

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 19th JANUARY 2011

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

[9:30]

PUBLIC BUSINESS - resumption

1. Draft Amendment (No. 14) of the Standing Orders of the States of Jersey (P.169/2010) - resumption

The Deputy Bailiff:

Before we return to public business I am sure, on behalf of all Members, you would like me to welcome the Vice-Dean who will be substituting for prayers for the Dean over the period of the Dean's sabbatical. **[Approbation]** Madame Chairman, you have reached Standing Order 6, I think.

1.1 Connétable J. Gallichan of St. Mary:

These amendments to Standing Orders are brought to give effect to the decision taken by the States on 7th July 2010 following the adoption of a proposition brought by Deputy Le Claire. The change is introduced as a result of that proposition found in the substituted Standing Order 56 and the changes in Standing Order 55 are simply to obtain consistency in wording between Standing Order 55 and 56 in relation to the way in which a meeting can be suspended if the States are inquorate. Revised Standing Order 56, therefore, provides that when the States become inquorate during a meeting the Presiding Officer can, having allowed time for Members to return, instruct the Greffier to take a roll call using the electronic voting system. I am advised by the Greffier that the voting system has a roll call setting that means that Members can record their presence when the roll call is opened by pushing any of the 3 normal voting buttons on their desks. This will allow an instant snapshot of the Members who are present and overcome the current unfairness where Deputies whose names appear at the end of roll call have time to return quickly to the Chamber while the roll call is being called orally by the Greffier. P.P.C. (Privileges and Procedures Committee) is conscious that the instant roll call could lead to more occasions when the States remain inquorate at the end of roll call and the meeting then having to be suspended. But the Committee hopes that the new Standing Order will in fact have a deterrent effect and encourage Members to ensure that the Assembly never becomes inquorate. It would show the States in a very poor light if meetings were constantly suspended, even for short periods, as a result of the Assembly becoming inquorate. I propose Standing Order 6.

The Deputy Bailiff:

Standing Order 6 is proposed and seconded? **[Seconded]**

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

For many hundreds of years that this Assembly has been in place this has not been necessary. I cannot believe that we are getting down to petty politics that every time Members are not in this Chamber they are generally in this building getting on with States work, getting on with the business of government. We see Members... and we have seen recently in recent times, Members talking for hours on end... things that could be said in probably 10 or 20 minutes **[Approbation]** and if a speech of any calibre cannot be put together by a Member who is not the Minister or the person proposing the item within 10 or 15 minutes, people's attention cannot be held for much longer than that; that is common knowledge. I do not blame those Members who go and get on with work within their Ministries or in their... in my case in my panel, who get on with work in other parts of the building. In my case it is across the road at Morier House with my panel officers. Because our government has to continue while this Chamber is sitting and I do understand the laws of the Chamber where we are supposed to be here, but we are listening in, we have our hearing aids that we have and in my case I have a small portable radio with a hearing aid which I can be in other parts of the building and still listening to the debate while I am doing other things. Our computer

room and the anterooms adjacent to it which are meeting rooms also wired-in for sound and we can listen to what is being said while carrying on with other business. I will strongly oppose this amendment because it is going to mean that government is going to get even slower because the time that Members are in here will be taking time away from getting on with the important work of government. I think I have said sufficient, thank you.

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

I notice the Deputy of St. John has got his grumpy tie on this morning from the 7 dwarves: I will be Happy. Sorry, that was the Chairman's line, I am sure she will come up with one, she is very quick. The amendment obviously is something that I brought that was approved by the States for the Privileges and Procedures Committee to come forward and do. Here we are again arguing about something that we have already decided to do in the first place. **[Approbation]** I think it is important to realise that while it is accepted, and the point made by the Deputy of St. John about the lack of contact now between Members and Ministers, perhaps now that we do not have lunches for example, has diminished our abilities to interact with people with valuable or invaluable opportunities to discuss matters. But this is purely about making a system that already exists fairer for those Members that are being identified as not being present when they are present ahead of many that walk in after them. But also moreover, and more importantly, there is a significant issue about how bad it would be - and it has not happened yet - that we were to be inquorate at the end of a roll call. The States Assembly would be set aside until the next meeting. At the moment that has been an oversight, in my belief, in the Standing Orders. It is not often I try to bring amendments to Standing Orders, I think the last one I did was when there was a vote of no confidence in the Bailiff and I thought it was wrong that there were not equal signatories to that kind of a matter. I think this is equally as much an oversight on behalf of the States that predates many, even the Deputy of St. John's first entrance into the Assembly. This is something that has been in our Standing Orders for a number of years and it has never occurred that we have been inquorate, but if it should ever happen and we do not approve this then we are going to look extremely bad and the Island itself is going to suffer potentially some significant issues because of the fact that the States would be adjourned and we would be setting aside the business that was going to occur for perhaps 10 to 14 days. So it is just a sensible move and I urge Members not to debate this over and over, we have already decided this. Let us get on with the day, it is long enough.

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

I will probably have to support Deputy Le Claire, I do not always support him but I have brought a couple of proposals to try and keep this House quorate more often and it is quite interesting, is it not, that a certain *J.E.P.* (*Jersey Evening Post*) correspondent ridiculed them really and yet they do these great big features on how many times we go inquorate. I think when the gentleman wrote that he did 2 postage sized pieces and he could not even put the accurate figures of what I was asking for to be in the States, so I wonder why they would do that. But we are expected to be here, there is certainly a fair point that the Deputy of St. John makes about people working but there is a big difference in being in this building working away for your constituents or whatever than there is if you disappeared and you are off somewhere, whether you have got another day job or you are doing your shopping or whatever. Everyone can have real reasons for not being here but when that happens all the time that is wrong. Deputy Le Claire is quite right, it is wrong. I am a Deputy so I get a bit more time to get here than a Senator or Constable so on that matter I have to support him. But I am afraid this is another slippery step down the path, as mentioned yesterday, when we are seeing this myth perpetuated by Senator Routier and now the Deputy of St. John, I am afraid, has done it, about everyone going on and on for hours because the records speak for themselves, people do not all go on for hours. Most people speak quite short speeches, they do not go on. Some go on a long time but most do not. Look at the facts, they speak for themselves. Do we want to listen to someone who might potentially save the world or do we want to all dumb down and go out for a cup of coffee because we cannot be bothered to listen? I know I would rather sit through a speech

that I might not agree with but if it has got good highly technical information. I have sworn an oath to be here, I am here to do my best as I see fit and I am going to be here as much as I can. I am not going to not listen to someone just because I do not like them or I do not like what they are saying, and I think if we go down that route with these ridiculous propositions coming through then it is very sad for democracy. I am going to probably support Deputy Le Claire on this, I do think it is a bit sad that we have got to this state. The Deputy of St. John is quite right, most people do take it very seriously but if you are off to your day job or doing your shopping or having a chat about the football or whatever happened last night and you are not listening then that is not good enough.

[9:45]

I have been in the coffee room and when there are 6 or 7 people all talking, to say that you can listen intently to what another Member is saying is just misleading and it is not true. We all need to do each other justice. One of the people I like in this House is the Constable of St. Lawrence because she always seems to be listening genuinely to what people say and she probably gets some stick for it, and is probably painted as if she is a J.D.A. (Jersey Democratic Alliance) Constable or whatever. But she listens and you always get the impression that she makes her mind up on what is said and that is a real credit to her. That is the way we should all be and I can say that I have come into this House and I do listen to other Members. I have got strong political views but I listen and I wish all Members would listen and it makes me absolutely furious when I see people clearing off up there every time the Deputy of St. Mary gets up or Deputy Southern gets up. It is really wrong and if people did not do that we would not be facing this that P.P.C. are bringing. So on that reason I will support it. Thank you.

1.1.4 Deputy J.A. Martin of St. Helier:

I will be brief. It is just about comments: I think this was brought mainly for the 2.15 p.m. returning to work. We have been more inquorate at that time and it is really getting in the real world. Why should we be allowed to stroll back to work and not be in your jobs when you feel like it? As for wasting time, one press of the button or wasting the Greffier's time to call a whole roll is completely totally off the wall. We are here to do a job, if you cannot sit in here and listen and you cannot be back at the right time or in at 9.30 a.m. well really you should be in the real world and doing a proper job. Thank you.

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

Just briefly I stand to try and clear the room, but it is not working. **[Laughter]** It normally does. To say that I will probably be the first one that is caught out with this because I spend a lot of my time doing work for my constituents and on propositions, on questions downstairs, and so I will probably be the first one to be caught on this. But this I think is a step too far. I cannot vote for this really because we are responsible beings. We are not at school and this smacks of a school prefect inventing rules to catch people out. That what is being tried here and I cannot vote for this but I will probably be the first one that is caught on it.

1.1.6 Deputy F.J. Hill of St. Martin:

I have got to disagree with Deputy Southern. I think this is an unnecessary one in a way but at the same time I think it is necessary and that is why we have to support it. I am rather sad, as being one of the longest serving Members here, to note how frequently we are inquorate of late. Also, as someone who brings propositions, to find that you are inquorate when one is presenting a proposition or you are inquorate when you are summing up... the 2 most important parts of a debate is the presentation and the summing up and when we are not quorate... and because of that I think it is soul destroying for those people who are presenting and taking the time to present a proposition, and for Members to move out of the Chamber not to hear it I think is not doing a service to themselves or to those people who have elected them. So, again, I think this is down to Members own fault of not counting. We all have a reason to pop out and yesterday I had to pop

out, I was waiting desperately for the Dean to finish but I popped out because I needed to for a comfort break and I came back and I missed the vote. So I have already missed one this year. But we all have a reason, but what I would ask Members to do is please count before you leave the Chamber. It is quite simple. We should never be inquorate because we should all be able to count up, so it is unnecessary, but I think in a way it is necessary so I am certainly going to support it. We have already agreed it and I ask we waste no more time and just get on with the vote for what we have already voted for.

The Deputy Bailiff:

Does any other Member wish to speak? I call on the chairman of P.P.C. to reply.

1.1.7 The Connétable of St. Mary:

I think my summing up can be brief because I believe that Deputy Le Claire said pretty much everything that needed to be said. But I would just like to stress that the current procedure whereby the President of the Assembly asks Members to return to the Chamber and allows a reasonable time for that to happen still will happen under this. So Members working nearby will have time to return as normal. The only thing this does is do away with the inequality whereby some Members by virtue of their position on the roll call are marked absent when in fact they may come back into the Chamber before people at the end of the roll call are called. So that is the only injustice that this deals with but, as Deputy Le Claire has said, it also gives us the option not to abandon the sitting if we are inquorate but to abandon it for say 10 minutes or 15 minutes or whatever the Presiding Officer then thinks is right and allows the business of the States not to be abandoned. The business of the States has to be our prime consideration and I think that is a very important thing I have to mention. I understand the frustrations that have been raised and, as various Members have said, there are reasons why we are not here from time to time but this does not take away the ability of Members to pop out and then to pop back in and not be excluded from the vote, so I move the Standing Order and hope to have support from all Members.

The Deputy Bailiff:

The appel is called for. I have received a request from a Member to clarify whether or not what is sometimes known as the Vibert rule... that whether this deals with the composition of the States and has to be passed by an absolutely majority, whether that rule applies. I do not consider that this deals with the composition of the States and, therefore, I do not believe that rule applies. Members who are not in their seats I kindly request you return there. **[Laughter]** I will ask the Greffier to open the voting.

POUR: 48		CONTRE: 2		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy of St. John		
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				

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

1.2 The Connétable of St. Mary:

We come to Standing Order 7 and this Standing Order originated following a request from the Chief Minister in relation to propositions lodged under Article 31 of the States of Jersey Law 2005. That article refers to the extension of any U.K. (United Kingdom) legislation to Jersey, but the matter must firstly be referred to the States on a proposition lodged by the Chief Minister. The requirement for the Chief Minister to lodge the relevant proposition arises principally because of the Chief Minister's responsibility for external affairs. But in practice many matters that may need to be referred to the States under this article are more appropriately within the responsibility of another Minister. This was the case, for example, last year when a matter relating to immigration was referred to the Assembly under Article 31 and where the Minister for Home Affairs would clearly have been better placed to act as rapporteur for the proposition. New Standing Order 68A(2) therefore, provides that any such proposition lodged by the Chief Minister can be proposed by any other Minister. Rather than bringing this small provision in isolation P.P.C. thought it would be helpful to codify the current conventions that are in place in relation to the use of the rapporteur. The rules that are, therefore, set out in paragraphs 1, 3 and 4 simply codify the conventions that have been used since the establishment of Ministerial government. I am aware that there is an amendment that we will come to next from the Deputy of St. John to delete paragraph 3 and I will speaking against that amendment after it has been proposed. But for now I propose Standing Order 7.

1.3 Draft Amendment (No. 14) of the Standing Orders of the States of Jersey (P.169/2010): amendment (P.169/2010 Amd.)

The Deputy Bailiff:

The proposition is made, is it seconded? **[Seconded]** Does any Member wish to speak? We have an amendment in the name of the Deputy of St. John and I will ask the Greffier to read the amendment.

The Greffier of the States:

Amendment 7, in the inserted Standing Order 68A delete paragraph (3) and renumber the remaining paragraph accordingly.

1.3.1 The Deputy of St. John:

Having read P.P.C. reports on amendment 7 of 68A, who may propose a proposition, the Chief Minister, a Minister plus I see he slipped in an Assistant Minister. I gave serious thought to this. I was taken aback when only recently we saw the Chief Minister standing-in for the Minister for Housing while the Deputy was ill. Yet the Assistant Minister for Housing was on Island and I asked myself: "Why could the Assistant Minister not take over from the Minister in his absence?" Of course then it clicked, none of the Assistant Ministers are elected to that position by this Chamber. They are there at the behest of the Chief Minister or the Minister of the department to act as lackeys to that Minister **[Members: Oh!]** but cannot be trusted to run the show in his absence. I am not giving way. **[Laughter]** That being the case I ask why giving an Assistant Minister responsibility to lodge a proposition when that Member has never been elected to that position by this Chamber, whereas those of us who hold office have been, whether it be a Scrutiny Panel member or chairman of a panel, a Minister, a Chief Minister or the Chairman of P.P.C. Our appointment has had the scrutiny of this Chamber where an Assistant Minister has not. Yet we see Assistant Ministers lauding it over others without having had to face an election within this Chamber to that position. I say until P.P.C. and this Chamber amend Standing Orders for Assistant Ministers to face the same rigour of election as all other appointments in this Chamber then this should be rejected. But of course the Ministers would not want their Assistant Ministers to have to face an election ... I seem to have lost one of my papers somewhere. **[Interruption]** Do not worry, I have got it somewhere. That being the case I ask why Assistant Ministers responsible for lodging a proposition ... give me a second so I can get my mind around this please.

The Deputy Bailiff:

Standing Orders does require that speeches should be relevant but also that they should exist, Deputy. **[Laughter]**

The Deputy of St. John:

I quite agree with you, Sir. To face an election and the rigours that go with it. Further to this we see the Assistant Ministers... and we have had recently where an Assistant Minister has been dismissed by a Minister and to my knowledge this House has not been officially informed that this has happened. We saw also a Minister made an Assistant Foreign Minister to the Minister and we have not been notified officially of that through this Chamber to my knowledge. I have concerns that things are happening outside of this Chamber but we have no part to play within that. Therefore, I have got real concerns that by giving a position to an Assistant Minister that gives him the kudos and the power to do certain things, yet we have not had any responsibility in putting that person in place. I believe this is somewhat an underhanded manner in appointing people and that the people of Jersey who I am pretty close to - probably as close as anyone else in this Chamber - are not happy with the system of government that we are having at present. They are very, very disappointed in what is happening. They want more say, they want a lot more say in what is going on. Given that we have had a debacle in the last 2 weeks with the Deputy of St. Lawrence being dismissed as an Assistant Minister with no form of redress to this Chamber. Historically under a

committee system the vice-president of a committee, if he was dismissed there would be a vote of no confidence and that would come to this Chamber. That does not happen under this system and I am concerned that putting more power into the hands of an Assistant Minister by allowing him to bring propositions and the like will make things far more difficult for Members like ourselves to question. Because, at the end of the day, the person I want to question at the time of any proposition is the Minister, not a non-elected person. It is important that all of us here can hold the person who is bringing the proposition to account and under these Standing Orders I am surprised that P.P.C. did not look at this in a lot more depth about the people we have to hold to account. Under the current system of government it is the Chief Minister and the Minister we hold to account.

[10:00]

In the absence of the Minister we cannot hold an Assistant Minister to account. It has been proved because the day after that person could be sacked by the Minister. I ask Members to search their conscience on this particular issue and say: "Are we doing the right thing?" because I do not believe we are. I believe the people that we have elected to do the work, i.e. the Chief Minister or the Minister of the departments, should be the people who bring laws to this House and bring propositions to this House for us to challenge. We have seen a couple of new Ministers elected recently and I think it would be totally wrong, in the absence of a Minister, that, shall we say, the Connétable of St. Peter or the Connétable of St. John have to face the membership of this House. At the end of the day they cannot enforce the law or the proposition that they are bringing forward; it would be the Minister and I think it is wrong that we are asking somebody to do something they have not been elected to do. With that I will not go any further but I ask Ministers to search their conscience and see if they are doing the right thing for the people of Jersey and for this Chamber and with that I will sit down.

The Deputy Bailiff:

The amendment is seconded? [**Seconded**] I call on Deputy Trevor Pitman.

1.3.2 Deputy T.M. Pitman:

It is one of those speeches where I think the Deputy of St. John has nearly swayed me. He will have to send me a note and he might do it. Aha, hopefully one I can read. I think it is quite true to say that people are concerned about the lack of clarity in the way Assistant Ministers are elected and I have just sent through a draft proposing in future Assistant Ministers will have to be elected by this House because I think it is right. I think a Minister can then propose who he thinks is best and any of us can propose if we think somebody is better. But listening to the Deputy of St. John, his speech made me quite angry because I realise I am in some sort of Bermuda Triangle here. I notice the Deputy of St. John, the Constable of St. Clement and Deputy Martin and they are all much better at being rude to people than I am because they can all get away with it. Obviously I will put that down to my comparative lack of time in this House, but I mean I watch them closely. Lackeys, well I would have to say that was a bit, in many ways ... let me see, how can I put it? There are some Assistant Ministers who are absolutely brilliant and again, Deputy Martin is a great example; I have got loads and loads of respect for her. She might not speak like a B.B.C. newsreader but she speaks a lot of sense and she says how she sees it and I really admire her for that. You have got some other Assistant Ministers, I am afraid, who, in my opinion and it is my opinion ... there might be a lot of others, but they are only Assistant Ministers because it makes sure they vote the right way and I think that is really wrong, which is why I am putting the proposal that I am. This though, I think we need to look at the issue because the Deputy of St. John is referring to a particular instance when the Chief Minister stood in for the Minister for Housing's absence and personally I think the only reason that happened is because I was asking questions about (1)(1)(k)s and arms dealers, and maybe the Assistant Minister for Housing did not want to deal with it, I do not know, he can tell us. Maybe the Chief Minister thought he had to deal with it, but that was the

day in question. I think if we stop Assistant Ministers standing up if their Minister was ill then that is a bit sad, it is a bit of a step too far. What is the point of having Assistant Ministers? Really I am going to be waiting for that note because at the moment I am still thinking. Although I have got some sympathies with the Deputy of St. John, if we are having a system of Ministerial government then an Assistant Minister has got to be able to fill-in and he has got to be able to fend those questions. What we should be looking at is why the Chief Minister thinks he has to step in sometimes because surely that should be unnecessary. All of us were elected in one shape or another; some of us even faced elections and we are here, we are adults, we should be able to stand up and bat a few questions and if you have not got the answers, instead of waffling like some of them do, just say: "I have not got that information but I will get it to you" and most people, I think, are quite understanding. I am waiting for the notes; one from the Deputy of St. John and probably one from the Chief Minister to say why I should not support this and then I will vote accordingly. Thank you.

1.3.3 Deputy A.T. Dupre of St. Clement:

As one of the Assistant Ministers I am certainly not a lackey. We have quite robust discussions around our table; both the other Assistant Minister and I have very strong discussions with our Minister. Also I think the thing about it, if we start having elections for Assistant Ministers it is going to take such a long time. It is going to spend days and days doing it but it takes so long doing Ministers now anyway. As far as I was concerned, when the Minister rang me I was on the phone with him for 45 minutes while we were discussing all various points and he said he was speaking to everybody who had expressed an interest. It was not just me, it was everybody he spoke to. I do not think this needs any more discussion. It is up to the Ministers to decide who they want. Thank you.

The Deputy Bailiff:

I wonder if I can give some guidance to Members about this proposition which is connected with whether or not a proposition lodged by the Chief Minister could be proposed by an Assistant Minister. It is not about the way in which Assistant Ministers are appointed or the States ... **[Approbation]** I call on Deputy Southern.

1.3.4 Deputy G.P. Southern:

The Deputy of St. John makes a number of interesting points and uses a number of interesting words, I like "debunkle", I think that is a perfectly appropriate word for what has just happened, it is a total debunkle, yes.

The Deputy Bailiff:

Are you going to define it for us? **[Laughter]**

Deputy G.P. Southern:

I would need an Assistant Minister to do that, Sir. But I think he makes his points... while interesting about Assistant Ministers, he makes them in the wrong place. His amendment is not appropriate for the reasons that he says. Contrary to the Deputy of St. John, I am looking forward tremendously to hearing more and more from Assistant Ministers. What a bunch of talented people they are. I look forward to hearing a major piece of social security legislation brought by the Assistant Minister for Social Security swaying the House with her powers of rhetoric; ditto on Education, ditto on Housing, ditto on somebody we do not hear often enough, Deputy Noel, whose powers of rhetoric must surely be among the best in the House and I look forward to hearing more and more from Assistant Ministers from now on as they bring more and more elements to this House for us to vote on.

1.3.5 Deputy P.V.F. Le Claire:

I believe the Deputy of St. John has highlighted - I might be mistaken, I will stand to be corrected - the issue of when the Chief Minister answered questions, or it may have been a proposition, but this is certainly not about questions, is it, and I do not know if that was intimated? But this is about propositions and it does seem to me only logical that if you appoint an Assistant Minister to take care of, for example, harbours or the airport or the environment, as we have got with certain Ministers, why would you give those Ministers responsibility in those areas? Give them the confidence that many of them have in day-to-day politics and also authorise them through delegations announced in the Assembly. Why would you give them those powers, ask them to be held accountable for them and then not allow them to bring propositions when the Minister clearly would want them to? It is absolutely a nonsense. However, in saying I cannot support the Deputy of St. John, I will agree with him 100 per cent that I believe the people of Jersey - and it has come about in the last 7 or 8 years or so - are absolutely fed up of people who are given Assistant Ministers' roles, cruising in behind the Minister until it comes to the election time and then get handed propositions that they can grandstand on ahead of the elections. It is almost like removing the goalkeeper and putting the ball on the penalty spot and saying to them: "Right now, come on, take this one for me, it is election year. Here is your award for being a good Assistant Minister" and we have seen that time and time and time again. We certainly have seen it, yes. A Member is asking me for clarification as when we have seen it; I will let the Member know after my speech. I do not want to embarrass people but we certainly have seen this happening and unless Members are being untruthful with themselves they know what I am talking about.

1.3.6 The Connétable of St. Mary:

I am grateful, Sir, that you saw fit to bring Members back to the actual essence of this proposal. I would like to say the comments that the P.P.C. have issued spell-out precisely why we feel this is not applicable. The proposed new Standing Order simply quantifies the procedure that exists already into detailing who may act as rapporteur. There are a couple of things which the Deputy of St. John has made reference to, which really are not relevant to that. He made great play of the fact that recently the Chief Minister stood in for the Minister for Housing, but that is what is enshrined under the States of Jersey Law and indeed all the appointment things, which you have so rightly said are outside the scope of this, are all fundamental changes to the principal law that would be required and we are not doing anything now to change any of that. But the Deputy of St. John is also saying we have a duty to hold people to account. The propositions are still lodged in the name of the Minister concerned or the Chief Minister. There is no shirking the responsibility, that stops with the Minister but just as the States of Jersey Law allows for delegated functions, here we are having somebody exercising a function but the responsibility for that is still lying with the Minister. I think if the Deputy is concerned about holding people to account there is a clear path for that and this amendment, this codification that we are proposing here, does not affect that in any way, and I think makes absolute sense for the reasons that many Members have said. I urge Members to reject this amendment, which does not deal with the concerns that the Deputy raises in his report and I think he has just used it as a platform to air his views. Having said that he has done that and I would urge Members to see beyond that and to support P.P.C.'s proposition and to reject this amendment. Thank you.

1.3.7 Senator J.L. Perchard:

When Ministerial government was adopted before I was a Member of the States, the States, in their wisdom, chose to approve what is now referred to as the Troy Rule where the majority of Members would not be involved in government. I think that was a mistake and I think the Troy Rule is wrong and I would like to see the majority, in fact most Members, involved in government. I look around at our overstretched Ministerial teams; just opposite me I see Health and Social Services, and Education, Sport and Culture - 2 huge departments. We have just received from Education, Sport and Culture a report about the future of Fort Regent - a couple of pages - and I suspect the Minister managed to find time to attend a few meetings during last year. Why not delegate that

responsibility to a Member with a shortened portfolio? There are many Members without responsibilities and I look at Health and Social Services, similarly, a huge portfolio. Why should not more Members be involved in government? It brings me around to the amendment here. If, for example, somebody has a speciality and have been asked to specialise in perhaps the Fort Regent or perhaps Social Services or perhaps drains - there we go the Deputy of St. John - and infrastructure and the T.T.S. (Transport and Technical Services), the specialist political representative working in that area and questions arise in this House, why on earth would you expect a Member, who is not a specialist in that area, to answer the questions that may be posed? This amendment is nonsense. If we have a Member who is focused on a certain aspect of services, service delivery, and questions are raised in this House, why on earth would we not ask them to answer the questions on behalf of their Minister?

1.3.8 Deputy J.A. Martin:

I will be brief. I totally agree that we are not discussing Assistant Ministers but just for my personal input I would be very happy to be elected by the House, like on to a Committee. Committees did not always get the Members they had and I really think this disgruntled... that is another word, “disgruntled”, Members. I think Deputy Dupre did no justice to emphasise the importance of being an Assistant Minister to say she got the job after a 45 minute little chat to the Minister.

[10:15]

That is not the way; once you have been through an election you should be in the Ministerial circle and I for one agree, but this is the wrong position. I cannot agree to this. It is like the chairman of Scrutiny. The Deputy of St. John is the chairman of Scrutiny. Many times he has had rapporteurs and this is basically what this is. You had people on your panel or your Assistant Minister who knows about the subject and they propose it and they research it. As Senator Perchard has said, when you have big Ministries or you have big reports in Scrutiny someone else proposes it. We talk about it on the committee at P.P.C.; sometimes I think when the F.O.I. (Freedom of Information) Law came through it might not be the chairman. It might well be the chairman but there might be someone more suitable on the committee. Absolutely makes sense but we do need to deal with this role of Assistant Ministers before the next election. Everyone who did not support Senator Breckon’s proposition is probably sitting there saying: “Now we have seen the power and the glory in the last few weeks, as you say, you can do what you like.” I could go tomorrow, I could be asked to go and that is fine. I could leave tomorrow and nobody needs to know why or whatever. Obviously I would make a personal statement and say why but it is a cosy club, in my opinion, and at the moment I am in it but I would rather be elected by this House. Thank you.

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

The previous speaker’s points are well made. I just want to make one brief observation, which is that there is a built-in check and balance in this. When I first read it I thought: “Wait a minute, there is not a qualification. It does not say that the Assistant Minister, who would be asked to present a proposition, would be the relevant Assistant Minister; Assistant Minister with expertise in that area.” But in fact even if that were so I do not think this House would take kindly if the proposition was brought by an Assistant Minister who then did not know the brief, did not know the answers to the questions raised in the debate, was not making the case adequately. The check and balances there does not need to be stated and this proposition, this article is perfectly reasonable. Of course Assistant Ministers, if they have a brief, should be able to bring propositions on that area and the House can very well decide that they do not like it if they are not up to it. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak? Then I call on the Deputy of St. John to reply.

1.3.10 The Deputy of St. John:

I do not think I need to spend too much time on my feet because I am sure I am not going to get a great deal of support. I can probably count them on several fingers if I am lucky or maybe just one finger. But that said I must thank all those who have spoken, in particular Deputy Martin. She spoke from the heart and she spoke as a true politician of what we want for our Island and that is important. I hope you are all listening, in particular P.P.C. I am speaking for what is going on outside and the people who are listening-in, they are not happy with what is going on in here. How the power is being brought down into a group of people and some of them are calling it a dictatorship led by one or 2 people. I am sorry, Chief Minister, if you have to look at me over the top of your glasses but that is how it is being felt out there by the rank and file. People from all walks of life have got some real concerns. Many people over recent times, under the current Chief Minister, thought we had a good balanced government but as time has gone on that is not the case. We have seen the government get more and more drawn together and under the Minister for Treasury and Resources, in particular, we have seen things like Social Security brought under his arm. We are now seeing Property Services and everything else that is going on getting drawn more and more into the hands of one or 2 people and that is a real concern. This House needs to get back to basics and make sure that all Members ... and I can recall the Chief Minister on a number of occasions saying he wants to draw all Members into government and he is not doing that and has not been doing that. I am sorry to say but it is being picked up outside. It is for this House to put our house in order and all I am doing by bringing this to the House this morning is raising issues that I believe need to be raised. This may be - and most Members have said it is - the wrong time to be doing this, but I do not believe it is because historically every Member was in government. Today we have 'them and us' or 'us and them' and that is not good. It is a type of party politics which is going down the dictatorial road. I thank those who have spoken and I ask for the appel.

The Deputy Bailiff:

The appel is called for and I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 3		CONTRE: 48		ABSTAIN: 0
Senator S.C. Ferguson		Senator T.A. Le Sueur		
Deputy P.V.F. Le Claire (H)		Senator P.F.C. Ozouf		
Deputy of St. John		Senator T.J. Le Main		
		Senator B.E. Shenton		
		Senator F.E. Cohen		
		Senator J.L. Perchard		
		Senator A. Breckon		
		Senator A.J.H. Maclean		
		Senator B.I. Le Marquand		
		Senator F. du H. Le Gresley		
		Connétable of St. Ouen		
		Connétable of St. Helier		
		Connétable of Trinity		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. John		
		Connétable of St. Saviour		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy of St. Martin		

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

Deputy A.E. Jeune of St. Brelade:

Excuse me, Sir, if I may before we continue. I do not know how this works but the Connétable of Grouville had the défaut raised on him this morning. He was here in fact on time but was taken unwell. He did come into the Chamber but he is still not absolutely well and he has gone home. He will not be voting, is there a way that this can be determined like you would if you were ill? I am not sure. If somebody could advise. Thank you, Sir.

The Deputy Bailiff:

He is not en défaut. Hansard will reflect the fact that he has been taken ill and gone home and I am sure therefore that will be a sufficient publication of that fact.

Deputy A.E. Jeune:

Thank you, Sir.

1.4 Draft Amendment (No.14) of the Standing Orders of the States of Jersey (P.169/2010) - resumption

The Deputy Bailiff:

Very well, we now return to the Standing Orders and the debate on Standing Order 7 which is now open for debate. Does any Member wish to speak? If no Member wishes to speak then, Chairman, there is nothing to reply to. All Members in favour of adopting the ... The appel is called for on Standing Order 7: the insertion of a new Standing Order 68A and I ask Members to return to their seats and the Greffier to open the voting.

POUR: 49		CONTRE: 1		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. John		

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

1.4.1 The Connétable of St. Mary:

Yes, Sir, I do. This is simply the citation and commencement and I ask Members please not to bother debating it, please. Thank you, Sir.

The Deputy Bailiff:

That is seconded. **[Seconded]** Members in favour kindly show. I am sorry, does any Member wish to speak? All Members in favour kindly show. The appel is called for on Standing Order 8: the citation and commencement provisions. I ask the Greffier to open the voting.

POUR: 49		CONTRE: 1		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. John		
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisseier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
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Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

Do you wish to move the Standing Orders in Third Reading? It is not necessary, is it?

The Connétable of St. Mary:

It is not necessary, Sir, I think in this case.

The Deputy Bailiff:

Very well, the Standing Orders are adopted.

2. Composition of the States: reduction in the number of Senators - referendum (P.198/2010)

The Deputy Bailiff:

We now come to Senator Cohen's proposition which is P.198 and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion - (a) to agree that a referendum in accordance with the Referendum (Jersey) Law 2002 should be held, prior to any reduction in the overall number of Senators in the States; (b) to agree that the text of the question should be - Do you agree that the number of Senators should be reduced from 12 to 8? Yes/No; and (c) to request the Chief Minister to take the necessary steps to implement the referendum.

Senator B.E. Shenton:

Sir, could you advise whether the Vibert Rule applies to this proposition as it is non-binding?

The Deputy Bailiff:

In my view the Vibert Rule, which is the Standing Order 89A you are talking about, Senator, does not apply to this proposition because it is a proposition for non-binding reference and it does not of itself change the composition of the States or meet the other parts of that Standing Order. Senator Cohen.

2.1 Senator F.E. Cohen:

As Members will know I rarely stray outside my portfolio. I make an exception only when I consider a matter of exceptional importance and one that has not been covered by another Member. This matter of a reduction in the centuries-old Island-wide popular franchise is such a matter and it is, in my view, a matter that strikes at the heart of our ancient democracy. From the outset let me stress that my proposition is not in any way a criticism of P.P.C., and indeed I have the greatest of respect for the chairman and all of the members. They do a sterling job with great competence. In this case I feel that the thrust for urgent reform has inadvertently perhaps resulted in proposals that not only reduce the extent of our democracy but also seem to be contrary to the wishes of the electorate as expressed only a few years ago. Furthermore I believe that reducing the Island franchise will make the Government of our Island worse rather than better. If the imperative is to increase the voter turnout, reducing the number of Senators will likely reduce the turnout rather than increase it as it is contrary to the clearly expressed wishes of the electorate. Our democracy is one of the earliest in the western world. The present system has its roots in a system of government established over 8 centuries ago and central to this, for many centuries, has been that 12 Members are elected on the basis of an Island-wide franchise. Our system of democracy has survived enormous pressures; from wars in the Middle Ages and invasion, to attacks by the French, to domestic unrest and riots and, most recently, to 5 years of German occupation. However, as though it was divinely directed, we have emerged on each occasion with our democracy intact. Most importantly, even at times of greatest misery and hardship and pressure, there has rarely been an

imperative to reduce the representation of 12 Members elected by Island-wide franchise. As an example, in the aftermath of the occupation, when the cries for reform were at their loudest, a States Committee was established to consider reform. At no time did this Committee propose a reduction in the Island-wide franchise and merely proposed a shortening of the term of representation. Thus, we can see at first hand that even in times of greatest hardship we have never before entertained such a reduction in the Island-wide popular representation. The role of Senator was created out of the post-war reforms but it was specifically created as a replacement for the 12 Jurats who, at the time, were elected for life by Island-wide popular franchise. The origins of the 12 Island-wide elected representatives is sometimes traced to the constitutions of King John, Article 1 of which refers to the Jurats. The concept of who could vote was fundamentally different from today and, at that time, only the King's officials and large landowners were entitled to vote. However, the important principle was established, being that the Jurats were elected on an Island-wide basis and not on a parochial basis. As the centuries passed, gradually the franchise was extended to encompass increasingly large elements of the population but always the position remained that the Jurats were elected on an Island-wide basis.

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

Sir, I wonder if the speaker could give us the source of that statement; it is not what other people concluded.

Senator F.E. Cohen:

I may not be able to remember the date precisely but Charles Duret Aubin produced a paper on the extent of reforms and the origin of reforms which I think was published in 1952. I could check on the date and give it to the Deputy later. Sorry, 1954; the Greffier has it to hand no doubt.

[10:30]

By the time of the Code of Jersey of 1771 the system of Island-wide popular franchise was firmly established. When the reformed Committee's proposals were brought to the States after the occupation - and remember there was no suggestion of reducing the 12 elected by Island-wide franchise - the King effectively intervened. A committee of the Privy Council was established under the chairmanship of Viscount Samuels, and this recommended the creation of 12 Senators elected by Island-wide franchise, importantly, as a direct replacement for the Jurats who from that moment would confine their work to their judicial functions. The creation of the Senators, being a mechanism of improved democracy by ensuring a separation of the Jurats previously, joined judicial and legislative functions. Thus the changes were designed to specifically increase democracy. It is my contention that reducing the Island-wide franchise has the opposite effect and in fact reduces democracy. The primary test for any electoral reform is that it must improve democracy. In no way can the reduction in the Island franchise be regarded as improving democracy and that is why I believe that this measure should only be progressed if it is supported by the majority of the electorate. There are many examples throughout history, and some in the last century, where supposed reforms reduced democracy and that reduction had in relatively few years devastating effects on good government, freedom of expression and, in some cases, led to discrimination. I am not in any way suggesting that such would be the course in Jersey but I make the point that tinkering with democracy under the guise of reform is a very dangerous thing indeed. The golden rule is that electoral form of this nature should only be exercised if there is true evidence that the majority of the electorate support the proposal. In this case we have clear evidence from only a few years ago that the respondents to the MORI poll cherished the Island-wide mandate and indeed were supportive of the principle that Members should be elected on an Island-wide basis. P.P.C.'s own report in December 2006 stated, and I quote: "The findings of the MORI poll confirmed earlier anecdotal evidence that electors in Jersey consider that the current Island-wide mandate is important. This is undoubtedly an indication that many electors consider that all voters have the ability to influence the election of certain Members" and that was P.P.C.'s

own findings only a few years ago. 72 per cent of the respondents to the MORI poll thought that the primary responsibility of Members was running the Island as a whole and representing all the people in Jersey rather than parochial matters. The overwhelming conclusion of P.P.C. in 2006 was that, and I quote: "P.P.C. believes that the Island-wide mandate is a feature of the electoral system that should, if possible, be retained." That is not to say that I believe the parochial role is not important. I firmly believe in the parochial role and indeed came up through it myself; serving as rates assessor, Connétable's officer and Centenier but I believe the parochial role is well represented by Deputies and Connétales. There are certain positions within our structure that in my view can only be carried out by a Member with an Island-wide mandate. Planning is one function as it would be extremely difficult to carry out the task of Minister for Planning and Environment without an Island-wide mandate. I have spoken to many, many Islanders about the proposals to reduce the number of Senators and without exception all are against a reduction, some are absolutely furious at the proposal. Finally, I am at a complete loss to understand P.P.C.'s change of opinion. In the report attached to P.72 in 2009 P.P.C. stated, and I quote: "P.P.C. does not believe that tinkering with the 3-category Assembly, for example, by reducing the number of Senators, would overcome these problems. If the position of Senator has the benefits that some perceive it, it is reasonable to suggest that there should be at least 12 Senators. A reduction to say 8 would mean that Senators would be so outnumbered in the Assembly that the position would not be of any real value." That is P.P.C.'s own words. P.P.C., in the same report, went on to say, and again I quote: "P.P.C. believes that the reform of the States is a matter that affects Islanders in such a fundamental way that any reform proposals should be put to the electorate in a referendum before being implemented." Again, those are P.P.C.'s own words. I had hoped that a referendum could be delivered before the next election but I am assured by P.P.C. that this would be impossible. An early referendum is desirable but maintaining the principles of our cherished democracy must be the priority and if a delay is necessary in the introduction of reform then so be it. But I believe that as the debate progresses the issue of timing may be further examined as other Members may have some comments to make. Many Islanders feel so angry at the proposed unilateral reduction in the Island-wide franchise that it is perfectly possible that the Privy Council may be petitioned to review the proposals in any event, and that in itself would delay the implementation beyond next October. History shows unequivocally that jurisdictions tinker with democracy at their peril. The electorate must have the final word and I urge Members to support protecting democracy. I urge Members to support my proposition for a simple referendum. The question could not be simpler: do you agree that the number of Senators should be reduced from 12 to 8, yes or no? Thank you.

2.2 Composition of the States: reduction in number of Senators - referendum (P.198/2010) - Amendment (P.198/2010 Amd.)

The Deputy Bailiff:

The proposition is made and seconded. **[Seconded]** Very well, there are 2 amendments to the proposition. I am taking them in the order in which they were lodged and the first is by Senator Breckon and I ask the Greffier to read the amendment.

The Greffier of the States:

1, page 2, paragraph (a) - after the words "Senators in the States" insert the words "and in relation to the position of the Connétales as Members of the States"; 2, page 2, paragraph (b) - for the word "question" substitute the word "questions" and insert a new question as follows - "2. Do you think that the 12 Parish Connétales should have an automatic seat in the States Assembly by virtue of their office? Yes/No."

2.2.1 Senator A. Breckon:

I will be very brief. If Senator Cohen had not brought his proposition I would not have brought this as a stand-alone, but I thought that if we are going to go to the time and trouble of having a referendum then this question could be added and the question is, as the Greffier has just said: “Do you think that the 12 Parish Constables should have an automatic seat in the States Assembly by virtue of their office? Yes or No.” The extra cost will be the cost of the ink and the printing of that which will be minimal. What I do believe it will do, if we have the referendum, it will give the public the opportunity to express the opinion in this way and it will not be a MORI poll, it will not be done on a telephone; it will be through a ballot and it is that opportunity and that will settle the argument once and for all. Then this House will be aware of that opinion and may or may not act accordingly. Thank you, I make the amendment.

The Deputy Bailiff:

Is the amendment seconded? **[Seconded]** Senator Perchard.

2.2.2 Senator J.L. Perchard:

Just briefly, when the proposer of the amendment sums up can he confirm that he did take advice from our excellent Statistics Department in how to ask a question that does not lead the answerer in any direction? On the face of it it looks a very straightforward question. I will be supporting this amendment and certainly the substantive proposition. I think these are fundamental issues that the people we represent should decide upon. This amendment, on the face of it, looks perfectly legitimate but could he confirm, as I say, whether he took advice on its wording from the Statistics Department?

2.2.3 The Deputy of St. Mary:

As it stands I would support this notion and, as the proposer said, he would have brought this as a stand-alone proposition if Senator Cohen’s proposal had not been brought forward.

The Deputy Bailiff:

I understood him to say he would not have brought the proposition had the proposer not brought it.

The Deputy of St. Mary:

Then cancel that point of my comment. Yes, I agree with the principle of this. I think that this issue also should go to the electorate as we keep on batting these things around, but I do not think I am going to support this amendment because I think that it is better to have the referendums one issue at a time or all at once. In other words we ask all the various questions but then of course we have done this already; MORI has done it. MORI was a representative sample stratified properly, and we have the data which will no doubt be aired in the later debate. Because MORI has done every single feature of what the electoral system should look like, it really becomes daft to do it again in a referendum to offer all the different options in a referendum. I think this is a stand-alone issue, should the Constables sit in the States by virtue of their office? But I am not happy with putting it together with the question about the Senators and for this reason: that unlike P.198, unlike the original proposal, this would hold up for reform. This would create huge difficulties with P.176, probably rendering it impossible. In fact the original proposal of Senator Cohen does not hold up P.176, it does not. I will not obviously go into detail of that now because that is for the debate on P.198, but I will make that case that that key point of the opposition to P.198 does not hold up. But if this amendment is passed, if we do put to the referendum the issue of the Parish Constables, then of course everything is up in the air and there would be a considerable delay in any reform. That is why I am fairly sure I cannot support this amendment. It is seductive, as the Senator proposing this amendment said, to save money by having 2 referendums at once for just the cost of the extra ink but really I do not think we can take these issues of how residents are represented and how the Island is governed. We really cannot consider the £15,000-odd that a separate referendum would cost and weigh that in the balance against the benefits which getting it right would bring. I do not think the cost argument stacks-up and I think the disadvantage of killing

all reform, which this amendment would do, I think that is a pretty serious disadvantage and so I think I would urge Members to vote against the amendment and keep Senator Cohen's original proposal unamended so that we can proceed to debate that properly.

Deputy T.M. Pitman:

Sir, can we have clarification because I asked that question deliberately to get this clarified yesterday? Does Senator Cohen's kill all reform because we are getting completely conflicting views and I think all of us need to know where we stand, if you could advise, Sir?

The Deputy of St. Mary:

Could I possibly help the Assembly on this because I have corresponded with the Greffier about this and basically the upshot was that it might end up as a question to the A.G. (Attorney General), but I think that is all for the next debate really.

Deputy A.E. Jeune:

No, Sir. Please, I believe we must have clarity now. Does P.198 have any impact on P.P.C.'s proposition? Thank you, Sir.

The Deputy Bailiff:

Attorney, is that something upon which you can assist the Senator?

Mr. T.J. Le Cocq Q.C., H.M. Attorney General:

Only I think to this extent, that clearly if the proposition for a referendum is passed, in whatever form it is passed, then that referendum will have to be held before there is any certainty that can exist about the composition of the States. It seems to me that one could not pass a piece of legislation which was based on an uncertainty and therefore it would be probably, of course, a matter for the chairman of P.P.C., but it seems to my mind that there would be difficulties in proceeding with that proposition where the ultimate result, as to the constitution of the States, would be uncertain.

The Deputy Bailiff:

Chairman of Privileges and Procedures, could I ask what your committee's position would be in the event that Senator Cohen's proposition, whether amended or not, is adopted?

The Connétable of St. Mary:

Sir, yes, the committee did discuss this. We believe that if Senator Cohen's proposition is adopted I will not be proposing P.176.

Senator F.E. Cohen:

Sir, can I make a point? I would just like to add ...

The Deputy Bailiff:

I was only seeking to establish the intentions of Privileges and Procedures, Senator, and you have the right to reply at the end of the debate.

[10:45]

The Deputy of St. Mary:

May I raise a point of clarification on what the chairman of P.P.C. has just said? It seems to be pre-empting the debate, if P.P.C. are saying well, in their view they would not bring forward P.176 when I have looked very carefully at the articles they are going to propose and it would be possible, in my view, to make the amendments to send the articles, with the 4 or 6 phrased very carefully, for ratification and the result of the referendum would then determine whether it was 4 or 6 in the

various paragraphs. I believe that it is possible, that is obviously a matter in itself, but I do not think that P.P.C. have the right to scupper P.198 by threatening that P.176 cannot be debated.

The Deputy Bailiff:

If I may assist Members, it is perfectly clear that P.176 has not yet been brought forward and if the Chairman of Privileges and Procedures wishes to withdraw it it is open to her to do so, and the reason for her withdrawing it would be that P.198 has been adopted then that would be the answer to the question which you have put. It would not be possible in any event, in my view, to have a piece of legislation sent up to the Privy Council for approval in an uncertain state. That, in my view, is not the possible. Now, we return to the debate. Deputy Le Hérissier.

2.2.4 Deputy R.G. Le Hérissier:

As everybody knows there is a certain logic to reform and there are only certain things that can be proposed and will proceed in a logical way, if they are not so proposed the whole thing falls apart. Even though I got a tongue-lashing from Deputy Martin, I did not particularly like where we ended up last time quite frankly but what I have not seen, and this is why I think Senator Breckon is right to bring it up - although I prefer Deputy Pitman's all come as referendum proposal, it has to be said - what I did not see when all these things were being discussed earlier were people putting their shoulder behind big constituencies, the Island of Guernsey is debating this very week, making that an all-Island constituency, I never saw of any of that. This notion, which Senator Breckon has reacted to, that we pick things totally out of the blue that have no logic that are spoken of in terms of a wonderful history ... and I said I do have some doubts about that history but we will no doubt look into that. **[Interruption]** Yes, Senator Cohen. What it proves is how utterly illogical this process is and we have ended up where we do not want to be. Thank you.

2.2.5 The Deputy of St. Martin:

I am pleased to be following Deputy Le Hérissier because probably Deputy Le Hérissier and I have been the leading protagonists for getting reform, and I have never believed that we should have had a referendum. I believe that when Clothier made his recommendations they were based on a tremendous amount of research and consultation with the broad areas of the public so therefore we should have gone ahead. All that being said, it quite clearly came up when so many propositions ... some of them are mine, some are Deputy Le Hérissier's and I remember the Connétable of St. Clement brought one as well, but nothing went forward. Then in late 2009 Deputy Tadier brought forward P.146, a proposition calling for a referendum. It is quite interesting and I am rather disappointed that neither proposer this morning has mentioned that we did have this debate only as recently as the 5th November 2009 and yet I think it is important that Members are aware of that and I am going to remind them - or one or 2 - the way they voted. As indeed with that debate, when we had a debate, there was a cross-over and I remember where there was the difficulty in trying to speak to the amendment without making reference to the main proposition, and I will try now just to speak to the amendment without going too deep into the main proposition. I make it clear I will not be supporting either, although at November 2009 I supported both. I supported both simply because I felt if we were going to move forward, even though I was cutting my nose to spite my face, I felt it was the only way forward. However, the States in their wisdom... and I have got all the voting patterns here to tell everyone if they would like to remind themselves which way they voted, I can tell them and I will be telling them when we debate the main proposition, but it was quite heavily defeated. For the Constables there were only 17 Members who voted for a referendum, only 17, and there were 29 who voted against; one abstained, one was ill, one en défaut and 4 were not present. We will find out later on who were the 9 absent; they could not stand the pace of being in the House for the vote for the Senators. But it was defeated and all I would ask Members to do is remember we have already made a decision. We have now got P.P.C. coming forward with P.176; I will be supporting that and I would urge Members do not go backwards, let us move forward, let us kick this into touch. We made a decision, stand by it. Thank you.

2.2.6 Deputy J.A. Martin:

I will try to stick to the amendment as well. It would seem, as Senator Breckon said, he would not have brought this if Senator Cohen had not brought his original wrecking... I do believe it is wrecking. Where has the Senator been for the last 6 years? Where has he wanted to go to the public with a referendum? **[Approbation]** Nowhere, until suddenly we are at the stage of having some reform and in the Senator's own words he said: "So be it; if this puts back reform for another 3 years, so be it." Do you really think the people out there want another referendum? We have been told to get on with the job, do something and we were there and now this. As you say, we have discussed this at P.P.C. and it is very nice of the Deputy of St. Mary to think that we can somehow send half-botched legislation to the Privy Council from this House because we cannot make up our minds. Then we hear from the proposer, and probably they are not really interested in the Privy Council, whether Constables sit in the States, whether the Privy Council are going to be petitioned because we are getting rid of a few Island-wide mandates; no way. This is wrecking and it is wrecking so obviously that if anybody ... I cannot support, sorry Senator Breckon, this time. I will be very disappointed if the proposition goes through without the Constables and without Deputy Pitman's amendment but as we are I just think it says it all; the proposer's speech said it all, we will delay any amendments reform to the States of Jersey, we are 9 months away from an election and we decided this. Where have all the Senators that are calling for a referendum and Constables been since Clothier? It was never put to the people. They want it now. If it goes through we will have to rescind ... if this amendment is defeated and the main proposition goes through I will bring a rescindment motion again and then bring back the Deputies and bring back the Constables to go to the people. You cannot go to the people with one question just because it is a question that the Senator likes and the Deputy of St. Mary likes. If you are going to ask the people, respect the people, and you will not get the turnout and then where would we be? As the Chair has already said, it is not binding. Absolute rubbish we are hearing here today. I cannot believe we are here, and I am not going to have a go at Deputy Le Hérissier today because he spoke absolute sense. We are too far on reform. We want reform, the people want reform and I am not going to speak anymore. The only thing I might support is Senator Ozouf's amendment, when we get to it, if we get to it. The people out there... you talk about take it to the people; the people out there do not want to know anymore, they are fed up with us the way we represent ourselves in this House. **[Approbation]** I am sorry, Sir, I am very angry and I do not mean to be rude to anybody but I am sorry, the Senator will stand up and say: "It is not a wrecking motion" but he has to explain. He has got 8 or 9 months left in this House and rumoured he is not going to stand again and who is pulling his strings? I am very sorry, Sir. I am very sorry. This is a very late amendment and it is wrecking. Thank you. **[Approbation]**

The Deputy of St. Mary:

On a point of clarification, would the previous speaker say when the other referendum about electoral reform has been because that is what she referred to? It was a very stirring speech but there has not been another referendum to my knowledge.

Deputy J.A. Martin:

I think the Deputy makes my point; there has never been a referendum. We have called for it and it has never been. I am sorry, this is why not now. You have had years to do it and you did not want to know what the people wanted. Thank you for a second chance, Deputy. **[Laughter]**

2.2.7 Senator P.F.C. Ozouf:

Deputy Martin is quite right, there does need to be a referendum on constitutional reform. I have risen in this Assembly on numerous composition of the States reforms debates. My own view is that we should, and my view has changed in relation to constitutional reform, but fundamentally I believe that we need an Electoral Commission in order to look at the Deputorial seats, and I have said that numerous times and it has never been done. But I will confine my remarks to this

amendment. There are only a few questions which are suitable for a referendum. I think that many Members - and I have been guilty of this in the past as well - do almost confuse the issue of what is an appropriate question that is appropriate for a public opinion survey and what is appropriate for a referendum question. Senator Cohen's underlying amendment is about the narrow issue of a change, an important constitutional change. We will come to the substance of the debate but it is an appropriate question in order to ask in a referendum. Senator Breckon's question is asking about a *status quo* question. It looks to me as though it is a public opinion question, not suitable for a referendum question. I do not think one asks questions for a *status quo* in this way and, effectively, if one was to approve Senator Breckon's amendment - I will not comment on Deputy Pitman's but it is in the same genre - you are going to be faced with, effectively, a referendum some of which is *status quo*, some of which is reform, it does not quite work. I think that you could have a composite referendum on a whole-scale constitutional reform; that is appropriate, it is a question of accept or reject but you cannot do a piecemeal approach in relation to this. I see no reason why there is a question dealing with the narrow issue of the amendment; why there is a question required to keep the Constables where we are proposing no change? Yes, there are arguments in favour and against the Senatorial issue but I cannot see any valid reasons why, at this stage of the constitutional reform process, there is a referendum question on the Constables piggybacking on a referendum question which is valid, which is a reduction in the Island-wide mandate. I am going to be voting against the amendment.

2.2.8 Senator F.E. Cohen:

To suggest that my proposition is a wrecking proposition is both disingenuous and impolite. It is most certainly not a wrecking proposition. It is a matter that I feel strongly about and those who claim that they represent the people should cherish democracy. Cherishing democracy is at the root of what we stand for. The Deputies may laugh but they laugh because they know what I say is true. The issue of why Members may or may not have supported referendums in the past may of course be related to Members who believe in the establishment of an Electoral Commission - which of course is another matter - to look at the whole issue surrounding reform. As far as the amendment is proposed I am unable to support it, but I am unable to support it only because I do not wish to complicate the very simple referendum I have suggested which relates specifically to P.176. I would wholeheartedly support the principle of a larger referendum if that be the wish of Members. As far as the comments made by Deputy Le Hérisier that I have got my history wrong; in 2005 I was challenged over an account I had written of the occupation by a revisionist claiming that I had my history wrong. I was proven to be correct and while I am not suggesting that Deputy Le Hérisier is a revisionist, I am certain that I have my history correct on this occasion.

2.2.9 Deputy T.M. Pitman:

I wanted to follow Senator Ozouf because I wanted to refer to and I think it was Hugo Chavez who followed George Bush, I think it was at the U.N. (United Nations), and he said: "Oh, I can still smell the brimstone." But I cannot say that now ... oh, I have, okay. I am rather like Senator Breckon, I would not be bringing my amendment if Senator Cohen had not brought this proposition. I will say now before we get to it, I really hope nobody votes for mine. It is there for a reason, which the Greffier's office is quite clear and I think were honest about but let us stick to this. We are hearing these fiery speeches and I would just like to ask Senator Cohen, where was his cherishing democracy when he was asked about the public having more say in electing the Chief Minister; 2 Chief Ministers we have had and the public did not want either of them?

[11:00]

Where was he then? I would be interested to know how he voted when I think it was Deputy Pitman brought a proposal. Senator Breckon has brought this proposal. If he thinks: "Well, if we are going to have a really bad job, let us do it all the way", what is this thing that we can only have selective cherishing of democracy, because that is what this is about. I know I have got to save my

main comments for Senator Cohen's proposition but this is about selective cherishing of democracy. It is about: "Oh dear, we do not like what has happened now." Suddenly we are all democrats. Now, yesterday - and I am coming to Senator Breckon's - yesterday I got told off by she-who-must-be-obeyed, because she thought I was a bit hard on Senator Cohen. I do like Senator Cohen and I respect him and if I was too hard on him, I apologise, because I like him. He is a man who you can have differences of opinions with and he does not take it to heart, normally. He is not like some people in here who like to dish it out but then they cry when they get it back. So, I respect him. If I was too harsh yesterday, I am sorry. However, this is a wrecking motion. **[Laughter]** I think it is called Indian giving. Smile while you stab. Senator Breckon is just trying to say: "Well, if we are going to absolutely completely scupper P.P.C.'s proposals, well, you know, let us go to the people with a full package" and the most full package we have got on offer now is Deputy Shona Pitman's, which should have been done many years ago ... ask about Clothier, which was the largest investigation of what was needed in electoral reform or what might not have been needed. We should ditch all of this; Senator Breckon's, mine, Senator Cohen's, Senator Ferguson's when it comes up and we should wait for Deputy Pitman's, because I wish I had written it because it makes more sense, and I wish somebody had done it 10 years ago. Senator Breckon is, as I say, trying to make the best of a bad lot. Why can we ask the people about democracy in one element, but oh no, we must not touch the Constables. Now, whatever I think about the role of Constables ... and this is the big problem, that all these things get tied-up in personalities. Two of the people I most admire in this House are Constables and that is the Constable of St. Helier and the Constable of St. Lawrence, because they are genuine and they are honest and they do not come in with stupid ideas: "I am going to vote against something just because it is that horrible demon Deputy Pitman or the even more demonic Deputy Southern or that awful Deputy of St. Mary who speaks for 3½ hours" **[Laughter]** and he is still speaking while I am speaking. I do not like to pre-empt what proposers of amendments are going to say but I would imagine Senator Breckon probably does not even want people to vote for this really, because he wants the whole thing put to bed, thrown out, in what is a wrecking motion. If we are going to go ahead with this and then we are going to scupper all the work that P.P.C. have done, then we have got to support mine and you have got to support Senator Breckon's. You cannot have this: "Oh, no, we are far more important." I am sorry, Senators, only 5 out of 12 are even Ministers. There is nothing in the history books. I do not know which one Senator Cohen reads. There is nothing that says that there needed to be 12. There never was. Perhaps some of those people sitting over there would like us to go back to the Jurats, elected for life by the King's Men. Great. Democracy. Wonderful. You know, Senators are a modern invention, I am afraid. I think the first Deputy was elected about 1857, slightly before 1948, you know. We had a complete shambles yesterday. This is another complete debacle or debunkle, whatever the term was **[Laughter]**; whatever a "debunkle" is. I do not like playing politics but I tell you what, when I bring mine, I am playing politics because I am highlighting the issues, and sometimes a proposition and an amendment needs to be brought because it flags-up those issues. Democracy for some in this House only matters when it affects them. Just like some people say: "Yes, we want the number of reduction in Deputies but we do not want to reduce our own, we just want to reduce the poor people's Deputies. We want to take away representation of the people who need it most."

The Deputy Bailiff:

Can you keep to the specific ...

Deputy T.M. Pitman:

Indeed. It is quite hard, Sir, because this is a complete and utter shambles and I would say I support Senator Breckon but I am not going to vote for him because I do not think he wants me to vote for him. I am not going to vote for myself either **[Laughter]** and now I am going to change my name to somebody else, who I will not mention, and I will sit down at that and save my nicest comments for Senator Cohen. Thank you, Sir.

The Deputy Bailiff:

What I was going to say from the Chair, Deputy, is that between now and the time when your amendment comes to be considered by the Assembly, you might wish to give consideration as to whether the time of the Assembly is properly taken up with a proposition for which you apparently do not want. [Approbation]. I call on Deputy Southern.

2.2.10 Deputy G.P. Southern:

I will not be supporting this amendment to the amendment. For the first time in my life I will not be voting for an amendment which questions the existence of the Constables, *ex officio*, in this House. I will not be voting for it because it is attached to the original amendment, which talks about the Senators. I remind Members that what the Clothier Report said, essentially, was that these Senators do not do anything original or different to Deputies and saw no place for Senators in this House. Clothier, similarly ... the Clothier Report said that the Constables should not be allowed to sit in this House *ex officio*. The net result of those 2 was that in order to have a properly functioning democracy this House should have one single type of Member. Finally, after a decade - more than a decade - we have finally got around to doing something, whether we like it or not and whether we have to, in the Deputy of St. Martin's expression: "Whether we have to hold our nose while we do it or not", we have started to do something about those fundamental reforms. That fundamental reform concerns reducing the number of Senators. There can be no doubt that the underlying amendment brought by Senator Cohen; and I do ask him at some stage how many - just to remind us - how many private Back-Bencher motions he has brought before this House in his 5 years? I cannot remember one. This is his first, I think. It may not be. But on this particular issue, to wait 5 years and then to produce this proposition, which is now amended, I believe cannot be interpreted as anything else but a last ditch effort to wreck any progress towards constitutional reform in this House, and that is why I will not be voting for Senator Breckon's amendment, because, essentially, I want to see off Senator Cohen's amendment, which I believe is thoroughly noxious.

2.2.11 The Connétable of St. Mary:

Speaking briefly just to this particular amendment, because P.P.C.'s comments are quite clear on the main proposition, and I will come to those later. But for all the reasons that we cannot support the main referendum, to not being able to support this in any form... but furthermore the main problem is if this amendment were to go through and the people of the Island were asked to make a decision, there would be no way to implement that decision in the foreseeable future, because obviously it would be impossible to do it before the elections this year, and so it would effectively be 3½ years before that decision could be put into practice. I believe that the people of the Island would be rightly concerned that they were being asked to make a decision that could not be effected and implemented. So, I really do believe, quite simply, now is not the time and it is not because I am a Constable, in this case, but it is simply because it is not right to ask the people what they want to do and then say: "Thanks very much, we cannot do it now." I think that is disrespectful in the least. But the other thing is, of course, that questions for referenda ... I think it was Senator Ozouf has already said: "There are certain things which are eminently suitable to a referendum" and in the past my understanding - not what Senator Cohen said in his previous speech - when a referendum is called for, it was because this House was going to decide, somebody was going to decide on a package of reform and then say this is what we think should happen. It is a fundamental change to what we have got now. That package in its entirety needs to be referred to the people of the Island, because asking a series of questions always begs the question to me, what happens if I support that, do not support that, support this? Are they mutually exclusive? What do I get as a result of that package of questions? We need to be clear - remember, we are considering a referendum - that there is one outcome that is clearly obvious to the people who are being asked to participate, that they can see what the referendum will achieve and that they know and understand that by answering the questions in a referendum they will in fact be asking this States Assembly to put a

certain thing into practice. I am afraid that by questions that do not have any reference to one another and because you might like one part of a referendum but the other part, perhaps, is devalued if you do not support the first part, we are not doing the people of this Island justice and we are not really understanding what a powerful tool a referendum is and how it must be used widely. I will not be supporting ... well, obviously I will not be supporting the main proposition but this particular aspect does not get my support either.

2.2.12 Deputy M. Tadier of St. Brelade:

I was thinking to myself: “What other tools do we have at our disposal if not a referendum?” Why not have a petition? I am sure Senator Cohen, being the great champion of democracy, would be very eager to get out on the streets, pound the pavements of King Street and Queen Street and knock on some doors of council estates or the equivalent in Jersey, because he is such a man of the people and he prizes democracy so much that he could get a petition, and easily get maybe 9,000 or 10,000 people to sign that petition to protect the Senators. And of course you would bring that to the States, and because the people of Jersey had signed it, we would obviously listen to them and maybe if we had 19,000 signatures we would definitely listen to them, when it suits us. So, let us not get hung up on a referendum. We obviously do not like them. We had this proposition brought to us, as was pointed out by the Deputy of St. Martin, on 5th November 2009, and it was a long time ago, so let us just jog one’s memories as to how Members have voted. So, we had, I think, there were 4 ... sorry, 3 Senators, Senator Shenton, Senator Perchard and Senator Breckon who did want to go to the public to ask simply their opinion of a “yes or no” about whether Constables should automatically have a seat in the States by virtue of their office. The question, incidentally, has not changed. Senator Breckon has used exactly the same question that I used. He has lifted it. I am glad he did that. He spoke to me about it and if he had not done it I would have brought it back, so I think there is an argument of consistency there. Interestingly, there were all sorts of arguments coming out, when I presented my proposition, that the question was flawed. Now, clearly it is not flawed, and I remember at that time the Constable of St. Helier stood up and said exactly that. It is a very simple and straightforward question. I will save my fire, perhaps, for the substantive proposition, as to look at that question and to look at what the flaws are in that particular question. I think it has to be said ... we have forgotten the Constables and Deputies now. Clearly there were no Constables that voted to ask the people what they thought about the issue, because we have had a MORI poll which had 54 per cent of residents who thought the Constables should remain in, of which 30 per cent strongly agreed with that, which is a lot less than for Senators. So, my argument is there is a very strong argument to have a referendum on Constables because there is a lot of uncertainty. We know that 30 per cent feel strongly to keep them. We know that 21 per cent feel strongly that they should not be in there and then you have a certain amount either side. So, there is a great deal of uncertainty as to what the public think about Constables and how they would vote in a referendum. That would be more useful, I think, than Senators, because we already know that the Island generally likes the position of Senators, and quite rightly. It is a very tangible position, you get to vote for the same candidates no matter where you are in the Island, but of course I am not going to debate this now because there is a question about why it should be 12. So, if anything, there is more an argument to go for the Constables’ referendum than the Senators’ referendum, because we already know that people in Jersey like the Senators, by and large. That said, we have already debated it, so I am afraid we cannot and we should not reopen this debate. The word “wrecking” has been used. I do not think it is wrecking. Certainly I am going to stick to this amendment and I do not think Senator Breckon is wrecking this in any way, he is simply saying if we are going to ask one question we should also ask this question. To say that they are completely unrelated is a nonsense. You can easily have them side-by-side if you want to, because it is to do with States reform. I would just suggest we should have one in there about the Deputies as well. This is the whole problem, is it not, because I think we are doing it so piecemeal and I would prefer to just abolish the whole of the role, not the whole of the Government, I should hasten to add, although sometimes I am sure we feel like that.

[11:15]

My position has been quite clear; just have one States member and that is where the P.P.C. in the past were coming with the super-constituencies, you get the best of both worlds. We know that the Island loves Senators, but for the obvious reason that it is easy to understand. Very difficult to manage though an Island-wide election just of Senators and, of course, that is why in other jurisdictions you have party politics because it is easy to show the will of the people, not simply by electing individuals, but by electing policy and choosing policy direction. So, I have to say I will not be voting for ... I will hold my fire on Senator Breckon's because I have to think about that, but certainly I will not be voting for the substantive proposition. As far as I can see we should either vote exactly the same as we did on the last one, which was I think 17 votes in favour, one abstention and several defaults but that will be different, of course. So, simply either vote the same as you did last time or reject this because a democratic decision has been made. There is no reason to adopt this and I think, also, we just need to get on with States reform. By all means have an Electoral Commission but it should not just be limited to the Deputies, as Senator Ozouf has said. It should be about the whole of the boundaries, about proportionality for Constables and for Deputies and about the manageability of electing Senators alongside the other positions, if we are going to be having an Island-wide mandate. Let us do this once and for all. I think kick all of these amendments and propositions into touch for now. The new States should decide on the direction of reform in years to come.

2.2.13 Deputy A.E. Jeune:

Just very briefly, I am a very strong supporter of referendum but I also believe that it needs to be done in a well constructed way and in a way that whatever the outcome, the outcome will be implemented. I take on board all the comments of P.P.C. in relation to this proposition and particularly to the words that the chair of P.P.C. has just said, and as a result of that I will not be voting for any of this.

2.2.14 Deputy P.V.F. Le Claire:

Sir, I am sorry. I would just like to seek a point of clarification, perhaps from yourself, Sir, or the Attorney General. I am just trying to refresh my memory, and I am afraid I cannot recall. I know having been involved in helping to shift the law of referendum in the States of Jersey that we amended the Referendum Law, and I am wondering, although I see the main proposition does set out the wording for the referendum, it also says that if it is amended that we request the Chief Minister to take the necessary steps and I am just wondering if Her Majesty's Attorney General could point out whether or not there is then a requirement for the Chief Minister to bring back a proposition that in itself could not then be amended?

The Attorney General:

The position is covered by the Referendum Law of 2002. The way I have viewed these various propositions is that they are the first stage in the move towards a referendum. If the States passes it then the States will also need to subsequently approve an Act, which sets out the precise terms of the referendum and the form of the ballot paper and so, yes, there is a further stage to go through in the event that the States were to adopt the idea that it wished to have a referendum.

The Deputy Bailiff:

And the date?

The Attorney General:

The form of the ballot paper; the date would need to be specified. There are a number of formalities; I have not articulated them all but there would need to be a further Act.

Deputy P.V.F. Le Claire:

If I may just very briefly just comment, my concern is that ... I am going to reserve speaking on matters until the main proposition but just to make it clear to Members that the States of Jersey Referendum Law, as pointed out by Her Majesty's Attorney General, requires there to be an Act to be brought forward. So, if the main proposition is brought forward it is then possible for Members to amend it in any way they see fit, date, title, time and at that stage we will be back where we are the moment.

The Deputy Bailiff:

Does any other Member wish to speak? Then I call on Senator Breckon to reply.

2.2.15 Senator A. Breckon:

I would like to thank all Members for their contribution, especially those that spoke to the amendment. A number of questions were raised about the question and, as Deputy Tadier pointed out, it was lifted from a previous thing, and Senator Perchard asked that and also Senator Cohen, but I would say it is better than some of the questions that appear in Green Papers. It does do what it says on the tin and it is broad enough to say: "Do you think the 12 Parish Connétables should have an automatic seat in the States Assembly by virtue of their office?" So it is fairly clear and I have had some experience in the issue, and it is a difficult area but the advice I took from previous cases was that that was a fair question in the circumstances. The other thing, we have had a referendum before. Senator Perchard will remember about changing the clocks, which was tagged-on to an election, I think it was probably in 2008. So, we do have an experience of referenda. It is probably not a subject that everybody would have gone to the public with, but we did. The other thing is, of course, with any referendum the result is not binding. So, what it is, it is a test of public opinion and although I did vote the way I did in the previous, the thing is, again Deputy Tadier said: "I am putting this forward without expressing a view or an opinion." It is for the public to decide. It could be a vote of confidence or otherwise in whatever is adopted if we do have a referendum. There has been some emotional ... I was rather confused about the Chairman of P.P.C. - the Constable of St. Mary - because she said people ... she had some concern if you have different questions on a referendum. Another Member ... somebody else touched on the fact, well, we should have separate ones, you know; would you like the thing black or white or green or blue, whatever. I would not say that. I would say: "Would you like it a different colour?" perhaps, and then we would go into it. So that was the thing, and I say I am putting it forward without expressing my own opinion. It is for the public to decide and, to be clear on that, I am doing so because of what Senator Cohen has proposed. I would not have proposed it on its own but as he has done this, I thought "Well, as an exercise, it could be included", as indeed anything else could which is relevant; Connétables, Senators or Deputies, and that is where it is. I do not think I have missed anything that anybody raised. I maintain the amendment and I ask for the appel.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on Senator Breckon's amendment P.198 and I ask the Greffier to open the voting.

Connétable M.K. Jackson of St. Brelade:

Sir, on a point of order, may I ask if, in view of the clear conflict, ought the Connétables to vote on this?

The Deputy Bailiff:

The Connétables are certainly able to vote as they see fit.

The Deputy of St. Martin:

If the Constables are undecided I would like to remind them that ...

The Deputy Bailiff:

You are not entitled to make a speech at this stage.

POUR: 10		CONTRE: 37		ABSTAIN: 0
Senator J.L. Perchard		Senator T.A. Le Sueur		
Senator A. Breckon		Senator P.F.C. Ozouf		
Senator F. du H. Le Gresley		Senator T.J. Le Main		
Connétable of St. Helier		Senator F.E. Cohen		
Deputy P.V.F. Le Claire (H)		Senator S.C. Ferguson		
Deputy S. Pitman (H)		Senator A.J.H. Maclean		
Deputy of St. John		Senator B.I. Le Marquand		
Deputy M. Tadier (B)		Connétable of St. Ouen		
Deputy M.R. Higgins (H)		Connétable of Trinity		
Deputy J.M. Maçon (S)		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. John		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy of St. Martin		
		Deputy R.G. Le Hérisssier (S)		
		Deputy J.B. Fox (H)		
		Deputy J.A. Martin (H)		
		Deputy G.P. Southern (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy A.E. Jeune (B)		
		Deputy T.M. Pitman (H)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy A.K.F. Green (H)		
		Deputy D.J. De Sousa (H)		

2.3 Composition of the States: reduction in number of Senators – referendum (P.198/2010) – second amendment (P.198/2010 Amd.(2))

The Deputy Bailiff:

We next come to the amendments of Deputy Trevor Pitman and I ask the Greffier to read the amendments.

The Greffier of the States:

Page 2, paragraph (a), after the words “overall number of Senators” insert the words “or Deputies”. Page 2, paragraph (b), for the word “question” substitute the word “questions”. Insert a new question as follows: “(2) Do you wish the number of Deputies representing your Parish to be reduced? Yes/No.”

2.3.1 Deputy T.M. Pitman:

I will be brief. **[Interruption]** I may well withdraw but do not pre-empt me and with the House's consent.

The Deputy Bailiff:

May I say, before you start, Deputy, that the working assumption in this Assembly is that when a Member asks the Assembly to agree that a step is taken, whatever it is - whether it is to adopt a law, or agree a policy or have a referendum - the Member in fact wants the Assembly to take that step.

Deputy T.M. Pitman:

Absolutely, Sir.

The Deputy Bailiff:

I am sure therefore that you will be addressing the Assembly in that light.

Deputy T.M. Pitman:

Indeed; and of course since I put this forward we have had an excellent proposal from Deputy Shona Pitman, which is probably the one that we should follow. So, as I am probably going to be quite happy to withdraw, that will be one of the reasons, but the real reason is because after much hilarity the P.P.C. chairman has made it quite clear that if any of these go through we will be wrecking the reforms. **[Interruption]** No, I am sorry; sorry, Deputy of St. Mary, you have had your speech, on this occasion. My reasons for rescinding ... it is a shame when you make it quite clear to the media, as I did so, that like Senator Breckon I am trying to make a silk purse out of a pig's ear or a sow's ear, as we will be doing later with Deputy Noel's. I have been quite honest in this. I spoke to the Greffier's office about it and when you look at what is going on and you look at speeches like today's from Senator Ozouf, who wants just the Deputies looked at ... oh yes, do you know why the question has to be put that way? Because 2 people want their Deputies to be reduced; not just someone living over there and wants someone over there's to be reduced, because this is what this is all about, and I am afraid Senator Cohen's as well. It is about hanging on to power. People deserve fair representation and that is why, if we are going to have this mess, which, and with the purest respect, is what Senator Cohen's will leave us with, then it would have to be a whole package. That is why I brought it, in good faith, and because these issues had to be flagged up. You cannot just say: "Senators are important but we must not touch the Constables, we must not touch the Deputies at the moment." It is ludicrous. I brought this because we cannot have this selective cherishing of democracy all the time. 1857 the first Deputy appointed. Not a Johnny-come-lately like the Senators. There is some sense in the way the Deputies have gradually evolved to have what should be some fair representation across the Island. Of course, if it is not balanced fairly the country Parishes do have an unfair advantage. St. Helier has, I am afraid, a third - roughly - of the Island's population. Do the people all want Senator Ozouf's politics, Deputy Noel's politics? Well, I am sorry, but if you look at the last Senators' elections - when I stood as a complete unknown apart from the work I had done for the Island's young people - I beat Senator Ozouf. I beat Senator Maclean, I beat Senator Ferguson. More people in St. Helier would rather I was sitting over there. It is a fact. A lot more people would rather Deputy Southern was sitting there and a lot more people than those 3 I mentioned wanted Senator Breckon now to be sitting there, and he is, and I am very pleased about that. This use of democracy to get to where you want to be ... it is irrelevant, I know Senator Le Marquand, but I mean, good luck to him, no problem with that. I do not class him as a rabid right-winger; that is the only reason I mentioned the other 3. In fact I think the public ... he did come top because nobody knew what he stood for. **[Interruption]** It is the best way in politics, be all things to all men, I suppose. This erosion of some people's democracy; that is why this had to be tagged-on. We are hearing propositions brought forward where: "Please vote for this because now other people are saying we will have 7 people to represent them." A big increase. Well, no, there are 10 of us already, so, you know, it is a bit worrying when accountants cannot even count. But there we go. We will get to that later on.

This wording had to be put this way because it flags-up what cannot be allowed to go on, vested interest groups trying to erode other people's representation. That is what this main proposition is about. That is what we are hearing with these later bonkers propositions, if I can say that. Certainly confused.

The Deputy Bailiff:

Perhaps I could ask you to withdraw the word "bonkers".

Deputy T.M. Pitman:

"Bonkers" or "confused"?

The Deputy Bailiff:

"Bonkers".

Deputy T.M. Pitman:

Okay.

The Deputy Bailiff:

"Confused" is okay.

Deputy T.M. Pitman:

"Debunkle" Are we having a democracy that is for everyone or are we just having a democracy for some people?

[11:30]

Perhaps we should go back to the days when only the King's Men could vote. Perhaps we should go back to the day when the Island's 12 men are elected for life. I think not. I am happy to offer to withdraw this for 2 reasons, as I say. I asked the question which leads me to this point yesterday, and it was a shambolic day yesterday, but it seems to me the P.P.C. chairman is quite clear, if any of these go through everything is scuppered and I do not want to be part of a wrecking motion. We decided this decision on the Senators just 4 months ago and it would be interesting if we get there to see who has been leaned on in that time because I think it was 31 votes to 17, so I know there are a lot of the public watching that. There has been no great outcry about the Senators. I think there have been 3 letters in the *J.E.P.* Nobody has phoned me about it; 17 people have said to me it is a good decision because there is no point being a Senator any more. You do not get a top job. That is the reason I stood for Senator; I thought you had to do that to have an Island-wide mandate, which I am fine with to have a top job.

The Deputy Bailiff:

Deputy, could I please ask you to limit your speech to your amendment.

Deputy T.M. Pitman:

Yes, Sir. But if we are going to have any of these proposals then they have to be a complete package. What I have put forward has now been surpassed by Deputy Shona Pitman's really thorough ... well, it is thorough compared to this mess. She is asking asking questions ... was on about: "Please can we overturn this because I am not confident I will come in the top 6." She is asking people about a package and someone surely should have done that in the last 10 years. I am happy to withdraw this for those 2 reasons. P.P.C. have made it quite clear that all the reforms will be set back at least 3 years and also because there has been a better proposition now brought forward, so I am more than happy to withdraw. I have to say that I have not wasted any time because these issues have to be flagged-up because democracy is being eroded by a few people with vested interests in this House who only want democracy, only want to ask the people, when it suits them.

The Deputy Bailiff:

Are you asking the Assembly to ...

Deputy T.M. Pitman:

Absolutely, Sir, but I am happy to speak for another hour if they do not want me to.

The Deputy Bailiff:

So, Deputy, the question I think is whether or not you are formally moving the proposition or the amendment, or are you simply withdrawing it?

Deputy T.M. Pitman:

I wish the proposer of the main substantive proposition would do so, but I am happy to move to withdraw it.

The Deputy Bailiff:

The difference is that if you are moving it and then seek leave to withdraw it you need the States to agree. If you are simply withdrawing it then you ...

Deputy T.M. Pitman:

I thought because I had started I had to ask the House's permission, so I will take your advice on it.

The Deputy Bailiff:

It is not Mastermind. You are able to withdraw it at this stage.

Deputy T.M. Pitman:

Okay, I will withdraw it. Thank you for the insult, Sir. It is always good to ...

The Deputy Bailiff:

There was no insult, I was merely contemplating; I had started so I finished.

Deputy M. Tadier:

Can I ask the Deputy if he would put it to a vote? I think certain Members would like you to continue.

The Deputy Bailiff:

Deputy Tadier, it is entirely a matter for Deputy Trevor Pitman. As I understand it, he has indicated he wishes to withdraw it. Is that correct, Deputy?

Deputy T.M. Pitman:

Absolutely.

The Deputy Bailiff:

Very well. It is withdrawn. So, we now return to the proposition of Senator Cohen. Does any Member wish to speak?

2.4 Composition of the States: reduction in the number of Senators - referendum (P.198/2010) - resumption

2.4.1 Deputy C.F. Labey of Grouville:

I am in a quandary with this proposition and I really sincerely wish Senator Cohen had not brought it. I wish he had just brought a proposition to ask for 4 Senators to be reinstated, or our reforms not to have to happen and then we could vote on it again. I voted to retain 12 Senators in this

Assembly because I think the Senatorial position is the most democratic of us all. It has an Island-wide mandate and I would probably go yet further than that now we have completely messed up our electoral system and making everyone a 4-year term, now there is absolutely no incentive for a Deputy to go for Senator. I would go even further; I would say that the Senatorial position is absolutely essential. We have to look at things from an Island-wide perspective. We need that body in here to look at things from that perspective, but I would go further and say that it should only be Senators who can occupy a Ministerial position because of their mandate. I am afraid what we have in this Assembly, and as I say we have been messing with our constitution in such a piecemeal fashion we have a complete melange, a complete mess. Nobody knows their roles anymore, nobody knows what is expected really. I would like to see us take a lesson out of history books. Senator Cohen expressed the Senatorial position very eloquently from our history books. I would like to remind Deputies they, as most do, I feel, have a lot to do with their constituents; a lot of their workload is constituency-based, or should be, and I would say for my own role I like to compartmentalise what I do; a third, a third, a third: a third constituency work, a third either on Scrutiny or as an Assistant Minister or whatever, and a third with the work of this Assembly. Deputies are political creatures; they vote according to their conscience and they should stand by what they believe in and get voted in or out on the back of that. Connétables have a different role but this has all been lost and this is why I think there is such a disconnect now between the people and this Assembly. I would like to see the Parish Assemblies reinvigorated. I mean, most Parish Assemblies that I attend last perhaps 20 minutes and we are there for the absolute basics, the absolute essential work. I would like to see Parish Assemblies reinvigorated, the Constables going to their parishioners to gauge their opinions on big issues: should we tax food? Should Constables remain in the States? Should States Members be paid? All sorts of different issues that would involve young people. I see the Chair looking at me and frowning and smirking ...

The Deputy Bailiff:

I am hoping you are going to come back to the proposition.

The Deputy of Grouville:

I am talking about the proposition, Sir. The role of the Senator, the role of everyone in here is what I am talking about. I would like to see more young people engaged in the Parish Assemblies and that way if there are contentious issues that would be a way of doing it and so we have grass roots politics working in the Parishes and I do not know if Connétables are aware of this, but then there should be a vote on these large issues, these big issues, and they ought to take that vote and vote accordingly, according to their Parish Assembly. This is how this Assembly was set up to operate. So, there would be a direct route straight from the parishioners, straight into this Assembly, which is why I say there is this disconnect and why I saw a few Deputies looking at me when I said: "Deputies are political" because we have a different mandate in which to serve. The Senators have obviously an Island-wide important role and, as I said before, I think it is one that warrants the role of Minister because otherwise there is no difference; we might just as well all be called States Members, or whatever Clothier suggested, and be done with it because that is the sort of system that we have here and I think that is an awful shame. Where I struggle with this proposition is going to the people to say yes or no to a reduction of Senators. As the Constable of St. Mary said, what is the outcome? What would people be looking at in these economic times? Would they be looking at reducing the wage bill of this Assembly? You will get all sorts of different votes for very, very different reasons and that is why I voted against Senator Breckon, and I plan to be consistent. I cannot vote for this as it is, as much as I agree with what Senator Cohen is trying to do here, but I would like to see, as I said to him yesterday, a proposition brought back to this Assembly to ask the Assembly to vote on 12 Constables to remain here. I think that is all I have to say on the matter.

2.4.2 Senator A. Breckon:

I would just like to ask a question of the proposer. Senator Cohen said, in proposing this, that with regard to a referendum something along the lines very closely, and he probably has it written down so he can check it if he wants, things would only be changed if they were supported by the majority of the electorate. I would ask him if he would explain exactly what he means by that. Is that those registered to vote, which would be 50,000 odd, or those who actually do vote, which would be a lot less. What, in his opinion, is the majority of the electorate? Flowing from that, what would he use as a benchmark to say: "Well, yes, we would act on that" because it is not mandatory on the House to act on it so if it was 55/45, is that enough? Does it need to be 60/40, does he have something in mind that if there was a referendum and there was an outcome then it is a result, bearing in mind the people that were registered to vote, people who do vote, and we get a result from that because if you look at the ... I think the last one proposed by Senator Perchard from memory there was about 17,000 people who voted, I think; not everybody did, who had the opportunity, who even voted in the elections, and of those I think it was something like 10 or 12 to one against changing the ... something like that, I cannot remember. It might have been even more than that. But I wonder if the Senator could give us some idea of what he has in mind that would be an indicator for this House that it would need to act on that, bearing in mind it is going to take a long time to do it.

2.4.3 Deputy P.V.F. Le Claire:

I do not mean to be rude to Senator Cohen, and I certainly shall try not to be, but I do wonder sometimes how much influence Senator Ozouf has upon other Members when they bring propositions and I remember when I received the Clothier Report and I was halfway through reading it, walking along the Esplanade, I got a phone call from Senator Ozouf who was a Deputy at the time saying: "How wonderful, what do you think of it?" I said: "Well, it is rather revolutionary I thought." At the time I thought it was quite a significant report and Senator Ozouf said: "I think it is great. I think it is great. We should adopt it in its entirety, get rid of Senators" and consequently he then, which everybody is entitled to do, reflected on the matter, stood for Senator, got elected and changed his mind. Changed his mind before; I tried to say that, I did not mean to infer that he only changed his mind because he got elected. But what this is about is about something that Senator Cohen has made great play of, which is allowing people to have an effective say on issues that concern them through this Assembly, effectively effective representation and that is what much of this has been about for many years. Senator Ozouf and I, and now Deputy Tadier, have consistently called for an Electoral Commission and I would put it to Members that if Senator Ozouf wanted an Electoral Commission he would have one if he brought a proposition, or even if he gave it somebody else to bring, he would likely succeed.

[11:45]

But why has it not been done? If he went to P.P.C. and urged them to introduce one. What is certainly the case is that effective representation... and I thought it was an interesting, historical perspective that the Deputy of Grouville gave us on this matter, the way that our Assembly was set up with the communications systems that existed when it was set up have radically changed and now it is possible to text somebody your view across the Chamber, or have it texted to you by a friend, and have real time influence on your BlackBerry, if you are lucky enough to have been given one. People say they cherish democracy, and I took that and wrote it down, I think after Senator Ozouf had made that speech. I remember being elected on a popular mandate of work permits as a Senator. I came fourth. I came fourth and I sat in that chair and was given nothing but these 2 thumbs to rotate for 6 years. Now, was that effective representation for the people who sent me into the Assembly? Were they happy about that? They certainly were not happy about that. They had put me in as a Senator, as they have done with Senator Perchard, as they have done with Senator Shenton, and as they have done with Senator Breckon, and they are sitting in their houses now wondering why their votes and their efforts have not translated into effective representation within this Assembly because we have at the moment, I am sorry to say, a system that allows people to make up a political consensus shaped from varying offices that are sometimes agreed

prior to the elections occurring, in my view, positions handed out: “You get in there, you get in there, you stand there, there will not even be an election, and you can run this and you can stand there again, there will not even be an election, and you can get that and when you are in we will help you and you can be with us” and when it comes time to divvying-up the jobs in the Assembly all of those naïve people, like I was, that thought they could come in and get a taste of democracy will be left amazed and aghast about the fact that it has all been sliced-up and handed out prior to any votes having taken place on the very first day. If Senator Cohen believes in the principle of asking the people what they want then let us go to them with a referendum on lifeguards, or the Odeon, or school milk, or tuition fees. No, the people were not given an opportunity for a referendum on the very most important issue that affected them in this recent period of our history. Ministerial government and the significant shift of power, the significant introduction of secrecy, the significant introduction of ostracising and putting out other Members away from information, away from influence, away from decision-making, and the collection upon themselves, a hidden political party of power. No referendum then. No referendum to the people if they wanted a Ministerial government with a Chief Minister that could not be elected. For Senator Cohen to bring forward a proposal for a referendum I cannot be impolite, I am sure that this is what he believes in and he is convinced that he is doing the right thing and I am convinced that he believes in this. But I have also come to the realisation after many years that it is not about Senators, it is not about Constables and it is not about Deputies, it is about effective representation and I am sorry to say the people of St. Helier and the people of St. Saviour and the people of St. Clement have been getting the bad end of the stick for a very long period of time. It is significantly outweighed at the moment in representation in the outlying Parishes and we see in those Parishes people holding significant offices that, due to no fault of their own, face no elections. The public have made their views clear. They wanted a single-day election. They wanted elections to be clear, to be understood, that would not pass them by without them realising. We have moved forward to that single election day, a significant leap forwards in terms of what we do in this Island by any standard of the States. I believe that is a significant step. We have come to the conclusion that the public, and it is like: “Do you want more money? Do you want less politicians?” Of course the public want less politicians. Unfortunately, because that is paraded to them in a way that they think is going to achieve better democracy, they think that they are going to get better decisions. They think they are going to get better representation. They think they are going to get better value for money. What they will do is they will get less accountability and less check and balance. They will pay a little bit less but they do not have to worry about pensions. Indian-giving mentioned by Deputy Pitman this morning has come from North America, when an Indian would give you something it was basically on loan while they did not need it and then when they did need it they would come back and take it off you and they coined the term: “You are an Indian-giver.” You give us something and then you come back and take it off us and Indian-giving is occurring today. We are going to give them the right, if we support this, to have their say in a referendum and then we can ignore it because a referendum is not binding on the Assembly in the first place and as quite rightly pointed out by Senator Breckon, how can we take the view of maybe 16,000 or 17,000 people as what the position really is when we ignore 19,500 on what we know is best for them? I am sorry, I really believe the majority of these proposals that have come forward and the amendments that are coming forward today are about political tinkering with our Assembly’s constitution and composition to cement in place a hidden political authority, and I think we need to be honest about that because the hidden political authority certainly is not the covert political party. I certainly will not be supporting a referendum because I think it is just a part of this cocktail of wreckage that is coming forward, but I would say this, if it is supported, and if it goes through, I guarantee Members one thing, when the Act is brought before this Assembly I will be significantly altering it and I will be campaigning significantly to ensure that what the people wanted, which was politicians that represented them, that were held accountable to them, that were elected in the first place by them, are put in place because at the moment this is all nonsense and, I am sorry, some people have been rude to Senator

Cohen, perhaps I have been, it was not intentional but these heated debates and never-ending debates are brought about because some people just cannot be honest about their politics.

2.4.4 Connétable A.S. Crowcroft of St. Helier:

I wanted to first of all commend the Deputy of Grouville for a very interesting speech. I am sure she tested your patience in that she perhaps strayed a little bit from the issue before us but it was very useful certainly to me in what she was saying about the potential for Parish Assemblies to be used much more fully than they are to gauge the views of parishioners. One can even imagine - and it has been suggested I think by Deputy Le Claire - that one had question time in the Parish Assembly, written and oral questions. Who knows, I can feel my colleagues in the Constables' benches shivering with fear at the idea, but maybe it has something to commend it. However, we are debating whether to pursue our decision, reached after much soul-searching and questioning, to have an evolution of the States rather than a revolution and many Members have indicated that they would have preferred a revolution which dealt with simple matters like unequal representation, which clearly cannot last, and one of these days we are going to have to grapple with the fact that there are some members of the public who are better represented in this Assembly than others and that is not fair, and it is a fundamental point that of course Clothier has found a way of dealing with, but we are where we are. We have an opportunity to make a small change which will reduce the size of government, give us fewer States Members, which will save some money, and that seems to me a prize that we need to continue to value albeit that we know, and hopefully in the next government there will be another attempt to achieve that big bang change to our government, that will give every member of the public the same degree of representation here. Of course, that will have knock-on effects to the roles that we all cherish and the tradition that we cherish but we cannot have it both ways. We cannot have the good old-fashioned way of doing things and have people represented fairly. So, I look forward to that debate. I look forward to trying once more to get ... subject to the views of the electorate in October of course, I look forward to being part of that but I think for now we need to get that smaller government, we need to make that saving in government. I do not believe that the situation will be irrevocable if we have 8 Senators because I think that further down the track we will be looking at Island-wide representation of probably far more than 8 but let us take this step that we have already made; let us see it through and I think for that reason I will not be supporting Senator Cohen's proposition.

2.4.5 Deputy G.P. Southern:

I will try and be brief because I have already addressed this issue once already. As the Constable of St. Helier has just said, we are where we are and we are being encouraged by the proposer, by Senator Cohen, to cherish democracy and I say Senator Cohen cherishes democracy himself when it suits him. We are in a representative democracy and in order to achieve change or preserve the *status quo* we have to convince Members of the States to either move or stay where we are. Having failed to do so in a previous debate and having this House decided that it would move on Senators to reduce them, the Senator wishes to cherish democracy by going to his backstop which is: "Let us have a referendum" and he says that many people have spoken to him that this is what they want. This is what the people want despite what their Assembly says; they want to preserve the number of Senators. Well, I put a different interpretation on what the people want. The people want a genuine general election. The people who speak to me want to be able to kick a government out. They want to be able to change the Government and what they say to me is: "What is the point of trying to change the Government? Because always we see some of the Senators carry on. We do not get a genuine general election. We can kick out the majority of the House but this element goes on." Worst of all, from among those Senators who continue and do not get voted out as part of the Government, the rule has been so far that one of them becomes Chief Minister for the ensuing 3 years, and that really incenses people. So, not only can they not change the Government *en masse* as a whole and say change direction, but they get someone they have not been able to vote for at the most recent election imposed on them as the Chief Minister, without a say in what those policies

that that Chief Minister will bring and produce on the Island. That is no democracy, they say to me, and they are deeply dissatisfied. So, here we are with what has been described as a wrecking motion, a last gasp defence of an old, and I believe, out-dated system, that the people do not want. So, yes, we are making moves, whether we like it or not, on Senators. This House has decided to make the move. There is no point in delaying and deferring that move by opting for this particular option of going for a referendum; it serves merely to stop any reform going forward. I will be voting against this particular amendment and I urge every Member of the States to vote against it too.

2.4.6 Senator T.A. Le Sueur:

Just picking up on the last comment of the previous speaker; if the Senatorial system is a system that the people do not want then maybe it is sensible to have a referendum to validate whether that is in fact the case or not.

[12:00]

Speaking for myself, I have been consistent in my support of the Island-wide mandate and I remain consistent in that support and I have never wanted to see it diluted, and I opposed the reduction at the time to 8 Senators, a decision democratically arrived at, I accept, but I would be failing in 2 ways if I did not continue that support and continue by supporting Senator Cohen today in his call for a referendum. I have to be consistent because in this case my conscience would be troubled if I thought I just allowed the office of Senator to diminish in any way; but also because it is one of the few issues in which I have seen such a strong public reaction after that change telling me that the States made the wrong decision. Now that is a view which I have heard, and I accept it may not be representative of the whole community. How do we find out what is representative of the view of the whole community or the majority of the community? That is an issue which troubled the Policy and Resources Committee of the day, getting on for 10 years ago now, when the Clothier proposals were first discussed by that committee prior to the implementation of certain of them after considerable debate in this Chamber. In those days, the ability to hold a referendum did not exist, and I think there is probably only a handful of members of that Policy and Resources Committee still in the Chamber today. Senator Ozouf certainly was and I certainly was and we were, as Deputy Le Claire says, rightly anxious to see if Clothier could be implemented in full, but we also wanted to gauge - if we could - the public opinion on that. So, at the invitation of the Parish Constables, the members of the Policy and Resources Committee did a road show touring all 12 Parish Halls. Now clearly the Clothier report was a rather large topic to discuss and there was only a couple of hours in which to discuss it, but I can recall the feedback - the almost unanimous feedback - from every one of those Parish Assemblies in favour of retaining the Island-wide mandate and not going down the route that Clothier proposed. So, when it came to proposing that Clothier be implemented, the Policy and Resources Committee reflected on what they had heard in those Parish Assemblies, and decided not to pursue the change but to retain the *status quo* in respect of Senators, in respect of Deputies and in respect of Constables. Now, a lot has been said today and on other occasions in this Chamber about the reputation of the States, and I get those comments from the public as well as, I am sure, other Members do. I think some of the comments made when talking about an earlier amendment to this proposition do no credit to the reputation of the States and I think some of the antics that we get up to reflect no credit on the reputation of the States. I think if we are going to try to enhance the reputation of the States at this time, we will not do it by ignoring the views of the public, whatever they may be, in terms of the composition of the States. I believe that at the current time we have ended up and now realised that we have not ended up where we wanted to have been. It is a question which I accept there will be differing views on, and the referendum proposed by Senator Cohen will not be binding in its outcome. It will depend, I think, to a large extent on the turnout if we have a referendum, and the voting pattern, but I am sure that if there is - as I believe there would be - a significant number of Islanders anxious to retain the Island-wide mandate, then I believe it is something that we would do ill to ignore. I think if we

ignore the opportunity to hold a referendum we will not be achieving the outcome which might improve the reputation of this House; and I think if we do not hold this referendum we risk perpetuating a decision which many of us in our hearts do not really want. Yes, we would like to approve some sort of change. Yes, we would like to move forward. But doing that without a clear way ahead to me is a dangerous way to go, not the way we should be going; and therefore I propose personally to support the proposals of Senator Cohen.

2.4.7 The Deputy of St. Mary:

I just want to remind Members, especially Deputy Le Hérisier who looks as if he has almost left the land of the living, that the sun is shining outside and it is possible to feel positive. Yes, I want to make 2 main points really. One is about the - I would say - nasty tone of some of this debate, and I want to address that, and the wider issue why the referendum is necessary and a good thing and a possible way to go in this matter. The second main point is about the timing and this issue of whether it does in fact kill P.176 and/or possibility of some of the reform that Members have voted for, like the single day election. We have heard words like selective democracy that the proposer is choosing which bit of democracy he likes and which he does not. We have heard him accused of wrecking; we have heard vested interests, hanging on to power. These are pretty serious. If they are throwaway remarks, then they are not worthy of being throwaway remarks, and if they are seriously meant then they are serious allegations. In effect, the chief political correspondent of our local paper made a similar comment - I think it was in yesterday's paper or the day before's - when he pointed out that for all the amendments today and all the propositions, if you assumed that we were all motivated only by self-interest, you could predict that every single one would have been brought the way that it had been. So a country Deputy proposes that country Deputies should have better representation, that country residents should have better representation; town Deputies *vice versa*. Senators propose that there should be more Senators, and so on and so on; and in fact he was right. You could read it that way, funnily enough. But I do not know. I think we must proceed on a better basis than that, and certainly the Senator in his opening comments made a perfectly good principled case for what he was proposing. The root of the problem goes back to P.72 - good old P.72 - and the Senator did refer to this in his opening speech. But I think it is useful to remind Members of the actual figures on page 12 of P.72 - and remember that the reason why we are still talking about this is that the original reform package ignored the wishes of the electorate in this important matter. By the way, it is strange that people have been casting words like selective democracy and vested interests around, but when somebody comes and says: "Well, let us ask the public whether it should be 12 or 8" it is suddenly too democratic, or somehow the proposer is being selective with democracy. A referendum is too good. The only question really about a referendum is whether this is a proper subject for a referendum. But returning to the Island-wide mandate, on page 12, 1,295 members of the public were asked by MORI in a properly constructed sample survey how they would like to be represented, what the constituencies should be. The question was: "Some Members are elected by the whole Island at present while others are elected on a Parish or district basis. Do you think that all Members should be selected on an Island-wide basis?" All: 46 per cent. Now that is unrealistic. It would be very difficult to arrange the elections and so on. 46 per cent wanted all Members to be elected on an Island-wide mandate: "Some Members should continue to be elected for the whole Island and others on a Parish or district basis?" which is what we have now. 32 per cent. If you add those who wanted all Members to be Island-wide representatives and those who wanted the Island-wide mandate to continue together with Parish or district representation, you get 78 per cent, which was the highest vote for any single feature of all the things that the public were asked about. Then P.P.C. wrote this astonishing sentence immediately below that chart: "The findings of the 2006 MORI poll confirmed earlier anecdotal evidence that some electors in Jersey consider that the current Island-wide mandate is important." It is not "some" it is a vast majority; it over three-quarters, and it was the biggest single desire of the public. What the Senator proposing this proposition is saying is: "We should test that. We should not indeed change things with regard to something as fundamental

as the way we arrive in this Chamber against the expressed wishes of the public without going back to them for a say-so.” In fact clearly the answer would be, in my view, they would stick with that. But that is a matter for the referendum, is it not? But I just want to make that point. P.P.C. in their comments on this proposal talk about how it would be upsetting to the public: “Considers that it would bring the States into disrepute to reopen and revisit decisions already taken by the Assembly.” I am sorry; that is nonsense. What brings the States into disrepute is to totally ignore the clearly stated wishes of the electorate which is what P.72 did. P.72 started from the premise - and it was written into the underlying themes on page 9 - that the Constables have to stay in the States. That was their starting position even though the number of people who specifically said they should stay in the States was 54 per cent. So that was the beginning of the problem, and that is why we are still talking about it. It is unfortunate. But the point I just want to make is that clearly this is a case for finding out whether the public has massively changed its view or whether they ... as many speakers have said anecdotally, people have come to them and said: “That decision was wrong. We are upset; we are very upset.” To test that with a referendum. The referendum itself: now people have talked about that. It could easily specify a high threshold of registered electors, possibly 50 per cent, and that would cover Deputy Tadier’s objection that: “Oh, well, why does Senator Cohen not go out and do a petition?” Well, this in effect would put down the challenge for those who think that it is important that Senators should be in the States, 12 and not 8, to get out there and campaign; and if they could not roust out enough of the electorate to vote in the referendum then it would fail anyway if the threshold was set high enough. We can do that in the Act; we can specify a threshold. We can also specify that it is binding.

Deputy M. Tadier:

Will the Deputy give way? Is that correct, because there is no amendment been brought to ask that this referendum have a requirement for 50 per cent. Is it simply true that we can add that afterwards?

The Deputy Bailiff:

As I recall the Referendum Law, it is a non-binding matter. Attorney, can you assist the Assembly please?

The Attorney General:

The essence of the referendum of course, is that it is not binding. I think the points made by the Deputy of St. Mary probably tell more as to the weight that the Assembly would give it once a result is known. I do not think it would be appropriate to put in an Act that the Assembly will or will not do something depending upon the turn-out on the referendum.

The Deputy of St. Mary:

I take the direction or the advice of the Attorney General on that. There is nothing to stop the proposer bringing another short proposition to say that the States agree that in principle they would (a) require a certain percentage and (b) that it would be binding on us, and that matter could be dealt with in a couple of weeks’ time.

[12:15]

So I do think that we can hedge this referendum around with hurdles to make sure that it was a fitting declaration of what the public wants. Now, this proposition will delay. The Chairman of P.P.C. has said that she would not bring P.176 if this proposition is carried. In my view that is really to throw the toys out of the pram, because her comments say, or the committee’s comments say, that the advice they have been given was that P.176 could not be brought. But in fact it could be brought. I know that people will say: “Oh, well, you cannot go to the Privy Council with an either or.” I am not sure that that is legally so, and why can we not be brave? Why can we not do things the way that we want and the way that the public wants? There is nothing to stop this in my view going in Article 6A of P.176 if people want to look at it, where it says you could elect 4

Senators in 2011 and 2014 and so on. You would put a bracket: “Or 6 if a referendum called under P.198 and the subsequent States enactment should so determine.” So I really do not think that it is beyond the wit of this Assembly to qualify P.176 in that way. I just find it odd that it will not even be brought. It is like almost a gun to our head if we support this reasonable proposition and then suddenly all reform goes out of the window. I do not think that is a sustainable position. Finally, Members have mentioned that really the only way out of this mess is an Electoral Commission. A “cocktail of wreckage” is a phrase I can now put alongside a “debunkle”: a cocktail of wreckage. It has been appalling, the piecemeal nature, the original proposition. The whole thing has been a bit of a train wreck and really the only way forward is what was in the paper put forward by Deputy Le Hérisier and by others now. An Electoral Commission to look at the whole issues in the round, taking as the basic principles proportionality, representation and involvement. Now I would add a fourth which many people are referring to, and there was an excellent letter in the paper last night or the night before about the connection between the Senatorial mandate - the Island-wide mandate - and the position of Minister. I do find the present situation has within it serious difficulties that myself, for example, with 260 votes or a Constable or a Deputy who has not even been elected can become a Minister. No aspersions on those who are in that position, but the fact is it looks pretty odd. There could be - I am not saying there should be, but there could be - a link between what the public say they think are the fit people to be Senators representing the whole Island and positions as Ministers. That could be part of this review. But my goodness, we do need an overall look at this whole situation from outside this Chamber, because we are never going to manage the depth of reforms required. So I would remind Members it is a nice day outside; let us be positive and try and do the right thing for the people who put us here, who have clearly said what they feel about the Island-wide mandate, and it is wrong for us to change that in defiance of what they have told us. It is not 1 or 2 per cent; we are not talking marginal here. We are talking a vast majority. That is all the proposer is asking.

2.4.8 Senator S.C. Ferguson:

Senator Cohen has spoken of the wishes of the public and I have had quite a few ear bashings as well about the general proposition and reforms, and he has also spoken of the history of the Senatorial seats and there has been a passing mention of Guernsey. We should remember that Guernsey happily abolished the Island-wide mandate some few years ago and this week Guernsey States are debating the reintroduction of the Island-wide mandate. I think that should be a wake-up call to people. The social history of the western world is littered with examples of replacing what worked with what sounded good. Deputy Le Hérisier was a bit dismissive of the current structure, at least as I understood what he said. But this is presupposing that the U.K. model is the only model to follow. Deputy Hill in a previous proposition has argued for consistency. If you do not vote exactly like you voted so many months/years whatever ago, you know, this was not good. Well, 2,000 years ago Cicero said: “No sensible man ever imputed inconsistency to another for changing his mind.” The person who never changes his mind given better information really ends up like one of those pickled eggs in aspic. We have heard mention of Clothier. Clothier was the be-all and end-all and absolutely fabulous. But that is 10, 12 years ago. People change, ideas change, situations change, and 10 years ago is a long time. If we cling to Clothier as was written 10 years ago, we are all going to end up like the eggs pickled in aspic. I do wonder when I read Clothier, why he concentrated on a U.K. model and why did he dislike the Island-wide mandate? I suppose because he was following the House of Commons U.K. model. I was at the St. Brelade’s Parish meeting when the Clothier group came round, and the strength of feeling was palpable; you could feel it against the proposed changes. As the Deputy of Grouville so perceptively said, there is considerable and under-utilised grassroots’ power in the Parishes. This is one of the main powers for the public to prevent Central Government becoming too dictatorial, somewhat on the Swiss model. This is the principle that was used by the founding fathers in the United States when they set up a whole government from scratch. I think they just had to sit down and work out what was going to be the best form of government. They did a fantastic job, I think, because it cannot have

been easy. But interestingly, they came to a structure somewhat like ours. Interesting. But it is for the Connétables, with or without the help of the Deputies, to harness that grassroots' power. People say: "What is the difference between being a Senator and a Deputy?" I have had time to research and consider a number of all-Island matters, some of which are related to corporate services, some of which are not related; and it has been ... while you do not lose touch with the Parish because, after all, all politics is local - it does give you just that bit more time to look at the broader implications of what is going on in the E.U. (European Union), what we might look at in the form of tax reform, what we should perhaps look at in the terms of health reform. They are all matters which need attention and I am fortunate to be in the position of being able to investigate. But the concept of a general election throwing out a government is very much a U.K. House of Commons' system. The Senatorial roles were designed to provide balance and continuity. In fact, I suppose you could say that we effectively concentrate a bicameral House into one House. Perhaps we should discuss that over coffee. But the public who have contacted me do not agree with our decision last October, and they had a rider they did not want big constituencies either. I think we do need to have the referendum. It would perhaps end the arguments if we had a definitive result for the next 10 years at least. So I will support Senator Cohen.

2.4.9 The Deputy of St. Martin:

Without doubt this is a proposition about Senators proposed by a Senator, and that was the Senator Cohen who was not present when we had an opportunity to vote in favour of a Senatorial referendum only on 5th November 2009, and has voted against a referendum for Connétables on 5th November and voted against a referendum on Connétables today. So, not a great supporter of referendums. It has been seconded by Senator Ozouf. I did note Senator Ozouf who voted against the opportunity of having a referendum last time, voted against the opportunity of having a referendum for Constables last time and this morning has voted against the opportunity for having a referendum for Constables this morning. So we have a certain amount of consistency. What I was hoping for really is that we were going to hear all the Senators this morning standing up and saying why it is so important to have this referendum, because there is no doubt about it, this is proposed by a Senator, seconded by a Senator, about Senators. At the moment we have had 2 Senators who have got up and spoken, and the last one, Senator Ferguson, I quite agree: nothing wrong with changing your mind. In fact, I think that is the strength of a good politician who is prepared to change their mind when they hear new evidence. I am just wanting to know where that evidence came from for the Senator to change her mind; I have heard nothing. But I do know what has changed since my proposition, because since my proposition, only last October, we have decided that we were going to get rid of 2 Senators. So maybe that is the evidence that the Senator was reading for her to change her mind to say: "Oh, self-preservation. We must have a referendum. Maybe they will change their mind and we will have 12 Senators rather than 8." The other Senator we have already heard, and again I do despair sometimes that we hear from the Chief Minister who should be leading, given to support to what decisions have already been made. We have had P.P.C. come forward with their proposition which is based on a decision made by the States only in October. We have heard the Chairman of P.P.C. saying: "If we go ahead with a referendum we will then not go forward with the proposition which this House agreed in October." Here is your Chief Minister showing great leadership - well, maybe it is time for a change in the Chief Minister - but also a great champion for referendums. He said it. He voted against the referendum for Constables this morning; he voted against a referendum for Constables in November 2009, and guess what? He was not in the Chamber when we had the opportunity to vote for referendum for Senators in 2009. Like the proposer. So, we are looking for consistency and we seem to see why people want to change their horses. Well, they are changing horses now simply because the decision has been made; they are going to be 4 Senators short, and the Senators are now sticking together; and the reason they are sticking together: self-preservation. So, what I would be hoping for ... because maybe we will see the other Senators will give us a reason as to why we should have a referendum. But I would remind Members last time that Senator Shenton was the only Senator

who spoke in the last debate. In fairness to Senator Shenton, he voted for it. He was quite positive. He said that the opportunity is for the public to show their support for Senators. That is why I argued last time, let the public have the opportunity, but now it is too late.

[12:30]

The decision has been made, simply because those who were in the position to have that referendum last time chose not to; and of that last time, the 6 Senators who voted against it last time were Senators Routier, he is not here this morning; Senator Ozouf who looks as though he is going to vote for it; Senator Le Main, we will wait to hear what Senator Le Main has to say; Senator Ferguson, well, we know this morning she has changed horses, self-preservation no doubt; Senator Maclean, we have not heard yet; and Senator Le Marquand. So they voted against it last time. It will be interesting to see what reasons they may well feel they need to change today; and of course it is quite interesting having heard about Senator Le Sueur, the Chief Minister. He really has been the main architect for the demise of Senators, simply because if one looks around the Chamber you will see the amount of talent that the Senators have which is under-utilised. How many Senators are Ministers? So, the person responsible for that is Senator Le Sueur himself. I have no doubt about it. I am changing horses, simply because the decision has been made. I voted for Senators last time for the referendum; I will not be doing it this time. The evidence is there. People do not want it, Members do not want it. Members have gone forward now with a new proposition which we now are going to have today for P.176. I will be supporting the P.P.C. and I would hope that Members will kick this out and let us move forward and debate the main proposition.

2.4.10 Deputy J.B. Fox of St. Helier:

First of all I should declare that I am a member of P.P.C. and I have been in the States for 11 years, so I have heard the arguments for 11 years, from the beginnings of Clothier to all the various changes and the moving forwards and backwards and sideways and left ways and every way. P.P.C. all over the years, although I have not been a member for all over the years, only for the last 2 years, have been trying their best to bring forth what the States have asked for - and that is the main thing. They have been trying to move forward. Last October was another web that we had to deal with, where there is an election coming up, and it is all in the comments so I am not going to go and repeat them all, the president will be pleased to hear; but the essence of it is, is that we needed to move forward and there were 2 aspects: one was a general election obviously and the other one was the desire for 4 years for having additional continuity. Yes, there were other things. But that was decided by a vote of 31 to 17 on 13th October last. We had no mention of all these other propositions and amendments that we are being asked to decide today. Now they are very good propositions; they are all very good amendments and they are all very good for discussion. But the timing is wrong. It is too late for this particular time to be able to decide that you do not like the decision of last October. Nobody brought up any alternatives other than the ones that were obviously brought up and decided upon, and therefore we have got this - almost it is like a spoiler. Let us go back to where we were before. If that is what the decision of the Assembly is, so be it. But it does not make us look very good at the end of the day, and it does not move us on forward. Now if this debate was being held by the new Assembly, that I can understand. There would be another 4 years in which to move it forward, which would be very important. Now the only other argument that I see today is this question of whether you are reducing it from 12 to 10 or eventually another 2 in 4 years, down to 8. Now, that decision has been made. It does not stop an Island mandate. It reduces it a bit, but it does not say that you are reducing an Island mandate. What you are doing, you have got 8 people instead of 12 people. Well, I am sorry; you have got 53 people, because I still deal with things from all over the Parishes and we have Deputies that go and support other Deputies in other parts of the Island [**Approbation**] when it is appropriate and especially if you have got skills. I have got skills that people are still asking me to use that are not necessarily what I have responsibility for. We should utilise those skills, and it is very important. I shall be opposing and not voting for this one, and all the other ones, because I have had the privilege of

going through them all in Privileges and Procedures Committee; and I will be following their recommendations because we have no option if we are not going to look silly, but to move forward for the benefit of this Island. Propositions such as this and the amendments that have been brought forward today should be reconsidered by the new Assembly and the Members of the new Assembly as to how and when they want to move it forward. Let us be sensible about it and move on. Let us move forward. Vote for ratifying P.176 to be able to show the electorate that at least we are doing things in a positive way, like has been asked by so many Members. Let us postpone the arguments that are now looked at as negatives.

2.4.11 The Connétable of St. Mary:

Very pleasing it is to follow a fellow member of P.P.C. and to echo his words. I thank Senator Cohen for his declaration of support for P.P.C., and for me as chairman, in proposing his proposition. I know that he understands that there is nothing personal in my committee's strong opposition to it. In fact, Senator Cohen and I, as I often joke to him, are almost certain to see eye to eye unless one of us happens to be wearing heels. **[Laughter]** That is the amount of levity I can bring to this, because this is a very serious matter for me; very serious indeed. P.P.C. does most strongly oppose this proposition and perhaps in view of things that have been said earlier, I should clarify and be really clear and robust to tell the Assembly that there simply will not be time to have a referendum and to make reform before 2011. It is quite clear to me that some Members are either nervous about the decision that they made last October, and some Members are sticking to their guns about the decision that they made last October, which was not the majority decision. If Members are having concerns about the Senatorial mandate, then what they need to do is not vote for this proposition, but later on to support Senator Ferguson's amendments to P.176, because that way at least the other reforms would go ahead. Although I have to say, from a personal perspective, to do that would be to fulfil a prophecy made by a political commentator who said, I think, to paraphrase, that they would not be at all surprised if the States eventually voted out the things that were a penalty to them and only kept the things which were a bonus, like the extra long mandate for example for all Members. But that is a political decision that Members must take. But I am quite clear on the advice that I have received, that if this referendum goes ahead there will be no point in me proposing P.176, and indeed it would be irresponsible for me to do that. I have to say most strongly that the comments made by the Deputy of St. Mary that I would be throwing the toys out of the pram, are frankly quite offensive to me. I do not think I have ever had a pram that I have thrown any toys out of. As chairman of P.P.C. - a post that I was elected to by this Assembly - I am first among equals among a diverse committee, and we have the call of the procedures of this State. This Assembly has to function and it would be irresponsible of me and my committee not to make a stand when we feel that something which would bring the House into disrepute - would make procedures unworkable - would be a result. I will not be able to propose P.176 for the reasons that you have outlined. There must be certainty in what we send out in legislation. For those of you, those Members who have not appreciated it, P.176 if adopted in whatever form, once it has been registered comes into effect 7 days later. There is no Appointed Day Act; there is no ability then to bring in bits of it at different times. We have to be certain that when this legislation is adopted, that it is in a definitive form. There is no argument about that as far as I am concerned. It is most certainly not throwing my toys out of the pram. I am doing the job that I was elected to this position to do. I am advising the States Assembly coolly and logically of what the outcomes would be, and I am sure the Deputy of St. Mary will forgive me if I take my advice from sources other than his own. But P.P.C.'s comments speak for themselves. They are relatively long for us, a 2-page comment. I trust Members have taken on board those comments. But I really must emphasise 2 other important things, apart from the fact that this would inevitably frustrate the reforms of last October. The fact is it would be a very great cause for concern, as I mentioned earlier in my speech on one of the amendments, if the public of this Island were asked now to make a decision and then to be told that that decision could not be effected. I really feel that that would be, the only way I can say is, taking the biscuit. That would be a step too far. We have

in the past had MORI polls; we have had lots of ways of gathering information, and again it was the Deputy of St. Mary who referred to that MORI poll. But considering he was accusing, I think - or not accusing, that is the wrong word - he was suggesting (thank you, Constable) that some Members were being democratically selective. The Deputy of St. Mary only chose to pick on a couple of things. P.P.C. is charged to bring a workable package of reform, and that sometimes means not being able to accept every single line of every single answer, but to look at the wider picture and to see what would work, what can be brought together out of what people have said they want, and to bring forward propositions that would work. In P.72 which, of course, was not adopted, we brought forward one scenario, one package of reform, and we said that this was a fundamental reform. It did not reduce the Island-wide mandate; it abolished it. For that reason, because it was such a departure from what we had before, we said that once the States Assembly had agreed - if it did - which way to go, then that agreed version, fully endorsed by the States Assembly, should then be put to the people of the Island who would have their say. P.P.C. went so far as to say that if the referendum did not - I think it did give quite a definite wording - but if the referendum did not show considerable support for that option that the States have chosen, then the P.P.C. of the day just said it would not bring forward those reform proposals in legislation. The reason the referendum was asked for then, I repeat, was because there was a huge constitutional change: the abolition of the Island-wide mandate and the opening up of super-constituencies. That package came forward because it did address lots of inequalities. The inequalities some of which the Constable of St. Helier alluded to earlier: that different people in this Island have vastly different numbers of representatives, and different Members of this House are elected by vastly different numbers of constituents. That proposition addressed those, but unfortunately it did not receive the backing of the House, and so we moved on to examine other options, and that is how we came to the package of reform that the States did adopt last October. It is not piecemeal reform. It is not ignoring the wishes and ignoring the results of the opinion poll. It is analysing the opinion poll and public wishes; it is bringing forward suggestions; it is seeing how the States doctor those; it is moving on; it is continuous. But in October last year that continuous metamorphosis of packages stopped. It crystallised. It became Senator Le Marquand's butterfly of hope, or whatever we are going to call it. Because the States agreed, and agreed by the absolute majority, the Vibert Rule, that we would embark on a certain kind of reform. That I think deals with some of the things that some of the, I will not say slurs - they were not that strong - but some of the points that have been raised criticising the way we got to that decision. That decision was reached in a logical way through a process of coming back to the Assembly time after time, incrementally finding out what the Assembly was prepared to accept, seeing how that would gel together in a proposal, bringing that proposal and getting an absolute majority. The referendum was never proposed on a reduction; only on the total abolition of the position of Senator. As I think Senator Le Marquand pointed out in the October debate, currently members of the public vote for 12 Senators every 6 years - sorry, every 12 years they will vote for 12 Senators.

[12:45]

Now, with 3 4-year terms in 12 years they will still ... well, they will vote for the same number. **[Laughter]** Senator Le Marquand can say it a lot better than I can, and I am sorry, I am wound up in the emotion of this, because I feel very strongly that the States made a strong decision. They made a bold and a brave decision, and I feel very strongly that our job as elected representatives is to make these bold decisions, and that we should go ahead and carry on. But furthermore, the other point I would like to make is that the question of the referendum, the question that Senator Cohen suggested a referendum, seems very, very simple. Do you agree that the number of Senators should be reduced from 12 to 8? Yes or No? It does not say: "Assuming that the States adopt the proposals P.176, and that the term of office is changed, and that whatever." It is a question in isolation, but we already have things on the table. Do the public assume that we are going with all of those original things and vote accordingly? Because the definition might be quite wrong. I mean, would you agree the reduction of Island-wide Members if the number of Deputies was

increased, if the number of Deputies was decreased? We do not what goes with that question and I think for the public to make a sensible decision they have to know the full context of the question. I am afraid that in my view, and I think in the committee's view, there is some question as to what the surrounding package would be, because after all if we have changed our minds about doing this now, what other Members have said, when are we going to stop changing our minds. I urge Members to stop changing their minds today [**Approbation**] and to reject this proposition. And I propose the adjournment for the first time in my 5 years in the States.

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

The adjournment is proposed. There are at the moment 5 other Members who wish to speak on this proposition. There may well be more than that. Can I say from the Chair that while I understand it is very difficult to contain the debate, the proposition is about whether or not to have a referendum, and it is not about the respective duties and rights of Senators or Deputies or Connétables and how the system should work? The proposition is about whether to have a referendum on this particular question. So when Members come to address that this afternoon, I hope they will bear those comments in mind. The States stand adjourned until 2.15 p.m.

LUNCHEON ADJOURNMENT

[14:15]

The Greffier of the States (in the Chair):

Very well, the debate resumes on the proposition of Senator Cohen. Deputy Tadier.

2.4.12 Deputy M. Tadier:

I was not quite sure where I was on the order list so if Members just give me one moment. If we stretch our minds back to before lunch there is a quite a lot to be dealt with, a lot of it has been dealt with already. I will take what I have got written down in my notes. I think the debate started off when it was being presented by Senator Cohen talking about this whole history. While it was an interesting history lesson a lot of it does not necessarily have the logical consequences that he would intend. For example, his comments said that the system of democracy in Jersey is one of the oldest in the Western world. While that might be true it made me think that the London Underground is the oldest underground system in the world. It does not mean it is the best by any means. In fact because it is such an old system, there have been much more newer systems introduced into newer countries which are state-of-the-art and much more efficient for delivery public transport to their residents than the London Underground is because they have got an ossified system, in some cases very impressive but certainly it is not without its problems. It is very difficult, of course ... I think there is a parallel there because when you are dealing with an old system sometimes you just need to completely deconstruct it or reconstruct and make it fit for the 21st century. Of course, when you are doing that you can put in fail-safes and you can put in political expediencies in our case to make the system fit for purpose and for best practice. I want to give, first of all - to represent some balance - a reason for adopting this referendum but it will be a qualified reason. I remember listening to question time quite a while ago on the television, not Prime Minister's question time but the T.V. (television) show. The Tories were coming under fire for not having a referendum on the euro question and they said: "Well, we do not want to adopt the euro so we are not going to have a referendum on something we do not want to do." So the argument, I think, is valid in this case because we have made a decision to move from 12 to 8 Senators, it is a decision which has been taken in the States and we are simply asking the public if they agree with that. So that would be the only argument I can think but there is a difference of course because in the U.K. you do not ask questions on something you do not want to do because

you have a mandate from the people. It seems that there is not a particular mandate here, simply a States decision. But what I would say is that it is very strange that we are being very selective about which questions we do want to ask the public and which questions we do not. This leads me on to the flaws or at least the limitations, I think, of the question which is being posed. We have had much debate about whether Senators are wanted or whether they are liked by the public and certainly the results of the MORI poll would show that there is a great affection, if not for the Senators themselves, certainly for the role of the Senator and I have explained earlier why that might be because it is a very tangible position, the way in which you vote for Senators is easy to understand. That to me does not necessarily tell me something about the retention or otherwise of the Senator, what it does say is that we need a system all the way through which is easy to understand and which engages the public as much as possible. So this is the issue really. We are asking the public a very limited question about whether they want to go from 12 to 8, now there are proponents of the Senators, as I have said. Many of the letters written in the paper by people who are in favour of keeping the role of the Senators and not diminishing it suggest an entire Chamber made up of Senators, or they have suggested in another case a Chamber made up of 24 Senators and only 12 Constables. Everyone is certainly going to have their own particular combination of what they would like to see. I have never had anyone tell me how they would elect 24 Senators or a Chamber full of Senators, even though there is a lot of affection for the role, as I have said. I also want to just address the issue of this referendum being proposed on the basis that to remove or reduce the number of Senators would be undemocratic, because really we have to look at the underlying meaning of what we mean when we say that Senators are more democratic than other election models. I would say that reducing from 12 to 8, so in each term instead of electing 6 you elect 4, that is more democratic because we know the lower you get down a list of candidates, so the lower you are down the scale, so whether you are sixth or even eighth and you do not get in, you have less of a mandate. So people up the top clearly, even if there is a 50 per cent turnout, you might get 65 per cent of the vote, you have got more of a claim to having a meaningful mandate than somebody who maybe came sixth. That is not to disparage anyone; somebody who comes sixth still has managed to beat off perhaps a crowd of 21 who have gone for the position. I will give way to the Senator.

Senator J.L. Perchard:

I thank the Deputy. Could I perhaps remind the Deputy and you, Sir, and the House that we really need to speak to the proposition. It is about whether to have a referendum, not about the value of Senators. With the greatest respect to the Deputy, I do thank him for allowing me to intervene but I suggest if we all rehearse this debate about Senators, we will be here for ever.

The Greffier of the States (in the Chair):

I do not think the Deputy had strayed too far, I was listening.

Deputy M. Tadier:

I did address that at the beginning. First of all, the arguments were given by Senator Cohen as to why a referendum was necessary because of the democratic advantages of the position of Senator and I am countering some of those to show that the democratic value of the Senators has perhaps been hyped up, so I will demonstrate that as expediently as I can but these things are obviously going to be slightly grey areas so I do beg the indulgence of my colleagues. The bottom line is any system is only as democratic as its weakest link so the point I am making is that you may want to have more Senators but it is meaningless if the system you have is flawed. What I would suggest is that there will be people who say, for example, that the Senatorial system is not as democratic as it should be because it does not necessarily value minority groups as such. So while there might be 10 per cent of any one population who are really in favour of a candidate it does not do that but the Deputies, for example, it does give a chance to do that. So under a P.R. (proportional representation) system, some would advocate, it is more democratic because you are giving

minorities a voice. Others would say quite the opposite, that if we want the Senatorial system or any of our systems to be more democratic we have to have a first-past-the-post system. So you have a transferable vote where effectively everybody who stands for election has to get 50 per cent of the vote. We have a system now where any Senator can come in with 40 per cent of the votes cast. That can be done on a turnout, let us say, of perhaps 45 to 50 per cent, so you are looking at perhaps 20 per cent of the people who have voted, not to mention the people are not on the register. That is what we are talking about. If we really want to be pushing for democracy we have to look at these underlying reasons, which brings me to my next point as to why I will not be able to support this. It is because we have got something a lot better on the table. We have got a proposition that has been lodged today that does look to the recommendations of Clothier. We have been accused of navel gazing and I was going to ask the question to see, at the end of the debate, how much lint, how much fluff we have managed to accumulate from all that navel gazing so we could probably all put it together and we would have a big fur ball. That is probably the only productive thing that might come out of this debate. To say that we must have a referendum on the role of Senators simply because they are the most democratic position in the Chamber is certainly open to question and I believe that has been overplayed. We have to look at the question itself, as well. You could have a question which says: "Should we have Senators at all, should we have all Senators?" I personally think that Deputy Trevor Pitman was wrong to pull his. The question as to whether we should have Deputies at all or reduce the number of Deputies is a very valid one and we do need to have a whole debate if we are going to engage the public. But I think the issue here is also one of timing. This has simply been brought at the wrong time. We have had a proposition ostensibly brought for laudable democratic reasons. It is important to consult the public. It is important to have referendums, but seemingly only on Senators. It has already been pointed out that Senator Cohen was absent for another very important debate on whether or not we should have a referendum on the role of the Constables. At least the Constables were here but they voted against it, by and large; but at least they were here to represent their constituents. Senator Cohen did not think it was necessary to represent his constituents, the whole Island of Jersey, which had put him into office on that very important issue. So it seems that we have got selected democracy. We will have democracy when it suits. We have had the argument that this is a wrecking motion. I prefer to see it as rearguard action. We have seen no real democratic motivations coming out from the Council of Ministers; I think here is simply panicking. We have seen a move, because of so much deliberation and procrastination... the States have rejected any kind of wholesale change. It has preferred to go down the route of evolution rather than revolution, which is a valid path, and I think simply it has already been said that the bed has already been made and many of us, I think, if you had asked us a year ago, or 3 years ago, should we have a referendum on this we would have said: "Of course" but we know that this is being brought forward for the wrong reasons. As I said to Senator Cohen earlier - partly joking - it is very benevolent of him to be thinking of his colleague Senator Ozouf who is going to have to face an election with only 4 seats in it in a few years' time when he knows that there were already thousands out there who have signed a G.S.T. (Goods and Services Tax) petition which is calling for his resignation, which is more than he got votes. But that is probably a debate for another day, and he will have a chance to respond to that. So what I am simply saying is there are a lot more options than simply going for this referendum. We have got something very good on the table, we have got a chance to look at this holistically; we have got a chance to see whether we want to review the whole of the membership of the States. We have got an option, as has been brought forward by several Members - certainly aired by several Members - that we need an Electoral Commission, a Boundary Commission, which even has the support of Senator Ozouf. This needs to be done first before we single-out one particular issue. Again, it is selective democracy. I will leave it there. I do have other points to make. I will simply address one or 2 comments from Senator Ferguson who said basically that Clothier is a U.K. model. Well, quite simply that is not true. Certainly we have got somebody in from the U.K., a respected individual in the U.K., and it simply just has not come out with the correct findings similar to Carswell. I suspect that Senator Ferguson will be saying that Lord Carswell does not know what he

is talking about because he has come up with a conclusion she does not agree with. I think if we are to get past any kind of reform in the States, rather than doing it in this piecemeal fashion we have to, once we have committed to getting a respected body... and of course Clothier was not simply somebody imported from the U.K., it did work very closely - as was the case with Lord Carswell - with local people on the ground who did know the system, did know what they were talking about and trying to find a model which was conducive to the Island. So I say let us simply see this for what it is, it is a rearguard action. Some others have called it a wrecking motion. There is no real intent to protect and enhance democracy because if we were to do that we would try and face the real questions, I would say to Senator Cohen, about why it is that we have 30-40 per cent turnout, why it is that perhaps 20-30 per cent of the population are not on the electoral register. I have never heard Senator Cohen making sounds about these issues. I have never heard those concerns coming out from him. I have never heard any kind of drives for registration of voters or to engage the population in that way to vote. I think it is simply jobs for the boys and when those jobs are threatened, when those 2 posts for Senators have been threatened, that is exactly when we see self-protection coming in.

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

Of all the votes which I have made in this House over the last 17½ years, the one that was made concerning the reduction of Senators is the one which has produced most criticism from my parishioners. They are genuinely unhappy at the fact that we made that decision.

[14:30]

When I have questioned them why they are unhappy, their answer is that successive polls, successive questions have led to the same result in that they wished to keep the Island mandate. The Island mandate as far as Senators is concerned has been there since day one: it is 12 Senators. That has not changed. They have said to me that that is what they wished to retain, not a watered-down mandate of 8 Senators but 12 Senators. I have to say I have to accept that criticism because I did support that proposition. But unlike the Deputy of St. Martin, who went on this morning about consistency, I think there is a line to be drawn in the sand between consistency and stubbornness. I think the danger here is that by rejecting this we will be observed to be stubborn. We have made a decision, it may not be right but we are going to go with it. Like the Connétable of St. Helier, I would like to congratulate the Deputy of Grouville on her contribution this morning. I think she is right that what we should be discussing today is a rescindment motion of that decision rather than what we have. But we have before us is exactly what we have to decide on. I have to say, I am a bit concerned about the Connétable of St. Helier suggesting that we should have open question sessions at Parish Assemblies because I do not believe that an extra 3 hours on a Parish Assembly is going to attract any more parishioners. This decision is about whether we should go back and ask the public if they agree with the decision we have made. As far as I am concerned, because of the fact that so many people have criticised that decision, I think this is a way forward. This is a way where we can judge exactly what the public do want, and I certainly will support it.

2.4.14 The Deputy of St. John:

Firstly, I must take the Minister to task, or the proposer of the proposition to task. The Minister said that a Senator was the only person who could carry this forward.

Senator F.E. Cohen:

I have already explained to the Deputy that is not what I said.

The Deputy of St. John:

I am not giving way; the Minister will have time to speak later. So I am concerned because historically we have had Deputies, i.e. Norman Le Brocq; 2 eminent Constables, John Le Sueur - in fact, the Minister himself was prodigy of John Le Sueur - and Carl Hinault, who have all been excellent Ministers or, sorry, Presidents in their day, of the committee of the day and done an

excellent job. An excellent job. We have got some excellent buildings that have been put up and I am thinking of some that done under the last Norman Le Brocq and under the late John Le Sueur, and under the current Carl Hinault that was there until 2002, I think it was. Anyway, they did an excellent job and I believe whoever takes on the job, whether it is a Deputy, a Connétable or a Senator, they are all able to carry out this particular work. They put their neck on the line. Yes, it is a particular job because it is one that you do put your neck on the line for and, under the new system of government, that person has to be strong and able to carry that forward. We see that among other Ministers who hold a position as Minister, Deputy Gorst for instance. He is a strong Minister and more than able to carry a position like that. That said, after the last debate - like the Constable of St. Ouen - my parishioners in fact told me, a number of them, in no uncertain terms that it was the wrong move or I voted the wrong way, including my own good lady and she has never let me forget it. She has beat me around the head with it, shall we say, about the way I voted. But then I look at my election manifesto and I said I would bring reform to the States as part of my election manifesto in a 4-year term, and I did. I have been unsuccessful in the propositions I have brought but, that said, I still had an attempt and in part the 4-year term has gone through and I would not like to see that reversed. So at this moment I am in a dilemma. Do I support the democracy of having Senators reinstated and losing all the good work that has been done in putting in a 4-year term? At the moment I am not sure exactly where I am going on this one. I will listen to the end of the debate and then I will decide how to vote.

The Greffier of the States (in the Chair):

Sorry to interrupt you, Deputy, I think you may be straying ahead because you are saying reinstating Senators. This is about a referendum.

The Deputy of St. John:

A referendum that would reinstate Senators, Sir.

The Greffier of the States (in the Chair):

Not necessarily, the reinstatement of Senators could come through the amendment of Senator Ferguson. I think you are jumping ahead, Deputy, that is the point.

The Deputy of St. John:

Yes, absolutely. That is the point; I might not be supporting this one but supporting Senator Ferguson later on, if we go that far. I have got some concerns, and you have shown me, Sir, by interjecting as you did - and the Chair is very good at throwing the Deputy of St. John and cutting me off at the knees. But, that said, I am at a crossroads at the moment of how I am going to vote on this one but I think Senator Ferguson's has got more options than what this particular one has. So I will decide between now and the final speaker and the summing up.

2.4.15 Deputy J.A. Martin:

I am in no dilemma, and after the last debate if anybody has spoken to me ... and let us remember where we are with the public, and it is the public that we want to consult supposedly in this referendum. What my public want, they tell me, is to be able to vote for everybody in this House. We know this is not achievable. They want everybody on an Island-wide vote because they say to me: "Why is that Constable in there? I did not vote for them, I cannot vote for them. Why is that Deputy in there? I cannot vote for them, I did not vote for them, I did not have the chance." So what the public want, and what we can deliver ... because let us be honest, the last 2 Senatorial elections when we have had 20s and 21s for 6 seats have been absolutely atrocious. The hustings: a couple of seconds each or a minute each to answer a question 15, 20 times over and the public know no better. It is if you are known and it also is being used as a step-up for the Deputy's elections. We have, in some ways, stopped that because we are going to one-day elections, but if I think there is any spare money out there to have for a referendum, we should be spending that on these so-called one-day elections for everybody because I think if they are not very quickly got

hold of we will have some debunks around that I can assure you, very, very much. I really, really feel for the committee chairman because her Deputy - the Deputy of St. Mary - makes the rules up as he goes along. He has disregarded the Deputy Bailiff, he has disregarded the Attorney General and he wants us to make up some sort of fluffy law that we may be able to send to the Privy Council and might want to change after we have had a referendum. Well, as far as I was concerned I thought we governed this Island, everyone of us in the House and not: "Maybe we will do this." Then Senator Cohen is hoping that someone is going to challenge the Privy Council if this does not get accepted, that we are absolutely doing away with democracy. How many times did the Senator mention that this morning in his opening speech? I think we did away with democracy last week when we are suddenly informed that we need a Minister for Foreign Affairs so urgently **[Approbation]** that a Deputy loses his seat. We did not know the urgency in this House, nobody was asked their credentials, who they wanted for the job, we were just told. This is what gets to the people out there. They want to know people they voted for, Senator Breckon, thousands and thousands of votes, no job, no job in the Ministry, no Assistant Minister. They want to know why that is. They want to know how that translates. That is why they want an Island-wide mandate for everybody. They are not ... of course if you are asked that question you want to know. Senator Ferguson talks about Westminster. This is not Westminster. Either unchanged or changed, it is not Westminster. There is nobody there who elects; nobody has elected the Prime Minister of England nationwide, it does not work like that. The Senator knows enough ... but what they do know and as the Deputy of St. Martin has said, they do know in the U.K. who, if they put their cross against Conservative, Labour, LibDem (Liberal Democrat), whatever - or they did used to know, it has got a bit muddy over there. **[Laughter]** There are some very strange bedfellows there, which there are in this debate, I would like to remind you. They do know who they are going to get. The public have already seen 2 frontrunners for the new Chief Minister. People - I have no disrespect at all and I mean no disrespect - that were elected 3 years ago. This is what the people do not want. Senator Cohen also talks that we are taking away something, we are reducing the numbers. Actually I think, for different reasons but coming to the same conclusion, the Deputy of Grouville is totally right. It does not matter if you are Constable, Deputy or Senator, if you go out there today and ask them: "Do you want to take away a certain number of Members?" They will look at the bottom line, the wage bill. Is that any way to run this Government? We have heard ... he is the Chairman of the Constable's Committee who just happens to sit in on the Council of Ministers and he has changed his mind, because there was some backlash in his Parish. Well, we have a big Parish and not my Constable, none of my Deputies, have had this problem. Probably people in St. Helier may have a lot better choice than they do in the country Parishes, I do not know. **[Approbation]** So maybe that is why they want to keep an eye on ... I do not know. But it did not happen to me. The Deputy of St. John now is a bit unsteady with his decision he made last October. He is not here. I just want to give the people a history lesson because our Chief Minister rewrote history this morning, not exactly how I remember it when he was on Policy and Resources. The road show going around the Parishes was to have one Member. It was championed. Guess who was championed by the Constables to keep the Island-wide mandate, it was former Senator Syvret. There was never any question to go to the Parish Halls and ask about Constables but he had this done in every Parish. That is why Senator Ferguson remembers how much furore there was in St. Brelade. I went to 8 out of those Parish Halls and people in there said: "How can I stand up in this atmosphere and say: 'I do not want my Constable in the States, I live in this Parish?'" Of course you got the answer. What happened? The Policy and Resources did not keep their bottle, they exactly did what 12 Parish Assemblies were asked by Senator Syvret to do and that was to keep the *status quo*. They did not bring forward Clothier and that was where we started to go wrong. We have done it ever since, we are seeing more and more power, we are seeing ... this is being brought because what would you favour in October? A 4 to 1 chance or a 6 to 1 chance. Very sorry, it is exactly that. So what do you do? You bring an amendment to have a referendum that will be so late that you cannot bring any change at all. So for anybody who voted the way they did last time in October - and it was October 2010, not some myriad ago when we were talking

Clothier, it was only a few months ago - they knew what they were voting for, it was a start of reform as the Chairman has said and as the Constable of St. Helier said. I cannot believe that we are here today ... and, again, the Deputy of St. Martin said: "Why are we here? Why the Senatorials [probably in some States Members' eyes] are that people who have an Island-wide mandate, who seem to have a lot of support with the public, do not get even a chance of the good jobs, or the jobs in the Ministry, and where the people think their talent should be used." So I do not think the public have any stomach for this.

[14:45]

I do not want to put this particularly to the public because they will say: "You have been elected, you have had 10 years to sort this out and I see nothing changing." Basically, as I think it was reported last night, we cannot go ahead with 176, we cannot increase the number of ... how long people sit in this and not reduce numbers, we just cannot do it. We need to get on, we made the decision and, as I say, the actual ... the first one to be rescinded was Policy and Resources when they were going to go to one class of Member and it did have a lot of support and we never did, we went ahead with Ministerial and the same way of voting and people are fed up. So take this, spend money, if you want, on advertising how we will get an election. I agree with the Deputy of St. John, why is it just Planning and Environment that needs a Senator? Why? Because of sensitive issues? Well, Transport is sensitive, Housing is sensitive. It is all sensitive. You are either man or woman enough for the job or you are not. So I am very sorry, it does not wash with me. I see this proposition, the Senator has his time to sum up and he will again say he has only just woken up and smelt the coffee since Christmas. He has seen that we now need to go out and we really must preserve centuries old democracy, he says in his ... Senators are not centuries ... they were even 9 years up until 1966, on a 4-year rolling basis. So it has been changed and getting rid of another 2 Senators. But I think, as the Constable of St. Helier summed it up, it is a moving feast. So far we have taken 10 years to do absolutely nothing, except to give 10 people lots and lots of power.

[Approbation]

The Connétable of St. Ouen:

I did not wish to interrupt the Deputy in full flow but my good friend the Connétable of St. Mary has pointed out that I must be getting old and my memory must be going because in fact I voted against the reduction of Senators.

2.4.16 Connétable L. Norman of St. Clement:

Following Deputy Martin is a bit like drawing the short straw because it is so difficult to even match her logic and passion, but - I am not sure I misunderstood or not - she did say that the Policy and Resources Committee of the day 10 years ago did not want to put the Clothier proposal before the public. If she did say that, that is not true because the Policy and Resources Committee of the day did bring forward a proposition for a plebiscite on the Clothier proposals but the States of the day refused even to debate that proposition. They did not vote against it, they did not even agree to have it debated. I shall be very brief because all I wanted to say was that I like Senator Cohen but unless he has absolutely lost complete touch with reality, he must know that this proposition is doomed to failure. But if there is some sort of slight of logic from the States Chamber he will also know that if the proposition is adopted what the result of the referendum will be. Because people are basically conservative, they do not like change unless there are some compelling personal reasons for change. When they bring a referendum question like this in isolation and without any context whatsoever you are bound to get the conservative result that we do not want any change.

[Approbation] A number of Members - I include the Constable of St. Ouen, the Deputy of St. John and, indeed, Deputy Martin - kept telling us they know what the people want. None of us do because we have not asked them in a formal and controlled way. We know what the people who have come and spoken to us as individuals want but when you think about that in the context of Island and the population, that is a very small number of people. We can look at the various polls

that have taken place over the last 10 years, the various MORI polls, the formal polls, the informal polls, the self-selecting polls and even, if you like, the Parish Hall meetings that we had all those years ago. There are certain conclusions which we can take from that. Not absolutely definitely but I suspect that if we had a referendum question in isolation and out of context: "Do you think that Constables should remain in the States?" I think you would have a pretty large majority in favour. If you ask the question: "Do you think we should retain the 12 Senators in the States?" I think you would get a pretty large majority in favour. If you asked the question: "Do you want to keep the number of Deputies you have representing you?" you would get a pretty large vote in favour. Then if you asked: "Would you like to reduce the number of States Members significantly?" you would get a huge, huge majority in favour. That, I think, should show us that if we are going to have a referendum, if we are going to ask the people, it must not be in isolation and it must be in context, and all the implications of what we are trying to do have to be there. That was why I was so pleased, so pleased, to see Deputy Shona Pitman's proposition lodged yesterday, I think, which takes us back to the Clothier proposals. They were pooh-poohed by Senator Ferguson in her speech because they are 10 years old. Well, Deputies are a darn sight more than 10 years old. Even Senators are 60, 70 years old. The Clothier proposals are as valid today as they were when they were first published 10 years ago. That is the only real work that has been done by an independent panel which has looked at the whole thing completely without any prejudice, without any vested interest in it whatsoever. Really that is what the public of Jersey deserved to have put before them. Let them decide, in the real context, out of isolation, with all of the implications. Yes, if that was to be supported there would have to be some compromises made, of course there would, but if there is going to be change there is going to have to be compromise. But this proposition really is not worthy of the Senator [**Approbation**] and I shall be voting very strongly against it.

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

I think there have been a few personal attacks on Senator Cohen and I do not intend at all to speak in those terms. What I would like to put on record is my support for the office of Senator and my disappointment at the reduction in the numbers following the debate in October last year. Had I been in the House I would not have supported the reduction. I was *défaut* excuse at the time. But I feel today like the Deputy of St. John, I am confused with this. I am not really clear where we are going. I have dreaded this. I am dreading if we go on to P.176, that debate, and when we have something put in front of us like this I am sure I am not the only Member who dreads these reform discussions, and I am not happy at piecemeal attempts to reform our system of government. I am not sure whether to support this or not because I do not want to support and, if it is carried, put the public of Jersey in a position whereby we undertake a referendum, and as the Chairman of P.P.C. has said, they would then have the expectation that the result, if it was indeed to retain the 12 Senators would be implemented for the 2011 elections. I just want to know if I may address the Attorney General and ask him if there is any mechanism at all by which the referendum proposed by Senator Cohen in P.198 could be undertaken in time to allow the proposed reforms to be implemented in time for the 2011 elections. I think the House should be absolutely clear on that.

The Greffier of the States (in the Chair):

It will depend on the timing of the Privy Council, *et cetera*, no doubt.

The Attorney General:

It is a fairly complex question and it is very difficult to give a wholly unequivocal answer without a lot of time to consider the various possibilities. My principal concern lies in a number of different areas. The first would be, I think, the timing in the Privy Council. There is a significant lead time before the Privy Council will in effect approve and ratify legislation so that it comes into force in Jersey. It is impossible to give a categorical statement as to how long that is likely to be but one is looking at perhaps 5, 6 months or more for ratification. So consequently were the legislation that

alters the constitution of the States to be passed today there is a very real prospective, I would have said a very good prospect indeed that it would be on the statute books in time for the election. If there is a significant delay in any way to that proposition then obviously the chances of having legislation in place in time for the election gets to be questionable the longer the delay lasts and one reaches a point where the Privy Council cease, I think, in July to determine issues at all so anything that was submitted would not be considered by them, I think, until after the election is scheduled to take place. So there are those practical difficulties dealing with timetabling. I have other, I think, slight concerns relating to principle. It seems to me that, particularly in a year when one is coming up to an election the constitution of the legislative assembly should be certain. People should know who they have got to elect and people should know when they are making decisions whether or not to stand as early as possible what the constitution of the Assembly would be. The possibility, I think, of, for example, as I believe the Deputy of St. Mary suggested, to put a kind of either/or section within the legislation leads precisely to that uncertainty. People when they are considering whether or not to stand simply will not know whether they are standing in a competition of 4 Senatorial seats or 6 Senatorial seats. Whether that makes a material difference, I am not sure. Dealing with that as a possibility, to a further step I would also have to say that it is far from clear to me that the Privy Council would, themselves accept legislation which was not certain on its face. I could not say that they definitely would not or that the Privy Council definitely would, what I am saying is that there is, in my mind, a material doubt that the Ministry of Justice would allow the matter to go through without significant comment and ultimately there would be a recommendation to the Privy Council to pass it. That is something that I would wish to consider at some length. I am not sure if I can assist in an answer to that question any further, save to say that in my mind if these reforms are to be significantly delayed and any alteration to the form of them would require the lodging of an amendment in any event, and they would be delayed, then there is a risk that they would not be on the statute books in time. I think that risk is a very significant risk.

The Connétable of St. Lawrence:

Thank you. I am sure that has given Senator Cohen food for thought but no doubt he will address that when he sums up. It has certainly helped me to make my decision. Before I sit, I was surprised when I spoke to the chairman of P.P.C. earlier to understand from her that they have never considered the matter of an Electoral Commission, and I see her now shaking her head, so perhaps I misunderstood her. It does seem to me that it is something that should be given serious consideration by P.P.C. and I know that we have heard today a number of calls for one to be held. I would just like to formally request that if P.P.C. has not considered it at all that they certainly put it on their next agenda. Because to go back to the piecemeal reform that we are discussing here today I think it should be P.P.C. that leads the way and not individual Members. Thank you.

2.4.18 Senator J.L. Perchard:

I stand with a little trepidation really because I am, as Members know, a member of the Senatorial benches and I do not really wish to suffer the wrath of perhaps Deputy Trevor Pitman in giving an opinion, but I do give an opinion with a little bit of satisfaction and confidence in the sense that I have been consistent all along. In November 2009 the States voted on a proposition to have a referendum on the position of Constables, 3 Senators supported that motion, 17 in total of us in the Assembly did.

[15:00]

Senator Shenton, myself and Senator Breckon supported that motion. On the same day there was a proposition to have a referendum on the position of Senators. Again the same 3 Senators supported that motion, of which I was still one. That lost 16 votes in favour of the amendment and 26 against. I have been consistent. I can only apologise for my fellow Senators who have shown inconsistency on this matter because I think thereby lies a huge problem. Members of the Senatorial benches voting only a year and a half ago against the principle of referendum on the position of Senators,

some appear to be changing their mind now. I am unsure as to why. But that should not be the reason for people objecting to or not supporting this amendment. I do not believe this House should alter the make-up of this Assembly without a clear instruction to do so from the people we represent. I really do not believe that we should. I cannot see the reason why we would want to and I do not believe we should. I have been consistent, Deputy Trevor Pitman, all along in this view. We should not and we must not. We have the tools in our toolbox to ensure that we do make the decision with regards to the way we represent people through the mechanism of referenda. What is a referendum for if it is not to ask for fundamental questions about our constitution and the makeup of the Assembly? We have tested it, as Members know, and the majority of Members supported the principle of our first referendum. But it really is about issues like the make-up of the Assembly and our constitution. That is what a referendum is for. While I would have preferred this referendum to have the prayer to say: "Should the roles of Senators be abolished or should the roles be maintained?" whichever question is deemed to have been appropriate, this is the best I have on offer at the moment. It is right, before we change the constitution of the Assembly, that we ask those that we represent if we should do that. The Deputy of St. John and the Constable of St. Lawrence said they were not sure as to how to vote on this. I suggest if they are not sure that they do not force themselves to come down on one side or another, that they take the sensible option and ask those that they represent how they wish to be represented. It is a mechanism we have, simply ask those people whom you represent: "Do you want to reduce the number of Senators?" or: "Do you want to reduce the numbers of Senators by 4?" One last point. The Constable of St. Clement said how could Deputy Martin and others say that they know what people want. He is right, we can take a stab at what we think people want and the Constable of St. Clement did that himself only a minute after he said how can people possibly know, when he predicted that if we ask the electorate would they like to maintain the number of Senators as 12, they would say: "Yes" and he also knew and predicted that if we asked the electorate if they wanted to reduce the number of States Members as a total they would also say: "Yes". So there is the Constable of St. Clement telling us what people want. I suggest to Members we all have a view on what those we represent want and yet for some reason we do not really ask them. We have the tools in the toolbox, please, Members, let us use them.

2.4.19 Senator P.F.C. Ozouf:

Senator Cohen has had a rough ride in relation to his proposition. I am used to rough rides and getting more used to them. I would like, however, to congratulate Senator Cohen on his speech. I thought it was well researched, I learnt something that I did not know about the Senatorial history and I think that he has done this as Assembly a service in reminding us and giving us the history lesson which I have no doubt is correct. I think that he did touch a nerve when he spoke about democracy. I felt an uncomfortable chill around the Assembly with even those that are not going to be supporting him. I think that Members know in their hearts what they are doing and the dangers of going down the path that we are coming to in terms of constitutional reform. I also, as do other Members, think that the Deputy of Grouville spoke a great deal of sense in terms of what she spoke about this Island-wide mandate. She is right, in my view, in the views that she holds about the importance of the Island-wide mandate. I will come to why she perhaps particularly thinks that because of her single seat constituency in terms of her Parish representative. The only other option, yes, of course there is a Constable vote but it is those votes in the Island-wide election which gives those single-seat Deputorial votes an opportunity to influence politics in Jersey. We are reducing that but I will come back to that in a second. Like the Chief Minister, I have been consistent in voting against a reduction, I believe, in terms of the Senatorial mandate. I have got absolutely no doubt that the public want to see a reduction in the amount of States Members as a whole, as the Constable of St. Clement says. I believe that that is possible but I am deeply concerned that the public do not want to see a reduction in their Island-wide mandate. We have all got our ways of learning and finding out what we think public opinion is. The people that I have spoken to, and I have generally tried to ask people and engage people over the Christmas and New Year period

about what they think about the Senatorial mandate and whether or not they think that we are correct in reducing it at the elections next year. My own informal research indicates that I cannot find a single person to support the reduction in the numbers of Senators. I have been really struck from the people that I have spoken to - with one exception which I will come to in a second - this is people that are not in the Assembly and not in the J.D.A. or not into a reform group or the Deputy Tadier-aligned group, then there are supporters. But I cannot find anybody that wants to see a reduction in the Island-wide mandate. I have never been in that position. I have asked people about G.S.T. and what they think and you get a balance of opinion. But I cannot find anybody - and maybe I am talking to the wrong people - but the amount of people I have spoken to I am not sure that I am wrong. I have to say that it is the single-seat, Deputorial parochial seats, it is people in Trinity, it is people in St. Ouen, in Grouville and St. John and I have tried to ask people here and there when just talking to people ... **[Interruption]** I cannot think of anybody from St. Peter but I am sure the Deputy is right. I am very concerned that we are making a decision which does not have broad public support. So I heard the comments - and I will try not to stray too much - I heard the support of Clothier and Members when they said: "Bring Clothier composite as published in 2000 to the States. I think I saw Deputy Trevor Pitman move his feet in support of that. I just remind Deputy Trevor Pitman to be careful what he wishes for because there were some aspects of Clothier which he would not support, I do not believe, such as collective responsibility, the ability for the hire-and-fire of the Ministers, in terms of selecting Ministers by the Chief Minister, et cetera. So I think people do mix and match and pick and mix some of their issues to do with Clothier. On constitutional reform they say: "Yes, we want Clothier." So I think we have got a dreadful hotchpotch of reform before us. I think we have got poorly thought out new arrangements and that is why I have amended some of the issues to do with the election. I do not criticise, I feel very sorry for the chairman of P.P.C. I think she is a great Constable, I think she does her very best as chairman of P.P.C. and I offer no criticism to her. But I think that we have ended up in the wrong place and I feel very strongly about that. I do think that there should be an Electoral Commission. Yes, I have been criticised for not bringing one forward but we have responsibilities, we are asked to do different jobs and if nobody else is going to do an Electoral Commission I am going to bring one forward within the next few months. I have mentioned it on numerous occasions, I have not done it; P.P.C. has not done it; somebody needs to do it. We need to reallocate Deputorial seats and ultimately replace Senators, I am clear. I urge Members ... there are misgivings about supporting Senator Cohen's proposition, maybe some Members are going to reject Senator Cohen's proposition and then go on to support Senator Ferguson. For my part, I think that this is a safeguard. It is the least worst option. If the public want to see a reduction in Senators then that can be delivered in 2014, I hope, or 2015, if we have that disjointed election, with Deputorial reforms. We can do all of the reforms at once after that Electoral Commission. Jersey politics sometimes has a lag. Sometimes people are not engaged. We are elected to do a job, we are elected to make decisions. Sometimes with busy lives Islanders do not get engaged until after the decision has been made. In my view, this is an example of it. I believe the public are going to make their views very strongly known when they realise that they have been disenfranchised by 2 Island-wide votes later on this year. I say, let us ask the public what they want, let us set up the Electoral Commission, let us ... if Members want to have the reform then ask the public what they want and we can put in place the constitutional reforms which everybody really wants in 2014. So I have been consistent, I have been clear, I am going to support Senator Cohen. If he does not succeed I am going to support Senator Ferguson and I am going to an Electoral Commission and I am going to try and make sense of some of the reform processes in my amendment later on in the debate. But for the meantime, as a safeguard measure, I urge Members to support Senator Cohen.

The Deputy of St. Martin:

I do not know if I am entitled to ask, but I did ask in my speech that maybe when a Senator spoke they would inform Members why they were supporting it, if indeed they were, as opposed to

opposing it last time. Maybe the Senator might help the House out to say why he has changed his mind?

Senator P.F.C. Ozouf:

I will do so, and I fully accept and I admit, I confess, that I think that this is a safeguard option. I do not think that the individual referendums were ready but if we are going to have a change in constitution I think we have got no other choice. So I would have gone for a composite referendum for constitutional reform when all the reforms after an Electoral Commission is done. But, as a safeguard, to stop the Senatorial reduction later on this year I will certainly support Senator Cohen and that is why I have changed my mind and I think that is honourable; I have explained it.

2.4.20 Senator B.E. Shenton:

I supported the referendum last time because I felt that changes should have the opportunity to go through to a referendum but I am also drawn to the fact that back in 2006 I did lodge a proposition to do with the composition of the States. Most of what I asked for in that proposition, although it was not passed at that time has come to pass through other propositions since then. The proposition sought a general election where everyone was elected on the same day, it sought a 4-year term of office, it sought a reduction in the number of Senators, albeit with the caveat that that the Chief Minister should have an Island-wide mandate. The most unpopular part of it was that the Constables should be paid for by the Parish with a rate set by the Parish Assembly. That went down like a lead balloon. It sought a limit on election expenses which went through and we do now have a limit on election expenses. I find myself in a very difficult position because I have supported referenda in the past and also I voted against a reduction in Senators when it came to the House quite recently. But I am quite conscious of the fact that if you are a States Member it does not matter whether you like the decision or not, you have to go with the thoughts of the House. On that particular day the House did vote that way. I am not quite sure how I will vote on this but the Constable of St. Clement mentioned about Clothier and I believe that there are some champions of Clothier here. As Senator Ozouf said, I would warn people about Clothier because it does contain a lot more than constituencies. I do have a copy of the MORI poll in front of me.

[15:15]

Just to quote from the MORI poll: “In the survey residents were also given the proposition of super constituencies whereby all Members should be elected on a local basis with larger constituencies in the Parishes or districts in line with Clothier.” Seven per cent thought that this was the preferred option, 93 per cent of the Island did not want Clothier. So do not go away from this debate thinking the Clothier is the solution. As I say, I have no more to say on this, I will decide listening to the speeches how I vote. I have supported referendums in the past but I have also supported the reduction of Senators.

2.4.21 Senator T.J. Le Main:

Like the Connétable of St. Ouen, I have had many comments from electors. They were very disappointed in the reduction of Senators from 12 to 8. They have all said to me that they want more Island-wide mandates and they are all - or most of them - are very concerned at the amount of Members elected with very small numbers of votes in this Assembly who can exert much political influence and power over the electorate. This is one of the great worries that many of the public, that I have spoken to, have got. I voted last October in not reducing the number of Senators and because of the discussions and representations and comments I have had from the general public, and the importance of an Island-wide democratic mandate, I do believe that I will vote any way that I think is right to get back to 12 Senators and subsequently I will be supporting Senator Cohen, because as I say I am now more convinced than ever that the referendum will tell us that the public want to keep the 12 Senators and an Island-wide mandate. I am not going to be supporting part of P.176 to agree the 8 instead of the 12 Senators. I want to retain the 12 Senators on an Island-wide

basis because that is what my electors and those people that I have spoken to on a regular basis are telling me. It is quite clear from their comments as well that they want to retain the 12 Connétables with their Parish links to remain in our Assembly. The public want more say on an Island-wide basis in policy on this Island and by making further reductions in the Island-wide mandate then they are going to be disenfranchised more than ever and we are going to allow more Members to come into this Assembly with a far lower mandate by the electorate who will then exert, as I say, more power and influence on the general public Island-wide. I believe that, although I did not vote for a referendum last time, I did vote for retaining the 12 Senators. I am going to support Senator Cohen because I believe that what I am saying at the moment reflects certainly the public that I have spoken to.

2.4.22 Deputy T.M. Pitman:

You know, I think I have inadvertently discovered a way to keep speeches short, people desperately wanting to go to the toilet. But as I have been I may speak for some time now. The first thing, I have to say that it has only struck me but seeing you sitting up there and seeing how good black robes look as opposed to red I wonder if perhaps eventually the public, in the interests of democracy, will give an opinion on whether we want the Bailiff still in the Chamber. That is a very thing fundamental to our democracy. I have not heard anyone from that side of the House putting that forward, I do not think. People say: "What has changed? Why should we tamper with the history of the Senators?" I am going to stress again ... and he must be feeling really well-loved Senator Cohen because the Constable of St. Clement said he loves him and I love him, but it does not mean I have to support his proposition. I am interested in history like him, and his long history was very enjoyable but sadly if he ever put it into book some of it will have to be filed under historical fiction because to really make the giant leap that the Senators evolved out of some brilliant, laudable, wonderful democratic tradition, i.e. Jurats being elected for life and only by the better people, I think that really is a claim too far. But there you go. I said I was too hard on the Senator and, of course, in one way I was because he has got every right to bring this up. I think it is very damaging, I think it will completely undermine what has taken a very long time and even in my time in the House there has been some good proposals on reform from P.P.C., there has been some from the Constable of St. Clement, Deputy of St. Martin and I think I have had a couple of decent goes myself. I think all those have tried to move us forward. This, it seems to me, is about moving us back. So people say what has changed. I stood for Senator and I am quite clear ... I thank Senator Perchard for what he said about being consistent. That is fine, I respect him for that. But I have been consistent too. I said on the hustings for the Senators that it should be a 4-year term and there were too many of them, and I was happy to take my chance whatever that was. What has changed? I thought when I stood ... I think back to the 2005 elections before and I used 4 votes, I voted for Deputy Southern then, which will not surprise people. Sadly he did not get on to the Senators benches. I voted for Mrs. Denise Carrol, who I think would have been an excellent addition to this House. I voted for the now departed Senator Syvret and I voted for Senator Shenton, and I regret that vote. **[Laughter]** That is not a personal attack but it is one of the reasons of what has changed. What has changed? I thought standing as a new politician, if you like, to have a top job you would have to have an Island-wide mandate, because it seemed to me - and it is certainly not true of every case because I remember John Le Sueur at Planning - that the big names with the big mandates, they got the top jobs. But what did I find when I did get elected? Well, I had already seen the fact that the 4 people I had voted for in 2005, Deputy Southern, okay he was still a Deputy, he did not get a big job, he deserved one; Senator Syvret had a big job, lost the big job. **[Interruption]** I do not think that was necessary really, that comment, but there we go. Senator Shenton did not hold a big job very long. Then we look to what has happened this time. I tell you - and I am being honest here - if I stand again and if I am elected, if that is as a Senator or a Deputy, I will stand for Minister for Education. Not that I have got anything against the present incumbent, just because I think I can do the best job. Fair enough. I would also bring Assistant Ministers to the House, I think, to see if I had support from them.

The Deputy Bailiff:

Are we still talking about the referendum, Deputy?

Deputy T.M. Pitman:

Indeed. I think you have to give me the same wide berth that some of the others have had to be fair.

The Deputy Bailiff:

I am sure you are pleased to see me back.

Deputy T.M. Pitman:

Sorry, was that another Mastermind comment? I did think that seat was impartial, never mind. What has changed? Only 5 out of 12 seats have Ministers - Senator seats - so why do we need 12 of them? There is no historical reason for there to be 12, none whatsoever. It does not matter which way you turn history around. We have got 2 Senators, including the proposer sadly, who in the last 2 years have missed 300 votes between them. Do the public really want that? Do they feel so strongly? I can say for me it is the exact opposite to Senator Ozouf because I cannot find one person who has approached me who wants to keep all 12 or feels strongly about it all. We have got a Minister for Health and Social Services who, through no fault of her own, did not even face an election. Is she any less competent than the 3 who went before her? Certainly not from the last 2, I think she is doing a much better job. Maybe she is better than all of them. Do we need to be Senators any more? I think if you are going to ignore the qualities of people like Senator Breckon, as someone has already said, what do the public think who gave him that large mandate, or Senator Syvret. It seems really words mean what they want them to mean for some of the Senators. There is a case for an Island-wide mandate and what might be better would be to have a reduction further so there is only one seat for an Island-wide mandate and that would be the Chief Minister, then the people can vote for the person they trust. We know that once we get into this House that everything is going to be disregarded and it is just a little cosy club who is going to elect who they want to carry through their wishes for their special vested interest. That is the reality of democracy. Why must we have this referendum now because it is such a key issue? What about G.S.T., 19,000 people nobody seemed to give a fig for what they thought. Is "fig" a term I can use, Sir? Is it borderline?

The Deputy Bailiff:

You have not been pulled up on it yet, Deputy.

Deputy T.M. Pitman:

I am glad I did not go for my first choice them. Nobody cared when it was G.S.T. Did we ask them, do we want to tax the poor and the middle earners so we can just cosset some of the wealthy and the big business because we have bungled our tax system? Of course we did not. Now, shock, horror, it might go to the Privy Council. Senator Cohen, someone might beat you there, maybe someone will go to Privy Council and say: "Why did we not introduce Clothier just because of vested interest of certain people in this Island?" Democracy to be cherished or democracy just to be chosen when you want it because we do not like the decision we have reached. Someone said to me: "Maybe you should go along with this because for Senator Ozouf he is going to need it stretched to about 16 Senators because next time he stands he is going to come at least eighth so he will not be in". Sorry, his vote was down 40 per cent, I am going on facts. We can talk about certain things, we can happily take away the representation in the urban areas like St. Helier, but if anyone touches the Senators, oh, must not do it. Why are Senators such a special criteria? Deputy Le Claire - it is very interesting, I think it was in an email - said he had been a Senator and he has been a Deputy and he was pointing out that the much harder role was Deputy. I say I have not been a Senator but I stood in both and I have certainly been through both processes and the Deputy's one

is definitely much the harder because you can stand on a platform, as long as you are confident to speak, and you get about 30 seconds to come out with some cliché, where when you are a Deputy you have to knock on the doors, especially if you are not very good at getting away and saying no to people, you are standing there for half an hour and they find out everything about you, including the things you did not want them to know. That is hard. So why are Senators so special? We are not doing away with the Island mandate, and this is what this is really about and there are a lot of red herrings going on, this is about a reduction that people in this House voted by 31 to 17 just 4 months ago. I am really disappointed with Senator Cohen because I do respect him and I do like him but I think he is very misguided on this. I have been critical of the P.P.C. but it is going to set back the work they have done hugely if we go with this. Senator Ferguson said that it was - what was it - like the U.K. system, did she say? It was like the U.K. but without the democracy. I think their system is a lot more democratic than ours. At least you know what you are voting for, at least you know who you are going to get. Senator Ferguson... and this may be important to the debate in getting rid of Senators because the Senator seems to think that only Senators get to think of these great deep issues. I would have to ask her why is it then that most of the deep heavyweight issues are always brought to the House by Deputies generally. Deputy Southern, Senator Breckon when he was a Deputy, the Deputy of St. Martin and so forth. If anyone is thinking deep thoughts it is these people. They did not need to be Senators to do it, did they? This is, I am afraid, about power. It is about a certain group hanging on to power. Really if there was such a clamour about this then the *J.E.P.* would have had more than about 3 letters and everyone of us would have been contacted at least with views from both sides. Deputy Martin said she has had none of that, I have had none of that, I know other people who have had none of that. This has just been spun out. I have to come back finally to Senator Ozouf who said he could not find one person, I think, the reason for that was because he was asking people in South Africa at the time and they did not really have a great interest in what was going on in a little place like Jersey. Four seats over 2 elections, it is hardly going to kill the Island-wide mandate. So let us see the Senators ... I really hope that he would withdraw it but let us see them put the people first instead of their own interests. I would love to see the shape of this House if people had a direct vote in the Chief Minister because, I am sorry, it would not have been any of these people over here I am afraid. Why do we always use the get out clause with this: "Well, we could not let that happen as we might not be able to work with them"?

[15:30]

We are here to represent the people in the best interests and the best interest of what they want. Let us start thinking about the people for a change. This is a waste of time. I am glad I highlighted the issues I did earlier. I say reject it and let us not set P.P.C. back another 10, 15 years and let us go for Clothier. It might not be perfect but at least it is thought through and there is a good package on offer. This is just piecemeal and it is a complete and utter vested interest driven shambles.

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

I have been listening quite intently to the debate so far and I have certainly heard much from Members about why Senators should be retained in any electoral reform. However, this is not the question. The question Members have got to ask themselves is does Senator Cohen's proposal to hold a referendum asking the public whether the number of Senators should be reduced from 12 to 8 advance electoral reform. I do not believe it does. It ignores totally the process that we have followed to date which is recognised equally the public's desire to have a general election to look at a more consistent approach in the way that we move forward. The proposals in P.176 do recognise and do reflect a previous decision to reduce the number of Senators from 12 to 8. However, as it has clearly been explained to us in the comments made by the chairman of the Privileges and Procedures Committee, there is an amendment that Senator Ferguson has brought that allows us to revert back to that number 12. Should we look at further advantage to electoral reform? Yes. How do we do that? It could quite possibly include, at a later date, a referendum when we recognise the

real question that we need to ask. Perhaps the first question we need to ask is do we need electoral reform of the nature that has been discussed? Perhaps that is a starting point but we are not here to discuss that. I do not believe that Senator Cohen's referendum and proposal, albeit that I understand the reasons for bringing it, helps us advance electoral reform. In fact, if anything, it will put us back by at least 3½ years to a position that I do not believe we necessarily need to go to. Thank you.

2.4.24 Connétable P.F.M. Hanning of St. Saviour:

Just very briefly as we seem to be coming to the end of this, to remind Members that although there appears to be a split in the House as to whether they want Senators or not, this amendment is about holding a referendum and the facts are fairly clear if we have this referendum there will not be time to have our changes for the election this year. I think we have to be clear on that. If we want to make sure that we get the alterations through that this House voted for then we have to reject this amendment. Members are reminded that if they are concerned about the number of Senators, they are able to vote on Senator Ferguson's proposition. So I believe the way forward is to reject this amendment and then Members can make a decision on Senator Ferguson's amendment.

2.4.25 Deputy M.R. Higgins of St. Helier:

I am going to be very brief because I think most of the points have been made. To be perfectly honest I have been very angry throughout the debate because I believe we are spending an awful lot of time on a proposition which, to my mind, is just a cynical ploy by some Senators to try to secure their re-election when it comes to the elections in October. We are talking about reducing the number of Senator positions by 2. We already know there are probably at least 7 people going to be going for those and therefore some of the existing people may not be re-elected to the House. I also happen to think that the States ... I am saying at least 7, there are 7 that I am aware of. I also think too that I came into the States wanting to see reform, not only in the composition of the States but also I wanted to see a more open Government and therefore I wanted freedom of information. So far we have achieved very little. That is not through want of trying. I joined P.P.C. to try to further those aims, to try and see political reform and to see more open Government. We have failed in P.P.C., we brought forward our proposal for comprehensive reform of the States, which included super constituencies and so on, and that was rejected. I must admit I am bemused to see all these other propositions coming forward with all sorts of spurious figures trying to come up with super constituencies and changing all the boundaries and everything else. We spent weeks and many, many hours going through those and people seem to be doing it on a whim, almost, just coming up with figures and not even up to date figures at that. I do fear that if we go with Senator Cohen what we will do is destroy the only chance we have got of getting some reform out of this parliamentary session; so in other words the 4-year term, which many people wanted to see. We will also lose the Spring bank holiday. We want to try and engage with the electorate and having the election in the winter as we have done, and I can remember the horizontal sleet as I was going around knocking on doors and so on, then that is not the way you are going to get the electorate to come on board. I want to see these 2 reforms in. I also happen to agree with people in the reduction of the number of Members of the States. We came forward with a proposition to reduce the number of Senators. I might add, if I remember correctly, in the discussions with P.P.C. I do not think I was in support of it, however I do support what P.P.C. are doing here. We have got to try and make some attempt to try and reform things but I also happen to agree with a lot of the comments that people have made. If you go and ask the electorate in a referendum as Senator Cohen is saying: "Do you want to have the Island-wide mandate, do you want to have all these Senators in the States?" they will probably say: "Yes." Now, the question is will we get, as was highlighted earlier, a sufficient enough majority to make it absolutely convincing that they want to keep those numbers in. I am just not convinced it is going to happen especially as the public already do not think this house does anything that the electorate want. Now, if you look at the G.S.T. propositions and all the rest of it, people have lost faith in this house and our ability to

deliver on things that they want. So, therefore, even if they did vote for it I do not think they would be convinced the States would necessarily go with it anyway. I am, as I say, just not convinced the numbers will be there. So I think most of the argument has been rehearsed. I would like to see some reform. We have already heard from the Attorney General that it is highly unlikely that, one, we could get the necessary legislation through in time and then ... remember it is not just the legislation getting through, we have then got to conduct the referendum. You cannot conduct it during the election because they want to try and get the numbers maintained before the election. It is simply not going to happen. What we need to do is have a look at some of the other proposals and see how we can best go forward. If it is an Electoral Commission, great. I would love to see progress. But this House with all the vested interests we have got in it, Senators wanting to protect their positions, Deputies, Constables and so on, we will never get anywhere. Let us just dismiss this, go forward, get the Electoral Commission and try and at least bring in some reforms during this session. Thank you.

2.4.26 Deputy S. Power of St. Brelade:

Yes, and I promise to be brief. I pick up from a number of Members the number of phone calls they have had relating to pleas from the constituents, whether they be Senatorial, Deputorial or Constable, about wishing to retain the 6 Senators. I have to tell the Assembly that I have had hardly any phone calls about electoral reform, composition of the States or the retention of Senators. In actual fact I will be honest with Members and say the only phone calls I had are a concern about the amount of time we spend debating ourselves in this Chamber, and that is a pretty consistent complaint from the good people of Les Quennevais and La Moye that we spend endless hours discussing ourselves in this Chamber. If I were to challenge the Greffier to produce the hundreds of hours, or the number of hours that we have debated since Ministerial government came in in 2006, I would say it is a pretty horrific figure and I leave that with Members as to where we are again this afternoon. We are now facing 2 to 3 days - I do not know how long this is going to take this time - we are facing time and scarce time on this subject which I think is inappropriate when we have so much business to get on with. I do not know, there is a phrase in Ireland that we do not really deal with mental hospitals, we have homes for the bewildered, and I tell you I am heading that way. Getting back to the proposition before the Deputy Bailiff has a go at me, I have to say that I heard Senator Cohen's history of democracy in this Island this morning I would say looking around this Assembly that with the removal of the Rectors and the removal of the Jurats, and the increase in the number of Deputies and the installation of Senators, that we probably have a much better representation in this Assembly in 2009 and 2010 than we might have had in the past and I am firmly of that view. So I believe that democracy is alive and well in Jersey and reform of the Senatorial benches has got absolutely nothing to do with democracy. As Senator Cohen has probably guessed, I am not going to support this proposition, I think it is ill-founded, I think it is ill-placed, ill-conceived and the timing is terrible. I believe in what our good colleagues at P.P.C. are doing and I think they should be given a chance to bring this to the next stage. There is a view out there in citizen Jersey and the public of the Island of Jersey that there are too many of us in the Assembly and I am firmly of that view. I believe there are too many of us in this Assembly and I think it does need to be reduced, and I think all of us agree. We just simply cannot agree how. Thankfully I have never been involved in any report or proposition that I have lodged in my name to deal with the composition of the States. I was going to say more but I am not going to. That is all I want to say, I am not going to support this proposition.

The Deputy of St. Mary:

May I make just a very brief personal statement impromptu, I just want to withdraw the ...

The Deputy Bailiff:

No, Deputy, we are in the middle of a debate.

The Deputy of St. Mary:

I just want to apologise for the phrase I used earlier about the chairman of P.P.C.

The Deputy Bailiff:

Then if you wish to apologise and clarify then to that extent I will allow you to do so.

The Deputy of St. Mary:

Yes, I said in my speech that the chairman of P.P.C. was throwing her toys out of the pram. That was the expression I used. It was the wrong tone, I meant to criticise the withdrawing of P.176 as a consequence of P.198 but I should not have used those words.

The Deputy Bailiff:

If no other Member wishes to speak, I call on Senator Cohen to reply.

2.4.27 Senator F.E. Cohen:

That will teach me to lodge propositions as a private Member. It certainly has been a very hot debate but I certainly hope we will all be friends again in the morning. Islanders clearly do not want a reduction in the Island franchise, in the Island-wide franchise. It does not matter how you interpret the evidence, that is the case. We can argue about it all day long but it is well-evidenced. In no way can the proposal to reduce the number of Senators from 12 to 8 be regarded as improving democracy. You can regard it as all sorts of other things but one cannot regard it as improving democracy. There have been all sorts of odd accusations about a secret agenda. Let me assure Members that there is no secret agenda behind my proposition. No other States Member has had any part in the drafting of it in any way or what lies behind it and, good or bad, unfortunately it is entirely my own. Any majority, in my view, in a referendum should be followed and it is up to the public to decide whether they wish to vote. I hope that answers the question raised by Senator Breckon. P.P.C. in 2009 clearly agreed that a referendum was essential for any reform proposals. I wonder why we seem to be so afraid to ask the public and I conclude that maybe it is because some of us are fearful that we already know the answer, and that it may be the answer that was clearly expressed in the responses to the MORI poll. It has been suggested that it is too late. It is not too late and that is why the legislation that is coming forward under P.176 has to be brought to the States. I said that it would be difficult to act with a parochial mandate as Minister for Planning and Environment, I did not say it would be impossible and I do wish to correct the point made by the Deputy of St. John in which he said that it would be impossible. I certainly have great respect for my predecessors, indeed the 2 of those he mentioned were and are very close friends and I regard them both as my mentors. So there was certainly no intention to criticise any of my predecessors.

[15:45]

Some Members have said that my proposition is late and that it would have been better had I brought it last year. Clearly it would have been better had I brought it but I am afraid it was only when I researched the history of the development of the Island-wide franchise represented by 12 independently elected Jurats and then Senators that I realised the significance of what was being proposed by the House, and I believed it was my duty to raise this issue in the form of my proposition for a referendum. Some speakers accepted that a referendum was the right thing but they went on for curious reasons to say why, in this case, it should not apply and I found that somewhat difficult. As the Attorney General has said, accepting my proposition does not mean that the reform cannot be in place by the time of the next election but it does very significantly increase the risks of the reforms not being in place at the time of the next election. I think all the points have been covered quite clearly in the debate and I would conclude by reading the words of P.P.C. in 2009 and I quote: "P.P.C. believes that the reform of the States is a matter that affects Islanders in such a fundamental way that any reform proposals should be put to the electorate in a referendum before being implemented." I am merely following P.P.C.'s own view in 2009. I urge Members to support my proposition and call for the appel, thank you.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats and ask the Greffier to open the voting.

POUR: 19		CONTRE: 29		ABSTAIN: 0
Senator T.A. Le Sueur		Senator A. Breckon		
Senator P.F.C. Ozouf		Senator B.I. Le Marquand		
Senator T.J. Le Main		Senator F. du H. Le Gresley		
Senator B.E. Shenton		Connétable of St. Helier		
Senator F.E. Cohen		Connétable of St. Brelade		
Senator J.L. Perchard		Connétable of St. Saviour		
Senator S.C. Ferguson		Connétable of St. Clement		
Senator A.J.H. Maclean		Connétable of St. Mary		
Connétable of St. Ouen		Deputy R.C. Duhamel (S)		
Connétable of St. Martin		Deputy of St. Martin		
Connétable of St. John		Deputy J.B. Fox (H)		
Connétable of St. Peter		Deputy J.A. Martin (H)		
Connétable of St. Lawrence		Deputy G.P. Southern (H)		
Deputy of Trinity		Deputy of St. Ouen		
Deputy K.C. Lewis (S)		Deputy of Grouville		
Deputy I.J. Gorst (C)		Deputy J.A. Hilton (H)		
Deputy of St. John		Deputy P.V.F. Le Claire (H)		
Deputy of St. Mary		Deputy J.A.N. Le Fondré (L)		
Deputy E.J. Noel (L)		Deputy S.S.P.A. Power (B)		
		Deputy S. Pitman (H)		
		Deputy M. Tadier (B)		
		Deputy A.E. Jeune (B)		
		Deputy T.M. Pitman (H)		
		Deputy A.T. Dupré (C)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		Deputy D.J. De Sousa (H)		
		Deputy J.M. Maçon (S)		

3. Composition of the States: reduction in number of Deputies (P.2/2011)

The Deputy Bailiff:

We now come to P.2/2011 - Composition of the States: reduction in number of Deputies - lodged by Deputy Noel of St. Lawrence and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to agree that with effect from the ordinary elections for Deputies to be held in October 2011 (a) the number of Deputies should be reduced from 29 to 21; and (b) the 21 Deputies should be elected in 5 new large electoral districts shown in the proposed revised Schedule 1 to the States of Jersey Law 2005 as set out in the Appendix 1.

3.1 Deputy E.J. Noel of St. Lawrence:

I am making this proposition in response to concerns from a wide range of Islanders, including my own constituents. May I be clear, I am not trying to overturn the decision made by this House in October. From the public I have received much support for the idea of reducing the number of Deputies as set out in my report. I have been surprised by the strength of the support and by its

origins. Indeed, I have even received support from St. Helier residents. **[Aside] [Laughter]** The public wants to see a material reduction in States Members. They want to keep their respective fathers and mothers of their Parishes in the form of their Connétables in this Assembly by right of their office to be the Parish representatives and they want to keep their Island-wide mandate. But I repeat: the public also want to see a reduction in States Members in a material way, not just tinkering at the edges and certainly more than a reduction of 4 Senators that has been agreed by this Assembly in October last year. These are conflicting wishes and, in this proposition, I have attempted to strike a balance between them without reducing individual Islanders' representation and, in that, I mean the number of politicians that are specifically designated to do respective electoral districts per capita of population. Under this proposition, an individual, be they living in a country Parish or an urban district, will have more specific dedicated Members assigned to their constituency than they do at present. Larger combined districts - super constituencies - is really the only practical way forward to achieve a workable solution to the Islanders' 3 wishes of maintaining an Island-wide mandate, of keeping the Connétables and reducing the number of States Members. In practical terms, we can achieve a meaningful reduction in the number of States Members, maintain the Island-wide mandate for Senators as agreed in October and see Connétables stay in the Assembly in their own right. Thus we can lead by example and achieve a reduction in the cost of our Parliament to the tune of some £400,000 per annum. We should also see less time consumed in individual debates, thus allowing this Assembly to attend to more business and for the Assembly to be more effective and efficient. Looking at the population figures, I believe that the urban districts are over-represented in this Assembly. Others do and will disagree with me, some very passionately, but I truly believe that they are misguided by their own political desires and not the true facts. Members may like to read the edited highlights from P.P.C.'s own report, P.72/2009, which I circulated yesterday morning but they can do so at their leisure. I would also like to draw Members' attention to the table that I circulated yesterday. Column 1 shows the 2001 census figures, column 2 those figures represented as a percentage. Column 7 shows what the super constituencies would look like using the 2001 percentages, column 8 what the super constituencies would look like using the 2001 percentages with 21 Deputies instead of 29. Column 9 is my suggested allocation. I will leave it up to Members to judge if I have been fair and logical in my approach. I believe that States Members' feet should be held to the fire over reducing the number of politicians in this Assembly. Many in the 2008 election stated that it was a priority of theirs. I believe that a number of us are putting our own political desires before the wishes of Islanders. I am not electioneering. I truly believe that our greatest threat to the continued economic and social wellbeing of this great Island of ours comes from within this Assembly and not from outside of the Island. Powerful strong words you may say and I agree, they are, but they are truly heartfelt and I make no apologies in saying them. My point is that we are not here for our own political desires above the need of all Islanders. We are here to serve. I would like to address some of the matters raised in P.P.C.'s comments. Firstly they say that this proposition does nothing to simplify the complexity of the 3 categories of States Members. I think that is a non-issue. I give the public more credit in this respect. Islanders do and are able to appreciate the 3 different types of Members and the 3 different mandates within this Assembly. I agree that there is some merit to all the super constituencies having the same or similar numbers of Members. However, with regard to St. Helier, I have tried to spread the workload over 7 Deputies instead of having 2 districts with 3 or 4 Members in each. I know some of the town Deputies work harder than others; some are more approachable than others; some listen better than others and some achieve more than others do. P.P.C. quite rightly point out that my population figures are based on the last census, which are now some 10 years out of date. However, I am confident that this year's census will come back with similar splits of population across the Island, albeit at far higher overall population figures. Again, I do not believe that we need to wait for new census figures in this instance as the old figures are still relevant for the purpose that I am using them. P.P.C. mentioned incremental reform. I support that concept which is why I have not previously decided to keep the Constables in the Assembly and then to reduce the Senators from 12 to 8. I believe that now is as good a time

as any to address the issue of reducing the number of Deputies. I accept others do not perhaps share that view. We have agreed to make some changes but that does not stop us taking the next step and making some more. P.P.C., in their own comment, agree that consideration does need to be given to the current allocation of Deputy seats and that they are willing to undertake this but not until the 2015 election. Well, I ask, please let us be more swift than that. Let us be more ambitious. I would like to address the concerns some people have with the Troy Rule. With 41 States Members, as I suggest, we could still maintain a Troy Rule in relation to the Ministerial and the Scrutiny roles. My own example, an Assistant Minister can wear 2 hats, thus rationalising the numbers within the Ministries and allow the Troy Rule to be adhered to. I believe that this is a good thing. I believe that the Assistant Ministers can serve 2 Ministries and, in doing so, add value to each Ministry with a cross-fertilisation of ideas. Further possibilities lie with the rationalisation of the Housing Department into some form of housing trust or a similar type body. Again, we can comply with the Troy Rule with around 41 Members. P.P.C.'s P.72 of 2009 in my mind only failed to gain sufficient support for 2 reasons. The first was that it removed Senators and with it, the Island-wide mandate, something that clearly has been signalled time and time again by Islanders that they wish to retain. The second reason in my mind why it failed was that they were simply not ambitious enough in the overall reduction of the number of States Members. I believe that their proposition only wanted to reduce States Members by the number of 4. All I am attempting to do here is to address that issue. I believe that the current system lacks fairness. St. Mary has a population of something in the region of 1,600; Grouville some 4,700, which is nearly 3 times more with the same amount of representation. Then if one compares Grouville with my own Parish of St. Lawrence, both at the last census had identical numbers of population, some 4,702 but St. Lawrence has 2 Deputies. That is simply not fair. I know that Deputy Trevor Pitman's amendment to my proposition is seeking to address this. However, his amendment does not address the St. Mary/Grouville issue and I would have been inclined to support him if he had gone further to reduce the number of Deputies. Perhaps if he had allocated one Deputy for say every 5,000 residents so that all Parishes continue to have at least one Deputy, that alone would have been an improvement on what we have currently. We would still have the issue of fairness between the smaller populated Parishes and those with up to 5,000 residents such as we have between St. Mary and Grouville, but it would have resulted in St. Helier only having 6 Deputies with a population of circa 30,000. St. Clement would have kept their 2 Deputies, having a population of just under 9,000. St. Brelade would have lost one, having a population of just over 10,000. St. Saviour would have only had 3 with its population of 13,000. Taken together, this would have resulted in 21 Deputies, which is just what I am suggesting. However, I have attempted to address the St. Mary/Grouville conundrum, something that Deputy Trevor Pitman's amendment just simply does not do and in that aspect alone I believe that my approach is fairer. If this proposition was to be successful (but it will not be) then in my combined district of Trinity, St. John, St. Mary, St. Ouen and St. Lawrence, out of the 6 sitting Deputies and for now ignoring any new candidates, I predict I would come in fifth and I would lose my seat. I will let Members speculate who they think would come sixth but my point is this. I do not mind losing my seat for a reduction in the number of Deputies along the lines that I am suggesting as it is the right thing to do for Islanders, to give Islanders what I believe they have time and time again indicated that they want and if I achieve nothing else in my time in this Assembly, I will leave with a clear conscience. I share one of P.P.C.'s hopes and that is that I hope Members will not spend too much valuable time debating this proposition and I know they will not. I truly believe that under this proposition, we would have ended up with a better, slimmer, fitter Assembly, light on its feet and clearer in its decision-making. This turkey is willing to vote for Christmas. In fact, I will even turn the oven on.

[16:00]

How many of the other 28 turkeys have the courage to reform and will support a meaningful reduction in our number? The public wants reform and fewer Members. This is a way of strengthening the Deputorial benches and maintaining the balance of membership in the States. As

Members showed last time, reform can be achieved. However, the mood of this Assembly is clear. I am going to withdraw my proposition and I will come back with a proposition for an Electoral Commission if either P.P.C. or Senator Ozouf does not. Finally, I would like to thank my 7 endorsers for their support but as I have said, I am withdrawing my proposition. **[Aside]**
[Approbation]

Deputy G.P. Southern:

May I ask a point of clarification from the speaker, Sir? I believe he said the greatest threat to the Island's economy comes from within this House. Can he confirm that he said that and can he clarify exactly what he meant by that?

Deputy E.J. Noel:

I can confirm that I did say that and I think it is very clear what I meant by that. **[Aside]**

4. Draft States of Jersey (Miscellaneous Provisions) Law 201- (P.176.2010)

The Deputy Bailiff:

Very well, P.2 has been withdrawn. As a result, the amendments also fall away and we now come back to P.176, the Draft States of Jersey (Miscellaneous Provisions) Law 201- lodged by the Privileges and Procedures and Committee and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft States of Jersey (Miscellaneous Provisions) Law 201-. A Law to amend the States of Jersey Law 2005 and the Connétables (Jersey) Law 2008. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

I rise rather sooner than I thought I would. I hope it is not necessary for me to make a long speech on the principles of this draft law because as Members will know - and if they did not know it when they came this morning, they certainly should know now - it has been drafted in accordance with the instructions of the Assembly. In October last year following the debate on P.118, this Assembly voted by an absolute majority to make certain definite changes related to the composition and election of the States and at that time charged P.P.C. to prepare the necessary draft legislation in order to bring about those changes. Over the last 3 months, the committee has undertaken this task with considerable invaluable assistance from the Greffier and his team and the Law Draftsmen for which the committee is duly grateful. In adopting P.118, the States agreed that, over time, the term of office of all Members of the States should be 4 years. The single election day for all Members should be moved to the spring and the number of Senators should be reduced from 12 to 8. The States agreed to transitional arrangements to move to this agreed outcome over a period of 8 years with the new system being fully established from May 2019. P.P.C. has not strayed from the path set out in that recent debate and the draft legislation reflects the vote taken by the Assembly to the letter and I therefore propose the principles.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak? No Member wishes to speak.

The Connétable of St. Mary:

May I have the appel then, Sir?

The Deputy Bailiff:

The appel is called for on the principles of the Draft States of Jersey (Miscellaneous Provisions) Law P.176. I invite Members to return to their seats and I will ask the Greffier to open the voting.

POUR: 42		CONTRE: 2		ABSTAIN: 0
Senator T.A. Le Sueur		Connétable of St. Lawrence		
Senator P.F.C. Ozouf		Deputy I.J. Gorst (C)		
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

Senator Ferguson, chairman of the Corporate Services Scrutiny Panel, do you wish to scrutinise this legislation?

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

I am tempted, Sir, but I think not.

The Deputy Bailiff:

Very well.

4.2 The Connétable of St. Mary:

If I could first of all move Article 1 which is simply the interpretation and defines the States of Jersey Law 2005 as the 2005 Law and the Connétables (Jersey) Law 2008 as the 2008 Law.

The Deputy Bailiff:

Article 1 is proposed. Is it seconded? **[Seconded]** Does any Member wish to speak? All Members in favour, kindly show? Article 1 is adopted. Article 2, Chairman.

4.3 The Connétable of St. Mary:

Article 2. This article substitutes Articles 5 and 6 of the 2005 Law and the new articles allow for the Senators and Deputies to hold office for a 4-year term and for elections for Senators and Deputies to be held every 4 years in May commencing in 2015. Transitional arrangements for 2011 and 2014 are allowed for by the inclusion of Article 6A in the 2005 Law. Paragraph (1) provides that there should be an ordinary election in October 2011 at which 4 Senators and the 29 Deputies shall be elected for a term of office of 3 and a half years. Paragraph (2) provides that there should be an ordinary election in October 2014 at which 4 Senators shall be elected for a term of office of 4 and a half years and paragraph (3) clarifies that at the May 2015 election, only 4 Senators shall be elected. In addition, Article 2 makes the following amendments. Article 13 of the 2005 Law is amended which currently provides that a by-election to fill a casual vacancy shall not be held if the vacancy arises after 31 March preceding the day on which the officeholder would retire from office. As amended, a by-election would not be held where a vacancy arises less than 6 months before the ordinary election at which the officeholder would retire from office. It is made clear that if an elected Member whose term of office is 3½ or 4½ years vacates office, a person elected to fill the vacancy holds office for the balance of that term. The quorum of the States Assembly is restated in anticipation of the reductions in 2011 and 2014 of the number of Senators. The quorum is made up of one half of the number of elected Members rounded up if required to the nearest whole number. I propose Article 2.

4.4 Draft States of Jersey (Miscellaneous Provisions) Law 201- (P.176/2010): fourth amendment

The Deputy Bailiff:

Is Article 2 seconded? **[Seconded]** There are a number of amendments and as Members will see from the detailed running order, the first amendment which we are to address is that of Senator Ozouf save for the amendment in paragraph 1(b)(iv)(A) and I ask the Greffier to read the amendment.

The Greffier of the States:

1 Page 16 Article 2. In paragraph (1) - (a) in the substituted Article 6 in paragraphs (1) and (2) for the words “May 2015” substitute the words “May 2018”; (b) in the substituted Article 6A - (i) in the heading for the words “2011, 2014 and 2015”, substitute the words “2011 and 2014”; (ii) in paragraph (1)(a) for the words “May 2015” substitute the words “October 2014”; (iii) in paragraph (1)(b) for the words “May 2015” substitute the words “October 2014”; (iv) in paragraph (2) - (b) for the words “May 2019” substitute the words “May 2018”; (v) after paragraph (2) insert the following paragraph: “There shall be held, in the period of 7 days beginning on 15th October 2014 an ordinary election to elect Deputies, for a term expiring upon the persons elected as Deputies at the ordinary election in May 2018 taking their oath of their office”; and (vi) delete paragraph (3).

4.4.1 Senator P.F.C. Ozouf:

Unlike the other amendments, which we are going to go on to debate, this is not one of the controversial amendments. It was lodged with the best of intentions to avoid I think real issues in relation to the transitional provisions, notwithstanding any of the debates on whether or not we have the amount of Senators or otherwise. It is designed to deal with this issue of having an orderly process for a general election. My proposition seeks to hold one general election in October 2014 for 3½ years, and of course I am going to state the obvious but I am one of those Senators who will be, in any event, facing an October 2014 election if we decide to stand again for a period of time. There is a general election, which is also proposed in May 2018 instead of in May 2019. This is quite a complicated issue and if Members want to cast their eye on my report, they will see that I have attempted to summarise as simply as I could the current arrangement that P.P.C. set out in terms of their transitional arrangements. That is on page 4 of my report and the summary of what I am proposing is set out on page 5 which sets out the arrangements, of course maintaining the election in 2011. The difference for Members will be that they will be standing in elections in October 2011 for 3 years, in 2014 for 3½ years with then the general election going one year earlier in May 2018. This will avoid difficulties I think of a split election in 2014 and 2015. It is not I think sensible to have an election for those 4 Senators 6 months ahead of the general election. One could imagine the situation if one reads it through to this year if we would have a Senatorial election in May and then we would have another general election later on in October, a split election no doubt debating the same issues the public wants to make up their mind in terms of the general direction of the Island. They need to do that and then move forward. This is not a proposition which I have put in the name of the Minister for Treasury and Resources. Of course, as Minister for Treasury and Resources, I support longer-term mandates. That is going to be good financial planning but I do not think that that is going to be achieved unfortunately by the split arrangements that are going to be set out in the option for transition by P.P.C. in October 2014 and then the election in 2015. I do not think it is also going to be fair for potentially those Senators and it is possible that of course some of those Senators that a period of office expires, of which I am one, would be potentially Ministers in an administration that would be elected later on this year. You would effectively have Ministers that would be in an election in the middle of effectively a parliamentary term. I do not think that is sensible. I do not think that that is going to achieve the objective that Members want, a caretaker Minister. I am sure that Members can imagine the situation of one of those Senators not wanting to carry on and being a Minister and then simply having to have then a caretaker Minister for 6 months or a Minister that is in that election and loses their seat 6 months ahead of a general election. I do not think that is going to be good order or good system of government and is going to achieve the objective. There is one other issue. I know I have put in my report this issue about the coinciding of the U.K. general election. It is not a massive point. I just make that point. It is certainly not the clincher in terms of the reason to vote for this election. There is one other issue, which has been drawn to my attention, about the consequence of a May general election concerning the financial year of the States.

[16:15]

I have been advised that it is going to be challenging to have an election in May in 2015 to elect a Chief Minister, then to elect a Council of Ministers, then do a Strategic Plan and then have a Budget while maintaining the financial year of the States within the current January to December. This is something that I have briefly had a word with Senator Ferguson about. I admit that I had not discussed it with P.P.C. and I had not discussed it with the Comptroller and Auditor General, but it is an issue which I think we are going to have to think through. I am not sure that we agreed exactly how that is going to work and certainly my option of having the general election set out in my report means that we have time, if there is an issue of changing the financial year of the States, which is going to be a big issue, we can deal with it in the period of time that I have set out because we will maintain the October election in 2014 instead of having it in 2015. This is relatively complicated. I hope Members are clear about what I am proposing, I hope it is not controversial. I

hope that Members will see it as being a sensible orderly way in order to conduct the next States or parliamentary term and I make the proposition.

The Deputy Bailiff:

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

4.4.2 Deputy P.V.F. Le Claire:

I think this is an example of the intelligence that Senator Ozouf has in bringing complex propositions that solve problems. I do not mean that sarcastically; I mean it sincerely. I hope that he takes that intelligence and ability and he does continue to work on these reforms and brings the Electoral Commission proposition forward, which I will be happy to put my shoulder behind. I certainly have not been comfortable in the stances I have taken recently but I think that reform is certainly overdue. I think that the Senator needs to, if he can, extricate himself from some of the positions that he is involved with in other Ministries and take some time to make sure that our composition and our Assembly moving forward is not only right in the elections that we are proposing but in the compositions.

4.4.3 The Deputy of St. Martin:

I will follow Deputy Le Claire also, and may well shock Senator Ozouf, but I do see sense in this. Although P.P.C. have not said they are going to support it, I would hope P.P.C. will and other Members will also. At some stage or other we have to have a kick-in time and whatever time it is going to be, it is going to cause a certain amount of inconvenience. It would make more sense I think to allow only one election as indeed what Senator Ozouf is saying, so at least we do not disrupt all the other issues. It may also mean that we might not need the other amendments that are being proposed on this issue. But I would ask Members that we do not spend a lot of time. I think this is a commonsense proposition. One would almost think that Senator Ozouf was sitting in the Back Benches because it is a very back-handed compliment. I honestly believe this is something that States Members should support and I hope we will not spend too much time in coming to that decision.

4.4.4 Deputy J.A. Martin:

Like the Deputy of St. Martin, I will be brief, and I am on P.P.C. I was not there I think when these comments were drafted because I was not well that day but really it does leave it up to us. I think we had looked so many times at how we get to transition. We possibly missed this and do you think is it best for us to take that first leap of 4 years or have a general election twice within October and May? For the public and basically for myself I think we did miss a trick there on P.P.C. and it is only when you step back and somebody else looks at it that you see this. Our comments are: it is up to everybody. I think the sensible thing would be for consistency. The other reasons the Senator mentions about getting our House in order and making sure of the financial year and everything, it gives you a lot longer to do this but brings the general election a year forward. So for my personal self, and as I say I am on P.P.C., I will be supporting it as I did say in an earlier speech. I think this is the only amendment that I will be supporting because I think it makes procedural sense and it works out best for the public, and that is my first concern. Thank you.

4.4.5 Deputy M. Tadier:

There is a much simpler solution to all of these different options that have been put forward and it is something that every Senatorial candidate who stood in the 2008 elections said that they would do, and that would be for all of the current Senators who were elected in 2008 would be to stand down at the next elections and then everybody would be voted in together. That would save a lot of time and a lot of hassle and a lot of money, which I know the Minister for Treasury and Resources is keen for us all to do. I just reiterate, every candidate on the platform, and there were 21 of us, said that if necessary we would be happy to stand down before the term to facilitate electoral

reform. So I would suggest that this is what is much more sensible than this way forward. We know of course that Senator Le Marquand, if he runs for Chief Minister, has to do this anyway because in his manifesto he said: "It cannot be right that a person can be chosen as the Chief Minister without their popularity having been tested at a recent election." So, clearly, unless Senator Le Marquand means "recent" as 3 years ago, which I do not think he does, if he is going for that post he will have to stand down at the next election. It would be good if all the rest of those Senators did test themselves and I think the public would respect them a lot more if they did that. It would solve the problem of there only being 4 seats; there would be a lot more seats to be contested and would bring us all into uniformity. Unfortunately, this is not what is being proposed here. There are pros and cons to this argument. It depends how quickly you want the spring election. If you prioritise the spring election as being the most important, you will obviously not vote for it. If you think it is more important that we have a general election altogether, then obviously you will vote for it. But, again, I think it is just protectionism. I think it is much more beneficial for when the 4 seats are chosen for that not to be done separately, because there will be a lot more scrutiny of those Senatorial positions, the Senatorial positions which are of course the most democratic in the Island. There is an argument to have them at a different time and it might be interesting in 2014, while we are still in a transitional stage, to have the senior, or what are perceived as the senior, politicians up to be scrutinised among themselves, including the current ones who re-stand if they do. I am sure that is a lot more beneficial. It would be more beneficial for them to have the distraction of other elections going on to deal with Deputies, Constables at the same time so that there is not so much forensic analysis of what they have or have not achieved. So by no means think that it is simply a housekeeping issue; that there is again an element of self-interest here. I will have to think whether I vote tactically here, and I will perhaps have a word with Deputy Le Claire, if he wants to pop out, and whisper in his ear in the corridor, as often happens on the other side of the Chamber, to see if maybe there is something else going on here that we are not aware of.

Deputy A.E. Jeune:

Could I ask a point of clarity, please? Deputy Tadier in his speech just now referred to the 6 Senators who would still be in place standing down at the next election. Would it need an amendment or can we just do it here? Thank you.

The Deputy Bailiff:

No, we cannot just do it here, Deputy. It is a matter for the Senators in question nearer the time. This is a debate upon legislation which is a completely different issue. Senator Ferguson.

4.4.6 Senator S.C. Ferguson:

Yes, I would just like to support this particular amendment because it is not just the Public Finance Law; possibly the States of Jersey Law. I am not at all certain that we will not have to examine the actual tax year. I think there are a lot of complications in going to a May election which, perhaps having more of an interest in finance and tax matters, I picked up which perhaps P.P.C. have sadly overlooked. But these will need to be looked at. There will be a lot of legislative change that will be required for the change to a May election. I think if we are going to do that, then this does at least give us a chance.

4.4.7 Senator B.I. Le Marquand:

This is a very good amendment and I want to congratulate Senator Ozouf on this. There are a number of problems with P.176 as originally drafted because in the attempt to move the earliest possible date to a May election, other difficulties have arisen. The first difficulty is that by moving to the May election as soon as possible, the proposals delay the arrival at a general election on the same day for everyone until I think 2019. This proposal brings forward the first general election when all States Members would stand for election on the same day to October 2014. The second problem with the unamended proposal is that in October 2014 there would be a Senatorial election

separate from the general election the following May; there would be a 7-month gap. Now that perpetuates a number of different problems. Firstly, it would perpetuate the 2-bites-of-the-cherry syndrome which we have now moved away from, albeit with the 7-month gap between the 2 bites as opposed to a one-month gap. The second area of disruption is of course that by having an election in October 2014 for Senators would disrupt the operation of the States of Jersey in a number of ways because a law requiring nothing to happen for the period of the election would then happen, and you would have that again the next year. It would also potentially seriously disrupt Ministerial government. It is quite possible - it could be a matter of course for the next States Assembly to decide - that among those who might be coming up for election in 2014 would be a number of Ministers, indeed possibly even a Chief Minister. So if you had an election and Ministers or the Chief Minister fell, as it were, at that election or decided not to stand again, you might need a completely new Council of Ministers for 7 months, which is simply very poor government, so this rectifies those things. The only cost of it is that it does mean the 2011 terms will only be for a 3-year term rather than slightly more and it does mean a delay in terms of the move towards a May election, although there is a lot more work that needs to be done on that. In his speech Deputy Tadier mentioned the fact that ... I believe all the candidates in the Senatorial election in 2008 indicated a willingness to stand down if there could be a general election for everybody on the same day in 2011. That certainly was my position. The difficulty is that of course that is not what is on the table because for that to have happened there would have had to have been legislative proposals which allowed for that to happen in such a way that people could conveniently stand down from Ministerial office and then stand again. The difficulty that anybody contemplating doing that now without other legislative proposals would have is, frankly, that their Ministry would be left in a mess right at the end of the term. The particular difficulty that Senator Ozouf might have hypothetically in relation to that is there will be nobody in 2011 to be taking forward the Business Plan and all those other things. So it simply would not work, but this amendment does arrive at that position at the earliest possible date which is 2014.

Deputy M. Tadier:

Would the Senator give way? I am not sure that is correct. It would not be any different to what is currently the case because every Senator, even those who still carry through to the next new House, has to be re-elected. I think that is completely unintentionally misleading because it would not change anything.

Senator B.I. Le Marquand:

I believe I am correct, although I do not have the precise time figures on this. Because I believe in order to achieve an election of more than 6 or more than 4, depending on the outcomes today, the Senator has to resign his seat entirely from the States at an earlier date, the difference being that he has to resign at a certain date in order to achieve that, whereas with transitional arrangements as at present he continues to be a Senator until after the election. So that is what causes the difficulty. That, Sir, is strictly off-point and of course you could have ruled me out of order, but there it is. I make those comments merely to respond to Deputy Tadier.

[16:30]

4.4.8 The Connétable of St. Saviour:

Speaking as a member of P.P.C., when this came up we certainly knew that Members wanted to have a spring election rather than an autumn election and we certainly gave weight to that to try and bring that in as quickly as possible. I think on reflection we did not give as much weight as we should have done to the problems that were likely to be caused to the Budget and the Business Plans by doing that. I think Senator Ozouf's proposal makes for a smoother transition and for that reason I will be supporting it.

4.4.9 Senator F. du H. Le Gresley:

As Members are aware I have an amendment to this proposition and I have to say that I arrived at my amendment totally in isolation of Senator Ozouf, in case anybody thought we got together. Obviously we were coming from the same angle, if you like, in the sense that I did not want to change too much of P.P.C.'s proposition because I did not think that would be the right thing to do. I chose what I felt was a fairly simple amendment. However, what Senator Ozouf is proposing here is to speed up the arrival of one single, general election and that is also what I was trying to achieve. In fact, he achieves it earlier than I would with my amendment so, in the sense that if people wish to know where I stand on this, I will be supporting Senator Ozouf's amendment.

The Deputy Bailiff:

For the avoidance of doubt, your amendment will fall away as a result if this amendment is adopted. Does any other Member wish to speak? The Connétable of St. Mary, chairman of Privileges and Procedures Committee.

4.4.10 The Connétable of St. Mary:

Just very briefly; various other members of P.P.C. have spoken. As the Assembly will see there is no whip on the P.P.C. We all are adaptable to receiving well thought-out amendments. P.P.C.'s original proposal came with the best of intentions and it was adopted by the House. As our comments make clear, we do not consider Senator Ozouf's amendment to be in any way causing problems to the generality of P.176. It is, as we have said, a political decision as to whether Members think the spring election coming earlier is a better thing than the general election. But Senator Ozouf has given some extra information during his proposal speech, and maybe he will give even more when he sums up, about the difficulties that could be encountered in the budgetary cycle. I think those things are obviously to be taken on board. As chairman of P.P.C. I am proposing the original proposition. I will not support the amendment but I will probably abstain rather than vote against it. It is a political matter but certainly P.P.C. does consider that Senator Ozouf's amendment does have merit and it is ultimately a matter for Members to make up their minds as to where they think the best emphasis lies. But ultimately, within a year, one way or the other, we will get to a general election and a spring election, and that is of course where we want to be going. Thank you.

4.4.11 Deputy A.E. Jeune:

Like a number of other Members I can see the logic in this amendment; common sense, I guess we would call it. But what I would like to ask in his summing-up, whether the Senator would give us an assurance that he will ensure that everything is put in place so that the Finance Laws will be all dealt with before 2018 so that this does not all get scuppered at a later date. Thank you.

4.4.12 The Deputy of St. Mary:

It is really points of clarification; I just hope either the proposer or someone else can help me. On the table that the proposer gives on his page 5, we can see that in October 2014 there would be in effect the first general election: 8 Senators, 12 Constables and 29 Deputies all being elected at once. My question is: how will this dovetail if we later go on to approve 2 times 6 equals 12 Senators? Will that dovetail in? I do not know who can answer that. Maybe one of the proposers or someone who is sympathetic to that later amendment. The other question, which is probably for the proposer to answer is if someone brings - and I am sure someone will bring - an Electoral Commission proposition, how does that relate to the October 2014 general election? Presumably it is up for change. We still have the general election but we can change who the electorate will be invited to elect at that time if the Electoral Commission so recommended and the States agreed.

The Deputy Bailiff:

Does any other Member wish to speak? Very well. I call on the proposer to reply.

4.4.13 Senator P.F.C. Ozouf:

I will start with the chairman of P.P.C. I am relieved that there is no P.P.C. whip because there is no Ministerial whip either, or at least it does not work. **[Laughter]** I am grateful for Members' support. I am not, as Members have said, seeking to cause any issues with the underlying principles that P.P.C. set out. I think Deputy Tadier was the only Member that cast doubt on the logic and common sense of this proposal, and he spoke about the issue of the alternative of the Senatorial 6 that are up in October 2014 standing down. If he wanted to make that suggestion, or if he wanted to propose that, although there are all sorts of legal issues about people standing down and being compelled to do it, as I understand it, he should have amended it. But he has not amended it, so this is the proposition that we have. But I would also say, which is relevant to that question that he raised, that the Senatorial 6 cannot stand down and add those seats that they have resigned to the mandate of the 6 to cause a general election. It is just not simply possible to do that. I do, for the avoidance of doubt, think that anybody, including the Senatorial 6 that do plan to stand for Chief Minister, they should declare that as soon as possible in advance of any election, so at least there is a discussion and an Island-wide debate on the future direction. I do not think it is about personalities: I think what the individual is proposing in terms of their general direction and what they would be doing. For my own part, I think that announcement should be made in advance of the elections so that there can be discussion about that if there is no election. I see my friend Senator Le Marquand is indicating that that is his position as well. I am grateful for all of the pleasant words that Members said about the common sense of my amendment. Senator Le Marquand did speak about the issue of the Minister for Treasury and Resources and potentially that person being in the Senatorial 6. We would be in a position if that Senatorial 6 were to be the Minister for Treasury and Resources standing for election, of that person having to draft a Budget, lodge a Budget in the middle of the election, potentially getting booted-out if it is controversial in the election and the Assembly needing to elect another Minister for Treasury and Resources to bring forward the Budget that he had put forward but without being able to change it, so I think it would be chaos. The financial year is something that does need to be looked at and a great deal of work is going to be looked at. Senator Ferguson is right to say that the financial year and the tax year is something that is going to have to be looked at, and I certainly commit to working to find solutions for that. Clearly, there is a desire for eventually May elections for all of the reasons why that should happen, and I favour a May election, but we are going to have to work hard to make sure that that works. I am not changing the Senatorial numbers for the Deputy of St. Mary. I steered away from any of that in relation to this for an uncontroversial amendment. I preserved the 8 in my amendment; I did not seek to change it. That is going to be a matter for Members to decide later in terms of the overall Senatorial election. My own position is that I am going to be supporting Senator Ferguson's amendment; I must re-read it, for the 6 to be re-instated for this election. I believe the Electoral Commission needs to deal with the redistribution of Deputorial seats and then we should have the 8 Senators being elected in October 2014. That is my position. It is the short-term issue, because I am unhappy with the lack of reform of the Deputorial benches being made in advance of the reform and the reduction in mandate, as we have discussed before, so mine is a split issue. I hope that this has been uncontroversial to Members' minds; that it is sensible; that it is for orderly Ministerial government in the next term and I make the proposition and ask for the appel.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR: 47		CONTRE: 0		ABSTAIN: 1
Senator T.A. Le Sueur				Connétable of St. Mary
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				

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

4.5 Draft States of Jersey (Miscellaneous Provisions) Law 201- (P.176/2010): third amendment (P.176/2010 Amd.(3)) – as amended

The Deputy Bailiff:

Very well, as a result of that decision of the Assembly, Senator Le Gresley's amendment P.176/2010 amendment 2 falls away, and we come next to the amendment of Senator Ferguson which, given the adoption by the Assembly of Senator Ozouf's amendment, involves really 2 amending propositions and I am going to ask the Greffier to read them together.

The Greffier of the States:

The third amendment as amended by Senator Ferguson's own amendment. Page 16, Article 2 - in paragraph (1), in the inserted Article 6A (a) in paragraphs (1)(a) and (2) for the words "4 Senators" substitute the words "6 Senators"; (aa) in paragraph (2) for the words "4 Senators" substitute the words "12 Senators".

The Deputy Bailiff:

Senator, before you start, I think I should make plain to the Assembly that I have been asked frequently as to whether Standing Order 89A applies to the matters which are under consideration. I will just read it to Members now: "Notwithstanding Article 16 of the law, any matter coming or arising before the States to which this Standing Order applies shall be done and decided by a majority of the elected Members of which the States are constituted. This Standing Order applies under paragraph (2) to the following matters (a) a proposition to alter, in any way, the membership of the States of Jersey; (b) a proposition to lengthen or shorten the term of office of any class of elected Member; (c) a proposition to alter, add to or extinguish the constituencies of any class of elected Member. So it is quite clear to me that the main proposition of the Privileges and Procedures Committee does fall within that Standing Order. However, this amendment seeks to preserve the *status quo* and I think therefore it does not fall within Standing Order 89A because it does not alter the membership of the States of Jersey or lengthen or shorten the terms of office or to add to or extinguish the constituencies. I thought I would make that plain before the debate starts.

4.5.1 Senator S.C. Ferguson:

I think next time I will just bring a rescindment; I think it is much simpler and less work for the Greffier. Members will have noticed that in actual fact I have 3 amendments to the overall proposition. The second 2 are consequential to my main amendment and I thank the Greffier for the time and trouble he has taken to work out the sequence of events in this debate so that things are done in a tidy and logical manner. I feel a bit like René in 'Allo 'Allo! Do I give the same speech 3 times? No, I do not think so, so I will say this once.

The Deputy Bailiff:

I think that is just as well, Senator. We think you have only amendment to propose at this stage.

Senator S.C. Ferguson:

Yes, but I have 3 ... Yes, I bow to your superior knowledge. How often have we all heard the complaint that there is voter apathy? Conversely, how often have we heard that this Assembly does not listen to the voters? As we heard earlier the MORI poll established that Islanders wanted to retain an all-Island vote and wanted to keep the Connétables in the States. So what do we do? We start down a road which reduces the number of Members voted under an all-Island mandate and we jeopardise the position of the Connétables in the States. So much for listening to the voters. With the possible exception of the worthy Deputy Le Hérissier, who probably knows more about comparative constitutionality than all of us rolled together, this Assembly seems to be fixated on the concept of a general election based on an all-in, all-out principle. I do have to question whether we really have considered all the options.

[16:45]

In my report I have mentioned the practice in the United States. There they have a congress which is re-elected every 2 years, while one-third of the Senators are re-elected every 2 years. It might be worth considering why the founding fathers, with a number of parliamentary examples to choose from, choose this particular option. The intention was to establish continuity and stability. Remember, the founding fathers had a clean slate. They had to design a new system for a new country and without the heavy hand of the United Kingdom to dictate or influence their thinking. The U.S. system was designed to prevent Central Government becoming too dictatorial. In our system we retain a considerable, but under-utilised, amount of power with the people and in the Parishes as well-articulated by the Deputy of Grouville and I thank her for her contribution to the

previous debate. In my vision and plans for less Government, I would reinforce that; but that is a debate for another day. In a similar way to the founding fathers design, the Senatorial role was derived from the original role of the Jurats in order to maintain the continuity and stability of this Assembly. The name was changed, as I understand it, so there was less confusion between which sort of Jurat we were talking about. This aim was recognised in the report by the Secretary of State for Home Affairs to the Labour Government in 1947. That report makes a point that Jersey is too small for a bicameral house and so the Jurat Législatif was retained for this continuity and stability. Interestingly, the same report also discusses the problem of voter apathy. There is nothing new under the sun, but I digress. There has been much said in this House and in the media about following Clothier and by the so-called reform group about reducing this Assembly to a number of Members only. No Connétables, no Senators; just Members. They say that the Connétables should stand for election to the States like all Members. Well, that is fine but what if the Connétable does not get elected? So then we have a system with some Connétables in the States and getting the princely sum of £40,000 a year, and some in the Parish only and getting nothing. What happens then? Should the Parish pay? If the Parish pays the Connétable, what about the Honorary Police?

Deputy P.V.F. Le Claire:

Is this about Senators?

The Deputy Bailiff:

I was about to ask the same question, Senator. Is this relevant to the proposition you are putting forward?

Senator S.C. Ferguson:

Yes, it is, Sir, and I will get to the point eventually.

The Deputy Bailiff:

I hope you will get to it sooner rather than later.

Senator S.C. Ferguson:

It will not take too long. If the Parish pays the Connétable, what about the Honorary Police and what price the honorary system then? On a practical note, how can we expect a Connétable to fight a Parish and a general election at the same time? Has anyone really thought this through? The public has said what it wants. In response to the article in our Parish magazine, in the *Jersey Evening Post* and one of my usual sources of information - the cheese counter at the St. Peter supermarket - the members have said what they want. There are Members of this House who have also said what they want. Which should it be: what the public wants or what the Members want? I think most people have read the letters that were in the *Evening Post*. There was a very interesting reply to the Parish magazine in answer to the question: "Should we have fewer Senators?" "The Senators absolutely should not be reduced. We need a solid and substantial block of Members whose mandate is Island-wide and whose vision and interest is both Island-wide and international where appropriate" and it goes on. I have quoted it in the report to my amendment. Members can read the whole thing there. Much of the social history of the western world over the past 3 decades has involved replacing what worked with what sounded good and I fear that this whole change in structure is an example of what sounds good with little thought for the collateral effects. So if I reiterate and we consider what the public has been saying that it wants and what we have achieved: general election: achieved, box ticked; retain the Connétables: achieved but for how long; Parish representation: retained but for how long; Island-wide mandate, reduced and what is its future? Looks good, does it not? But consider, there will be no solid block to prevent determined Deputies from removing the rest of the Senators and from removing the Connétables and replacing them by 12 extra Members, one for each Parish. The logical corollary to this is that there will be complaints that the smaller country Parishes are over-represented. Logically, to deal with this, there will be a combining of Parishes to form larger constituencies; another action resisted by the public. So what

will the future hold and how does it agree with the wishes of the public? General election: achieved; retain the Connétables, gone; Parish representation, gone; Island-wide mandate, gone; total number of States Members, something in the order of 45. As Members have heard, when Guernsey reformed their Government they eliminated the Island-wide mandate: “This is reform. We will show you.” This week they are now debating bringing back the Island-wide mandate in some form, I suspect due to public pressure. That must mean something. Are we not being somewhat precipitate in reducing the all-Island mandate? In the 1945 to 1947 changes in this Island a great deal of thought was given to the electoral system. There are some who will say: “This was 65 years ago and is irrelevant” but the structure of this Assembly is the product of our history and we should retain those principles and practices that serve us well. Our traditions have been built up slowly and laboriously over some 800 years. Should we destroy them in the thoughtless act of a single day? As I have said earlier today to those who voted for the proposition to reduce Senators earlier, 2,000 years ago it was said that no sensible man ever imputed consistency to another for changing his mind. There is no shame in saying: “In light of further information, I was incorrect. I was wrong.” When politicians or those who use politics for their own ends become enamoured of a policy, or of actions and changes which are derived from such a policy, they would be best advised to remember a very old Kikuyu proverb. That proverb, put quite simply, is: “If you discard a traditional way of life you must replace it with something of value.” Is a bland, all one-member state selected from large constituencies something of value? I ask Members to support my amendment.

The Deputy Bailiff:

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

4.5.2 Senator B.E. Shenton:

There is no doubt, in my opinion, that there is far too much onus being placed on the system being broken and not enough focus on the calibre of the politicians that are honoured to fill the seats of this Assembly. Maybe, just maybe, there is nothing wrong with the current system - a system of 12 Senators, 12 Constables and 29 Deputies - and it is the politicians that the public are disenchanted with rather than the system itself. How very convenient for us to blame the system rather than blaming ourselves. I shall be supporting the proposition of Senator Ferguson as it maintains the *status quo*. The public do not want a reduction in the Island-wide mandate and to do so would largely be driven by, I believe, self-interest. The MORI poll in 2006 announced a dissatisfaction with the way the States ran the Island; only 34 per cent satisfied in 2006 down from 38 per cent in 2000. I wonder what a poll would be today? In the meantime, I would, therefore, urge Members to retain the *status quo* and perhaps P.P.C. should be looking at the way we enable and encourage Members to stand and perhaps even run workshops for potential candidates to encourage more to consider becoming political representatives. You should only vote for a change at this stage if you are certain that it is the system rather than the current political incumbents that the public are dissatisfied with.

4.5.3 Senator P.F.C. Ozouf:

I wish to speak but can I ask a point of clarification in terms of what this debate is about, because I do not think I am the only one that is confused. I think you said that Senator Ferguson is only proposing one amendment and I apologise, Sir, but I am not clear exactly what we are debating in terms of the actual amendment now.

The Deputy Bailiff:

Members need to have before them the main proposition, P.176/2010. **[Aside]** Yes, if you wish.

Senator S.C. Ferguson:

There was my main amendment but, because of the way the law is structured and the other amendments that came in, there had to be 2 minor amendments just to keep the organisation of the debate. It is consequential, I am told.

The Deputy Bailiff:

Senator Ferguson will correct me if I am wrong, but the effect of the amendment that she is proposing is to have 6 Senators elected in October 2011 and 12 Senators elected in October 2014.

Senator P.F.C. Ozouf:

Can I just be clear because there may be some Members, of which I am one, that would wish to split that vote and to have one is to preserve the 6 Senators in 2011 but subject to the constitutional reform and Deputies, et cetera, move to 8 Senators, maintaining the States ... which was my amendment, which was maintaining the 8 Deputies in 2014? Is it possible to split it?

The Deputy Bailiff:

It is always open, at the time of voting, to give consideration to taking the vote in different parts of the proposition. I think I would rather leave that open until the vote is taken - and I am grateful to have notice of it - because there may be consequences upon taking the vote separately which ought to be drawn to Members' attention. That is a matter for when the vote is taken. Does any other Member wish to speak? Deputy Le Claire?

[17:00]

4.5.4 Deputy P.V.F. Le Claire:

If we are going to have a request for the vote to be split, it is important that we have consideration of that so that we can take part in a debate on whether it should be split or taken as a whole if it is possible. If it is significant enough for you to point out that there will be consequences in doing so, I think it is significant enough for us to debate those consequences. I would like, if it is possible, while I am speaking, for somebody to give that some consideration and respond after I finish speaking. I rose because I did think it was important to respond to Senator Shenton's - what is the word - rally for justifying one's vote: if one votes for this, one must be convinced that the system is broken, not the individuals that are coming to the Assembly. I am convinced, absolutely, totally and utterly convinced, that the system is completely broken and it has been for a number of years. I went with Senator Le Sueur and Deputy Martin to 11 of the hustings that took place to listen to what the people wanted and the retention of the Senators and the Constables and everything else and the MORI polls that were published within Clothier. At the time people were giving their views in-camera. Not in public, in-camera; in the library down there. I went to give my views. Sir Cecil Clothier was not there. The board was there. They took their views and then a never-ending stream of their views was put out into the public domain from that point onwards. The position, in my view, is that the system is broken and an Electoral Commission will not necessarily totally reflect solely upon the Deputies' positions. I hope Senator Ozouf takes this on board. There needs to be a mature consideration about the composition of this Assembly and the effective representation, proportional representation, of people in this Island so that we can re-engage the electorate and ensure that, through a modern single transferable voting system, we are able to avoid some of the mistakes that other jurisdictions have made. Senator Ferguson made the point that Guernsey is now taking a new considered view of reinstating the Island-wide mandate. Let us not forget, Guernsey were not daft enough to introduce the Ministerial system when they were asked to do so. They went to a smaller committee system. That is the nub of it, is it not? We have moved. We have cherry-picked. We have altered the political landscape. We have effectively disenfranchised thousands of people in this Island by introducing a Ministerial system where their elected representatives, whether they be Deputies or Constables, are effectively cut out of effectively representing them in this Island because they do not have a seat at the Council of Ministers. I think it was Deputy Noel said: "Oh, I think it is great to be an Assistant Minister on 2

because I can bring cross-fertilisation.” I used to be on several committees and I used to bring some cross-fertilisation there myself and I am sure Members will not mind laughing at that. **[Laughter]** But the fact of the matter is that when Ministers set up a Ministerial system and they cherry-picked this ... and let us not lose sight of the fact which Ministers are we talking about that voted for this Clothier Government? The same ones that are sitting there now. They are asking for us to support new ... the States needs businessmen. Yes, it does need businessmen but it does not need blindly-following businessmen or people with broken ideas and old ideas that are broken. What we need is democracy in Jersey and we have not got any. We need people who are in Jersey to go to the ballot box and to vote for Deputies, Senators, Constables, whatever you want to call them, and know that that Member is going to be able to represent their issues and deliver upon those issues. It is not the individuals. There are certainly talented people in this Assembly that sit for year upon year upon year, wasting away. I look at 3 talented Senators here sitting, dying on a vine. **[Laughter]** Dying on a vine, as I died on the vine. Sitting in that chair there, I died on the vine or was it the wine? **[Aside]** The kiss of death. **[Laughter]** Many, many issues are at hand here. I certainly do believe that we need to reflect upon what we are doing. Senator Ferguson is trying to preserve the Island-wide mandate. I am not against wholeheartedly having a total Island-wide mandate for every single Member. I think it is possible on a single-transferable voting system, as a matter of principle. But, more importantly, as a matter of principle, what I am concerned about is that this political manoeuvring that is occurring during these debates at the moment is more about dragging power and dragging effective representation within the core of the Council of Ministers clique and giving us, a week later or a month later, a look at part B of the minutes from the Council of Ministers; because all we see is part A. What is on part B? Then we see part B which tells us: “Oh, it was about congratulating Minister X on what he did there and it was about congratulating Minister X about what we did there,” and the rest of it is on part B. So all we get told eventually from the Council of Ministers in this open and wonderful society that we have got, effectively represented by Senators, is that they are congratulating themselves. I do not need minutes to tell me that. I know that they are self-congratulatory. What I want to know is: when are we going to have Ministers that can look the public in the face and say that they are giving them effective representation? I am saying they are not doing it.

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

I do rise tentatively. As Members will be aware, I have kept very quiet over the past 2 debates because I am not one who enjoys speaking about ourselves. But I have 2 points that I want to make and the first one is no system is perfect. Every system will have its problems and to try and seek perfection when it cannot be achieved is perhaps something Members need to realise. However, there is one other point I want to make. If we think 3 elections away with the changes that we have made to the full universal 4-year term and if we accept Senator Ferguson’s amendment, that means there will be 12 candidates during one electoral cycle standing for Senator. Now, being through a process where, for 6 seats, I have stood among 21 candidates for Senator, doing a quick calculations, that means there is the possibility that you might have 42 candidates standing for 12 seats. Now, I would like to see that at a hustings. It may not necessarily happen and, of course, there is always the option that, even now with the 6 seats or even with the reduction to the 4 seats, you might still get 42 candidates. There is nothing to say that it will or will not happen. But then in that scenario the whole question of the quality of candidates, it happens regardless. In my manifesto I stood on a 4-year term and I stood on a spring-time election. As for the number of Senators, I am still open to persuasion so I am open to listening to the rest of the debate. However, you cannot achieve perfection.

4.5.6 Deputy M. Tadier:

I will keep it brief because obviously Deputy Le Claire is on form today and one cannot really follow that kind of speech. It is given with passion and I particularly enjoyed the call to arms. But it really is about the public getting out there and voting and I think we can all agree with that,

irrespective of our political differences. Any changes that we have must encourage the members of the public to vote and certainly that is what I will be promoting at the next elections and into the future, irrespective of if and where I stand. But what I am gaining from this is there are clearly frustrations. We all stand up and say: "I have spoken to so-and-so and they think that most of the Members in the House do not represent them." Some of us are saying the system is broken; others are saying: "No, the system is perfectly fine. It is just the individuals." But, of course, what we are not recognising is that the system is important because it is the system which you have that dictates who can or will get elected into different positions. So simply to say that you cannot have it one way and say that it is the individual candidates and the calibre of candidates which is not good enough and then say: "But our system is fine." We all recognise that there is a benefit to having Senators in the States and in the Island because you do at least have a great forum in the Island for debate. So in that sense I am very for some of what the Senators represent as a position. You do get the 15 hustings. It is not just the 12 Parishes people forget when you go round the Island. You also have the countryside hustings. You go to the schools. Last time there was a union hustings. I think that is probably for the first time in recent years. So you are bringing in all these groups and engaging with the public, not simply in the Parishes but also the interest groups. But I have to say there is never going to be a situation in Jersey that I can see where the public are going to be able to vote for every Member in this House. That is simply not logical. It is not possible. If someone wants to show me how that would work then please do it. That is the ideal and that is why there is an affection for Senators but it is not possible and that is why I would suggest 2 things. Rather than getting fixated on the existence of Senators, we have to look at what is good about the role of the Senators. The good thing about Senators is that you do get that debate which you do not have in the Parish Deputies or in a Constables' election, if indeed a Parish is fortunate enough to have an election for Deputy or for Constable. I did have to laugh because in the coffee room before, I think Deputy Martin just did not quite say it, but the reason that there is so much affection for the Senators in the country Parishes like Trinity or Grouville is because that is the only election they get. There is no other election. So of course if you take away the Senators they are not going to be very happy because they will not get to vote at all. In the country we joke that you do not vote for your Deputy and you do not vote for Constable. They get appointed. I also joked with the Constable of St. Helier that he has the biggest mandate because he can say that there is nobody in St. Helier who voted against him. Therefore, he has the whole of the Parish who have endorsed his candidacy, which surely must mean that he should run for Chief Minister with a mandate like that. But the point I am making - and P.P.C. recognised this even though we had individual disagreements perhaps about whether the Constables should stay in - is that the super-constituencies have the best of both worlds. You do get the dynamics of having a meaningful hustings. You probably have 2 or 3 or 4 hustings if you are in a super-constituency. I must say, after doing 15 hustings, it was a relief to just have to stand for Deputy, even though you did have the subsequent door-knocking, and just have one hustings. It was relatively easy. So what I am saying is there are 2 issues. First of all, super-constituencies are my way forward but what I am hearing here is just party politics. That is what you need. One group of politicians are saying: "My policies are better than your policies; put that to the electorate." The electorate, I believe, are not hung up on a particular type of States Member. What they want is to have a meaningful relationship between their vote and what they get in the States. At the moment, irrespective of any kind of membership, they do not have that. They see that in St. Brelade they might vote for either Deputy Power, they might vote for myself or they might vote for both of us. But they see a load of members over whom they have no control. That is why parties will become necessary in any mature jurisdiction. I know that there is an aversion in some quarters to that because sometimes we see the excesses of adversarial politics in the U.K. but that is to completely ignore the fact that there is an inherent efficiency in having dialectical politics where you can put ideas to the test. You do not need 53 Members to jump up every time to make a speech because you have selected speeches. So what we need is, I believe, politicians who have got the nous, if you like, and have got the gumption to stand together and stop acting as individuals. That is not to endorse any one party and

it has to be said there is not any one group in existence in Jersey at the moment which I believe can purport to have the elixir for the future but I think that is the only way things will change. So I am going to reject this because I think we should not be fixated on the number 8 or 12 of Senators. I think it is quite correct that in itself the reduction from 12 to 8 can be seen as slightly anti-democratic but certainly that is not an end in itself and when I voted to reduce the number it was on the basis that there needs to be a lot more reform, a lot more thinking. Just to endorse again Deputy Le Claire's call to arms: "*Aux armes citoyens*", actually: "*Aux urnes citoyens*: come to the ballot boxes" because that is what is important in October 2011.

[17:15]

4.5.7 The Deputy of St. Mary:

Senator Shenton said a little while back: "Maybe there is nothing wrong with the system." I think it is important to lay that to rest. There is something definitely wrong with the system, and with the charts that I have put round for the debate on P.2, which never happened because it was pulled at the last minute, but if Members want to look at chart 2 they will see just how unfair the present system is. St. Mary: God bless St. Mary, over 60 per cent over represented; St. John 40 per cent over represented, and I am including, of course, the Constables and the Deputies in this. Then when you get to the bigger Parishes: St. Clement 30 per cent under represented; St. Helier 20 per cent under represented, and so it goes on. There is a quite clear imbalance. P.P.C.'s comment on this, way back in whenever P.72 was written, P.P.C. believes that the above imbalance in membership is unsustainable and must be addressed. That is the sort of cold version of Deputy Le Claire's magnificent speech. That is the fact. It is unfair. We have to change. Now, coming to this particular amendment, I do not really go along with some of Senator Ferguson's reasoning but, in brief, what she is asking us to do is go for the *status quo* for the time being. In other words, for 2011 we carry on with an election for 6 Senators, which we have done before. Then in the interim someone will propose an Electoral Commission, that is quite clear, whether it is Deputy Le Hérisier or myself or Senator Ozouf, someone will propose an Electoral Commission and that Commission has to look at all the issues. It has to be across the board, *status quo* is not acceptable and the question is how best the people of this Island should be represented according to proportionality, the amount of representation that each person has and the involvement and engagement of the public. There are 2 other issues, of course, the voting system within that; how the actual voting is done and the issue of Ministers and the public's role in appointing Ministers and whether that should be related to Senators, if that class of Member still exists. That is what the Electoral Commission has to look at. I think if we go with Senator Ferguson on this, what we are saying is keep it as it is for the Senators for 2011, 6, which as I say we have done before, it is a bit of headache but we have been there many times. It is a traditional headache, if you like, and then we move on to the Electoral Commission and we look at the whole thing again in time for 2014 with a fresh general election and a fresh start.

4.5.8 Senator T.A. Le Sueur:

I think there are 2 matters, which I take from our discussions this week, and in fact the debates over the past as well. The first is that in these sort of matters we are not good at dealing with it ourselves. It is becoming abundantly clear, if it was ever in doubt, that this is something which really we get ourselves hopelessly tied-up in. The second, highlighted by the Deputy of St. Mary and Deputy Noel, is the current imbalance in representation, which may or may not occur, may or may not be exacerbated with the next census results. One thing which seems to be a common thread throughout any speakers today has been the desire to have an Electoral Commission. I think for 2 reasons: firstly, it can look at the whole subject in proper detail and at length, and secondly, because, at an external body, it will have a greater degree of independence than we seem to be capable of bringing to it in this Chamber. If there is one thing which maybe we can learn from this week's discussions it is that this problem is never going to go away, but if we had an independent external Commission there is more chance that something might get resolved in a proper way. The

proposals that we have here, particularly following the amendment of Senator Ozouf, would mean that we would have a continuation of 12 Senators, at least until October 2014, and possibly, but not necessarily, thereafter. I say “not necessarily” because I would anticipate that in fairly early course after these discussions there will be a proposition from somebody or other to bring forward and set up an independent Electoral Commission to report back in good time so that well before October 2014 we will know precisely how many of each class of Members, if there are more than one class, there should be, and indeed if the electoral boundaries and representation proportions need to be amended. That work, as the Deputy of St. Mary has shown, the outcome could be a variety of solutions depending on how flat you try to get ... a draft which is impossible to flatten. But it is something which, as I say, are better done by an external organisation. I think while many Members had some sympathy this morning with Senator Cohen they were reluctant to support his proposition because it would have meant that nothing whatsoever would have happened in the immediate future. No change to a 4-year period. No single election day. We would be stuck really back in the dark ages. So I can understand their feelings and I can understand that while they might have had sympathy, that was not enough. This proposition is very much a transitional proposition which allows us to set up and learn from that Electoral Commission. It maintains the *status quo* for the time being quite rightly because if one is going to have a Commission looking at the whole situation, one does not think with one aspect of it in isolation. So I think this amendment wins in all directions, at least it would do provided there is that commitment to bring forward the proposition for an Electoral Commission, which gets approved. In fact in saying that, I think I would reflect the view certainly held previously by the Privileges and Procedures Committee, and possibly still held by them, that such a Commission may well be a better solution, because whatever we are doing here I suspect it is not the end of the line, and therefore I believe that we should take this opportunity to give the continuation for the time being of the 12 Senatorial seats, the Island-wide mandate which, as we discussed earlier today, is one which is generally and widely, although I accept not universally, felt to be a good thing for the Island, and in that breathing space between now and prior to October 2014 have that Electoral Commission. For those reasons, I believe that Members can be justified in supporting Senator Ferguson, and even those who felt unable to support Senator Cohen in his proposition, may be able to change their mind in this respect because it is significantly different in that it does allow the continuation of the move to a single election day and the move to a 4-year or 3½-year term of office. Therefore, I urge Members to support Senator Ferguson’s amendment.

4.5.9 The Deputy of St. John:

I have just been listening intently to the Chief Minister. A great leader is telling us what we should be doing. I was hoping 2 years ago when I returned to the House that our great leader would have been leading the charge for these reforms to take place. He now waits until other people are doing it before telling us that we need reform, as we need an Electoral Commission. I have said that since my return. I said that at the time of Clothier and nobody took note. I do not want to tinker with the work that the P.P.C. are doing. They have put a lot of work into this. I know they never supported any of my amendments on the way through but that is irrelevant. It has been done democratically. We accepted what we voted back in November and we are now going to be tinkering with it again. Yes, we had the amendment from Senator Ozouf, which was a little bit of housekeeping, for want of a better word, just to improve things. But all this other tinkering I am not in favour of and I think, as I have already said, it is all well and good for our great leader to tell us what we should be doing, but he should be supporting P.P.C. I am sure P.P.C. will take note that an Electoral Commission is required and they can go away and work on that, but in the interim let us support them with all the hard work they have done to date and adopt their report as it stands, without all these amendments, because I do not think it is going to improve things one iota.

4.5.10 Senator B.I. Le Marquand:

The problem which we faced today was very neatly explained by the Connétable of St. Clement in an earlier speech on an earlier matter. The overwhelming majority of the public want to see a reduction in the number of States Members. But some want to remove Connétales. Some want to remove Senators. Some want to reduce the number of Deputies. Now I also have been approached by people who do not want to see the number of Senators decreased but they then propose different alternative reductions. Connétales out. Deputies reduced. Different methods of election. Some the current Guernsey style with super constituencies. Some the new possible Guernsey style with everybody elected. Goodness only knows how you can do that when it was so difficult, as Deputy Maçon said, with 21 candidates at the hustings. This is the dilemma which we face. We have failed to reduce the number of Deputies. Many of us do not want to do that. We failed again today in that, and that, in my view, without an Electoral Commission of some sort, will always fail to a combination of those who do not want to see a reduction of the number of representatives in their area plus those who either want or do not want super constituencies. So all the combinations we have tried there have failed. We have failed to remove the Connétales from the States. I do not want to, but nevertheless the States has looked at that. I certainly do not want to. It has failed to do that. So we are faced with the stark choice either of a complete failure of this 3 years in the States to reduce its own size, reduce the number of Members or a slight reduction of Senators. That is exactly the same position as this Assembly faced when we looked at the principles of this matter not very long ago. I then said, and I repeat it, that I am very supportive of the continuation of the role of Senators. This for a number of reasons, which I have said on different occasions. Firstly, the reason mentioned by Senator Cohen today, the difficulties of a Minister, particularly a Minister for Planning and Environment or someone trying to build an incinerator or other unpopular item somewhere, are potentially being held to ransom by the electors in their area, the sheer difficulty of doing that. Secondly, the fact that if Ministers do have an Island-wide mandate and ask Senators that gives them a very clear Island-wide mandate to be doing things. Thirdly, the issue that if we retain Senators that those who are Ministers are freed-up from the requirement of doing representative work. I spent much of my early life representing people as a lawyer and I am a grateful now that I do not have to do representative work, but I do not think I should as a member of the Council of Ministers because that can create all sorts of conflicts of interest.

[17:30]

But nevertheless I am free from that as a Senator. The Connétable of St. Mary tried to explain my somewhat convoluted arithmetical argument earlier on and got a bit tangled up. This may not be my best point, of course, but I am going to nevertheless attempt to explain it. What I was trying to say was that historically every 3 years the public have chosen 6 people. Now if every 4 years they choose 8 people that is exactly the same ratio of people per year. That was the point I was trying to make. At the moment, we have 5 Senators who are Ministers. When this Council of Ministers set out, it set out with 7. The previous Council of Ministers had 9. We have seen a trend away from all the Ministers being Senators. I deduce from that that we can meet all the requirements, all the desirable things, which I have mentioned, with a reduced number, and indeed we can meet that with a reduced number of 8. So here is the stark decision which we have to take today. But there is one further issue, and that is one of credibility. The States by a substantial number voted for the principle of moving to a slight reduction in the number of Senators. Firstly, to 10 and then to 8. Nothing has changed since then. Yes, there have been people who have been vocal in the press and otherwise, but they are all suggesting other methods of reducing the numbers. They want to reduce in a different way. If today we go back on that which we decided in principle so very recently we are going to look utterly foolish. **[Approbation]** People may talk about our inability to organise our way out of a paper bag. They may talk about our inability to produce the customary event in a brewery. The Island is looking to the States for leadership for dithering. So we have a stark choice in my opinion. That is between reducing the size of this Assembly, which is what the vast majority of the public wants, and retaining credibility, which is certainly something that we should want, on

the one hand, or on the other hand making a moderate reduction in the number of Senators. So I shall not be voting for the amendment.

Deputy G.P. Southern:

Sir, before we go to the adjournment, I assume we will do, can I respond to a question you asked me earlier in the day? [Laughter] I will take that as a yes.

The Deputy Bailiff:

I am sure you could, Deputy. Can you remind me what the question was?

Deputy G.P. Southern:

To define “debunkle” [Laughter] and I have found the definition. For the sake of Hansard, so we know what we are talking about, it comes from the Urban Dictionary on the internet.

The Deputy Bailiff:

Is this really a dictionary?

Deputy G.P. Southern:

Debunkle: “A situation where a meeting occurs between 2 or more people leaving one party embarrassed and one party victorious.” That is the definition of “debunkle”.

Senator P.F.C. Ozouf:

Before the adjournment is proposed, I raised the issue earlier about a split vote and I want to speak on that. Obviously that will be tomorrow morning, but overnight could the consequences of requesting a split vote in order to achieve the 6 Senatorial seats in 2011 and the 8 Senatorial seats, subject to the original projection for reform, in 2014 and how that will work, because that is how ... I did originally put an amendment to the Greffe, which I then gave way to Senator Ferguson. That is what I wanted to achieve.

The Deputy Bailiff:

The Chair will give consideration to that overnight and I have noted your request, with a ruling tomorrow morning.

Deputy P.V.F. Le Claire:

It was to follow that, Sir. In my speech I did ask if somebody could explain it. You are going to consider it this evening, and will you be circulating a paper to us in the morning?

The Deputy Bailiff:

The effect of taking a split vote is one which I think perhaps should be given some guidance from the Chair tomorrow morning, and that will be done.

Deputy M. Tadier:

Can I make a correction of something I said earlier, which was not correct? When I talked about the referendum in 2009 on the Connétables I said that none of the Connétables voted for it, but that is incorrect because I think Constable Norman did support that one. I made an incorrect statement.

The Deputy Bailiff:

Thank you. I wish to announce a number of propositions have been lodged. P.4 - Cold weather payments: amendment to income support- lodged by Senator Le Gresley; P.5 - Assistant Ministers: notification of appointments and dismissals - lodged by Deputy Le Claire; P.6 - Assistant Ministers: appointment by the States - lodged by the Deputy of St. John; amendment to P.170 - Shadow Boards and Ministerial Boards: approval by the States - amendment lodged by the Minister for Economic Development; and the Draft Terrorist Asset-Freezing (Jersey) Law 201- - P.191 -

amendment lodged by the Chief Minister. The adjournment is proposed. The States now stand adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:36]