside collection and breaking apart over the next 2 years, from 2011 onwards. I have heard various Constables tell me this. Therefore, we will need certain areas. It is not for us to bury our head in the sand, as has happened to date. As I mentioned yesterday, we saw it with the waste vehicles. We saw it with the recycling of aggregates which was all happening out in the countryside, and we saw it with the green waste. That has all come under - at the end of the day - the mantle of T.T.S. where things are probably organised. You cannot be doing this 24/7, there are times when you get rid of your waste and the public get used to doing these things. We cannot have skips being sorted 24/7, day and night and creating problems for neighbours. We need this control so if you have got a skip sorting area that is under the ambit of a States department to control the hours, they will charge a rate which gets passed on to the consumer at the end of the day. All this is chargeable, so Members do not tell me

or other Members that this is going to be a cost to the Island. It is a cost to the Island to go and dispose of waste at La Collette. At the moment there is a gate charge. If somebody wishes to use our facilities for sorting there would be a charge. Therefore, I believe we have had a good debate on this and I am going to ask for the appel. Thank you.

**The Bailiff:**

The appel is asked for then in relation to the proposition of the Deputy of St. John, projet 97. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 31</b>		<b>CONTRE: 11</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator T.A. Le Sueur		
Senator B.E. Shenton		Senator P.F.C. Ozouf		
Senator F.E. Cohen		Senator T.J. Le Main		
Senator J.L. Perchard		Senator A.J.H. Maclean		
Senator A. Breckon		Connétable of St. Brelade		
Senator B.I. Le Marquand		Connétable of St. Mary		
Senator F. du H. Le Gresley		Deputy S.S.P.A. Power (B)		
Connétable of St. Ouen		Deputy K.C. Lewis (S)		
Connétable of St. Helier		Deputy A.E. Jeune (B)		
Connétable of St. Martin		Deputy E.J. Noel (L)		
Connétable of St. John		Deputy J.M. Maçon (S)		
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy 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. Pitman (H)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				

**The Deputy of St. John:**

Could I thank the Members, those who voted for, those who spoke against. It is good to be in a democratic assembly.

**2. Terrorist Asset-Freezing Bill: extension of a clause to Jersey (P.105/2010)**

**The Bailiff:**

We move next to the Terrorist Asset-Freezing Bill: extension of a clause to Jersey - projet 105 - 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 signify, pursuant to Article 31(1)(a) of the States of Jersey Law 2005, whether they agree that a provision of the Terrorist Asset-Freezing Bill of the United Kingdom Parliament should be made that would, when the Bill comes into force, prolong the duration of the Terrorist Asset-Freezing (Temporary Provisions) Act 2010, as it relates to Jersey, until 31st March 2011, as summarised in the report of the Chief Minister dated 16th July 2010.

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

This is a relatively straightforward proposition, although it may appear slightly confusing. Earlier in the year a case was heard in the U.K. (United Kingdom) Supreme Court as a result of which their current terrorist asset-freezing legislation was deemed to be inadequate and *ultra vires*. Accordingly, they are proposing to draft a new law and our policy has been to match such a law because we want to share with them our concerns and our stance against terrorist activities and money laundering. So this clause really gives effect to enabling arrangements while the U.K. changes its legislation. The U.K.'s objective is to have their legislation in place by the end of this year, December 2010. At the moment that legislation is going through various iterations in the U.K. and it would not be appropriate for us at this stage to give instructions to our Law Draftsman until we are clear what the U.K. law was because we wanted our legislation to mirror what is required by the U.K. Because the U.K. legislation is likely to be in place by the end of December, I estimate it will take a further 2 or 3 months before we can get the wording of our legislation drafted and hence the proposition is that we should allow this to carry on until 31st March 2011. Clearly we do not want to let it drift for too long because we do not want to be out of step or seen not to be supporting the U.K. in their legislation process. They fully understand the problem we have here between the 2 dates and the timing and so I hope Members do as well. I make the proposition.

#### **The Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? Very well, all those in favour of adopting the proposition, kindly show? Those against? The proposition is adopted.

### **3. Draft Drug Trafficking Offences (Amendment No. 3) (Jersey) Law 201- (P.106/2010)**

#### **The Bailiff:**

We come next to the draft Drug Trafficking Offences (Amendment No. 3) (Jersey) Law - projet 106 - lodged by the Minister for Home Affairs. I will ask the Greffier to read the citation.

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

A law to amend further the Drug Trafficking Offences (Jersey) Law 1988. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

### **3.1 Senator B.I. Le Marquand (The Minister for Home Affairs):**

In Jersey we have 2 agencies in relation to enforcement in relation to illegal drugs, namely the States of Jersey Police Force and the Customs and Immigration Department. The original law in 1988 made provision for a police officer - but the definition of police officer was wide enough to cover a customs and immigration officer - to make an application to the Bailiff for certain orders in connection with drug money laundering matters so that they could obtain either customer information, which is information about a bank account, or an account monitoring order, which is information about the details of what is in the bank account. But when the original law was passed for some reason reference was only made to an application being made by a police officer on or above the rank of Chief Inspector and no provision was made as to what rank of customs officer could make the similar application. The purpose of this law is simply to fill that gap so that now customs officers of a particular rank, which is the rank of Assistant Director, could make the

application to the Bailiff in order to obtain the information. So in one sense it is a very small technical piece of legislation simply to allow customs officers to do what police officers can do in case the need arises in relation to one of the investigations that we are involved in. I have considered, in detail, the human rights implications of this and the approach that one takes to this depends upon whether one merely views this as technical and allowing a particular grade of officer to do this or whether one looks at the wider issue of the original law, because the original law was not subject to a human rights audit. But in order to keep Members, and particularly the Deputy of St. Martin, happy I am now going to indicate what the human rights implications are. The first is under Article 8 which is the right to respect for private and family life. The position is that fundamental safeguards exist in relation to the application. It has to be made to the Bailiff with the consent of the Attorney General and there are requirements to show detailed grounds for an order. It is consistent with other Jersey legislation on entry and search powers. The powers are proportionate and are prescribed in domestic law and are in pursuit of a legitimate purpose and aim, or a number of those, namely public safety and the prevention of disorder or crime. There was a second subsection, second Article, under human rights and that is protocol 1, Article 1, protection of private property, and exactly the same criteria apply as I have already outlined in relation to Article 8. So, as I say, all this is doing is allowing customs officers of the rank of Assistant Director - which is incidentally the third most senior rank in the Customs and Immigration Department, so that is a pretty senior rank - to make either of these applications to the Bailiff, and proper safeguards exist in relation to these. So I make the proposition in principle.

**The Bailiff:**

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

**3.1.1 Deputy J.B. Fox of St. Helier:**

I support this proposition because I think it is very important that we can provide the broadest base that we can on dealing with this subject of drugs, *et cetera*. The only thing that I stand up for is to ensure that we do not lose out any continuity of information between the respective enforcement agencies, which is a problem that we experienced in the past, and I would hate to think that someone was investigating something and the other did not know about it and affected the end result. That would be the only observation I would make, but apart from that I would support it fully. Thank you.

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

Just a short speech. I concur with what Deputy Fox had to say. I think it is important that there is a good working relationship between the customs and the police and I understand that is now the case. I would also like to thank the Minister for Home Affairs for explaining the human rights. It does not really hurt, it does not take a lot of trouble really, but it makes us look so much more efficient and I am grateful for it. Thank you.

**The Bailiff:**

Does any other Member wish to speak? Senator, do you wish to reply?

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

There is provision in place for sharing of information through what I think is called the joint intelligence bureau. I hope I have the right name there. Although there are separate information systems kept by the police and by customs, there is a sharing mechanism available, I can assure Members of that. So I maintain the proposition in principle and call for the appel, or perhaps that is unnecessary, I do not know.

**The Bailiff:**

It is up to you, Minister.

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

Let us try the appel.

**The Bailiff:**

Very well, the appel is called for then in relation to the principles of projet 106. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 32</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator T.J. Le Main		
Senator B.E. Shenton		
Senator A. Breckon		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Connétable of St. Helier		
Connétable of St. Brelade		
Connétable of St. Martin		
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 of St. Ouen		
Deputy of Grouville		
Deputy J.A. Hilton (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 T.M. Pitman (H)		
Deputy A.T. Dupré (C)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy D.J. De Sousa (H)		
Deputy J.M. Maçon (S)		

**The Bailiff:**

Now, this is a matter which falls within the responsibility of the Education and Home Affairs Scrutiny Panel. Deputy Le Hérissier is ill. Deputy Pitman, I think you are the Vice-Chairman. Do you wish it referred to the panel? Very well then, Minister, do you propose the Articles 1 and 2?

[10:30]

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

Yes, I do. These are amendments to the second schedule to part 1 and part 2 and their effect is exactly as I have already described to allow a customs officer at least the rank of Deputy Director to make the application. I propose the Articles *en bloc*.

**The Bailiff:**

Are Articles 1 and 2 seconded? **[Seconded]** Does any Member wish to speak on the individual Articles? All those in favour of adopting Articles 1 and 2, kindly show? Those against? The Articles are adopted. Do you propose the Bill in Third Reading, Minister?

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

I do, yes.

**The Bailiff:**

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

<b>POUR: 33</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator T.J. Le Main		
Senator B.E. Shenton		
Senator A. Breckon		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Connétable of St. Helier		
Connétable of St. Brelade		
Connétable of St. Martin		
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 of St. Ouen		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
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 T.M. Pitman (H)		
Deputy A.T. Dupré (C)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy D.J. De Sousa (H)		
Deputy J.M. Maçon (S)		

**4. Draft Public Holidays and Bank Holidays (Jersey) Act 201- (P.107/2010)****The Bailiff:**

We move next to projet 107, draft Public Holidays and Bank Holidays (Jersey) Act in the name of the Chief Minister. I will ask the Greffier to read the Act.



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

Draft Public Holidays and Bank Holidays (Jersey) Act. The States, in pursuance of Article 2 of the Public Holidays and Bank Holidays (Jersey) Law 1951, have made the following Act.

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

Earlier this year Members got into a state of confusion, I think I could say, about the Liberation Day holiday and the general feeling at that time was that the law should be changed before that situation recurred. I took that on board and consequently made some proposals to clarify the Act and sent these out for consultation to business and to employee representatives. The only response I have had is from the Chamber of Commerce who welcomed the content of this Act. The employees sector have not responded. So there are really 4 issues in this Act. The first is to clarify definitions. That was, I think, the downfall of the previous situation. It now clarifies that Saturday is not a week day for the purposes of this law. It also seeks to clarify that when Liberation Day falls on a Saturday it will be a public holiday, and also seeks to establish that when Boxing Day falls on Saturday the public holiday will be transferred to the following Monday, to mirror what happens in the U.K. There is one further nuance. Anticipating the Queen's Diamond Jubilee in 2012 and wanting to give people adequate notice of the likely situation then, there is also a paragraph in there dealing with the date of that and the moving of the May bank holiday in that year only. Those are the principles of the Act which I propose.

#### **The Bailiff:**

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

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

Yes. On behalf of Deputy Le Hérisier who is not here today, I believe he brought a proposition which also prompted this, is that right? Yes, the Chief Minister is nodding his head. I would just like to thank the Chief Minister for getting on with this and bringing this back to the House. On behalf of Deputy Le Hérisier, I am sure he would express his joy in how this will cause an efficiency within the States Chamber and we should all be appreciative of that. Thank you.

#### **The Bailiff:**

Does any other Member wish to speak? Deputy Green.

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

Just a question really for the Chief Minister. I do appreciate that this will help to clarify things and make life easier in the future, but it still fails in some places to recognise, particularly on Boxing Day, that staff who work the real Boxing Day, 26th December as it is, will not be paid as though it is a bank holiday. So those who work the new designated bank holiday - if you understand what I am saying - will be paid enhanced rates and, as I understand it, those who work the real Boxing Day, because Boxing Day to me is always 26th December whatever we might say, get paid less unless there is some arrangements that the Chief Minister has for our own employees. It would be interesting to see if he has some arrangement.

#### **The Bailiff:**

Does any other Member wish to speak? Deputy Tadier.

##### **4.1.3 Deputy M. Tadier:**

Although this law has been brought up so people know a lot more clearly what they are entitled to, and I am sure Deputy Le Hérisier in his absence would be very happy, it still does not solve the underlying problems for which Members brought the propositions in the first place. Deputy Green has already made his point and with Liberation Day it simply still does not answer the inconsistency and the contradictions of why Liberation Day is a bank holiday for 6 days a week but not for 7 days a week. This enshrines that contradiction in law. I know Members and the public

certainly have very strong feelings about Liberation Day in particular, some saying that it should not be a public holiday because, for whatever reason, it is not that kind of day, people should not be celebrating or whatever, or they should not be expected just to have a freebie. I take those points on board. There are other Members who say: “No, it is quite right that Liberation Day is a holiday.” We still have not had the answer for why Liberation Day ceases to exist on a Sunday but we have enshrined it in law that if it falls on a Saturday we give a bank holiday on a Monday but not if it falls on a Sunday, even though nowadays there is no differentiation between any day of the week for many sections of society, particularly if you are obliged to work on a Sunday. So this contradiction has not been addressed in the law, it has been simply scooted over. Now, I do not think the next occasion where Liberation Day is going to fall on weekend will be until about 2021, if I recall rightly, so I will be bringing back a proposition, but thankfully for Members it probably will not be until 2020, although I expect to probably still have some opposition from the likes of Senator Le Main and possibly Senator Le Sueur. **[Laughter]** So clearly I will not be adopting this proposition and I ask for those Members who still have qualms about their particular issues to reject this because I do not think it solves some of the issues which Members are concerned about.

**The Bailiff:**

Does any other Member wish to speak on the Act? Deputy Hilton.

**4.1.4 Deputy J.A. Hilton of St. Helier:**

Very briefly, I just wanted to thank the Chief Minister for recognising the Queen’s Diamond Jubilee next year by proposing a 2-day bank holiday. Effectively we have got an additional holiday so I would just like to thank him for that on behalf of the public of Jersey.

**The Bailiff:**

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

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

Thank you. I thank those who have spoken and appreciate that this does not solve all the employment issue problems. This was an act designed to give clarity and certainty in respect of holidays. I note that Deputy Tadier may bring a proposition between now and 2020 in respect of the next situation when that might occur and I would say to him and to all Members that employment legislation, employment practice, changes year by year. We are seeing now in the private sector a lot more flexible working where you work a certain number of days a week but there is no great distinction between one and another. I am sure that employment legislation and practice will change over the years. This Act is designed for one thing in particular and that is to give clarity and certainty. I believe it does. I maintain the Act and I ask for the appel.

**The Bailiff:**

The appel is asked for then in relation to the Act which is in projet 107, lodged by the Chief Minister. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 35</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy M. Tadier (B)		
Senator P.F. Routier		Deputy T.M. Pitman (H)		
Senator P.F.C. Ozouf		Deputy A.K.F. Green (H)		
Senator T.J. Le Main		Deputy D.J. De Sousa (H)		
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				

Connétable of St. Helier				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
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 J.A. Hilton (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 A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy J.M. Maçon (S)				

## **5. Ratification of the Agreement for the exchange of information relating to tax matters between the States of Jersey and the Portuguese Republic (P.108/2010)**

### **The Bailiff:**

We move next to projet 108 - Ratification of the agreement for the exchange of information relating to tax matters between the States of Jersey and the Portuguese Republic - 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 relating to tax matters between the States of Jersey and the Portuguese Republic as set out in the appendix to the report of the Chief Minister dated 9th July 2010.

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

I hope I do not need to remind Members of the principles and the policies we adopted in respect of both taxation and information exchange agreements and indeed where we can also now with double taxation agreements. This is the latest in a round of T.I.E.A.s (tax information exchange agreements). It deals with the Portuguese Republic and in view of the fact there are a considerable number of contacts that we have between Jersey, Portugal and Madeira I think it is an important step in the right direction as far as we are concerned. I do not propose to go on at length, I just propose the proposition.

### **The Bailiff:**

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

### **5.1.1 Deputy M. Tadier:**

I do not normally speak on these because they get nodded through and it is exactly that point I want to make. First of all, let me say that the T.I.E.A. is absolutely the right thing that we need to be

doing. It is not the sum total of what we need to do; it is a part of what is necessary in order for Jersey to firm-up its status internationally and to make sure we are running a tight ship and a well regulated ship. So nobody has a disagreement in that respect, but I do want to make the point which was made during the business plan that certain things do get given priority when others, which are less convenient, do not get given priority. We only need to think of human rights legislation and also the discrimination law which has been put on hold because there simply is not the political will. We are told ostensibly that it is a financial thing, but when it boils down to priorities it is social legislation like the discrimination law, like human rights legislation, that does not get prioritised; this thing does. Clearly I am not going to vote against this, but I am going to abstain as a protest vote and I would encourage Members who also feel aggrieved that certain areas of legislation, all of which are of course important, do get fast tracked while others get scooted over. So I would invite Members on this one occasion who do feel similarly - and I do not expect to be overwhelmed by abstentions - to consider that fact. We know that this is going to get through but I think it is important to send a message to the Council of Minister and to the House in general that there are certain Members who will be quite happy to support whatever is right to do but we expect that Members also find the place when they vote to support legislation which is not simply to do with finance, which is also to do with social legislation.

**The Bailiff:**

Deputy, just in case there is any misunderstanding, from the Chair can I say this is, of course, not a piece of legislation. Legislation is Bills. Deputy Fox.

**5.1.2 Deputy J.B. Fox:**

We in the States here are going through a series of these signings of agreements, exchange of information related. But I wonder if the Chief Minister could just advise on what is happening on double taxation. There are a number of people that have pensions within the Island that no longer live here and I am getting increasingly asked questions. If he could just tell the House of what the current situation is, not just with France or anywhere else, especially when we are dealing with these exchanges of information, it would be helpful. Thank you.

**The Bailiff:**

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

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

Yes, I take note of what Deputy Tadier says. Clearly T.I.E.A.s are now becoming a standard arrangement and it is just a matter of cut and paste almost to replace one country's name with another. There are certain nuances but generally the work involved is not material or complicated. I think it has certainly been the policy that we do need to have a good international presence. When we can do it without undue effort, as happens in these matters in terms of law drafting ... not law but treaty drafting, then so much the better. I can assure you it is not fast-tracked. Most of these T.I.E.A.s take a couple of years between inception and delivery, but be that as it may. Deputy Fox talked about D.T.A. (Double Taxation Agreement) policy and of course it takes 2 countries to make an agreement, Jersey and the other country. Up until now there has been a certain resistance among European countries to enter into double taxation agreements with the Crown Dependencies on the basis that they see it as a rather one-sided approach. In the climate we currently are in there is a greater awareness and understanding that maybe European countries in particular ought to be more flexible in their approach to the Crown Dependencies in respect of D.T.A.s and we are seeing a gradual movement, a gradual opening of that door.

[10:45]

So I hope that over the coming years there will be an increasing number of European countries prepared to enter into D.T.A.s with Jersey. Until that date, of course, we cannot go forward

because, as I say, it has to be agreement on both sides. But the climate is improving. I cannot give Deputy Fox or Members any timescale on that, all I can say is it is more optimistic than it would have been a couple of years ago. Meanwhile, we have to see, and in our negotiations and discussions in Brussels we will continue to pursue those sorts of ideas and we do that in conjunction with our total demonstration of being good European neighbours. It is the best I can offer Deputy Fox for the time being. I know it does not satisfy him completely but all I can say is that is all the information I can give him at the present time. Meanwhile I maintain the proposition.

**The Bailiff:**

All those in favour of adopting the proposition, kindly show?

**Deputy M. Tadier:**

Can I ask for the appel?

**The Bailiff:**

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

<b>POUR: 41</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 1</b>
Senator T.A. Le Sueur				Deputy M. Tadier (B)
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
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 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 T.M. Pitman (H)				

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

## **6. Work and Residence Permits: establishment of working group (P.109/2010)**

### **The Bailiff:**

Then we move next to Work and Residence Permits: establishment of working group - projet 109 - lodged by Deputy Le Claire. 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 (a) to agree that a working group of elected States Members should be established to review and evaluate the merits of introducing a work permit and residence permit system for Jersey with the following terms of reference: (i) to consider how the current protection of employment legislation compares to other jurisdictions that have similar socio-economic conditions to Jersey, in particular Guernsey and the Isle of Man; (ii) to consider when, and why, work permits would be required to be used in Jersey for non-qualified residents, and if it is thought that they should be introduced, prepare clear guidelines as to the circumstances in which they should be introduced; (iii) to ascertain how the current employment protection measures and housing controls compare with those of Guernsey and the Isle of Man as effective methods of protecting jobs for the residents of Jersey and whether or not there are benefits that could be gained by considering the application of similar controls in Jersey; (iv) to compare rent control mechanisms in Guernsey and the Isle of Man, together with any appeals process, with the current legislation in Jersey; (v) to report on the possible future introduction of a system of restricting the purchasing of property in Jersey to residents of the Island, with the working group taking into account the following matters: (A) full and future employment, development and advancement in employment for residents that have established backgrounds on the Island; by allowing them preference over non-residents for job vacancies that arise whether they are in the employment or not of the company whose need arises; (B) the ability for the adult resident population and their children to have access to affordable housing and a reasonable standard of living; (C) the effect that work permits, as opposed to current methods, may have on immigration and the management of the infrastructure and other such related or similar topics as deemed necessary; (D) whether a work permit system could dovetail with a residence permit; (E) whether the proposed migration policy approved by the States in 2005 will, if implemented, achieve a fairer society or whether it will fail to meet the hopes and aspirations of residents in delivering a fair and sustainable society both environmentally and socially and, if so, why; (F) in what way the options identified by the working group could strengthen the migration policy agreed in 2005 or in what way they should replace the policy (if at all); (b) to request the Council of Ministers to provide adequate assistance and resources for the working group and to request the working group to update the Assembly on its work and conclusions at regular intervals.

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

One can tell whether or not in some instances one is going to win a proposition or not and one has to be certainly minded of that with the States time. I do on occasion - and Members sometimes take the mickey out of me for it - withdraw propositions because I know they do not stand any chance. Normally, though, I try to receive some concession in bringing the issues forward and I also try to raise them on to the radar of the public's attention. In this instance it has been on the radar of the public's attention for years. I would also try to hold to account the States and bring it on the radar of the Council of Ministers who have been, for the most part of the last 2 years, concentrating on the financial shortfalls. So what I did is I put together a proposition that would

ask for a working group to evaluate whether or not we would need work permits in any instance, so whether or not it could be argued that we could do away with legislation altogether for work permits because we do have legislation for work permits, we have used it in the past and when it comes to controlling population in Jersey we choose to do a number of things but we do not really choose to tackle the issue because it is not good for business to completely control opportunities for those that want to make money. A blind eye is normally turned, in my opinion, to those people who have very little chance of getting on to the property ladder. I was in a shop yesterday and I did not know who to feel more sorry for at the time, but I think I must feel more sorry for the shopkeeper who turned to me and said: "It is really sad, I am 27 and I will never own a house in this Island." I said: "I am 47 and I will never own house in this Island." I went home and I reflected on it and I thought: "No, it is her that I feel sorry for because at least I have reached the age of 47 and I have had opportunities to go away." Maybe she may not have had the same opportunities and maybe she will not have the same opportunities. But the opportunities for ordinary people with ordinary education and ordinary abilities that are schooled and educated in this Island and have to face huge mortgages are extremely limited. They face challenges from migrants from other countries who are in particular highly skilled and highly talented people. They come to the Island on a daily basis and they come generally from places where conditions were not as good where they have come from as they are here, and opportunities are more limited there than they are here. They take up employment and within 5 years they are qualified as locally qualified, so if they just stick it out for 5 years in whichever job they can find then they are in among the rest of the morass. Some other people who are more wealthy come in on a (j) category or on a licence for a business and they get through the system a lot easier. What has been proposed and what has been debated by the States Assembly is something similar to this in the future, I think, in my view. When we conducted the review of the migration policy, I cannot remember which one it was now, Deputy Southern and I conducted a review with Deputy Martin, I believe, on the immigration issues and when it came to the Assembly, the Assembly had the debate but quite wrongly in my view - and I have never supported a closure motion - the closure motion was brought before the Chairman, Deputy Southern, could speak on the issues or I could speak on the issues. The Assembly knew it was a mechanism for them to get the issue passed without Deputy Southern or I speaking on the issues. So when I heard the Chief Minister this week on the radio saying that this issue is a done issue and all Members have had an opportunity to speak on the matter, I first of all realised that new Members have not had the opportunity to speak in the round about immigration issues and whether or not the mechanisms are adequate or the policy is moving at a good enough pace, but also those Members like myself, Deputy Southern and others who were here were also denied the opportunity to speak about what the proposals were. It was rushed through and rushed through as usual in the typical bulldozer fashion that the Council of Ministers employs when it wants to get something done. We saw it yesterday with Deputy Southern's proposals. We do not want to consult with the unions, we do not want to consult with the parents about the milk, we just want to get this done, this is what we are doing, do not slow us down, do not revisit these issues, do not waste our time, we are going forward, it does not matter which way we are going, we are going forward so keep up, keep up, keep up, keep up and shut up. I remember being in a meeting with Senator Le Main in 2003, I think it was, and I have mentioned this before, but I was in the Policy and Resources meeting with one of the policy officers and I asked the policy officer who was introducing smart cards how long would it take because we had waited and waited and waited, how long would it take to introduce the smart cards because we had been told that they were ready. I had been invited, along with Senator Le Main who had a similar proposition, to the meeting. The response was: "Within 3 months." Senator Le Main will correct me if I am wrong, within 3 months. That was at least 5 years ago. Smart cards, this all-embracing system where departments could talk to each other, we would have one identification number, it could be done within 3 months. Well, it was not done within 3 months and God only knows why. Part of my research into this proposition enabled me to look at the Isle of Man's Residence Act in 2001 which talks about the registration of residents. I know law drafting is a particularly technical area but it does seem to

me that this Residence Act of 2001, which was introduced by the Isle of Man, seems to be along the same sorts of lines and principles that we are talking about introducing for ourselves. So it will be interesting when this proposal finally comes back to the Assembly to hold them up in comparison and see just how much they mirror each other. Now, work permits, I will stick on work permits for a minute because it is not just about work permits, it is about whether or not we would ever want work permits as a mechanism and, as I said, whether or not we should be getting rid of legislation that we would never use. The 2 arguments for work permits are while there is full employment work permits are not necessary; while there is low employment work permits would send out a signal that Jersey is closed for business at a time we need to be encouraging investment. It was in that last immigration debate or migration debate that we were told work permits were not necessary because we had full employment. Timely for my debate, and no doubt very untimely for the individuals concerned, there is not only in this *Jersey Evening Post* dated 23rd September signs that there are serious needs for homes - a surge in homes needed - but also unemployment heads back to record levels, steady rise in the number of jobless. The mechanism that we choose to protect the working opportunities of people in this Island is by 3-year licensing agreements. So every 3 years we respond to the crisis and every 3 years we respond to what the department or what the business has in terms of licences. Some of these businesses, I know from talking to them when they first set up the system, they just went down and just asked for lots of them: "We need loads." That way they would always have them if they needed them, if they needed to expand. They were certainly not going to go along and tell them how many people they had. I wonder whether or not we need to do away with the legislation altogether because it is bad to have a load of laws sitting around that we do not use. The argument that work permits are against human rights, I would like to refer in summary to the Law Officers' advice, and I say in summary because I have had dialogue with the Deputy Bailiff in his position as Her Majesty's Attorney General. This was, I believe, your advice, Sir, which was circulated through your officers and I have been advised, as is practice, that I cannot share this advice with Members because it is out of date - it is 10 years old - and it is not something that is normally done. One does not normally attach the Law Officers' advice to propositions. The advice of Her Majesty's Attorney General is not normally shown to other Members. But it is interesting because this advice, which stymied my first attempt at work permits which only got 4 votes, quite clearly indicated that there was no problem with work permits if we decided to use them, as long as they were not retrospective. The only problem with this was that your advice was presented to me - and it was my own fault really for being green and not too long in the tooth in politics - in summary and probably correctly when I contemplate upon it, or at least ... no, not correctly, incorrectly in my view. It was presented in summary by the chief officer at that time. But conveniently after the *J.E.P.'s* (*Jersey Evening Post*) headline had said: "Work permits against human rights" and portrayed me as some kind of racist, it came to the debate and Senator Horsfall stood up and said: "It would be wrong to go ahead with this debate until we have seen the Law Officers' advice." I argued that we should be debating it.

[11:00]

He argued that we should not be debating it. We stopped the debate and everybody agreed that it would be wrong to continue the debate until we could all see the Law Officers' advice. So over the lunch hour the Law Officers' advice was circulated and it was on every single Member's desk in the Assembly. That is a departure from the normal protocol, in my view anyway. The Data Protection Officer has said that when something is circulated to that wide a body of 53 elected Members she considers it to be in the public domain. But I have been advised I cannot recirculate this advice to States Members for them to see or to share with the public because it is privileged and it is out of date, but I can summarise it. The summary of this information that landed on our desks revealed a couple of things to me. The first thing it revealed was that the information I was sent had been changed, the page numbers had been removed, parts of the first page, parts of the second page, had been removed, and the conclusion had been removed. All of which, if they had



have been included, would have pointed Members quite clearly to the summary of the advice which was that there was nothing wrong with work permits in principle as long as the application of them was done carefully, and non-retrospectively. In other words, you could not take away somebody's right to have work that had that work right today. I spoke to a man in Brussels who is in charge of this area for the European Union, Wolfgang Strauss. I have got his information and correspondence at home in files of information I have kept on population over the years, and he wrote back to me and said quite clearly: "It is a matter for the Island of Jersey as to what they wish to do." There is no requirement to allow people to work within the European Union and if it was against human rights, as I pointed out in this proposition, how could we have employed them with all of the Polish most recently, and how could Guernsey be employing them now, and how could the Isle of Man be employing them now? It is a mechanism. It is not something to be ashamed of. It is a method to manage population. It is non-discriminatory and it is effective. There are 20 people in our Population Office, there are 7 in the Isle of Man, and they handle the same work permits. It has been argued that work permits are going to cost us a load of money. Well, they did not cost us a load of money when we were doing them when the Polish went in the European Union because they were paid for. I think it came out in the end that it cost the department, throughout the whole course of the year, something like £3,500 or something over what it had actually cost. But it gave people the opportunity to come to Jersey without all of their family and relatives and everything else and perform a function for business and, at the end of that function, if their job was retained, they were able to continue with their work permits and they would be able to remain in the Island, and it worked quite well. The reality is that the finance industry is hungry for talent and it does not necessarily find that talent among a very small number of people in a community such as ours. There are those people who, through no fault of their own, do not have educations, or do not have intellectual ability or academic ability. I class myself as one of those people. I may not be a dullard but I am certainly not as educated as most Members who have had the privilege of some of the education that most Members have had. So my opportunities, and many other people like myself, have been limited, and when a job appears and it is advertised, the firm in Jersey can say: "Well, we have advertised for the job, we cannot get anybody from within our own company, we have got to bring somebody else in." Sometimes I do not even know if they do. They do not train-up within their company to fill that position, as in the Isle of Man. In the Isle of Man they train-up people, and that is a requirement of the Government to demonstrate that they have had opportunities for people to be trained-up to fill those roles. Then they offer that opportunity to other people within the community, so that they can go and be trained-up and fill that position. Ordinary people like myself have an opportunity to progress. What has happened more recently, because this has always been unfair, it is getting to the point now where the ordinary people's lot has now been displaced by the numbers of people that are coming in, quite understandably, to fulfil the ordinary people's roles. So we are getting people from other countries coming in to do carpenters' jobs, painters' jobs, plumbing jobs, *et cetera*. It is driving down the costs of getting that work done, but it is also driving down the opportunity for that family to pay the high mortgage that they are required to pay because they live here. Now, I started the Jersey Polish Association for the Catholic Church because of the numbers of requests that were being made to the priests at the time from the Polish community, and I quite like the Polish community. The Polish priest married my wife and I and he is the godfather to my son. But I can say with hand on heart, they have had an impact and are having an impact because of their talent and because of their numbers. Just the same as any other country who notices that there are opportunities here. I do not want to remove any of them at all. I like them. They are very nice people. My wife is Russian. My mother was Scottish. I think people that come to Jersey and who try to make a go of things in Jersey should be allowed to make a go of things, and I do not believe in kicking them out, and I do not believe in treating them any differently. But what I do think is happening, is that the Council of Ministers is managing a population policy that is just good for business. It is just discriminating against the ordinary people, no matter where they are from, whether they are from here or whether they are from Russia, or whether they are from England, or whether they are from Spain, in my view the

ordinary people who are suffering, and some of those that are suffering now are Polish people who are telling me they cannot find work. Those ordinary people are being discriminated against because the finance industry is providing the larger portion of the pie. I may only be in a small minority of States Members that believes in this and I may only be in a small minority of States Members that does want to do something about migration. I know we speak about it at every election. But at least if nothing else, because I do not feel I am going to get the support of Members for this, at least if nothing else I have put it back on the radar of the Assembly. I have put it back on the radar of the Council of Ministers and when I see the response of the Council of Ministers that it has gone off to the Law Officers, it was meant to be debated but it might be back next year and maybe hopefully by the end of 2011, all I see is a repetition of the same old story that I have seen since I came to politics in Jersey in 1999, which is kick it into the long grass and keep on kicking it into the long grass. While you are doing it, it is rather unfair that you are discriminating in this way to reduce the qualification period. I have backed every single year that it has been dropped and I will continue to back every year that it is dropped because I think it has been wrong to use that as a mechanism to control population. I really do. I think that it is absolutely wrong. But I do think and I do hear from people who are concerned within this community that ordinary people that have been losing jobs, taking pay cuts, and worried about their future, that we are not paying attention. One, in particular... one gentleman spoke to me and said: "I have had 2 jobs in 2 years, 2 firms have closed. I have taken a £10,000 cut in pay. I work 6 days a week, and now I am hearing on the grapevine that another company in our sector is about to enter Jersey's marketplace, which will put me out of business because my boss will not be able to afford to keep me on. I have a mortgage that I have struggled all my life to pay and I have got about 5 years left to pay for it." He said: "I am worried I am going to lose my house." He is married to a Portuguese lady but he wants work permits; he is a Jersey person. I have spoken to Portuguese people who have work permits and want work permits, who have had work permits, who want work permits. I have spoken to bankers. I spoke to the head of Barclays Bank, and I said: "What do you think about this work permit idea of mine? Is it something you guys can get your heads around?" "Not a problem. We understand work permits. We like work permits. We use them everywhere else we are. It is something we understand. It is this Regulation of Undertakings and Development Law we cannot get our heads around." I think there is a place for the Regulation of Undertakings and Development Law. I think there is a place for the Regulation of Undertakings and Development officers, but I think it is in defining the kinds of businesses that come to Jersey and the sorts of businesses that are allowed to operate in Jersey. At the moment the law is, generally speaking, if you have been here 5 years you can start a business. Now, that might have been fine in the glory days, let us call them. That may have been fine, but we are in a finance industry that is in managed decline. There is no getting away from that. The finance industry in Jersey is in managed decline. It is under serious pressures, as with any other offshore jurisdiction, in keeping what it has got and getting new business to replace what it is losing. We see it day after day, and we will continue to see it. Banks will be coming and banks will be going. In the near future we will be hearing of other banks that are going for different reasons. But finance workers who come to Jersey who have high skills and who are making money right now, and their family members who come and fill the other jobs in the community and may not be so highly skilled, can up-sticks and shift. When the money stops flowing and the jobs start going what is going to be left for the ordinary people? Social security and income benefits. Well, I am Jersey born and I know my mother used to hate me saying this, but we did not have any money. We never went to the States. We never went to Housing. We bought a 2-bedroomed house and we did without, 5 boys and we were poor. We had our own, we never went and asked and it was not in our way to go and ask. We would not have asked and we did not ask. It is the same thing for a lot of Jersey people. They do not want to go and ask for benefits. They just want opportunities to work. I have been trying to work recently with the Minister for Social Security and I thank him because recently he has been taking on board some of the things I have been saying and explaining things to me in a way that I can see that they are taking up some of my ideas, and have been doing some of

the other things that I have said they should have been doing, I have discovered they have been doing. So hats off to them. Employment opportunities and retraining opportunities, they have started to do that in a number of ways and they have started something up at Highlands College. But all of the emphasis again is on the finance industry. The only opportunity to retrain in among the community at this moment is finance-related trust business. That might bring home the bacon for the taxman and that might tick the box for the finance company in Jersey, and it may be a short-term gain for the individual, but it is not long-term sensible. In fact, what is long-term sensible was the investment advice we received from the Constable of Grouville yesterday about renewable energy and the investment that we need to start doing there because it is an alternative. If we look at the boat show, and we consider the boat show in Jersey to be a strong second industry or a part of a second industry - boating - we marvel at the progress the boat show has made. This year I went to Majorca, got ill, but before I got ill and got into hospital, I looked at the amount of boats that they have got there. It is absolutely staggering, the size of the boats, the number of the boats and the industry itself. Jersey looked like a car boot sale in comparison to a shopping mall in America. So if that is how good the boat industry is doing during the good old days, how good is it going to be when that money goes? Is there ever going to be a need for work permits to protect those opportunities? This is what I am asking. At what time, in what circumstance, at what specific time, how bad does it have to get before they will consider introducing them; and what indications will we have and what legal advice can we rely upon if we ever need that? Okay, it is not the thing to do today. Most Members will not be with me today on this, and Members do not believe that this is the right way to go. But I think they all concede that there may come a time we might need to, God forbid, rely upon them. All I have been asking is that we investigate this.

**The Bailiff:**

I think Members should not refer to “God this” and “God that”. I think it is not parliamentary language.

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

I beg your pardon, Sir. I shall refrain ...

**The Bailiff:**

In the terms of “God forbid”.

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

Yes, Sir. I am hearing calls for me to be stoned. **[Laughter]** Thank you for that direction, I shall be mindful of it. Moving along then, because it is a long day and people do not want to be listening to me all day long. That is the work permits issue. I wanted us to look at when we would ever need them. I am not asking for them to be introduced. I am asking for us to consider when it would be likely that we would need them, if ever, and what the legal implications would be. I am also asking how our current employment opportunities protect people in Jersey in comparison to places like Guernsey and the Isle of Man in relation to their housing controls. I know the Minister and the Assistant Minister have been most recently to the Isle of Man and they understand pretty well what is going on in Guernsey, so I know that they have come back and they are informed.

[11:15]

That is the same old trouble, though, in my view. The Ministers know what is going on, the Assistant Ministers know little parts about what is going on, and us, in the Back-Benches, sometimes get to know something about what is going on, but the vast majority of the public do not get to find out. I asked to compare rent control mechanisms because people have spoken about the costs of rents in Jersey, so I have said: “They have got a rent control officer in Guernsey. What does he do?” Does he control rent? Senator Ozouf has spoken about the fact that we started this ridiculous scheme to augment landlord’s money in the rent rebate scheme - it has been going on for

years, up and up and up it goes - when we really should have been looking at whether or not other jurisdictions impose ceilings on fair rents that are applicable. Why did we not want to do that? Maybe because there is too much financial investment in the property market in Jersey. Then I spoke about at what point do we build on this Island until we get to the point where we say: "Look, property on this Island should really only be reserved for those people that live here, no matter where they come from, or who they are." Should it not be in the future consideration that houses in Jersey should be for people who live in the Island, not for those who just use it as a place to invest and keep us all as their tenants? That is something I would have liked a working group to look at. I have asked for a residence permit to be investigated because they have got one in Guernsey, and I do not have the resources or the time to go and look at this and I know the Housing Department and the Ministers can fully evaluate those sorts of things much better than I can. I also asked whether or not when the proposed migration policy, which was approved in 2005, would actually reach the aspirations of the residents or not. I do not think personally that it is going to do that because the general feeling among the population, and that is why a lot of people have been turned-off politics over the year, is because the States does not want to do anything about the cost of rents, the supply of housing. This Minister and the last Minister have tried their best, but they have not had the support that we needed to give them. I have tried to. We have increased the North of Town Masterplan density by 100 per cent since the last plan a couple of months ago, and we have increased the open space by 10 per cent. We are now giving 400,000 square metres-plus of space for people to live in with 9 vergées of open space. Nine vergées to those people that are not farmers relates to just under a football field, because it is 10 vergées to a football field. So 400,000 square metres more of accommodation and less than a football field for those people to enjoy in. In the same area, where it was identified that the population was overcrowded in the first place, I have called the Draft Island Plan the Daft Island Cram, because in my view that is what it is doing. It is disregarding the impact on society and the needs to meet the services and the costs of those services, with just pulling more and more and more people into the Island to stoke, if it can, a flailing and failing industry in certain respects. A declining industry. A managed declining finance industry. It is not prudent. The Council of Ministers, through their comments the Chief Minister has submitted, have pointed to a long and lengthy timeline that now seems to be close to arriving. I make no apologies for this speech today. I make no apologies for Members having to debate this today, because at least we are more informed about where it was and where it is going. In discussions with the Chairman and the Vice-Chairman of the Migration Advisory Group, I have also become more informed about what has been going on. I am not going to share that with Members; that is confidential, they have shared with me. But it causes me concern and I am more glad now, having learnt that, that I have come here today to press this issue, despite the fact I know I should be withdrawing it. I am not going to, even though I think I am not going to win, because I came to politics calling for stronger protection for the ordinary people and I am in a minority representing the majority. So I make the proposition.

**The Bailiff:**

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

**6.2 Deputy T.A. Vallois of St. Saviour:**

As the vice-chair of the Migration Sub-Panel we would like to firstly thank Deputy Le Claire for bringing this proposition and the issue to the forefront of people's minds again, and to be able to discuss work permits. As a panel we have been established since March 2009 and are currently sitting *in situ* awaiting the Migration Advisory Group to deliver the new version of the migration legislation. I can confirm that at this present time we are looking to establish terms of reference, and I have advised Deputy Le Claire that we are happy to incorporate the points in his proposition for review along with the migration legislation. The benefits in this are not only are we already budgeted for this review, but we also have the resource to do so. The Deputy is more than welcome to join us on the sub-panel, which he is readily aware of. I would have to share the extreme

frustration of the Deputy in the length of time this has taken. I think I have lost count of the amount of minutes and draft legislation we have had from the Migration Advisory Group. We do believe this is a worthwhile area to look at, after all we are now in 2010 and it is a different world out there. Therefore, we agree it is a worthwhile request; however, because there is already a group ready to go resourced and budgeted for we do not believe it is necessary to establish a working group at this time who would not already be in the same position as we are. Just quoting on what the Deputy has mentioned under the financial and manpower implications was: "To review the current legislation and conduct a review along the lines of scrutiny for this exercise I estimate would cost less than £50,000, which I consider can be met within existing resources." So as I have established, we will be more than happy to incorporate this as we have not established our terms of reference as yet. I would just also like to remind everyone that we are, as a Scrutiny Panel, more than happy to receive any views or concerns that States Members have on migration or work permits, or if the public have any concerns we are more than happy that they send their views into us as well.

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

I am very pleased to follow the Vice-Chairman of the Scrutiny Panel who are looking at the migration issue. I know I share the frustration, I think, of many Members at the length of time that it has taken to bring this subject forward. The work that has been carrying on is a major, major piece of work and we have consulted quite widely ... well, I have only been involved since this term of office for 2 years, and unfortunately the work that was carried on prior to the previous House faltered because of the elections and so there was a bit of a halt there. But we picked up the work again with the new migration group and we believe that what we are bringing forward now ready for debate very soon will achieve many of the things that many Members will be wanting, including hopefully Deputy Le Claire. There were a couple of things the Deputy said in his speech which I really would just like to pick up on. It talked about we only look at things every 3 years. Well, it is a rolling process and if a business wanted to make an application for more staff that kicks-in at any time during the process. It is not just every 3 years that it carries on. So there is a continual review of ... and there are the manpower returns which do pick up on changes in the working ... the numbers of people working through the business. In general, I think a lot of the points that the Deputy was making about the frustration of wanting to ensure ordinary people, as he calls them, have the ability to find work and places to live, I think we all share those frustrations and what I believe we are coming forward with will achieve a lot of the things that the Deputy wants to achieve. There will be, as has been highlighted by the Scrutiny Panel Vice-Chairman, opportunities - as soon as the law has been checked by the Law Officers for human rights compliance and that is available for everybody to look at - for everybody to become involved in that. We hoped if Members were to look at the timeline in the Chief Minister's comments there will be a lengthy opportunity from the beginning of the year until, hopefully, a debate in May, whereby people will be able to contribute to reviewing the law and to be sure that it is what the States want. So I would hope that Members do take that opportunity. I am pleased that the panel which has been established is a cross-section across the various panels which do exist. I do share the view of the Scrutiny Panel Vice-Chairman that establishing a working party outside, as the request of this proposition is, would be a duplication of the Scrutiny Panel. They are well resourced and I think they will carry out a good job. There was a comment about they have had many copies of minutes and meetings and we have met with them several times to talk about the progress, but it is a very intricate piece of legislation. It is doing away with the existing housing laws, doing away with the existing Regulation of Undertakings and Development Law, it is doing away with Hawkers and Non-Resident Traders' licences, it is doing away with other things like that. It is all bringing it into one new Migration Law and also there is a new part as well, which is the names and address register which is something which is new, which will bring together the information across the States of people's names and addresses, and which will help us achieve a far better decision-making ability and provide a better service for people across the Island. Although it

has been a long, long time, the Deputy, when he was making his comments, talked about it looked as if we were trying to kick it off into the long grass. That is far from the truth. We are virtually there now and it is not a matter of kicking it off into the long grass at all. We do want to get this done and I hope Members will be able to allow that work to come to a conclusion. The proposition does talk about, and the Deputy mentioned it, the way perhaps Guernsey and the Isle of Man have been using their mechanisms, and we have looked at those jurisdictions and, as the proposer mentioned, that the Minister for Housing and the Assistant Minister were in the Isle of Man, and they have looked particularly at their work permit thing. If we get to a stage where the Minister does speak he will no doubt explain what he found there with the work permit system, but we do know ... it was actually a useful visit because it enabled us to find a mechanism to tighten-up what we were going to do with regard to people coming into the Island wanting to carry out small pieces of work, so it was a very, very useful visit and no doubt the Minister will talk about that. Of course, Guernsey has a right to work document, with employees needing to apply for a housing licence before they can engage locals, but they themselves have many exceptions to that. It is possible for somebody just to go along and buy a house and they automatically have the right to work, but they have a totally different ... there is no block on people buying property in Guernsey but they do have this right to work thing, which is different to ours. I think one of the general comments I would make about the various things that carry on in various jurisdictions, for instance the Isle of Man and Guernsey, what we really need to concern ourselves about is the effectiveness of their mechanisms and what it has done to their population. Has it had a restricting effect on the growth of their population? **[Interruption]** The actual effect of their regulations is that, for instance, over the last 30 years Jersey's population has grown by 22 per cent, Guernsey's by 21 per cent, and the Isle of Man's by 24 per cent.

[11:30]

So the mechanisms which they have had in place have still enabled the population to grow and people have been coming into the Island and leaving the Island, but the overall population has increased at a very similar rate to ours. I believe that the new legislation, which is with the Law Officers at the present time, has been developed taking into consideration previous States decisions. We have obviously considered all the various mechanisms, including a permit system. We have looked at the effectiveness of the systems and we have developed draft laws which we believe will provide an effective method of controlling the occupation of housing and access to work. The draft legislation is currently being reviewed not only by the Law Officers, but also the Scrutiny Panel. They have received the same documents that the Law Officers have received on a confidential basis, and I hope Deputy Le Claire takes up the opportunity of joining the Scrutiny Panel and he will have access to that work that has been carried out. I have a concern that if this proposition was to be accepted that it could cause a delay in us achieving our new controls that we really want to have in place. We know that if this proposition is accepted we would have little option but to ask the Law Officers to stop the review on the existing draft law and potentially waste the Law Draftsman's time, which has been used over the last few years. In reality, the other issue is that the timescale we have set, we are looking to have a debate in May of next year. If we do not have that debate in May of next year of the legislation which has been prepared, I worry that with the looming elections it would be kicked into the long grass, again, and it would not be anything that we would all want. I think we are better to focus our efforts on reviewing the legislation which will come forward and to amend it or work our way around that, rather than creating a new working group to look again at the subject. It may be better just to review that legislation and work around that. I know the Deputy has said that he does not want to withdraw his proposition but I would suggest that he may like to do that, but if not I hope that the Members will reject this proposition

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

In order to be helpful, the Senator has requested that I would consider withdrawing this and I would just like to state, to help Members in this debate, I will gladly join with the offer that has been made the working group, and I am very pleased that they are going to look into these issues. I will gladly join them. But faced with the comment I received from the lady last night in the shop who said that she feared she would never have a house, I feel obliged to press this to the vote. That does not mean to say we have to speak about it all day.

#### **6.4 Deputy J.A. Martin of St. Helier:**

I will be brief. I did look at this proposition hard and long, and I feel the same frustrations as Deputy Vallois. We were on the shadow scrutiny and for the last 3 years of the last House I was on another Scrutiny Panel looking at the introduction... But at the same time I feel what he is trying to achieve with work permits ... in the comments of the Chief Minister we did vote on this only once, the work permits in 2001, and the actual migration policy in 2005. I think I was one of the 5 who voted against in the House, and I think it was the 5 who were on the Shadow Scrutiny Panel, because there were major concerns. But we are, as they say, where we are. I would just like to remind people ... I look forward to seeing this legislation because myself and Deputy Southern will remember the questions we have been asking for the last 5 years: how are you going to deal with backroom lodgers in the new migration policy? They do not appear on census, they do not appear on the landlord's tax form, and how are you going to legislate for them to be on the registration card? I am looking forward to seeing this because I know this is what has held it up. Nobody had a solution, so hopefully there is a magic solution. I do love to hear figures quoted as percentages, 22 per cent in Jersey, 21 per cent in Guernsey and Isle of Man ... does it not work on the base figure that you are starting at or we do percentages different here, I do not know. Our problem is, and what we will not ever agree on, we have already agreed to grow our population to 100,000 and we are woefully - and this is where the Deputy is coming from - inadequate at housing our population now. We heard yesterday the waiting list has increased by 43 per cent on social housing. We have people living in squalor. Unfortunately, the Deputy's proposition will not overcome this. I would just like to point out as well this population policy is going to be the cure of all. The word in the middle is "monitoring". We will be able to monitor people in and monitor people out, and maybe a bit more than we can now; as I say, there is that dark area that I have already mentioned, which I will be very interested in. But it is in the Minister's comments on (e), the second bullet point: "Reduce housing qualification period to 10 years compared to 15, 5 years ago, and 20 years, 10 years ago." In P.75 at the same time as reducing housing qualifications Regulation of Undertakings and Development were going to go up by a year, so it would mean you will only locally qualify for housing and work at the same rate, and that would have been 10 years. That has been abandoned. I think it was abandoned because it was not human rights compliant, but was it abandoned because of pressures from employers? Because after all under this new policy, if my memory serves me right, it will be employers who are given licences and then who can give them out to whom they see fit. It does not mean that they would be locals. But I reserve my comments on the legislation, and that is really why we have waited so long. If I thought that the Deputy's proposition would help the people ... I know he is trying to help. What I am trying to help with, we are quite determined to grow. I did not vote for it, but the majority, it is there in many debates, we are determined to grow our population to 100,000. You think you can cut it off by then, well, all of us must be living in cloud cuckoo land.

#### **6.5 Deputy K.C. Lewis of St. Saviour:**

I have got a great deal of sympathy for this proposition. I do not think I can support it. I was only talking 2 weeks ago to one of the representatives in Gibraltar who has exactly the same problem. They are full members of the European Union, but they do have dispensation for small jurisdictions, which would be well and truly swamped if they did not have legislation in place to protect the local population. With regards to Jersey, I have been badgering the Minister for Economic Development for some time regarding reduction in licensing for non-locally qualified

people, and he has agreed to look very, very closely at all applications. The good Minister for Social Security has just under 1,300 people unemployed on his books at the moment, and of those actively looking for work it must be well in excess of 900, and to have an open door policy at the same time is, in fact, ludicrous. I would recommend, and he has accepted, that Deputy Le Claire does, in fact, throw his weight behind the migration panel and really move that forward. I think to approve this today, this proposition, would be an exact duplication, so I cannot support it. But I do have a great deal of sympathy with it and I highly recommend Deputy Le Claire join the migration panel and push that forward.

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

I am surprised actually, although perhaps I should not be surprised, but I was surprised we are hearing all the reasons why we should not be doing this rather than looking at the work that has already been done and expanding on it, and perhaps bringing it to a conclusion. I am going to support this proposition. I am particularly interested in the work permit side because it is time that we got real, as the Chief Minister put it in the Business Plan debate, because we are not controlling the level of population the way we are doing it. What we are unsuccessfully attempting to do is control the level of population by allowing people to come into Jersey, providing they are prepared to live in substandard accommodation. That is what we are doing at the present time. We strongly control, for example, (j) cats, and, okay, I know they can then come in and live in decent accommodation and that is right, but we fail to control the levels of Tom, Dick, and Harriet, as I call it, that just turn up here. Nobody knows they are here, they just turn up and provided they are happy to live in squalid substandard accommodation and fuel the black economy, then they are happy to see that continue. At least that is the message that we send out. I believe that if we have a skills gap and we cannot fill that gap locally, then we should allow people to come into Jersey because of the skills that we want them to bring to the Island and allow them to accommodate themselves in decent, affordable accommodation because they bring the skills that we require. I would just like to correct Deputy Le Claire on one thing about retraining, while I am talking about skills, because one of the things he said was there was only opportunities to retrain within the finance industry. I would like him to accept my invitation maybe to come up and look at Highlands and look at the vocational training that is going on there, and the retraining- and certainly some of the fiscal stimulus money has been about retraining. We have got excellent vocational training going up there, so it is not quite right, but I understand where he is coming from. We are constantly being told that we have to grow the economy but there is no realisation about this. These people, I think, the Council of Ministers, must think they are virtual people. They do not require homes, they do not require to go to the toilet, they do not have children, they do not have families, they do not use our health service, they only generate wealth. It is nonsense. They put huge amounts of pressure on the infrastructure of the Island. Yes, they do generate wealth, but let us be selective about the wealth that we do generate. If we go on like this, if we carry on talking year after year after year about controlling the population but doing nothing about it, just providing lip service, we are going to destroy the very thing that we are trying to protect, if we have not already done so. For that reason, I am going to support this proposition. It probably will not be successful, I hope it is, because I want to send a very clear signal that enough is enough and it is totally immoral anyway to control the population by making people live in substandard accommodation. I am going to support this.

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

All of us who have come to this Island from other shores want to protect the fabric of the Island because it is a nice place to live in spite of many soothsayers of doom out there that say Jersey is finished and Jersey is morally bankrupt, bankrupt and everything else. It is not. It is a nice place to live and we must protect the Island as we have it at the moment. I agree with some of what Deputy Green has just said in relation to accommodation in the unqualified sector, and I will lead into what I want to say about the Draft Migration Law. There are landlords in the unqualified sector who



provide Rolls Royce accommodation. There are landlords in the unqualified sector who provide acceptable standards of accommodation, but there are some that provide unacceptable and, as Deputy Green said, squalid accommodation. We have certain buildings in town that have not had any electrical, plumbing or decorating work done in 30 years. It is actually not the Minister for Housing's problem. It is a Planning problem. If the Minister for Planning and Environment had retrospective powers to go after these places then we would have to improve the standard of accommodation, and I will park that for what it is worth.

[11:45]

I asked the Constable of St. John and the Director of the Population Office to come with me to the Isle of Man over the early part of the summer. We spent 2 very productive days, indeed I would say tiring days, looking at how the Isle of Man administers its work permit system. I have to say when Deputy Le Claire says there are 7 people in the Isle of Man office and there are 22 in Jersey in the Population Office, that is not comparing like with like. I will explain that in a little more detail. The Isle of Man system has a work permit system and it works roughly as follows. If young Eileen goes to the Isle of Man from Ireland and she has a part-time job in a coffee shop in the morning, and a part-time job in a restaurant at lunchtime, and a part-time job in a pub at night, she needs 3 work permits. Each of those work permits are time limited depending on the function, and they are £50 each. I was minded to go with the flow on the work permit system in Jersey, and that is why I went to the Isle of Man. So the Isle of Man system is not a panacea for how a work permit system works anywhere. We were given absolute access to the Economic Development Department in the Isle of Man. We looked at the way the permit system is administered. We sat in on meetings of the Work Permit Committee, and while Members may say that a work permit system is an ideal system for Jersey, I have to say that the Isle of Man model is not the one that I would want to follow. I sit on the Migration Advisory Group with the Constable of St. John, the Constable of St. Clement and Senator Routier. I have to say that at times the work that we do is mind-numbingly difficult. We are at the moment on the ... I say to Deputy Vallois I think we were on the 22nd or 23rd draft of the Draft Migration Law before we finally got it out of the system. I would say that in my 4 years and 9 months in this Assembly I have to say that of the hundreds of hours that I have shared with Senator Routier, Senator Le Main when he was Minister, the Constable of St. Clement, have to be some of the most frustrating, tiring, exasperating and brain-numbingly difficult work to do to get this piece of legislation to a condition, I would suggest, where it has now gone off to Law Officers for human rights audit. It is difficult. Some Members have said that there is an issue in Jersey with regard to inward migration, and there is a problem with inward migration. I have to say that the Director of the Population Office has listened to me being a sort of a sceptic for a long time on how we manage migration policy. I badgered him for the best part of a year throughout 2009 to do a stop-and-control check system at the harbour, and he did this. He carried out an inspection of Customs and Immigration in the early part of the summer and what he did essentially was, he was not interested in the unaccompanied trailers that were coming in on the Island, he was not interested in the trailers that were going to the big supermarkets, he was not interested in the trailers that were managed by one large company down at the harbour, he was interested in the vans and trucks that were being driven on to the Island. So he decided to stop them for 5 days from a Monday through to a Friday evening. What he discovered, and I do not have the database with me this morning but we can probably provide it, is that almost 80 per cent of the vans and trucks that came into the Island in that one week were not registered under the Regulation of Undertakings and Development Law, and what it proved to me - and I know Senator Maclean and Senator Routier agree with me on this - is that the Regulation of Undertakings and Development Law simply does not work. The reason it does not work is because there are no powers to stop and return these trucks and vans to the U.K. So, while it was a very minor piece of stop-and-check that week, it did confirm to us that the Migration Law has got to be able to have teeth. I think the Constable of St. John will confirm that I want teeth in the new Migration Law so

that we have the power to stop traffic coming into the Island that is not registered to work and live on the Island. So that was a useful week. It was a demanding week for the Director of the Population Office, but he did it. I now want to come back to what Deputy Le Claire said about the 7 people in the Isle of Man office, which is partially true. It is part of the Economic Development Department of the Isle of Man and there is a Work Permit Committee which is semi-voluntary, and then there are 4 people in the Work Permit Office who actually do the paperwork, and I think they have 3 to 4 inspectors who go out and do raids on businesses in the Isle of Man. It is something that I hope when the Migration Law in Jersey does come before this Assembly Members will see that we will have teeth in our one. Deputy Le Claire said there were 20 people in the Population Office in Jersey. There are, but it is not comparing like with like. The Population Office does manpower service, it does Regulation of Undertakings and Development Law, it does Housing Law, it does Lodging Houses Law, it administers the 300 States housing loans that are still out there, and it also does all the qualification paperwork to do with (a) to (h), to do with (j)s, to do with (k)s, and to do with (g)s - (g)s are the hardship ones and we get about 90 of those a year. I did mention that the Migration Law to get it to its present form has taken about 25 drafts and, as Senator Routier said, we had to go through everything into minutiae, including hawkers' licences and people that come here for 3 days or 4 days. Migration policy, *per se*, is very heavily regulated within the finance industry, as most Members will understand. I would have to say that on all the applications we get on the Migration Advisory Group the finance industry is almost law abiding to a point of overkill where they are scrupulous in the way that they employ people and notify the Migration Office when (j)s are leaving the Island or whatever. My view is that ... again, I agree with Deputy Green, the issue is not the finance industry. The issue is in the unqualified sector. The issue is in the construction industry. The issue is in the hospitality industry. The issue is the young Polish carpenter who comes into work in Jersey, and he is on a huge site or he is on a small site, and he disappears into the dim, grey areas of Jersey's unqualified sector. Also the hospitality industry is an issue. It was interesting on the visit to the Isle of Man, that on the raids they do within the Isle of Man hospitality industry, the biggest problem they have on the Isle of Man is the construction industry and the hospitality industry, and particularly the issue of ethnicity in some of the restaurants and bars they have. To me, the big issue in the new Migration Law will be how we handle days of grace and exemptions. So the proposal in the new Migration Law is to have a name and address register, so you have a right to work and live in Jersey but you must register. Now, it may very well be that when the Migration Law comes before Members that they may be happy with it in its present form, or they may want to amend it. The model I liked on the Isle of Man was the fact that in the construction industry there were only 3 days of grace and in other areas, say, the finance industry, they allow up to 40 working days before somebody has to register. I think it is part of a system that might work here. Interestingly, my future son-in-law is an I.T. (information technology) geek, who goes to the Isle of Man quite often, and he has had to register to work in the Isle of Man and get a permit because he is spending over 20 days a year there. I cannot remember who said this, but one Member said this morning that ... it was in relation to working and living in Jersey for up to and including 5 years. My own view on this is that if somebody makes a commitment to work and live in Jersey for 5 years, pays tax, is registered for social security, I think that commitment is strong enough to be taken further in terms of their rights under Jersey law. It is a bit like the Hispanic going to live in New York City or in the Bronx. They have possibly substandard accommodation for a while and eventually they hopefully graduate out of that into better accommodation. I think the 5-year rule is something that we need to address. Members will have seen the timeline on page 3 of the Council of Ministers' comments. It is a significant timeline. From June 2005 to right now, we are talking about over 5 years in my time in this Chamber and there is another 4 years before that. But I can assure Members the work that has gone into this Migration Law has been enormous, extensive and, dare I say it, frustrating beyond belief again. Towards the end of the process, and I think the Constable of St. John, we actually dreaded going to these meetings because we were going into minutiae in areas of law that was very difficult to understand at times. So, while I acknowledge Deputy Le Claire's concerns about work permits

and about the free flow of employment or employees in and out of the Island, I have my own concerns about white van man coming into the Island. I do believe now, having survived one year and 9 months on drafting this law, that that process is better than the work permit system that Deputy Le Claire is proposing. I think it is better than the Isle of Man work permit system and I do think that in terms of days of grace or exemptions that we can, by regulation, change what may be coming down from Members to examine in the not too distant future. So while I have respect for Deputy Le Claire's views and his emotion on this I will not be supporting this proposition and I will be hoping that Deputy Le Claire will join Deputy Vallois on the Scrutiny Panel because that panel has got tremendous value to it and will endorse, I hope, what the Migration Advisory Group have sought to achieve.

#### **6.8 Deputy T.M. Pitman of St. Helier:**

Hopefully I can say in 30 seconds what it seems like we are risking taking 10, 15 minutes every time. As a town Deputy I obviously fully endorse what Deputies Martin and Green said, and indeed where the proposer is coming from. If there is one reason for supporting this, then it is probably the fact that at every election, certainly Senatorial elections, doing something about population is on the agenda, and it seems to be promptly forgotten by a lot of people who get elected on that. Rather like diversifying the economy. I would support this, and I will if the Deputy can answer me one thing when he sums up. I was totally committed to supporting this until I heard Deputy Vallois, so all I would ask Deputy Le Claire when he sums up is this: Deputy Vallois seems to have offered the Deputy to include everything he wants in the terms of reference, and for him to sit on it, so if that is the case it seems to me that the only thing we are going to do by supporting this now is cost another £50,000. So providing that Deputy Vallois can give all those assurances and Deputy Le Claire does not see anything amiss that we have somehow overlooked, then I think we should go with Deputy Le Claire joining the scrutiny sub-panel and save some money.

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

I am very happy to follow the last speaker. I too am on the sub-panel and for that reason I will be abstaining from voting. Deputy Le Claire has been invited on to the panel and he has said that he will come on and work with us. I had the pleasure of living in Australia where they have had work permits in for many years and it works very well there, so it can work. I was also on Talkback some months ago with Deputy Power and I did reiterate the fact that I think they possibly would be a good idea. But scrutiny needs to do its work and we have to go in with an open mind and look at this. So, hopefully Deputy Le Claire will join us and that we can consider this within the review.

[12:00]

#### **6.10 Deputy M. Tadier:**

There are certain things that Members do not hear often, or the public do not hear often, one of those is: "By the way you are doing a great job in the States and I think you should have a pay rise." Another one is perhaps: "I do not think I am paying quite enough tax, is there any way I could maybe up my income tax rate?" The third thing which is pertinent to this debate, which you certainly never hear in the public, which I am about to say, is the following: "I am racist but I do think that foreigners should be treated fairly." People often like to twist that one around, but I think this is probably what I am going to focus on. Because we do need to make sure that whoever is in the Island, whether they are born in Jersey or whether they come from further afield, once they are in Jersey and once they become part of society that they are treated optimally. I think in this sense it is quite correct that Deputy Le Claire has raised this issue because there is, if we are honest, an underlying malaise in Jersey, particularly with a certain section of society who feel, for whatever reason, disenfranchised or disenchanted with life in the Island. It is often those on the lower wages and it is a perception which I do not think is necessarily entirely accurate, although there are

elements which are true. In some way their material existence is being not enhanced by the presence of foreign labour. I think as a States we have to be very conscious of this because this is how we look through history and we know what can happen, particularly in terms of downturn, when we are looking for scapegoats, and I think it is important that the Assembly does send a strong message out that migrants in Jersey, those who come from further afield- whether it be the U.K. or whether it be Europe or wherever - we do accept that they do contribute valuably to society, whether it is economically or socially, and they have done that historically and also that Jersey, if we remember, is really built on migration. I would ask Members to look around and look at their own families for that to be borne out. So I think it is correct in that sense, that the Deputy has brought this up. I do have some observations in the sense that I think a lot of what is trying to be achieved, a lot of the issue, I suspect, which the Deputy has, it really is more to do with housing, certainly a big section of it, rather than simply to do with a migration policy in general or work permits being introduced. It is not even clear that a work permit system - obviously it would depend on how that is administered - would solve many of these issues. In fact, it may make some of them worse. I just look at a couple of those points because I know the Deputy shares the concerns that I have, and also other Members, about affordable housing in Jersey. Not simply for purchasing, not simply for home ownership, but for those in the rental sector, because renting, I think, is important, and that is an area which we have seen rents rocket disproportionately. That affects both locals and non-qualified individuals. This is not something I think would necessarily even be ameliorated by the introduction of work permits. I would be more likely to support this proposition - and I am not saying I am not going to at this point - if it were to set up a working group to look at regulation of the rental sector in Jersey, the private rental sector, both for qualified and unqualified. Because, quite rightly, the Deputy does point out in his report that accommodation in Jersey is not as controlled as it needs to be, and he has given an example about 9 Portuguese citizens who did have a grievance in their property, and this can be seen right across the board. There seems to be a perception in some areas, and often it is the people who come into Jersey who may be most contaminated by this ideology, that in somehow to come to Jersey you have to bow and scrape for 5 years. You have to prove your worthiness to be a Jersey resident, and that after a period of suffering, if you like, once you have made it through either the 5 years to get a decent job, which you probably merit anyway, or through 11 years of paying extortionate rents, where you can afford, if you are lucky, to put down a deposit for a house, that you have made it as a Jersey citizen. Okay, there are arguments for and against that, but certainly we should not be expecting anybody to live in substandard accommodation. The reason that this has happened, the reason that there is still substandard accommodation in Jersey is not by chance. It is because we, as a States, have neglected putting safeguards in place to prevent this happening. We have known that this exists for a long time but simply either through benign neglect or because it has not been convenient we have allowed unscrupulous landlords to carry on this practice, and it is not something we should be proud of or that we can be proud of. In fact what we need to do, and what I would encourage the Deputy to do, is either look to set up a working group... but it does not even need to be official. Just set up a think tank. It does not necessarily need to have a proposition on it, but to get together with like-minded States Members who feel passionately about these issues, and these are issues which affect locally born residents as well as foreign residents, so that we can try and come together and put forward sensible recommendations with grassroots support. Clearly, this is a very complicated matter. I am minded to support it simply just to show my support for the ideas that are listed in it. If it actually turns out that most of the work is being replicated I would obviously not want that to happen, but I expect to see close co-ordination between the Deputy and between the Scrutiny Panel. Just to finish off, I think that really the problems here that the Deputy is conscious of, it is not simply to do with ... let me rephrase that. The working permit system is not going to be the magic wand, the elixir which solves all of our problems. Essentially, the problem is that the Deputy talks very much about ordinary people and that ordinary people are struggling. I say that is the case, ordinary people wherever they come from, but one must remember that the world is not run for ordinary people. The world is run by an elite for an elite and

Jersey is simply a microcosm of that problem. If we actually want to get to the nub of the problem we have to introduce fair legislation so that these problems ... we are treating the actual cause rather than the symptom. I will leave it at that. I will be giving the Deputy my support for this. I do want to nuance my views in the sense that I do not think it is always right to talk about migration in a negative sense. We do this often with the ageing population. We talk about the ageing population as if it is a problem and there is a risk by doing that that we can alienate the section of society about which we are speaking so that the elderly think that they are the problem, and that is clearly not the case. There is a political issue, there are socio-economic issues which need to be dealt with, and it is exactly the same with migration. Migrants should be welcome and I do not either get hung up about people leaving Jersey either for a short term or a bit longer. Jersey is not necessarily ideal for everybody. Sometimes it is good to have the 2-way migration, but I think we do have to be mindful of those who are left in the Island, those who cannot leave for whatever reason, so I will be giving this proposition my support.

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

I seconded this proposition. I did it because this item does need to be aired. I have seen Jersey people born here before 1945 have to justify with qualifications why they should be living on the Island to officers from the Housing Department of the day. Given that the law did not come into force until 1946, people born before 1945 the law did not apply, yet these people were given the run around for many, many months to get the necessary paperwork together. Thank goodness, I hope that has changed.

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

On a point of order, can I just advise the Deputy that the new legislation will do away with exactly that.

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

Yes, I am aware. But only this last couple of weeks I had to raise questions with Immigration. We have 1,300 people unemployed and yet we are allowing people who only just joined the European Union from Bulgaria and Romania to work on-Island without a permit. Yet if you go on the eBorder website for the United Kingdom, those same people, if they were to move into England, they would not be permitted to work without a work permit. There is something wrong that we have signed up to E.U. (European Union) protocols that are not duplicating what is happening in the United Kingdom. In fact, I raised this in the House - I believe it was question time several weeks ago - with the Minister for Home Affairs, because it is at times like this when we have a debate, like we are having today, that we think what are we doing? Historically we bring something to be ratified to this Chamber and we rely on our experts who advise us within Law Officers and the like that this is the right thing to do. Yet, we find that we are not singing from the same hymn sheet as the United Kingdom in relation to this particular issue. To me that is of concern. It is of concern. It is only by somebody like Deputy Le Claire who has been following this through for the last 10 years and longer that we have an actual forum in which we can raise these issues. We can raise it at any time but we have all got our own pet issues, whether in my case it be main drains or things to do with the environment, Deputy Le Claire has got his own area where he keeps a check on. I think it is important that we start looking and make sure things happen, because this has been around longer than I can recall, because when I joined the States in 1994 we were talking about work permits at that time, and it is still ongoing. We really need, fellow Members, through the Chair, to get to grips with this once and for all. I am pleased to hear that Scrutiny are reviewing this but, at the same time, will the Ministers who should be bringing this legislation forward be listening to the Scrutiny Panels? I do not think so. Because at the moment Scrutiny, we have been told in Senator Breckon's proposition, is not listened to as much as it could be. It is not held in the esteem that it should be. Therefore, we want to take it up another notch or 2. This proposition of Senator Breckon's is obviously supported by the Chief Minister

because it has come from a small group of Members who have been put together to review government. Really this type of thing should be looked at in far more depth by the Council of Ministers, and they are not doing their job. They are relying on everybody else, the Back-Benchers, to do their work. The Council of Ministers, I believe, are the people who should be leading the way in these things and they are not. I am not saying any more than that but I put the onus straight in the lap of the Chief Minister and his fellow Ministers.

**6.12 Deputy C.F. Labey of Grouville:**

I am grateful for Deputy Vallois setting out what the Scrutiny Panel, which I sit on as well, are doing because this debate seems to have gone off on a tangent discussing the merits or not of work permits. What the proposition says is to agree that a working group of elected States Members should be established to review and evaluate the merits. Well, we have a Scrutiny Panel. We are quite happy to take on board everything in the terms of reference that Deputy Le Claire has set out in his proposition and, indeed, we certainly have a lot of sympathy for the views expressed and the points he raises. However, we would like to bring it back with an evidence-based background to it, and, as Deputy Vallois pointed out, Deputy Le Claire has been invited on to the panel. Rather than have 2 panels running parallel, we would like to use the skills of Deputy Le Claire, and the input from him, to enhance our panel. I have listened to many of the speeches here. This proposition is not about the merits or not of work permits; it is whether to set up a panel or not to work in parallel with an already existing Scrutiny Panel.

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

Just to say I am not really sure why we are debating this now because the panel has made an offer, the Deputy has accepted the offer, the working group is there and it should achieve all the objectives of the proposition. I simply stand to make 2 points, one to advise the Deputy of St. John the Council of Ministers does listen to scrutiny and if we did not then when we bring the legislation to the House the Scrutiny Panel would no doubt tell us why we had not listened to them.

[12:15]

But no, we do listen to scrutiny and Ministers are keenly interested in this. We have had presentations already from the Migration Advisory Group, and really my purpose for standing up today is to thank the members of that Migration Advisory Group for the tremendous hard work that they have done. Members have identified it is actually trying to solve problems with population of employment opportunities and of housing, and there are interactions with all those 3 elements. It has not been an easy task. I never thought it would take 5 years. I suspect that when the migration group first started they did not think it would take 5 years either, but they have appreciated the complexities. I appreciate the complexities of this. What we need to do now is to work together with the Scrutiny Panel, augmented by Deputy Le Claire, to come to a speedy conclusion and get this legislation at least debated by the States. So I urge Members to reject this proposition but to encourage the Scrutiny Panel in their activities.

**The Bailiff:**

Does any other Member wish to speak? I call upon Deputy Le Claire to reply.

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

It has been a very useful debate and I am very glad that we have managed to finish in a timely manner, not having despatched it as early as we would have done had I withdrawn the proposition as I am often minded to do to make better use of the States business. As I said yesterday, I have been approached by members of the Migration Advisory Panel, the Scrutiny Panel, and offered a place to come on privately to do this work. I was absolutely delighted. I was asked by the Chairman why it was I had not expressed an interest and I responded by saying at the time it was set up I expressed an interest on several occasions. I do not know why it was not received or

translated but I certainly was very keen to get on to this body. So, I did the right things. I even suggested in an email that perhaps the Chairman might be minded to bring an amendment to the proposition to say that this work should be done by them and had that occurred then really everything I am asking for today could have been and would have been agreeable because of that amendment. In actual fact, with the very kind offer that has been made by the Vice-Chairman and the other members of the panel they have said that they are going to look into every single issue that I have brought in my proposition and that they have got the money to do it. So, in effect, a working group will do exactly what it is I am asking to do but the only reason we have taken so long to go about doing it is ... well, that might have supported what I am saying, that we need to look at this. An amendment would have this debate over and done with in 5 minutes because I would have gratefully accepted the invitation and gone on to the panel to do the work, as I am very grateful to do now, but I cannot accept an invitation until it is made officially or publicly. Now, publicly I have been offered and publicly I am very grateful to indicate to the panel I am very keen to get on to the panel and help them in any way I can, and even if I have differing views I will not force those issues to be looked at *ad infinitum*; they can drop away. I am looking to achieve the best aim, as most Members have been. This invitation comes today, so today I can say I accept the invitation gratefully but, as I have explained, I am minded to press for the vote because there are some people that believe what I am saying needs to occur. There have been some speeches, in particular that of the Deputy of St. John, who say: "Is scrutiny being taken seriously by the Council of Ministers?" Well, it certainly was not being taken seriously when the 5 members on the Shadow Scrutiny Panel did the migration review because none of us got the opportunity to put our views across before the debate went to the timer and we agreed to do the migration panel, as pointed out by Deputy Martin. So it certainly was not being taken seriously then. Interestingly, since Deputy Power has taken office, he and his Assistant Minister have gone to the Isle of Man, as I have suggested we should do, and has looked at in detail the issues that I said we should be looking at. He was probably minded to do that anyway because he is that sort of a politician, but it is exactly what I have been asking: "Let us go and look at the Isle of Man. Is it a good system? Is it a bad system? I do not know." They have evaluated it. They said they would not use that system but, as acknowledged by Senator Routier, some of the things that they looked at tightened up the work they have been doing. So my suggestion about going and looking at other areas has demonstrably proven to be a good thing to do. I take on board the point - and I thank Senator Routier for enlightening me - that the 3-year review is continually under review by the department. I would also like to acknowledge the fact that the finance industry does - and it is admirable - make sure that it carries out the regulations of this jurisdiction; 99.9 per cent of the time they are on the ball and they do it efficiently and they do it effectively and they are very responsible. But it has been a debate to raise the level of awareness in relation to accommodation. This proposition was not just about work permits; it was about resident permits; rent controls, a rent control officer, things like this; the ability for someone to opt-out in relation to an appeal in their lease, which is something that the Minister for Housing says that they will look into. In his speech, which was quite lengthy, he spoke about the names and address register and the work that they have done, which has been mind-numbing. I have got files of paper at home and I have thrown away files of paper on migration issues since I came to the States. It certainly has been mind-numbing. I make no apology for this debate. Deputy Green has quite kindly invited me up to Highlands to look at the vocational work. It was precisely that work that I was asking the Minister for Social Security about and the skills training in those areas such as construction, *et cetera*, that I was seeking advice from the Minister for Social Security. In our meeting last week, because we can only be in so many places at once, he offered with his officer to invite me on to the skills mix board that meets, which I am going to be invited on to, and also directed me towards Highlands, which I am now going to do. So I gratefully accept the invitation and thank Deputy Green for his support. Deputy Tadier mentioned the issue about the ordinary people and it is a race thing. I wish there was a word for somebody that was financially prejudiced, because there is not but we are. If somebody has got money they can be into this Island in a minute and buy a house and live in a nice part of the Island

without having to wait 15 years, 20 years, 18 years, 11 years, or be one of the 90 (g) cases to get into decent, affordable accommodation or to get into an opportunity that they can enjoy their lifestyle and their employment. We are financially differentiating. Senator Le Main is disagreeing with me. I went to a planning meeting last week. I do not have the papers in front but it was been here 2.1 million ...

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

Can I just clarify something please, Deputy, if you would allow me? No one can purchase a house if they have not got qualifications, but a share transfer with an apartment, they can buy the shares and not occupy it. There are no houses under share transfer.

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

(j) categories and the like can come to Jersey and they can, with permissions ...

**The Bailiff:**

Can we stop having a debate between 2 Members, please? I suggest you carry on, Deputy Le Claire, and ignore, please.

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

I am trying to carry on, Sir. It is very difficult to ignore the Senator. I do like him and he is a very vocal Member. Vans and trucks, mentioned by Deputy Power. Years ago - Senator Le Main will back me up - I was working down the harbour. I could only get a seasonal job. They used to keep us on seasonal jobs, even though I was born and raised here, because they did not want to have the manpower numbers associated with the department, so every year we got 6 months of work. One guy had been working for the department for 14 years on a temporary work approval down at the harbour. That was not wrong. We were good employers, keeping you on a 9-month contract for 14 years. It was my job to marshal off the traffic from the boats, all of these white vans at that time. This was in 1997, 1998, and I was watching them day after day, not Monday to Friday but month after month after month after month for 3 years, 6 months at a time. White van. White van. White van ... If it is 80 per cent now, it certainly was not much less then. So for years it has been uncontrolled and we certainly need to look at that. I am not against the finance industry. I am as supportive of it as I can be. Sometimes I am critical of it and sometimes they may not like that, but sometimes I am supportive of it. I am definitely not so slavishly bent to it that I will not recognise that some parts of it have a detrimental impact in certain areas. A lot of it brings a lot of benefits, enormous benefits, things to this Island that we could not do without, but I am concerned and have been concerned for the ordinary people and the poorer people. Traditionally that has been migrants. My son has come to Jersey. He was born in the U.K., lived in Canada. He is now going through the qualification period. He cannot get a job in under 5 years, he cannot get accommodation, *et cetera*. He is my son. I accept that for my son; he accepts it; we both accept it. That is the way of the world. If it is fair enough for my son it is fair enough for everybody else's son. I do not think it should be differentiated between. I do believe, Sir, in your call that we should be tolerant and accepting of people that come to the Island and I know that when I stand up to raise these issues people will privately think: "What a racist Paul Le Claire is." It is not about race; it is about ensuring that there are job opportunities for people within the community wherever they have come from to ensure that they have got enough money to put their children through a better education and possibly purchase a house. That is all it is about. I am going to press for the vote, as I said before, and I will not achieve that many but I just want more than 4. Last time on this issue I got 4 votes. I had a Member sitting next to me who told me for 5 years: "You are absolutely right. We need them, we need them, we need them" and then when he got to the vote he voted against it and I felt a bit like Ed Miliband's brother yesterday [Laughter] "What are you clapping for? You did not vote for it." So I am going to press for the vote because I want more than 4 people to demonstrate with their buttons that they believe in what I am saying. Practically I am very grateful



to the panel to offer me the opportunity to come and work with them. I really am. I will even behave myself and, unlike on the Scrutiny Panel for the Deputy of St. John, I will bite my tongue. So I would like the votes. I think it has been a good debate. I know we are approaching the lunchtime break. There has been an offer from Members on various issues. I am sorry if I have not picked them up. In particular, just very quickly, think tanks by like-minded Members? Yes. Think tanks are great but we also need to include non like-minded people so that we explore all avenues. Deputy Pitman of St. Helier has asked the one thing that he needs for his vote is will I be going on to the panel. As I said, I would be delighted to go on to the panel. It has only, so people can understand, just been offered to me officially within this debate. Had there been an amendment we would be agreeing *en masse* my proposition because it is that work that it is recognised they need to do and we do need to do it. I thank Members for their time and ask for the appel please.

**Deputy T.M. Pitman:**

As a point of clarification, I did ask the Deputy what will Deputy Vallois’ offer not give him. That is what I wanted to know. Why should I vote for the Deputy and not say: “Let us go with the scrutiny sub-panel”? That is what I need to know.

**The Bailiff:**

It is a matter entirely for the Deputy as to what he says.

**Deputy T.M. Pitman:**

I did not just ask whether he was going to go on the panel, Sir. That is the point.

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

It is a tricky question and I am probably not going to satisfy the Deputy. In voting to support my proposition I would put it like this: you have got to be a bit canny in politics. I know, and I knew this morning, I am not going to win this debate but a number of votes in my favour will send a signal to the Council of Ministers and to the public that we are concerned about the issue and we are keeping an eye on the issue. Had there been an amendment it would have been far easier to support my proposition but nobody brought an amendment.

**The Bailiff:**

I think you have made that point about 3 times, Deputy.

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

I do not know if I have satisfied the question. It is a tricky question.

**The Bailiff:**

You cannot satisfy all of the Members all of the time. **[Laughter]** The appel has been called for in relation to the vote on the proposition of Deputy Le Claire. I invite Members to return to their seats and the Greffier will open the voting.

[12:30]

<b>POUR: 9</b>		<b>CONTRE: 29</b>		<b>ABSTAIN: 3</b>
Connétable of St. Lawrence		Senator T.A. Le Sueur		Deputy of Grouville
Deputy J.A. Martin (H)		Senator P.F. Routier		Deputy T.A. Vallois (S)
Deputy J.A. Hilton (H)		Senator P.F.C. Ozouf		Deputy D.J. De Sousa (H)
Deputy P.V.F. Le Claire (H)		Senator T.J. Le Main		
Deputy of St. John		Senator B.E. Shenton		
Deputy M. Tadier (B)		Senator J.L. Perchard		
Deputy M.R. Higgins (H)		Senator A. Breckon		
Deputy A.K.F. Green (H)		Senator A.J.H. Maclean		
Deputy J.M. Maçon (S)		Senator B.I. Le Marquand		

	Senator F. du H. Le Gresley		
	Connétable of St. Ouen		
	Connétable of St. Helier		
	Connétable of St. Brelade		
	Connétable of St. Clement		
	Connétable of St. Peter		
	Connétable of St. Mary		
	Deputy R.C. Duhamel (S)		
	Deputy of St. Martin		
	Deputy J.B. Fox (H)		
	Deputy of St. Ouen		
	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 A.E. Jeune (B)		
	Deputy T.M. Pitman (H)		
	Deputy A.T. Dupré (C)		
	Deputy E.J. Noel (L)		

## **7. Draft Census (Jersey) Regulations 201- (P.110/2010)**

### **The Bailiff:**

We move on to the Draft Census (Jersey) Regulations 201-, projet 110, lodged by the Chief Minister, and I will ask the Greffier to read the citation.

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

Draft Census (Jersey) Regulations. The States, in pursuance of Article 2 of the Census (Jersey) Law 1951, have made the following Regulations.

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

As Members will hopefully appreciate from reading the report to these regulations, we intend to hold a census of the population of this Island on 27th March next year. These regulations, once approved, will form the framework for the conduct of that census. They specify when the census is to be performed, who will be covered, the procedures for taking the census, the duties of people completing the forms, the contents of the form and so on. I hope that the importance of the census is clear to all Members. The principal concern is to produce a robust assessment of the population at a given point in time. It would provide a clear comparison with the figures we have been given year by year from the Statistics Office on the basis of other manpower, education and health returns. I stress it is not intended to be a repetition of the Jersey annual social survey, which we also produce each year. That is the place for attitudinal questions. The census needs to focus on the one issue which I think is uppermost in all people's minds and that is the actual number of people on the Island at a given time. So, that is the principles behind the regulations, which I think are fairly clear in content, and I propose the principles to the regulations.

### **The Bailiff:**

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

#### **7.1.1 Deputy M. Tadier:**

I did not want to go first. I just wanted to say that I welcome these regulations. Some Members might recall that last year some time, in the context of the strategic plan and the population debate, I did say that a census was overdue. I know that other Members will say that there are other

mechanisms for knowing who is in the Island and who is not in the Island but I would say that whatever those mechanisms are they do not replace the need for regular censuses to be carried out. That is all I really want to say. I think it is important that we do know who is in the Island in this way and that really, if I am to be critical, this should have been done before increasing the population and looking at population control. Nonetheless, it is good, it needs to be done and, of course, I will support this.

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

I am worried about the introductory speech. I listened very carefully and at one point the Chief Minister said: "This is a rough assessment of the population" and then he said: "All people want to know an accurate number of the population." Now, which is it? I know it is the first, having had many people involved collecting census data in 2000, friends and relations, and we also had the threat of foot and mouth, which made it a lot more difficult for people to get out into the country. In fact, I know a lot of people were not censused (whatever the word is). The second question, just on the principle when we establish how value for money this is: where is the £500,000 coming from? Is it budgeted for? Whose department is it coming out of? Is it real value for money? That is basically it on the principles.

#### **7.1.3 Connétable A.S. Crowcroft of St. Helier:**

I think Regulation 2 gives the date of the census. I do not believe it tells us when the information collected by the census will be ready and available to the public. I wondered if the Chief Minister could give that date and, if it is going to be after the general election, perhaps he could explain why.

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

Just an observation: I note that on page 4 it says the census regulations are compatible with the Human Rights (Jersey) Law 2000. I am delighted now that the Chief Minister can start showing that regulations are compatible. It was my understanding that only laws had to be shown as compatible but maybe the Solicitor General could correct me on that. Could I ask, Sir, through you, of the Solicitor General: is it normal for regulations to be shown as human rights compliant or does the Human Rights (Jersey) Law only require laws to be shown as human rights compliant?

#### **7.1.5 Mr. H. Sharp, H.M. Solicitor General:**

No. The regulations must also comply with human rights.

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

I am motivated briefly to respond to Deputy Martin's intervention. She and I have been in the Assembly I think for probably about the same time and we used to sit over there together when I was a Deputy. I think that I am the only Member left to defend who was on the previous Etat Civil Committee that was responsible for the last census, the 2001 census. I would just remind her, respectfully, that there were many challenges on the accuracy of the census, there were many tales about the accuracy of it, but independently verified it was held up as the most accurate census that there has been for a number of decades. If there was any doubt about an estimate of the accuracy of the last census - and I am sure the Chief Minister will respond and confirm that this will be exactly the same this time around - there was an estimate of the undercount, which is important because it does give a percentage of where I am sure that all efforts and maximum endeavours will be made to count every single individual that is in Jersey. Inevitably there may well be, for whatever reason, at the margin some issues. I am sure that with the Head of Statistics, who has got an excellent reputation in this Assembly for accuracy in terms of what he does and his team, there will be a continuation nevertheless of an estimate of an undercount, which does give Members further reassurance over and above that of the actual population number.

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

I wonder if the Minister will consider using people that are unemployed at the time to be incorporated in the 200 temporary short-term staff.

#### **7.1.8 The Deputy of Grouville:**

Like the Constable of St. Helier, I would like to know when this information, the results of the census, is going to be available. As some Members may be aware - some were not in the House at the time - I brought a proposition forward, as I believe the Constable of St. Helier did, to have a census earlier. We used to have them every 5 years, which in my opinion, and still is my opinion, for a micro-economy such as Jersey is far more appropriate than 10 years. I understand we went for 10 years to co-ordinate with the U.K., which obviously makes sense but I still believe we ought to have one in the interim, every 5 years. One observation I have is - and it goes back to when the information is going to be available - here we are working on a draft Island Plan, looking at our housing needs for the next so many years. Would it not be appropriate - and I would like to receive some reassurance of this - to co-ordinate our own administration; not just have the census co-ordinated with the U.K. but also to have some co-ordination with what we are doing here? We need this information in order to decide upon our housing needs for the future. To my mind, to consider and decide upon an Island Plan for the future Island's needs without the information from a census, without numbers ... how accurate they are, as Deputy Martin has pointed out, is another matter but I would like to believe that they are probably more accurate than the guesstimates that have taken place since the last census.

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

When I saw the Minister for Treasury and Resources stand up it took me back to that day in 1999 when he entered the House and we were electing presidents of committees and this young whippersnapper of a Deputy for St. Helier stood for the position of president of Etat Civil and it has been going downhill ever since. **[Laughter]** We now see him in charge of the budget at a time when we have gone through the biggest recession that any of us in here have seen. I sincerely hope that they can get all the figures right on this one.

#### **The Bailiff:**

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

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

Dealing rapidly with each of the comments, from Deputy Tadier: in fact the census was always set to be a 10-year census and 2001 was the last one. 2011 is the expected date and it is the date. I seem to have confused Deputy Martin when I talked about rough figures. What I was saying was, in terms of the interim figures that we get year by year, which are done by the Statistics Department and are done on the basis of as accurate an assessment as they can of the returns from Regulation of Undertakings and Development and so on, those really need to be verified by an independent process like the census. So it is not that I was suggesting that there was inaccuracy in them; it is just that there was not the ability to verify them in the way that a properly carried out census should verify them. So I hope that clarifies that point. As far as the cost of the census, £500,000, it is funded from the Chief Minister's Department and we have been setting aside £100,000 a year for the last 4 years and next year in order to pay for that. The Constable of St. Helier and the Deputy of Grouville: when will the information be ready? Traditionally it takes about 9 months from the carrying out of the census to the production of the figures. It is unfortunate perhaps that this year that coincides with election year. That is purely by chance and not by design but from my point of view it is more important that we get an accurate figure and that the Statistics Department do all the necessary work to achieve that, irrespective of what time it comes out. It may be that they will be able to deliver that before the election but, given that we have brought the election date forward this year, I think it is highly unlikely. The Deputy of St. Martin: I am happy to put in a human rights compliance statement; whether it is regulations or legislation I think it is appropriate to deal with

his concerns. I thank Senator Ozouf for talking about the Etat Civil Committee and the accuracy of numbers. In fact I was a member of that committee back in 1991 when the previous census was held but I seem to have forgotten most of what I learnt at that time. Whether we should have it every 5 years is a matter of conjecture. I would be interested to see how comparable the census figure turns out to be compared with the annual figure set out by the Statistics Department. Certainly other places, including Guernsey, are suggesting that they do not need a census any more at all because they can rely on the other figures being used. If the census results next year turn out to give the same outcome as the year-by-year figures then that would give support to us to say maybe we do not need to spend £500,000 every 10 years doing this either, but I am prepared to wait and see when we get the outcome of those census figures. I think that is all I need to say. I do not intend to respond to the Deputy of St. John except to thank him for his contribution as ever. I maintain the principles.

**The Deputy of Grouville:**

Sir, the Chief Minister did not answer my point about the Island Plan and some co-ordination with that.

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

I think there is never going to be the ideal time because of the Island Plan next year or some other plan the year after, the migration policy. The census is there as an independent examination of the figures. We can plan the Island Plan figures on the basis of the annual figures provided by the Statistics Department, which are unlikely to be significantly wrong and should not affect the general policies of the Island Plan or any other policy put forward by the States. So I do not think there is a direct connection. If the Deputy feels otherwise I am disappointed about that but the fact is that the census is taking place on that date irrespective of when the Island Plan gets debated.

**The Bailiff:**

All those in favour of adopting the principles kindly show? Those against? The principles are adopted. Deputy Vallois, in the absence of the Chairman and Vice-Chairman of the Corporate Services Panel, do you wish to have this matter referred to your panel?

[12:45]

**Deputy T.A. Vallois:**

No, Sir.

**The Bailiff:**

Do you wish to proceed with the regulations, Minister?

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

There have been no amendments and I suspect that Members are generally content with them so I think I will take a chance and propose firstly Regulations 1 to 10 *en bloc*. They really deal with the basis of the census forms and who is required to produce and complete those forms. I am going to propose Regulations 1 to 10 and take any questions.

**The Bailiff:**

Are the regulations seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations 1 to 10? All those in favour of adopting regulations 1 to 10 kindly show? Those against? They are adopted.

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

Regulation 11 talks about the contents of the form. That is supported by Schedule 1, which gives the details of that lot and also distinguishes between people, resident or visitors, to the Island. I propose Regulation 11 and Schedule 1.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak on Regulation 11 or Schedule 1? Will all those in favour of adopting Regulation 11 and Schedule 1, kindly show? Those against? It is adopted.

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

We then move to Regulation 12, which also encompasses Schedule 2 which is the procedures for taking the census. This is really a question of, as it says, procedures. I propose that regulation and the schedule.

**The Bailiff:**

Is that seconded? **[Seconded]** Does anyone wish to speak on Regulation 12 or Schedule 2? All those in favour of adopting Regulation 12 and Schedule 2, kindly show? Those against? They are adopted.

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

That leaves Regulations 13, 14 and 15 which is really housekeeping in terms of census officers, custody of documents, use of the information, which is very important, of course, in terms of data protection and security, citation and commencement. I propose Regulations 13 to 15.

**The Bailiff:**

Does any Member wish to speak on any of those regulations? Senator?

**7.5.1 Senator P.F.C. Ozouf:**

Last time we did this debate we had half a day on it, so clearly the Chief Minister has done a good job.

**The Bailiff:**

Does any other Member wish to speak? All those in favour of adopting Regulations 13 to 15 kindly show? Those against? They are adopted. Do you propose the regulations for a Third Reading, Chief Minister?

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

Yes, Sir.

**The Bailiff:**

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

<b>POUR: 38</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				

Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of St. Brelade				
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 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 T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

That comes to the time for the adjournment. Just before that, Deputy of St. John, is there anything you would like to say about projet 111?

**The Deputy of St. John:**

Yes, Sir. Could we defer it until 11th November [**Approbation**] because there is a possibility I will be amending it. Thanks for the comments from the Chief Minister. Thank you, Sir.

**The Bailiff:**

Very well. You are deferring that, sorry, until when?

**The Deputy of St. John:**

2nd November.

**The Bailiff:**

Until 2nd November, very well.

**LUNCHEON ADJOURNMENT PROPOSED**

**The Bailiff:**

The adjournment has been proposed so the Assembly will reconvene at 2.15 p.m.

## LUNCHEON ADJOURNMENT

[14:16]

### **The Bailiff:**

Yes. Before we resume, 2 matters: the first one is that Members will find lodged now a third amendment by the Deputy of St. John to the Machinery of Government: establishment of ministerial boards and revised system of scrutiny, and the second thing is that the Solicitor General has asked if he could just clarify some of the legal advice he gave this morning in relation to a question of the Deputy of St. Martin.

### **The Solicitor General:**

Can I apologise, I misheard the question this morning. What I thought the question was whether or not the Human Rights Law applied generally to regulations brought before the House and, of course, the answer to that is yes. But I have since understood that I misheard the question and the question was, in fact, whether or not someone bringing a regulation before the States should also provide commentary as to whether or not it is human rights compliant. The answer to that is there is no legal obligation to do so and it is a matter for Members, but it might be thought best practice to do so. Thank you.

## **8. Disabled Persons: Badges for Motor Vehicles - Single or Double Amputees (P.112/2010)**

### **The Bailiff:**

We come next to projet 112, Disabled Persons: Badges for Motor Vehicles - Single or Double Amputees, lodged by Senator Le Gresley. I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion to request the Minister for Transport and Technical Services, at the earliest available opportunity, to make an order amending the Road Traffic (Disabled Persons) (Badges for Motor Vehicles) (Jersey) Order 1982 to the effect that a person applying for a disabled person's badge on a second or subsequent occasion, by reason that the person is a single or double leg amputee, is not required to produce a medical practitioner's certificate in support of the application.

### **8.1 Senator F.D.H. Le Gresley:**

I had the opportunity to talk very briefly to one of our States Members before the lunch recess and I was telling him how I came about bringing this proposition. It was approximately 6 years ago I was working in my old capacity at the Citizens Advice Bureau and a man appeared in the reception, on a pair of crutches, with one leg. He said he had just come from the Town Hall where he had been told that he could not renew his blue badge, his disabled person's permit, without a medical certificate and that he felt totally humiliated that he had been told to go away and see his doctor. I totally agreed with him that this seemed ridiculous and I did follow that up with the Town Hall. I was told at the time: "Well, that is the law and he has to comply." It is today the reason that I bring this proposition to the House for approval. I have to say I do not know how many people in Jersey have had a single or double leg amputation; however, whether we are talking of tens rather than hundreds of amputees, it is still important that we acknowledge that the Road Traffic (Disabled Persons) (Badges for Motor Vehicles) (Jersey) Order 1982 needs to be updated because, in my opinion, it is bureaucratic nonsense for a single or double leg amputee to have to provide a medical certificate at each renewal of the badge every 3 years. I have received some email correspondence as a result of this proposition and I should point out that, although I appreciate that many medical practitioners would probably not charge the patient for such a certificate, there is a cost to the health insurance fund because, almost certainly, they will book the appointment down and claim



their now £18 from Social Security, so there will still be a cost to the Island. The current law already makes provision for a person who is blind, or who is registered with the Jersey Blind Society, to have exemption from production of a medical certificate on a second or subsequent renewal of a badge. I am grateful to the Law Draftsman, who has been very helpful to me, and she has informed me that the amendment I am proposing can be accommodated as a minor and routine item within existing resources. Since lodging this proposition, it has been drawn to my attention by the Chairman of Shopmobility, Edward Trevor, that there are other problems with the administration of the blue badge scheme, including misuse of the badge and disputes about eligibility. I have been in contact with both the Connétable of St. Helier and the Minister for Transport and Technical Services about my proposition. The Connétable has commented that the current system is not serving anybody very well and has suggested that perhaps a medical panel, similar to those at Social Security, might be better placed to deal with applications. The Minister for Transport and Technical Services has agreed to meet with myself and the Connétable tomorrow, as it happens, to discuss other issues concerning the blue badge scheme and this may result in further amendments being included in any revision of the legislation before it is brought back to the Assembly for approval. Irrespective of the outcome of those discussions, the fact still remains that single or double leg amputees deserve better treatment and I ask Members to support the proposition.

**The Bailiff:**

Is the proposition seconded? [**Seconded**] The Connétable of St. Brelade.

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

First of all, I would like to sympathise with those who find themselves in the position of being a single or double leg amputee; secondly, to thank the Senator for bringing the proposition; and, thirdly, to urge all Members to support it.

**The Bailiff:**

Does any other Member wish to speak? Do you wish to reply, Senator Le Gresley?

**8.3 Senator F.D.H. Le Gresley:**

Yes. Well, I thank Members. I trust that that is an indication that we are going to see support for this proposition and I thank the Minister for his few words. I maintain the proposition. Thank you.

**The Bailiff:**

The appel is asked for in relation to the proposition of Senator Le Gresley. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 43</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				

Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
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 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 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 D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**9. Draft Sea Fisheries (Trawling, Netting and Dredging) (Amendment No. 3) (Jersey) Regulations 201- (P.114)**

**The Bailiff:**

We come next to Draft Sea Fisheries (Trawling, Netting and Dredging) (Amendment No. 3) (Jersey) Regulations 201-, projet 114, lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Sea Fisheries (Trawling, Netting and Dredging) (Amendment No. 3) (Jersey) Regulations. The States, in pursuance of Articles 2, 5, 7, 8 and 29 of the Sea Fisheries (Jersey) Law 1994, having consulted with the Secretary of State and obtained his concurrence, have made the following Regulations.

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

Sir, if I may, could I ask my Assistant Minister, the Connétable of St. Clement, to deal with this matter?

**The Bailiff:**

Yes. Connétable?

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

This set of regulations, if approved, will achieve 3 things: firstly, it will introduce for the first time in our territorial waters a limit on the number of dredges that can be used at any one time by a boat

in our territorial waters, dredging for scallops. The local, indeed French, scallop fishermen believe this to be an important safeguard to their future livelihoods by preventing predatory dredging for scallops which occurred off Guernsey quite famously earlier this year. Secondly, it will bring Jersey into line with the rest of Europe, which we are required to do under the terms of the Jersey-U.K. Fisheries Management Agreement, by allowing the use of an electronic gauge to measure mesh sizes used in both trawl and static nets. The third change, which is rather a strange one: under the current regulations, prawning nets - like when you go down to the rocks with a prawning net - are covered by exactly the same regulations as the trawl nets and the static nets, which seems to me to be a little bit over the top, so we have taken the opportunity of removing that from the regulations. There is no note in here, but I do believe that the regulations are human rights compliant. Whether they are scallop rights compliant I am not 100 per cent sure. I move the principle.

**The Bailiff:**

Is the principle seconded? [**Seconded**] Does any Member wish to speak on the principles? Deputy Duhamel?

**9.1.1 Deputy R.C. Duhamel:**

While not underestimating the value and the benefit of the scallop fishery and other fisheries that rely on the method of dredging for the capture of the animals, I would like to make the point that, although it is fine for us to be moving in a direction to standardise the fishing practices across Europe and that must be sensible, I do feel a little bit uneasy in supporting the practice of dredging *per se*. It is not the most savvy of fishing methods to be used in the wild. It does leave untold damage on the seabed and the argument is to the effect, well, nature abhors a vacuum, so if you create an open space, then the colonisation by other animals will take place at a fair pace. In actual fact, if Members have seen pictures of the damage caused to the seabed by going over the same area a number of times- and at the moment we do not have any legislation to limit where fishing boats do dredge or, indeed, to stop them re-dredging or over-dredging in a particular place - I think that Members would change their ideas somewhat in terms of the sustainability in the sense of this particular fishing effort. That said, long term, I would personally like to see a move towards fish farming techniques. Diving techniques for the collection of scallops is perhaps the more sensible and sustainable way of fishing for these animals, which are significant to our fishing economy. But we are where we are, as people say, and I think this amendment to bring us in line with fishing practices, in line with the E.U., must be supported but, perhaps, as just an interim step for something that could come in the future to raise our environmental credentials in fishing terms to a much higher level.

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

I would just like to declare an interest as a purveyor of prawning nets so I may have to abstain.

**The Bailiff:**

It sounds a fairly remote interest, I think. [**Laughter**] The Deputy of St. John.

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

I have to mention this particular area because this is an area of scallop dredging that has been raised with me by local professional divers within the Island as that there is currently no no-go zones right up to the beach as far as scallop fishing is concerned. Knowing the damage that gets caused by scallop fisheries, the re-growth rate is very slow and the divers have asked whether or not I could speak to the fishermen and see if we can get an agreement going between the trawler operators and dredging operations and the professional divers, if the seabed in certain areas cannot be put aside so that the divers can fish with doing very little damage.

[14:30]

Unfortunately, those meetings have taken a little longer than we had hoped and a couple of heads need to be knocked together, I think, within the 2 different groups as to whether this could happen. I am aware that the Connétable of St. Clement is working hard to make things happen, so I do not want to muddy those waters, but what we must take into account, the diving industry brings in, shall we say, tens of tonnes of ormers per annum compared to the trawlers who feed the masses and bring in hundreds of tonnes of scallops per annum, so we have to try and get a bit of balance. I will support this but I will raise the flag that if the industry themselves do not come up with sensible areas in which to allow the diving industry or professional divers to lift their particular crop, shall we say, for want of a better word, then I will bring something to the House where we may have to ask the House to put a blanket ban of a mile all the way round the coast. I do not particularly want to do that. I would far prefer to ask the fishermen between the 2 groups to get round the table and get together and come to a compromise.

**The Connétable of St. John:**

I wonder if I could have a point of clarification from the previous speaker. I am sure he just mentioned ormers rather than scallops, but I am not sure if he knows of any illegal ormering that is going on.

**The Bailiff:**

I think he misspoke.

**The Deputy of St. John:**

I must have misspoken. I was referring to scallops not to ormers.

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

I would like to echo the words of Deputy Duhamel. I agree that dredging does do almost irreparable damage to the seabed, as the U.K. has discovered with North Sea dredging. What I would like to say, though, is I would like to seek some clarification from the Assistant Minister. The dredgers that were operating off Guernsey, if I remember correctly, they were U.K. boats, and so therefore they were within the law, as such, and this measure basically is to restrict those vessels from operating within our waters. So, in other words, it is a form of restrictive practice; we are trying to keep our waters for smaller boats, such as we find in the Island. Will he confirm that is the case, please?

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

When I joined the Marines, my first goal was to see the world, and I was privileged to be given my first appointment on board H.M.S. Jersey when we came to Jersey. H.M.S. Jersey was a fishery protection vessel and I spent several months on there with the fishing protection officers conducting investigations within the waters around Great Britain - the east coast and Channel Islands predominantly - of the fish that were being captured by the fishing vessels. As part of that process, the fisheries officers would often go on board and they would take the measurements of the nets, as is described within the regulations, and inserting aluminium gauges into the nets at different angles to ensure that the nets were of sufficient size. It just makes me wonder, I have had a proposition, most recently on financial and manpower implications, heavily criticised by the Council of Ministers for not identifying sufficiently or for saying that we should not identify sufficiently the ongoing manpower implications of things when we are bringing them to the States. We have this proposition before us on our fishing industry with no financial and manpower implications arising from the adoption of these draft regulations, but also no indication as to how these regulations are going to be policed and what resources are going to go into policing those regulations. What are the hours of the fishery protection officers that are engaged by the States of Jersey? When will they go out and do this work? But that is not to criticise the Connétable of St. Clement that I rise, although that is just a general observation, but it is an appeal to the Assistant Minister for Planning and Environment. Until the Minister for Planning and Environment manages to change his

department's name into the Environment Department, which he has conceded he will do - I am still waiting for a serious answer from him as to when that is going to occur - I would like to see Deputy Duhamel, as the Minister with this knowledge, bringing forward amendments to these types of propositions so that these areas for which he has concern will be looked at. He is heading up a body of consultees that are looking in and around at the Ramsar area and we, as Back-Bench Members, cannot be expected - although we try - to scrutinise this type of legislation as it comes along once in a while. I would urge the Assistant Minister for Planning and Environment to do some work on this and to bring forward some opportunities for Members that have an environmental desire to see things improved, changed. It may not be supported by all States Members but I urge him, or whoever replaces him, to do that and give us the opportunity.

**The Bailiff:**

Does any other Member wish to speak? Senator Ferguson.

**9.1.6 Senator S.C. Ferguson:**

I would very much support more restrictions on the larger vessels. We have a scallop fisherman who comes to the St. Aubin's farmers' market during the summer and some weeks he has very few scallops because the large boats with a considerable number of dredges - is that the term, yes - attached have been fairly scouring the sea floor. So I would support the restrictions because otherwise we will end up with no scallops left.

**9.1.7 Deputy M. Tadier:**

Very briefly, I think Deputy Duhamel summed it up very aptly. One is always presented with a difficulty with these kind of regulations because, of course, one is generally supportive of keeping up to date with the regulations and moving with our European counterparts but, on the other hand, if we do not make the statement at this opportunity, or if we cannot register our dissent for certain areas, then we are put in somewhat of a quandary. I think the abstention is something that should be used sparingly. I have already done that once today, but I do feel like I will have to abstain on this vote because I do also feel strongly about the whole area of dredging. It is not something that we should really be doing anymore in the 21st century. Also, trawling - pair trawling in particular - we know about the long-term devastating effects it does have to the ocean populations. I do not say this to be whiter than white by any means, because as somebody who enjoys eating Coquilles St. Jacques - my mother prepares a very good Coquilles St. Jacques, as you might expect- I cannot stand up with my hand on my heart and say that I know where all of those scallops have come from. I do know that I have had some from divers in the past and I think that diving is certainly more sustainable than dredging. I simply leave it at that. I feel it is necessary to explain to Members and to the public when a Member chooses to abstain, and that will be the reason for it.

**The Bailiff:**

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

**9.1.8 The Connétable of St. Clement:**

I think one or 2 Members may have got slightly confused. The introduction of these restrictions on the number of dredges has got nothing to do with meeting European standards, it is meeting local standards - French and Jersey standards - because currently in Europe there are many places where there no restrictions on the number of dredges that a scallop boat can use and that is true at the moment in Jersey. At the moment, a Jersey boat in Jersey waters or a French boat in Jersey waters can have as many dredges as they like. What these regulations do is to restrict the number of dredges to 16, so we are making a major conservation improvement in that area. Mostly I share Deputy Duhamel's concern about the impact of dredging on the seabed. As I say, at the moment it is unlimited what damage can be done, except that we already have a ban on dredging in St. Aubin's Bay, St. Brelade's Bay and inside a line between St. Catherine's and roughly to the Seymour Tower, and a restriction on the size of vessels that can operate inside the 3-mile limit.

But, as I say, at the moment, and without these regulations, there is no restriction on the number of dredges so what could happen is something similar to what happened outside of the Guernsey territorial seas, but it would have to be a Jersey boat or a French boat because U.K. boats do not have Bay of Granville agreements. It could happen at the present moment in Jersey waters, and we want to stop that from happening, hence these regulations. The farming of scallops, of course, is very important and the diving for scallops is very important and, clearly, environmentally friendly. Whether we can get enough stock by that method to meet the demand is doubtful, but that is something that has got to be examined in the future. But, as the Deputy of St. John intimated earlier, we have meetings; there is one fixed for this Friday with the scallop fishermen and the divers and farmers and, next week, with the marine resources panel to discuss this issue, particularly of inshore dredging, because with the advance of technology in satellite navigation, some of these dredgers were able to come in much closer to shore than they have ever been able to before and do it safely, and that is causing some concern to the divers, to the farmers and, indeed, to those of us who care about the seashore environment. We will be looking at what options we have to restrict dredging in those areas and one of those options, certainly, is the golden mile, which the Deputy of St. John referred to, which might be a mile around Jersey where there would be no dredging at all, and that has happened in some places. There are other options which we would be prepared to look at; as I say, we will be discussing that with the fishermen and the divers over the next week or 2. I would say to Deputy Le Claire there are no additional manpower implications in this proposition because these vessels are already inspected and the nets are already checked regularly for compliance with the appropriate sizes. All we are saying in this case is that the method of measuring will be different: it will be an electronic gauge rather than a manual gauge. I maintain the principles.

**The Bailiff:**

Very well, all those in favour of adopting the principles, kindly show? The appel is called for, then, in relation to the principles. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 43</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
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 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 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 D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

This comes within the Economic Affairs Scrutiny Panel of which Deputy Southern is the Chairman, but he is not here.

**Deputy M.R. Higgins:**

It comes under my panel, the Economy Affairs Scrutiny Panel.

**The Bailiff:**

I have been misinformed. I beg your pardon, then, Deputy.

**Deputy M.R. Higgins:**

We do not wish to scrutinise this piece of legislation. Thank you.

**The Bailiff:**

Very well. Then we come to the individual regulations. Do you wish to take them *en bloc*?

**9.2 The Connétable of St. Clement:**

They are very much of a technical nature so I would like to take them as read and propose them *en bloc*.

**The Bailiff:**

You can propose them *en bloc* and then take any questions.

**The Connétable of St. Clement:**

I can attempt to answer any questions that Members might have.

**The Bailiff:**

Do you propose them and the schedules?

**The Connétable of St. Clement:**

Yes, please.

**The Bailiff:**

Very well. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the individual regulations or schedules? Deputy Duhamel.

**9.2.1 Deputy R.C. Duhamel:**

Just a technical question: under 3, we have: "Regulation 26 be amended." It suggests that the prohibition in order to limit the fishing effort is for fishing boats to use no more than 16 dredges at any one time. In the general run of things, how many scallop dredges are used by the smaller boats compared to the larger boats?

**The Bailiff:**

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

**The Connétable of St. Clement:**

I confess I did not quite understand the question. I wonder if the Deputy could repeat it for me.

**Deputy R.C. Duhamel:**

Certainly. It says under Regulation 26(b)... and we heard from the Constable of St. Clement that part of the idea behind these regulations, and there were 3 actual ideas: one was to bring them in line with the E.U. standards of measuring mesh size and twine thickness of fishing nets, as page 5 of the explanatory note says, but also mentioned was the opportunity to begin to limit the fishing effort in our waters which have been hitherto, perhaps, unregulated in relation to some of the larger fishing boats. This Regulation 3 says that: "The regulation is amended by adding the following paragraphs: 'It is prohibited for a fishing boat to use more than 16 scallop dredges at any one time'."

[14:45]

Presumably, if you are towing or trawling or whatever with 16 scallop dredges, you are going to have to be a pretty big boat, so the question is if we are trying, as part of these regulations, to limit the fishing effort to the smaller boats that are perhaps Jersey ones. The question in my mind is how many scallop dredges are towed by the larger boats in order to justify the introduction of this particular clause to 16 or less, and how many are usually used by the smaller boats as part of their fishing effort?

**9.2.2 The Connétable of St. Clement:**

As I said in my initial speech, at the moment the number of dredges that any one vessel can use is totally unlimited and totally lawful and, therefore, I have no reason to know what any particular vessel is towing at any one time. But, in addition to the maximum of 16 dredges, we also (if the Deputy turns over the page) do not specify the size of dredges, so to ensure compliance in a reasonable manner we have also said that: "The aggregate size of all the dredges being used at any one time shall not exceed 12.8 metres." So it is fair play, everyone is under the same rules. It is a major move forward. In fact, to be absolutely honest with you, the Jersey fishermen would like to see a lower limit of 12 dredges and we will be meeting that requirement by their licence arrangements. But, of course, with these regulations, it is a Bay of Granville agreement; we have to have the agreement of the French, and the French preferred 16, so they have compromised on that area. But it is a big improvement from no restriction whatsoever. I maintain the Article.

**The Bailiff:**

Very well. All those in favour of adopting the regulations and the schedules, kindly show? Those against? They are adopted. Do you propose the regulation for Third Reading, Connétable? Seconded? **[Seconded]** Does any Member wish to speak on Third Reading? All those in favour of



adopting the regulation on a Third Reading kindly show? Those against? The regulations are adopted in Third Reading.

#### **10. Greville Bathe Fund: Appointment of Trustee (P.122/2010)**

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

Then the final matter of public business is the Greville Bathe Fund: appointment of Jurat - projet 122 - lodged by the Minister for Treasury and Resources, and 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 approve the appointment of Jurat Stanley John Le Cornu for the purpose of administering the income of the Greville Bathe Fund in place of Sally Carolyn Ann Harrison, known as Jurat Le Brocq, who on 28th January 2010 ceased to hold the office of Jurat.

##### **Senator P.F.C. Ozouf (The Minister for Treasury and Resources):**

Could I ask that Deputy Noel be rapporteur for this item?

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

Yes. Assistant Minister.

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

We are being asked to approve the appointment of Jurat Le Cornu for the purpose of administering the income of the Greville Bathe Fund in place of former Jurat Le Brocq who, on 28 January of this year, ceased to be a Jurat. This Assembly does not often have the opportunity to thank the Jurats for the invaluable service that they give this Island and, as such, may I take this opportunity to warmly thank Jurat Le Brocq for her distinguished service to the Island. **[Approbation]** Should Members have any questions concerning this appointment, I would be happy to answer them and I propose the proposition.

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

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

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

It is only just to raise, I think - and I am certainly not going to be for women's rights - but it does seem that the way in which the superior number have really listed that Jurat Le Brocq could almost be a chattel of her husband: "The Superior Number of the Royal Court, by Act dated 28th June 2010, approved Jurat Stanley John Le Cornu" to take on, *et cetera*: "... in place of Sally Carolyn Ann Harrison, wife of Philip Brayn and known as Jurat Le Brocq." I just wonder why, in this day and age, we have to show language like that? Surely Jurat Le Brocq is a lady in her own right and should not be really seen to be the wife of someone else who is not a Jurat? **[Approbation]** I must be getting at least 8 pairs of stamping. But it is just to raise the issue and I just wonder whether, in this day and age, we really need to be talking in this formal language.

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

I had seen next Senator Le Main.

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

I was just interested - and I think probably Members would be - in what sort of funds does this carry and I would be interested to know, through the Chair, what kind of help has been dished out -

no names - to individuals or persons. I would be interested to know how much a year they spend and what is the sum total in this fund.

**10.4 Senator S.C. Ferguson:**

Perhaps I could assist the Deputy of St. Martin. Perhaps the Solicitor General might well want to say a word. **[Laughter]** My feet were not stamping because, under Jersey law as I understand it, a woman is always known by her maiden name which, I think, is really superior to just knowing them as an appendage of their husband. I am not quite sure where that derives from - and perhaps the more learned lawyers can assist us - but as far as the Deputy of St. Martin is concerned, I would prefer to have it the Jersey way.

**The Bailiff:**

Does any other Member wish to speak? Yes, Deputy Jeune.

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

May it also help the Deputy of St. Martin to know that I do believe that Jersey has an attitude of the wife being the chattel of the husband; however, I think it comes down to the husband: if you get the right man, he will not consider he owns you. **[Laughter]**

**The Bailiff:**

I doubt very much that this is an area the Solicitor General has mugged up on but ...

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

My wife is Russian, Sir, and I am the one who gets told what to do.

**The Bailiff:**

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

**10.6 Deputy E.J. Noel:**

So I can avoid the wrath of my wife when I get home this evening, I am not going to enter the debate between the good Deputy of St. Martin, Deputy Jeune and Senator Ferguson, but I will answer Deputy Le Main. The Greville Bathe Fund currently, at the end of 2009, had some £11.6million in it, and the grants paid out during the year to the end of 2009 was a little over £300,000 to good worthy causes and individuals within the Island and, of that £306,000, some £93,000 was paid to Jersey-based charities providing benefit to the sick and elderly within our community. Should the Senator require further information, I would be happy to give it to him after this meeting. I maintain the proposition.

**The Bailiff:**

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

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Bailiff:**

We come next to Arrangement of Public Business for forthcoming meetings, which is set out on the pink Order Paper. I invite the Chairman of P.P.C. to speak to it.

**The Connétable of St. Mary:**

As you said, taking the pink Order Paper as our basis, on 12th October, to add amendment 3 to Projet 120, which has been lodged today and, on 19th October, to add P.130 - Reg's Skips Limited: Planning Applications (R.118/210) - compensation and further action - lodged in the name of

Senator Shenton. On 2nd November to add Projet 111 - Esplanade Quarter: Planning Obligation Agreement - endorsement - in the name of the Deputy of St. John, which was deferred from today, and on 7th December, to add Projet 87 - Jersey Financial Services Commission Companies Register - in the name of Deputy Le Claire, which was also deferred from today. Those are the items that I am certain of but I believe there are a couple of items that other Members may wish to address.

**The Connétable of St. Clement:**

I have down for 12th October that it was the last possible date for the Samarès Nursery site, St. Clement: removal from the draft Island Plan- petition. We cannot really debate that on 12th October, in fact, we cannot debate it until the inspector's report is complete and the Minister lodges the draft Island Plan in its final form. But, having said that, I cannot defer it either because it runs out of time, it will be over 6 months old, so I was wondering if I could ask the Greffe to re-lodge the identical proposition for debate at a time when the Minister produces the draft Island Plan, whenever that might be. [Laughter]

**The Bailiff:**

Very well, so that will come off the list. Are there any other matters?

**The Deputy of St. Martin:**

Yes. I draw Members' attention to P.124. That is the Children (Jersey) Law 2002: appointment of children's guardians and advocates in certain legal proceedings, which is set for 12th October. Could I just ask for it to be put back to 19th October, in the first instance, to give a little bit more time for comments? That is P.124, which is down for 12th October, to be deferred to 19th October.

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

I do not know whether the Chairman of P.P.C. indicated her estimate of how long business was going to take.

**The Bailiff:**

I think she is waiting to hear everything that is in it.

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

I will refrain from commenting at this point.

**Deputy A.E. Pryke of Trinity:**

I would just like to thank the Deputy of St. Martin for removing it because I do have some concerns about it and will need more time, so I am very grateful to him.

**The Bailiff:**

Very well. Chairman, can you help on how long the States are likely to need for the next sitting on 12th October?

**The Deputy of St. Mary:**

From the crystal ball at St. Mary, notwithstanding the Deputy of St. Martin having postponed once on the projet, I note there is some substantial business there including, dare I say, Composition of the States, so I would estimate that we will need the 3 days for the next sitting.

**The Bailiff:**

Very well. Do Members agree ... sorry, Senator?

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

I do not wish to be difficult, but it does seem to me that I heard a number of Members comment that we will need at least 3 days. I have certainly counted major debates that are likely to be in excess of 3 days and would the Chairman consider potentially suggesting some alternative business for either 19th October or 2nd November which look, in comparison to the next sitting, like relatively light sittings and are some time-critical? If so, could they be moved in order to avoid Members having ... because I note that we are having 2 consecutive sittings, on 12th October and 19th October, and there is other business which I am sure Members will need to be dealing with.

**The Connétable of St. Mary:**

If I may, I will undertake to talk to Members who have business listed for the next week. As the Senator has alluded to, there are some items there which are time critical, which we need, for example, for Composition of the States, to have early decision on so that we can get the ensuing work done in time for the next election, but I will talk to other Members and advise the Assembly as soon as possible if there is a possibility to defer.

**Senator A. Breckon:**

Can I make a suggestion? If we are sitting on 12th October and 19th October, it is not beyond the whip for the agenda to carry over. If we do not finish by Thursday night, then there can be a continuation on the Tuesday and then we then pick up or we can do something, because we could have 3 days on 2 consecutive weeks. I wonder if the Chairman of P.P.C. would like to comment.

**The Connétable of St. Mary:**

Following on from that, I am not sure what the situation would be; would we then, on continuation day, not have a question session set for 19th October, if Members are content or if that is possible?

**The Bailiff:**

At the moment there will be a question time on 19th October because it is sitting in the States but, obviously, anything which is not finished at the meeting on 12th October, there is no reason why Members should not agree to add it to the agenda for 19th October. Very well. Do Members agree, then, to take the business as set out as amended in the way the Chairman has described? Very well, so that concludes the business of the Assembly, which is adjourned, and we will reconvene on 12th October.

**ADJOURNMENT**

[14:58]