

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 19th MARCH 2025

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[9:30]

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

## **PERSONAL STATEMENTS**

### **1. Deputy P.F.C. Ozouf of St. Saviour will make a personal statement**

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

Members will have seen from the Supplemental Order Paper that there will now be a personal statement from Deputy Ozouf.

#### **1.1 Deputy P.F.C. Ozouf of St. Saviour:**

I am grateful for leave to give it. I wish to make this personal statement and to offer a sincere and unreserved apology to this Assembly, to my constituents and the people of Jersey. I recently appeared before the Magistrate's Court in relation to a speeding offence. Unfortunately, there was a missed opportunity to resolve the matter through the Parish Hall Inquiry system, an appointment which I failed to attend. As a result, the case proceeded to court. The subsequent appearance of an elected Member before the Magistrate's Court has understandably attracted public attention and caused embarrassment. I gave a full apology to the Magistrate's Court, as should have been the case, as this matter should not have occurred. It was the result of an administrative oversight on my part for which I take full responsibility. Members will recall that these events have coincided with the anniversary in February 2023 of a series of profoundly difficult events which changed my life dramatically. Since then, I have also come to a clearer understanding of how certain long-standing challenges that affected my ability to manage the pressures and administrative demands of public life. I now much more am able to recognise what is required to navigate life with the structure and clarity that public responsibilities demand. I have been able, upon advice, to secure the additional support and guidance necessary to avoid falling short of the standards required. I regret that at times I have not been able to serve as effectively as I would wish. I will continue to actively put in place the required support and systems needed to meet the necessarily high standards and public expectations of elected office as a Deputy in the future. This apology is made without reservation, and it is my sincere hope that I may continue to serve this Assembly and the parishioners of St. Saviour with focus and commitment for the remainder of this term. Thank you. **[Approbation]**

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

Thank you, Deputy Ozouf. Deputy Porée, your light was on.

#### **Deputy B.B. de S.V.M. Porée of St. Helier South:**

May I just inform and ask the Assembly if I can be excused at 10.00? I am accompanying a member of my family to the hospital for a serious appointment, but I will be back as soon as possible.

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

Yes, of course, thank you.

## **PUBLIC BUSINESS - resumption**

### **2. Re-instatement of Senators (P.2/2025): amendment (P.2/2025 Amd.) - resumption**

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

We now return to the debate on the first amendment to the proposition. The next person to speak is indeed Deputy Ozouf.

#### **Deputy P.F.C. Ozouf:**

You have taken me slightly by surprise. Can you just give me one second?

**The Deputy Bailiff:**

Yes, I thought I might do. You were the next person to speak.

**Deputy P.F.C. Ozouf:**

Yes, I know, Sir, thank you.

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

While Deputy Ozouf is setting up, could I ask for the défaut to be raised on Deputy Labey, please?

**The Deputy Bailiff:**

Are Members content for the défaut to be raised? The défaut is raised.

**2.1 Deputy P.F.C. Ozouf:**

Sir, you rightly called me because I had some prepared remarks which I wanted to speak about this proposition. I am not going to rise to speak in every single one of the issues that are part of the amendments. I want to say that I have a view about this particular amendment that seeks to remove Constables as in basically the context of a referendum. I have been a Deputy of St. Helier. I have been a Senator. I do not think the Parish system is on life support. I think to be clear to Members, this Assembly has, in my view, no mandate to rewrite the electoral system especially not, and what I understand ... and would be grateful for the chair of P.P.C. (Privileges and Procedures Committee) or for the Attorney General or whoever to explain what the steps are that are going to be the next steps if this Assembly passes all these amendments and an amended proposition. Because it is not the end of the day, it is not the end of the process. Members of the public who are listening to this debate might believe that somehow we are going to magically get Senators or remove Constables, whatever. It is not. It has to go to primary law. In 2013 we held a referendum with 3 options. I think that Islanders voted for a yes, using the transferable vote system, option B; Deputies in constituencies and Constables emerged as the winning referendum results. They did not vote for option A, for the status quo, and yet the outcome was, as Members will recall, not properly implemented. Years of selective interpretation followed, ultimately abolishing the Senators, which is the subject of this amendment, altogether. But in 201 there was another referendum held, and I referred to that earlier, that Connétables ... and there was discussion yesterday about what the percentages were. I did have them but they are in my notes. But what was said, yes, there was only a 26 per cent turnout, it was not done at a general election as I recall. Voter turnout has been a real problem in Jersey for many years but despite the turnout of 26 per cent the result was clear, it was 62 per cent in favour of Constables, as I recall, and this Assembly chose on that occasion to honour that result. Referendums are not binding. I ask in this amendment what are we doing? Are we simply deciding in a - outside observers would say - reckless disrespectful way to the public in breach of international standards, which is something that is often spoken about in this Assembly; we pick and choose international standards. I do not think we pick and choose international standards in terms of democracy. I do not think that we pick and choose the fact that ... and I have been one of this Assembly's, by the Francophonie statement tomorrow by the president of the Assemblée parlementaire de la Francophonie, I was I think one of the only Members who has been an election observer for the Francophonie and I have done it for the Commonwealth. There was a common standard international that you should not make changes by law to your electoral system 12 months before. It is looked at negatively and certainly you should not throw out a firm of elected Members that are in this Assembly. I know there are views on either side of the debate, but we have had a referendum and it should be stuck to. If we are not going to, if we are going to throw out the Constables, we need a referendum to remove them I would suggest because you cannot have it both ways. There has been lots of discussion about the makeup of this Assembly. I think seeking to remove Constables, abolishing - as this amendment is about removing Constables without a referendum - does not have proper consultation.

[9:45]

The consultation around the Parish Halls was not about removing Constables, it was about the reintroduction of Senators. But was that really public consultation? I have done consultation in my constituency of St. Saviour, a microcosm of Jersey, and I think Members want - the people that I have spoken to - us to get on with the issues that we are here to actually do, not talk about, as many people will say, ourselves; whether that be Deputies, Constables or Senators. My late father was a Constable, I have been a Deputy in 2 Parishes and I have been a Senator, so I do not know anything really, but I know something. I know about election observers, and I know that the Venice Convention of Good Practice is something that we should choose voluntarily to comply with. The golden rule in democratic systems, you do not move the goalposts during the match or even just before it; just before it is 12 months. It is not about whether we like the current system or not, it is about trust, it is about stability and legitimacy. We are really going to the heart of that. That is why it is primary law; it is really important and needs to be approved by the Privy Council. If we want to change our electoral system, let us do it properly with full public consultation, independent advice and a binding referendum, if it has been decided previously to have an elected Member as part of it, which the Constables have. Anything less, I think, would be regarded as democratic malpractice, call it all sorts of adjectives, some of which are not parliamentary. But the Constables have been a settled conclusion not in one but in 2 referendums, and I maintain that this amendment should not be adopted. I will not be repeating some of these remarks in some of the other amendments debates because I do perhaps speak too much and I have used 6 minutes of my speech, and I oppose this amendment as I oppose others. I oppose other amendments, without repeating myself, on the view that of international standards needing to be respected because we do have international election observers, as a member of the Commonwealth and the Francophonie, and that should be celebrated and respected.

### **The Deputy Bailiff:**

First thing this morning about 4 lights did go on but I only got down 2 names, and those were Deputy Miles and the Connétable of St. John, so if I did not get you then, I will put down your names now. Thank you very much.

#### **2.1.1 Deputy H.M. Miles of St. Brelade:**

When I stood for election I made manifesto commitments to support the retention of the Connétable as Members of the States and to support the reintroduction of Senators. In accordance with that latter commitment, I have voted for the last 2 propositions that sought to reinstate Senators. I will remain true to my commitments in both respects throughout this debate. Some Members may know that I have an academic interest in informal systems of justice and asset-based community development, and this interest leads me to the focus of my speech on this amendment. Despite the small geographical area of our Island, rather than becoming a single Island-wide community, Jersey developed very unusually and as an Island comprising 12 separate little bubbles of governance, each having considerable discretion to shape and control events that take place between Parish boundaries. It might be unusual but I can say so with great affection. It is Jersey, it is what makes us special. The 12-Parish structure is of vital importance to our Island and it has served us well for hundreds of years; at least since the 12th century. The Connétables have sat in the States from its inception and it has emerged as a body in its own right, long before the introduction of the Deputy or the Senator. They bring a direct link between Parishes and the Assembly, ensuring that grassroots issues can be raised in a timely and effective way through questions and debates. The role of the Parish as the primary unit of social organisation administration in Jersey makes us very different to other communities. Other places would love to have the type of communitarian structure that we have here; honorary policing, Parish Hall Inquiries, local people dealing with local issues at local level. Indeed, other places are spending a great deal of money to recreate these structures, the structures that we have had here and have served us well for centuries. I think we need to be very careful what

we wish for. We do not know if removing the Connétable from the States will have unintended consequences on the social organisation and administration. We do not know how parishioners will react, or perhaps we do. The last referendum was very clear on that subject. We do not know how the Connétables removal would affect the delivery of key government strategies and policies. We do not know whether it would change the way in which Government engages and interacts with the Parish. Would they become sidelined in a way that is not possible when the Connétable can raise issues in this Assembly? We do not know how the administrative functions currently being delivered by the Parishes would be affected. Will it cost the ratepayer more? We do not know if this would be the end of the Parish system. Parishes do rely on that link with the States. It is fundamental. Whether or not Members feel it would be the end, it would certainly be another nail. The Carswell Review in 2010 recommended that the Connétable should not hold Ministerial positions, suggesting that their responsibilities could create conflicts of interest. That is a debate for another day. We have seen the influx of alleged expertise from other jurisdictions, the Venice Commission, the C.P.A. (Commonwealth Parliamentary Association) observers. All of these ideas garnered from fleeting visits or desktop research that risks undermining our local practices and traditional values and makes our system seem antiquated and outmoded. Our Parish system is none of these things. As the head of the Parish, the Connétable is able to participate fully in the States Assembly, which is an asset to parishioners. It is a symbiotic relationship, a reciprocal one, a mutual one. Just because the system is ancient, it does not mean it is archaic. Tradition and adaptability can be a powerful combination. Last week I announced that I was chairing a Scrutiny review to examine all of these aspects of the relationship between the Parishes and the Government and, at the end of that review, we will have a better understanding of that relationship as it stands today and an up-to-date body of evidence upon which we can make proper, reasoned and informed decisions about the role of the Connétable in the Assembly. Currently all we have is anecdote and supposition that nothing would change as a result of this amendment. I do not believe that that is the case, so at this point in time and especially when reflecting on the referendum result in 2014, I will not be supporting this amendment. **[Approbation]**

### **2.1.2 Connétable A.N. Jehan of St. John:**

I am not sure how to follow the previous speaker; I thought it was an excellent speech by my colleague. While I am generally undecided on how to vote for the main proposition, I am more than happy to contribute to this part of the debate. I was somewhat surprised last week to be asked by a colleague on these benches if I would be supporting the retention of the Connétable in the States. So on Monday evening I looked back at the *Jersey Evening Post* from 22nd April 2013, the eve of the A, B and C referendum. I would like to quote extracts from a letter published in that paper under the headline, “The Constable Provides a Vital Link”. The letter talks about the importance to retain a voice for each Parish and preserve the vital link between the Parish and the States Chamber. The letter went on to suggest that it is a vital link between Parishes and Government that is essential for an efficient Island. “As long as Constables retain their seats, the States departments will have to work with them. Once this link is lost, it will lead to further duplication and ultimately additional costs to the tax and ratepayer.” The letter goes on to congratulate: “... the 10 brave Constables who, having listened to the debates and considered the options on the table, have demonstrated once again good leadership, a willingness to adopt change and putting the Island first; just the type of States Members the Island needs.” The author of that letter now stands here before you in this Assembly. I wrote about the impact on efficiency and I can certainly identify efficiency improvement opportunities, so I very much welcome Deputy Miles’ review into the Parish system and its relationship with Government. As a Constable, we are very well placed and extremely accessible to represent the views of the community, as Deputy Mézec so eloquently spoke about yesterday afternoon about the Island’s wish to have their direct Parish representation. Not only are we heads of our respective municipalities, we are also invited to support many organisations in our Parishes, ranging from mother and toddler groups, youth projects, sports clubs, through to senior citizen groups and care homes, and everything in between. In St. John, in addition to the traditional Parish groups,

we also have an elected group that considers planning matters, elected for 3 years at a Parish Assembly, and that group has been praised for the submissions they have contributed to the last Island Plan and the more recent Bridging Island Plan. That group consulted widely with St. John parishioners, and the outputs of their work helped to inform the way I voted, based on the results of the questionnaires sent to all Parish homes. I should say that the Connétable of St. John holds an *ex officio* position on the Comité Rurale and does not chair that group. We also have a climate group, who again keep me on my toes when it comes to environmental matters. To date I have supported the district approach as I believe it has strengths. When people approach me about various subjects, if I cannot help them, I can often point them in the direction of one of the 4 Deputies who may have more experience than I in a certain area. The proposer of the main proposition spoke about the need for a wider perspective. I am happy to tell the Deputy, and others, that when I have canvassed my views, and I am sure all other candidates' views, have been questioned on an extremely wide range of topics. Yes, people want to know about parochial issues, but they generally want to know about Island issues as much, if not more. I hold a weekly surgery and have on average 4 or 5 different people who attend every week. We discuss a whole range of topics, sometimes we have to agree to disagree, but whatever my view or theirs, in the main, we go away more informed. The general consensus on this subject is that people, generally the more senior members of our community, want to see an Island-wide mandate, but not at the expense of the role of Connétable. My research is not restricted to just those who make the effort to come and see me. I have spoken to dozens of people, not only in St. John but from around the Island, on this matter. Like Deputy Millar, I also received a hard copy of a petition from residents of St. John and 2 other Parishes. The common threads are, why are you once again talking about yourselves? Why do you not let the current system bed in? When discussing the need to improve voter turnout and how further changes might lead to more people voting, I have been asked the following: change the day of the elections. Well, that is successful, hopefully. Allow people to vote in any allocation and also improve the location of your polling stations. Deputy Ozouf spoke about the referendum. Having been involved in, shall I say, a few campaigns, I can categorically say that the public who voted in that referendum, regardless of their view, were disappointed with this Assembly for not implementing the results when they had the chance. Finally, a recent visit to Guernsey, I discussed their model with members of the Assembly who I have known in a couple of cases for many years. Their observation was it was a mistake to lose local parochial representation. I respectfully ask Members to vote against the amendment brought by Deputy Coles. [Approbation]

### **2.1.3 Connétable K. Shenton-Stone of St. Martin:**

I would like to start by thanking Deputy Coles for giving us 2 weeks or just 2 weeks to consider removing almost 600 years of Jersey's history as an act of compromise. Five hundred years-plus of a position working well for the Island could be wiped out with a last minute amendment. I would also like to make it known that this compromise is to support restoring a position the proposer's party agreed to remove in the last Assembly, and Reform has repeatedly opposed this until this month. I am talking about the Senators. Of all the political issues we face in this Assembly I am surprised that this is the one that has led to Reform's Damascene conversion. It will come as absolutely no surprise that I am opposed to this amendment both as a Connétable and as an Islander. I am opposed because this amendment will have a negative impact on the quality of representation that Islanders receive. The Constable has a role to play in this Assembly because they are not only a direct link between central governance and municipal life, but because they can provide insights and take initiatives directly from the municipality that Deputies are unable to. It may have been suggested that the Constable could seek election as a Deputy, but I do not see this as offering any improvement on where we are now. There is direct democracy at Parish level. Connétables are very present in their Parishes and as elected representatives we see our parishioners, constituents on a daily basis. The Rates Assembly is a good example of direct democracy. Parishioners can attend and vote on how

the rate will be set for the year. What other jurisdictions are there where taxes can be directly voted on. Somebody said to me: "Remove the Constables at your peril."

[10:00]

If we begin to centralise rates will go up, and if you start losing municipality and the Honorary Police through feeling disenfranchised, costs will escalate and the goodwill of the community will suffer, along with rising costs to replace those vital services. At the core of these debates on the Constables is the question of whether they can provide a type of representation that can overcome the mathematical issues they create through the persistence of historical Parish boundaries. I still believe that we need to keep the Constables in because no other legislature successfully offers that unique connection between a small Island's Government and its municipalities. It allows us to share insights of what we see going on in the Parish, not just cultural events but the issues faced by the very poorest in our Parishes and what we do to help them. We see things that Deputies are not required to see, that they can opt out of. In theory, a Deputy can be elected and then never see their constituents again until the next election, and I am totally not suggesting that this happens. For a Constable, it is our daily purpose to engage with parishioners and solve their problems, and that is what informs our politics. You will not get that same devotion to community with the Senators. We become Constables because of our sense of social justice. Our presence in the States Assembly may be atypical of the Westminster parliamentary model, but it serves us well. Contrary to a mistaken belief by some that we are insular in our Parishes, no, we look outwards and we see the whole picture. For example, there is a huge ongoing piece of work being carried out by the Minister for Justice and Home Affairs in this Government. It is a piece of work that they are very proud of. This monumental and important piece of work of which I am referring is implementing the recommendations of Violence against Women and Girls. I am also extremely proud of this body of work because it was me who brought it to the Assembly as an independent Member, a non-Executive Member and a Constable. With the way women are being marginalised around the world, and now even in the U.S.A. (United States of America), this work is outward looking, not just for the whole Island but globally. Yes, this was brought by a Constable, and I have brought other successful Island-wide propositions. The Assembly needs to consider what effect removing the Constables would have on representation in Jersey. As I have already said, if you lose the Constables you lose a key thread between the Government of Jersey and Parish and municipal governance. You lose opportunities to prevent it being cut back by austerity or absorbed into a system it is not designed for. You lose opportunities to help people and build their local economies because the Parish is more nimble than the Government of Jersey. It really is. In St. Martin, through obtaining a loan to redevelop and refurbish our old primary school while maintaining the historic façade and building, in the last 5 years we have fiscally stimulated the economy. Developing and providing work in our doctor's surgery, pharmacy, vets, the medical supply shop and showroom and our M.&S. store. This supermarket is the highest-grossing M.&S. per square foot in the world. All this is a great achievement for a rural Parish and this initiative has been developed through the hard work of the Connétable and the Parish. It may also be worth considering whether the Constables, under the Assembly's current composition, are not so much a hindrance for districts but rather a backstop. You need a minimum number of Deputies in this Assembly to ensure equal representation with an electoral system that retains Parish boundaries. Remove the Constables and although you may gain the freedom for a more targeted equity you also lose the need to meet this criteria. A future Assembly, heated up on those ideas of minimising democracy we see across the pond, could start to reduce the number of Members with much greater efficiency without the issue of Constables. If, like me, you value the high level of elected representation Islanders receive, then you should keep us. Turning to the amendment's report, where the Deputy suggests at removing the position of Constable from the Assembly would allow us to either focus purely on their parochial duties or seek election. I would appreciate it if the Deputy could confirm in his closing speech whether he believes the Constables in St. Helier or St. Peter or St. John or St. Brelade have been hampered in their Assistant Ministerial or



Ministerial duties by virtue of being Constables. Have I been able to deliver the vast agenda of P.P.C.'s (Privileges and Procedures Committee) by being hampered by being both a Constable of St. Martin and the chair of P.P.C.? We have heard this argument time and time again but it is facetious. Anyone who has been or shadowed a Constable knows that we put in the hours needed to effectively serve our Parishes and in the Assembly and, in some cases, the Government of Jersey, and we do not suffer as a result. We choose to take on the dual role and we see it as a privilege. I have invited some Deputies in Reform and others to come to St. Martin and see what I do on a daily basis. Unfortunately only one Member has taken up the offer and they can see what has been achieved. I send this invitation again to everyone here - here and now - and invite the proposer and others to see what can be achieved. For example, La Vielle École, which is our retail, doctors and vets facility, and the playgrounds and the first-time buyer homes achieved without government funding. Getting things done in Parishes can be achieved so much faster than Government achieves them, but I could not achieve these things if I was not a serving States Member. In Reform's last manifesto there was a promise of developing an elected municipal council in St. Helier. I obviously cannot speak for St. Helier but I am aware that the sheer difference in population and size provides Islanders of a very different experience of engaging with their Parishes, so it is a shame that ditching the Constables is the most that the Deputy can contribute to this Order Paper. Turning to turnout where concerns around how low it is are very correct and something that this Assembly takes seriously and, as chair of P.P.C., I take it very seriously. Members would also do well to note that the lack of historical contest for the role of Constable, that is why I introduced the "none of the above" none of the candidates pilot option in the previous Assembly. This gave Islanders a chance, for the first time ever, to reject an uncontested candidate. And guess what? Islanders accepted it and cast their ballots. Most of us were very fortunate to be returned with a strong high mandate; a couple of others less so. Nonetheless, what we now have is proof that we, as Constables, are not invincible. We can be beaten at the polls and I hope that this is what encourages Islanders to contest these positions next year. I believe this information, indeed the overall volatility of the previous election, will be considerably more influential in encouraging Islanders to stand, compared to tinkering once again with a system we have been arguing over for years, without asking Islanders what they want. If you get rid of the Constables, the turnout may go even lower. We have seen Constable elections in Guernsey, when they did remove them from the States of Deliberation, with a turnout of under 4 per cent. Is this Assembly willing to risk this? Turning to the hypothetical of the Constables being removed, I note that the Deputy's report suggests that if Constables are to be remunerated for the position then it would be for the Parish to consider. The Deputy would do well to understand that being a Constable is a full-time responsibility that extends well past ordinary working hours and we are paid through the Assembly. We would need more time than 14 months that we have to organise an effective system to resolve this. To remunerate Constables through the Parish would either mean higher rates or severe cuts to Parish services. Which of the 2 would the Deputy like to tell the public he favours? The third option would be not to pay Constables at all. In past years, Deputy Mézec has proudly spoken about former Deputy Norman Le Brocq. When I was so much younger than I am today, I met Deputy Le Brocq. Deputy Le Brocq spent years campaigning alongside other members of the Jersey Democratic movement for a proper wage for States Members so that working people, not just the wealthy, could sit in this Assembly. The establishment of a wage for Constables comes through this Assembly and, setting everything else aside, I cannot have this position removed without a proper plan in place. If there is no other reason for Members to reject this amendment then let it be this one. To turn an elected post, one that is at the heart of the Island's culture and responsible for, in my case, a budget of roughly £1 million a year, into the hobby of the wealthy is not social democracy. It is not social democracy at all. Just the opposite. I am content for Deputy Coles to remain unaware of what Constables do, but the Parishes and Islanders should not be impinged as a result. Before I conclude, I would like to pick up on the Deputy's suggestion that divisive and consequential political issues are more likely to inspire interest than bland and soulless explanations on how a system works. I would challenge him to find a Constable who will give you a bland and

soulless lecture on how the system works. We can be a fervently spirited bunch, but we may not always look like it. To close, the proposer may note that the title of his party is Reform, not Revolution. As I have said, the Constables are already changing. Hopefully voters know and have the proof that we are more than able to contribute to this Assembly as easily and as effectively as any Deputy, and for the sake of clarity, any Senator, if that role is indeed brought back in. Having served under the previous electoral system and under the new one, I can happily say that the debates we have had in this Assembly is not the 2-tiered perception of before, it is so much more equal. To be clear, we welcome contested elections, we want a diversity of voices, a diversity of people challenging on election day and we want the public to know that it is possible, as I have shown, as we have shown, to be elected as Constable to build change and make a real difference. The States Assembly may be our Parliament, but the life of the Island is within the Parish. The Assembly is meant to pride itself on careful, evidence-based decision-making. Removing the Constables would be the opposite. If the Deputy wants to move forward, then we need to let the future come to us by allowing Islanders to contest these positions as mandate within the States Assembly. I urge Members to please reject this amendment.

**Deputy T.A. Coles of St. Helier South:**

Point of order, Sir, if I may.

**The Deputy Bailiff:**

Point of order, yes.

**Deputy T.A. Coles:**

The Constable made reference that this is my only contribution to this Order Paper. However, I have an oral question on this Order Paper, plus another proposition submitted on this Oral Paper.

**The Deputy Bailiff:**

That is not a point of order, you are not seeking a ruling from the Chair, that is not the point or order.

**Deputy T.A. Coles:**

I believe that the Member has then misled the Assembly by providing misinformation, Sir.

**The Deputy Bailiff:**

You will make a speech in due course in relation to that.

**Deputy M. Tadier:**

I think it can be considered a point of order in the sense that ...

**The Deputy Bailiff:**

Well, an invitation to give way would have been more appropriate.

**Deputy M. Tadier:**

You can confirm how many items Deputy Coles has on the Order Paper and correct the speaker if she is wrong, I think.

**The Connétable of St. Martin:**

Sorry, can I apologise? I meant to say the only proposition, sorry, and I missed that out when I was speaking. Sorry, I do apologise and I know you contribute widely to the Chamber.

**2.1.4 Connétable R.P. Vibert of St. Peter:**

The amendment to the proposition seeks to remove Constables from the Assembly should we agree that Senators are to return. There is no indication that the public have requested the removal of the

Constables as the results of the referendum in both 2013 and 2014 do not support or request such a change. Voter equality and the Venice Commission are often relied upon by those seeking the removal of the Constables from the Assembly. The Venice Commission is an advisory body of the Council of Europe composed of independent experts in the field of constitutional law. It was created in the 1990s after the fall of the Berlin Wall at a time when there was an urgent need for constitutional assistance in Central and Eastern Europe. It is interesting that the E.U. (European Union) have now encountered problems with some of the recommendations of the Venice Commission and have changed their view on certain issues, in particular that of equality of representation across the electoral districts. Perhaps when setting up the Venice Commission they had not anticipated the number of smaller nations who wish to join the E.U. Of course they were only willing to join if they felt they had a voice and could not be bullied by the larger nations. The Treaty of Lisbon signed by all E.U. countries in 2007, 17 years after the Venice Commission was formed, provided for the number of M.E.P.s (Member of the European Parliament) in the E.U. to be digressively proportional to the number of citizens of each member state. There is a clear parallel between our Parishes and the different sizes of countries in the E.U. This would say that St Mary's should have a representative, although its numbers would not necessarily pass a pure equal vote test.

[10:15]

You could view each Constable as a representative of the community. In fact that is what they are. They represent the municipality and can be held to account by 10 parishioners requesting a Parish Assembly if they are unhappy either with the Constable's administration of the Parish or his performance in the States Assembly. That is true democracy. As such, the Constable is the person best placed to know what impact proposed legislation would have locally and his position in his Parish, and his position in the States provide that essential link between Parish and States administration. The E.U. has recognised the issue of voter equality and has addressed it. It allows smaller nations a greater number of representatives per their total population than the larger nations, in effect, flying in the face of the recommendations of the Venice Commission that was set up in the 1990s. Switzerland likewise allows 2 representatives in the Federal Council of the States for each of the cantons. However, the cantons range between 100,000 and 1 million voters. Any attempt to undertake constitutional change requires both a majority vote of the Council of States and a public referendum, something that we should consider. I have obviously researched where voter equality has been questioned and if the E.U. questions voter equality then why are we trying to, in a small jurisdiction of 45 square miles, trying to introduce pure voter equality. I would therefore ask Members to reject this amendment.

### **2.1.5 Deputy M. Tadier:**

So let us just recontextualise this debate. We are here today not because Reform instigated a debate on electoral reform. Our position overall is very clear, that we should not tinker with the system 12 months before an election, and we have already debated this issue is it twice or 3 times, I lose count? It has been roundly rejected especially on the last time ... twice. This is the third time. The Assembly has spoken on this. It has been well soundly rejected and also we tend to hear from certain parts of the Assembly that we should not keep redebating issues that have already been put to bed, and how often do we hear that? Often from the same people who are maybe bringing these amendments and supporting this today. That is the context of the debate. The second point is that Deputy Millar should be biting our hand off to accept this amendment because it means it is the only way that she could bring on board the 10 votes that are on offer from the largest party in this Assembly, a party which is also a party of Government. It leads me to question whether or not she is serious about wanting to bring back Senators or whether simply ... because if one was serious about wanting to bring back the Island-wide mandate you would seek to build consensus within the Assembly and find a way that is acceptable for a significant number of Members, not just perhaps a slim majority of 25-26, to be able to force this through. Perhaps that is her intention. Because we have said all along

actually, our manifesto commitment, and we were elected on a clear manifesto commitment that there should be electoral reform at some point and there should be ideally one type of States Member. We are open to what that one type of States Member should be. We also, ultimately, believe in a fair system. We will go back to the point about fair systems and first principles during this speech. Because I think those are the basics. If we do not get the basics right, then, of course, everybody can pull out 49-plus permutations of what we might wish to be. If you extend that across the Island, those ideas could, of course, be in the tens of thousands of permutations about what electoral reform ultimately should look like. I am disappointed that Deputy Millar has not reached out to us actually and said: "This is a really good way of bringing back the Senators." I do look over to the Constables' Bench, speaking through the chair, and say Constables, some of them seem to want to bring back Senators, I know that for sure, maybe even more than at the last time. So there will be Constables here who voted against bringing back the Island-wide mandate in the last 2 occasions who might, for whatever reason, be sorely tempted on this occasion to actually change their vote. Why? I do not know, but I would ask them, through the Chair, how committed are they to bringing the Island-wide mandate back? Are they willing to bring it back? Are they willing enough to be able to give up their own seats to do that? I suspect that is when they go quiet and say: "Oh we could not possibly give up the automatic *ex officio* role that we have in this Assembly" but they are asking 9 Deputies, and I talk about the cohort of Deputies not any individual Deputy, to give up 9 seats on this side of the Assembly to yield up their seats even though the consequence of that would be to make electoral distribution even worse. I have to address this point because I woke up early this morning thinking about it, is that anybody who stands up and tries to fight for electoral fairness is dismissed, and this was in the initial speech of Deputy Millar, but we have heard it again in this particular amendment, as some kind of zealot. They are a mathematical zealot. These theorists who come in from elsewhere and they are fixated on numerical accuracy. No, it is actually called just the basics of democracy. This is why it goes back to the point, when we teach our young people in the Island at primary school about democracy, do not just invite them into the Assembly and tell them this is how it works and this is where everybody sits and this is the mace and this is why we have got the powers. Go one step back I would suggest, and I look over to those who may be charged with those areas, and say what are the basic tenets of democracy because when the original proposer was moving this she talked a lot about jurisdiction, our jurisdiction. There was no talk about our community, our society, our democracy, and how that works. Jurisdiction, it is a very legal word, it is a very legalistic word, which is perhaps unsurprising given the background of the esteemed Member. But we are not in a court, we are an Assembly and the Assembly's focus should be on democracy not on jurisdiction. It should be on the basic principles of democracy. So when we say there has been a referendum and that has put the matter to bed; yes, there may have been a referendum. Was there a referendum on giving prisoners back the right to vote; giving some prisoners in Jersey the right to vote? No, there was not. If there were a referendum on it, as a betting man ... am I a betting man? I am not sure but to use that tone of phrase, the public would not have accepted that. They would have come out and roundly rejected the fact that prisoners should not be able to vote, they are criminals, they are in prison for a reason, they should not be given the vote. But other human rights considerations and democratic principles and norms say that it is not right to refuse certain things to certain people, and that goes for our electorate because we are living in a democracy. Now a lot of the arguments I have heard ... it is a real shame because we have heard a real defensiveness from the Constables but we, as a party, have been put into a position where we have looked at what is essentially a bad proposition. It is a proposition which does not add anything, it takes our democracy backwards rather than forwards, and our job as a responsible political party is to look at that and say, well, how can we make what is in front of us better? How could we possibly make it better? This is the only way we can think of to do it. Of course it is not going to please 11 of the 12 Constables, is it? I am not going to fall out with them over this because I think we have to be robust and frank in this, they have been as well. But a lot of the arguments that we have heard from the Constables, and I will try and find my passage here, especially from the Constable of St. Martin.

**The Deputy Bailiff:**

Deputy Scott, do you want to ask the Member to give way? Will you stand up?

**Deputy M.R. Scott of St Brelade:**

Could I ask the Deputy to give way, because I did have a question, and he is looking for a bit anyway.

**Deputy M. Tadier:**

If the clock has stopped, I am happy to give way.

**The Deputy Bailiff:**

I think the clock will stop for a point of ... it has stopped. Time has stopped.

**Deputy M.R. Scott:**

I just wondered, when he can pick up on his speech, because it is this bit about the referendum, and it seemed that the Deputy was suggesting that we should not have them or we should not respect them. I could not quite understand that point, so if he could explain.

**The Deputy Bailiff:**

That is a point of clarification you are seeking?

**Deputy M. Tadier:**

If I have time at the end of my speech and I have not run out, I will happily address that point. I was making the point about the word. So the Constables made all sorts of absolutely correct comments. They say: "We become Constables because of our sense of social justice." Great, so do we, so no difference there. "Contrary to the idea that we are insular in our Parishes, we look outwards." Great, so do we. But we still had to be elected to this Assembly specifically. The first point to say, and this is not a criticism of anyone or the role, is that Constables are not elected to this Assembly. They are elected to their Parishes, they are *ex-officio* Members of this Assembly, therefore they get the right to sit in this Assembly, not by way of contesting an election like we have all had to do. The 37 of us on this side of the Assembly have all had to face an election, we have all had to face an election in large electoral districts at the last election, and that is not the case for all the Constables. That is not their fault but that is the system we have had and parishioners elect Constables, I would suggest, primarily and often, because they say: "We are going to keep the rates low. You know me, I have been in the Parish for quite a while" and he is a good old boy is the kind of theme that you hear. That is fine. That is a great way to elect a Constable. But to give them a seat in our national Parliament on top of that, that is a little bit strange, especially given the fact that there is nothing to preclude them if we were to remove that *ex officio* role for standing for election. All those things that were said, if you change the word "Constable" to "Rector" let us see how that reads. The Rectors might have been standing up here before 1948 saying: "But we become Rectors because of our sense of justice. Contrary to the idea that we are insular in our Parish, Rectors look outwards" and we have a great Dean in this Assembly. We have got who I think is outward-looking, and he is doing some great work both for his physical Parish in St. Helier, what he has done with the church in St. Helier, making it open to everybody of all faiths or none is wonderful. I am sure he takes that ethos into his wider constituency of the Island. But the point is the votes of the Rectors were removed in 1948 because it did not sit right, and ultimately I do not think there is anything in electoral law that stops Rectors from standing for election, but they might think that they do not really need to do those 2 jobs. The point is if the Constables are so secure that the public in the Island want them in this Assembly then why would they not give them the option. We have not heard what the counterfactuals are because we do not know who does not put themselves forward for election, how many parishioners are not putting themselves forward for election because they do not want to do the Assembly work? This is absolutely factual. Not so long ago I spoke to somebody who said that their

father had been approached by the current Constable of the Parish - I will not mention who it is. That person may be able to guess though from what I am about to say, I do not think it gives away any identities - to ask this person if they would consider running for Constable at the next election because that Constable was going to stand down at the next election or they think they will. The person said ... obviously this is somebody who has been involved with the Parish, presumably would have made a great Constable otherwise the current Constable would not be asking them, and they said: "You know what, I do not want to do the States work. I would love to be Constable because I love the Parish but I am not interested in sitting in the States debating things like this for days on end. That is just not what I am here to do." Great. So by holding on to a system where Members might think, Constables might think, they are doing a favour to the Parish system, they are actually potentially doing a great disservice to it and it could be by not willing to compromise on these kind of issues that the Constables are putting the final nails in the coffins of the Parish. Those are not things that are going to be easy to hear for certain people. Because I look at the Constable of St. Martin and I suspect she is a very good Constable in her own Parish. I do not know, I do not live there, but from what I see, having been to her Parish, the beautiful play park she has in front of it, the way that her Parish seems to be excellently run, is great. She is also an excellent States Member. That is why I do not think she would have any problem when she was Constable if she said: "Actually, you know what, I want to put my name forward for one of the Deputy positions in St. Martin and Grouville." I think that the constituents in those areas would probably vote for her and she would then have an equal mandate. I would say to the Constables, why would the Constables not wish to be elected on an equal basis to this Assembly in the same way that all the other Members of this Assembly are elected because then it puts beyond any doubt questions about their legitimacy. But they seem to be unwilling to do that. Maybe they do not trust the public enough to value their worth as highly as it should be valued. The thing is, I would also come back to the point that this ... we have been led to this position but of course all of these amendments arguably are a sub-optimal way of delivering something that might otherwise be desirable or deliverable because the fundamental point of this main proposition is undesirable and this is not the way to go about things. I would suggest not only is it not right to try and tinker with the system 12 months before an election, but what I have to say appears to me from the outside to be little more than political gerrymandering.

[10:30]

Because what we have seen here is that there is not a real desire to bring back the Island-wide mandate otherwise that conversation about how we would deliver that fairly would be on the table. For example, should we all be elected on an Island-wide mandate? I think you would probably find great support from the public for that but that is not what we are debating today. But there is a way that this could be delivered and it all goes back to the fact that rather than make proper change, whether it was in 1948 where we saw basically the great old Jersey fudge coming forward, is that you give it to an independent body to do the work because a bit like the fact that we do not set our own pay in this Assembly, for good reason, we have a remuneration body to do that and to look at our terms and conditions. We should not be setting our own electoral districts either because we have skin in the game, as the expression I think is, in the business community. The first point is you set up a commission: "Oh, that is a great idea." What happened when we did that in 2000, the Clothier Report came forward and it has been terribly maligned - unfairly I think - because what Clothier had at its heart was protection of the Parish system. Rather than having the super-constituencies, which were an attempt to be a hybrid between Senators and the Parish link, he said: "Put all of your seats into the Parishes." Presumably - he did not specify - but said: "You should probably have single-seat constituencies, and I would advocate for an alternative vote so you do not get rotten boroughs, and you could then decide whether you want to have Constables in or out." Because, in fact, Constables can easily be taken into account on the basis of equality and the number of parishioners. I will finish with this point because this is a fundamental one about fairness, which I would say to children in schools. If you have a hypothetical island, divide it straight into geographically. You have 10 people

living on one side; 100 people on the other side and you say: “You are both allowed to vote for 2 seats in the Chamber.” They will tell you very quickly that is not a fair system. Then if in the one part of the island where - did I say - 100 people live, they get the 2 votes, they decide not to turn out to vote after a while because they say: “It is not really fair”, then people point out: “Well, the people in the large part of the island with the 100 residents, they are not voting so I think we are going to take one of their seats away because they do not value democracy and we are going to give it to the other island where 10 people live. We will give them 3 seats and we will give the other one one seat.” That is exactly what we are hearing in this kind of debate, and it is absolute madness. We need to go back to first principles of democracy because what we are seeing today is that we might have had the great Jersey fudge in the past but what we are seeing now is an attempt at the great Jersey gerrymander. Possibly a great idea for T.V.

**Deputy M.E. Millar of St. John, St. Lawrence and Trinity:**

Point of clarification. I think the Deputy has ...

**The Deputy Bailiff:**

Are you prepared to accept a point of clarification?

**Deputy M. Tadier:**

I can but it would bring me over my 15 minutes so I do not know where that would leave me with the ... I rest in the hands of the Assembly.

**The Deputy Bailiff:**

If you can deal with that, yes.

**Deputy M.E. Millar:**

Would the Deputy clarify? I think he has accused me of having an improper motive or being dishonest in bringing this proposition, both of which I find offensive.

**The Deputy Bailiff:**

Do you mean by reference to the word gerrymandering or something else?

**Deputy M.E. Millar:**

He is suggesting that I am not committed to the proposition and that I have brought the proposition knowing it is doomed to failure, and that is certainly not the case.

**The Deputy Bailiff:**

Do you want to just confirm that you are not imputing any dishonest or other ...

**Deputy M. Tadier:**

I do not think it is doomed to failure, no, and I do not think I imputed improper motives but if the Member can highlight that subsequently, I am happy to clarify or withdraw comments.

**The Deputy Bailiff:**

He has confirmed there is no such suggestion of any motive.

**Deputy M.E. Millar:**

I am grateful for that, Sir, but I can absolutely assure the Assembly that I have not brought this proposition with the intention of anything other than success.

**2.1.6 Deputy L.J. Farnham of St. Mary, St. Ouen and St. Peter:**

I am pleased to follow a number of previous speakers and not least the Connétables of St. John and St. Martin, and Deputy Miles because it will enable me to say a lot less in my short contribution now. I want to just look at this from a practical point of view. I think everybody who stands up to make contributions today are doing it for the right reasons and for the reasons they believe in. Now, those reasons, we might differ on that. We might talk about tradition. We might talk about the purpose of why we are all here versus tradition and we must talk about our democracy, which Deputy Miles referred to as being something quite unique that has served us well for centuries. I think there is a lot of misinformation circulating or, shall we say, just different ways of clarification of the variance we see in voting. When we look - and I have all the figures here although I was a bit ambitious when I printed the spreadsheet out this morning, my spectacles are not powerful enough to see it all - we see great claims of how important reducing the variance in constituencies is but in the vote we still saw a huge ... technically districts that have ... within the Venice Commission, which is only a set of guidelines basically, recommend a 15 per cent variance. We have seen a massive variance with Deputies being voted in between about 580 votes to somewhere close to 3,000. We all sit here as Deputies with an enormous range of votes. Our democracy is unique insofar as we only have this Assembly. We do not have an Upper House or devolved Assemblies or Parish councils, town councils, city councils. We have this Assembly which is why the balance is important. The Constables represent the Parish and now we have multi-Parish constituencies. If we were to lose the Constables, members of the public within the multi-Parish constituencies would not have a Parish representative. They would have a constituency representative and that is, I think, important to note. The tradition of the Constables is important but the purpose that they serve now in modern society, I think, is even more important. Having served as a Deputy, I know the role of the Deputy versus the role of the Constable and although they overlap at times, they are largely different. If we were to lose the Constables, I think that would cause irreparable damage to the Parish system. It would steer all of the parishioners through to their political representatives bypassing the Parish Constable because their loss of political influence would be of significant relevance to what they could achieve, as the Constable of St. Martin referred to, we have seen in our sister island of Guernsey. That is all I have to say at this stage. I regrettably cannot support Deputy Coles' amendment, but I thank him for bringing it because these debates, while we get criticised for talking about each other, I believe are important because they effect the democratic process of this whole Island and we are trying to put that straight today.

**Deputy P.F.C. Ozouf:**

May I ask a point of clarification, Sir?

**The Deputy Bailiff:**

Are you prepared to give way, Chief Minister? Point of clarification from Deputy Ozouf. Yes.

**Deputy P.F.C. Ozouf:**

The latter point that the Chief Minister made was the certainty that this will present. I did ask in an earlier speech, and he referred to it, about the timing of what the process will be. This is not the end of it, and I am just asking whether or not there is a subtle way of trying to ask what the timing of this process is and if the Chief Minister could kindly address. Because he is in charge of law drafting, could he kindly address that point? In his clarification of his speech when he says: "Do it today." It is not today. It is going to be the legislation.

**Deputy L.J. Farnham:**

I purposely did not comment on that because we have an amendment from Privileges and Procedures Committee which talks about implementing this in 2030 but I know that Deputy Millar has taken a sounding, and I have no doubt that if we were to approve Deputy Millar's proposition, or an amended version of it, we have time to put the legislation in place in time for the 2026 election.



### **2.1.7 Deputy I. Gardiner of St. Helier North:**

Several points I would like to make based on the speeches that were made before. This debate is my fifth debate over the last 5 years. I wish that we had managed over these 5 years to convince the public that the current system works. From Deputy Millar bringing this proposition and from going around the Parishes and people approaching, we did not do a good job convincing people out there that it does work. Something does not work for the public and the public feels different to us, and this is why we are debating this fifth time. What was difficult for me and why I decided to speak is I felt an attack in some shape or form for Deputy Coles' amendment that came out of the blue after 2 weeks' time. If I am looking through all the amendments that came in front of us, Deputy Coles' amendment was considered ... we are talking about removing Constables - proper compared to any other amendments by P.P.C. in 2019 and we had the vote in 2020. The vote was lost by 6 votes only, but it has been considered in the details. If I walk back into the proposition, it was several options. A Constable was permitted to stand for elections to the States in addition to being a Constable, if they wish. The Constable to keep involved and access Government or Constables retain *ex officio* membership in the States in not voting capacity. Lots of options were put by P.P.C. then in 2020 saying what the options are for Constables to continue to be involved, to continue to contribute and to really, really continue this connection to the States. They are doing an extremely important job in the Parishes, and I know how much Constables work hard in the Parishes and what level of work that Parish work is required. I am still considering how I am personally voting for this. I know how I voted in 2020, and I think I am likely to stick with my vote in 2020 because it was proper consultation. Deputy Ozouf asked the right question and I checked with the chair of the P.P.C., this would come back to the Assembly for final approval because legislation needs to come back forward and all these options that were mentioned in P.P.C. reform, how we are keeping Constables' involvement and how Constables continue to contribute and being part advisory role of the Assembly can come back. Something else I picked up from my speech - I have gone back to the time and I looked at my speech in 2020 - where I said that I believed that the future election will be future political parties; I think that I am changing my mind now. I had this hope in 2020. 2025, I know that Reform Jersey is a very well-established party but definitely people in my district were asking me at the door: "Are you party/not party if we make a decision?" I think I have changed my views on that, but we are 20 years after the report. We are not going towards loads of political parties, as Westminster, and we do have Ministerial Government. This is some work the P.P.C. needs to do on how we continue to be who we are when we have Ministerial Government and we do not have proper established political party systems, but it is for the next Assembly. Coming back to this, I do believe this is the only amendment that was examined and it was roadshows and it was meetings around the Parishes, and have been about that 2020 proposition was removing to have one type of States Member that we debated.

### **2.1.8 Connétable R.D. Johnson of St. Mary:**

I sense there might be an inaudible groan from some Members to hear yet another Constable speaking on this same issue, but I rise for 2 specific reasons. One, the term "St. Mary" has been liberally used during this debate, and I wish to answer on its behalf. Secondly, unlike most of my colleagues, I have served as Deputy of my Parish for 2 terms before becoming Constable. I recognise the difference between the 2 roles, and I am not sure it is fully understood. To begin, to give credit where it is due, I was surprised to hear from the proposer and Deputy Mézec last night how much they appreciate the role of Constables in the States, and that is good to hear. But it does beggar the question as to why therefore is this amendment coming in the course of this debate?

[10:45]

Reform has set out quite clearly that they would not have brought it had not the proposition to bring in or reintroduce Senators been established but I suggest they are 2 separate things and now is not the ... the ability of Constables to stand in the States or otherwise must be a standalone debate and not be a mere add-on to the main debate and it does confuse the issue. Going back to numbers, as it

is said, I thank Deputy Coles for acknowledging that I am where I am in the terms of my own electorate. I do not have too many votes to go for, but I simply flag the point that the Constable vote in St. Mary was the best turnout of all. It was a contested election, as indeed have the last 4 or 5 been, and having acquired approximately 55 per cent of the votes, I am in no way embarrassed at taking my seat in the Assembly representing my Parish. In fact, I think I would be more embarrassed if I had even a few more hundred votes at a low turnout which afflicts some of the other districts, but that is another story. Going back to the question of the Constables' role in the States and some of Deputy Tadier's comments require some riposte. When standing as Constable, we are in fact standing in the knowledge that it is dual role position. The electorate know it is a dual role position, so that is the short answer. If a potential Constable stands and makes no secret of the fact that he wishes to spend all his time in the Parish without taking forward the Parish's views to the Assembly, the electorate will have a view on that and vote accordingly. It is as simple as that and that is it. Where Constables do, or as Constables do, appear in the States, their contribution to States matters is partly a matter for them and partly a matter for the Assembly. In a Parish like St. Mary, properties tend to engender more work so basically the Constable of St. Mary probably has fewer Parish matters to deal with than some other Constables and, having been blessed with a very efficient Parish staff, that perhaps applies to me. During my first year in office as Constable, I made no offer to be part of a Scrutiny Panel, unlike my 2 previous terms as a Deputy where I was chair of 2 of the main panels. That was simply to get my feet under the table to see what the job of Constable entailed. After a year, I felt more relaxed about taking on more work and I was pleased and in fact honoured to be asked by the chair of one panel to join them, which I duly did and following the changing Government, the new chair of that panel asked the same thing on the basis that she wanted a Constable on the panel, thereby recognising the value of Constables in the States. This brings me to my final point. It is perhaps a trivial one, but I refer to the way the seating arrangements for Constables are arranged at the beginning of each session. Deputies are allowed to stand, or certainly in my stage were granted a place in the pecking order according to seniority of the returning officer. When I was elected Constable, I returned to the Parish Hall to find that the Parish Secretary had received an email from the States Greffe asking had I served in any of the following positions: Centenier, Vingtenier, Constable's officer running down to Procureur and rates assessors. The link there is that all those people and officers, wholly honorary officers, appear before the Royal Court and take an oath and the Constable, as head of that honorary system, is the link. If Constables are not in the States Assembly, that will be a direct affront to their commitment to the system and it appears to be a trivial point, but that link is a true one. It is a public acknowledgement of the service of all members of the honorary system to good government in the Island. Constables represent that service, represent that link and it would be against the principles of the core Government if we were, as a body, removed from the States. On that basis, and as I am sure Members will appreciate, I shall be voting against this particular amendment. **[Approval]**

#### **2.1.9 Deputy J. Renouf of St. Brelade:**

There have been some excellent speeches so I will try and keep my comments brief. I would take issue with Deputy Gardiner's point that we have failed to convince the public about the merits of the current system. I think it would be fairer to say that we have failed to convince a small number of people who have always been against the removal of the Senators. Those people have not been convinced and have never been convinced but I do not accept that that is a majority of the public. There are 2 effects of this amendment. It has 2 parts, as I understand it. One is to remove the automatic right of the Constables to sit in the Assembly and the second is to create 12 new Senator positions. I have slightly different views about those 2 parts. The Constables' role in Island life is indeed vital. I bow to no one in my admiration for the Constables who do so much in their Parishes. It is an incredible role and some of the Constables who have spoken today, the Constable of St. Martin, the Constable of St. John and so on and the Constable of St. Mary have made the point very eloquently about the work that they do in their Parishes. They have also made the point that that is a

role that they feel is enhanced by their position in the Assembly, but this is about the automatic right of Constables to sit in the Assembly, not the right of Constables to sit in the Assembly. This amendment would not remove the right of Constables to sit in the Assembly; it would remove the automatic right of Constables to sit in the Assembly and I think that is an important distinction. Deputy Tadier highlighted that we rarely look at the counterfactual. What would the role of the Constable look like if there was not an automatic right to sit in the Assembly? What kind of talent might we attract to the role from people who have no desire - strangely enough - to sit here but might have a desire to reinvigorate their Parish? They might have a desire to reinvigorate the way in which Parish services are delivered and so on. Those people are currently not considered in this and that is, I think, an important point to make. Jersey's identity has survived many changes to Island life and indeed to the political system. Rectors and Jurats have left the Assembly and strangely enough Jersey's unique identity has survived. It also survived the removal of the Senators, unless I am much mistaken. We are still an Island who cherishes a link to the Crown, that has the rights and privileges that have been built-up over centuries, and those are not in doubt dependent on which class of Members have an automatic right to sit in the Assembly. I respectfully make the point that I disagree with those who feel that the role of the automatic right of the Constables to sit in the Assemblies trumps the issue of fairness. For me it does not, and I am sorry about that in terms of the respect in which I hold the Constables. The issue of fairness is one that trumps everything else in my mind. It is about fundamental rights. I very rarely disagree, but I do disagree with my fellow St. Brelade Deputy, Deputy Miles, on the question of outside bodies. I think the expertise of outside bodies is not something that should be denigrated when they are based on fundamental values and that fundamental value, in case we have forgotten it, is about equal voter representation. It is simply wrong in my view to have such significant under-representation of urban areas in the Assembly. I also think, by the way, that it is a fundamental principle that we should have a single class of Member in the States but that is not what is at issue in this amendment. I read with interest - just as a little sidebar thought - Deputy Scott's emails and in particular the one that talked about fractional voting as a way of resolving the issue of the Constables misrepresentation, if you like, of different types of votes. I am not suggesting I advocate it but I would say that it is an interesting tool to look at the question of that and how significant that under-representation of rural areas is. I did a few sums on the basis of the census figures and if we were to have fractional voting and allocate votes to the Constables in accordance to their population ... they currently have 12 votes and if those were divided up according to fractional voting - I am sure Deputy Scott will correct me if she wishes - I have it a St. Helier Constable would have 4.2 votes. He would almost be a political party in his own right. He would certainly become a very popular person, I think, in terms of being lobbied, whereas - I am sorry to pick on St. Mary again - St. Mary would have a quarter of a vote, so that is something like a 16 times difference in voting ...

**Deputy M.R. Scott:**

Sorry, would the Deputy mind giving way?

**The Deputy Bailiff:**

Are you prepared to give way to Deputy Scott for point of clarification?

**Deputy J. Renouf:**

Why not.

**Deputy M.R. Scott:**

Yes, sorry, because what I proposed was that the Deputy of St. Helier would be elected Island-wide, which is a different issue. I proposed it for 11 Members but maybe he might go on to the next highest.

**Deputy J. Renouf:**

I am grateful to the Member. I am sorry I misrepresented her system. Let me say that I have taken her system and adapted it to my own purposes, which is simply to use it to show the level of under-representation that currently exists in terms of the representation of the urban areas and the more populous Parishes generally. Of course, there are other potential interesting side effects if we were to adopt fractional voting. I think it would make the call for the appel possibly slightly less popular given that we would know that there would be a calculation have to go on to work out the votes afterwards. It would be an interesting one. Just to be clear, I am not recommending it. I respectfully say to Members that is my position on whether the Constables should sit automatically in the Assembly or not. The second question though is the issue of whether there should be 12 Senators, and on this I feel much more conflicted. I do not believe that we should have a divided Assembly. I do believe that we should have a single class of Member. I do not believe in the hierarchy that is implicit in having Senators in the Assembly. I accept that the purpose of this amendment is it has been brought in the context of a debate to bring back Senators and is an attempt to improve on the existing proposition but I find it quite hard to support the idea of bringing in 12 Senators. I guess the reason I will, I think, support this amendment is because I will also be supporting the P.P.C. amendment, and the P.P.C. amendment suggests that we should delay implementation. I think that would give any the chance to consider this question in more detail and to fine tune it and to make essential changes at the point when the actual legislation would have to come in, and the next Assembly would have plenty of time to consider that issue. On that basis, I will support the amendment but with that reservation.

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

I was going to speak on the matter of the return of the Senators but various Members have referred to me in their speeches about the removal of the Constables, particularly Deputy Tadier when he mentioned 11 of the 12, and so I thought I should probably make my position clear at this stage, although I do not believe it will make any difference at all to the outcome of the vote, which was probably never in doubt from the beginning.

[11:00]

As Members will know, I have for many years made reference to my good friend the Constable of St. Mary and his predecessors. In fact, we often seem to be bracketed together as a kind of unholy union of the most gerrymandered Parish with St. Helier. I have used that word myself in the States. In the last few years, I have noticed a few interesting things about how votes operate. There is no question that the system of having the Constable of St. Mary and the Constable of St. Helier with the same voting power is unfair. It is not right. In an ideal world it would not happen. In an ideal world, we might be in a separate Chamber. That is, as I see it, the only sensible way of resolving the problem because the idea that I should have 4 votes to St. Mary's quarter vote is simply not going to happen. I have certainly had a bit of a reality check. I had begun to think that people who want to remove the Constables are tilting at windmills. It is not going to happen. We all know that, and it is surprising that debate is going on so long. It is not going to happen so the question for me is do I continue to tilt at the windmill of voter equity, or do I look at some of the other pragmatic considerations that are in front of me? I have to say that one of them results from the fact that I believe that the interests of my voters in St. Helier will be well served in the coming year when I bring a couple of propositions which are in my manifesto and which I am determined to bring to the States, hopefully successfully. I think I can probably count on a vote from the Constable of St. Mary but I do not think I can count on the vote of 8 of my Deputies because their Reform manifesto pits them against me in what I am trying to achieve in my Parish, and so that is where voter equity becomes quite interesting. A political party with 8 votes is going to make my job in achieving my manifesto promises much harder and, from what I know about the politics of the Constable of St. Mary, I am pretty sure he will support, and I am pretty sure that the voters of St. Mary will support some of the things that I am trying to achieve. Now, Deputy Coles in his opening remarks said that the Parishes do not rely on Constables

being in the Assembly. This, of course, is absolutely wrong. St. Helier voters, as those of you with long memories will know that for centuries St. Helier was disadvantaged because States buildings did not pay rates and it took me - I do not know whether it was - 10, 15, 20 years but I got it done. I had to come back again and again. Deputy Ozouf is nodding but he knows that he blocked me when he was Minister for Treasury and Resources. **[Laughter]** I came back again and again and I got that through the States, and it was an important thing to do for St. Helier. That could not have been done unless I was a Member of the States. It has been said that Constables could also stand as Deputies and perhaps Deputy Coles' proposition would have a bit more likelihood of getting through if he had specified a mechanism that would have allowed the Constables who wish to stand for Deputy or Senator. The problem there, of course, is he probably would not get all 12. You might get 6, you might get 8 but would you get all 12? Particularly if some of them had already professed a desire not to be spending days in these sorts of debates but would rather be back in the Parish Hall getting stuff done for their parishioners, I suspect you would not have all 12 Constables. The 12 Constables do meet every month, as Members will know. The meetings are open to the public, not widely attended it has to be said but they are open to the public, and that meeting of the Comité des Connétables is a really important body and it does really good work, so I believe that if you did not have all 12 in the States Assembly then some Parishes will be diminished. Some Parishes would not be able to get their Constable to argue and you might say: "Well, they can get their Deputy to bring it to the States", but hang about, what if the Deputies do not agree with what the Constable is trying to do? If I may give an example: the extension of the Millenium Town Park. The majority of my Deputies do not agree with it so I could not say to my Deputies: "Well, I am not in the States, but please will my Deputies bring that forward?" because they will not. For reasons of pragmatism and because, frankly, I am tired of tilting at windmills, I am going to support the retention of the Constables in the States and I would go on to support, for reasons which I will explain later, the reintroduction of Senators. **[Approbation]**

#### **2.1.11 Deputy S.G. Luce of Grouville and St. Martin:**

I would like to just start by taking Members back to 2020 on 3rd December and P.139 and something I said during a debate then and I said this: "I have always said that if there were to be a single representative for the Parish, that should be the Constable and I would vote myself out of office in order that my Constable could continue to represent me as the Parish representative in the Assembly." At the end of that debate, I pushed my button to remove the office of a single Deputy for St. Martin in order that we remove the Senators and start the larger constituencies. Had I known the reaction of my then parishioners in St. Martin and my now constituents in St. Martin and Grouville, I almost certainly would have pushed the button the other way. We will get on to the benefits, or otherwise, of Senators in the Assembly later in this debate but I want to talk just very briefly, if I may, about Constables and why I believe they are so essential to the good running of this Assembly. I have had the pleasure and privilege of knowing now 3 Lieutenant Governors during my terms of office in this Assembly and one in particular I got to know pretty well. In discussions with him about the time before he came to the Island, he said to me that he had been amazed at the huge number of charities which he saw on a list that he was given before he arrived on the Island. He told me that he found it almost incredulous that we would have so many and wondered how they operated but when he came to the Island, he was amazed to find the wonderful, fantastic work that all those very, very many charities do in Jersey. We have the privilege of having so many of them here and it is my view that charities on the Island are so prolific and so well organised and worked for by Islanders, and I think that harps back to the honorary system that we have here in Jersey. It may not be the honorary system today but if I go back a generation or 2 generations, there is no question in my mind that the honorary system in the Parishes around the Island was the reason so many people volunteer now. In those days, and as we have now, we have people who volunteer without pay to be rates assessors, on the Rates Committee, road inspectors, Roads Committee. They help the Constables with the running of the Parishes at no cost and I believe that it is that feeling of the honorary system that has meant over

the years that our Island is so good at doing voluntary work. I really worry about removing the Constables from the Assembly and the effect that it would have on the honorary system in the Parishes. You only need to look not very far across the water to see what has happened to the role where Constables have been removed in Guernsey, and they struggle to find people not only to come forward for the position of Constable but also for other positions within their Parishes. For me, the Constable is one of the most important people in these Assemblies. I think the way Jersey organises itself and runs pays a great tribute to them. I think it would be a very bad day if they would ever be removed from this Assembly and some may say: “Yes, but that creates an unfair system.” My answer would be that I would just pose this question: are we better off to have a slightly unfair system or much better system? Because for me Constables in the States provide the far better system. [Approbation]

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

I take this opportunity to thank my fellow Connétables for their input into this debate. They all have different views, and I think they put them forward eloquently to the Members here today. The risk in my speaking to this amendment is that one might be accused of giving views with self-interest at their base. I would assure Members that this is not the case and views I might express on the proposition of Deputy Coles are based on my experience of having the privilege of holding the role for several years, working with my 11 colleagues in a similar position and importantly, the interests of electors of our Island. Added to that, I have, since my initial election in 2005, sat through numerous debates on the subject and had the opportunity to peruse endless statistics whipped up to support the proposition of the day. I would refer Members to the M.O.R.I. (Market and Opinion Research International) poll commissioned by P.P.C. in August of 2006 which made interesting reading because it has all been done before. Much of that information is still pertinent and Members may wish to take a look. One small paragraph that I just will refer Members to about Constables: “Opinions about the future of Constables are strongly held. More residents strongly agree or disagree that they should remain and hold a moderate opinion. Half of residents, 53 per cent, think that Constables should remain as States Members, 30 per cent strongly. A third, 35 per cent, disagree, 21 per cent strongly and this is all more significant in the light of the fact that Constables are the type of States Member that more residents feel that they know at least a little bit about.” That was 69 per cent. I am sceptical about advice given by various electoral commissions and advisers which we have seen over the years. They have often been the views of those from other countries and, with the greatest of respect, from the U.K. (United Kingdom) in particular and which really do not align with what works in Jersey. We saw, and I know, Sir, your father was involved with, the Clothier Report going back to 2000 and that was half taken up, I think it is fair to say. Our views as Connétables often vary. We are not a party, but we collectively have life experience which enables us to make balanced decisions fed by the opinions of Parishioners. I believe that we, as Connétables, provide the Assembly with a stability that is something important among the volatile situations prevailing in countries and is something valued by a lot of residents in the Island. We have all been elected with a significant number of votes and I will have a reasonable mandate to represent my parishioners, as do others. While the role will always need to evolve to modern day requirements - and I do not think any of us would deny that - I believe that since the Connétables have been part of this Assembly for centuries, they would be removed at peril and detrimental to the links with the public who we represent. The public agreed that the Connétables remain in the States in a referendum, as referred to by others, a few years ago and I cannot see any evidence to suggest there should be any change. We are in the Assembly to serve the public and I believe our links between the electors and the Parishes put us in an ideal position to make representations to this Assembly in the interests of our electorate, our parishioners. I would urge Members to reject this amendment for the reasons mentioned and in the interests of continued stability of the Island.

#### **2.1.13 Deputy R.J. Ward of St. Helier Central:**

I want to make a couple of points here. First of all, I know Deputy Coles brought this proposition but I stood on a manifesto of one type of States Member in equal-sized constituencies but we compromised and we compromised in the last time we voted on this to get the new version of what we are doing because we saw that we could move forward and equity of vote is very important. It is certainly important to the constituents I speak to.

[11:15]

The equity of the vote was better and so we, as a group, as a party ... and I started counting how many times we were mentioned but I stopped and I get to quote - I think it was - Oscar Wilde again: "The only thing worse than being talked about is not being talked about", so thank you for the publicity. But anyway, to move forward positively - and we compromised because we saw this was a way forward - and in the last election we returned the most diverse and representative Assembly of this population than we have ever had. We were happy with that, but a proposition was brought again to return Senators and upset that balance of equity of vote. Therefore, Deputy Coles, using logic, which he is very good at, decided and quite rightly that there is a payoff. There is a cost, and this is the reality in front of people that there is a cost. If you do not want the cost of losing the Constables, then one has to think very carefully about the cost of equity when we move to the final votes. This is what this debate is as much as anything about, the cost of making that change.

**The Deputy Bailiff:**

Deputy Scott, do you wish to ...

**Deputy M.R. Scott:**

Sorry, just ...

**Deputy R.J. Ward:**

Do I get a chance to finish my speech?

**The Deputy Bailiff:**

You do not have to give way.

**Deputy R.J. Ward:**

If possible, I would like to go through and answer questions at the end.

**Deputy M.R. Scott:**

I will ask you at the end.

**Deputy R.J. Ward:**

Do it now. That is all right. Go on, do it now.

**Deputy M.R. Scott:**

It is just this point on diversity. You are saying that the actual system is to be skewed to allow diversity?

**Deputy R.J. Ward:**

I can answer that. What I mean is I believe that we have more, for example, female representation in this Assembly than we have ever had. We have more representation from different communities on our Island than we have ever had. That is what I mean by diversity. I think that is pretty clear, yes? We must not take that lightly. We must not take that representation lightly because I firmly believe that when people see people like them in this Assembly, they will be more likely to engage in this Assembly. When they see people that they believe represent or understand their situation in life, they are more likely to engage in this Assembly. I mean it is a real challenge ... I will talk about

that in the final debate. I have been trying to think about a way of explaining this to myself as much as anything else. By making the change to return Senators and remove Deputies, i.e. without making the change that Deputy Coles is suggesting, you end up with an inequity in the voter value, so a vote in one area, one district is not the same as the rest. If you like, and I have thought about how we could express this, Members of different districts have different amounts of jam. At the moment, they are pretty equal. I use jam not simply to get Deputy Warr's attention, but I think I have got it now. It is nice to have a smile across the Assembly for a change and I think it is nice to bring it to that level now. That is quite nice, thank you. By making the change, our levels of jam across our districts are pretty even at the moment. By taking some of those Deputies out, we uneven that amount of jam. Okay, that is agreed. By adding Senators, we get another pot of jam, and we distribute that evenly. We keep the inequity; we just move up the amount of jam that everyone has got. It is still unequal and that is where I am coming from, but some people's jam is still worth a lot more than other people's jam, and that is a really key point. If that is what you believe equity is then I am afraid there is a fundamental error in your understanding of that and that is the issue that I get brought to me by constituents and people that I speak to. On my way in this morning, there is a gentleman who stops me quite frequently with his wife and has a chat. I do not know what his political support is or not. We talk about all sorts of things, and I thought he was going to come to me because I was being stereotypical in my view and say: "I want you to do so and so." He said: "Please, Rob", not Deputy, and that is quite important because title is not important. It is not about titles; it is about representation: "Please", he said, "do not bring back 3 different types. It does not work. People do not want it." It is a snapshot, but we have heard a lot about snapshots, have we not, in so many issues and without proper polls that go on all of the time - we hear M.O.R.I. polls of our population, et cetera - it is very difficult to find out what the genuine beliefs are. The solution that Deputy Coles is suggesting is about that voter equity. Now, I understand, and I have already compromised previously to say: "Keep Constables but keep our districts." If you want to keep the Constables and vote against this but then vote for Senators, you are trying to get your jam today and tomorrow but in a very unequitable way, and I think we need to think very carefully about what we are voting for. There are, it could be said, to be opportunities with this change. Constables still exist. They could apply and stand as Senators and perhaps the Parish voice and a whole Island voice together would be a very powerful position for Constables to be as well, so there could be advantages here in terms of representation. I do not think we should throw them all away, but this is not a personal debate. This is purely about logic and about that issue of how we are going to make sure that everybody is equally represented. The simplest way may well be to simply have one type of States Member, all Island-wide voting. It has happened in our sister island, and I think there are some questions as to whether that has been the right decision. I will not say what the Constable is mouthing to me at the moment but whether that has been successful or not, I do not know, but we have had change and I think if we are going to make another change, 2 types of States Member is the right thing to do at this stage and that is the payoff that you are being asked about. If you do not agree with that, vote accordingly. We are still a democracy thankfully. The world is changing but we are still a democracy. Please think ahead when we come to later votes as well as to whether you are going to apply the same issues of keeping the system that is equitable that we have now, allowing that compromise and, again, bringing this Assembly together as we were before on this decision. I just want to mention one thing, which is sort of an elephant in the Chamber, so to speak. I have to say I do not believe that the last system of voting is what created the vote of no confidence. A vote of no confidence happened repeatedly in this Assembly. I was trying to look back and I may be wrong, but I think every single iteration of the Assembly, every single term had a vote of no confidence somewhere along the line, so it was not the voting system that created that. It was different dynamics and so I think we need to separate that away from it as well, in case anyone is thinking that. I will obviously support my party colleague, and I think we need to keep the compromise to 2 States Members but keep the equity and the Deputy representation. I will talk on the final debate about other issues around Senatorial candidates.



### **2.1.14 Deputy S.M. Ahier of St. Helier North:**

I will be brief because I think we are all aware which way this vote is going to go. There is one point that I would like to raise concerning the amendment but also concerning the proposition as well because it was raised in Deputy Coles' report. He mentions that some voters have reported nostalgia for the Senators because they like the ability to cast a large number of votes but this, in my opinion, is not the case in practice. In 2014, there were 18 candidates standing for 8 Senatorial places and on average people voted for 6.1 candidates. In 2018, there were 17 candidates with 8 seats available and the average number of votes reduced to 5.6. There seems to be a gradual decline in the number of candidates selected and the idea that everybody uses all of their allocated votes has definitely not been made, so although 20 per cent of the population would like to see the return of Senators, when they are given the opportunity to vote for them, they tend not to vote for their full allocation. In Guernsey, they have the ability to vote for 38 candidates but the average number of votes cast per individual was less than 25, so although we are going to be affecting voter equity, it seems that the amount of votes that we could possibly give to people to vote for Senators, either 12 or be it the 9 or the possible 8, the members of the public will not take them up. **[Approbation]**

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

Does any other Member wish to speak on the amendment? I call upon Deputy Coles to reply.

### **2.1.15 Deputy T.A. Coles:**

Thank you for everybody who has participated in this debate. I will start off with a quick apology to Deputy Bailhache for my point of clarification at the end of the last sitting. I was not aware of how many people would mention the referendum, and so I was trying to get it clear that that was the referendum that saw the Senators not return but maintain the Constables and it is as we see it now because I think it is an important fact. My amendment to this was to propose the voter equity side of it to show that the alternative to what is presented as the main proposition would not maintain that essence of voter equity. As we mentioned, the element of your 3 choices of Island-wide, Parish or voter equity and the fact that you cannot achieve all 3 having 3 types of Member in the Assembly. I am glad that so many other Members have mentioned that referendum because I think it was a very, very important referendum and it will always need to be considered. I am looking through my notes and, again, I wrote at the start of this, because Deputy Scott spoke first, and she mentioned a guillotine and I was hoping she was not trying to give the Constables ideas. I do feel there was a lot of defensiveness, and I am not surprised really. A lot of defensiveness coming from the Constables benches, but I do not believe that I mentioned that any of them do a bad job or they do not work hard. In fact, I am very impressed that some of the Constables are able to run their Parishes, sit as Ministers, Assistant Ministers and do the level of work that they do. Of course, as I said, this is not personal; this is about voter equity and trying to amend a proposition that will seek to reform our Assembly that has been brought for the third time. To the Constable of St. Martin, she mentioned obviously that I lodged this with 2 weeks' notice. I could have lodged it with a week's notice, so I thought I gave that to where it was. We had the discussion - because as a party we do discuss things - and this also goes to a point that Deputy Bailhache raised around one of the other amendments that Deputy Tadier is going to bring later. We decided to stage our amendments the way they are so you do not tie all your eggs in one basket. If we lost this vote, the ability to vote on Deputy Tadier's amendments come separately. I am just going to point out a little thing to the Constable of St. Helier because I know what he is referring to. I would like to refer him to my very first amendment within this Assembly, which was P.97/2021 amendment 21, because he mentions obviously that his 8 Reform Jersey candidates in St. Helier might not support him on his future propositions. However, I would like to say that it was his other 4 St. Helier representatives that voted against my amendment, which lost by 3 votes and including another Deputy of St. Helier South who voted against it in his district against his manifesto, but of course this also brings us on about the importance of manifesto pledges. There is no resentment to Deputy Millar for her bringing her right, as she stated in her manifesto, to

bring her proposition as she has. It is in our manifesto that we seek one type of candidate voted Island-wide but of course I cannot amend a proposition to completely change its theme to where it is now, but this was what was allowed. However, we have not brought a proposition about the whole reform of the Assembly again because we did agree with the compromise agreement, but it is that compromise which is under threat and the threat of it comes is this voter inequity again. I wanted paraphrase George Orwell and to carry on Deputy Ward's analogy when we were talking about jam because how he explained it at the end: "Everybody would have jam, but some people's jam would be more equal than others." This is what this is fundamentally about. It is not saying that people who sit in the Constables seats are not good at their job. They are all very, very capable, as is every other Member of this Assembly. It is about the voter equity. I have had many conversations with people in my previous walk of life who were very much involved with their Parishes and enjoyed being part of their Parish but would not sit for Constable because they could not deal with - and I am toning down the words they used - the faff that is the Assembly. They would rather just focus on their parochial issues and if that was an option that they did not have to be States Members that they would probably have a chance of running for Constable.

[11:30]

Again, that is creating people the option and choices of what the roles are entailing. There were also allegations, not necessarily in this Chamber, but outside this Chamber that this might have been considered a wrecking amendment. It is not a wrecking amendment at all. It is providing the options because there are options to this that means we can have the Senators return but remain voter equity but, to keep the voter equity, unfortunately that means the cost of the Constables. I do not think it is right that we, as States Members, should decide on how the boundaries and everything is decided because that is gerrymandering, and I think that will come up more in other parts of this debate, but this is one thing we need to keep in mind any decision that we ever make within our Assembly is about making sure that people have an equal right and an equal say. That is what this amendment is about. It is about voter equity. If this proposition is going to be adopted, I wish that everybody can support me in keeping voter equity as the key. Thank you. I call for the appel.

### **The Deputy Bailiff:**

Thank you, Deputy. The appel has been called for. Members are invited to return to their seats. I ask the Greffier to open the voting. If all Members have had a chance of casting their votes, then I invite the Greffier to close the voting. I can announce that the amendment has been rejected.

<b>Pour: 11</b>		<b>Contre: 33</b>		<b>Abstained: 1</b>
Deputy G.P. Southern		Connétable of St. Helier		Deputy I. Gardiner
Deputy M. Tadier		Connétable of St. Lawrence		
Deputy S.M. Ahier		Connétable of St. Brelade		
Deputy R.J. Ward		Connétable of Trinity		
Deputy C.S. Alves		Connétable of St. Peter		
Deputy S.Y. Mézec		Connétable of St. Martin		
Deputy T.A. Coles		Connétable of St. John		
Deputy J. Renouf		Connétable of Grouville		
Deputy C.D. Curtis		Connétable of St. Ouen		
Deputy L.V. Feltham		Connétable of St. Mary		
Deputy R.S. Kovacs		Connétable of St. Saviour		
		Deputy C.F. Labey		
		Deputy S.G. Luce		
		Deputy K.F. Morel		
		Deputy M.R. Le Hegarat		
		Deputy I.J. Gorst		

	Deputy L.J. Farnham	
	Deputy K.L. Moore	
	Deputy P.F.C. Ozouf	
	Deputy Sir P.M. Bailhache	
	Deputy D.J. Warr	
	Deputy H.M. Miles	
	Deputy M.R. Scott	
	Deputy R.E. Binet	
	Deputy M.E. Millar	
	Deputy A. Howell	
	Deputy T.J.A. Binet	
	Deputy M.R. Ferey	
	Deputy A.F. Curtis	
	Deputy B. Ward	
	Deputy K.M. Wilson	
	Deputy L.K.F. Stephenson	
	Deputy M.B. Andrews	

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

I am sure that it has been noted but could I just ask that Deputy Porée, be it marked excusé. I think she had given notice that she would not be here.

### **The Deputy Bailiff:**

Well, she has attended. She attended this morning, so she is not marked excusé as such. We note that she has a good reason for not being here, because that was accepted earlier on.

## **2.2 Re-Instatement of Senators (P.2/2025): second amendment (P.2/2025 Amd.(2))**

### **The Deputy Bailiff:**

The second amendment has been lodged by Deputy Mézec and I ask the Greffier to read the amendment.

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

Page 2, paragraph (a) – Delete the words “by removing one Deputy from each of the nine electoral constituencies and substituting nine Senators in their place; and”. Page 2, paragraph (a) – After paragraph (a) insert a new paragraph (b) as follows and re-designate the subsequent paragraphs accordingly – “(b) that an Independent Boundaries Commission, as approved by the Assembly under P.139/2020, should be established to produce an analysis of the impact of reintroduction of Senators on voter equity and the Island’s compliance with the Venice Commission’s Code of Good Practice in Electoral Matters; and”. Page 2, paragraph (b) – After the words “to bring forward the” insert the words “findings of the Independent Boundaries Commission to the Assembly prior to implementation of the”. After the words “to give effect to” insert the words “part (a) of”. Delete the words “in time for the General Election in 2026”.

### **2.2.1 Deputy S.Y. Mézec of St. Helier South:**

Before I crack on into the main speech that I prepared for this I would like to, I think, correct some misconceptions that were raised in previous debates on amendments in the last 2 days but which are relevant to this amendment, because this amendment of course refers to the Venice Commission. On 2 occasions at least in the last 2 days I have heard Members suggesting that the Venice Commission has anything to do with the European Union. That is completely false, it has nothing to do with the European Union, it is a body of the Council of Europe which is a completely separate institution. It

does, however, use the same flag as the European Union but I think that is just to confuse us, which is a tactic that clearly works. Another, I think, misconception raised about the Venice Commission about it being guidelines and not being binding ...

**The Deputy Bailiff:**

Would you accept a point of clarification from Deputy Morel? Are you prepared to give way?

**Deputy S.Y. Mézec:**

Yes.

**Deputy K.F. Morel of St. John, St. Lawrence and Trinity:**

It is genuine. Would the Deputy clarify that the U.K. remains a member of the Council of Europe?

**Deputy S.Y. Mézec:**

Yes, I do not think I said anything to suggest it did not. The Council of Europe is ...

**Deputy K.F. Morel:**

No, I was clarifying that it is so separate that the U.K. remains a part of it.

**Deputy S.Y. Mézec:**

Indeed, and it also has lots of member states that have never been members of the European Union as well. It is the body that governs the European Convention on Human Rights and its institutions that support that. Which brings me on to that second point, which is that it was suggested, of course, that the Venice Commission is only guidelines, it is not legally binding. Well, that is technically true but I will tell you something that is not guidelines and which is legally binding, and that is the European Convention on Human Rights, which is binding on Jersey not just through the international obligations we have but through our own domestic legislation in the form of the Human Rights (Jersey) Law 2000. The European Convention on Human Rights says under Protocol 1, Article 3, that we have the right to free elections. It says: "The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature." Something that is an absolutely fundamental principle for anyone who believes in democracy and human rights, and is absolutely a major consideration in determining how we form our electoral systems, whatever your politics are on any other angle, unless of course you are not a democrat. But to get to the main argument I want to make for this proposition. This amendment was inspired because of one single sentence in the report to Deputy Millar's proposition. When describing her proposal to remove one Deputy from each of the districts to make room for the Senators, she says, and this is a direct quote: "Under this arrangement the voting system would maintain its existing level of equity." That is false. It is not accurate and that is not a matter of opinion, it is a matter of mathematics because voter equity is determined by a specific formula. The term "voter equity" is not one that anyone can simply co-opt to reinforce their own subjective view of fairness, it is an objective term. Voter equity is the principle that voters should have, as far as possible, equal voting power to everyone else when deciding the makeup of a Parliament. That goes back to that point in the European Convention on Human Rights about the free expression to choose their legislature. How much weight or power your vote has is determined by a simple ratio. It is the ratio of population to number of representatives in your district and then the equity is determined by comparing these ratios across the districts in the system and measuring how far they deviate. Perfect equity is when that ratio is the same across all districts. Of course in a Senatorial election the voter equity is perfect. It is absolute because the ratio of population to numbers of representatives is the same no matter where you live in the Island. The deviation is zero, and I think that is one of the reasons why in some quarters the Senatorial election system is popular. But in P.2 the Senators would just be one part of the system. To work out voter equity overall you have to look at the totality of the system. Voter equity is therefore determined

under P.2 by the ratio of population to number of representatives in the districts and the Parishes, because there is significant variation across those districts. In the Parish Constable elections the ratio is all over the place and I know we have made this point already, but the population in the various Parishes varies hugely with St. Mary with about 1,800 people and St. Helier with 36,000 people. That is extreme variance by all accounts, which is vastly inequitable on its own but that is where the Deputies come in, because the Deputies are distributed across the districts specifically to mitigate the malapportionment that is provided by the presence of the Constables, so you can still have voter equity and Constables. The system that we have does that quite neatly. It is not absolutely perfect but it is not too bad and it is certainly far more equitable than what we had before 2022 by all objective measures based on that formula. Currently we manage that apportionment to get things as fair as possible, while accommodating the presence of the Constables in the States, across a membership of 49, the 12 Constables and 37 Deputies. In P.2 the apportionment is instead to be done across 40 Members, and in that 40 the Constables will make up a greater proportion than they do in 49, again basic maths. Their contribution to the apportionment goes from 25 per cent to 30 per cent, which means you have less wriggle room to distribute the Deputy seats to mitigate against that malapportionment and that is why just cutting off a single seat from the Deputies' districts does not leave voter equity unaffected. In the appendix to this amendment I have laid the maths out to show conclusively that voter equity in P.2 is worse across the totality of that proposed system than our current system. More Islanders stand to lose voting power compared to others who stand to gain from it. That means that we risk getting a less representative Assembly. It means we do the opposite of what the States has previously committed to in previous decisions, which is to base fairness and equity as key considerations in moving forward on our electoral system. I would argue it goes against the spirit of that line which we are bound by in the European Convention on Human Rights about ensuring the free expression of the people in their choice of legislature, by distorting that so that the overall composition of this Assembly is less reflective of what the public actually want. That is what this amendment seeks to safeguard against. It seeks to do something that in this day and age is very dangerous and radical. It seeks to ensure States Members have access to the facts before making a decision. A novel concept in this day and age, I appreciate. It does not stop Members from making whatever decision they like. It does not bypass States Members, it simply says that when we have committed to ensuring voter equity is the basis for future reforms of the composition of the States we should be presented with the cold hard data in advance of making decisions that will affect it. We are constantly told we need to stop and collect data when it comes to so many other decisions, so why not this one. If this amendment is accepted and the proposition is accepted in principle, we will get that objective analysis in advance of the very final decision on this so we can make up our minds to make sure we are doing the right thing, and perhaps if a minor tweak or 2 would improve it we have the knowledge to know that we could do that and still remain within the spirit of the proposition. Let me pre-empt the arguments that I am sure will be made against this amendment, and I can hear them now. Why create another expensive body to tell us what to do? Let us unpick that because each part of it is wrong. Firstly, it does not have to be another body because we already have the Jersey Electoral Authority, an existing non-political institution that helps with the running of our elections. We can set up the boundaries commission as simply a sub-part of that already existing institution. Easy. Secondly, it does not have to be expensive because the J.E.A. (Jersey Electoral Authority) already exists with a budget and the work to produce these analyses would not be expensive anyway. I have done a rudimentary job of it myself in the appendix to this proposition and I did it for free. But, in reality, the J.E.A. could simply commission an academic to do it properly.

[11:45]

That would cost a few hundred pounds, maybe a few thousand pounds, peanuts in the grand scheme of the cost of holding an election. In fact, it is something that P.P.C. has done in the past, from their own budget, off their own back, in relation to other work they were doing without States decisions to compel them. They have previously used the services of Dr. Alan Renwick from the University

of Reading, who is an expert on voting systems and did lots of work for us and the previous Electoral Commission chaired by Deputy Bailhache to demonstrate voter equity in various iterations of potential reforms. They do not tell us what to do, they just say: “If these are your boundaries, if this is the distribution you are planning, this is what it looks like, this is how the numbers work and this is what would happen if you tweaked it. Do with that what you will.” So they would not be telling us what to do because it would still be perfectly free for us, as a democratic Chamber, to conclude that the pros outweighed the cons in whatever iteration was before us. But at least we would know for certain and not relying upon one sentence in a report which we can demonstrate as untrue. Another objection that I suspect might be coming would be based on the misnomer of using the word “boundaries” in the name of this boundaries commission thinking that it would have any kind of authority to alter our boundaries and that, of course, is wrong. It would not have that remit. We already have Parishes and vintaines that provide the basis for our boundaries. We do not need anything else. They are fine as they are and the maths can show that we can use them for providing good voter equity, including with the Constables in the Assembly as long as we have got that data to show how it is done and how we can distribute those seats equitably. But, lastly, and perhaps most concerning, it is something I think we have already heard so far in this debate, a suggestion that this voter equity thing just is not that important at all. In fact some Members are even suggesting that it is some kind of foreign concept not something for Jersey, it is something these people from these other organisations want to dogmatically impose on us like some colonial enterprise. Well, I say, as a proud Jerseyman who was born on this Island, that there is nothing un-Jersey about the principle of fair votes. It is something that is deeply ingrained in the Jersey culture that supports fairness and equity. People fought and died for our rights to express ourselves in free and fair elections. The principle of equal votes is not some abstract concept or something only of interest to theorists; it is absolutely fundamental. It is the means by which we ensure that the public get what they want out of our democracy through an equal opportunity to determine the political direction their community goes in. Forming constituencies to deliberately suppress the influence of some voters versus others is called gerrymandering and it is an outrage. If you do not have equal votes, you do not have real democracy. What this amendment does is it allows us to get that objective analysis on whether we are moving closer to equal votes or closer to gerrymandering. Who could possibly argue against that when it is in the interests of all of those of us who call ourselves democrats. If it is the decision of this Assembly to reintroduce Senators, so be it, but we should make any decision on how we accommodate that and how we adjust the apportionment of the other Members on basis of facts and data to ensure we do not inadvertently disempower Islanders in our elections. So in adopting this amendment we can provide a way to do that. It does not have to cost much money, it does not involve setting up more bureaucracy and it does not involve asking people from outside the Island to tell us what to do. It simply asks us to go for a view from academic experts who understand how the maths works here and tell us that this is what the impact would be if you chose to do that, you can decide whether it is worth doing that or whether you would like to make some final tweaks that could potentially improve the numbers. I see nothing radical about that, I see nothing illogical about that, but that does not tend to be a consideration in many of these debates unfortunately from time to time. I make the amendment.

**The Deputy Bailiff:**

Deputy Scott, do you want to speak next or do you want a point of clarification?

**Deputy M.R. Scott of St. Brelade:**

I want to speak next, thank you.

**The Deputy Bailiff:**

Fine. Is the amendment seconded? [**Seconded**] Thank you.

**2.2.2 Deputy M.R. Scott:**

I thank Deputy Mézec for his clarification regarding the Venice Commission. I do not happen to believe anything in our system is preventing freedom of expression so I did not quite follow why he wrote that in the speech. I do not believe that anybody is trying to suppress it. Nor have I ever suggested that there should not be voter equity. In fact, I believe that States Members have witnessed me very much advocating the opposite. I do not argue with the Deputy's position that boundaries will need to be adjusted if the States Assembly is to continue working within the Venice Commission principles, should the main proposition be adopted. He has sought to give a response to the objection that this amendment seeks to introduce a potential quango that will need to be funded at taxpayers' expense, which is pretty astute to anticipate that given the Council of Ministers has committed to reduce red tape and is a commitment reflected in many States Members manifestos, including mine. The chief executive gave a highly publicised speech indicating that the number of spin-off bodies that this Assembly has created and still is creating is getting, and has got, out of hand. I just do not understand, given the argument that he has presented, why this amendment did not simply propose that the Electoral Commission is tasked with the role of reappraising the boundaries. We are a small jurisdiction, it is not like we are the size of the U.K. where you have a much greater number of constituencies. Even now we are capable of going through spreadsheets and coming up with alternative proposals. The figures need to be looked at and rerun, and I am sure that the P.P.C. will propose adjustments should the main proposition be adopted unamended. However, since the question of being fair has been raised, we will come back to the actual issue about what we have right now because I think that we are obscuring that we still have this system, as a result of these super-constituencies, that can be played in a certain way. One thing that still remains for this Assembly is to consider the circumstances in which this current system was brought, to consider that perhaps certain things were not really disclosed in the report that brought this whole arrangement within which we are sitting now, and to actually ask should we, particularly those of us who are independents, be considering that. But that, of course, I should be raising in the context of perhaps the main proposition so I will leave it there. I do note the principle, the desire, I just do not believe that the solution actually is proportionate to what is needed.

### **2.2.3 Deputy I. Gardiner:**

Very quickly, and this is actually a question for clarification by Deputy Mézec when he sums up. I completely share his views about equity of votes, that it needs to be equal, review of the numbers, statistical exercise and democracy. I share the view. Now I looked again at the amendment and I would like to understand why it was put as establishing an independent commission and not, as was suggested completely legitimately, that we have the Jersey Electoral Authority, that this part will be added. So it will be very clear that we will not require tens of thousands pounds and establishing another body, it is adding responsibility. I am not sure if the chair of P.P.C. will be speaking but if they will it would be really helpful. If this amendment is rejected and the whole proposition is adopted or even if the proposition is not adopted, will P.P.C. look to add this work of the review of the boundaries before the next elections and bring back to the Assembly for debate? Were any considerations given by P.P.C., or are they doing anything, about the decision that was made in 2020 in some shape or form?

### **2.2.4 Deputy P.M. Bailhache of St. Clement:**

I am not opposed to the establishment of an independent boundaries commission. Indeed, the Assembly has already voted, as Deputy Mézec pointed out in his report, to establish an independent boundaries commission. It only remains for P.P.C. to take the necessary action to establish it. My problem with the amendment, which I hope Deputy Mézec will be able to deal with, is that it seems to me to remove the certainty against which the independent boundaries commission must work. In the resolution of the States of 2020, the resolution which was adopted on 3rd December to establish the current system, paragraph (b) of the minute records that an independent boundaries commission should be established to begin work after the 2022 elections to make recommendations to ensure that

the 9 districts remain compliant with the principles cited in paragraph (a). The principles cited in paragraph (a) are the districts, the 9 districts which we currently have at present. The problem with Deputy Mézec's amendment, as it seems to me, is that in paragraph 1, it provides "delete the words by removing one Deputy from each of the 9 electoral constituencies and substituting 9 Senators in their place." If one looks at the revised paragraph (a) in the amendment, it reads that: "The office of Senator elected on an Island-wide basis should sit alongside the offices of Connétable and Deputy in the States Assembly and should be reinstated." But how many Senators? Six Senators, 8 Senators, 9 Senators, 12 Senators? The calculations will be different depending on how many Senators are introduced and how they are brought into the current system, whether they are simply added on or whether they are introduced by removing Deputies from each of the current districts, as Deputy Millar currently suggests in her proposition. I do not understand how the boundaries commission could do its work. So I, at present, am inclined to vote against this amendment. No harm will be done by voting against the amendment because the States have already resolved to establish an independent boundaries commission. When it has something to do, no doubt it will be constituted by the P.P.C.

### **2.2.5 Deputy C.S. Alves of St. Helier Central:**

I just wanted to start by addressing the comment of Deputy Bailhache when he was talking about the number of Senators and not understanding how the boundaries commission would be able to do its work based on that. Last term I worked tirelessly on the current electoral reforms that we have in place. It took up the best part of 2 years of my life last term and we did a number of consultations, including Parish roadshows that were very well attended. We did focus groups.

[12:00]

I think in the end there was a total of about 3 propositions that were originally lodged, with one of them actually being withdrawn. Having come in as a mathematician, I took a very pragmatic look at our current makeup of the time, I just saw it as a mathematical problem and obviously did not really think about the repercussions of other things, like how people felt about the Constables and all those things, which obviously we had to deal with afterwards. To address Deputy Bailhache's point, when I was doing the various calculations and looking at various iterations on how we could split up the Island to have equitable electoral districts, I did that work and I was able to look at various iterations. We did not come to the 9 districts overnight. There was a series of calculations, there was work done, there was analysis, there was a lot that happened behind the scenes that Members were probably not that aware of. I was number crunching on my spreadsheets, my party know very well that I love my spreadsheets. So it is not work that is not doable; I did that. That is the point of having a boundaries commission and for having people with the expertise and knowledge, because what they will do is they will look at different iterations and the impact that will have on voter equity and on the under-representation and over-representation percentages. It is not work that is not doable, that is the point of having the expertise on that body. I just also wanted to pick up on something else that was mentioned earlier, I think it was Deputy Scott who said that P.P.C. may propose adjustments if the main proposition unamended is adopted. I wrote it down as she was saying that. If the main proposition or whatever is passed today, P.P.C. will not be able to do those calculations because it will be tied into what the Assembly has committed to and what the Assembly has agreed to. So even if P.P.C. may look at it and think that this is not the ideal number of Senators, actually because we can see in the calculations the impact that has on representation in districts, we have to respect the Assembly's decision. That is democracy. I was going to touch on the boundaries commission but I think Deputy Bailhache brought up that point quite clearly about what was proposed in the last term around the independent boundaries commission. Unfortunately, we have not agreed on anything or brought any proposals forward from P.P.C. I will leave the chair to comment on that further, but I would say that this would not stop us from maybe changing the terms of reference of the boundaries commission if we think that maybe the current composition that has been agreed is not ideal for whatever reason. I think Deputy Mézec raised some good points that we do already have a body



established. We also have the Referendum Commission as well, which at the moment is not doing very much, and has not done very much for quite a while, so that may also be a body that could be used as the independent boundaries commission as well.

#### **2.2.6 Deputy A.F. Curtis of St. Clement:**

I will not repeat the line we all say about not intending to speak, but I would like to first highlight, before we get there, that there is always a risk of, as I like to say in the Assembly, making mountains out of molehills. I think Deputy Mézec quite rightly said on the idea of a boundaries commission this can be an academic, it can be ... we have seen academics contribute time to all sorts of Island projects, the Law Society and others, where their contribution is unbiased, objective and actually sometimes free of charge. But I do want to highlight the importance of understanding voter equity within the proposals. One Member, if they are happy to be disclosed, shared an updated count of the voter equity under P.2. These numbers were checked I believe with the Greffier, and I am looking over to them to see if they are happy to be ... they are not looking ... I can try. We have the numbers though and Deputy Mézec included them and they have been reiterated by Members on both sides of these arguments. Basically saying under 40 Members that are not the Senators, the areas where inequity occurs in voting because we can take out any Senatorial vote that is fully equitable. There are on average 2,500 people per seat, 2,582 based on the census data. We have heard that the inequity or the variance to equity can be measured as to how many more people get one seat versus how many less. Currently, under our current scheme, Grouville and St. Martin have 1,870 people per seat and that is between those who are their Deputies and the 2 Constables. It goes as low as 1,613 people per seat in St. Mary, St. Ouen and St. Peter and currently 2,803 people per seat in St. Helier North. Now the point about a boundaries commission is if we are to remove seats what does that do to the inequity? If we follow what is being proposed right now, which is to remove one from everywhere, the numbers, I am afraid, are pretty stark. Again, if these are not right I have not created them but they have been shared. The answer is that we go down to a position where, let us honest, 2 of the St. Helier districts are hit hardest. I know that certain Members may be avoiding that, they may be talking in broad general terms about inequity but there are 2 districts that hit hardest under P.2. They would go to 3,644 people per seat and 3,358 people per seat. However, the 2 most represented districts would be in very good positions, they would still have 1,995 people per seat and 1,881 per seat. In variance terms, against the average of 2,500, St. Mary, St. Ouen and St. Peter would be 37.3 per cent above the variance, St. John, St. Lawrence and Trinity 29.5 per cent, while St. Helier South would be 23 per cent under, St. Helier North 29 per cent under. What a boundaries commission may do, is ask: "Is removing one person per seat the right way to achieve 9 Senators?" The simple answer is no. If we assume that the number of Senators is 9, because that is what the original proposition was seeking, notwithstanding Deputy Bailhache's concerns about the ambiguity that it does not say to reinstate 9 Senators, we can even very quickly see there are more equitable systems under the current boundaries. I will be frank, the quickest and easiest place to see a deviation is the 2 most under-represented districts and the 2 most over-represented districts. If you take a further seat from St. John, St. Lawrence and Trinity and a further seat from St. Mary, St. Ouen and St. Peter, you then start to achieve some equity. If you give those to St. Helier South and St. Helier North, you end up having no district representing with less than 2,000 people per head and no district with more than 3,000 people per head. Invariably the variance is lower. You will still achieve Senators. So Members here who are saying I am hearing on the doorstep I want Senators, this is an amendment to bring back Senators. It is one that says let us do it slightly fairer. I think the simple huge discrepancy between St. John, St. Lawrence and Trinity, St. Mary, St. Ouen and St. Peter and, frankly, St. Helier North and St. Helier South should be a cause for everybody to ask themselves: is it right to take one from everybody and whose equity is at stake in this? I will not go on for too much longer. I think that this is a simple exercise and I think if Members want to be able to represent the Island equitably with Senators, if they want that, they need to make sure it is not one per seat and that the right numbers,

quite simply found, make their way through to the votes that Members and the Island have at the ballot box.

### **The Deputy Bailiff:**

Do you have a point of clarification, Deputy Ozouf, or not? It was to speak? In that case, it is Deputy Ahier then Deputy Ozouf.

### **2.2.7 Deputy S.M. Ahier of St. Helier North:**

It has been mentioned by previous speakers that the independent boundaries commission was voted for previously in this Assembly and, indeed, in the report by Deputy Mézec. He says the States Assembly has already voted for the establishment of an independent boundaries commission. That, of course, is true but there is a bit of a back story to this. P.139, it was a choice of voting for (a), (b) or (c). Now in part (b) and part (c), the independent boundaries commission was mentioned. But in the report attached to it, it was not mentioned once. Also during the debate, it was not mentioned during the debate, because everyone was concentrating very clearly on the amount of seats that were represented in each district, people were concentrating on that primarily. So when it came to the vote, somebody asked the proposer, who was the chair of P.P.C. at time, whether he would take parts (a), (b) and (c) separately so that we would have the opportunity to have voted against the boundaries commission. Unfortunately, he insisted that we had to vote for all parts in one go. So a lot of Members were caught between Scylla and Charybdis whereby they could either vote to throw out the boundaries commission, and thereby throwing out the current electoral system that we have, or voting the other way and causing more problems. I thought it was important to mention that especially for Members who were not there for the vote and they may not have understood the process of how we came to have an independent boundaries commission.

### **2.2.8 Deputy P.F.C. Ozouf of St. Saviour:**

I do not think I am alone in being a little bit concerned about the way that we are making amendments and how they are going to impact in terms of this has to be translated through to law. If I may say, I do have a question for the Attorney General, which I will refer to in my remarks. He may be able to consider the question I have over the luncheon adjournment. I am very concerned about any changes to the electoral system, as the mover of the proposition of this part 2 of amendment 2 does, without transparency, legal scrutiny, which we are not doing here because that has to come in the law that follows, and democratic legitimacy. The Chief Minister said earlier that ... and I raised the question again I do not know - and this is not the question to the Attorney General but I genuinely do not know - the Chief Minister said it can be done before the election but that is not what the Venice Commission says. There is uncertainty at all stages until something is actually approved by the Privy Council and registered in the Law Courts. It can be challenged on E.C.H.R. (European Convention on Human Rights) grounds, on all sorts of grounds. It can be voted down, we can be amending it, we can amend the final law, the amendments at this stage. It has been often the case that this Assembly does not actually follow through on amendments that have previously been done, which is an expression of a desire to P.P.C. to do something. So the matter of the electoral certainty of the electoral law, I would argue, will only be certain when the law has been changed and it has been through the modalities and the proper processes of scrutiny. I am not sure that that is going to be possible within the Venice Convention arrangements. I seek some guidance from somebody of the timings, whatever Members of this Assembly will approve, of the legislation. I do not support, as I have said earlier, the rushed introduction of Senators, but I do support the establishment of an independent boundaries commission. It was approved by the Assembly in 2020 to conduct a full and independent analysis. I would argue that the commission is long overdue and it must be activated before we even contemplate any structural reform. To do so would be reckless. The Venice Commission Code of Good Practice in Electoral Matters sets out clear principles, one of which is that the fundamental changes to an electoral system should not take place within 12 months of an election unless there is

broad political consensus. I am not sure that there is but we will see on the final votes. If there is no such consensus, which as I imagine that there is, I do not see there is a clamouring ... there may be lots of people listening online, lots of them, I am not sure, but I have door knocked in St. Saviour and asked my constituents what they think. I did not take this as any serious issue but I do believe that the boundaries commission does actually represent expert opinion which should be listened to.

[12:15]

We are basically, I said, putting a pin in a donkey. We are basically guessing at a number of things which are fundamentally important to our Constitution. I am concerned, and that is what I would like the Attorney General to kindly confirm, or otherwise, upon legal advice, that any legislation that will come forward as a result of these amended or unamended propositions or the proposition itself will require the primary law to have an E.C.H.R. certificate. I think it is going to be advised that the chairman of P.P.C. will bring that legislation, if requested.

**The Deputy Bailiff:**

That is your question? The Attorney apparently is present online and that is your question to him, is it?

**Deputy P.F.C. Ozouf:**

It is going to be, but shall I finish my speech and then he can answer?

**The Deputy Bailiff:**

Of course, yes.

**Deputy P.F.C. Ozouf:**

The proposal to reintroduce Senators, as originally set out, I think is violating the principles of the European Convention of Human Rights by reintroducing a malapportionment without thorough analysis, which the boundaries commission would do. The rejection of the principle proposition has now created ... and I am a bit confused about where we are but I do not think I am that confused about the importance of the Electoral Commission. If this amendment is passed and the core proposition fails, what is it that we are going to implement? I support the 2030 amendment by P.P.C., that seems manifestly sensible, although I do not think that we should be binding a future Assembly after a general election to Senators. That is my other issue. I would ask for P.P.C. to be advised of what are ... and it might not be in this amendment, it may be in a subsequent amendment, but what are, in the Attorney General's view, the convention rights under the Venetian Commission Code which the mover of this proposition quite rightly said is nothing to do with the European Union, it is Council of Europe. I was a proud member of this Assembly when we adopted E.C.H.R. as a fundamental part of that and we had an excellent presentation by Professor Le Sueur, which I was pleased to listen to, and it is about human rights and it is fundamental, they override everything I would say to the mover of the original proposition. It is an international standard. It has to be fixed and it is fixed in our law, and E.C.H.R. matters whether we like it or not. We should be always challenged by the fundamental principles of human rights and I think that that is really important. Professor Le Sueur said that politicians are less concerned with human rights now than in those early heady days when we brought in the E.C.H.R. I think we absolutely should be. Professor Le Sueur was quite right in his proposition. We should be, as politicians, activists in advancing human rights. It is not a theoretical thing, if it is the case that we agree to any parts of this proposition, could it be subject to a judicial review? Could be subject to a challenge of the Privy Council and thereby not actually being ... we have a fixed term electoral system, we cannot push the elections back, they are going to happen in June next year, they must. We need to sort out whether it is Saturday, Sunday, Monday or Tuesday, whatever, and I would be grateful if we could have some advice on these important points. I think it is essential that this Assembly understands the legal and constitutional consequences of adopting any of these amendments. I will be supporting the boundaries commission,

which is the subject of this one, but I do not want to have any legal uncertainty. I do not want to send the direction of, as the Chief Minister unwisely did I think, we will fix it before the election. Yes, but when? Are we going to fix it in 12 months because that is what the International Convention says? I do not know the answer to that question but I doubt it can be done, according to P.P.C. I think that it would be reckless, utterly reckless. I am not going to use any unparliamentary language but it would be reckless for us to not abide by the principles that no legal change should be made to the electoral system without the checks and balances in place. One of which is the boundaries commission. Should have been done a long time ago, I agree with the mover of this proposition. That is why I will vote for it if it is just the boundaries commission, because I cannot not vote against the boundaries commission. It is the right thing to do. It ensures compliance with international standards, fair voting and all the rest of it. We have got a good system, I think, at the moment. I quite like the Constable of St Mary and the Constable of St Helier. I have been a Deputy of the Constable's Parish, I have not been a Deputy of St. Mary but I am delighted that he has gone from Deputy to Constable. We have all that sorted. They are fine. This Assembly is good. I thought the last elections were jolly good. They were a real test, not rotten barrel politics of the last bits where St. Saviour had one district for a certain bit ... we had 3 different districts, now the Constable has got one district to deal with, with 5 Deputies, jolly good; it works quite well I think. I hope the Constable agrees. I want free and fair elections, a proper process, that commission, that does mean not being a slave to the outcomes but being informed by experts. We should not seek to legislate or, rather in this context, promise legislation and then ask questions afterwards. It means that we should be proper, principled and absolutely clear, legally sound, defensible and free from any ambiguity. I do not think that I am being ambiguous in saying that the independent boundaries commission is not the only responsible mechanism to evaluate the questions that are before us in this underlying proposition, and actually in any proposition that changes the membership of this Assembly. If Members are serious about democracy, if they are really serious about democracy, transparency and legal certainty, then we should support this amendment, only on the condition it is implemented before 2030, which I think it does, as it is the only credible path. I would ask the Attorney General to kindly bring this Assembly's knowledge up to date in the legal standing of whether or not the legislation that could pass, if anything was passed, be subject to a legal dispute, which I understood ... because I was in elections observer. We will mark (6 seconds of French spoken). We are a bilingual Assembly and we combine by international best practice. International best practice is you have boundaries commissions, you do not do elections and you do not do electoral changes before 12 months. I will leave it there.

**The Deputy Bailiff:**

Deputy, you identified a number of possible legal issues for advice from the Attorney. Can I just let you know the 3 that I have written down to make sure that we have got your list of issues correct? First one, we want the Attorney to advise on whether or not a human rights report will be required for the purpose of any amending legislation, I think, is that right?

**Deputy P.F.C. Ozouf:**

Correct, Sir, thank you.

**The Deputy Bailiff:**

Secondly, I think you indicated you wanted an indication of what E.C.H.R. issues might be engaged by that legislation, is that right?

**Deputy P.F.C. Ozouf:**

Yes, Sir.

**The Deputy Bailiff:**

Thirdly, you wanted to know whether a judicial review of this proposition itself, if adopted, was possible. Is that the third issue?

**Deputy P.F.C. Ozouf:**

Yes, and judicial review in the matters of the case that we would bring legislation late because the chair of Privileges and Procedures has indicated that it is going to take time in order to bring to this Assembly and our First, Second and Third reading ... I know we do it quickly ...

**The Deputy Bailiff:**

Also if the legislation itself, if adopted, could be judicially reviewed?

**Deputy P.F.C. Ozouf:**

Yes. I hope that is not a theoretical question that is ruled out of order because we are dealing with the reality of what we might be dealing with and that would guide Members as well as whether or not they would be capable of voting for 2026, which is not possible I do not think, but 2030 might be possible. Thank you. Good job. As a lawyer it is a very good job.

**The Deputy Bailiff:**

Deputy Scott, do you have a question to add to that?

**Deputy M.R. Scott:**

Yes, please. Perhaps if the Deputy is happy just almost to start with this because I think the bottom line is he is suggesting that this proposition is in breach of human rights legislation so the question is, is it the unamended proposition in proposing what it is proposing?

**The Deputy Bailiff:**

I do not think he suggested that but do you want advice on that?

**Deputy M.R. Scott:**

Oh right, well maybe we could just get that confirmation while we are at it, thank you.

**Deputy P.F.C. Ozouf:**

Just for a point of clarification, I said that it is about the subsequent legislation. It links to the underlying proposition as to whether or not we are giving false hope.

**The Deputy Bailiff:**

Yes,

**Deputy M.R. Scott:**

I think insofar as it does not have the further changes that have been mentioned.

**The Deputy Bailiff:**

All right. Yes, Deputy Tadier, do you want to speak now?

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

I was impressed by Deputy Alex Curtis' speech on this, which I thought was on point. What I took out from that speech is that if you build the Island-wide mandate ... so if the Island-wide mandate is to come back either now or in 2030, if we build it on an unsafe foundation, then it is very likely that the Island-wide mandate will not stay in place. We must remind ourselves it was a relatively fragile thing to start with. It was introduced only in 1948, so out of all of the positions that have existed in the Assembly - I know that Deputy is only a title now, it is not quite the same role - it is the Senators who were the new kids on the block. The Island-wide mandate faced several iterations of change,

both about the length of the term, about the elections, the numbers of Senators, and ultimately about them being in the Assembly at all. I think that was inevitable for very many reasons. But if we are to bring them back, it is important that we do them on a firm foundation so that we are not chopping and changing all the time. If a system is built on a foundation of fundamental unfairness, of making our system less equitable than it is already ... and remember, the starting point we had, as we know, is not one that is great. Certainly on paper it is not equitable but it is one that many of us can live with, at least for the time being, because it is a finely-tuned balance of tradition, of weighing up different parts of the community and electoral norms, I think, is more the point. Then we throw that away and we build something new on an unsafe foundation, which is not wise. I think that is why it is key that to forego all the possible self-interest that we may have or the alleged or perceived self-interest that we may have in this, because of course I fully believe that we have a gerrymandered system and that what we would have would effectively give rise to a system which could be said to be gerrymandered even further, which would advantage certain political groups. Of course, if we, on our side of the Assembly, were to impose changes that we want, we would also be accused of doing it for potentially party political gain, which would not be the case but it would be a reasonable thing for pundits to say. I think that is why it is absolutely key that it gets taken out of the hands of politicians. The other point is that the Assembly has already voted for a boundaries commission so the point is why has it not been set up already? The first thing that P.P.C. need to do, irrespective of all this, is set up a boundary commission as it was charged to do. Consider actually the role of the Referendum Commission, whether or not a more general election commission which could have a standing role and a boundary commission could be one and the same for all of those things, so that it could constantly monitor and make recommendations about how to tweak our system. Like I said, we have been told that the Referendum Commission already exists, they do not have a lot to do, this is in the same kind of ballpark. It comes back to the fact that there are problems about the current system, so let us not beat around the bush. The inequities are obvious but the way that we get to a solution is not so obvious and we are not going to find that solution among ourselves. That is why we need an external body that can be considered on a basis of fairness about first principles of democracy, about considerations, local considerations about what is important for the electorate respecting, where possible, our traditions but also international norms about how you have fair, free and meaningful elections because in fact voting systems also matter, distributions of seats also matter. These are not universally-held principles. We presume that when we talk about principles of democracy, inequity and voter equality that these are all understood and then people will sign up to them. In 2013 I had quite a rude awakening when I was actively taking part in a referendum on the different options. I look across to then I think he was Senator Bailhache and he was obviously involved with the Electoral Commission which came up with various options. We know there were 3 options put to the electorate and ultimately the option A and B were neck-and-neck in the polls.

[12:30]

I will try and keep this factual because there were different interpretations of the question that was put to the electorate. But ultimately the 2 models which had super-constituencies similar to the districts we have now, with or without Constables, were put to them. It was virtually tied and then of course all the C votes ... a lot of those votes, not all of them because some people abstained, in the second vote went to give the majority to option B which would have seen ultimately what we have now in a different variation, Deputies with Constables in that place. I remember campaigning and it got to the last couple of days of the referendum, it was really difficult to get a handle on how the referendum was going to go because we were getting quite a lot of traction in the option A group, which was an interesting coalition of Islanders and political thinkers, Members, and I remember going into town and we were winning the argument quite widely, we are saying, we want a fair system, we want a simple system and everybody elected on the same mandate. I remember in King Street coming up to a young person, somebody who I judged to be roughly my age, which would have been about early 30s at that point, and they said: "No, I am voting for option B." I said: "How

can you possibly vote for option B, it is not fair?" They said: "I do not care about fairness." I said: "People in St. Helier are not going to be represented properly." He said: "I do not want people in St. Helier to have fair votes." Literally what I was told. I said: "Wow. So, okay, that is amazing, so you do not want a fair system?" I think that brings us back to the point there are vested interests involved here. There are people in our system somewhere - I am not going to attribute any improper motives to any States Members because we could not possibly have improper motives - but others elsewhere might well have improper motives for wanting to effectively gerrymander our system. Now, bringing back the Senators in itself, as Deputy Mézec said, is not a problem mathematically because everyone gets a fair vote. We know in our heart of hearts of course it plays to the countryside because countryside voters come out to vote for Senators but we cannot object to that because that is just democracy. One day the sleeping giant of St. Helier may come out to vote in big numbers again with the peripheral areas and important areas of St. Clement and St. Saviour. When they do, one better watch out, I would suggest, because change is a'coming but in the meantime we accept the system. If it is a fair system, you stand for election whether as a party, as a shadow party or as a true independent and you take your chances, you get elected, and it is all done and dusted, even though there will be recriminations afterwards saying: "But you have got too many people in your party." "Yes, that is because we fielded candidates and they all got elected" or certainly the ones that got elected did. Try it sometime, it is a worthwhile experience. Other countries do it, I hear, and it has become quite established in other countries but you do not have to, and that is the point. What we do want is an equal basis for going forward, otherwise we will find ourselves perennially in this Groundhog Day. We are always told, I think, about what we think people want. Well I think we are not the best-placed people to decide this. I do not think the public are necessarily the best-placed unless they are given ultimately, certainly in terms of the consideration, we have bodies that are considered to do this. Ultimately when they are given something which is meaningful and sensible, I think the public are more than capable of saying: "Yes, this is what we would like" and in fact they have done that, have they not? They did back in 2013. So exactly what are we trying to reinvent here? Well I will finish by saying, what we are trying to reinvent is the fact that we have an inherently unfair system at the moment which is becoming worse. If we look at the representation we have got throughout the districts, let us go through the table, because this needs to be said. If you live, as I do, in fact, in the district of St. John, St. Lawrence and Trinity, we collectively have 7 representatives for that area even though we have got the same population of the district that I represent, which is St. Brelade. In St. Brelade my constituents only have 5 representatives, so there is already a disparity of 2. How can we, as St. Brelade representatives, think that is fair, that the countryside gets more votes? It gets worse of course because St. Mary, St. Ouen and St. Peter also have 7 representatives with their 4 Deputies and 3 Constables, so there is an inherent unfairness. When we compare that to the 5 representatives that St. Clement have, they have only got one Constable in St. Clement as opposed to the 3 Constables that the other areas have, so the anomaly, the gerrymander, if you like, is amplified because St. Clement and St. Brelade have 10 representatives whereas the other 2 districts have 14. We can see immediately where 2 districts with ostensibly the same population, 14 representatives; 10 representatives, that is the problem we have there. Of course there will be all sorts of semantics that say: "But you know Constables do not represent the districts." Irrespective of which way you cut it, those areas have 7 representatives. I look at the Constable of St. Helier who I think has had a ... is it a Damascene conversion? Is that the correct expression? I completely understand, he is a seasoned politician, it makes sense to perhaps not vote for amendments that ultimately are not going to change anything. Let us kick out the whole thing might be what is going through his head - I cannot speculate - but he is divided up into 3. We talked about him having potentially 4.2 votes in a reformed Assembly but when it comes to representation in St. Helier, he is being salami-sliced, if you like, or at least chopped in 3. He has to share himself between 3 constituencies, that of St. Helier South, St. Helier Central and St. Helier North. The north gets  $4\frac{1}{3}$  representatives, St. Helier Central gets  $5\frac{1}{3}$  and St. Helier South gets  $4\frac{1}{3}$ , so the gerrymander continues. Of course there will be Members, I have heard these arguments in the past: "But we should represent people on voter turnouts

not on electoral people that you represent.” I will go back to the Rectors. Imagine if we said that the Dean does not have as many people coming to his church services as he used to maybe 100 years ago, therefore, he should only be able to speak maybe once every 4 years rather than at every other sitting. It gets into the world of, I think, fantasy. Is there a problem here that needs to be resolved in terms of equity? Yes, absolutely there is. Do we care, not just about how we appear to the international community, about disenfranchising and disempowering certain parts of our population? Yes, absolutely we do. I will finish by paraphrasing perhaps Nelson Mandela. I look over to my new friend Deputy Ozouf, and I will speak in English if he does not mind. Nelson Mandela I think said: “Nobody is free unless everybody is free.” I would maybe paraphrase that and say: “Nobody can have electoral fairness unless everybody has electoral fairness” and we certainly do not have that in our system, and that is not sustainable.

#### **2.2.10 Deputy J. Renouf of St. Brelade:**

The central point, it seems to me, of this amendment is that P.2 is based to a significant degree on a false claim, and that claim is that bringing Senators can be done without disturbing the improvements in voter equity that have been delivered, everyone acknowledges, by the current system. Deputy Alex Curtis has, as is often the case, done us a service by doing the heavy lifting on this and explaining very clearly why that claim in P.2 is not the case and therefore why a boundary commission is quite important. The proposer of P.2 has airily said that it is a simple case of taking one Deputy from each district and voter equity will not be worsened. But it will. It will, that has been factually proven, so I think there is a carelessness at the heart of P.2; a casual declaration that is wrong. That is, it seems to me, a perfect situation for where an amendment is called for. It is to bring a greater sense of rigour, a greater sense of clarity to a proposition, and that is what this amendment, it seems to me, does. It strikes again at the heart of a fundamental principle. I have made clear what my view is about that fundamental principle already so it will not be a surprise to anyone that I will support it again. The central point here is that it is about respect really for all the people in Jersey. We should be heading in the right direction towards greater voter equity. That shows respect for everyone in Jersey. The problem about human rights and the ability of voters to express themselves is that a voter’s ability under Human Rights Law to express themselves is supposed to be equal but under our system a voter’s ability to have their voice heard is different according to where they live, and under P.2 it would get worse. That would get worse and that is, in my view, wrong. If we are going to have Senators back this is an amendment to ensure that it is done in a way which does the best we can with that system in terms of the fundamental principle at stake, which is voter equity. The reasons for an independent boundary commission are because they are independent. They are independent. Independent of us and, as many people have already said, everyone in this Assembly, given an opportunity to design an electoral system and boundaries, would come up with their own version. We need independent recommendations or suggestions. They can come from us, they can come from P.P.C., that can be examined and see where the best solution lies. It is also important because there is a clear issue that needs to be resolved. We need somebody independent, an independent body, we need an issue to be resolved. It is clear from the statement in the proposer’s proposition that it is not easy to get to the objective of increased equity because it is so casually easy to get it wrong, as the proposer did. The commission can consider various options and then the final decision of course will be up to this Assembly. In my view, this amendment is quite easy to support because it corrects a deficiency in the original proposition, it stays true to principles of voter equity, and gives a mechanism by which to achieve all those goals.

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

I note the time. Is the adjournment proposed?

#### **LUNCHEON ADJOURNMENT PROPOSED**

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



Are Members content to adjourn? Adjourned until 2.15 p.m.

[12:41]

## **LUNCHEON ADJOURNMENT**

[14:15]

### **The Deputy Bailiff:**

Yes, Attorney General, you have been asked some questions before the adjournment.

### **Mr. M.H. Temple K.C., H.M. Attorney General:**

Yes. I was asked various questions by Deputy Ozouf and one by Deputy Scott. Taking first Deputy Ozouf's questions, the answer to his first question is, yes, any amending legislation to primary law would require a Minister's certificate in accordance with Article 16 of the Human Rights Law, and the Minister would receive human rights advice in order that him or her could give that certificate. The second question was a more general question concerning E.C.H.R. issues and the Venice Commission. My answer to that is, I think as Members are already aware, the Venice Commission does not have legal force. The relevant legal obligation for Jersey is Article 3 of Protocol 1 of the European Convention on Human Rights, which is part of Jersey's domestic law. In terms of the approach of the courts to that particular obligation, there is a consistent approach of the courts, which is that States are given a wide margin of appreciation in terms of how they devise their electoral systems. There is no specific system that States must follow but systems limitations must not impair the very essence of rights under Article 3 of Protocol 1 or deprive them of their effectiveness. That goes back to a case of *Mathieu-Mohin v Belgium* back in 1987 but that looks to be still the current approach of the Strasbourg Court. Deputy Ozouf's third question was in 2 parts and it was concerning judicial review and challenges. He was asking whether there would be a judicial review challenge to any decisions this Assembly may make in response to this proposition and my answer is no ...

### **Deputy P.F.C. Ozouf of St. Saviour:**

A point of clarification, it was not in relation to this proposition, it was ...

### **The Attorney General:**

Well perhaps I can just finish my answers and then he can ask me supplemental questions. I understood it, would there be a judicial review challenge in relation to decisions on this proposition? My answer is, no, there would not because this Assembly is acting as a legislature and not an Executive and it is acting in principle and not on specific legislation. The second part of his question was would there be a challenge to the legislation itself, which may or may not be amended? My answer to that is there could be a challenge seeking a declaration of incompatibility under Article 5 of the Human Rights Law. But my advice to Members is that the challenge, if brought, would fail for the reasons that I have already outlined: the consistent approach of the courts to this particular obligation in the Human Rights Law or the E.C.H.R. Then, lastly, in relation to Deputy Scott's question, my answer to that is, no, Deputy Millar's proposition to re-introduce Senators is not contrary to human rights.

### **Deputy P.F.C. Ozouf:**

I am very grateful for the Attorney General's advice. Just for the point of record, I did not ask about this proposition, it was about the legal issues.

### **The Deputy Bailiff:**

Well I did, it was one of the ones I listed to you. It was a question that arose from your speech, that is why it was answered by the Attorney.

### **Deputy P.F.C. Ozouf:**

It was the legislation I am concerned with. The Attorney General said it is conditional, should there be an appeal it would fail. He explains that Article 5 would mean that there would be, in his opinion, a likely failure but that is obviously not a ruling of a higher court. I am called to mind a particular challenge recently of legislation which I think has been the subject of a Court of Appeal judgment. I just wanted to make sure I have got this right, he is not making a ruling, or he cannot, but it would fail, in his opinion, but there have been challenges, has there not, of this Assembly's ability to legislate?

**The Deputy Bailiff:**

Mr. Attorney, do you want to respond to that further question?

**The Attorney General:**

Yes, briefly. Clearly I am not a court, and this is my advice, but it is based on thorough research of Strasbourg case law. In terms of the Deputy's reference to a recent case, yes, there was a declaration of incompatibility in relation to legislation associated with a tax information exchange case and the way in which that legislation sought to confer limitations on liabilities to pay costs. Yes, the Court of Appeal did declare that legislation to be incompatible. Three weeks ago I appeared in the Privy Council where we were appealing that particular decision and the decision of the Privy Council is awaited.

**The Deputy Bailiff:**

Deputy Tadier, do you have another question for the Attorney?

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

I do. The question again relating to Article 3 is about whether or not it is even theoretically possible for a court, either in the initial phase or on appeal, to uphold or to judge that there has been an unfair election in terms of both the distribution of seats or the voting system on the basis that it talks not just about free expression but about free expression of the opinion of the people. If I were to give an example to put to the Attorney General, if there was a scenario, for example, whereby a system were devised where there were constituencies, for example, where there was only one person that could vote and they would have, say, 10 seats, and there was another constituency where there were 1,000 people who could vote for 10 people, at what point would Article 3, if ever, be triggered? In other words, how egregious could an electoral voting system be in terms of inequality before it would invoke Article 3?

**The Attorney General:**

It is Article 3 of Protocol 1 to the E.C.H.R. and the consistent approach of the courts is to look at all the circumstances of the case. I am not sure that I can do better than the answer I have already given in that it must impair the very essence of the rights afforded by Article 3 of Protocol 1 or deprive them of their effectiveness. Now clearly it would be possible to come up with extreme situations where those rights would be deprived of their essence and deprived of their effectiveness. I approach it in relation to this particular proposition and the advice that I give to Members is, no, it would not infringe Article 3 of Protocol 1.

#### **2.2.11 Connétable K. Shenton-Stone of St. Martin:**

P.P.C. has considered the establishment of a boundaries commission but concluded that it was not the right solution for Jersey in the current form prescribed by the States decision in 2021. To provide some background, the rationale for the inclusion of a boundaries commission in the proposals which sought major changes to the composition of this Assembly was borne of frustration. At that point so many attempts to change the membership of the Assembly had failed, often because once something was lodged, there would then follow numerous rounds of amendments by other Members which often distorted the carefully-balanced proportions of the original. I think we can all recognise that scenario.

The last Assembly's P.P.C. proposed changes via P.139/2020 to the Island's constituencies which sought to address long-standing inequities in representation and ensure each constituency met Venice Commission ratios with the number of representatives reflecting the population levels. To guard against this system being negatively impacted in the future by haphazard amendments, it was proposed to create a boundaries commission which would oversee the maintenance of the equilibrium achieved in terms of voter equity and essentially shift responsibility for suggesting any future changes away from the Assembly. In the U.K. the boundaries commission statutory function is to keep under review the distribution of constituencies which sought to address long-standing inequities in representation and ensure each constituency met Venice Commission ratios with the number of representatives reflecting the population levels. I am sorry, I have gone back on that one. Yes, so, shall I start again because I have mixed up my speech? It is the way I do things, sorry.

**The Deputy Bailiff:**

Yes. I can bend the time a bit normally but we are at the one minute 45 seconds point and I ...

**The Connétable of St. Martin:**

Yes, sorry, it is quite a complicated one this one. Right, I will start again which I have done before.

**The Deputy Bailiff:**

Yes, that is fine.

**The Connétable of St. Martin:**

P.P.C. has considered the establishment of a boundaries commission but concluded that it was not the right solution for Jersey in the current form prescribed by the States decision in 2021. To provide some background, the rationale for the inclusion of a boundaries commission in the proposals which sought major changes to the composition of this Assembly was borne of frustration. At that point so many attempts to change the membership of the Assembly had failed, often because once something was lodged, there would then follow numerous rounds of amendments by other Members which often distorted the carefully-balanced proportions of the original. I think we can all recognise that scenario. The last Assembly's P.P.C. proposed changes via P.139/2020 to the Island's constituencies which sought to address long-standing inequities in representation and ensure each constituency met Venice Commission ratios with the number of representatives reflecting the population levels. To guard against this system being negatively impacted in the future by haphazard amendments, it was proposed to create a boundaries commission which would oversee the maintenance of the equilibrium achieved in terms of voter equity and essentially shift responsibility for suggesting any future changes away from the Assembly. In the U.K. the boundaries commission statutory function is to keep under review the distribution of constituencies in England and to make periodical reports, currently every 8 years, with a recommendation to the Speaker of the House of Commons. During an act of general review of the constituencies in England, the commission allocated a defined number of constituencies to England, a precise number being calculated using a set formula and producing a figure broadly in proportion to the size of England's electorate as against that of the whole United Kingdom.

[14:30]

Each constituency is also required to have an electorate that is within 5 per cent of the United Kingdom electoral quota. In the U.K. the chair of the commission is the Speaker of the House of Commons but in practice it is the deputy chair who leads the review. The deputy chair must be a serving judge of the High Court and is supported by 2 other commissioners whose appointments are made following an open public appointment selection process. The commissioners are part-time appointees who meet whenever the work programme requires and are paid a daily fee set by the Treasury. The director general of Ordnance Survey and the Statistics Authority serve as statutory assessors, technical advisers to the commission. During active constituency review, assistant commissioners are appointed; there were 18 appointed for the most recent review, also paid a daily

rate, and they chair the public hearings that the commission is statutorily required to hold, assessor representations received, and make the recommendations to the commissioners. P.P.C. concluded that this system would be disproportionate for Jersey's needs. We have historical Parish boundaries which no one would wish to alter and which P.139/2020 respected, so any changes would most likely be to the number of representatives required in each constituency. P.139/2020 provided quite specific detail on the composition of the commission, including that the chair of the commission and 3 of its 6 members should be from outside the Island but not a lot else. Indeed, as has been mentioned earlier, there are scant details in the accompanying report as to how it would be structured, the scope of the commission's remit, how it would be resourced, no mention of payment, and we may struggle to find suitable people willing to do this voluntarily. There is also no explanation provided as to why the majority of members should be external. Presumably, this was to guard against any perceptions of self-interest. It is for those reasons that P.P.C. has not established a boundaries commission to date, but if this Assembly supports this amendment, then I would be asking my committee to consider bringing a rescindment of part of a previous States decision which detailed the commission's composition and will propose an alternative way forward. One option could be to mirror the process user review and determine members' remuneration. A person or body could be recruited solely for this purpose every 4 years after each election or a review could be undertaken every 8 years, just like the U.K., to review the constituencies and make recommendations for any changes to the number of representatives in each which could then be implemented at the next election.

#### **2.2.12 Connétable A.N. Jehan of St. John:**

I thought this was probably the easiest of the amendments and I am not sure why it takes so long but I thought Deputy Renouf's speech before lunch summed-up things very well, in my opinion. I also enjoyed Deputy Tadier's contribution, especially his description of the neck-and-neck race between options A and B in the referendum. Perhaps out of character for him, he missed the opportunity to describe option C, the do nothing option, as becoming option C, the "C of change". I am happy to support this amendment. I would remind Members that the proposer is asking for analysis and for the findings to be brought to the Assembly. Importantly, the proposal does not bind this Assembly to adopt the findings of any such review. This morning Members voted a sizeable majority to retain Connétables with all the new officers we have in terms of our numbers. With this in mind, the distribution of all other Members, as is the case now, needs to be as even as practical. I would like to thank Deputy Curtis for his brief but descriptive analysis that he shared with us earlier. That analysis gives me, and hopefully the majority of Members, enough concern that we do need to take a closer look at the distribution of Deputies should the main proposal be adopted, and an independent body would be best placed to do this. [Approbation]

#### **2.2.13 Deputy M.E. Millar of St. John, St. Lawrence and Trinity:**

The chair of P.P.C. has explained very well why we do not currently have a boundaries commission. I accept that a commission may assist in debates around equity. I will return to that subject. In our system where we do have, and have always had, different categories of States Members, debates regarding equity are usually not simple, especially as the calculations of equity are based on an overlapping of different political officers and associated constituencies that we have here. In some respects we are no different from other jurisdictions where people vote for a national assembly and for local councillors. The Constables, one could easily exclude those as being the local council and the rest of us as being the national assembly, but we all sit together and that does make things more complicated. I have so far been avoiding using the term "gerrymandering" because I do think it denotes improper motive and possibly dishonesty but seeing as everybody else is happy to use it, I think one could say that the figures in Deputy Mézec's amendment, as supported by Deputy Tadier in his speech, are also gerrymandered. It is stated, for example, that the district of St. John, St. Lawrence and Trinity has 7 representatives, and that may be true at a district level, but of course it is not true for the individual voters in the district who have 5 representatives. There are 4 Deputies in

the district and one Constable, with each Constable representing a Parish with a different population within that district. I imagine, although I am sure they would speak for themselves, if the Constable of Trinity or the Constable of St. Lawrence were approached by Deputy Tadier as a constituent of St. John, they would tell him to go and speak to the Constable in St. John and possibly not be able to assist because they are in a different Parish and are elected to represent electors in that Parish. The same principle applies in St. Mary, St. Ouen and St. Peter which have 4 representatives that people can vote for and in Grouville and St. Martin where they can have 3 Deputies for whom they can vote. I accept that my proposition may have been incorrect in maintaining the existing level of equity by removing one Deputy from each district and substituting 9 Senators elected Island-wide, and I clearly would want to correct the record on that. However, my proposition seeks to maintain the current districts with the current Deputy system. We have to remember that that in itself is not popular, it is not necessarily popular in districts like St. John, St. Lawrence and Trinity, nor in St. Mary, St. Ouen and St. Peter. During the public meeting it was very clear that there were parishioners in St. Mary who are very upset that they do not have a Deputy living in that Parish. I have no doubt in my own district that, had we ended up with 2 Deputies in Trinity, 2 in St. Lawrence and none in St. John, St. John parishioners would have been very, very upset. People are very tied to the historic position of the Parish and what that means for their representation. Deputy Curtis has given us a very detailed mathematical breakdown and Deputy Alves said that her and her team also appeared to have approached it largely, the subject of districts, as a mathematical question, but it is not a mathematical question. The current arrangements may be mathematically sound, they may be sound from a position of electoral theory, but from the position of what the public see, they do not like them. They have not won hearts and minds and we have to win hearts and minds. An independent boundaries commission, we have had the suggestion this morning, because it could be established with people who live in Jersey. Absolutely, no, of course, it cannot because how can it be independent if the people on that commission live here? We would have to have people from off the Island and we would have to have other people who understand how you set boundaries, and it will take time. We would have to bring in people from the outside and, as I said, the public do not like people from the outside coming in and telling us how to do things and, again, it will create delay. I have been very clear that the structure of my proposition, it will be simple and it will be easy to introduce. The law drafting will not be significant. I am not going to address all of Deputy Ozouf's comments now because I think they sit with the P.P.C. amendment and not with this. If this proposition is adopted it will create delay and it will ultimately wreck this proposition even if it is successful. We know that Jersey's electoral system has never been perfect in terms of equity, in terms of equal voting rights and equal voting power. That is a historic position and much of what we do now, some of the current arrangements have tried to amend that. But I stand by my proposition to re-introduce Senators, the most equitable office that can be, as a way of giving each voter a greater number of votes and the ability to exercise greater influence over who holds political roles in the Island. For example, Deputy Curtis I think looked at the distribution of Deputies. No? If we just look at what the public sees, at the moment people can vote for between 3, 4 and 5 Deputies and a Constable. We will leave the Constable out of the equation. That means that some people see that they have 60 per cent fewer votes than others. By introducing Senators, members of the public, under my proposition, will be able to vote for between 12 to 14 Members of this Assembly. That is a disparity of 86 per cent which is significantly better than the 60 per cent disparity that they see now. I understand the electoral theory, I understand population references, but the public see that where they live they can only vote for 3 people; other voters and residents around can vote for 4 Deputies or 5 Deputies. As far as the public is concerned, that has not won hearts and minds, and they do want to see Senators back. While Deputy Tadier may have objected to my use of the term "jurisdiction" I believe I have been consistent in my opening speech in talking about the public and what the public want. Given that a previous Assembly has already approved a proposition to establish a commission if P.P.C. consider it necessary, and although it has not been acted on, it does not need another proposition to provide the authority to do so. I ask Members to reject the amendment and leave any efforts towards greater

electoral reform, including a boundary commission, properly established with clear terms of reference and a focused objective, for the next term if that is what the future Assembly wishes to do.  
**[Approbation]**

**The Deputy Bailiff:**

Does any other Member wish to speak on the second amendment? I call upon Deputy Mézec to reply.

**2.2.14 Deputy S.Y. Mézec of St. Helier South:**

Thank you to all Members who took part in this debate. I am sorely tempted to simply stand here and say: "I refer Members to the speech of Deputy Alex Curtis" and then sit down but of course that would be much less fun, so I will not do that. But it does have to be said that I thought his speech was excellent, really made the point, and it was evidence-based as well. He was referring to the numbers, the formula, the calculations that determine people's voting way. It was notable that in the speech from Deputy Millar just now she did not cite any real numbers at all. She referred to what are misconceptions of the public about their influence in voting systems based on the number of votes they have, not the weight of those votes. You can have a constituency where there are 100 people living and everybody gets one vote, next to a constituency where there are 1,000 people living and everybody gets one vote. Are they equal? Do they have equal voting power? No, of course they do not because it is not about the number of votes you have, it is about the weight of those votes and what impact they have on delivering the final results. She explained about the complexities that come when you have overlapping constituencies, which is what we have by having Parishes and districts that are based on either Parishes or Vingtaines, and describes that as complicating these calculations. That is exactly why we need people who know what they are talking about to be the ones to tell us what impact this has.

[14:45]

Deputy Millar frequently talked about the system not being popular, and she referred to her public meetings, but the fact remains - and we need to stop ignoring evidence just because it is inconvenient for us - that in the district of St. John, St. Lawrence and Trinity in the 2013 referendum, 75 per cent of people who voted, voted to scrap Senators and voted for basically the system that we have now. That is evidence that we should not just be ignoring because it is inconvenient for us. I will try to address specific comments that were made by different Members because some asked me to address particular points when I summed-up. Deputy Gardiner asked me to clarify why I have not, in the wording of the proposition, specifically stated how that boundaries commission ought to be formed. The reason for that, to be blunt, is that if P.P.C. can come up with a more efficient way of delivering it, I would not want to stop them, I would want them to go for that. The chair of P.P.C. explained the U.K. Boundaries Commission system which would obviously be ridiculous to copy and paste and try to apply to Jersey, and she referred to a potential rescindment of the previous motion and the prescriptions that that had offered. I completely support that because there is a common sense way forward here, which is to use the bodies that we have already got. Deputy Alves referred to scrapping the Referendum Commission and building it into the Jersey Electoral Authority. Obviously a good idea because we have had that body now for, what, 10 years and what has it done? Literally nothing but we have still had to expend energy on finding people to serve on it for them to end up doing nothing. So that is why, because I think it is better for P.P.C. to have the ability to do that in the most efficient way possible. They can do that, and I am sure they will want to do it in the most efficient way possible. Deputy Bailhache spoke, and it was worth listening to him, because this is somebody who has first-hand experience at this. In fact, I should say Deputy Renouf has first-hand experience of this as well because both of them served on the Electoral Commission in 2012. That was an electoral commission but in reality it was also a boundaries commission because it did look at options for boundaries and it proposed boundaries as part of its recommendations. As well as

recommendations, that commission also produced principles which it put in its reports, and they make a huge amount of sense. Just to pick 2 of the principles that that commission arrived at, they said that constituencies should, as far as possible, be of equal size. Absolutely right because that understands the importance of voter equity. They said the electoral system should be simple, fair and easy to understand. Again, absolutely right, because you do not get greater participation by making systems overly complicated. It is obvious why they arrived at those sensible conclusions, having undertaken what was at that time the greatest exercise of democratic consultation on this subject that there had ever been. Deputy Bailhache said, even though he spoke in some senses sympathetically towards what I am trying to do here, he did express some misgivings which I hope that I can turn him around on. He wanted to know what the point of this proposition was when there is already a standing States decision to create a boundaries commission, so is my proposition relevant when an existing States decision already stands? Well, the reason that it is relevant is to be found in part 3 of the amendment where I am asking the States not simply to reiterate its existing agreement to create a boundaries commission but very specifically to ask P.P.C. to task that boundaries commission to look at the proposition in P.2 and for P.P.C. to make sure that when it comes back to this Assembly with the legislation to implement it, that it has done so with that evidence base from the independent boundaries commission as part of that. That will be included in that report and will be something that all States Members can consider at that point to decide whether we do absolutely want to go ahead with those changes or if we as Members or as P.P.C. decide that the evidence we get leads us to believe that there are a couple of tweaks that could be done for it. If the amendment were not to be accepted we would not be specifically directing P.P.C. to bring the boundaries commission's evidence into the equation for P.2, we would be saying: "Go ahead and do P.2 even without that evidence and even with what we can tell so far" which is that it is not all it is cracked up to be when it comes to voter equity because of the excellent case that Deputy Curtis made about the numbers here. I would say to Deputy Bailhache it is worth supporting this now because it brings the principles of the boundaries commission and the evidence that they will gather to inform us into the equation now, whereas if we do not go for it, it will not feature at all in the enabling legislation for P.2 and we risk taking a step backwards and doing so without that evidence. I do not think I have too much more to say because most of the speakers in this debate I think clearly got what we are trying to do here, which is to not overcomplicate things, not create a new expensive quango, but to use what we have already got more sensibly to provide that decent basis and avoid the chances of making haphazard changes to our electoral system without the benefit of evidence and data. The whole reason that a boundaries commission was initially suggested in that original proposition was because, frankly, it is an embarrassment that we have so many debates about electoral reform that are purely based on supposition and not facts, not data, not actual numbers, it is just "what I reckon" is what is frequently the argument that is pursued in these when if there is to be an answer to it or a formula for determining how you calculate voter equity, you can do that properly and that boundaries commission would provide the safeguard to that. Deputy Ahier had mentioned that there was not a lot of talk about the boundaries commission in that specific debate. I think I would make 2 points in response to that: the first is that there were 2 electoral reform propositions in the previous term. P.P.C. originally brought a one Member, one-type of constituency proposition that lost and then they brought the one that succeeded, which was the hybrid of fair voting districts and Constables. It was kind of rehashing what had been I think developed in a bit more detail than a previous proposition, so that is why you would not be able to sight it if you were looking for it specifically in that proposition. We probably also did not dwell on it that much in the debate because hopefully it goes without saying that you want decent evidence before making these kind of decisions. I ask the Assembly to support this proposition. It does not prevent any Member, if they wish to, from voting in the final proposition for the principle of reintroducing Senators into our voting system in some shape or form, it just says: "Let us have a proper look at what happens to the numbers if you are just cutting a Deputy off each district to make sure that it is right" because the better alternative might be to leave one or 2 districts as they are, to go a bit further in some districts, or weigh them out in other ways as well. We can

make that decision based on the evidence knowing that we are enhancing voter representation, not making it worse, and also, bearing in mind that the 2022 reforms were based on old population statistics because the 2021 census data had not been collated at that point and factored into it. We have even more up-to-date statistics to inform that commission. I make the amendment and call for the appel.

### **The Deputy Bailiff:**

The appel has been called for. Members are invited to return to their seats. I ask the Greffier to open the voting. If all Members attending in the Chamber and remotely have had the chance of casting their votes, I ask the Greffier to close the voting. I can announce the amendment has been rejected.

<b>Pour: 19</b>		<b>Contre: 25</b>		<b>Abstained: 2</b>
Connétable of St. Peter		Connétable of St. Helier		Connétable of St. Martin
Connétable of St. John		Connétable of St. Lawrence		Connétable of St. Clement
Connétable of Grouville		Connétable of St. Brelade		
Deputy G.P. Southern		Connétable of Trinity		
Deputy M. Tadier		Connétable of St. Ouen		
Deputy R.J. Ward		Connétable of St. Mary		
Deputy C.S. Alves		Connétable of St. Saviour		
Deputy I. Gardiner		Deputy C.F. Labey		
Deputy K.L. Moore		Deputy S.G. Luce		
Deputy S.Y. Mézec		Deputy K.F. Morel		
Deputy P.F.C. Ozouf		Deputy M.R. Le Hegarat		
Deputy T.A. Coles		Deputy S.M. Ahier		
Deputy D.J. Warr		Deputy I.J. Gorst		
Deputy J. Renouf		Deputy L.J. Farnham		
Deputy C.D. Curtis		Deputy Sir P.M. Bailhache		
Deputy L.V. Feltham		Deputy H.M. Miles		
Deputy R.S. Kovacs		Deputy M.R. Scott		
Deputy A.F. Curtis		Deputy R.E. Binet		
Deputy K.M. Wilson		Deputy M.E. Millar		
		Deputy A. Howell		
		Deputy T.J.A. Binet		
		Deputy M.R. Ferey		
		Deputy B. Ward		
		Deputy L.K.F. Stephenson		
		Deputy M.B. Andrews		

## **2.3 Re-instatement of Senators (P.2/2025): fourth amendment (P.2/2025 Amd.(4))**

### **The Deputy Bailiff:**

We now move to the fourth amendment lodged by Deputy Moore and I ask the Greffier to read the amendment.

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

Paragraph (a) – After the words “constituencies and substituting”, substitute the word “nine”, with the word “seven”. After the words “in their place”, insert the words, “reducing the number of Members within the States Assembly to 47”. After paragraph (a) insert a new paragraph (b) as follows and re-designate the subsequent paragraphs accordingly – “(b) that all funding saved on salaries for the vacated Deputy seats should be distributed equally between the Senatorial seats;”.



After paragraph (a) insert a new paragraph (b) as follows and re-designate the subsequent paragraphs accordingly – “(b) that the Senators should form the entire Council of Ministers;”.

### **2.3.1 Deputy K.L. Moore of St. Mary, St. Ouen and St. Peter:**

In 2022 the poll-topping former Senator Vallois led a sub-committee of P.P.C. looking at democratic accountability and governance. I believe that there are still 3 members of the group in the Assembly today: Deputies Gorst, Mézec and Morel. One of their findings was that accountability of the role of Chief Minister within the public arena is lacking as voters do not have a say on who should be elected to the role. Their recommendation to resolve that was that voters should be provided with the opportunity to indicate their preferred candidate for Chief Minister during the voting process. A poll for Chief Minister has been discussed to an extent but the arguments for such a poll have generally been shouted down by those who worry that a directly-elected Chief Minister would have too many similarities to that of a presidential system. But the simple point that the D.A.G. (Democratic Accountability Group), as it was known, made was that the public quite liked the concept of being asked for their opinion and seeing it result in action. This amendment challenges the Assembly to let the public choose who they want to govern them through the automatic elevation of Senators to the Council of Ministers. One could also say that if you are going to have Senators again, give them a reason for having their different status. One constituent who kindly considered this matter reminded me of these wise words: “Democracy gives people a choice in how they are governed and those in Government rule with the consent of the people.” The words of Her late Majesty Queen Elizabeth II who was then speaking at a Commonwealth summit in Abuja in 2003. The constituent made the clear distinction in the ability of the people to decide who they wished to govern them, not how they wished to be governed. The role of Senator was rendered pointless under the unpopular Le Fondré Government when only 3 of 8 Senators remained in the Government by the end of their term of office. What was the point in asking the people who they wanted to hold an Island-wide mandate if those who assumed power are not willing to work with those who are held in high esteem by the public? This amendment seeks to achieve a number of things if the Assembly is minded to re-introduce the role of Senator. Firstly, there should be a point to seeking the Island-wide mandate. Prior to 2018 this was certainly the expectation of the majority of successful candidates. In our unicameral system every Member holds a vote, so why not allow the public to choose those who govern them by directly appointing them to the Government? It is my hope that if this amendment was adopted that it would encourage a greater engagement and increase voter turnout at the next elections.

[15:00]

The amendment contains 3 elements and I will ask for them all to be voted upon separately. Firstly, reducing the numbers. As we discussed yesterday, one objective of this amendment, which correlates with my previous amendment, is to meet another wish of our electors and that is to reduce the overall number of Members in this Assembly, this time though to 47, just a small decrease. This maintains the balance of voter equity that was developed under the creation of our current system, I would suggest. Salary: it is often said that our salaries prevent a lot of people from standing for election as they could not afford to make the pay cut. While only saving the cost of 2 salaries in this proposal, the additional money would help to attract people to stand for election and it would also provide an acknowledgement of the workload and the responsibility that a Minister holds. While I am proposing a model that is loosely crafted on the Swiss Federal Council, which has been in operation since 1848 and therefore something of a success, one would suggest, it still retains the confidence of the public. They work collaboratively, operating on a majority voting system which would be conducive with our system which does not of course generally follow along party lines with the majority of Members being elected as independents. Some have asked whether a council of 7 Members could really be enough to govern. The Federal Council appears to have managed that for almost 180 years, governing a nation of what is now just under 9 million people and a budget that was in 2024 85.7

billion Swiss francs, that is about £75.6 billion and they held also a 2.6 billion Swiss franc deficit. In fact it could help to streamline the accounting lines of the departments of the public service too, and that might be something that the current Chief Minister might like to take into account. Of course there would still be opportunities for Deputies and Constables to hold delegated responsibilities as Assistant Ministers. There may be some further details to consider as legislation is amended, such as how the Chief Minister is elected. But those are relatively minor points, I would suggest, and the benefits to the electorate merit the additional work of amending legislation to make a system work. Of course there will be an opportunity for the Assembly to consider those details when the legislation comes to the Assembly. One detail I should touch on though that has been raised by the Comité, and I thank them for their comments, the question of how a vote of no confidence would work. Of course, firstly, until recently one of the Island's U.S.P.s (unique selling points) has been political stability and, therefore, a vote of no confidence should have a very high bar. In other places there are mechanisms to call an election if the people want a change of Government and that could be achievable here, I would suggest, if such a situation arose. As the Council of Ministers would be formed of Senators, it would only be necessary to hold an election for the Island-wide role. I ask Members who are minded for change today to consider these additional measures and the positive effect they may have on the relationship that future Members of this Assembly will have with those that elect them. I move the amendment.

### **The Deputy Bailiff:**

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

### **2.3.2 Deputy R.J. Ward St. Helier Central:**

I do not think it is right to not speak. This is really interesting this one. At first glance I wondered what on earth it was about. I am growing to this. It is a fascinating idea. I will say that one interesting thing is that the Swiss Parliament, I have contradictory information in front of me there, it is a party political system, there are 7 parties. There has been a growth of parties, the Green Party recently represented in the Swiss Assembly as they move slightly from the right into the centre because it is quite a conservative country. Obviously that is what got me slightly attracted to this. You can have that sort of co-operation when you have clear manifestos stood on in a combined way with detailed commitments made in them. That is what is needed, I think, for every functioning Assembly. But then I would say that, would I not? In terms of the 2 tiers of pay, I am not so certain about. We are going to have a Council of Ministers of 7 who will bring all of the laws and bring everything forward. You will have to combine Ministries, I am not entirely sure which Ministries will be combined. I know they are all very, very busy and there is a huge number of demands made in all of them. There is no detail in how that will happen in this. It removes really, I suppose, only Senators and if I have got this right, to come from the Council of Ministers, you could have a vote of no confidence, the Government will fall and then it will be replaced by the same 7 Senators afterwards, who obviously would have had a greater understanding of the error of their ways, which is an interesting form of our politics and I think a really good idea. Because we all need to look sometimes at what we represent and what we bring forward. But I cannot see any other way. I wrote in my notes about the magnificent 7 of the 7 Senators in this proposition. I did not know whether to quote the film or the fantastic song by The Clash, probably the greatest band ever in my opinion, but there we go. But my real genuine serious concerns are if we focus power into the hands of 7 predominantly the most important people in this Assembly of 47, there are 40 other Members; how do they fit in? One of the real strengths and sometimes annoyances of the Assembly, let us be honest about it, for some is that you need 25 votes, you need a majority to pass legislation. Are we going to erode that away? Because I would be really concerned about that; that is the uniqueness of our democracy. We are spending days talking about the structure of that yet again. But the unique part is that you need 25 votes to pass something in this Assembly or will everything be done by Ministerial Decisions and some

rescindment to what Ministerial Decisions can be made and how they are dealt with? Really genuinely that concerns me. Will the magnificent 7 be benevolent leaders, acting kindly to the lower classes in the Assembly, throwing the crumbs of Scrutiny as the lower-paid echelons below them, look up only hoping they would have been elected as Senators so they had that power? But I jest, trying to bring a bit of humour to this debate because it can get somewhat toxic at times. What happens if one political party gets all 7 Ministries? That is the mandate we are looking at, it is more important. That is the most important mandate. Really we are morally obliged to go along with those 7 Ministers from one political party. I just want to talk myself into this at the moment. This is slightly concerning. I am not entirely sure that this is what the Deputy meant by this proposition but I am stood here changing my mind on the spot; well perhaps it is not such a bad idea now. We could have a mandate. We could stand up every time and say we have got a mandate from the electorate here for our 7 Ministers, you really do need to support this. But that is the uniqueness of our democracy we do not want to lose, if we ever had one party in a majority. I am a bit of an election observation geek. I have been to observe quite a few, both through the C.P.A., which is a really important organisation when it comes to observations and we ignore it at our peril, and also for a group called Democracy Volunteers. Every time you go and observe an election you look really closely at not only the process of that election but what it leaves behind. There is a marvellous part of the U.S. election, which I went to observe on my own back - it did not cost the taxpayer anything, before anyone puts an F.O.I. (Freedom of Information) in - and there is a unique part on their election paper when they vote for President, that you can add anyone else's name. It just says: "Anyone else." You can vote for yourself as President, which I think is a fabulous idea. Every year they have to try and remove the ones that they think are just joke ones, like Mickey Mouse or someone else or a cartoon character; they have to go through the ballot papers. But that, you could say, does not work because it is concentrating into the hands of the individuals themselves. Perhaps that is something we could do here. My genuine concerns over this are focusing power into fewer and fewer hands, the difference in pay. Because I know being a chair of a Scrutiny Panel is a huge job and the constituency work, Scrutiny work, developing propositions on your own. There is more support now from the Greffe but then that was not always that. I know how difficult being a Minister is and how much work that takes. But I think every Member of this Assembly, if they are working in the way that I know they do, should be respected for that. I have said before about perhaps the Chief Minister is getting more perhaps, depending on how today goes, should receive more sympathy because it is a figurehead position to have. We have to be very careful with this proposition. I am not sure I will support it but I am closer than I ever was. But purely because I think we would be benevolent leaders and kind to the people.

### **2.3.3 Deputy M.E. Millar of St. John, St. Lawrence and Trinity:**

I think Deputy Moore's amendment requires some very careful and balanced consideration before making a decision as to which way to vote on it. In respect of part (a) I could, in theory, in principle, be persuaded to support a proposition that reinstates 7 Senators. My aim is to bring back Senators and the Island-wide mandate and I would not especially want to spend too much time debating whether there are 7, 8 or 9 Senators. I would settle for any one of those numbers if in exchange I could guarantee that doing so would secure the return of Senators, alongside maintaining the Constables and District Deputies. Equally, I can see the argument for having a slightly smaller Assembly. I think many members of the public would say that there are too many States Members. But that contrasts, however, with the fact that, as Deputy Ward has just alluded, most Members are very hardworking in serving the public and it is important to make that point. This is not by any means a part-time job. I am not sure it is crucial for the Assembly to have an odd number of States Members, as opposed to an even number. But in my view that is not something we should debate for too long. Again, I could live with that part of the amendment. What I struggle to agree with, however, is the proposal that the Senators, only 7 of them, must form the entire Council of Ministers. I would value, as I am sure many of us do, an Assembly where we have a mix of prospectives from

the Constables in the Parishes, Deputies in Districts and I hope Senators Island-wide. It would be contradictory of me to say that I value that combination of perspectives on viewpoints in the legislature but will not exclude it from Government. In discussing with the public, I have been clear that in my view and in my proposition Senators may stand for a Ministerial post but they are not obliged to do so, nor are they guaranteed a Ministerial post. But, equally, that a talented Deputy may also stand. With 8 or 9 Senators we would need Deputies to stand and the role of Senators is not exclusive. In my view, most importantly, this amendment would move us too far away from our parliamentary system,. Effectively it is stating that the public would directly elect the Executive and that is a fundamental change to our current practices, and that would need very serious consideration. I am also not at all certain that in our model 7 Ministers will be enough. I think the whole amendment has wider constitutional implications which have not been properly considered. The fact that this system works in Switzerland does not give any certainty at all this will work here. Our underpinning mechanisms and structures are simply not the same, nor is our heritage and culture, and that is something that we do need to bear in mind. Voting in something from somewhere else will not necessarily be popular. I am not saying that the implications of any of these implications are necessarily insurmountable if this is the approach that the Assembly wish to take. But they will need to be discussed, tested at length and consulted with the public and go through a much more rigorous process than just one debate on an amendment to a proposition for which you have had a relatively short period of notice.

[15:15]

This amendment will also require an amendment to the States of Jersey Law, which I think is not referenced in Deputy Moore's report, which again shows the amount of further consideration that may be required. Lastly, I would simply say that a very small pay rise is not a sufficient differential, I believe, to encourage people who earn very significantly more to stand for election. I think the question of politicians' pay is one that requires further consideration. I am afraid for that reason I cannot support part (c) and I will be voting against the amendment.

#### **2.3.4 Deputy A.F. Curtis of St. Clement:**

This amendment to me is like being told to go for a run to Grosnez and back. It will probably do me a lot of good and I will gain a lot out of it but it is a bit too far for me to travel in one go. But in all seriousness. I am glad to follow Deputy Millar because she said that some of these changes could be quite valid and could achieve quite a lot. Deputy Rob Ward quite optimistic of the opportunities and I think he is looking to the future with great enthusiasm. I only rise to give examples of the feedback I have received from constituents and one of them came back to me, as Deputy Millar will know from one of the correspondents that they supported, what she was saying was they wanted it to go further. They came back to me and they said: "There have indeed been a number of amendments, a plethora of ideas that have come out of this. Most of these have some merit." I really hope Members, even though they seem so staunchly against some of the proposition, recognise some of the merit, despite the outcome on Deputy Mézec's second amendment. But it says here: "The latest one I think is that of Deputy Kristina Moore, I believe that this one is the closest to my hope of having a chance to influence how we are governed and not merely by whom." As I think the mover of this amendment highlighted similar feedback from people and that is a really interesting thing to talk about. But the one line I want to take out of this was: "Considering the number and variety of suggestions, I have now come to the view that this is a matter that needs much greater thought and consultation, so should not be rushed through in time for the next election, always provided that it is not just kicked down the road" and then says like building the hospital. I am sure other political comments will come out of that. But the short of it is Deputy Millar said these are significant changes. What Deputy Millar as well is proposing are significant changes again. She proposed it is always good when making a change to consult, in her response just now to this amendment. I am afraid I cannot support Deputy Moore in this amendment. I would rather we do look at the wider picture as to how to create a more

effective Government and a more effective Assembly, which may involve changes as to how we choose our Ministers, choose our Chief Minister. But we should do that in the round as to how to have a fair representative and effective Assembly and not necessarily by making continuous piecemeal changes. I will leave it there.

### **2.3.5 Deputy M.R. Scott of St. Brelade:**

I was not going to speak to this amendment. I did not feel it necessary to point out the speech I raised to object to the Deputy's similar proposed amendment to the first amendment equally applies here. I thank Deputy Ward for exploring the possible undisclosed consequences of the amendment. I think it is very important that States Members do not unintentionally allow a political party to have power that does not represent the extent of their electoral support. We do need to vote with clear and sharp eyes. Did that happen with the current arrangements? Would the current States of Assembly have supported them had they been presented with them today and how would the electorate feel about them? I think much of that comes down to this. I think in this case of this amendment and in the case of my electorate for the reasons that have been raised in the debate so far, that I do not believe they would, so I will not be supporting this proposition.

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

Sorry, I am just trying to find my notes with all these screens open. I am going to do it from memory. No, here it is. They say start with your strongest points, do they not, and which might also be possibly the most comedic points at this point in the afternoon where we need a lift? I think Deputy Ward started us off very well. Let us look at what this might entail. If I understand correctly, instead of having 8 Senators we have 7, that is fine, that is straightforward. As we have not tried 7 yet and we have established it is a nice round number, one for every day of the week, so something for everyone potentially. If we look at the election in 2014, I think it was - 2018 rather - so the last Senatorial election, if you like, the last full Senatorial election, what would have happened then is that you would have had Deputy Vallois go straight into the Council of Ministers and that is good. Some people said she should have been there anyway. I think she was initially for a bit. Senator Moore was in there and I think, interestingly enough, she did not become a Minister, did she? She was relegated, shall we say, to the humble Back-Benches of leading the very important Scrutiny Panels and chairing that. Then we had Senator Le Fondré who came third but did find his way not just to becoming a Minister but to becoming a Chief Minister. Then we had Senator Farnham, Senator Pallett, Senator Gorst, Senator Ferguson and Senator Mézec. I can see of course why she has gone for 7 seats instead of 8. **[Laughter]** Eliminate your enemies straightaway. I will come back to that in a moment. So we know why it is 7. But what a great Council of Ministers that would have been. They would not have had to seek a mandate from the Assembly. We would have had a Council of Ministers with those 7 who have got a public mandate. All of them would have worked together great, would they not? Because we know Senator Moore and Senator Le Fondré and Senator Farnham would have been all working together shoulder to shoulder in the best interests of Jersey and they would have commanded the respect of a united Assembly. The good thing about this model is that instead of just getting one Chief Minister, you get basically 4 Chief Ministers for the price of one. Because in fact I think 4 of them, by my count, excuse me if I got the titles wrong but, yes, Senators Moore, Le Fondré, Farnham and Gorst have all been Chief Ministers. Possibly if we had extended it to the eighth candidate who got elected in that election it might be a Chief Minister-in-waiting, who can tell? Maybe we should have stuck with 8 rather than just 7. I think that is the first pitfall, is it not? Because surely it is a vast departure from what we have, is that we have an indirect democracy where the Executive is chosen from within the Assembly and it is the best of a good bunch, hopefully, that will be put forward and it is done on needing to see who else has been elected; I think that is the key point. I think certainly if this were to work you would definitely need a different election date because I think you would need to find out who the Ministers are. Because you might not want to work with them if you are considering running for Deputy and they might also wish to

make sure that some of the people they want to work with them. Because I do not think the proposal at the moment is that we give the Executive the ability to appoint Ministers from without the Assembly; that is not a very Commonwealth-thought Jersey model. It would certainly represent a departure from the norm. The second point I think, just to build on what Deputy Ward has said, is maybe just be careful what you wish for. This goes back to the Electoral Commission and other academics that have talked about the perils of what we have in a majoritarian voting system with, effectively, first past the post. It is quite well documented that while there can be distortions and it is easier to understand in single-seat constituencies, for example, we know if there is a contest in a bye-election for Deputy or for Senator in the future, but certainly if there is an ordinary election for Constable which attracts more than 2 candidates, you get a potential problem of course of somebody not winning with absolute support of the constituency under the current first-past-the-post model; I think that is well understood. Because you could have your one candidate getting in with 40 per cent of the vote and the 60 per cent is split equally between the other 2 candidates, that is 30 per cent each, therefore, you have quite possibly got somebody without the majority support of that constituency. The A.V. (alternate votes) obviously takes care of that issue. What is interesting to note is that the Electoral Commission of 2013 also made recommendations on the voting system. What they recognised is that it is possible in an electoral system, especially when you have 7 votes and 7 seats up for grabs, that a large minority in the electorate can control or rather a party or a grouping - it does not have to be an official party, it could be a group of like-minded or similar profiles candidates - can take all of the seats. That is not necessarily one particular party over another but it could well be that it might well be Reform Jersey or the Liberal Conservatives or a yet unformed party who have got large minority support in the Island, could get all of the 7 seats and then you would find that you have got a majority in Government without necessarily having majority support in the wider public. If we are to go down this route we definitely need to look at reforming our voting system because there are definite perils in that. What did the Electoral Commission say when it came to the recommendations around that? The recommendation, the commission, on which former Senator Bailhache - but Deputy Bailhache who is still with us - and Deputy Renouf, among others and the lay members on that, said that: "Consideration should be given to a single transferrable vote for those multi-seat constituencies, that the S.T.V. is a voting system that more accurately reflects the will of the voters' preferences than first past the post does and it results in fewer wasted votes." They have given lots of other arguments for that. This is where it is a case of coming back to the underlying spirit of Protocol 1, Article 3 of E.C.H.R., is that it is important that there are not just free elections but that the will of the electorate can be conveyed not just in a meaningful way and freely but also accurately. We need to know what the will of the electorate is in order to convert that into political results and of course different voting systems achieve different results. Again, I wish this is something that will be taught in schools because it is absolutely fundamental. Different results, different voting systems produce different outcomes, all of which, potentially, have winners and losers but some of which are much fairer than others, depending on what it is that you are trying to achieve. The ultimate goal is to make sure that we have a reflection of the will of the people. Of course that reflection must also take into account minority voices, as well as majoritarian voices. It is entirely possible, for example, that of course in that election where there was only one party candidate, one Reform candidate, we got one seat in that election. But as soon as you have 4, 5, 6, 7 candidates standing for any one party in that election, it is entirely likely that when the votes come in, especially from the well-established voter bases, that you do not just see one candidate propelled towards the eighth place, potentially, or the seventh place in that list, you find that 7 candidates get propelled to maybe the top 5, the top 7, whatever it is. That is great if you are a party member like us; in Reform we would relish that I think. This is not just hypothetical, let us look at what happened in previous elections. I still keep in contact with former Senator Maclean, who is a parishioner, lives in St. Brelade and he is a well-respected politician during his time and I think still now. He came to the meeting in St. Brelade and he participated in that when we had it. The votes were coming in through the Island, throughout the Island, I think, when there were 6 seats up for grabs. He said: "I was not too worried when I was coming in in eighth or ninth

or seventh in St. John or in St. Lawrence or in St. Ouen because I knew my constituency base of St. Saviour was to come.” As soon as that result came in, hey presto, I remember it well. I think it was 2005, he was on the back of a great campaign on opposing the introduction of G.S.T. (goods and services tax) or the increase in G.S.T. When the St. Saviour vote came in he is right up there, being pushed into maybe fifth place and then when the St. Helier vote comes in, the St. Clement vote, he is there right at the top. That is just one candidate, imagine what you can do with 7 candidates; that is the beauty of party politics. There is a risk here though because what if 6 Reform Members get elected but only one Liberal Conservative gets elected to Senator, it puts us in a really difficult position? Do we make the Liberal Conservative the Chief Minister or do we make them the Minister for Treasury and Resources? Of course what about the other Deputy that they have got elected in the election a few weeks later? They might find themselves not in a position to be on the Council of Ministers. I think we have to be really careful about what we are voting for. It is an interesting idea in principle but that is before we get on to the differential pay. But I think we would certainly be up for that, we think it would be beneficial to our party. But on the balances of whether it is in the interests of the public and whether it is a good way to do this on a whim, I think we would probably have to stick with the fact that this is not the way to do electoral reform, even though it might be beneficial to us as a party.

[15:30]

### **2.3.7 Deputy T.A. Coles:**

I will start with the unfortunate point, because the Deputy made reference to the D.A.G. recommendations, and of course one of those recommendations was that every Ministerial role should have a Minister. As already has been mentioned by Deputy Ward, that obviously 7 is too few to fill those roles. Would we be in a position where we are trying to meet the D.A.G. report in one way by having direct representation but we lose it by not hitting the other marks? That is the first thing, and it is probably not necessarily the main. But this amendment poses a very interesting position, that if we are going to have Senators why not have them have a different role? Because at the moment they would come back into this Chamber and have the same voting powers, same voting rights, same access to roles as every other single type of Member. It then gets me into thinking more, of which we did not have time as a party to really discuss this before maybe presenting alternative amendments to this amendment, because it does come up with an interesting idea about maybe putting Senators into a Senate. We hear it quite a lot and we have seen quite a few recently where just small maybe spelling mistakes or technical errors within our legislation comes through and then we have to have quick emergency amendments to that legislation being pushed through quite quickly. This gives it the thought and possibly the idea of having a second Chamber, moving from a unicameral to a bicameral Chamber. Having these Senators there come in to just do Scrutiny would have been my preferred option, if I am honest, rather than putting directly into the Council of Ministers, and I think that is a bit of a struggle and a bit of a push for me. They could have been assisted in that upper Chamber, if we can call it an upper Chamber, we could move the Constables up into there so they could focus on Scrutiny work and their Parish work. That would leave 30 Members of this Assembly, if we remember the numbers that are proposed, which would be quite nice because then you could form the Executive out of that 30, which would leave maybe 9 or 10 additional Members who could then help again within the Scrutiny ranks, to then bring it all back to the Assembly. Whether these Senators would have voting rights in here, that would be another thing we could debate again. But, like I said, it has not all been thought through in this and this is where we talk about they are needing the ability to think through suggestions better, to communicate and discuss better. But I am not saying that this amendment is not without its legs; I think it has some really, really good ideas and really, really good concepts. But, unfortunately, in its current form, I cannot be supporting it but I think it is a good amendment with good ideas. Maybe if we do discuss reforms of this Assembly again we could look at a bicameral formation and see what we can do.

### **2.3.8 Deputy P.F.C. Ozouf:**

I will be brief. Some of us in this Assembly have been Senators before, some of us have topped the poles, some have come ninth, I think, or eighth in the last thing. I understand why former Senator, Deputy Moore, is bringing this because I have a feeling - I have not discussed it with the Deputy, apart from a very brief conversation - but I know that the feelings of the Island were in the last election that they did want to change from the last Government. They voted in favour of change and then they got change initially and then they did not have it. Now I have been literally outside in the street and I have spoken to 3 people who have basically expressed the view and necessarily just people that have told me, they have all said to me the same thing: "What are you doing talking about yourselves again, rather than the issues that are really worrying us?" Here we are, and I am not going to use any of my minutes that I have got much, by saying that I think that this notion of the Island-wide automatically being in Government is fine in Switzerland, it works quite well but I am afraid we are not Switzerland and this sounds like another piece of Swiss cheese. It is basically an odd system and, as the previous speaker said, I think there is a debate to be had - and I think I have spoken certainly to other Members in this Assembly - about a second Chamber. It might be quite useful because we are really bad at scrutinising legislation. Maybe an upper House could be with Senators in the future because we are really bad at doing scrutiny of legislation. We have said it and we know it and we should be better at it. Democracies that have Senators should have a Senate. Most people, when I was a Minister, thought I was sitting in a Senate. I was not, I was in Assemblée Parlementaire de Jersey with 3 different parts of Members. I do not accept that people who poll top and become the top 7 should be part of the Executive. It is a fundamental change and I do not think we should confuse popularity with suitability for Ministerial responsibility. I think that we must create in all parts of these amendments a creation for the proposal that creating a super-Member. Super-constituencies, that is fine but no super-Members please because we need to maintain the principle that all of us in here are equal. It is a big leveller when you top the poll in the Senators and you get cut down and you have to sit with Deputies. I have done it before because we are all equal and that is really important on a good system where we all get elected. I cannot support, with deep regret, but I understand it is a good proposal by the Deputy. I am going to abstain on this one because I think the mover of the proposition makes a really interesting point about what we could do with Senators if they were brought back. If you are going to bring them back we need mature and lengthy consideration before we do it. They could be either maybe members of the Executive. The last Member of the upper House that was a Minister in the U.K. was David Cameron who was made a Lord. I am not saying we should have Lordships but we do need to look at the way we do things. If we are going to mature as a jurisdiction then maybe a second Chamber, which you can still preside over if you want, Sir. Got no problem with that, I know it is not compliant with Latimer House but it is all right. But that is a bit that we can deal with but we should not pick and choose on the fundamental human rights. I do not think that basically populism is what we want and populism is definitely a senatorial election that puts people in the Executive.

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

Sir, can I correct something I said? I think I misspoke when I mentioned ...

### **The Deputy Bailiff:**

Yes.

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

I meant to say former Senator Alan Breckon and I think I got the name wrong, so just to clarify. I do not know how that happened; it is my brain obviously.

### **The Deputy Bailiff:**

Yes, that is fine, thank you.



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

I think some Members are too polite to say it but we cannot tie the hands of a future Assembly by saying that all the Senators will be Ministers. People who have been here longer will remember the people who have stood for Senator on particular platforms, they said: "If I am elected I want to be such-and-such a Minister." As soon as they have made their speech in the Assembly after the election, the States Members have looked at each other and thought, well, we are not going to have that person running that particular department. The person that was elected is very upset because they feel that they had been elected to do a particular job. It is this Assembly's job to decide who is going to run the Executive. It is not something we put out for public vote. There have been some really nice Senators in my time, really lovely people but you would not have put them in charge of a village fete quite honestly. I am sure they have done great constituency work but they simply were not well suitable for that kind of Executive role. I really cannot support item (c) in this, nor do I really think there is any logic in giving any savings, which is part (b), to the Senators. I think it would be better to give those savings to people who are doing the heavy lifting in Government. Let us start with the Chief Minister - the next Chief Minister - give him or her a little extra money. The first part, which is going for 7 rather than 9, I quite like because I prefer the number 7 to 9, as it happens. I think it could also lend itself to, as Deputy Alex Curtis was saying in an earlier debate, not taking a Deputy's seat out of the 2 St. Helier Districts that are going to be particularly affected by the main proposition taking 9 Senators. I am minded to support part (a), which is to only have 7 Senators but not to support the other parts of the proposition.

### **2.3.10 Deputy S.Y. Mézec:**

I served on that P.P.C. Sub-Committee that Deputy Moore mentioned, in a previous term we produced a report and made recommendations about some tweaks that could be made to our government system, some of which were relatively simple, some of which required a little bit more thinking. But it was a good process to go through to look at it all and try to think of ways to improve it. I know Deputy Coles chairs that sub-panel now and is continuing on that work. What that sub-committee did not act as though is some kind of second Clothier review doing an absolutely comprehensive view of our government system with a view to proposing quite radical changes. I think it is fair to describe what Deputy Moore is proposing in this, at least for Jersey context, being quite radical. But I do not deprecate her at all for that. In fact I commend her for thinking outside of the box and trying to come up with some way of altering our system in such a way that gets to a point here, which is that there are different ways in which you can offer the public a say in who governs them. The version that we have now does not have to be the version that we have for ever more. It is not the one that we had before 2005, and there are all sorts of different permutations that we could go for. Deputy Moore proposing that there is, essentially, a direct election to the Council of Ministers for the public; it is not a completely outlandish idea. I think in the way that she has proposed it, it certainly has some flaws. We would be voting for people not just to be automatically members of the Council of Ministers but also to be Members of this Parliament, at the same time a dual role, whereas at the moment you require that dual role by assent of the Assembly, not directly from the public. Of course that does pose problems, which other Members have referred to. What happens if the public for completely good reasons exercises their verdict on who they want to vote for, for those 7 Senators/Ministers? We suddenly find that of the 7 people elected, none of them have the faintest interest in health policy but of those who were elected Deputy you get a handful who have got really good direct experience of the system and would make great Ministers but you could not elevate them in such a way because that would not be permitted under this system. Of course it does not address the issue as to what happens if there is a fallout of some kind and that collective of Ministers, either themselves cannot work together or they find themselves working together very well with a united sense of purpose and having a policy agenda that they are keen to see through. Then they come to this Assembly and find that a majority of the rest of the membership simply votes them down on everything. We would end up in a complete stalemate with Government completely unable to work.

In that instance, who has supremacy? Because the public have directly elected the Council of Ministers but they have also directly elected the rest of the membership of the States Assembly, whose Members have their own mandates as well. Nobody who is elected to this Assembly and not to the Government has any duty to just be a slave to whatever the Government says; they have their own personal mandate and can say no to anything they like and that is not undemocratic. There are some real difficulties with that. The recommendation from that sub-committee that this stems from was a recommendation about looking into a way that the public could have a more direct say on who it is. If I remember rightly the recommendation was specifically about the Chief Minister, rather than the entirety of the Council of Ministers. Again, that is getting at a really important point here, which is that the public do not ever get asked: "Who do you want to lead your Government and whose policy platform do you find most enticing and want to give a mandate?" We do not have that in our system. We will not have that in our system with reintroducing Senators either. It is not a unique point to the Senators. When I was first elected in March 2013 the first proposition that I brought to this Assembly, in line with my manifesto that I had just been elected on, was to propose that there ought to be a direct election for Chief Minister and that once there had been a general election for the States Assembly, the States should nominate a series of candidates to be Chief Minister. It is the States nominating the candidates and then the public would have a vote. Yes, call it a presidential-type election if you want, I suppose that is what it would be and then that person would take on the role of Chief Minister. But I made the point when I proposed that was that I was offering that as a mechanism for the public to choose who heads their Government. But it is not the mechanism I preferred. The mechanism I preferred was party politics where when you vote for your local candidate you are not just voting for your local representative, you are voting for their party platform, knowing that the leader of that party would be the one who would end up being Chief Minister.

[15:45]

You would be, ideally, providing a parliamentary majority in the Parliament to then construct an Executive and the head of that Executive would be exactly who you would expect it to be, based on who you gave that majority for. That is another mechanism of giving the public a slightly less direct say on who leads the Government. But there are other ways that this could be done as well. On Sunday, I believe, our sister island, Madeira, goes to the polls and will be having an election there. It is about their third one in the last 2 years because their Governments keep collapsing. Obviously in this part of the Assembly we are wishing all the best to our good friends and comrades in the Partido Socialista, who their membership is great friends of Jersey as well. But their system is very interesting where they will be having their general election, it is an Island-wide constituency, only one constituency, one type of member but you do not vote for candidates, you vote for parties. If your party gets 20 per cent of the vote it gets 20 per cent of the seats, which is perfectly fair. Their Parliament is then composed by those who have been elected from those party lists. Their first job then is to elect the President of Madeira. When the President is appointed, they then appoint their Cabinet but you are not allowed to serve as President or Cabinet Member and a Member of the Parliament. If your President appoints somebody to a Ministerial position, they have to give up their seat in the Parliament and the person who is next on the list comes up and takes their place. The first meeting of that Parliament where they vote for their President, about 10 or so of those people then will not be at the next parliamentary meeting because they will probably have been bumped up to Cabinet positions then. There is a separation between the Executive and the legislature and that is fine because you will have a parliamentary majority for the Government. If it is a coalition it can fall apart, if the coalition falls apart but Parliament will focus on its legislative responsibilities and the Executive Members focus on the Executive responsibilities. I have got to say I quite like that idea and I think that would work very well in Jersey, to have all Members elected on an Island-wide basis through a party list system. We then elect our Cabinet. The Cabinet does not sit in the Assembly but is appointed by it. You could have fewer Members of the Assembly then because they would purely be focusing on legislature work, whereas the Executive would be focusing on Executive work. Other

places do it, that would be perfectly feasible and democratic and there are safeguards within it. What Deputy Moore proposes does not really have any of those safeguards. Though we can point to perhaps similarities that might exist in other places, like Switzerland, it is not quite the same. There are different safeguards in those systems as well that are not replicated in what Deputy Moore is proposing. I think there is only one thing to be done with this amendment, which is to vote against it. But I have not given it short shrift like I did her previous amendment because I think the point that she is getting to here about democratic accountability and the ability of the public to choose who heads the Government is absolutely one we ought to be exploring. But this will not deliver it and reintroducing Senators without this stipulation that they make up the Council of Ministers does not do it either. Because, as Deputy Moore rightly said, in the last term of office with Senators, by the end of the term most Senators were not part of the Government. Some of that transition happened mid-term, which could happen within the system she is proposing now anyway. In the vote for Chief Minister, 4 Senators voted for one candidate and the other 4 Senators voted for the other candidate. They did not decide who the Chief Minister was, it was the Deputies who decided who the Chief Minister was in that system. Fair play to Deputy Moore for coming up with an innovative idea and provoking the debate but if we were to have bigger changes to how our Executive is made up, it probably requires a different approach in order to make that work and provide the democratic safeguards. But I say let us be open to it, there is no reason we have to have the system we have currently got. Let us think bigger and bolder in the future.

#### **2.3.11 Deputy I. Gardiner:**

Very quickly, to follow Deputy Mézec because I really enjoyed listening to the speech of Deputy Mézec. We can see how the debate is going but I would like ... and I did vote against the first amendment because the first amendment was for me we will have 8, 7, just about the numbers. It is connecting to my first speech in this debate, the public are not connected, we did not manage to explain to the public how the system works for them and benefits them. I believe that the public said really clear in the referendum was less States Members, it was, I think, 42 compared to 49. This amendment is offering us an option to have 42 Members. When I went to the Parish meetings, even small they were, there were people who definitely raised why we would have Senators. Will they have another job? Will they have a different job? I completely recognise that this amendment is very complex, it is very bold, it is very initiative and it is very difficult to implement it before the next elections. It is really, really difficult to implement properly before the next elections, in answer to all questions that Deputy Mézec raised in his speech. But as a matter of principle, I believe the system needs to be changed. This system does not work. This is why I would like to say thank you to Deputy Moore for bringing this amendment. We do need to have different roles and I might support it on principle, I will think about it.

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

Thank you, Deputy. Does any other Member wish to speak on the amendment? I call upon Deputy Moore to reply.

#### **2.3.12 Deputy K.L. Moore:**

I thank all those who have taken the time to speak in this debate and also who have taken the time to consider some of the ideas that have been brought forward in this amendment. I think the very last thing that Deputy Gardiner said there, I should emphasise and re-emphasise to Members, this is a debate in principle and these matters will have to be formed into legislation, whatever is decided as a result of the debate today and they will be then scrutinised and they can be amended even at a later date when whatever is decided today comes back in a legislative form. I think in hearing the comments of people around the Assembly today, I have certainly talked myself into supporting the P.P.C.'s amendment to bring forward these changes for 2030 instead of 2026. Because there are indeed some matters to consider and some work to do to finesse the in-principle decisions that we

take today and turn them into an exact set of rules that will be brought into legislation. I think why we are here today, and many Members have asked themselves that question: why are we constantly returning to this conversation of the composition of this Assembly? We know the frustration that members of the public have, that there are so many other things we should be talking about today and yet we come back to this point because we, ultimately, understand that there is a level of frustration within our community that something does not work. Which is why I guess this amendment came about through considering various debates, various principles, talking to other parliamentarians around the world and hearing how different things work in different places and suggesting that there might be a better way. We know, first and foremost, that reducing the number of Members is one part and of course this is an amendment that will come in separate parts and Members can vote for or against as they see fit. The Swiss example, I think, has been considered a lot by various Members around the House, but that was simply an example. I am not suggesting an exact replication of their system but simply using it as an example of something that seems to have worked effectively over a considerable period of years. Yes, Deputy Ward was absolutely right, that they do have a party political system. I perhaps misspoke in my opening but I feel that the collaborative work that they deliver through the construction of that particular council would equally apply to our non-party or fewer party construction here where we mostly work as independents and try to drive consensus between a group of individuals. I do think that this would not be putting power in a fewer number of hands. Yes, the number 7 is smaller than the current makeup of the Council of Ministers, which is of course I believe 11. It is simply doing what the public have been asking for and asking for a greater say in those who lead and govern them. I believe that this simple suggestion would help to enable that. I do believe that we could have 7 Ministers leading 7 departments and that some work could be done to refine those departments and drive forward a leaner, more focused public sector. I know that because I was doing that work in my former role and I absolutely believe it is achievable. Differential pay, I would agree with Deputy Millar that £15,000 or thereabouts perhaps would not be the amount of money that would encourage a vast number of additional people to consider standing for election. But it is an improvement on the current state of affairs and is something that I think we should consider. I think in closing, I should just go back to the work of the Democratic Accountability Group. It did look at a wide range of matters that can deeply affect our relationship with our voters and, hopefully, encourage them to turn out to vote and get more involved in our elections going forward. Because we have a huge democratic deficit, over 30 years we have averaged 44 per cent voter turnout. We are the bottom of the league tables and at the next elections we will be even further beneath that bottom plank unless something changes considerably, as we will have automatic voter registration. Therefore, unless something radical changes, we are likely to see our voter turnout fall rather than increase and that is something that I think would be an incredibly sad thing and it would be a very bad example; it would just be a very bad state of affairs. I do hope that that does not happen. But we need to think about how we engage with our electors and how they see what they vote for at the ballot box returned in this Assembly and taken forward. Thank you all for your consideration. I do ask for the appeal, and I would like, as I have said, to take each item separately.

**The Deputy Bailiff:**

Yes. In relation to that, Deputy Moore, of course you are entitled to ask for 3 separate votes but part (a) reduces the number of Senators from 9 to 7 and then the second part deals with any consequential funding saved. Do you accept that if the first part is rejected, then the second part falls away?

**Deputy K.L. Moore:**

That is a very good point, Sir, yes.

**The Deputy Bailiff:**

But in any event there will be a vote on the third part. The appel has been called for. Members are invited to return to their seats and I ask the Greffier to open the voting on the first part of the amendment, which reduces *inter alia* the number of Senators from 9 to 7. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. I can announce that the first part of the proposition has been rejected.

<b>Pour: 8</b>		<b>Contre: 37</b>		<b>Abstained: 0</b>
Connétable of St. Helier		Connétable of St. Lawrence		
Connétable of St. John		Connétable of St. Brelade		
Deputy I. Gardiner		Connétable of Trinity		
Deputy I.J. Gorst		Connétable of St. Peter		
Deputy K.L. Moore		Connétable of St. Martin		
Deputy Sir P.M. Bailhache		Connétable of St. Clement		
Deputy D.J. Warr		Connétable of Grouville		
Deputy L.K.F. Stephenson		Connétable of St. Ouen		
		Connétable of St. Mary		
		Connétable of St. Saviour		
		Deputy G.P. Southern		
		Deputy C.F. Labey		
		Deputy M. Tadier		
		Deputy S.G. Luce		
		Deputy K.F. Morel		
		Deputy M.R. Le Hégarat		
		Deputy S.M. Ahier		
		Deputy R.J. Ward		
		Deputy C.S. Alves		
		Deputy L.J. Farnham		
		Deputy S.Y. Mézec		
		Deputy T.A. Coles		
		Deputy B.B. de S.V.M. Porée		
		Deputy H.M. Miles		
		Deputy M.R. Scott		
		Deputy C.D. Curtis		
		Deputy L.V. Feltham		
		Deputy R.E. Binet		
		Deputy M.E. Millar		
		Deputy A. Howell		
		Deputy T.J.A. Binet		
		Deputy M.R. Ferey		
		Deputy R.S. Kovacs		
		Deputy A.F. Curtis		
		Deputy B. Ward		
		Deputy K.M. Wilson		
		Deputy M.B. Andrews		

[16:00]

**The Deputy Bailiff:**

The second part falls away, so we turn to the third and final part of the amendment, that the Senators should form the entire Council of Ministers. I invite the Greffier to open the voting. If all Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. I announce that the final part of the amendment has been rejected.

<b>Pour: 3</b>		<b>Contre: 42</b>	<b>Abstained: 0</b>
Deputy I. Gardiner		Connétable of St. Helier	
Deputy K.L. Moore		Connétable of St. Lawrence	
Deputy L.K.F. Stephenson		Connétable of St. Brelade	
		Connétable of Trinity	
		Connétable of St. Peter	
		Connétable of St. Martin	
		Connétable of St. John	
		Connétable of St. Clement	
		Connétable of Grouville	
		Connétable of St. Ouen	
		Connétable of St. Mary	
		Connétable of St. Saviour	
		Deputy G.P. Southern	
		Deputy C.F. Labey	
		Deputy M. Tadier	
		Deputy S.G. Luce	
		Deputy K.F. Morel	
		Deputy M.R. Le Hegarat	
		Deputy S.M. Ahier	
		Deputy R.J. Ward	
		Deputy C.S. Alves	
		Deputy I.J. Gorst	
		Deputy L.J. Farnham	
		Deputy S.Y. Mézec	
		Deputy Sir P.M. Bailhache	
		Deputy T.A. Coles	
		Deputy B.B. de S.V.M. Porée	
		Deputy D.J. Warr	
		Deputy H.M. Miles	
		Deputy M.R. Scott	
		Deputy C.D. Curtis	
		Deputy L.V. Feltham	
		Deputy R.E. Binet	
		Deputy M.E. Millar	
		Deputy A. Howell	
		Deputy T.J.A. Binet	
		Deputy M.R. Ferey	
		Deputy R.S. Kovacs	
		Deputy A.F. Curtis	
		Deputy B. Ward	
		Deputy K.M. Wilson	
		Deputy M.B. Andrews	

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

Those voting pour: Deputies Gardiner, Moore and Stephenson.

## **2.4 Re-Instatement of Senators (P.2/2025): fifth amendment (P.2/2025 Amd.(5))**

### **The Deputy Bailiff:**

The fifth amendment has been lodged by Deputy Tadier and I invite the Greffier to read the amendment.

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

After paragraph (a) insert the following new paragraph (b) and redesignate the subsequent paragraph accordingly – “(b) that the election for Senators should be held in advance of the deadline for nomination of any other class of candidate for election as a States Assembly Member; and”.

#### **2.4.1 Deputy M. Tadier:**

I know we have been here a long time so this is not going to be especially long. I do thank Members in advance for their attention, if not their indulgence. It is important to remind ourselves that between 1948 and 2011 the elections for Senator were always held separately and before the elections for Deputies. You might hear me talk about a separate election day but of course what I am talking about is a separate election period because the period for Senators under what I am proposing and what used to be the case is that it would always happen first. Once the Senators were elected then a separate election period was opened for the other seats, which as we know, that fell away when a general election was on the cards. Now, there were good reasons for this and I think there are good reasons for this today if we are indeed to bring back the Island-wide mandate. I think there are compelling reasons why Senatorial elections should take place prior to the nomination day for the other 2 officers, and I will outline those now. By the way, for clarification, this amendment is of course agnostic on the wider question of the reintroduction of Senators, which we will be coming to shortly, but it does say that of course the motive here is that if Senators are to be brought back then that election should take precedence over the election of Deputies and Constables in terms of timing. There has been a perception - and it has been repeated at the meeting I went to and I think at the Parish Assemblies that Deputy Millar put on and that were attended - which is supported by the supporters of the role of Senator, some of whom are of course in this Assembly, that the politician who is eventually elected as Chief Minister should have an Island-wide mandate, certainly if an Island-wide mandate exists. While there is no official rule about this it is certainly true that since the creation of Ministerial Government in 2005 all holders of that office have been Senators, of course until the role of Senator was abolished for the 2022 general election. It had almost become a convention that only Senators could hold the top job. If we go back even before we had Ministerial Government, the heads of the main committee, which effectively was the Chief Minister before they always tended to have ... they had a Senatorial mandate; certainly the ones I can remember. It is worth noting of course that even after the abolition of Senator all the candidates that have put themselves forward for Chief Minister in 2022, they had all held the office of Senator at one point. I think in particular of Deputies Mézec, Moore, Farnham and Gorst now - they have all held the position of Senator in the past. Perhaps something which may be why they felt they could put themselves forward for the Chief Ministerial role, even though it was not necessarily a fresh mandate. So in the mind of the public, some of whom feel aggrieved that they cannot vote for the Chief Minister directly, the ability to choose whatever number it is ... I think we are settling on 8 finally, is it not, 9, we will get there. In my report I put 6, 8, 9, 12, it could have been 7 but it is not, it is 9. There was a feeling that you are choosing the pool from which the Chief Minister will be chosen. So in many ways it is timely that we are debating this now after the debate we have had on Deputy Moore's proposal because I think it is still true that if we do have Senators back we can all agree that there will be that strong expectation that even though not all Senators will become Ministers, because some of them might want to do very valuable scrutiny

work ... and I think it has often been the case in the past that the person who takes the job on for chair of the Scrutiny Liaison Committee probably in my mind should have a Senatorial role, if one exists, but that is ultimately for the Assembly. But definitely the public - and I think the future Assembly - would not countenance that job going to somebody without an Island-wide mandate. Whether that is right or wrong we can make arguments for and against, but I think that is the way I perceive it. Given this logic, it makes good sense that the Senatorial elections should, therefore, be a standalone election. Why? Because this would allow the public and the media to focus their attention on what is being said by those vying for senior office, without the distraction of Parish and district elections. Similarly, it would assure that when those other elections do take place the focus can then be on those elections. I can say that from experience. I think it is really difficult to try and get your message out, no matter which of those elections you are standing in, because there are all 3 elections happening at the same time. These are 3 elections we are talking about, all happening on the same day. The downside is that it does provide a difficulty in terms of people in the media as to where to put their focus. Which elections are more important? Is the focus going to be on what is being said at the Senatorial elections, which are doing something like 15 hustings, certainly all 12 Parishes. Which ones do you attend and how much time do you spend door knocking if you are perhaps one of the other candidates and how do you listen to the narrative that is developing during the Senatorial elections? It is very difficult for all those involved to concentrate on 3 elections at the same time. The choice for the media of course is whether to cover all of these meetings, how much column space and air time to give to other election candidates who are, after all, in the majority. So even if we do bring back Senators the majority of the membership of course will be non-Senators and they will hold, of course, much more power in terms of voting and influence in this Assembly. At a general election, interest invariably sits with the candidates that every voter can vote for, the Senators, so it is normal that the interest would be in those, potentially to the detriment of the other officers. Another consideration which I think we do need to bear in mind, and which might be beneficial, is that having a slate of Senators elected before the other roles would allow more time for the prospective Chief Ministerial candidates to put together their policy positions in a more coherent form, so to form a programme of Government for that term of office. It could also allow those Senators-elect to campaign on behalf of those yet to be elected Constable and Deputy candidates who they might be hoping to have in their Cabinet, because of course they cannot do anything with just Senators. It was argued - and I have titled this section the nail in the coffin of the Senators - by some at the time that the final nail in the coffin of the Senators was when the States decided in 2010 to move to a single election day. I do not know if we all agree with that but certainly that is a point of view that is put forward. A single election day highlighted in the mind of the public, and politicians, the fact that all 3 positions - Constables, Deputies and Senators - were effectively all the same, and diluted the focus between the Senatorial and the other elections. All Members could put themselves forward for any role once elected into the Assembly, they have the same voice, the same vote, and this led to the obvious conclusion that there was no real difference between Senators and Deputies. Sure enough, during the last term the Island-wide mandate was finally abolished and one of the arguments that prevailed is that it was confusing to ask voters to elect 3 types of politician all on the same day when there was no difference between them once they were all elected. It goes back to the point I made earlier about are we going to build the Senators on sand or are we going to build it on a more stable footing. If we are going to go back to Senators the arguments before were you had a different election day for 7 or 8 of those decades for a good reason, and as soon as it was changed I believe it was one of the contributing factors to the demise of the Island-wide role. So if you support the bringing back of Senators I would strongly ask you to consider supporting moving to a different election day for Senators. It has also got to be noted that contesting an Island-wide campaign is usually much more financially costly for the candidate than contesting a district or Parish election. So why would a popular local Constable or Deputy put themselves forward for Senator for fear that if they did not get quite enough votes they would be denied the opportunity to represent a constituency that they really love and where they still may be popular. This of course does give an option for those to stand. I



know cynics would say that this is called the second bite of the cherry, but ultimately it is about providing choice for the electorate. If you have put yourself forward for election, do not get elected as Senator, you go back to your constituency because they have obviously asked you and said: "Look, would you consider running for Constable? We do not want to lose you, we want you in the States Assembly. We were quite happy to support you for Senator but we want you back doing an important role for the local district." You would have the opportunity to do that. Ultimately it is up to the electorate of course whether they like that but they would be given the choice at the ballot box; something, again, which happened consistently between 1948 and 2011. This is my last part: the concept of stepping up. I went to the St. Brelade meeting. I counted that there were 16 members of the public there who were not current States Members, 2 of whom were former States Members, and that was in February. At that meeting several Members of the public stated they thought that a Senator should first have served a term as Deputy, some even suggesting that it should be a requirement. Of course that is not always the case but that is something that I have heard repeated over the years and there is this idea that there is an expectation for Deputies or Constables to step up. There are some notable Members of this Assembly, I think of the late Constable of St. Clement, who did of course all 3 roles when they existed, not necessarily in that order, he stepped up - if we can call it that - to Senator from Deputy and then he stepped up again to become a Constable so he did not let the Island-wide mandate limit his ambition there. I do not necessarily believe in this hierarchy, by the way. I firmly believe that once we are here in the Assembly we are all the same, we have the same voting power, but there is a perception out there that if we are to have Senators back, let us be honest about it, there has to be some kind of difference in perception. I think that is why we get back to the point of Chief Minister and the desire somehow that the public wish to form or have some say in the direction of travel. On the matter of a separate election day there was also strong support from those present that I asked, and it was recognised that this would likely give the electorate a wider choice of candidate who would stand for election, as well as giving some Deputies and Connétables the opportunity to step up to Senator. If I can just say this as an aside; what we have seen since the single election day was brought in, you had the established political heavyweights stand for election, pretty much no one else, and then what I would call the unknowns, which some people unkindly called the no-hopers because unfortunately the way the election is stacked for Senators, unless you are well known - and you may have some great ideas - there is no hope in a likely scenario that you will get elected. It does potentially decrease the choice for the electorate ultimately, leading to an observation - I will get his name right this time - of former Senator Breckon who came to our meeting and said the same people get elected anyway, it does not matter whether they are Senators or Deputies. So maybe it would give a bit more choice as to ultimately who decides to put themselves forward. Certainly they were clear that there were some Deputies they would not want to lose as local representatives, which might be the case if, as I said, a popular Deputy or Constable were unable to secure votes in other parts of the Island simply due to being unknown in other Parishes.

[16:15]

There is a trade-off here, so clearly democracy has a cost to it. There are savings to be had in a single election day in terms of efficiencies and economies of scale, if you like, so there will be costs to having a separate election day. I have estimated - and it has been suggested to me - that a realistic figure could be in the region of £20,000 when it comes to printing and postage because that would need to be done separately, a separate booklet, but of course the booklet would be thinner and then the subsequent booklet for Deputy and Constable elections would also only include those, so there might be a figure which is a small saving that can be made on the latter but there would be a net cost to this. But I believe that the financial cost of this would be outweighed by the public interest in giving the focus to the Senatorial elections, and there would also be some manpower implications about having to staff the polling stations potentially in that regard. But again, I think this proposal has merits that if we are to bring back Senators then I think we should go back to the position which

was common for those decades preceding 2011, and give 2 separate periods where the focus can be on one and then the focus can be on the other election. I make the proposition.

**The Deputy Bailiff:**

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

**The Connétable of St. Mary:**

Could the Deputy kindly remind us of the actual timeline? He refers to the deadline being before the nominations for Deputies are closed. Bearing in mind that the purdah period would have to be extended to accommodate the additional time; could he remind us in practical terms the timeline between the first election of Senators and that of Deputies.

**The Deputy Bailiff:**

That is a point of clarification; are you prepared to clarify on that aspect of your speech?

**Deputy M. Tadier:**

I will clarify in the summing up if that is all right.

**The Deputy Bailiff:**

Yes. Do you want to make a speech now, Connétable?

**The Connétable of St. Mary:**

No, that was the only question.

**2.4.2 Deputy L.J. Farnham:**

I thank the Deputy for his short opening speech which was comprehensive and covered some of the challenges around this. Just very quickly by way of background, I wanted to remind Members that the history behind the removal of the Island-wide mandate is as follows. That on 20th January 2011 the Assembly voted to reduce the number of Senators. I was not a Member at that time; I was having a sabbatical, as it were. There were 12 Senators at the time, of which 6 were elected every 3 years. The Assembly voted to reduce the number of Senators to be elected at the next elections later in that year of 2011 from 6 to 4, which made 10 Senators. At that time the Assembly also voted in favour of a further reduction from 10 to 8 Senators for the elections in October 2014. This was all done in a rather piecemeal way without consultation or the permission or even the knowledge in some instances of the electorate who found out after the debates at the time. The process that led to this package of reform was instigated by a States decision in 2010 to introduce a single election day. Not long after it was contended by some that it would be difficult, if not impossible, to elect the States as constituted then on one day. Well, we have proved that wrong because we have had a number of single election days where the public have managed quite well to fill in 3 fairly straightforward forms, so I think that argument just holds no strength at all to say our system was or could become too complicated. The point is, in relation to what Deputy Tadier is proposing in this amendment, the election of 6 Senators on a different election day was based around 6 Senators being elected every 3 years. It was about that continuity in Government, which might not be a bad idea. I thought that worked relatively well but the challenges I see with this amendment now, since we have bedded into the single election day, is that there could be some issues in relation to the election. For example, it gives Members 2 bites of the cherry, does it not? You stand for Senator and if you fail you go to the Deputy elections that follow up. That could be fine but candidates who do that benefit from additional exposure and the raising of profile, which some would say provides an advantage in the following Deputies elections, thus disadvantaging candidates that just come forward and stand in the Deputies elections. You could also say that existing States Members enjoy better name recognition but that is - as we see now - in standard elections. So while I quite like the idea of reverting to 2 election days I think it could be problematic. A lot of Members - some were here at the time, some

were not; I was not in, as I said at that time - argued that a single election day is more democratic and perhaps doing everything on one day we hoped would get more people to the polls, but of course we have seen that it has not. When we did remove the Island-wide mandate at the last election that had a detrimental effect on the turnout. So while I can see the attraction of this I would urge Members not to support it, stick to the election day as proposed by Deputy Millar. If that is successful this is something that perhaps could be considered by the next Assembly, should they decide to. I think we stick to a single election day; we elect our Constables, our Deputies and our Senators for this Assembly all on one day. I think we have a far better chance of rebuilding public confidence in the election process if we do that.

#### **2.4.3 Deputy M.R. Scott:**

I had not really formed any position on this when Deputy Tadier brought this proposition but I was really interested to hear his reasons for bringing it and the thought he has given it. The first thing I thought - and I thank the Chief Minister for his explanation - was why were things changed to a single election day. I have found the original proposition, I believe it was brought by Deputy Le Fondré, if I have the right one, and interestingly enough one of the things that he was suggesting, it says: "The P.P.C. notes that different election days are one of the factors that cause lower turnouts." Well, I do not know how well that went in terms of an ambition to increase turnout. I am also quite interested about the proposal even now about holding elections on Sundays. We live in hope and I think there are a lot of reasons why our turnout is low to be investigated, including how we deliver as States Members. But I can refer to some personal experience in terms of why did I go first of all down the Senator route rather than go on the Deputy route, as some people asked me. The simple fact was, and I was not actually thinking about having any Ministerial position, I thought it would be nice if I could and I would do one if I was offered it, but more that I wanted to represent people Island-wide. I know that sounds very glib but I was looking at these big issues. I have done work in my own community and local campaigning, and thinking: "Let us try and do some work representing people Island-wide." Even now I find myself hesitating about standing under this system because I thought: "Well, now I am also being asked to do the job of a Constable" as I perceived it. But what happened then was that I did have a Deputy in my own district, or at least one candidate standing, and that was Deputy John Young. In fact I did not know who else would stand or put their nomination forward because they were all held on the same day, perhaps, I cannot quite remember. But I thought: "Well, no, I am not really going to object to him so why do I not go for the Senatorial seat? I do not particularly feel like contesting him; I think he could do some good work." Whether in retrospect I feel he delivered on my expectations is another matter, but I am not going into those things. So I stood for Senator and, as people know, I did not win a seat. What Deputy Tadier is suggesting is that at that point, had something been introduced along the lines of what he is proposing, I could have said: "Right, okay, the whole Island does not want me, let us see if my own community would want me." I think in the context of what happened he is right insofar it would have increased choice because Deputy Young did not have another candidate to stand against; a point that did not particularly satisfy him. Of course things have changed because the system has changed. But even so, I am still thinking that period between standing for Senator and standing for Deputy is pretty key to this because, let us face it, campaigning for election is pretty tiring. Then what you are saying is: "Right, you stood for Senator, why do you not have a go?" It sounds really attractive but then you are having to mount a different campaign and fund those costs, and at that point do you really want to do that, unless you have got quite a long period. So I find myself almost coming into that thinking about should we have 2 years between elections for a certain number of people in the States, just to retain corporate memory. But then, as some would say, the electorate does seem to have a habit - for one reason or another - of re-electing people who have been in the States Assembly before. So I am pretty open to this, listening to more arguments and perhaps the Deputy might give me some more reasoning to support his proposition in his summing up, but thank you for the contribution so far.

#### **2.4.4 Deputy R.J. Ward:**

There are a number of different points I think to this. First of all, one of the things we are talking about with Senators is to look at the quality of candidate coming forward and to have a high quality of candidates you need a high quality field of candidates. Now, I ask Members in this Assembly who may be voting for Senators whether they, therefore, would stand as Senator or whether they might feel that is a little risky and then will not stand. Then we will end up with perhaps 8 good candidates and 22 not good candidates and it does not become the best election in terms of choosing Senators. However, if they are on different dates you may have more people who will say: "You know what, I will give a Senatorial election a go and I can test myself, test my manifesto away from just my constituency, to see how I can perform and see whether that is the right role for me, whether I can get an Island-wide mandate and really participate fully." I think that is the way in which we are going to get a much stronger field and a much stronger election. In terms of turnout, we have to do a lot of other things: voter registration, the day of the voting, the ease in which people vote, getting young people voting. We are very, very progressive, I think I am the first person to say in this entire debate we can vote at 16 here, and it is the first time we have mentioned this about young people being able to vote. I think there is an irony that that is the first time we have mentioned it after all the words that have been spoken in the last few days. That is the future of voting, to say to those voters: "If you want to bring back Senators there will be 2 really important days in the electoral cycle. The first one is for Senator, which is an Island-wide mandate, and you will listen to people and people will put themselves forward to say why they see it is important what they want to bring forward." If there are political parties those parties would have to really convince a lot of the electorate on that day that they are the right message that is going across, and that message will be tested Island-wide. There are some other points that are useful. If you stand as an Island-wide candidate you get your vote broken up into different districts. If you look at your own district and perform incredibly strongly in your own district you might think: "I have got support there and I can do a job for that district." Because, to be quite frank, I really enjoy being a local Deputy in a district.

[16:30]

People say hello to you all the time, and when you go to Springfield and watch the wonderful Jersey Bulls - who are going to win the league - then a lot of people come and chat with you. When someone says to me: "You are my Deputy" it is a very significant and important thing, so you do have that link. We have been through this so many times; if you look at the report in the main proposition it talks about how many votes people have and who top the poll, so we are talking about that. There will be a significant pressure for those who are Senators - if we decide to go down that route - to be Ministers and take on whole-Island roles, otherwise why on earth would you have a whole-Island vote? I do not quite understand why you would have those 2 things. If that is the case then you have to have people who are wanting to step up. You could end up with a situation where you have 18 really strong candidates and there are 50 votes between the last 10, so you have got people who really could all have been elected into those posts and be very strong States Members who understand the work, have come from a diverse background of wherever, from whatever industry or whatever background skills or education they have. But then you will lose 10 of those candidates if they are on the same day, and you will have others going for Deputy who perhaps do not have those skills, and then we constantly go on about the quality of States Member. This is an opportunity to get high quality candidates to have that, if you like, second chance if they want it. Because there is another side to this coin; you might stand for a Senatorial post and think: "I want nothing to do with this. I do not like being in the limelight. I do not like the fact that everybody wants to know the ins and outs of everything I do, and I have looked at what the States Assembly do and I have changed my mind." The worst thing you want to do is make that decision on your first day sat in this Assembly. That is a disastrous idea. So there are real opportunities here to increase the quality of our candidature, to give opportunities for people to stand or make the decision not to stand. If somebody in a Senatorial campaign convinces a group in the Island or a constituency or most of the Island that they are a good, strong candidate, to just leave that on the day and say: "It is all or nothing I am

afraid” is not a successful approach for us to get quality candidates. I will ask Members of this Assembly: will you stand as a Constable? Because if you are not going to stand as a Constable; why not? Why not? Because if you want the whole-Island vote perhaps you should be part of that, you should be ambitious enough to say: “I want to do that.” One of the reasons will be it is so high risk, but if you say: “Well, I would, and I would give it a really good go if I recognise that I could still perhaps, if I am successful” because you might not be, “serve as a Deputy” because losing one vote may not do you any good in the second round as a Deputy, I do not know. I do not know if there are any statistics on that. So I would urge Members to think very carefully about this and think about do we want to increase the quality of field and give people an opportunity who could be really good States Members, from whatever hue of the political spectrum they come from. Also, for those Members who have been here for one term and might think: “I would want to step across” I am not going to say up, I am going to say across into that, it might stop you because of the high risk because you enjoy the job that you are doing. So let us create those opportunities, let us create the importance of that for people on the Island to vote. Senatorial votes are really important; Deputy votes are really important; the Constable votes are really important. That is the argument we have got to win. If we say to people: “It is so important, we are going to have separate elections so you get more than one chance to choose these people and really scrutinise what they are saying to you. You will not get one booklet through the door with 500 pages; you will get a shorter booklet for one, you get a shorter booklet for the other one, and it will give you time and the opportunity to see.” Plus - and there was a really important point and I do not want to go on for too long, sorry, I do think really carefully about this - I think the point about who is elected as Senator and then to the Deputy role is quite important because they are going to have to work together, and some of those Senatorial candidates might want to say: “This is really important, I think we can work on this in this way.” So I think this is a much better way forward. Yes, it will mean initially a change and we would have to do something about the timings, but you have to do that whenever you make a change. We are going to make a change whatever decision is made, or not make a change, depending on how we go. But if we are going to make a step to bring back the third type of States Member I really believe it should be on separate days to give as many opportunities to people as possible to come and represent in this Assembly. If we do that every single one of us can say people have had the chance, we have stepped up, we have taken that opportunity, now we have got a mandate in what we are doing. That is the real key to this, so I urge Members to support this amendment, thank you.

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

I referred in a previous debate to the M.O.R.I. poll of 2006 and I just want to pull another bit out of that, if I may. Chart 21, attitudes towards general election, and the question was: “States Members are elected at various times for varying terms of office.” Which was the case before that. “Do you think that separate elections should continue to take place for different types of Members on different dates?” Twenty-four per cent responded to that. “Don’t know/no opinion” of which there are always some, 5 per cent responded to that, and the question: “There should be a general election for all States Members on the same day” had a response of 71 per cent. I rest my case based on that.

#### **2.4.6 Deputy S.Y. Mézec:**

Interesting hearing that result from the M.O.R.I. poll, of course there was also a poll in 2013 which had 80 per cent of those voting against having Senators in the Assembly, so I am presuming that the Constable of St. Brelade will be taking that into account later on in this debate. But there is a great inconsistency in the perceptions that are put forward about the distinctions between the roles of Senator and Deputy. The fact of the matter in law and Standing Orders is that when Deputies and Senators co-existed in this Assembly there was absolutely no difference in the roles whatsoever; they were both Members of the States Assembly with the same rights, the same responsibilities, the same powers, the same ability to serve in positions, the same salary, the same everything. The roles were legally and, through Standing Orders, absolutely identical. The only difference was the intangible

difference of perception, that they were just seen as more senior to the Deputies because the election process they had been through was that of an Island-wide election rather than in a district. Having been elected in both capacities, I can testify that the process of those elections are very different. But now we talk about reintroducing Senators into our electoral system without specifying that there would be a legal distinction between the 2 roles. They would, if reinstated, go back to that old system where in law and in Standing Orders they were absolutely the same, which begs the question what is the point if the job is identical. But if you are to hinge it on the argument - and it is the only argument they have - that there is a perception that they are more senior because they have been through an Island-wide election, then surely the way of electing them should recognise that that is the point where you provide that distinction between the roles. So having them elected on the same day prevents the public from having a focused election on those Island-wide seats, to focus on them in the way they want, consider all the issues, determine how to vote, at the same time, on the same day as doing the same for your Deputy districts and your Parish Constable you can end up with, I would say, the disadvantage for the Assembly and for the public of forcing candidates or prospective candidates to calculate best where they think their best chance is and go for that, rather than just put your name forward because it is what you want to do and not have to worry about those considerations and whether you are finding the right constituency or what have you. In a Senatorial election held on the same day as that of Deputies you can have some perfectly decent, good candidates who have just missed out, not because they have faced a big rejection from the public but because some might have said: "Yes, you are pretty good, I just like the other ones a little bit better, maybe your time will come some time else." Or maybe, as some Islanders consider it, would like to see what they are capable of as a Deputy before giving them a Senatorial role, where that comes with a perception that they may be more likely to get more senior roles when the Government is constituted. So you can miss out on perfectly decent and talented candidates without the ability to then run for Deputy and do that kind of apprenticeship - that is the word I have heard some people describe it as - and reduce the pool of good candidates for the Deputies contest, because some of them will have gone for Senator and have done really well but not well enough, meaning that in the Deputy election it is not as hotly contested. In 2011, at that time, I was a resident of St. Saviour No. 2 district, and I remember being very disappointed in that election at the time because I knew that I was casting Senatorial votes but I knew that I also had 2 votes to cast in the Deputies district and there was nowhere near as much coverage of that local election as there was the Senators one. To find out what my local Deputy candidates were standing for, what positions they were taking, what different characteristics each candidate had, it was much harder to come by because every time I picked up a paper all it was doing was talking about the Senatorial contest and the hustings that had happened before. So I think I was denied decent coverage and a decent ability to inform myself. That being said, I did still make the right decision and vote for the then Deputy Lewis in that election, he will be delighted to know. I did enough to at least get my judgment right on that. But that ends up denigrating the other Members of the Assembly, the Deputies in particular, because you are not having a focused election on those. They are going to be sidelined and put second in the coverage and focus to the Senators, because that will be considered more exciting, it will be seen as where the real contest for the senior Government positions will be, even though the Deputies, once elected, will massively outnumber all of the Senators and in fact the Constables put together, and that will be where the voting power will be to determine who does get the senior roles. So it really does not make sense to have them elected on the same day if the job constitutionally is the same but there is the difference in perception and it is seen as the territory where the real contest happens for the Chief Ministerial position. To separate them out gives us opportunity to have focused elections on each of those categories without them being distracted, and giving each election the widest possible pool of good candidates. Because people know you can run for Senator, offer yourself to the public so they can choose whether they want you or not in that particular role and in that contest for what will be one of the more senior positions, and if it does not quite work out you have got the option then of going for Deputy where your district can say: "Okay, we were not ready for you as Senator but happy for a Deputy where you

are probably less likely to end up in a much more senior role, and you see where you can go from there.” Where you could end up with if they are elected all on the same day with all of the good candidates for senior positions running for Senator, not getting all of them elected and then having to fill in other Government positions from the Deputies benches where there has not been the kind of scrutiny in their election campaigns that there ought to be. A few other points to make. It is really normal to have multi rounds of voting. In France I think most of their elections are done on a multi-round system where you will have your first round of voting and if no candidate gets over 50 per cent of the vote you come back an entire month later to vote for them. You do not even do it on one ballot paper with ranked voting. They do that not just for presidential but for parliamentary elections as well. I know lots of countries in Latin America have multi-rounds voting, certainly in their presidential systems, possibly in the parliamentary ones too. So it is perfectly normal.

[16:45]

For all of the talk we had yesterday about Jersey culture, history and heritage, is that the 2-round system is what we had for 60 years; one that I think you can make a good case for that worked properly. The general election all being elected on one day works much better if you do not have a 3-tier system, if you just have a one-tier system, but if a multi-tier system staging them gives voters the best opportunity to properly scrutinise their candidates and have the best pool of candidates to choose for. So it is perfectly within our history and our culture to do it this way. Lots of people feel very fondly about that. I think it is worth saying that when the public meetings happened on P.2, and they were not very well attended, but of people that did attend, even if they counted themselves among those who were supportive of the principle of reinstating some form of Island-wide voting, the way in which that is done they were completely divided over. There was certainly no overwhelming consensus that the model proposed in P.2 is the perfect model, the right one for Jersey, we simply cannot do any better than this. When you spoke to people at those meetings and said: “Okay, but what do you really want?” there was a great variety of different points of view, including those who were very clear that we liked the system as it was pre-2011 where we could have our Senatorial election, vote on that, and then a month later we come back to considering the Deputies election. So the final point I will make just to, I guess, poke fun slightly at the Chief Minister, who is obviously not in the room, but he in these debates has certainly been consistent for the last 14 years in that he has always lamented the changes that were made in 2011. He made that manifesto point when he ran for election in 2011 and in his speeches in the Assembly since then he has always said that the decisions made in 2011 to bring all the elections together and cut the number of Senators was one that he thought was wrong. But what I did not know, that he has only just reminded me, is that the decision to implement those changes in the 2011 election were actually agreed and finalised just a few months before that election, less than a year before, that would come into force. So he has shown how much he lamented those changes and the conduct in which those changes were put forward is not too dissimilar from the way that P.2 is being proceeded with. So I hope that will give him cause for reflection on that. It will not but we can live in hope anyway. So I think the option proposed by Deputy Tadier allows voters the best of both worlds: a good, well-contested Senatorial election where the debate can focus on Island-wide issues and who is going to hold the most senior roles in Government, and then a month or so later election for your local Deputies where there is no distraction by the Senatorial result, where you can have equally contestable elections there that voters can hold their candidates to account properly, which is simply not possible when it is all done on the same day. If the Members jobs are ultimately to be the same, it really does not make sense to divide them up.

#### **2.4.7 Deputy M.E. Millar:**

I do not support this amendment, which is why I did not accept it earlier on. The 2-stage voting has not happened since 2011 so it is a big change to go back to something that has not happened since then in terms of both law drafting and the administration of running elections. There will be extra

complexity of drafting and of cost. It will create more work for the Parishes, the polling stations, the Judicial Greffe, and I think Deputy Tadier's cost estimate is probably light. I do agree, however, with him and Deputy Mézec that several people brought this up at the meetings. Some people of older years who have been used to the concept of Senator did say: "Why do we not go back to the 2-stage voting? Why do we not go back to the system where Senators have a 6-year term? Why do we not go back to the system where we have a rolling period of elections with some people retiring every 3 years?" Obviously I did not live through that. I always found a split voting slightly odd because it does give a failed candidate, and that is what we are ... somebody who fails in one election, to stand again. I also do not understand how it would work with our current system of Ministerial Government. What happens? We elect some Senators and they, what, sit around and just campaign for a few weeks while we elect the rest of the Assembly? Or do they come in, take the Ministerial jobs straight away, and then when it comes to the election they say: "Well, we have been doing the job for a few weeks, we should get to keep it." I just do not see how it works practically. But what I said in all the meetings when these things came up is that my proposition is simply about returning the Island-wide mandate, which is what I believe the public are most interested in. They would forego any of those other demands just to have the Island-wide mandate back. We have also talked about whether a Senator ... I have also been clear that a Senator is not guaranteed a Ministerial role. I have also been clear that a Senator did not have to have been a Deputy or a Constable first because we have to make room for the really exceptional candidate, or the candidate who is well-known to the public. People make their own decisions. For example, Senator Ian Le Marquand, I believe when he retired as Magistrate he stood as a Senator and I believe he came in with a landslide majority is my recollection; I am sure someone will correct me if I am wrong. But my recollection is that Senator Le Marquand had a hugely successful result because he was a hugely well-known candidate with a high profile who was highly respected. We have to make room for people like that to come into the Assembly right away. I am not putting myself in that category but you could have somebody towards the end of one career who want to come into politics and simply do not have the time left in them to do several terms before they can stand as an Island-wide candidate. However, I do believe there is a public perception of someone who is elected with the Island-wide mandate. Elections are, by their very nature, a risky business. We have probably all looked at the outcomes of elections all around the world, not just in Jersey, and been astonished at the winners and the losers. In St. John, St. Lawrence and Trinity in the last election myself and 3 other newcomers stood against a former Chief Minister, a Minister, an Assistant Minister and a sitting Deputy. Only the Assistant Minister, Deputy Morel, was returned. Not only did Trinity vote for 3 newcomers, they voted for 3 women, which was something someone told me Trinity and the district was unlikely to do. We all take our chances. I gave up a very good job to stand for election and I decided I would do that and take my chances and if I was not elected I would find a plan B. I did not have plan B in mind at the time but we all make a risk. The notion that whether you stand for Senator or a Deputy or a Constable, any of us as a shoo-in is unlikely. What works in other jurisdictions, as we have already said - France, Portugal, wherever - they are all very much larger jurisdictions with systems that have evolved over many, many years, as has our own. Lastly, I would just like to say that I have been an adjoint in a polling station, I think it was St. Saviour No. 3; it must have been 2018. I am afraid I cannot remember, I think Deputy Perchard may have been the winner in that particular election, but I have no recollection of the 3 ballot papers that were cast. I have no recollection of vast numbers of small papers. People understood what they were doing and they voted accordingly. I do not believe giving someone 3 voting papers and saying: "Choose one from this list of names, 2 or 3 from that list of names, and 9 from this list of names." It is not a difficult concept and I think where we are in terms of Ministerial Government, I think this is simply too much of a retrograde step and I would ask Members to reject it, thank you.

#### **2.4.8 Deputy P.F.C. Ozouf:**



I think that there is great merit in having a 2-stage election. They worked previously and I do not think, looking back at the record, there was a diminution in voter turnout. In other jurisdictions where you have a history of 2 elections, I note with interest that you have a run-off election in France for the presidential election, where you do not get the President elected unless they get a proper majority of the electorate. It is one of these amendments that is limiting the damage really. If we are going to be unwise in rushing something then at least we should have a mature debate. I will be supporting P.P.C.'s move for a 2030 election of Senators if we decide to do that, that seems to be very sensible, and I think it has got great merit on the basis of a 2030 election that if we were going to have Senators to have a 2-round. But I would like also to debate with the public whether or not they want Senators first or second, because there is an argument - and I can see the mover of the proposition nodding his head - to say that actually a Senatorial should be a run-off. Because what has happened with previous Senatorial elections that have been first is you have had effectively a trial run for Deputy and then those that have not succeeded in the Senatorial election, and then we have been around on a Parish roadshow after ... it was the late Senator de Carteret told all the Senatorial candidates that he was going to turn up at all the Parish Halls and then we had Senators for the first time having to go: "Goodness me" they said, I am told, at the time. They had to turn up to all the Parish Halls for a hustings, and it was the late Senator de Carteret who introduced that system and when he said he was going to turn up at the hustings they all did. There was even a hustings at St. Mary for the Constable of St. Mary, an equal one, and so basically I think that there should be consideration - and it is said in all seriousness - there was merit ... I was talking to ...

**The Deputy Bailiff:**

A point of clarification or do you want to speak?

**The Connétable of St. Martin:**

Yes, please, Sir.

**Deputy P.F.C. Ozouf:**

Yes, of course.

**The Connétable of St. Martin:**

I think I know for a fact that it was not John de Carteret, it was my father in 1969 who said ... and he came in as a completely newcomer and topped the poll.

**Deputy P.F.C. Ozouf:**

I do take that back and I understand, well, I was asked to do the eulogy for the late Mr. de Carteret and that information was given to me by somebody who I thought knew, but I take that back. But certainly it was until 1969 there was no Island-wide hustings. One has to question whether or not hustings were actually a test of public opinion and policy; I do not really think they were. I think there is a lot that needs to be thought about in relation to the way we are Senators, if we do. It did not really work; it was largely a popular context of knowing your name. If we are going to do it I am in favour of a dual vote and a 2-stage process; the single election day made it very complicated for all of these things. The population has got to assimilate candidates for Senator, if we go down this road, candidates for Deputy and a Constable. How many names are they going to need to recognise on the piece of paper when they go into the voting booths? It is completely crazy. People may shake their heads but that is the reality of it. People only used 4.5 votes when there were 6 Senators, so it has got to be legitimate. If you are going to do it, it has got to be done, but I think it might be the other way around. But as it is just an agreement in principle I am going to vote in favour of this particular amendment because it is lessening the damage. It should only come in after mature consideration and a proper process, not just rushed through.

**2.4.9 Deputy P.M. Bailhache:**

I would just like to add a brief postscript to the speech of Deputy Millar because I think it is worth recalling why the Assembly moved to a single election day.

[17:00]

I think it is generally accepted that the reason for that break with 60 years of history was the position of a particular president of the Finance and Economics Committee who had been responsible in part for the introduction of the Goods and Services Tax. It was not a popular move in some quarters, even though it was absolutely the right thing to do [**Approbation**] but it was not very popular. But the President of the Finance and Economics Committee of the day was a Senator who was halfway through his 6-year term. He found himself continuing in office as a Member of the States, even though many members of the populous would have wished to wreak their vengeance upon him. Subsequently indeed he became the Chief Minister, to add salt to the wound. That was why we moved to a single election day. I do think there is a case for retaining that practice because the public must be allowed to punish Members of the States who have sinned or are thought to have sinned in some way politically. It would not be a good thing for a candidate who had failed to become a Senator to have the opportunity to come in later on as a Deputy, despite all the reasons why it might be thought to be a good idea, as articulated by Deputy Tadier.

#### **2.4.10 Connétable K.C. Lewis of St. Saviour:**

Just very briefly. I am not quite sure how I am going to vote on this one, but I will give it careful consideration during the summing up. I would like to just point out a few things that do irritate me. It is probably something to do with old age. I get irritated easily. It is not an easy thing to do to stand for election if one is not experienced in public speaking and meeting members of the public. I like to think that if somebody does not get elected, they are not a failed candidate, they are unsuccessful. Because it is very depressing for people when they do not get elected. If they have something to offer, I do hope they will stand again. Another thing I have heard recently, which does also annoy me, the people of Jersey do not need to be educated, the people of Jersey need to be informed about certain things that are happening in the Assembly. As I say, I have not made my mind up which way I am going to vote. I will listen to the summing up.

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

No other Member wishes to speak, I call upon Deputy Tadier to reply.

#### **2.4.11 Deputy M. Tadier:**

I am so glad to have that last speaker, because it gives me something to sum up to, and it gives me a challenge, and it gives me some optimism, at least. Because I think if I am right, I remember the election in which Deputy Lewis first got elected, as he was at the time. It was 2005. It was the first election I voted in, actually. I came back to the Island after studying and being away, and that is when I was probably 25, took some interest in politics. I made a decision to vote only in the Senatorial elections for only party members. I think it was the centre party and the J.D.A. (Jersey Democratic Alliance) at the time. I should not probably admit to voting for the centre party, but I do not think I was a member at the time necessarily of the J.D.A. So I know that Deputy Lewis has got experience of running for Senator as well, and being a Deputy, and now being a Constable. Let me start with the point, and Deputy Bailhache is correct when he says that it was important, and one of the motivations of some of the changes that came through was about punishing the current Government. I do not necessarily like to use those words, but it is about regime change, if we can put it that way - to use another unfortunate expression - is that if a Government has been performing badly it is important that you can kick them out, as happened at the last election, in fact. The previous Government chose a bizarre time to form a party because they put a metaphorical bullseye on their backs, shall we say, if not heads. The electorate were able to say: "Yes, okay, thanks for telling us", and which is why, I think, in St. Helier North, when Deputy Gardiner was knocking on doors, they

said: "Are you a member of a party? Because we do not want to vote for you." Of course they did not want to vote for you, there were no Reform candidates. They did not want to vote for parties because there were no Reform candidates there so of course they had to vote for independents. I empathise with their pain in that choice. But the point about punishing the Government is not to do with a single election day. It is actually to do with all Members being elected at the same election cycle. So it was the legacy seats of the Senators which were removed. Because what you had previously were 6 Senators who remained in Government and did not have to face an election at the same time when all of the other, I think, 53 Members, so 47 Members, were facing an election. Six got a free pass to the next election. They would invariably go on to take the top jobs, even though they were often deeply unpopular. They pushed through some would argue necessary, but I would argue also highly divisive and certainly contentious policies, which saw them get a free pass. That did not go down well with the public. That is why not a single election day per se, but a single election cycle is the most important point here. Let us not get fixated on the fact about the timing of the elections. The point is here the public is still electing a whole Assembly of 49 Members in the same election cycle, who will all take their seats at the same time in this Assembly. What we are simply talking about here now is whether or not the elections should be staggered. We are not talking about ... the ability to cast a verdict both on previous Governments and previous Members who may not have been in Government still remains the case. It will still remain the case, even with what has been slightly derogatorily called the 2 bites of the cherry. Even if a person does not get in as Senator, they run for Constable, they run for Deputy. The public still ultimately have the choice in their district. If they want them, they elect them. If they do not want them, they do not get elected. That is democracy. When I heard the arguments from Deputy Millar, and frankly, I am surprised that, again, this proposition, this amendment, I am not having my hand being bitten off. Because actually, I think that this adds value to the role of Senator. It makes it more likely, I think, to get through. It makes it more workable from the point of view of the public, who I have emphasised will be able to focus on one election at a time. Of course, it has been mentioned that in other places, it is usual to have different rounds of election. Part of that is due to a different voting system. But the key point here is that the presidential election in a lot of countries, or most countries have a presidential election, i.e. you elect the Executive. Then you have the legislative and local elections. Even though we do not have a presidential system in Jersey, it has been accepted, I think, that the public will expect the Chief Minister to come from the pool of Senators, even if other Ministerial positions do not come from that pool. As I have said before, and I think there is general agreement in here, it would be unconscionable, I think, if in the future we had 9 Senators elected to this Assembly, 2 of those Senators stood for Chief Minister, one Deputy stood for Chief Minister, and the Deputy got elected. I do not think it would even be acceptable conventionally, if not under Standing Orders. This Assembly would not sign the nomination paper of a Deputy or a Constable who wanted to put themselves forward in the face of other potentially capable Senators, even if that Deputy or Constable was well-placed to be popular in the Assembly. I do not see that washing either with the Assembly and certainly not with the public. Therefore, and it was the case ... so Deputy Millar talked about returning to how it was in the past. But actually she would like to return to how it was for 10 years. Actually, the separate election days were normal for over 60 years, and it served the Island well. What I would say is that when they moved to a single election day, that was, I believe and some believe, the first step on a journey to changing the wider electoral system by stealth. It was evolution, not revolution. Whether it was an unintended consequence or whether it was by design, I am not entirely sure. But the inevitability of going to a single election day with 3 Members is, as I said in the opening speech, that the public and other Members scratch their head and say: "Well, what is the point in having 3 types of Member if we are all the same, and the elections are all going to be on the same day? Where do I concentrate my attention? Forget about space on the ballot paper, as Deputy Ozouf said. What about space on the lamp posts? We have not talked about that, but it is a consideration. There is limited space when you are contesting a Constable's election in St. Mary. You have a Deputy's election for another. It will be 3 seats ...

## **The Connétable of St. Mary:**

Point of order, Sir. St. Mary has no lamp posts. **[Laughter]**

## **Deputy M. Tadier:**

Hence why it is called the “dark Parish”, I know now. I thought that was a political description but it is a physical one. Let us choose another Parish. Any Constables, can you help me here? Do we have lamp posts in any other Parishes? **[Aside]** So when the signs are being put up, there is going to be a fight for those spaces and which ones go up first? It used to be the case that the Senators’ posters would go up and the banners, no doubt. Then once the election was over, they would come down and then the local elections could take place. There would be good focus on the local elections, people knowing who the Senators were. What would the Senators do in the meantime? Would they just sit on their hands? I suspect they would not. I think they would get to work. The ones who have been States Members before would probably start drafting policies. They would look to see which other Senators they might work from. They would try and find out who the Chief Minister was going to be. Those who were newly elected to the States, because it does happen, it is an exception rather than the rule, may want to actually start their inductions early with the Greffe, therefore having a staggered process. We talk about ourselves a lot, do we not? We have been in the last point. But let us maybe take an example about what one would do in the world of business recruitment, because we might need to look at that. I am looking partly at Deputy Scott when I do this, but perhaps some of the other Members in the Assembly who have business experience. Let us imagine we are not States Members, but we are the head of a business. For some of us, it is not hypothetical. You need 3 posts to recruit for. You need a head of quality control, you need a head of H.R. (human resources), and you need a head of marketing. Would we say that you can only apply for one of those positions and that if you do not get one of those positions, you are automatically excluded from the other roles? Because that is what we do. That is what we are going to be doing whether it is the next election or the one in 2030, depending when Senators come back. You might find that you have a great slate of candidates who apply for the marketing job and you realise that you take the best one, of course, for the job. You have got a marketer and then you say “Actually, that person who almost got through to the second round, they would be really great as my H.R. manager. But I have a policy in my firm which says that they can only apply for one position at a time. Because after all, I do not want to have losers working in my firm. I do not want to have failed applicants working in my H.R. department, therefore, I am going to start a completely new round of election at a different time. Not election, a new round of recruitment, which is completely separate. Of course, you would not do that. It would be complete madness. It may be that in recruiting for your marketing manager, you find that you have already found your quality control and H.R. person, because you are the one who knows best who might fit into those particular roles and what you need to do. We do not do that in our system. It is completely mad. That is all to do with the fact that we insist on 3 different roles, which have 3 slightly different requirements in terms of the electorate, even though we all end up the same. I say “we”, whoever ends up here in the future, even though they have the same role. The roles that we do outside of this Assembly all are different, and therefore I would suggest need a different application process. I am fully happy to be transparent with the costs. The costs are listed there. But there is a trade-off here about democracy. Democracy costs, and it is bringing back the Senators, which costs money. So when I heard the mover of the original proposition saying this would make it too complicated, it would be costly, that is a cost to bringing back the Senators in the first place. There will have to be another round of election, irrespective of whether it is on the same day or irrespective of whether it is 6 weeks later. Those are all the comments I wish to make at this point, apart from to answer the question of the Constable of St. Mary, who asked about the logistics of this. Ultimately, it will be a matter that P.P.C. will need to come back with, whether it is done for this next election or the one in 2030. The point I would make is this happened routinely between 1948 and 2011. It has been done before and both the Greffe, the Assembly, the Judicial Greffe as well, and the Parish has managed to cope with it for over 60 years. I do not think they would have a

problem with doing it again. There is the ability for us to change slightly the lengths of our offices by a few weeks, to shorten or lengthen them to fit in 2 rounds of elections.

[17:15]

I believe that the merits of this election day outweigh any financial costs that might be implemented, any workload, because it actually provides for a better system of election, a more nuanced approach and better scrutiny of the elections themselves. I do maintain the proposition, and ask for the appel.

### **The Deputy Bailiff:**

The appel has been called for. Members are invited to return to their seats. I ask the Greffier to open the voting. All Members have had the opportunity of casting their votes. I ask the Greffier to close the voting. The amendment has been narrowly defeated.

<b>Pour: 22</b>		<b>Contre: 24</b>		<b>Abstained: 0</b>
Connétable of St. Helier		Connétable of St. Lawrence		
Deputy G.P. Southern		Connétable of St. Brelade		
Deputy M. Tadier		Connétable of Trinity		
Deputy K.F. Morel		Connétable of St. Peter		
Deputy R.J. Ward		Connétable of St. Martin		
Deputy C.S. Alves		Connétable of St. John		
Deputy I. Gardiner		Connétable of St. Clement		
Deputy S.Y. Mézec		Connétable of Grouville		
Deputy P.F.C. Ozouf		Connétable of St. Ouen		
Deputy T.A. Coles		Connétable of St. Mary		
Deputy B.B. de S.V.M. Porée		Connétable of St. Saviour		
Deputy D.J. Warr		Deputy C.F. Labey		
Deputy H.M. Miles		Deputy S.G. Luce		
Deputy M.R. Scott		Deputy M.R. Le Hegarat		
Deputy C.D. Curtis		Deputy S.M. Ahier		
Deputy L.V. Feltham		Deputy I.J. Gorst		
Deputy R.E. Binet		Deputy L.J. Farnham		
Deputy A. Howell		Deputy K.L. Moore		
Deputy T.J.A. Binet		Deputy Sir P.M. Bailhache		
Deputy R.S. Kovacs		Deputy M.E. Millar		
Deputy A.F. Curtis		Deputy M.R. Ferey		
Deputy M.B. Andrews		Deputy B. Ward		
		Deputy K.M. Wilson		
		Deputy L.K.F. Stephenson		

### **Deputy P.F.C. Ozouf:**

Sir, may I just check? Is that also subject to, if it would have been - it is counterfactual - but would it have only passed if it would have had 25 votes?

### **The Deputy Bailiff:**

That is correct as well. 22 votes pour and 24 votes contre.

### **The Deputy Bailiff:**

The third and last amendment to be debated ...

### **The Connétable of St. John:**

Could I propose the adjournment? With just 10 minutes to go it seems a strange time to start the next debate.

**The Deputy Bailiff:**

Is that seconded? [**Seconded**] Are Members content to adjourn now?

**Deputy M. Tadier:**

Before we do, can I just ask, so we can prepare for the morning, I have got a statement to make. Would Members like me to make it first thing or after the amendments have been ... I would be happy to do it after this is concluded, if that is okay.

**The Deputy Bailiff:**

Do Members wish the statement to be made after the conclusion of this debate?

**Deputy P.F.C. Ozouf:**

As we are coming in in the morning, Sir, it might be good for the Francophonie president to make his statement first and then we can go to business. I would have thought it is right to do it first in the day, and I hope he is going to do it in French.

**Deputy M. Tadier:**

I will be ready to do it either way, so if Members would want me to do it at 9.30, I can do that.

**The Deputy Bailiff:**

Do Members wish to do the statement at 9.30, and then we resume the debate? That is what we will do. The Assembly is adjourned until 9.30 a.m. tomorrow.

**ADJOURNMENT**

[17:19]