

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 15th JULY 2014

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[9:30]

The Roll was called and the Greffier of the States led the Assembly in Prayer.

PUBLIC BUSINESS – resumption

1. Draft Restriction on Smoking (Amendment No. 4) (Jersey) Law 201- (P.103/2014)

The Bailiff:

We were going to take a question to the Minister for Treasury and Resources but Deputy Le Fondré will wait until he returns. That seems sensible. So on that basis we move on to P.103, Draft Restriction on Smoking (Amendment No. 4) (Jersey) Law, lodged by the Minister for Health and Social Services. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Restriction on Smoking (Amendment No. 4) (Jersey) Law. A Law to amend further the Restriction on Smoking (Jersey) Law 1973. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

1.1 Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):

Smoking is one of the biggest causes of premature death and ill health in Jersey, and yet every day we see children coming into contact with second-hand smoke, which can have a devastating effect on their health. We also know that children who see adults smoking are more likely to smoke. Often children have no or little voice in the issues of their health and certainly when it comes to exposure of cigarettes - of smoke - from adults, they have very little. Health and Social Services Department have therefore been reviewing future options for action to protect our children. During last year, the department led on the consultation protecting children from second-hand smoke. Many countries, including England, Ireland, Scotland and France, have been taking steps to protect children from the harmful effects of smoking and second-hand smoke. The purpose of this public consultation was to gauge public opinion and explore Islanders' views about protecting children from second-hand smoke in public places, private homes and cars. Just under 3,000 Islanders took part in this consultation to have their say on the matter and almost 8 out of 10 of them said they would support a law in Jersey to stop smoking in cars carrying children under 18 years of age. Those consultation findings were published earlier this year. The 2013 Jersey Annual Social Survey, designed to reach conclusions representative of Islanders as a whole, indicated that 81 per cent of people would support such a ban. Very encouragingly, 66 per cent of smokers were also in support. Following these strong views voiced by the public in last year's consultation, I am persuaded to put in place this amendment to the law that will allow the restriction of smoking in motor vehicles carrying under-18 year-olds. Throughout the progression of this amendment to today's final stage, I am pleased to have the support of the Council of Ministers and the Comité des Connétables and of course from the public. The proposed amendment is made under the Restriction on Smoking (Jersey) Law 1973. The amendment will extend the law to include a definition of motor vehicle as well as extending prohibitions and restrictions to include motor vehicles carrying a person under 18 years of age. This is primary law and will allow the introduction of detailed regulations in the near future that will bring into effect these restrictions. Discussions have already taken place with States of Jersey Police and they are confident that enforcing these new restrictions will fit in their regular police checking requiring no additional resources. However, sometimes these laws are less about enforcement and more about compliance as social norms change alongside a shifting majority view and public support. Legislation just helps to shift norms more rapidly. An example was the ban on smoking in workplaces and I think how many of us would turn back the clocks to allow smoking in offices, restaurants and cafés. In essence, some degree of conformity is necessary for society to function and to be protected. The

success of these proposed Regulations will be measured primarily by a reduction in children's risk of and exposure to cigarette smoke in motor vehicles rather than the number of people charged for an offence. The aim of these proposed amendments is all about protecting the health and even lives of our young people, protecting the future of our Island. We know that in Jersey around 160 babies each year are highlighted during their 6-week check as being at risk of exposure to second-hand smoke; evidence of increased harm from second-smoke in the enclosed space of a car, even with windows open. Information from the schools survey data from 2014 shows that 10 per cent of year 8 and year 11 students are exposed at least weekly to second-hand smoke in cars. If similar levels of exposure are experienced across all ages under 18, nearly 2,000 children could be experiencing weekly exposure to the harmful effects of second-hand smoke in cars. There is an increased 50 per cent to 100 per cent higher risk of acute respiratory illness such as asthma among children exposed to second-hand tobacco smoke. There is a higher incidence of ear infections and increased likelihood of development of disabilities and behaviour problems. Evidence for prohibiting smoke in motor vehicles carrying anybody under the age of 18 is also very convincing. Several studies have shown that second-hand smoke levels and pollutants in vehicles can be extremely high because of the confined area in which the smoke is circulated, even if the windows are open. Another study has shown that exposure to smoke in cars significantly increases the risk of initiating and encouraging smoking, further lending support to the case for legislation to protect our children. Acting on the growing research evidence, a number of countries, including Australia and Canada, have already implemented laws that prohibit smoking and the use of tobacco in vehicles, which carry children. England and Wales are similarly pursuing law changes, which are expected by April next year. So, with all this evidence, this is something we need to do, and I make the proposition.

The Bailiff:

Is the principle seconded? **[Seconded]** Does any Member wish to speak on the principles? Senator Farnham.

1.1.1 Senator L.J. Farnham:

Just a query. People can drive when they are 17. Does this mean that a driver, a 17 year-old driver, is unable to smoke in a car, which would seem rather odd? Provision might have been made to deal with that but I could not see it. That is the only question.

1.1.2 Deputy M. Tadier of St. Brelade:

I broadly welcome this law change and it would be interesting to hear some of the arguments that will come out today, some of the, what I could call spurious libertarian arguments, who are more worried about the rights of adults to inflict medical damage on people under 18 in their cars. Hopefully there will not be too many of those arguments, but putting that concern ahead of the health benefits. What I am disappointed at and what I would like the Minister to engage is that the report and all the statistics always focus on obviously the negative health aspects of second-hand smoking, always in the context of cars. When it says 160 babies are at risk of exposure to second-hand smoke, it does not say in cars, I mean these babies who are at risk to second-hand smoking, presumably because they have parents who are smoking around them, does that happen in cars? I mean what if these parents do not own a car? If they are smoking in a bedsit with a 4 week-old child and they are doing that during the first few weeks of life, is that not of concern to the Minister?

[9:45]

It is something I have raised in the past. Why not just extend it to enclosed spaces? If the answer is because it is not enforceable, the Minister has already addressed that, because it is about changing the attitudes of people in society, so you have a law and say: "You cannot smoke in a car with a

baby but it is perfectly fine to smoke in your bedsit with a baby”, and I do not know why the Minister and the department has not taken that aspect on board because surely a car journey in Jersey lasts, what, 20 minutes, so you go from St. Catherine even to Corbière, which is probably one of the longer journeys you might do, that is half an hour. Absolutely right that there should not be any coerced passive smoking going on in that car, but the real damage will happen in the home when a baby is sitting there in the corner, a small toddler, Corrie is on television, the Super Lights, or whatever the cigarettes, the 20-packs come out, probably 20 to 40 cigarettes being smoked there, and the Minister is saying: “That is fine, we have no interest in helping those individuals.” That is where the real risk is so I would like the Minister to address that. Is this an easy step? Is this perhaps the low-hanging fruit? Of course you are pushing on an open door, are you not, if you say: “Should we ban smoking in cars with children?” Of course anyone in their right mind is going to say yes to that. If a similar question had been asked: “Should we ban smoking in bedsits where there are babies?” you would probably get 95 per cent of the public saying: “Yes, of course we should do that.” So it is all about which questions are asked. So, of course I fully support this, because it is a step in the right direction, but there are underlying questions, which I think the Minister needs to address, and that is the perfect time I think to give way to the next speaker in Senator Ferguson perhaps.

1.1.3 Senator S.C. Ferguson:

Frankly, I can talk about this because I am an ex-smoker. But what I would like to know is, since when is it appropriate for the States to act *in loco parentis*, for that is implied by this proposition. In fact we are gradually slipping into a *Brave New World* come 1984 come *Animal Farm* situation. It is not for the States to dictate a lifestyle. It is for the States to educate. I have had occasion to discuss this with constituents, either they do not smoke or they do not with children in the car. This proposition is akin to shutting the stable door after the horse has bolted. The Minister has talked about workplaces and the restriction on smoking. Having lived through this period as a smoker, I can assure this Assembly that the restrictions came into play, apart from pubs, well after the social change and the businesses had stopped smoking on their premises. The same applies to this current restriction. The report is replete with statistics, which are expressed in percentages, and it is only just now in her speech that the Minister has said there were 3,000 people, which is 3 per cent of the population, replying to the consultation. When you put percentages in a report it usually means that the actual number is less impressive. Is this an example of a vocal minority or have in fact, as in fact the social background, the social morrow’s practice, moved on and the legislation is just trying to catch up with what is happening in the world? The problem with this proposition is that this legislation is pretty well unenforceable. We cannot stop mobile phone use, so how on earth are we going to do this? With great respect, if Members had spent time with the Honorary Police, they would have appreciated the total impracticality of this. As an ex-Centenier, I can assure you that stopping people on mobile phones is almost impossible and adding to the list of unenforceable legislation is a totally nonsensical way of Government business and waste of time. In fact trying to enforce clearing up dog messes is yet another piece of unenforceable legislation. I am told that in order to prove that the dog mess came from a particular dog you need to D.N.A. (deoxyribonucleic acid) test the mess and the dog. I mean, really, come on. I would also point out to the Minister that smoking is an entirely legal occupation inside private property and surely a car is private property, which brings me back to 1984 and *Brave New World*. It is quite wrong for us as a government to dictate people’s lifestyles. By all means, educate. For once, try the carrot and not the stick. I urge Members to reject this ... I was going to say “proposition”, but I do not know that it should be dignified by that title, Sir. **[Laughter]**

1.1.4 Connétable P.J. Rondel of St. John:

I will probably come from a slightly different angle to the last speaker, also having been a Centenier, but I am going to go back somewhat further. Just after the occupation when televisions

were very rare in any household, families used to go to one another's homes to either play cards or for other entertainment on a weekend. I recall well as a young child being put in the back of a van, my father was an avid smoker of over 100 a day, and having to put up with driving to St. Helier or wherever aunty or uncle lived for an evening's entertainment. We would get there and everybody appeared to be smoking, you could not even see across the room. Hours later you would leave to come home, get put in a cold vehicle, which started to fill up with smoke, you maybe just fell asleep when you got home - you were about 5 or 6, or whatever age you would be - only to be woken up and put into a cold bed, and you would think: "Well my word." Even today, when I think of anybody playing cards, I think: "Oh, no thank you", because that always reminds me of a smoke-filled room, having been brought up with that as a background. I have nothing against cards, it is just the thought of it as a child; that memory stays with me close to 70 years later. That is the kind of thing children remember. I recall also going into my parents' home many years later when I came back from sea and the house had just been decorated, the rooms were, shall we say, a white, for instance, or similar. Go off, and a few months later came back, and the colour of the paintwork was the colour of this chamber, it was brown, and my mother was not a smoker at all, but she had this passive smoke. Needless to say she died of cancer. To me, anything that will prevent, from a very early age, young children having to go through this scenario of sitting in the back of a vehicle with people smoking, to me must be right for the child. I would, unlike the previous speaker, who mentioned what the Honorary Police do or do not do and the way they would deal with it, there are ways of dealing with it. Yes, you do not have to stop the vehicle there and then you can take the J number and get in touch with the family concerned, and a few wise words or a Parish Hall Inquiry, or whatever, there are ways of dealing with it, as my Honorary Police in St. John and in the rest of the Island deal with mobile phone offences now. They do not necessarily stop the vehicle there and then, they have seen the offence, they take the J number, follow it through, and the offences are dealt with. Yes, dogs are slightly different, but in fairness I think this is probably the right way forward. We have taken the cigarettes out of the public place, i.e. public houses and the like, and it is a far better atmosphere when you go into a restaurant or into public houses where you do not have a smoke-filled room, your clothes, you get home and you hang them up, the following day there is no smell of nicotine on everything, and therefore I think it is the right way forward. Thank you.

1.1.5 Deputy G.C.L. Baudains of St. Clement:

I notice, as an example Article 3, apparently this only applies to smoking tobacco, so presumably you can smoke anything else in a car and this law will not have any effect. [Laughter] But I agree with the comments made by Deputy Tadier, as far as I am concerned by far the greatest problem, and the small child obviously has no choice of people smoking in premises, especially a small flat. But I have to say that, as far as the information I have, what is known as passive smoking is probably more unpleasant than it is unhealthy. I am not aware of any major research that has been done that proves it is injurious. But I would agree with Senator Ferguson about the enforceability of it, and picking up on the Senator Farnham's comments about people driving at 17. I think, if I remember correctly, you can drive a tractor, which has a cab these days, at 16, so whether that applies to that I do not know. But how do you enforce it? Only if smoke is pouring out the windows? How do you know whether a person who appears to be smoking is not using an electronic cigarette? I would have to disagree with the Minister when she says that open windows would virtually make no difference, of course it would, and what about a convertible? I mean this whole thing is wide open.

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

I will be brief but it would be remiss of me as the Assistant Minister with responsibility for children not to just have a few words on this and take me back to Senator Ferguson's world where she thought that everybody in pubs and restaurants had come around to that way of thinking before 4th

January. Everyone took in their 60 cigarettes and smoked the place out and then on the day it came into force nobody smoked in the pubs because it was against the law. This is to protect children who have no choice but to be in that car where their parents are smoking. It is a first step. Thirty years ago you could take your child home from hospital basically and put them in the car in what you liked. Would anybody let a child go out of hospital today without a proper fitted car seat? No, they would not, because it is dangerous. As for Deputy Tadier, yes, unfortunately there is lots of education, but there are already so many limited places, if you see adverts for bedsits, it is normally: "No children, no pets, and non-smokers", so people have to live somewhere. But this is a first step. The enforcement, it is a myth that we cannot enforce it. Society will enforce themselves. Honoraries can deal with it like the Constable of St. John said they do. I, myself, if I see somebody smoking with children in the back of the car, I cannot say anything at the moment. I can if they are using a mobile phone and I do, and I tell them to put it down or I will take their J number and I will report them. It is ridiculous that people cannot think that they can do a short journey, like Deputy Tadier says, and not use a mobile phone. It is also incredible that people do not think of their children's health and they think they can do a short journey with their children in the back of the car. I have sat in the back of a car with 2 adults smoking and the windows open touring Malta and it was a very unpleasant experience and I kept telling them and I am over 18. So we can prolong this; I think really and truthfully we all know it is the right thing to do, it is the first step on to legislation to protect children who are strapped into backs of cars and we have no law to stop them being affected by second-hand smoke. I hope we do not have too long a debate on this, it can be enforced, it will be enforced by society, and it will educate the parents. The children are already trying to educate the parents, and this, then they can say to their parents: "You better not be smoking because you know it is against the law", quite simple. Thank you.

1.1.7 Connétable J.M. Refault of St. Peter:

Unfortunately I am following my fellow Assistant Minister for Health and Social Services, but I just really want to point out a couple of things and I think Members need to consider the role of the Minister for Health and Social Services.

[10:00]

One of the departments that comes under her remit is public health, officers of which are sitting outside in support of this proposition today. This is what this is about. It is about the Minister carrying out her duty and doing it properly to improve and protect the health of the emerging future generations of children. Certain comments have been made about why have we not gone the whole hog and done it in houses as well? Yes, we would love to, but I do not think that we are ready as a society to accept that type of proposition just yet, but I am sure it will come, to protect children in the long term as well. Another thing that really, just thinking back to the comments generally about nanny states, but I think as a politician I would rather be accused for what I do than what I do not do. If you want to call me a proponent of the nanny state then please do so because I would rather do the things that need to be done rather than avoid them because I am going to be called a... dealing with nanny states. Enforcement, again, my Honorary Police Service, I was a Constable's officer many years ago now, I will not tell you how many now, but we do not have to stop people, we see them, we note their numbers, they get a letter, they are invited into the Parish Hall to discuss what they have been observed doing. That usually is enough to make them say: "Terribly sorry, forgot, did not realise, I will not do it again." It is about as much encouragement as enforcement, and encouragement is far better in my book and I fully support this proposition. Thank you.

1.1.8 Deputy J.H. Young of St. Brelade:

As an ex-smoker myself, caught up in that in the 1960s, I am in favour generally of discouraging smoking, and particularly in vehicles, because, as a motorcyclist, I look forward to the day when one can overtake a vehicle and not face the prospect of fag ash or dog ends flying out the window

and hitting you in the face as you overtake them. But seriously I think it is correct that this law is virtually unenforceable or difficult to enforce, but I think it is clearly right to do so. It is a similar argument to the cycle helmet issue and I think generally what this law does is reflect changing social attitudes and the increasingly social unacceptability of smoking. We have already a structure of laws for restrictions of smoking in vehicles, already there are guidelines about smoking and they are treated as the workplace and so on, so they are banned. So this is a natural extension and I would hope issues of 17 year-old young people would see the sense. It is not a sensible thing to do, it is not cool, stop it.

1.1.9 Senator B.I. Le Marquand:

I think that Members may be overlooking the fact that this is simply an amendment to the law, which enables subsequently regulations to be made. That is why the detail of the precise wording of what will be provided for is not here. This is just to amend the law to create the enabling powers and if Members doubt whether I am right on that they may wish to look on page 8 at the explanatory note, which is very brief, and says exactly that. I have taken the precaution to put the learned Attorney on notice that I was about to ask him some questions as to whether the wording of the Regulations, the regulation-making power, was sufficiently wide to enable certain types of case to be dealt with. The sort of cases I was interested in were first of all that mentioned by Senator Farnham where you might have a driver on his or her own who was under 18 and simply asking at this stage could the Regulations exclude that. Secondly a question, there may be some Members who might want to have a younger-than-18 restriction, in other words only make it active if it was a person aged 16 or younger. Again, I am asking whether the regulation-making powers are wide enough to deal with that. Indeed, my colleague Senator Farnham's fertile brain has come up with a third interesting suggestion, which I did not pass by the learned Attorney, which is you could have a situation of course where there was a person aged 16 or under smoking in a car where there was an adult present. I do not think that is going to trouble him particularly because I think he will know the answers already to the others. But I simply want to know, we are not dealing with this kind of level of detail, this is a regulation-making power, the level of detail will be dealt with later. I am wholly supportive, incidentally, of the proposition and I wonder if the Attorney General could attempt to answer my convoluted questions.

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

The proposed amendment to the Restriction of Smoking Law will enable the States to make Regulations, which - in the part that is amended - would prohibit or restrict, subject to such conditions as may be specified in the Regulations, smoking tobacco in a motor vehicle in which a person under the age of 18 is present. In my view, that provides a very broad power to put whatever is necessary in Regulations, subject to whatever restrictions or qualifications on those restrictions the Assembly might wish to put in. It would, in my view, theoretically be possible to restrict, for example, different kinds of motor vehicles, if the motor vehicle was not enclosed, if it was enclosed, these are all matters for the Assembly, and when one knows what the position is with regard to the draft Regulations at that point one can look as to whether or not they may or may not throw up any human rights issues on which the Assembly would need advice. But, in terms of passing this, there are no human rights issues and the *vires* making power is extremely broad.

The Bailiff:

Does any other Member wish to speak on the principles? Then I invite the Minister to reply.

1.1.10 The Deputy of Trinity:

To start off, there is only one thing here, is to protect the lives of young children and to protect them from the fact of second-hand smoke. I would like to thank all those who spoke and I will just run through some of them because I know my 2 Assistant Ministers have answered some of the

questions. Regarding people who are 17 and perhaps driving and smoking. In the Smoking Law - I cannot think which one it is - it is illegal to sell cigarettes to anybody under the age of 18, so in fact if they are 17 they should not be smoking anyhow. Regarding the wider enforcement, I am aware where Deputy Tadier - he is not here - is coming from, but I think we need to take one step at a time. It is putting all different pieces, trying to tackle the effects of smoking, because we know the effects, we have strong evidence of the effects of smoking, and trying to come at it from all very different angles, and education is important, and the clinicians in the hospital - we see them from time to time - have really voiced that should Jersey be a smoke-free Island. We will leave that one there. There is lots of evidence to show, as I said, about the effects of smoking, but there is also a lot of evidence to show the effects of passive smoking, and the evidence of that was based on the previous support on restricting smoking in the workplace. So there is a whole lot of evidence around and I am happy to give Deputy Baudains any of that evidence that he wants. We have asked the public, we continue to ask the public about their thoughts on smoking, not only through the consultation, as I mentioned it before, but also the Jersey Annual Social Survey, where 81 per cent of those who answered that survey was supporting of a ban within cars. Regarding Senator Ferguson, this is about saving children's lives and I do not think I will ever be able to convince the Senator to change her mind at all and I am sorry about that. I thank those who have spoken, and those who have spoken in support, and I will ask for the appel.

The Bailiff:

The appel is asked for then in relation to the principles of P.103/2014 lodged by the Minister. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 42		CONTRE: 4		ABSTAIN: 0
Senator P.F. Routier		Senator S.C. Ferguson		
Senator P.F.C. Ozouf		Deputy T.A. Vallois (S)		
Senator A. Breckon		Deputy M.R. Higgins (H)		
Senator A.J.H. Maclean		Deputy G.C.L. Baudains (C)		
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (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 M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

The Bailiff:

Deputy Hilton, as Vice-Chairman, do you wish this matter to be referred to ...

Deputy J.A. Hilton of St. Helier (Vice-Chairman, Health, Social Services and Housing Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

Then do you wish to propose the Articles together, Minister, Articles 1 to 4?

1.2 The Deputy of Trinity:

Yes please, Sir, and I will answer any questions.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on the individual Articles? All those in favour of adopting Articles 1 to 4, please show? Those against? They are adopted. Do you propose the Bill in Third Reading, Minister?

The Deputy of Trinity:

Yes, Sir.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak in the Third Reading? All those in favour of adopting the Bill in Third Reading please show? Those against? The Bill is adopted in Third Reading

QUESTIONS - resumption

2. Urgent Oral Questions

The Bailiff:

Perhaps this would be a convenient moment, as the Minister for Treasury and Resources has returned to the Island, to move to Deputy Le Fondré's question from yesterday.

Senator P.F.C. Ozouf:

I apologise for the lateness, it was due to a late arrival, but the French Ambassador does send you and the rest of the Assembly the warmest of wishes and he made a special mention of Jersey in his remarks at the Embassy last night.

The Bailiff:

Thank you very much, Senator. Deputy Le Fondré, would you like to ask your question of the Minister for Treasury and Resources?

2.1 Deputy J.A.N. Le Fondré of St. Lawrence of the Minister for Treasury and Resources regarding the resignation of the Treasurer of the States:

When did the Minister first become aware that the Treasurer had resigned?

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

The Treasurer offered her resignation on 1st July and I was informed on the following day. Discussions since then have centred on timings and contractual matters.

2.1.1 Deputy J.A.N. Le Fondré:

Is the Treasurer's resignation in any way connected with any disagreement of how budgeted revenue figures are to be presented? Bearing in mind the last time I asked, the cumulative reduction in revenue to 2015 was £70 million.

Senator P.F.C. Ozouf:

Not at all. The reasons for the Treasurer's departure, which of course I regret, are personal reasons as cited in the statement that has been made following the press release. There are ongoing issues about forecasts, the Deputy has asked me a number of questions, and the Budget will be lodged later on this week with the up-to-date assessment of income, which is the product of the Tax Forecasting Group.

2.1.2 Deputy J.H. Young:

The Minister spoke about contractual matters, discussions after 2nd July, when he became aware, and yet the statement we received was yesterday, 14th July. Could he tell us why it took 14 days to deal with somebody's resignation? That does raise questions. Could he elaborate on what happened during that 14-day period?

Senator P.F.C. Ozouf:

I am not directly involved in the matters of staff. The Chief Minister with S.E.B. (States Employment Board) is. I am sure the Deputy will know, as a former chief officer himself, when an individual decides to resign - and in this case the Treasurer is returning to the U.K. (United Kingdom) to be nearer to her family and to pursue alternative careers, which I am sure she will do extremely well - there are a number of procedural issues, which need to be taken into account. There are arrangements of handover, of holiday leave, and discussions that need to be had with S.E.B. I understand that S.E.B. met and they have been dealing with those matters. But until a resignation has been agreed and matters have been concluded by S.E.B., it would be entirely inappropriate to put anything into the public domain, which has been the case.

2.1.3 Deputy J.H. Young:

Clarification, Sir. The Minister spoke of S.E.B., could he tell us when S.E.B. were involved please?

Senator P.F.C. Ozouf:

I said that S.E.B. is not within my remit and that is a matter for the Chief Minister to answer that. I am not briefed on everything that happens with S.E.B. My Assistant Minister sits as a Treasury member on there, but I am not briefed. Those are confidential matters concerning staff.

2.1.4 Senator S.C. Ferguson:

The Minister for Treasury and Resources has just said that the resignation needs to be agreed. But, if the Treasurer resigned, why did it have to be agreed and why is there a compromise payment? Normally in business, if you resign, that is it, you go.

Senator P.F.C. Ozouf:

The Treasurer of the States is one of the most, if not probably the second most senior individual in the public sector. So of course S.E.B.... and in this case in discussion and consultation with myself, appropriate handover periods and appropriate people need to be put in place where there is a position where the individual is going to leave, and it is not going to be possible to recruit somebody in time. So it is perfectly normal that these discussions would take place and Members will have seen the announcement also yesterday that the former Deputy Treasurer - the current Comptroller of Social Security - has been appointed, or is going to be appointed as Interim Treasurer, which will take us through what is a very vital time.

[10:15]

It is important that we start a recruitment so that the new Assembly has a Treasurer as soon as possible in post on a permanent basis to deal with the massive workload that will happen next year. No time is a good time, but now is probably the best time, because we can organise this for the next Government.

Senator S.C. Ferguson:

The Minister for Treasury and Resources has not answered my question. If the Treasurer resigned, why is there a compromise payment?

Senator P.F.C. Ozouf:

I think the Chief Minister answered that. I have had notes from his answers yesterday. These are matters for S.E.B. and there is nothing outside the contractual payments that are being made and will be, of course, as the Treasurer herself has put in place in the most transparent accounts ever produced by the States, all of the payments will be documented in the States accounts next year.

Senator S.C. Ferguson:

The Chief Minister said ...

The Bailiff:

No, I am sorry, Senator, you have ...

Senator S.C. Ferguson:

That was not my proper supplementary.

The Bailiff:

Yes, it was. [Laughter]

Senator S.C. Ferguson:

That was just trying to tie the Minister for Treasury and Resources down to answering the first question.

The Bailiff:

That was your supplementary, thank you. Deputy Tadier.

2.1.5 Deputy M. Tadier:

Yesterday, when questioned in a similar vein, the Chief Minister reminded the Assembly that it was important for the Minister for Treasury and Resources or any politician to hold the senior civil servants to account. Was that a consideration in this case and was the Treasurer holding the Treasurer to account and is that perhaps why she left?

Senator P.F.C. Ozouf:

I have reflected overnight as to what I would say on this question. If I look back to my tenure as Minister for Treasury and Resources and the 4 years that the Treasurer of the States has been in office, I could read 20, I will not do it, but a new Public Finances Law, 3-year budgeting, long-term capital programme, £60 million of savings, consolidation of investments, new investment strategy, hundreds of millions of balance sheet improvements, hospital, liquid waste, new housing bond, marginal rate cut, long-term care, fundamental review, hundreds of questions, dozens of propositions. If the Treasurer and the Minister for Treasury and Resources do not have a good constructive forthright relationship in which I take advice and the individual gives advice, none of this would have been possible. I applaud the service and dedication of the Treasurer over the last 4 years. She has done a spectacular job. **[Approbation]** She will be pleased by those remarks because you cannot do that without teamwork. Of course there are forthright discussions. That is what a relationship between a Minister for Treasury and Resources and Treasurer is about. That is what delivers better value and service. But we spent hours together and I have enjoyed almost all of them. **[Laughter]**

2.1.6 Deputy M. Tadier:

The Minister said he thought about how he would answer this question and it is essentially by not answering the question. Perhaps a different question is, how many notches are there now on the bedpost on the Minister in terms of the cadavers of senior civil servants, and is this one of them?

Senator P.F.C. Ozouf:

Absolutely not. I doubt whether there is another chief officer working with the Ministerial team, with my Assistant Minister, that could have delivered on the agenda that we have. That is done. I saw the *J.E.P. (Jersey Evening Post)* picture yesterday of a smiling Minister for Treasury and Resources and a smiling Treasurer working together properly. But when you work together of course the Treasurer is not a shrinking violet, where she has told me absolutely: “No, I do not think that is right, Minister”, and on the other side I have had to say: “I need to sort this out, Treasurer, because another department of the States want me to do things.” I am being frank and open about discussions, but I hold the Treasurer in the highest esteem. She has delivered and worked, the times that I have taken the Treasurer home at 10.00 p.m. at night after late nights in the Treasury is indication of a brilliant working relationship, which I believe has served this Assembly and the Island incredibly well in the last 4 years. She has made her own decision. She will be going with my remarks, with full thanks and appreciation for what she has done, and the thanks for the forthright way in which she has dealt with difficult issues right the way through her period of time serving in Jersey and I wish her well.

2.1.7 The Connétable of St. John:

Will the Minister be frank and tell us, has there been any disputes or disagreements between himself and the Treasurer, because we have seen over recent years the departure of a former Treasurer, a C. and A.G. (Comptroller and Auditor General), and a C.E.O. (Chief Executive Officer) from another department where the Minister was involved. We are well aware that earlier,

or some months ago, the Chief Minister did say that he was going to sort out an anger management course for the Minister.

Senator P.F.C. Ozouf:

I stood in this Assembly on the debates on Andium Homes and I thought that there were some Members, and the Connétable is one of them, that when you work as hard as you possibly can, when you are under stress, some Members still ask you for more, and I work hard, I am proud of what I do, and I am desperately proud of Jersey, and I am even more proud of my Treasury team. The Treasurer has decided to return to the U.K. Other people have decided to return. But to somehow cast that in a dysfunctional way of managing people, I see today from the news there is a reshuffle going on in the U.K. Prime Minister's Cabinet. The Chief Minister said yesterday that senior people move routinely after 4 or 5 years in top jobs. That is what has happened here. Not all of those other departures have been in those situations, but I stand by all of the support I have given chief officers and all the support that I have held other States employees to account for doing what the public want in the interests of the public interest of Jersey, and I do not apologise for that. I certainly do not think that I am an angry person, I think I am a fairly happy person and with most of the time a smiling face because that is the way you get the best out of people, by being nice, polite, and motivating people. The portrayal otherwise I deeply regret.

The Connétable of St. John:

The question was, has there been any dispute or disagreement between the Minister for Treasury and Resources and the Treasurer?

Senator P.F.C. Ozouf:

There have been lots of forthright arguments and discussions. That is what there should be between a Minister and a Treasurer. But we have delivered and we will again, and the Treasurer will be by my side presenting the Budget this week, and we are dealing with a challenging situation, low interest rates, an ongoing protracted recession, but delivering a balanced budget and delivering the capital programme that we have done. Look at what the Treasury team has achieved. The bond rate: I spoke to somebody last night from the U.K. Treasury and I explained to him that we had got 52 basis points over 40-year gilts and he could not believe it. That is a member of the U.K. Treasury. [Approbation] Those are delivery results, which happen out of hard work, constructive dialogue, forthright debate, and, outside of the Treasury, coming out with a unified voice. That is what we have been doing for 4 years and will continue to do so for as long as the Treasurer is here.

The Connétable of St. John:

So no disputes then.

Senator P.F.C. Ozouf:

Disputes, it is not right ...

The Bailiff:

No. The Connétable has had his 2 questions. Deputy Baudains.

2.1.8 Deputy G.C.L. Baudains:

Would the Minister agree with me that it is rather extraordinary for a person at this level to give merely 2 weeks' notice? Does it not signal that there is something unusual about it?

Senator P.F.C. Ozouf:

It is entirely wrong. I do not mind Members giving me a hard time. I have become used to it, I do not like it, it is difficult, it is hurtful sometimes, but that is politics and one has a thick skin. What I

regret is any suggestion on the part of the Treasurer herself, who Members know has worked beyond the call of duty on this matter, on serving Jersey, and she has made her own decision. There is an important issue of the handover. There will be a new government. There will be new Ministers. There may well be a new Minister for Treasury and Resources. It is important that there is now a Treasurer up and running to deal with the next M.T.F.P. (Medium-Term Financial Plan), serving the Council of Ministers' Strategic Plan, and all the rest of it. If her decision has been made, and the timing of it, then it is probably the best timing, given the change in government and the huge workload that is ahead in serving this Assembly over the next 12 months. But it is her decision and we should respect it and we should send her, at the appropriate time, off with the thanks and appreciation of a job well done.

2.1.9 Deputy R.J. Rondel of St. Helier:

Would the Minister acknowledge that this was probably one of the worst-kept secrets over that 14-day period as a number of Back-Benchers seem to know that the resignation took place earlier rather than the announcement? I am just struggling to understand why it did take that 14 days to notify Members.

Senator P.F.C. Ozouf:

I agree with Deputy Rondel that sometimes the rumour mill... we are a small Island, we are a small community, rumours travel fast. I do not know the precise reasons for that. I know a number of Members have been asking questions, some very inappropriate questions, and there have been some inappropriate social media messages too, linking issues, and I am pleased to say that one of them has been deleted overnight. It does take time to get transition. S.E.B. needed to deal with it and we needed to find an Interim Treasurer. The other Deputy Treasurer, as Members will know, is fully occupied dealing with health matters. So these things take time and the Treasurer has had to discuss with her own family, *et cetera*, exactly what the relocation will be, and that has had to be agreed by S.E.B., but I deeply regret the rumour mill and how utterly hurtful and destructive that can be sometimes.

2.1.10 Deputy J.A.N. Le Fondré:

Just as an aside, I was one of the people who was contacted about 2 days after, apparently, the date of resignation, by the media. Obviously I was in no position to confirm one way or another what the situation was. I said it was a rumour. What I would like just to say, I note from some of the comments from the Minister for Treasury and Resources ...

The Bailiff:

Could you ask a question, not make ...

Deputy J.A.N. Le Fondré:

I will do, with the lack of reaction from the Minister for Treasury and Resources, I will await the forecasts from the budgetary team on Friday with interest and that they may even be as bad as one was indicating. Sorry, I will get to the direct question. One of the other points made was ...

The Bailiff:

Not another point. Question time.

Deputy J.A.N. Le Fondré:

No, Sir. It was about the Treasurer. I would just like to emphasise that the emphasis of questions from my point of view has been on the relationship between the 2 individuals and not on the capability of the Treasurer. What I would just like to ask is, given that the Minister for Treasury and Resources said the figures will be in the public domain at some point or other, what will the

figures that will be going into the accounts approximately in relation to any compensation arrangements arising as a result of the resignation?

Senator P.F.C. Ozouf:

There are a number of questions there and I do not know what the Standing Orders think. First of all, Deputy Le Fondré - and I have been criticised previously - knows what a dysfunctional relationship is because he was part of a dysfunctional relationship previously at the Treasury that did not work and you have to deal with that. Things did not work when he was at the Treasury and sometimes you need to part and move on. He has been persistent in his asking of questions of me and of the Treasury. Sometimes I feel as though it is an attempt, it may not be genuine, but I generally feel sometimes I am being tried to trip-up and face the memory test, I do not know. Estimates are going to be presented on Friday. It will be of no surprise to any Member of this Assembly to see the States accounts having been presented last year and the continuing pull on personal income tax and corporate tax profits and low interest rates, estimates that were done in 2012, in a world when there was a thought that interest rates would be recovering and there would be an economic recovery. Of course, where there is one certainty of estimates, they will be wrong. But what this Council of Ministers and this Treasurer and this Minister for Treasury and Resources has done is, notwithstanding difficult estimates and further economic difficulties, through no fault of our own, we are going to be delivering a balanced budget in accordance with F.P.P. (Fiscal Policy Panel) advice, delivering on a capital programme and keeping people in work, and also delivering the marginal tax rate cuts and all the rest of it. So, Deputy Le Fondré has had a stream of criticism for my tenure as Minister for Treasury and Resources in 4 years. There is nothing that I think that he will want to agree with. He will want to pick holes. Estimates do change and they will be updated and there is a fully-funded balanced Consolidated Fund and delivery of fiscal stimulus in terms of the capital programme and I hope the F.P.P. is going to agree with my strategy, endorsed by the Treasurer.

The Bailiff:

Very well. That brings questions to an end. I can tell Members that the Privileges and Procedures Committee has lodged R.96, which sets out the meetings for the States in 2015.

[10:30]

PUBLIC BUSINESS – resumption

3. Draft Referendum (Composition of the States Assembly) (Jersey) Act 201- (P.118/2014): third amendment - proposal of Senator P.F.C. Ozouf to reduce lodging period

The Bailiff:

Now, in accordance with the decision reached yesterday, we turn to P.118, which is the proposition of the Privileges and Procedures Committee re the Draft Referendum (Composition of the States Assembly) (Jersey) Act. I wonder whether Members would agree that, before we start on that, Members ought to discuss which amendments, if any, they are going to take where extra time is required, so that we can see the shape of the debate. So there are 2 matters lodged, 2 amendments lodged, which need the Assembly to agree to their being taken without the proper lodging period. They were both lodged yesterday and one is that of Senator Ozouf, an amendment, and one is that of Deputy Southern, which is an amendment to an amendment. Do either of you have any concerns which order we take them in? Shall we take yours first then, Senator Ozouf?

3.1 Senator P.F.C. Ozouf:

First of all, I understand that you were critical, and rightly so, of late amendments and I understand that. It was a genuine misunderstanding. I thought that the lodging date was on ... I had not seen Deputy Maçon's email of Friday, I did not know that the debate was going to be deferred and I

humbly beg States Members ... they may well be against the amendment, but it is an amendment that is designed to be helpful and to try and ask all the questions that need to be asked, I think, in order to get a proper answer from the public on this difficult issue. This issue is divisive, difficult, there is no consensus and in exceptional circumstances, I had no option after seeing the amendments and the seeing the consequence, the fact that they were, in my view, incomplete and there may be criticism of some of the other amendments. I did it in the spirit of trying to assist the Assembly in giving the Assembly an option of what could be a way forward. But I am in the hands of Members, I understand it is not best practice but I do not think anything in relation to the composition of the States questions could be regarded as best practice. It is not unusual for parliaments to have late amendments and for them to be considered, particularly up to a timeframe. So I would ask Members respectfully - I will be very brief in my remarks - in order to lift Standing Orders and to allow the amendment to proceed. Thank you.

The Bailiff:

Is that seconded? [**Seconded**] Does any Member wish to say anything? Deputy Tadier.

3.1.1 Deputy M. Tadier:

I think it is important to be fair-minded in this particular vote. I am wondering whether, because it seems to me that it would be entirely wrong for example to allow one amendment through, which is out of time and not to allow another amendment, the proposition here before us should be to allow both amendments, yes or no.

The Bailiff:

Deputy, if I may, of course if Members feel they want to be fair they will reach the same decision on both, but we cannot vote on them together because they are separate matters and require separate shortening of the lodging period in relation to each one. We will have to take them one at a time but the point you made will no doubt be considered by Members.

Deputy M. Tadier:

So I wonder after this vote whether we could take that immediately with this proposition. But we can deal with that when it comes.

The Bailiff:

Yes, at this stage we would move straight on to consider Deputy Southern's, although he will want to make his proposition and you may wish to say something.

Deputy M. Tadier:

I think probably just one thing in favour is that this obviously was meant to be at the end of the Order Paper and it was entirely possible - we do not know how long the Island Plan is going to take - that was going to take a week, Members may have thought, quite reasonably, that they could put an amendment in and it would still be time if it was taken next week. So I think on the balance of that I am certainly happy to vote for the lodging period to be reduced, but obviously to reserve the position for the merits of each of the amendments.

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

Speaking with my hat of P.P.C. (Privileges and Procedures Committee) on, think of how the Standing Order is framed to decide whether something is in the public interest to reduce the lodging period, within that balance does come - as was said yesterday - about the ability of Members to consider something in its entirety, in its context, to take soundings from the people that we represent on these particular matters, and I do think that less than 24 hours' notice on that balance I am afraid is not strong enough to waive the Standing Orders as are present and therefore I urge

Members not to support reducing the lodging period on either of these amendments because I do not think it is being fair. Certainly my Committee have not had a chance to properly sit down and discuss these amendments, nor bring further amendments to them if we felt that that was appropriate. Therefore I would ask Members not to support a reduction in the lodgement period.

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

I would just like to remind Members that last week we did lift Standing Orders and allow for a late amendment to come through on the same sex marriage debate. I believe in fairness and I think today we should show the same fairness and allow both these late amendments to be debated.

3.1.4 Deputy J.H. Young:

We cannot possibly discuss some of these amendments and leave others out. I think we do have to be fair. It must be right and in the public interest that Members have lodged these, whether we like it or not, whether it is inconvenient or not, and I differ with the Chairman of P.P.C., I support it and I think there is this issue of Members are worried about the Island Plan. I believe that some of the work that has gone on in the Island Plan will simplify that debate and I do not think that is a reason for not ensuring this referendum debate includes all the items.

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

Just very briefly. I am really concerned that this meets the test to shorten the lodging period, especially when one considers that the States adopted, back on 5th November 2013, a proposition which agreed that a referendum under the Referendum Law should be held on the day of the 2014 election with a single yes/no question. This amendment is seeking not only to ignore that States decision but to introduce a whole load of other issues that have already been discussed, agreed and decided upon by this Assembly.

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

I am very much of a mind of the Chairman of P.P.C. We have, when we discuss these things, the most fragile of unity on these matters and I have to disagree with Deputy Young, which is unusual, I think we will go on for ever; we could work through 51 amendments. It was contested, I would tell Deputy Noel, last week, the very late moving. I think there are power plays at work here and the notion that we will ever reach consensus to the public ... the public are absolutely laughing at us totally and we are exacerbating this. Here we are again, government reform, a total mess faces us because we are so disunified and we cannot find that basic consensus and working together to come to a kind of consensus. I am afraid we are on the way to making to total fools of ourselves.

3.1.7 Deputy J.A.N. Le Fondré:

To be honest, Sir, I would endorse your comments from yesterday about the whole point of Standing Orders and lodging periods. To me if we do this, what is the point of Standing Orders? I would just make the point to Deputy Noel that at least Senator Le Marquand last week gave notice before the weekend of what he was doing. I appreciate that it did not find favour with everyone but at least we had some notice. I saw this as a point that was made less than 24 hours ago. I simply have not had a chance to work out all the ramifications and indeed one Member yesterday pointed out some issues that I had not even considered. So we have not had the chance to see comments from P.P.C. I really think we will look very silly ... or where do you stop on this if we agree to take this today? What is to stop anybody else bringing any other amendment to any other law at any point at a day's notice or less than a day's notice because it is in the so-called public interest? We really should not be voting for this.

3.1.8 Senator I.J. Gorst:

I wanted to simply say that I have come to the Assembly this morning fearing that we are not going to get anything through on this referendum. Having not voted originally for a referendum, I am strongly convinced now that there should be some form of question put to referendum at the next election and therefore I think we must allow all the options, both Senator Ozouf and Deputy Southern's options, so that we can have a reasoned debate and have a reasonable question to put to the electorate. If we do not, that is when we are going to have got ourselves into hot water. So while I find it difficult to speak against the proposal of the Chairman of P.P.C., I support the Vice-Chairman of P.P.C.'s view and the one that he gave earlier.

The Bailiff:

Yes, do you have further things to say on this, Deputy Le Cornu?

3.1.9 Deputy N.B. Le Cornu of St. Helier:

I have. Let us be blunt, the political class is paralysed, it is unable to deliver democracy to Jersey. That is very, very clear, very, very simple, paralysed.

3.1.10 Deputy J.A. Martin:

Yes, Sir, I just have to really endorse your words yesterday. Why would we have a Privileges and Procedures Committee? This was lodged on 17th June and that it took Senator Ozouf until yesterday to put forward a Back-Bencher's amendment is absolutely beyond belief. But if you read the amendment there is nothing in any of the other propositions that were lodged in time to be debated that really does not cover his amendment. This is ridiculous. We really should need to rethink everything else if we let this go through with both the amendments. Deputy Southern can be accused of being late, he is a Back-Bencher and does not ... but his could have been debated on Friday if we were doing it that way around. I think Deputy Tadier and Deputy Le Cornu think half of the House is playing games with the other half. Both of the amendments need to be chucked out because they are not in time, otherwise P.P.C. need to resign and we need to absolutely get a way forward for this House.

The Bailiff:

Connétable of St. John, have you got anything new to say on this?

3.1.11 The Connétable of St. John:

I hope so, Sir. I hope so. I would like to think that the P.P.C. will stand or fall if this accepted.

The Bailiff:

Very well, Senator Ozouf, do you wish to reply?

3.1.12 Senator P.F.C. Ozouf:

Briefly. I again reiterate my apologies for the late amendment. I have got the 4 ballot papers, or the 5 potential ballot papers, before me, which clearly gives Members a complete choice in terms of what they want. Deputy Maçon said that propositions and lodging should have a period of time to take consultation. There has been more consultation on these issues, a referendum which for better or for worse, the construction of it is taken to the people and then many people are as unhappy with the options as with the result. I think we are all aware of these issues. We do not need to have a long debate. We have probably already made up our mind. The worst position would be, I say to Deputy Le Cornu, is not to have fair and balanced ... I cannot remember the words he used. We have a clear system of choices. Mine was designed in order to have those additional questions which many of the public of Jersey feel want to be asked. My questions, I feel that they are going to be able to give Members that opportunity. I will not be long but I think Deputy Southern's and my amendments are done to try and be constructive. It is exceptional circumstances; we are right

up to the wire. We have the most divisive, difficult issue about our composition, and our composition, if it is looked at by outsiders, will be a problem. There is a problem with our composition. It has been years in the making and attempting for resolution. I fear that this debate will come to nothing and that we will look even worse. I implore Members, let us have a debate on all of the options, quickly, properly and make a decision that we believe is in the best interests of Jersey to ask the people of Jersey what they want, and not be partial. Let us hand it over to the people and this is what these amendments are about. I ask Members to, on this occasion, rarely, in exceptional circumstances, to lift Standing Orders and to allow my amendment to be debated. I ask for the appel.

The Bailiff:

The appel is called for. Technically it is not lifting Standing Orders; it is to shorten the lodging period in accordance with the Standing Orders. So if you want to allow it to be debated you vote pour, if you do not you vote contre and the Greffier will open the voting.

POUR: 23	CONTRE: 20	ABSTAIN: 2
Senator P.F. Routier	Senator S.C. Ferguson	Deputy M. Tadier (B)
Senator P.F.C. Ozouf	Senator F. du H. Le Gresley	Deputy J.H. Young (B)
Senator A. Breckon	Connétable of St. Clement	
Senator A.J.H. Maclean	Connétable of St. Lawrence	
Senator B.I. Le Marquand	Connétable of St. John	
Senator I.J. Gorst	Connétable of Grouville	
Senator L.J. Farnham	Deputy R.G. Le Hérissier (S)	
Connétable of St. Helier	Deputy J.A. Martin (H)	
Connétable of Trinity	Deputy of St. Ouen	
Connétable of St. Mary	Deputy J.A.N. Le Fondré (L)	
Connétable of St. Martin	Deputy S.S.P.A. Power (B)	
Connétable of St. Saviour	Deputy T.A. Vallois (S)	
Deputy R.C. Duhamel (S)	Deputy M.R. Higgins (H)	
Deputy G.P. Southern (H)	Deputy J.M. Maçon (S)	
Deputy of Grouville	Deputy G.C.L. Baudains (C)	
Deputy J.A. Hilton (H)	Deputy of St. Martin	
Deputy of Trinity	Deputy R.G. Bryans (H)	
Deputy K.C. Lewis (S)	Deputy R.J. Rondel (H)	
Deputy E.J. Noel (L)	Deputy N.B. Le Cornu (H)	
Deputy A.K.F. Green (H)	Deputy S.Y. Mézec (H)	
Deputy J.P.G. Baker (H)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		

3.2 Draft Referendum (Composition of the States Assembly) (Jersey) Act 201- (P.118/2014): second amendment - proposal of Deputy G.P. Southern to reduce lodging period

The Bailiff:

Now, Deputy Southern, you wish to ask for a similar shortening?

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

Just briefly. It is an unusual case when Senator Ozouf is debating on my behalf. But when I came across this issue on Friday, talking with my party colleagues, and we realised that we could not support any one of these amendments, and only had to fall back to a partially satisfactory main proposition I volunteered to be the guinea pig to see if we could get an amendment that worked.

[10:45]

My emphasis was certainly with Deputy Green’s proposition, which carried the words “remain in the States” which was not the wish of Clothier, which were not the words of Clothier. I think it is very important to stick as closely to Clothier as we could and that therefore the statement made by Clothier was that Constables should no longer be entitled to sit in the States simply because they are Constables. They should seek election to the States if they wish like everyone else. That, to my mind, was the simplest and clearest way of expressing *ex-officio* and had been cogitated about, reasoned by the Clothier panel, and that that to be the core of the question; not the opposite they should remain in the States because that is not what Clothier wanted. So I thought the question was wrong in both the sense that it was a reversal and was not clear. It was leading. When I did lodge this - I got it written on the Sunday - at the time of writing I was aware that it could have been debated on Friday and we had not yet made the decision to bring the debate forward. So therefore technically I was within my 4 days, so I had a clear conscience I could lodge it legitimately but I am in the hands of Members.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to say anything?

3.2.2 Deputy M. Tadier:

I will keep it very brief because I hope the argument has already been won. It is simply to add, though, there are obviously 2 reasons why this is even more compelling than the previous amendment. First of all the lodging period is closer, it would have been taken this week, but the other point that I think is relevant is that out of the 2 models that P.P.C. was charged to bring forward, it was Clothier which we did and we are being criticised for that. The other one was Constables, which we did not do but which now has been put back on the table. The problem was no one ever had a chance to look at the wording of that question and Deputy Southern has given an alternative wording. If we do ever get to that stage it is important that we do at least debate what kind of wording is right. But that must be in the public interest and so I think it does add something to the debate that it is in the public interest.

The Bailiff:

Do you wish to reply, Deputy?

Deputy G.P. Southern:

I will leave myself in the hands of Members.

The Bailiff:

Do you ask for the appel? Yes. The appel is called for then in relation to the proposition of Deputy Southern, which is along the same lines as that of Senator Ozouf. So if you want to allow it to be debated you vote pour, if you do not you vote contre. The Greffier will open the voting.

POUR: 33	CONTRE: 11	ABSTAIN: 1
Senator P.F. Routier	Senator S.C. Ferguson	Deputy J.A.N. Le Fondré (L)
Senator P.F.C. Ozouf	Connétable of St. Lawrence	
Senator A. Breckon	Deputy R.G. Le Hérisier (S)	
Senator A.J.H. Maclean	Deputy J.A. Martin (H)	
Senator B.I. Le Marquand	Deputy of St. Ouen	
Senator F.du H. Le Gresley	Deputy S.S.P.A. Power (B)	
Senator I.J. Gorst	Deputy J.M. Maçon (S)	
Senator L.J. Farnham	Deputy G.C.L. Baudains (C)	
Connétable of St. Helier	Deputy J.P.G. Baker (H)	
Connétable of Trinity	Deputy of St. Martin	
Connétable of St. Clement	Deputy R.G. Bryans (H)	

Connétable of St. Mary				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

Senator P.F.C. Ozouf:

May I just raise the issue of the order of the debate. I understand that the Greffier helpfully sent a list around. I am grateful to Members for the opportunity of asking, is the decision final on exactly the order because mine was a genuine attempt, if there was a disagreement on any others, to ...

The Bailiff:

I think it has to go this way, Senator, because it was not easy to work out in some respects the correct order, but Standing Orders say it should be done by reference to the text. Now yours and the Deputy of St. John's are similar in timing of the text, so there is no distinction between them there but the invariable procedure, as always, you take the amendment first which makes the biggest change to the proposition because that logically must be right. So yours makes the biggest change so under Standing Procedures yours will be taken first.

4. Draft Referendum (Composition of the States Assembly) (Jersey) Act 201- (P.118/2014)

The Bailiff:

Very well, so we return therefore to projet 118 and I will ask the Greffier to read the proposition.

The Greffier of the States:

The Referendum (Composition of the States Assembly) (Jersey) Act 201-. The States, in pursuance of Article 1 of the Referendum (Jersey) Law 2002, have made the following Act.

4.1 Deputy J.M. Maçon (Chairman, Privileges and Procedures Committee):

Ever since the publication of the Clothier Report in December 2000 there have been continual calls for the public to be able to consider Clothier's recommendations that the States should be comprised of a single category of Member elected on a Parish basis. This Act will allow the public to have their say on this matter. If adopted, the Referendum Act will be held on the same day as the elections for Senator, Constables and Deputies on Wednesday, 15th October 2014. Since the adoption of the propositions that the Assembly made last year, my Committee worked very hard in

trying to balance what the States Assembly asked us to do. Many Members appreciate that the committee felt that it was put into a very difficult position by being asked to pose 2 questions on a yes/no basis, one which we felt conflicted with the other. I will go on to explain that later. Members will be wondering, with the question that is before them as proposed by the committee, as to how we came with this particular proposal. Just to explain the methodology that the committee used, we went to an independent marketing research body which conducted a series of independent focus groups on various questions or formula of questions that we had. We began with perhaps too long a question. We tried to have a question that was on the ballot paper which explains the current States Assembly, how it is made up, its composition, and what was going to be proposed. Consistently what came back from those focus groups was that the questions were too wordy, too complicated and confusing and unclear. What we needed to do was simplify what we were trying to propose. So on receiving that feedback the committee had to consider again how we could distil the Clothier principles and proposals in one of the simplest forms without losing the meaning of what was trying to be proposed. That has resulted in the question that is before Members, which asks Members to consider whether on the ballot paper the question, which I shall bring up, whether the States Assembly should be made up of a single type of elected Member, that 49 Members would be elected and that the allocation of seats within Parish districts would be proportional to the population. Many Members might have questions on why the form is as it is. So if we look at, for example, the number of 49. Why did we choose 49 and not a lesser number as some Members have asked, as was suggested in the Clothier Report? One of the reasons why we went for 49 was because we knew that within the Assembly there is not a consistent attitude to how many States Members we should have. We also knew that from our focus groups that if we were to produce a lesser number than current, the focus groups are very clear how they felt that if a reduced number was there it put a bias into the question that tilted it into a yes position. The concern was then does it allow for the public to fully consider the proposals in the round. Secondly, with regards to the numbers, we were going down to 49 Members regardless, so whether the Referendum Act was adopted or rejected we would be in the same position with the number of Members. In addition to this, the population of Jersey since December 2000 has increased considerably, as we mentioned in our report, by about 10,000, although within the number 49 there still keeps the ratios that existed at the time of Clothier. So we have been able to be consistent with regards to that. Also, as Members will know, since December 2000 we have had extra Scrutiny Panels and extra Ministries that were not envisaged in the original report. So we have, indeed, created more posts which require more Members. Since December 2000 some of us have had the call that the public wanted the ability to have their say on the Clothier proposals. We are now 2014, 14 years later after that report was produced. I believe that when many Members asked my committee to come forward with these proposals they were of the opinion that it was right that the public should be able to have their say on this matter. We have had numerous debates in this Assembly over the Clothier Report proposals and I believe that unless we give the public the ability to have their say on these proposals that the matter will simply come back again and again and again. **[Approbation]** I feel we have to show some leadership and deal with this matter. To grasp the nettle and just get on with it. Regardless of how we feel about the Clothier principles, it is about allowing that to go to the public and allow them to make a decision. There is some concern, what happens if we get a no vote, where will we be? At least we can cross something off the list. At least we have something where we can say: "The public do not want this, we will just have to try something else." But at least we will know. Just to remind Members that the Clothier Report was an independent report, which was comprised mainly of local people and that a substantial amount of taxpayers' money went to produce this report. Unfortunately this report, like so many other States reports, because States Members did not like what it said, it was put on the shelf and tried to be ignored, but we are where we are. When comprising our referendum question, looking again at various models of referenda and how they are used, the committee was strongly of the opinion that it was appropriate

for a single yes/no question to be asked. Not questions, because as we have seen if we start to split up on one component of the electoral make up, what was to stop a flood of other questions and other elements to come forward? In fact that is what we have seen today. We could carry on asking various questions: how long the term should be, *et cetera*. There are always things that we can go and ask more about. Unfortunately that does not make a referenda, that makes a glorified survey. Never mind all the various problems when it comes to campaigning and all these types of things to say: “Yes, for question 1; no for question 2; maybe for question 3 and do not quite know for question 4” for example. Therefore what the public told us from our focus groups was a simple, clear, yes/no question, one of them was the way to proceed. That is why we have drafted our Referendum Act in the way that we have. There were some interesting things that did come back from our focus groups in that despite all the work that was done with the Electoral Commission and their education campaign - and I just want to draw Members’ attention to the booklet in our report, which is a draft example of the type of education campaign which we would want to go with this - it was interesting to learn that - and sometimes we forget because we are used to all these different terms - with the public, the workings of this Assembly and how we are comprised is not that well known. We learnt that there is a new term for the Constables, which is “Connectables”. We did have someone from the focus groups get a little confused about how that should be pronounced. There was a lot of confusion about the roles of States Members. We did have people saying: “Where do the Centeniers fit in the States Assembly?” We did have questions about our Ministers, separate States Members. So despite the work of the Electoral Commission and the work they did in trying to educate people on the Assembly, it still appears that there is a lot of work that still needs to be done in order to allow ordinary people the ability to make that assessment.

[11:00]

So I just want to highlight the importance of an education campaign that should go with this. What I can say is what we have drafted in our report again was seen by the focus groups, was analysed, we changed a significant amount of it to make it more user friendly which we would hope States Members would appreciate and adds more credibility to the Referendum Act because they are able to see that both parts do go together. Again, reflecting what the focus group has told us, they were of the opinion that the elements that are highlighted in the comments of the Comité des Connétables, which is why are you not explicit about this, that and other elements, from the focus groups what they told us, that is all fine in an education campaign and that is where it should be but on the actual ballot paper what we want to see is what is going to be proposed. What are we voting on? That is what we want to see and we do not want to be confused by other elements, which need to be considered absolutely, but we do not want them on the ballot paper. Again, that is why our Referendum Act is drafted in the way that it is. We are responding to the independent focus groups information. Within those focus groups we did also ask about the matter of whether we should include words about single seat constituencies, multiple member seat constituencies and whether that wording should be included. We were on a hiding to nothing trying to use that type of language. It really was not well understood and because we were not able to intervene and explain in this focus group what it meant the committee decided that it was more important to establish the principle of what Clothier wanted to do and then to allow them to establish the exact detail of how the districts would be established later by an independent Boundaries Commission. In addition to this, the committee also wanted to steer away from a debate of where my district is divided between different areas: “Why am I not in this street and why am I in that street,” and all these types of things when what was more important to consider was the principle of the measures. There is a comment in the comments from the Comité des Connétables about why use the population figures instead of the electoral register numbers and the reason why we decided to do that is because, as stated in our report, those Parishes who might have lower or slightly lower people who have registered on to the electoral register, as opposed to population, could lead to under representation

in the figures and that would not produce a fair system. This is consistent from some of the advice that was given to the Electoral Commission as well, where it said really population ... it is either population if you have it or if you have it as well use eligible votes. We decided that we would go with population, simply because it was the closest and clearest figure that we had to date from the census in 2011. Another reason why P.P.C. decided to present a whole package was preferable to the various component parts was because we reviewed the Mori polls that were conducted previously and, again, we know that if we ask the public sections of the system they can give us contradictory advice. So, for example, if we were to ask questions about Senators, Constables and Deputies, or if you need to keep the Parish Deputies, the answer tends to be yes, yes, yes, yes. But when you ask the next question of: "Do you want a reduction in States Members?" the next answer is: "Yes." So it is very difficult to then decide where to take the reduction from. Again, this is why, as I say, the committee opted to go for a package approach rather than to go through the component parts. I believe that a lot of money and time has gone into bringing this referendum question forward. I believe that my committee has tried its best within the time that we have got, and I do thank the acknowledgement from the Comité des Connétables in their comments to suggest that my committee was pressed for time in bringing this forward, but nevertheless we have brought something forward which the public can comprehend, which they can understand, which we have independent evidence to support that, and which has already been tested. I believe that it is time to take leadership, it is time to show the public that it is not reasonable to delay their right to have their say on these matters for as long as we have and I hope that Members will support this Act as presented so that the people of Jersey can decide whether they want a fairer democratic accountable system for the future of the Island. I ask Members to support this proposition.

The Bailiff:

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

4.2 Draft Referendum (Composition of the States Assembly) (Jersey) Act 201- (P.118/2014): third amendment (P.118/2014 Amd.(3))

The Bailiff:

Very well, now then in accordance with the running order which the Greffier circulated, the next matter to consider therefore is the amendment of Senator Ozouf, the Assembly having agreed to take it. The amendment is quite long, are Members content to take it as read?

Deputy J.M. Maçon:

Sir, because it was done so shortly I think it should be read out.

The Bailiff:

You would like it to be read? Very well.

The Greffier of the States:

1 Page 20, Article 6 – In Article 6, for paragraphs (5) and (6) substitute the following paragraphs and renumber the remaining paragraphs accordingly – "(5) A voter may record a vote for or against a question in the referendum by making a cross in the blank square next to either "Yes" or "No" opposite the question on the ballot paper. (6) A voter's ballot paper is not invalid by reason that the voter does not record a vote in respect of all of the questions on the ballot paper. (7) The Judicial Greffier, having added the votes for or against each of the questions in the referendum in the electoral districts, shall inform the Greffier of the States of the results of the referendum." 2 Page 22, Schedule – For the ballot paper set out in the Schedule, substitute the following ballot paper – Ballot Paper. Answer "Yes" or "No" to each of the 4 questions. 1. Should the number of elected States members be reduced to 42? Yes/No 2. Should a minimum of 8 Senators elected on an island-wide basis continue to be members of the States? Yes/No 3. Should the Constables

continue to be members of the States by virtue of their office? Yes/No 4. Should Deputies be elected on an equal and proportionate basis in larger districts to be determined by an Electoral Boundaries Commission? Yes/No.

4.2.1 Senator P.F.C. Ozouf:

I am grateful for Members to give the opportunity of discussing this amendment. It is difficult to propose my amendment without raising the reasons why I believe that the proposal by P.P.C. is deficient in a number of respects. What I fear is that unless an amendment dealing with the very difficult ... and these are difficult issues of which there has been no consensus within this Assembly and there is a divided view across the Island. I worry that we are going to end up with a referendum which could be a referendum that would be rejected, a referendum that would be unclear in a number of different respects and a referendum that would not work on a fundamental principle of how to build a democratic system. I am not going to spend a lot of time, because Members are familiar with the arguments, but what I want to say about the fundamental problem with P.P.C.'s approach ... and I would ask Members, if I may, to turn to page 12 of the P.P.C. report. The way I am handling this debate is I am putting out all of the multiple choice of options of all of the ballots before and just simply looking at them and seeing which one is the one that is likely to achieve some sort of way forward. The difficulty with P.P.C.'s amendment, of which I understand and completely sympathise with the view of Clothier and the recommendation of Clothier, that there should be a fair distribution of seats according to electors. That has to be right. The difficult thing for Members to accept, because it affects some of their seats, it affects our affection to our parochially-based Deputies and Constables, the fundamental issue is that there should be equality of votes per voter. It is a fundamental tenet of electoral and democratic government. I have been privileged to be selected for 2 international election observing missions where you are given a mandate to look at democracy and whether democracy works. The most recent one I did was in the Cayman Islands, which is in exactly the same position. It has multi-seat districts with different numbers of votes. Now, it is not me saying so but there is a fundamental problem if you have a system, and I believe the problem, which is the reason why P.P.C.'s proposal ultimately will not work or will only work if you move to what, I think, must be the conclusion, which is a single seat constituency. In other words, a first-past-the-post. St. John and St. Mary have one next to them. That must mean on a Parish-based system that if you abide by that fundamental principle that everybody must have the same number of votes, it is wrong for one Islander, it is wrong for one elector, to have a different number of votes and to be able to influence a different number of people in a parliament. I see some Members shaking their head. It is a fundamental principle of democracy, it should be equality and fairness of distribution of seats which P.P.C. achieves. But the other thing is there should be equality of the numbers of votes, unless there are exceptional circumstances. That is the problem. What P.P.C. is effectively heading towards - and the only way that a referendum in the affirmative would be able to deal with this - is effectively single-seat constituencies. I think it is an issue that the electoral review group that attended the Cayman Islands and such eminent people as the Speaker of the Bermuda Parliament, a highly respected, well-experienced election observer from Malta, a member of the Scottish Parliament and served by legal officers from the Caribbean region, we were worried about small constituencies with single seats. When you have a small constituency in a small place with a small number of votes, ultimately questions are ultimately raised in relation to ... without very strong checks and balances and ultimately that does lead to a hearty system because it is really the only manageable way to deal with it. I do not think Jersey wants to have small, single-seat, first-past-the-post electoral districts. P.P.C. I can only see heading in that direction. If they can explain otherwise then perhaps they can tell me how. I do not think we want that. I think it would ... even if I were to say dangerous to our democracy to move to small, first-past-the-post systems. They are not regarded in small communities as being ultimately the right way of doing things. I understand,

I am sympathetic, we all want to have a voter equality system with a fair distribution of seats - and that is what Clothier does do - but the world has moved on and I would ask Members who all have their devices and other things, look at the Electoral Commission reports from the United Nations, from the institute that is based in Prague, the Assemblée Parlementaire de la Francophonie, where I did the election observing mission in Rwanda where we also looked at the election system. It is a standard. Many Members do not want to be told by an outside body what is the right principles of democracy. We do not want to be told by Royal Commission or otherwise. But it is a fundamental tenet and that is where it leads us. A number of other Members have quite genuinely also then tried in their amendments to bring the other key questions.

[11:15]

There are no easy answers to this, but a question does need to be asked in the most neutral way. I offer absolutely no criticism to Senator Farnham, Deputy Green or Deputy Southern. I may have got the wording wrong but the wordings that I am proposing in relation to the Senators are about as fair as can be. I also think there is a natural flow that happens in people's minds from dealing with Senators to Constables to Deputies. My questions are based upon I think the public needs to say whether or not they want to reduce the number of elected States Members to a certain number, which was the subject of the referendum previously. The public are exasperated with us in not having done something. This asks that question. If the answer is no, then we know it and then you can then ... it is not a zero someday, you can vote yes or no on some of these clear issues and then still deal with effectively, which is, if I may say, the lacuna in the ... not by design but the lacuna in some of the other amendments. We are not asking if Members do not want to support P.P.C. in my concern about those single-seat constituencies, I am asking that final catch-all question with the remaining number of Members that would be in place that should be determined by electoral boundaries. I agree with P.P.C. that a Boundaries Commission should be put in place. With the system I am saying it is those 2 important matters, which is equality and proportionate on large districts and what we will then have. I hesitated on the use of Parish boundaries. I think Parish boundaries should have been ... I could have put in that question. Maybe I am regretting not doing that but there is no other option here on that. I think it can be clear the outcome of my questions will give a certain direction that will be able to be implemented by the next Assembly. Asking no question about Constables, asking no question about Senators, asking no question about a reduction and not asking members of the public whether or not they agree with equality and proportionality I think will mean that we have an even more difficult situation as the outcome. This is not easy. I am not saying that my questions are perfect, but given all the other alternatives and given where we are, and given the fact that we are having a general election then we might as well have questions that we can then build upon and try and solve what has been one of the most difficult and divisive issues that this Assembly has been dealing with. Deal with it we must. We cannot simply continue to have another term of office where we have no answers and we do not know what the public wants and we then have no solution to put in place. The unfair distribution of seats, it is difficult, it is personal to Members, has to be fixed and with those remarks I move what is effectively the most radical amendment, but there is no other way of discussing it at this time. I did it with an attempt to be constructive and helpful. I move my proposition.

The Bailiff:

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

4.2.2 Deputy M. Tadier:

I want to put this in context first. The context is - which the Chairman alluded to earlier - 14 years ago we commissioned a body, U.K. led but also with very much local experience on that. It came back with what I think is the Jersey solution for reform. It is not everyone's cup of tea. It was never put to the electorate. We do not have a logical system at the moment and it has been argued

that certainly what is in front of us makes things extremely worse. It would just result in utter confusion, which I will explain in a moment. The other context is we, P.P.C., were asked by the States Assembly - and it is a bit of poisoned chalice I think it is probably fair to say - to go away and to do 2 things, which were not necessarily mutually exclusive but which were divergent, let us say, and we came back and we did the work which we were originally asked for. The first proposition was to bring back Clothier to this Assembly and we did that in the best form that we could. We interpreted Clothier, we went back to the clerk for Clothier and we spoke about what it would look like. I think it is an opportune time to remark on the very hard work that the clerks have put in at the Greffier's office in producing a quality document in short period of time, which I think looks very good, which I want to have a debate on because that is what this Assembly was doing and process is important. I hope that Members will respect that even though we will not necessarily always agree politically that I do take process very seriously. I do take reform very seriously and I take fairness very seriously. I think it would be completely wrong to charge the body which we have set up to go away and do the work and then at the last moment, a couple of days before, to accept an amendment. Let us go through the amendment and what that would mean. First of all, it is essentially do you want to have your cake and eat it. We have got lots of cake in the coffee room today all going to a good cause. You ask the public: "Do you want to have your cake and eat it?" They will say yes. "Do you want to have 4 mutually exclusive things which cannot be done?" "Yes, we do want that." So we know what the answer will be to number one if it goes through: "Do you want 42?" "Yes, we want that because we want a reduction in States Members." Why 42? It is an arbitrary number: Clothier said 42 to 44. That was a suggestion, but again that was 14 years ago which did not take in account the increase in population, which did not take into account the increase in workload. Is there any Member in this Assembly who considers themselves part-time, because I certainly do not and I have certainly seen the workload that I have had to do, even though I am currently not even on Scrutiny at the moment, is very onerous. Should we have a minimum of 8 Senators? Why, 8? What is all that about? We know that the public will want to keep Senators. We know that, but it is not sustainable. We made the decision to move to a single election day and therefore the position of Senator becomes obsolete. Of course it is easy to understand the concept of Senator. There are those who say that Senator is the most democratic. It is certainly on paper very democratic. Everyone gets the same number of votes and you get the same number of people. But I will address the issue of smaller constituencies because with smaller constituencies comes greater accountability. You have a more democratic say, your vote is more valuable in a smaller constituency, your elected representative is more accessible in a small constituency, whether it is St. Mary, St. John or one of the Parish districts because you are seen in the community. You are there, you are approachable. The influence that you have over Senators, and in fact over the policy which may be non-existent, the manifestos which may be trite or whatever, it is very difficult to influence policy. That is the fundamental problem we have. In trying to round the circle, in trying to say that what we want is essentially what Senator Ozouf is saying. We want large constituencies but we are quite happy to have small constituencies so long as my political allies get elected in them. We know that the small constituencies of St. Mary, St. John, St. Ouen are all great places. We are saying we must get rid of the Deputies for those places and have a Boundary Commission, which is part 4. Why only have a Boundary Commission for the allocation of Deputy seats? Where is the Boundary Commission for the Parishes? Are we going to suggest moving the Parish boundaries? Clearly that is not politically favourable but we need to sort out the distribution of seats for Constables. The only way that we are ever going to get reform, we know this in our heart of hearts, is to have one type of States Member and to have a Boundary Commission. That is what we do. We all know that is the way forward, that is the only logical way forward. But we are not getting there. What P.P.C.'s proposition does - I know we are not debating that but I am debating the merits and why we should not put this through - is because that is the closest thing we get to it. We are bringing forward what the States wanted to and we are

also respecting the Parish boundaries. Now, logically we should not even use the Parish boundaries as a way of electing people to this government because it does not work, it is not fit for purpose. It is fine for electing Parish officials; it is fine for electing Centeniers, Vingteniers, ecclesiastical courts or the church hierarchy, whatever - not ecclesiastical courts but I think people know what I am getting at - it is fine for those purposes but it is not logical in the modern age to do that. So Senator Ozouf is correct when he says of course we need to be looking at whether we have single seats, multiple seats and how we divide those up. But you need to do that wholesale, you cannot do that by saying: "We will necessarily keep one particular class of States Member in here." So let us just finish off, we know (1) will get through. We will have 42 States Members, the public will say yes to that. They might even say yes to 30, probably say yes to 24. They will say: "We want to keep 8 Senators" but they would probably also quite like to have one Senator that they could elect. They would also like to elect the Chief Minister directly. We do not give them that choice though, of course. We only give them selected choices. Should the Constables be in or out? We will come to that debate in a moment. I think it will be very tight, that vote, and it will be an interesting Island-wide debate to have, depending on the question. When you get down to point 4, the public are going to think: "Oh well, blow it, we do not really care too much about the Deputies now, we will probably vote yes to that one." Then what is the future, what is the way forward for reform? There is no way forward for that, it is just another dog's dinner which we will be endorsing and putting to the public. After the last referendum, which I think many of us invested in both politically, financially and also emotionally we do not want to go through a whole completely flawed process, and it would be disrespectful, quite frankly, to put this question to the public.

4.2.3 Deputy G.P. Southern:

Yes, Members will not be surprised to find me being critical of this particular amendment, because we do not really have to go any further than copies of the Clothier Report to see what a coherent holistic approach to the questions at issue might be. The Clothier Report was very clear. A central thrust of that was if we have any chance of having a proper functioning democratic society then what we need is a single type of Member. That is the crucial issue. The proposer of this amendment says that he may not have the right questions but they are his attempt at being fair and balanced in these questions. A moment's examination of them, they do not have to be lodged for a very long time to read them and see what has happened here is that the writer's own preconceptions have skewed nearly all of the questions. So we start with question 2: "Should a minimum of 8 Senators ..." oops, a minimum, what is that doing in there? Oh, we want to return to what we had before. We want to return some more Senators. There it is, that is the intention. The possibility opens up so there is no need for minimum in there. "Elected on an Island-wide basis." Oh, big red flag waving. Oops, Island-wide basis, Island-wide vote. That is the key trigger word attached to Senators, and we know that that gets people going: "Oh, yes, we want that." It is one of those: "Yes, nice-to-have" lollipops. We must have that. Keep that. Big flag in there. No need for Island-wide basis. Assumption: Senators, we know what they are, shall we keep them? Do not know. But look at it yet further. Just to remind you that is the *status quo* in case you have forgotten and that is what the writer wants you to do, is say: "Let us continue with that." Again: "Should the Constables continue to Members of the States by virtue of their office?" Looks open and neutral on the surface but again there is that word "continue". What were the words of Clothier? "Constables should no longer be entitled to sit in the States simply because they are Constables." So not: "They should continue" but they should not continue automatically to sit in the States. So we got there, 2 goes, one for Senators and one for Constables, of going against the central principle of Clothier the single type of Member. So if you do not get the Senators, we will have the Constables perhaps. One of the 2. You have 2 goes driving straight through Clothier.

[11:30]

Then you have got: “Should the number of elected States Members be reduced to 42?” Why not 44, which was also in Clothier? The world has moved on says the proposer of this amendment. The world has moved on, yes, the world has moved on, our population has gone up and we have devised more and more things to do in this Chamber so the 42, I think we agreed at the last referendum, was too small a number. But it is the one that the writer intends to get through. Then just to finish it off we have a fourth question, in case you did not consider voting for the Constables to remain, to continue to be in office, we have the version that says we are going to do something about the Parish boundaries, so the other key word “Parish recommendation” which stands with the Constables is reminded in that fourth question. Far from being fair and balanced, this is leading and reveals the writer’s intentions throughout. It is designed to end up with no change. That is what this is doing, it is clear. It is not fair and balanced, it is wrong.

4.2.4 Senator L.J. Farnham:

I think one of the things the public finds difficult about these debates is the perception of the vested interests that we have in the Assembly and my appeal to them is just to try and cast that aside as we all juxtaposition to find a compromise. It is important that we try and approach this in as fair a manner as possible and I have, in fact, been called a “die in the ditch” supporter of the Senator. Well, I am not a die-in-the-ditch supporter of the Senator, although I think the Island-wide mandate is important in a unicameral Assembly. We have one Chamber, one Assembly so it is important all areas of the community are represented in that single Assembly, and that was at the heart of how this Assembly was constructed in the post-war days when it was put together. But what I am a die-in-the-ditch supporter of is that we ask the electorate what they want; is that we bring the electorate with us. I think we have lost the electorate on this whole issue and it is going to be very, very hard to get them back. I think that process was started when the States, in 2010, prematurely started the process of reform by agreeing to reduce the number of Senators without the consultation, the knowledge or even the permission of the electorate. That was a very bad move because that did influence, in my opinion, the Electoral Commission to go a step further and recommend the abolition of that important role. I just want to turn briefly to what Deputy Tadier said. He talked about the voter influence and the influence of a first-past-the-post system, a Member in a smaller electoral district, which is important, although you must make sure that is balanced.

Deputy M. Tadier:

Would you give way? I never mentioned first-past-the-post and had I, I would have said that we definitely need to change it to an alternative vote.

Senator L.J. Farnham:

I do apologise, I got that wrong. But he did talk about the importance of the influence of an elected member in a smaller constituency and, yes, that is important. What Senator Ozouf rightly picked up on in the P.P.C. proposal, then the question has to be asked about voter influence and equity. While you might have more influence in your electoral district, the influence of the voter in the Assembly is greatly reduced because an electoral member of St. Mary will have voted for one Member of the Assembly where Members in other districts can vote for a lot more and that is where the office of Senator is a great leveller. I am going to support Senator Ozouf here. I think all of these are important questions to ask. If I can be slightly critical, I am a bit uneasy; I would have preferred that we were not tying ourselves to numbers. But, having said that, I think the numbers he has mentioned are about right and whatever we end up with, if we end up with retaining the Island-wide mandate and a smaller Assembly, I think it is not going to be far away from what he has suggested. I commend not only Senator Ozouf but all who have participated in the debate by bringing amendments and I shall be supporting this one.

4.2.5 Deputy S.Y. Mézec of St. Helier:

Any referendum question that is not simple and a single “yes” or “no” question is going to be doomed to failure from the start. This proposed conglomeration of questions is going to get us absolutely nowhere. We cannot ask people to vote on the minutiae of reform elements without some sort of overarching guiding context because we will not get a coherent answer and can claim that the system that we get from it represents what the people want. I do not even think it is a good idea to ask people an individual question on whether the Constables should be in the States because how can you ask people to vote on whether they want the Constables in the States if they do not know that the future of their Parish Deputy is also secured? What if you are somebody who does not want the Constables in the States but is adamant that the Parishes are so fundamental there must be some form of Parish representative? They could vote the Constables out of the States in a referendum and then the States goes ahead with the rest of the subsequent reforms that are needed and decide to do away with Parish Deputies and instead have super-constituencies, this person will have inadvertently voted for a system that does not represent what they wanted and if it were a choice between super districts and keeping the Constables, even though they do not want the Constables, they would vote to keep the Constables just for the Parish link. These people exist and you cannot just ignore their view, which is what these questions will do. We cannot look at States reform as a series of unconnected issues because they are all interlinked and it is all about the context in the bigger overall picture of what we want our democracy to look like. Looking at these questions, it is entirely numerically possible for the question on keeping the Constables to be lost by 51 per cent and the question on moving to super-constituencies be won by 51 per cent, but in fact there may only be a 2 per cent crossover between these 2. So we end up with a system that 98 per cent of the public do not want and if they had known the answer to the other question it would have changed their answer to this other question as well. It is just impossible to end up with a system drawn from this that will claim to have any clear mandate. There is also nothing in these questions to ensure that the system we get is fair. Senator Ozouf said in his speech how fundamental he thought the principle of equal votes was to democracy. I am glad to hear he has converted to that cause because he certainly was not on that cause when he was wearing his ‘Option B’ badge in the referendum last year. We could have these questions and we could have a “yes” to the first question, so that is 42 Members; we could have a “no” to the second question, so that is getting rid of Senators. We then have a “yes” to keeping the Constables and a “yes” to super-districts. Then we just end up with ‘Option B’ and we all know that ‘Option B’, as was proven by the expert advice the Electoral Commission got, was a non-representative system that was heavily weighted towards the country Parishes and left my Parish that I represent underrepresented. This could leave a pathway for achieving something that Senator Ozouf says would go completely against democratic principles, so that just does not make sense. In his reports with this, Senator Ozouf says, without a hint of irony, that the question P.P.C. has put forward is a partial question. Well, P.P.C. had expert advice on their question; they put it to focus groups to make sure it was as clear as possible and I, for the life of me, cannot see how it is a partial question. It is very clear and does not lead voters to picking “yes” or “no”. It is very, very clear. The questions that are partial are the ones that are found in this proposition: “Should a minimum of 8 Senators elected on an Island-wide basis continue to be Members of the States? Should the Constables continue to be Members of the States?” If the U.K. Electoral Commission or Electoral Reform Society had looked at these questions they would have thrown them out straightaway for being leading. Senator Ozouf has just not thought this through. That is shown by how late this was added into it. P.P.C. has spent a lot of time and effort getting a decent question forward, Senator Ozouf has not. So, please, I hope the States will reject this rubbish.

4.2.6 Senator F. du H. Le Gresley:

I am glad to follow the previous speaker because he has a lot more knowledge than I think a lot of us about the voting because he has studied it and I respect his knowledge on these matters. I have

not really followed all this because I find it all terribly boring and I wish we were doing something else, and get on with the Island Plan and get on with my Family Friendly Rights, and if we do not get it in this session I will be very annoyed. I am only going to speak once and this is I am going to support P.P.C. I think these 4 questions are ridiculous, if I might say. The fourth question in particular should say: "Should the number of Deputies be reduced to 22?" because that is what it means because we have already totted up 20 with Constables and Senators. That should be the question if we are going to have that question. I suggest that people going into the ballot box on Election Day will not be interested in the referendum; they will be interested in voting their new Members of the States. This is a side show. The 4 questions are absolutely ridiculous and the fourth question is pure jargon. Nobody will understand what it means. They will be fed up with the whole process by the time they get to number 4 and will not have a clue what they are voting for. Chuck all these amendments out, support P.P.C. and let us get on with Island Plan debate.

4.2.7 Deputy J.M. Maçon:

I thank the previous 2 speakers for what they said. In Senator Ozouf's opening speech he said: "I may have got the wording wrong." We are talking about referendum questions here. That is the last thing we need to be doing. A genuine question to Senator Ozouf, is he able to indicate what independent, if any, advice was given in the formulation of these questions? Have you seen these questions? Did they go even to the Statistics Unit for checking for non-bias within the questions? Did anything like that happen because to put forward referendum questions which have not had that type of independent oversight to look over them is crazy, I would argue strongly. I do want to pick up on something else, which is about question 4. The first question is about changing the numbers and we know that there is a bias in that to begin with anyway. The second one is to endorse the *status quo*, fine; which begs the question why are you having a referendum just to endorse where we are. But the third question is not about endorsing the *status quo*; it is not asking about whether we should retain the Parish-based Deputy system as it is. Again, like Senator Le Gresley has already said, the wording in it is technical, certainly the issue of larger districts. It depends what you mean by larger districts. Do you mean the way in which St. Helier 3 and 4 is currently made up or do you mean how the Parish of St. Mary or St. John is made up when they are choosing the issue? We have to go through all these processes as well when looking at our referendum questions and this is why we have not gone down that route because it is confusing and it can mean different things to different people. That is why I would ask Members not to support this amendment. It has been poorly thought through; I do not believe there has been any independent oversight on these questions either. Just to point out that when it comes to equality of votes, P.P.C.'s proposition does not rule that out, it says it is to be considered by an independent Boundary Commission and that issue is still to be tackled. There is something else which Senator Farnham said, which is quite right, that we should not allow this debate to be overtaken by vested interests which is why we should allow an independent report done by Clothier to go to the public and we should not be supporting any of the amendments which have been brought forward.

4.2.8 The Connétable of St. John:

I have listened to quite a number of the speakers and they keep on referring to Clothier. In fact, Clothier was brought in by the government of the day and, I must say, the report was done not dissimilar to the local government reports in the U.K. But Jersey is not local government; we are a Crown Dependency, which is a totally different thing. Clothier was not looking at us, the Island of Jersey, as a Dependency, he was looking at it as part of the bigger picture, as they had done in the U.K. where they reorganised their own local government system and put in Ministries and the like. In many cases, in fact, a lot of those local government areas have returned to a committee system. I am not going to go on about the committee system but that is what has happened on the other side of the pond.

[11:45]

I keep on hearing the word Clothier, Clothier, Clothier and it rings in my ears to the day in this Chamber when Senator Horsfall said: "Accept this and we will put the meat on the bones later." We are 14 years down the road and the meat is still trying to be put on the bones because he sold you a pig with a cow's head because that is what we have got; we have got something that is not workable. Yes, I know this is very late being brought in and in fact I voted against us debating this. But this shows us probably more of the pig with the cow's head than anything else because what the P.P.C. are offering is yet more and more and more looking at our navel - navel-gazing - because nothing is going to happen out of what they do today if we go back to the main proposition. Let us get something put in place. This is not perfect by a long way but I am sure it is far more perfect than what has been proposed by P.P.C. I see here that we are asking people questions and I hope that when it comes to voting on this that we can say: "Right, I do not want to vote for number 1," for instance, because I do not believe we are going to manage with 42 in this Chamber. I see that the Greffier is shaking his head so obviously we will not be able to. If the P.P.C. had brought something of this nature I could have probably gone along with it but what they have brought is something that I will not be able to go along with, I can assure you. It does not fit. It does not fit in the box. It is a round peg in a square hole, or the other way round. If it was solely between those 2 propositions I know which way I would be going. I will listen to the remainder of the debate before deciding.

4.2.9 Deputy J.A. Martin:

It is interesting to follow the Constable of St. John because he is absolutely a proponent of the machinery of government and how it was introduced. But that was Clothier and what we do say in all our comments to the official amendments that were lodged in time was that Clothier was partially introduced and it was put better than I will - and Deputy Young might want to pick up on this - we do not have a political system now to support the machinery that we have introduced because we have half the people in the government and half the people are out. But I will leave that there. It is quite obvious that we do need to reform the way people are elected to this House to implement the rest of Clothier. We are doing what States ask; it is Clothier, the campaign. If you read the whole of our report, which is 23 pages, the majority of it will be put out to the public. Totally impartial, not by P.P.C. but from the Greffier, the absolute facts will be put out to the public. Let us ask a question when we have asked it before and we have not got the right answer. If you look at P.93, which Senator Ozouf brought, it is exactly this: it would not work then and it will not work today except he says that the Assembly should be comprised of 44 Members instead of the 42. Comprised of 12 Constables, 32 Deputies, Senators should be abolished, la-la-la, and there will be 6 new large constituencies. But if you go through his questions, as has already been said, they do not add up. I am telling you now, in this unbiased campaign that the Greffier will be leading, they will exactly show you. We have 49 Members now, or will have after the next election. When the President of P.P.C. was saying it would be biased to have a leading question I saw the Constable of St. Mary shaking her head in disagreement, but you ask anybody out there if this is not a leading question to reduce the number sitting here as long as it is under the number, if it is one under, if it is 5 under, if it is 8 under. They absolutely do not care how we get the work done. You have got ... yes, we have 42 Members, yes, we have 8 Senators, or we do not, but we have 12 Constables. Senator Le Gresley said quite clearly we have got 22 Deputies and in the Senator's world ... in P.93 he said the Deputies would, under the new structure, have a more wide-ranging role than Deputies in the current Assembly. My role is quite big enough and I have no time for this amendment. If he had not put the 42 in ... even in his own amendment, P.93, he had 44 Members. He knows the work cannot be done but this is how to carry it in the House, maybe to carry it in the public. Reduce us to 42 and then vote, no, no, no to the rest then how do we do the work? Please, this amendment was lodged yesterday; we have been working on this with focus

groups from as long as it has been put back to us, and it is sensible. The questions are there and all the information but you ask the simple question of the public. Do you really think they are that stupid that after reading a very clear, factual document that supports the question that we have put in P.P.C. that they will not make the right decision? I think it will be very tight. There are a lot of people, after it being explained, that are going to lose their Island-wide vote. They may lose their Constable but they will still write “no”. But it is a straightforward “yes” or “no”, a straightforward question, we will have something to hang the result on and we will come back to the Boundary Commission. People have said Senator Ozouf somehow has seen the light and this P.P.C. is unfair. Where does he get this 22? How many Parish Deputies in his proposition does he get rid of? He has done no homework. This should never have been debated. You should not give it any more time of day than this States Assembly has spent on this subject. Just because it puts a simple yes or no question on everything, let us come back and find out the simple yes or no. We do not know where we are at all. We have got one chance on 15th October to get the turnout of the people to get this right. Put it to bed once and for all and then if they say “yes” we have got 3 or 4 years to get it right, and if they say “no”, not in my time again will I ever let a debate go on about reform. The people will have spoken quite clearly. This has got to be thrown out.

4.2.10 The Deputy of St. Ouen:

I am just going to focus on the proposed changes to Article 6 and the wording of the ballot paper. I am not going to touch on multiple choice and all the comments that have been made up to now. The ballot paper states: “Answer yes or no to each of the 4 questions,” but I will draw Members’ attention to the changes going to be made to paragraphs (5) and (6) of Article 6. Currently paragraph (5) of Article 6 in the P.P.C.’s law, or amendment, states: “A vote is recorded in a referendum by making a cross in the blank square opposite either “yes” or “no” on the ballot paper.” That is very clear and simple. Senator Ozouf is suggesting a voter may record a vote for and against and he goes on in paragraph (6), his amended paragraph (6): “A voter’s ballot paper is not invalid by reason the voter does not record a vote in respect of all of the questions on the ballot paper.” So not only have you got this multiple choice but now you have got a selection process that is offered to the voter. How on earth Senator Ozouf, or anybody else in this Assembly, believes that this is going to provide the clear steer that I believe all States Members are looking for, is beyond me. I really do think that you need to think very seriously about supporting this particular amendment.

4.2.11 Deputy J.M. Le Bailly of St. Mary:

Yet again we discuss change, this being the third time in just over 2 years. The last referendum was a total farce and how could we have justified change under the then preferred option of 13 per cent of voters. Yet again the questions have been manipulated to obtain the result that a few desire. Yet again key questions have not been asked. A key question could be put to voters such as: “Do you want to change our system or are you content with the present system?” Also the criteria for accepting the referendum result should also be established before the event so that voters know if a result will be accepted or binding. To be democratic, the result should have a majority of 51 per cent of voters. That needs to be made clear before the event. However, let us all look around us to define the problem. Is the system the problem or are we the problem? A quote from Leo Tolstoy states: “Everyone thinks of changing the world but no one thinks of changing himself.” Very interesting words. At present I am not really content to accept any of the propositions as they do not reflect the wishes of the majority of my electorate. However, the Senator’s proposal allows the public more flexibility when making a choice. Also, in the meantime it allows us the chance to engage with the public on each separate issue. If I am to make a preferred option, I will support the Senator in order to do that.

4.2.12 Deputy S.G. Luce of St. Martin:

As usual I find myself agreeing with Senator Le Gresley and I will only be looking to speak once in this debate but then, very unusually, I find myself disagreeing with him because I would wish to differ with the conclusion and the way he will vote when he comes to do so. Members today know that my blood pressure is somewhat dodgy and if there is a subject that is likely to increase it it will be the referendum. I have to ask Members: "When will we learn?" Complicated multi-answer questions and complicated multi-question answers get us nowhere. We have made that mistake before and we are in danger of doing the same again. We need to learn from our mistakes. We need to keep it simple, one easy question, yes or no. Senator Ozouf's amendment, while it does ask individual questions and asks for simple yes or no answers, is complicated by the fact that there are 4 all being asked at the same time. The proposals from P.P.C. are even worse because we have 3 questions and we are only allowed to give one answer. We have no idea what they mean. One easy question, one easy answer. It is not because the public cannot understand the question, it is because we cannot or are incapable of understanding the answer that they give us. This process has to be done step by step. The first question was and has to be: "Do we want the Constables in this Assembly?" and I will be supporting Deputy Green and voting against all the other amendments and the proposition.

4.2.13 Deputy N.B. Le Cornu:

These amendments, there are lots of them so what we see are the gerrymanderers out in force again. I am very proud to participate in the charge today for democracy against the gerrymanderers. In fact, I sharpened my literary sabre last night to ensure that it had a good cut. I believe there should be one category of States member all elected on the same day in districts of equal size. What is the function of a referendum? It is something new for the British political class to use them. What they are trying to avoid is taking difficult decisions themselves. They are trying to legitimise their own position by going to the public, which they fear, to endorse positions which they themselves hold, but do not believe that the public holds, but need the public to do it because of legitimacy.

[12:00]

That is precisely what happened in the referendum in April 2013. It was there to legitimise a decision of the political class to support 'Option B.' That was the preferred Government position; the Chief Minister supported it. The Deputy of St. Ouen spoke about the clear steer from a referendum. That is not the purpose of a referendum. It is not to ask the public what they think; it is to legitimise views already held by the political class, hence Senator Ozouf's proposition. What does it do? It supports the *status quo* which suits the political class as it exists. They want to keep some Constables, they want to keep Senators, they do not want a democratic system. In 1856 when Deputies were first introduced, St. Helier received 3; each country Parish - and they really were country Parishes - got one, but half the population of the Island lived in St. Helier. What was the consequence of all that? The dominance of the seigniorial property landed interest over the interests of commercial capitalism in St. Helier. Remember, this was in a time when working men - let alone women - who owned property did not have the right to vote, it was only property owners. But half the population lives in St. Helier so it is a system which began the democratic change and modernisation of the States Assembly. In 1948 when the Minister for Home Affairs of the United Kingdom, Chuter Ede, came here, the British Government should have imposed a democratic system on the Island in spite of the desire of the vested interests to leave things as they were. There was a great battle, of course, between the forces of progress and those who wanted progress but not so much progress.

The Bailiff:

Deputy, you are coming to this amendment?

Deputy N.B. Le Cornu:

I am coming to this but I am trying to explain what is going on here. I am doing it exceedingly well because it is important that these things are said that otherwise have not been said. I said previously that I was very proud to have been elected to this Assembly in order to make these points on behalf of the electorate who put me here, who worked very hard to put me here because they knew I would say the things that they wanted to be said, which are never heard, which are never mentioned in this Assembly, which are not reported by the media. I am asked to draw my attention specifically to the amendment. It is completely leading and misleading. The population wants a package of reforms that leads to a democratic system. They do not want the political class telling them: "Oh, we should keep Constables. Oh, we should keep Senators" because the Constables and the Senators want to remain in the cosy club and the Government in this Island will not take those difficult decisions. It is coming to the point where a British Government is going to have to intervene and the implications of a Royal Commission having to come over here and tell us how to formulate democracy is not acceptable, we should be able to do it ourselves. The British Government did it with Sark. They modernised the *ancien régime*; they imposed the model and they also said it is an example of a model to follow for democracy in the islands generally. They did not say: "You have to do it." They could have said: "Have a look at it; it has got separation of powers. It has got Deputies elected on an equal basis and there is no property rights involved or any of these kinds of peculiarities of the past." That is what we need to be looking for and the Government to get a grip to present to the population what a modern democratic system looks like in the Channel Islands, what it looks like in Jersey. Just asking all these leading questions is not going to produce that. It is very bizarre that the principles of equal and proportionate, in relation to Deputies, Electoral Boundaries Commission is quite acceptable when it comes to carving up what Deputies stand for but Constables, no, that does not apply to them even though there are great disparities between the St. Marys and the St. Heliers of the world. The Senators? Well that is a peculiar sort of thing that has come out of the past which does not really have much explanation. I cannot quite understand it, they were replacing Jurats but it effectively was used by the political class and dominated the post-war period as the mechanism to create their leading cadres. I am going to wind up. I am going to vote against this because I think it is just another piece of gerrymandering. The public wants real reform and the Government - and I am not part of the Government - is not giving the leadership. Once again paralysis is so evident. I am going to speak against every proposition that attempts to amend P.P.C.'s proposition and I will do it with that democratic sabre swinging.

4.2.14 Senator I.J. Gorst:

I am pleased to follow the last speaker because there are some things that perhaps I can agree with in what he was saying. Historically, this Assembly has left electoral reform to a committee of this Assembly, including Members from the Government and Members from the Back-Benches. I think that whatever happens with this electoral question, or questions at the election, I think whoever sits on the next Executive I am now convinced that the time has come for the Executive to do exactly what the last speaker has said and that is to start to show some leadership. I recognise that some Members in this Assembly will not like that because it is taking a current responsibility, as I say, away from a committee of this Assembly but I think that that day is rapidly approaching. Therefore, I am pleased to follow the last speaker because I think on that point alone he has hit the nail on the head. I think that is important because I think that what the amendment endeavours to do, and perhaps it is not formed in the way of a traditional referendum question, but what we need to do on one level is to go back to basics. We have floundered around - and I see the Chairman of P.P.C. lowering his head - asking complex questions, not being clear about what it is that we are asking and I have to say that I fear that the question that P.P.C. would have us put to the Assembly is going to deliver a very similar outcome. I think that this amendment, and I have to be honest and say some of the other amendments, if this one does not get through - I have my other personal

favourite, but we will come to that later in the morning - is going to help to give indication towards delivering a solution in the next States Assembly. I have heard it said that this sort of referendum question is more like a Mori poll and, to some extent, there is value in that argument. But I do think we have got to the point where we have got to now ask some very basic questions of the electorate and that will then allow the next Executive to take forward proposals based on those questions. Therefore, I can give my support to this particular amendment.

4.2.15 Deputy J.H. Young:

I am pleased again to follow the Chief Minister because I am struggling a bit with the logic there that the Chief Minister has a personal favourite, which is not this amendment, and yet he has put forward a case of why this amendment should be approved. Pretty astonishing.

Senator I.J. Gorst:

If the Deputy would give way. He has misquoted me, I said “another” personal favourite.

Deputy J.H. Young:

I accept that the Chief Minister has got several personal favourites and a kind of a let us choose ... I apologise for my voice, I seem to have picked up a bug from somewhere. Moving on, the States set P.P.C. the job, some might argue it might well be mission impossible. We do not want any more confused questions, multiple part questions, and so on. We want a single question and we want a “yes”, “no” because that is what we need. It is what we have not even asked the electorate after so many years of installing half a system of Government with Clothier and we do not have - as Deputy Martin says - the proper framework of political accountability to manage that Executive structure. We desperately need it. What we are offered by the amendment is a survey, in my view. It is an opinion survey. Where will it take us? It is argued it will be the brave new world to find in the future. No, it will produce similar answers to previous surveys over the decade. Even the questions, I think, are flawed. Four question, the first one, the number of States Members should be reduced. Well, we know what the public thinks of States Members numbers, that is where we have come to. A leading question. Second, Senators. It does not say shall we have 8 Senators, it does not say have 10. We asked the public a minimum of 8 Senators. Uncertainty. Fails there. Then we have should Constables continue in office by virtue of their office. I would question that language, whether that is appropriate language to be able to explain to people what that really means. It means do they automatically keep their seats in the Assembly. Then in the fourth question we have a phrase that talks about a proportionate basis, well, what does that mean? Larger districts, what does that mean? They are not described. Do we mean the super-constituencies or something else? Then it says an Electoral Boundaries Commission. What does that mean? Three confusing elements in the fourth question. Now, P.P.C. in approaching their proposal how to come up with this simple yes/no, what did we do, we went to an external body and said: “Can you help us with this?” We have focus groups, 12 focus groups of 10 people each, right across the range. They were not political geeks, they were quite clearly people who are not political geeks, they were ordinary people, ordinary voters, from 16 right through to older years. Nice, well-balanced groups. They said they were confused by the first draft of the questions. They raised all sorts of questions. It is clear that there is not a level of understanding about the geekiness of the way this Assembly works at that level. We might think there is but there is not. They want simplicity and clarity. So we went down the route with first one question and then revising it, and coming out with something which met the purpose. Yes, there are issues downstream, as with the P.P.C. proposal. Yes, there is a question: well, why 49? Forty-nine was chosen because it is the same as now and, therefore, it is neutral. Personally I believe clearly, now we have a Planning Committee we need it anyway, 49. We could run that Executive on less but it is neutral. There will need to be a clarity in election leaflets. I do not know if Members have had a chance to look at this but a lot of effort has been spent on graphics to try and explain that if the P.P.C. question goes as lodged that what it means in

simple terms is not hidden, it is in the leaflet that will go to everybody, and it is assumed that there will be political campaigns at the election. Whether you are for a yes or a no, absolute clarity. It will take us forward. So, please, please, I urge Members, reject this amendment.

[12:15]

4.2.16 Deputy J.A.N. Le Fondré:

I would like to endorse a number of the comments that have been made, certainly by the last speaker and by Senator Le Gresley. Just to remind people where we have come from, and it comes back to a proposition that was September last year, it was debated I think in November last year. The particular proposition was to agree that a referendum under the Referendum (Jersey) Law should be held on the day of the 2014 elections with a single yes/no question to ask voters, and then there was obviously a list of items which I will not bother reading out. The point was it was a tight debate, but that was agreed. That is what we are debating today. So one of the biggest criticisms the States get is the States inability to make up its mind and to stick with previous decisions. Whether or not you agree with the thing, and everybody has their perfect right to do so, can we not stick to a decision that we made in November 2013, give some leadership ... and I was disappointed in the Chief Minister saying: "I have a number of personal favourites." Well, we have to make a decision. That is the leadership bit, Chief Minister.

The Bailiff:

Through the Chair please.

Deputy J.A.N. Le Fondré:

Sorry, sir. Through the Chair. I hope the Assembly will decide but for goodness sake, in terms of perception in the public, I may or may not agree with the contents of the question we are debating, but we have made the decision, the principle, the clear direction to P.P.C. to go away and do a piece of work. That is what they brought back. We have heard the amount of work they have done on this to get the wording correct. So to be debating something that was lodged, I think even now less than 24 hours ago, which was put together over the weekend, does not appear to have gone through any testing and challenging on the questions, certainly has the capacity to be ambiguous in a number of areas, is not going to give a clear package of results. It is ridiculous. This was lodged, by the way on 17th June. At least the other Members who have had time to think and give us time to consider matters have lodged things, and obviously when we get to those debates we will talk about those at the time. But to come through on kind of an *ad hoc* basis at this short notice I think will not put us in a very good light. Let us at least stick to the decisions that we made, and P.P.C. has basically carried out our instructions. If we want to do a survey - which is effectively what these questions turn out to be - then let us do a full and proper exit survey at the polls. Because at the very least then you can explore what would the consequences be of: "Yes, I want to see the Constables in the States. Yes/no." All right: "If the Constables are in the States what are your views on the Deputies? Is it dependent upon that? Are they related?" In other words, one can structure a poll properly, and Mori are very experienced in that. We did that in 2006 and 2007 and we have ignored those results because those results, for example, clearly show that super-constituencies are one of the most unpopular choices open to the electorate by far. Really what I ask is that we give the public some respect in terms of we have agreed a decision, we have instructed P.P.C. to go away and do the piece of work. Let us stick to that. I know it is inevitable, I think we have 5 amendments that have come through if you include the amendments to the amendments. But a single yes/no question to ask voters. So this amendment clearly goes against the principles of what was in there. There are 4 yes/no questions and you do not have a clear package which the public can consider. That has to be crucial. That is what we have always understood and the issues are - I think as the Deputy of St. Martin said - have we not learned our

lessons there? At the very least the present proposition from P.P.C. is a single yes/no vote. We may get a negative reaction but at the very least we have then put Clothier to bed. We have drawn the line under that. It may well be that the public will vote for it. But that is a matter for the public. It is a clear, unambiguous question. The contents of this particular amendment are not clear, they are not unambiguous, and it is a multiple choice. We have seen what happens with multiple choice questions. I really urge Members, listen to Senator Le Gresley in terms of his comments on the specifics of the proposition, listen to the members of P.P.C. who have spent a lot of time and have a lot of bruises, I suspect, from going through this process. I urge Members not to support this amendment.

4.2.17 Deputy G.C.L. Baudains:

I might have supported this amendment except there is a missing question and that should be number 5 which would say none of the above and stop asking us, sort it out yourselves. But in all seriousness, I am thinking of the dissatisfaction in the United Kingdom with the way that the E.U. (European Union) is interfering in government and causing some difficulties. It does occur to me that we never ask the electorate whether they want this changed from a committee system to a Ministerial one, to my mind that is the question we should be asking but we are not so I shall be opposing all of this.

4.2.18 Deputy S. Power of St. Brelade:

It is unfortunate, Sir, that nobody listened to you yesterday, or at least listened to your advice otherwise we would not have wasted the last hour where we are at the moment. That is really the nub of the issue bringing in these amendments, last minute wish lists, and I do not think it has much of a chance of success. I feel today that I am in some sort of BBC scripted comedy because we have lost our legitimate right at any attempt at reform in the autumn of this Assembly. We should not be doing this. We turned the results of the previous attempt of the Electoral Commission into some sort of strange farce and the result now is we are debating something that I believe we should not be debating. My position very much mirrors the Deputy of St. Martin. I shall only say this once, listen very carefully. [Laughter] I am not going to support this. I am going to do my very best to not speak again, you will be pleased to hear, and I feel depressed. I do not know whether it is a comedy or a tragedy or whatever we are here, but we have lost the mandate to debate anything to do with electoral reform because all we are doing is upsetting the rest of the electorate. For this reason I will be voting against this amendment, the other amendments, and then I will make my mind up on the final report and proposition.

The Bailiff:

Does any other Member wish to speak? I call upon Senator Ozouf to reply.

4.2.19 Senator P.F.C. Ozouf:

This is really, really difficult and the opposition to my amendment has come from a coalition of individuals. Deputy Tadier and Deputy Mézec are Members who spoke against my proposition that simply are saying: "We are not going to ask the public whether they want to keep Constables and whether or not they want to keep Senators." It is really difficult but I do not think that we are ever going to get any legitimacy in dealing with electoral reform unless we ask the public. If we do something that the public does not like there is going to be dissatisfaction. The public are exasperated with the fact that there was a referendum, irrespective of its questions, it had low turnout, there was a result and then this Assembly set it aside because the Assembly seemed to be saying the questions were wrong. Now, Members cannot have it both ways. Members cannot have a situation where they said earlier the wrong questions were asked so the 'Option C' supporters who wanted the question of Senators to be asked cannot now say: "Surely we cannot have a question on Senators." The people who are saying that they want to have a question of Constables

should be supporting this, and I would argue should also be supporting the issue of the Senators, because they must be asked together. I do not know who it was that mentioned the fact that we just need to ask Deputy Green - and I am a good friend of Deputy Green, I have a lot of time for him, he is doing a great job and we speak a lot - but if we just ask the question of Constables the public is going to be infuriated that we are not asking the question of Senators. The fact is that we have to accept we live in a democracy. We are here to make decisions on behalf of the public we serve. There are arguments where you should not go for referendum, but we have given the public one referendum, we have rejected it. I do not think it is legitimate now to say that we are going to hold these decisions to ourselves. So to those Members who have previously said: "We have to know the answer to what the public says about Constables, we have to know the answer to the question about Senators", I would ask them to vote in favour of this proposition. I will give the wiggle room, which is about the wording in a moment. If this proposition is rejected the alternative is dealing with a proposition as amended potentially by Senator Farnham, which simply asks the Constables and the Senators question. I do not know which one is leading or otherwise. I thought that my question was about as straight down the line as it could possibly be in terms of not being leading. Deputy Southern is laughing. I will repeat the question. It said: "Should the Constables continue to be Members of the States by virtue of their office?" I think that is plain English. I think it is what it is. It does not use the word "lose". It does not use the words "automatic right and remain" or the amendment from Deputy Southern which is much more convoluted and effectively leads. I think mine is about as fair question as it could possibly be in relation to the Constables. The question on numbers. We have to fix this. We have to find what the public want in terms of the number. I think it is a perfectly legitimate debate to focus on the 42. I have a huge degree of sympathy on this occasion with the Constable of St. John. The reality is that the Clothier proposal, which I fear if my amendment is not passed I cannot see some of the other amendments getting passed because they are partial ... the Clothier issue, and as well as we can be respectful and polite to P.P.C. to have done the work on getting a design agency *et cetera*, the fact is that Clothier - and I have reread it - was 61 pages dealing with the composition of the States, the administration of the States, you, Sir, the elected Speaker, ombudsmen, scrutiny, in 61 pages. Many Members of this Assembly and the public thought that was not justice for the composition debate. It did not cover - and I am a *Clothier* respector in terms of what they did - what they did not do, with the greatest of respect to that panel, was to deal with the fundamental issue that every voter should have the same number of votes. P.P.C. do not ask that question. Members may worry about election-observing missions, they may worry about Commonwealth election observers coming, they may worry about electoral experts who have seen more electoral systems in any other place than most of us have had States Members lunches - which is probably not that many recently - but they will understand the issue; the fundamental principle is fairness and equality of the distribution of seats.

[12:30]

The second thing is equality of votes. What Deputy Tadier, Le Cornu, Southern, and Mézec - thank you, I cannot remember all the party names, I am sorry - there are only 4, what they want is party politics. That is very clear. Party politics with a first-past-the-post system is probably what works best for parties. Small districts, first past the post, and that is the conclusion of Clothier will be. I am not giving way. If it is a point of order I will.

Deputy M. Tadier:

I think it is a point of order. It is misleading. There is nothing in the Clothier proposals which talks about first-past-the-post; it is silent on it. To suggest that Reform Jersey is in favour of first-past-the-post is clearly not true when I myself brought a proposition for the alternative vote which was rejected by this Assembly.

Senator P.F.C. Ozouf:

I see considerable merits in the proportional system the Deputy said. It was just the way it was brought and the way it was explained. It could not be brought in immediately. Now what I am doing here is I am trying to ask the questions that the public want to answer. If we do not get answers and it might be a multiple choice, we are simply not going to move forward. The wiggly room that I would suggest... and I am going to certainly incur your wrath, I am going to incur the wrath of others. My wording might not be perfect, but it is covering the 4 issues that need to be asked. What Members can do is vote in favour of this, see what the support that it has for it. What they will be doing is they will be voting in favour of 4 questions covering 4 issues. I understand this is an Act of the States. Members, even having passed that proposal, could then not finalise it; adjourn the debate, whatever, and come back with the spirit of these 4 questions being established with whatever the wording after an Electoral Commission. Before anybody says to me that that is not possible, there is a States sitting on 9th September and there is an electoral process that will start on 16th September. I am sorry, but a design agency and a clarity of explaining questions can be done. Electors will not even know who the candidates are going to be until nomination day on 16th September. It will be tight and it will be difficult. So I ask Members that even if they do not like the precise wording of it, then vote in favour of it and send the message that we want these 4 questions asked. I think not asking the 4 questions and getting a signal from voters will mean that we are in a worse situation. We will have opposition from across the Island that will say: "Where is the question on Senators? Where is the question on Constables, and where is the question on reforming of the Deputies?" My question, if it is not perfect, gets the vote in favour and do not go to the final version. Do not go to the amended version, and come back, use the summer and get the wording right. I do not think that we can truthfully say... other amenders have been helpful in bringing other questions, but they do not have all the questions that the public want to know. Deputy Le Fondré spoke about an exit poll. Yes, this is a referendum. It is called a referendum; it is a series of questions and we are going to have to deal with the result of those referendums. The opposition for my amendment has come from the no-compromisers; from the people that all they want is the solution for Clothier which does not answer those 2 other issues. They want to have a referendum on a system that got 2 pages in terms of a 66-page report that was going to be the future of the composition of the States. I mean, no disrespect, but effectively that was not a worked up solution and this is not a worked up solution and it fails the test of equality of voting. It certainly does not say it in there. I am grateful for the support that a number of Members have given. I say to Senator Le Gresley, I want to be here also discussing matters of public importance, and I agree that the public is absolutely sick and tired of us talking about ourselves. But unless we find a way forward in resolving the composition of the States, unless we find a way that is legitimate and fair and workable, the next Assembly will be cast in exactly the same position that we are; we will be having interminable questions and debates on composition. While I regret being here again, talking about it, it has to be solved. The only way of solving it is to give members of the public a series of questions; and when those questions have been asked and we know the answer, they are then implemented. This has been going on too long. A partial solution and a solution which is the alternative which is the Clothier proposal - I think there are 3 solutions. Go for something that covers all of the matters that should be asked; go for the Clothier option, 2 pages, inequality of votes uncertain, not asking the serious question; or the third thing is not have a referendum at all. That is the reality of where this Assembly is. I think the not having a referendum at all, I think the public are just going to not turn out to vote. I think they are just going to say: "I am sick of that lot" and they would be wrong, but I understand them. The second option they are going to say: "We are going to be in exactly the same position as the referendum. It is not asking the questions that we wanted to ask." That is why the referendum result was rejected. We were told we did not ask the public the right questions. So it is not perfect. It might need to be having some final polished wording. It might need to go to a proper testing question. But I ask Members to send a signal and vote in favour of the 4 questions that need to be asked and sought to the opinion of Jersey, people

and voters. I think if we do do this there will be a good voter turnout; we will get a clear answer and we will be able to move forward with a more degree of certainty that we might not lead to chaos and the situation where Senator Le Gresley rightly says - he says he will not be here. I am sorry about the fact that he is not going to be here, but we will be here for the next 3 years. I have been here for 15 years virtually and we have been here time after time. We need to ask the right questions, get some answers. We need to ask all of the questions. We need to ask and then move on, and I ask Members to send the signal that that is what my amendment is trying to achieve. So I move my amendment.

The Bailiff:

Is the appel asked for?

Senator P.F.C. Ozouf:

Yes, please.

Deputy J.A. Martin:

Can I ask a point of clarification? I think the Senator may have misled the House. He said you could not vote on this sort of collection of questions, and there will be wriggle room and someone is going to come back some day and we are going to have the right questions. Can he clarify he did not mean that, because he knows that is not what is going to happen? You vote on these questions; this is the ballot paper that will go to the public. Can he confirm that, please, or you, Sir?

Senator P.F.C. Ozouf:

I realise that Members are in a dilemma about the fact that they want the 4 questions asked but they think that the wording could be polished. So if they are of that mind, then their option can be to support this and then if it is a majority then they can decide whether or not it would not go to a final vote and would need some polishing. I say that that must be possible by the 9th. I am saying - I am entitled to speak - and that is what I would say is the only way forward. Otherwise we are going to end up with the whole thing thrown out and us being looked at as complete and utter fools in terms of asking the public.

Deputy J.A. Martin:

Obviously I directed the question to the wrong person. I was asking direction from the Chair what the Senator said in his closing speech, wriggle room; someone is going to amend this. Who then puts it to the ...

The Bailiff:

I think the position is that if the States adopt this amendment and then adopt the Act as amended, then that will be a decision of the States. Those are the questions which will be asked. Now, is it possible for somebody then to bring a new proposition to change it? I am not sure. We would have to look at the exact terms of it. But certainly there would be a rescindment, arguably. Senator, it is not clear to me that you would be able to achieve... I think Members if they vote today, are voting on these questions.

Senator P.F.C. Ozouf:

With respect, there are going to be 2 votes. There is going to be a vote whether or not the thing is finally adopted. If a majority of Members are going to say: "Yes, the 4 questions," then they can then not go and vote it finally, because they are sending a clear message. That is what I am saying. It is not comfortable, but there is no other way forward.

The Bailiff:

Sorry, but then there will be no Act ordering a referendum.

Senator P.F.C. Ozouf:

Then that will have to come in September, which is in time. There is time to do it.

The Bailiff:

No. Then there would be a 3-month delay, I think, because that would be that the States had rejected a referendum. Then for somebody to come along and propose that there should be a referendum, there has to be a 3-month delay under Standing Order... Is that right, Greffier? Can you remember the number? Yes, Standing Order 23: "A proposition cannot be in the same or substantially the same terms as a proposition which the States have previously debated and voted upon unless 3 months have elapsed." So the question would be whether what was then lodged was in substantially the same terms as what had been rejected on this occasion.

Senator P.F.C. Ozouf:

I do not wish to test your patience, Sir. I am, but I am trying to be clear with Members. What is open to Members is not to make that final decision. That is what I am saying. My amendment could be adopted and then the Act could not be voted either by ... there is a number of ways that that could be dealt with at that stage. I am not wishing to be unhelpful to you, Sir, but that is the reality. I understand that ...

The Bailiff:

It is not very helpful to me. It is a matter for Members entirely.

Senator P.F.C. Ozouf:

It is.

The Bailiff:

Not for the Chair. But I just want to be clear what you are suggesting. Certainly if Members vote for your amendment and then if they reject the idea of a referendum, then at the moment it is not clear to me that anyone would be able to re-effect it in 3 months, although one would have to look at the exact terms of what was then proposed.

Senator F. du H. Le Gresley:

I am testing your patience, I know, Sir, but just for clarification, the Chairman of P.P.C. has said that the committee would probably resign if their proposals were not accepted. On the basis that that might be true, we would not have a P.P.C. to bring back the Act.

The Bailiff:

I am sorry, Senator, but that is way outside. Members must vote on the merits of this as they think best, one way or the other.

Senator P.F.C. Ozouf:

I just would like your clarification. As a point of order it would be possible to vote in favour of my amendment and then move on to the next item. It would be possible to fall short at that. I am asking for a ruling as a point of order.

The Bailiff:

It depends if the proposition is to move then next item of business it will move to the next amendment. No, it will not, sorry, because yours would have been carried. So all the others would fall away. So it is not an abuse of process; so normally the Chair always allows a good number of speeches to see that the matter which is lodged is properly debated. But at an appropriate moment

if it is not an abuse of process then it would be open to a Member under Standing Orders to move to the proposed next item of business.

Senator P.F.C. Ozouf:

With the signal of my amendment being broadly supported, then the wording could be improved and it could be brought back to the 9th September, in theory.

The Bailiff:

In theory, yes.

Senator P.F.C. Ozouf:

In theory, yes. That is the guidance that I wish. So I stand by my remarks.

Deputy M. Tadier:

The difficulty is, if I might ask, there is no way of knowing - somebody may support this amendment and then not vote against moving on to the next time. There may be completely different people doing it. Exactly the same problem is we do not know what people think in the Assembly even, as to why they ...

The Bailiff:

I am sorry, Deputy. We are straying now into ...

Deputy M. Tadier:

I agree.

The Bailiff:

I hope to the best of my ability I have clarified what could happen. But really Members must make up their mind on the issue before them. So the appel has been called for on the amendment of Senator Ozouf, and the Greffier will open the voting.

POUR: 18		CONTRE: 31		ABSTAIN: 0
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Senator S.C. Ferguson		
Senator I.J. Gorst		Senator A.J.H. Maclean		
Senator L.J. Farnham		Senator B.I. Le Marquand		
Connétable of Trinity		Senator F.du H. Le Gresley		
Connétable of St. Peter		Connétable of St. Helier		
Connétable of St. Lawrence		Connétable of St. Clement		
Connétable of St. Mary		Connétable of St. Brelade		
Connétable of St. John		Connétable of Grouville		
Connétable of St. Ouen		Deputy R.C. Duhamel (S)		
Connétable of St. Martin		Deputy R.G. Le Hérisier (S)		
Connétable of St. Saviour		Deputy J.A. Martin (H)		
Deputy of Trinity		Deputy G.P. Southern (H)		
Deputy K.C. Lewis (S)		Deputy of St. Ouen		
Deputy E.J. Noel (L)		Deputy of Grouville		
Deputy of St. John		Deputy J.A. Hilton (H)		
Deputy J.P.G. Baker (H)		Deputy J.A.N. Le Fondré (L)		
Deputy of St. Mary		Deputy S.S.P.A. Power (B)		
		Deputy M. Tadier (B)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		

		Deputy J.M. Maçon (S)		
		Deputy G.C.L. Baudains (C)		
		Deputy J.H. Young (B)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy R.J. Rondel (H)		
		Deputy N.B. Le Cornu (H)		
		Deputy S.Y. Mézec (H)		

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Very well. The adjournment is proposed and when we return we will move on to the amendment of the Deputy of St. John.

[12:45]

LUNCHEON ADJOURNMENT

[14:16]

4.3 Draft Referendum (Composition of the States Assembly) (Jersey) Act 201- (P.118/2014): amendment (P.118/2014 Amd.)

The Greffier of the States (in the Chair):

The debate resumes on the amendments to the Referendum Act and the next amendment is in the name of the Deputy of St. John. You wish to proceed with your amendment, Deputy of St. John?

Deputy P.J.D. Ryan of St. John:

Yes, please Sir.

The Greffier of the States (in the Chair):

Very well. I will ask the Greffier to read the amendment.

Deputy J.A. Martin:

Sir, just before the Greffier does read the amendment I think something might have been taken out of context from what I said earlier. It was in the debate about lifting Standing Orders: I said that if we carry on like this lifting Standing Orders willy-nilly P.P.C. might as well resign. It is nothing about the question of what the referendum is. P.P.C. can live with that. Thank you, Sir.

The Greffier of the States (in the Chair):

Very well. Members will be reassured to hear that. I will ask the Deputy Greffier to read the amendment.

The Deputy Greffier of the States:

Page 20, Article – In Article 6, for paragraphs (5) and (6) substitute the following paragraphs and renumber the remaining paragraphs accordingly – “(5) A voter may record a vote for or against a question in the referendum by making a cross in the blank square next to either “Yes” or “No” opposite the question on the ballot paper. (6) A voter’s ballot paper is not invalid by reason that the voter does not record a vote in respect of all of the questions on the ballot paper. (7) The Judicial Greffier, having added the votes for or against each of the questions in the referendum in the electoral districts, shall inform the Greffier of the States of the results of the referendum.” Page 22,

Schedule - For the ballot paper set out in the Schedule substitute the following ballot paper – Ballot Paper. Answer ‘Yes’ or ‘No’ to each of the 3 questions. 1. Should the 12 Parish Constables lose their automatic right to sit in the States Assembly? Yes/No 2. Should Senators and the Island-wide elections cease to exist? Yes/No 3. Should the total number of elected States members be reduced to 44? Yes/No.

4.3.1 The Deputy of St. John:

Thank you, Sir. Welcome to the amendment lodged on 30th June, less than 2 weeks after P.118 itself. I thought I would open with a few words quoted from the Deputy of John’s article quoted in the Etoile de Nord to be circulated in late August this year, in just over a month’s time. It reads thus: “On the 14th July this year or soon after, the States will debate the question to be put to the public on the 15th October referendum on States reform and the composition of the States Assembly.” And again I am quoting: “Now I know what you’re going to say, you’re fed up with the States spending valuable time talking about their own future. Yes, I’m fed up too.” I am still quoting. “However, the design of the question being proposed has such far-reaching importance – particularly for St. John - that as your Deputy I cannot let it just slip by under the radar, so to speak. That is why I have tabled a major change to its design and exactly what questions are going to be proposed to be asked in the actual referendum.” That is the end of the quote: it just gives a backdrop as to why I believe this is particularly important to sections of the community. Now I have some sympathy with P.P.C. The States handed down 2 decisions on referenda and in my opinion these were conflicting as each called for a single “yes/no” vote. Of course it depends on how you interpret a single “yes/no” vote. Does that mean 2 single “yes/no” votes – one for each States decision – or did the States mean that the referendum question could consist of a single and unique question on the ballot paper. By choosing the latter interpretation, P.P.C. have been forced to ignore one of the States decisions: Deputy Green’s Constables “in/out” referendum question. Not only have they done that, but they have also chosen to be selective in their application of the other States request - the Clothier proposals - by ignoring one of the main proposals of Clothier: a reduction in States Members to between 42 and 44 in number. The 3 questions in my amendment are the 3 top questions that the public want to be consulted upon and they are the 3 top questions contained within the Clothier proposal. However, my questions are couched in such a way as to follow as closely as possible the Clothier proposals, and the 3 “yes” answers will result in complete Clothier endorsement, just as in the second request by the States. Also the first request of the States, Deputy Green's proposal, namely the Constables in our question, is much more explicit in the amendment. Although not as simple as I am sure he intended it to be, it is a much better compromise of the 2 States requests than the P.P.C. ballot paper. P.P.C. says they will not provide clarity. I say we will know with complete clarity whether a majority of the public wants to keep Senators, and if so what that majority is. We will know with complete clarity whether a majority wants to keep Constables and if so, what that majority is. We will know with complete clarity whether a majority wants a further reduction in States Members to 44, and if so what that majority is. I do not accept that this can be confusing in the context of a way forward. In fact, I cannot think of a clearer or more democratic way to determine the wishes of the people without at the same time clouding the issue with questions about electoral boundaries or the remaining Deputies that the public know very well would remain by default. P.P.C. says that it may not be clear whether the public wishes to reduce Senators or Deputies further if the public says “yes” to the reduction to 44 and also wishes to keep Senators and the Isle of Wight mandate. The amended questions are silent on this, but I say that a perfectly reasonable assumption for a future States Assembly to make is that if there is a majority of the public in favour of keeping Senators, the public will also accept that the 2014 election *status quo* of 8 in number is about the maximum that it is reasonably practical to elect at any one time on an Island-wide basis and on the same election day as the remaining 36 Members. As far as a minimum is concerned it may be significant that the States has already reduced the

number of Senators by one-third from 12 to 8, though the public were not consulted. Nor were they consulted about moving to a single election day, nor were they consulted about a 4-year term for all Members. Let us just think about that for a minute, because these decisions on Senators made by the States without asking the public, are the bedrock of the supposed logical thinking of those Members that over the long term anyway, write-off Senators as unviable, their days are numbered, *et cetera*. But of course, all of those Members know better than the public, do they not? In all possible permutations of the referenda results, a clear conclusion can be reached on the public preferences of the type and membership of a future States Assembly. It will be the responsibility of the next States Assembly to follow those principles. The amendment is also deliberately silent on the question of electoral boundaries. The decision of whether or not Deputies should be elected by the existing Parish boundary and districts' system, or in multiples using bigger districts across the Island will be the last remaining piece of the jigsaw. A majority of existing States Members are conflicted on this issue which is why we must pass it to an independent Boundaries Commission to deal with. But we can only do that when we know how many Deputies there are to be and whether Constables are included in the overall number as of right, and therefore by default elected in each Parish separately from Deputies. The latter point may be very significant when the independent commission needs to make a judgment call on its recommendations on electoral boundaries and spread of Deputies in the fairest way possible. That concludes my opening address, and it is fairly short deliberately because there is much that has been said and I do not think I can really add anything much new. So I would just like to move the amendment and I look forward to the discussion from other Members.

The Greffier of the States (in the Chair):

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

4.4 Draft Referendum (Composition of the States Assembly) (Jersey) Act 201- (P118) (P.118/2014 Amd.Amd.)

The Greffier of the States (in the Chair):

Now there is an amendment to the amendment in the name of Senator Farnham and I will ask the Greffier to read that amendment.

The Deputy Greffier of the States:

Amendment 1. In the substituted Article 6(6) for the words "all of the questions" substitute the words "each of the questions". Amendment 2. (1) In the first question on the substituted ballot paper, for the words "lose their automatic right to sit in the States Assembly" substitute the words "remain as Members of the States as an automatic right". (2) In the second question on the substituted ballot paper, for the words "elections cease to exist" substitute the words "mandate to be retained". (3) Delete the third question on the substituted ballot paper.

4.4.1 Senator L.J. Farnham:

When I was putting this amendment together last week, and I apologise to the Members for testing them with amendments to amendments and so on, but I think it is important for Members to be involved in this, especially those of us that have really campaigned at one area because I wanted to make sure that I could try and continue to fight for what I believe is right for the Assembly, right throughout the debate, right up to the time we have the next referendum. I also asked... I tried to analyse why we are back in this position. It goes back to when the States agreed to a single election day, which was probably a premature... it was a right decision to make, but it was really taken out of context and, in my opinion, without due consideration to the ramifications. Of course, one of the ramifications was that it would be difficult to elect... impossible as the Constable of St. Mary when she chaired the P.P.C. quite rightly pointed out. I think it would be very difficult, almost impossible - not impossible, but almost - to elect 12 Senators on a single day. So it was almost by

default that we arrive at the position to reduce the number of Senators without, again in my opinion, the due consideration. Essentially my amendment to Deputy Ryan's amendment does not change so much. It flips the questions around slightly, where really I think that is down to a matter of preference. I believe my questions are in a slightly better format, but that is up to the Assembly to decide, because I am asking in the same vein as Deputy Green except one of mine is exactly the same as Deputy Green's wording: should we retain the Constables? A "yes" to retaining the Constables as an automatic right, and a "yes" to retaining the Senators, rather than having to say "no" to keeping something to keeping something I think is a bit misleading and a bit clearer to the electorate. I did not, though, have the opportunity to share... the committee would be interested to know whether the Senator's question had been tested for bias among panels of focus groups. I am sorry I did not have the time to do that. But really they are very straightforward questions. Shall we keep the Constables? Shall we keep the Senators? I am sorry, I understand, they are very important to use focus groups. But I think everybody will be able to grasp that. I think, in fact, the electorate are far more capable of understanding the issue than we give them credit for at times. I am asking that we do not ask a third question, partly because you know, one question is ideal, 2 questions are fine in my opinion, but a third question is probably a little bit too far when it relates to a specific number.

[14:30]

I already said when talking about Senator Ozouf's amendment that I felt that putting numbers to this were again tying the Assembly's hands, when really I feel that once we have established that the electorate want to keep Senators, and I am pretty sure they do - I have campaigned hard, I have taken petitions, I have spoken to a lot of members of the public in the electorate, and I very rarely come across a member who does not want to keep Senators. The other questions... I mean, the Constable might be a little bit closer, but I firmly believe that Islanders want to retain their Constables to sit in the States as an automatic right. I think, you look at the other 2 burning issues, we know as an Assembly that a smaller Assembly is needed. We know that. That has to happen. That, I think, can be taken as read. We do not need to ask about that. We understand that. We also know that we must introduce voter equity into the Deputies' seats and constituencies. We know that - a better voter equity. So why? That is taken. I also cannot understand the logic of wanting... and the Deputy of St. Martin, we know his position. He always makes his position clear: a straight-talking Member of the Assembly which we all appreciate. But I cannot see the logic of asking the electorate whether they want to keep Constables but not whether they want to keep the Isle of Wight mandate. There is no logic to that. Why? Why should we not ask that question? I would ask Members to bear that in mind when considering. Also the fall-back position of none of these amendments being passed, of course, is the P.P.C. proposition. I am not going to be critical of the P.P.C.; they are in a "damned if they do and damned if they do not" position. I think they have all worked very hard and I am mindful that the lady Senator on my left has a loaded handbag a few feet away from me and is a member of the P.P.C. Committee. So they will not get any criticism off me. But although I accept their question which has been in front of focus groups and tried and tested and so on, is a straightforward yes or no in what they are proposing. Deputy Maçon alluded to this: there is no plan if it is a no vote. I personally do not think it will pass. But again that could be up for the electorate. I think it is far more important to ascertain the 2 questions that the electorate, I think, are most interested in. Shall we retain the Isle of Wight mandate? Shall we retain Constables in the States? Once we have ascertained that, then we are in a very good position to go on and put something together accordingly. I can understand, you know; as Members know I was in the campaign for 'Option C' which was a vote for change, but not the change that was being proposed, and I have a great deal of respect for the 'A' team. I do not think we will ever align, because the key stumbling block is the Constables. There are those of us that will staunchly want the Constables to stay in the States, and those that do not. There lies the problem. You see, with a

single Member in constituencies, that will have to ultimately lead to a second Chamber and Upper House, if you like, in due course and I think we have enough trouble handling one. I dread to think what would happen if we are forced down that line. I know, because the proponents of the ‘Option B’ campaign have said. Senator Bailhache is here. I think it was mentioned for the future, as a footnote to the report by the Electoral Commission, that this is something to be considered, and I would be firmly opposed to that. I think we need to redefine what we have now. Remember we are a single Chamber. Society is represented in the constituencies by the Deputies, the Parishes by the Constable and the Island-wide interest by the office of Senator. I would like to see that kept, albeit in a slightly different guise and with the support of the electorate. Can I just add, I am quite happy to take these votes in parts if necessary?

The Greffier of the States (in the Chair):

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

4.4.2 Deputy S.Y. Mézec:

I will not speak for too long on this. I have read the report that comes alongside this amendment and I listened to Senator Farnham speak. I could not see anything that explains why specifically he has suggested that the wordings for his first and second question are better than the wording provided in the first and second question in the Deputy of St. John’s amendment. He has explained why he wants to get rid of the third question: he says 2 questions are okay but 3 are not. I do not quite follow that logic. I think anything more than one question is too many questions, so I think materially it is just a bit of a weird suggestion to me. If you are going to get rid of one you should get rid of all apart from one really. But he has not explained why the wording for his questions is better than the wording of the questions from the Deputy of St. John. What the report does explain, and what Senator Farnham is on record as supporting, is that the Senators should not be gotten rid of without permission from the public. I do not personally agree with that. I think there needs to be a question on an entire package of reforms rather than the minutiae but that is his opinion. We all know that is what he believes and that is fair enough, he is entitled to that. But the questions proposed by the Deputy of St. John in his amendment achieve that. It asks the public if they want to keep the Senators or get rid of them, so why fiddle about with the wording for it? To me that seems to be entirely unnecessary. The only effect that it has is that it changes the result of voting “yes” and voting “no”; it swaps them around. The Deputy of St. John’s question, voting “no” is what keeps the Senators. In this question it is voting “yes” is what keeps the Senators. There is no reason to do that unless you would rather be campaigning under a “yes” banner than a “no” banner. I think this gets to the heart of what the problem here is: it is that referendum questions are not simple. You cannot just write them on a back of a used envelope or whatever. You have to put it out to consultation, you have to get advice on it to make sure that they are right and that they are not leading. The fact is that P.P.C. is the only group that has done that. No other Member has done that. I suspect Senator Farnham has not commissioned his own independent advice and report into whether these questions are the right ones or not. So I think it is a bit careless to be putting questions that have not had any sort of scrutiny on them to the public. That is exactly what this amendment does. There is no need to change the questions if you are happy with the principle of putting those 2 questions on the Senators and Constables because the Deputy of St. John’s amendment provides for that anyway. I think this amendment should never have been brought in the first place, frankly, and I hope Members reject it.

4.4.3 Senator A.J.H. Maclean:

Just very briefly, I thought the previous speaker was a little unfair on the mover of this amendment. I think that, to answer his question, it is better English the way it has been put. It is a positive rather than a negative. It is a better way to ask a question. I think to reduce the numbers; I take his point about one question being more than enough. I would suggest that Islanders probably think one

question is too much as far as a referendum is concerned. They have had the opportunity to have a referendum and what do we do? We rejected what was put forward. I think I am almost in that position. I will talk a little bit more when we come to the substantive proposition but I do believe this tidies up Deputy Ryan... the Deputy of St. John's, amendment. Members may choose they do not wish to support that but I think the amendment to the amendment does help to make it a little bit more palatable in terms of presentation and the way it sounds.

4.4.4 Deputy J.M. Maçon:

Can I endorse the comments of Deputy Mézec? Again, I really do have to stress the amount of time and effort that my committee went to to make sure that our questions were not biased. I do not criticise Senator Farnham for not being able to do that. As a Back-Bench Member we all appreciate that they are strapped for resources in being able to do those types of things so I do sympathise with that. But I do have to say that something that has not had an independent check on it to remove any bias within the question, really, we should not be proceeding with and that applies to the amendment to the amendment and the amendment itself. The only point which I would make is that in the substantive proposition brought by P.P.C. the first bullet point asking whether we should have a single-type of elected Member does address both the Senator and Constable question in one go. It is just a different way of saying the same thing. But I would ask Members not to support the amendment to the amendment or the amendment itself. Thank you.

4.4.5 The Deputy of St. John:

P.P.C. rely upon independent verification of question design but they do know very well that it is extraordinarily difficult to do that unless you have the necessary resources and it is also very difficult in the time spans. But what I would say is this: the reason that my first 2 questions were couched in the way they are is that they exactly follow the Clothier proposal and that is exactly what the States of Jersey asked P.P.C. to do. I will leave it at that.

4.4.6 Deputy G.P. Southern:

They exactly follow the Clothier comments except that the phrases used by Clothier, certainly in his summary, were: "The role of Senator should be abolished." To be clear, it does not say: "Island-wide mandate cease to exist." The second is leading: "Constables should cease to be *ex officio* Members of the States." Well obviously we are not going to use the words "*ex officio*" because we do not want a question in Latin. Nonetheless that this amendment does not say "should cease", it says "remain as Members of the States as an automatic right", again a leading question, invites the answer "yes" because it says "remain". Retain. Look up those words; they lead you into one version rather than the other. Again, the amendment itself is not worth much but this does not improve it at all.

The Greffier of the States (in the Chair):

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

4.4.7 Senator L.J. Farnham:

Can I thank Senator Maclean, I think he answered Deputy Mézec's question; it is really as simple as that. We can have panels looking at these questions to make sure they can be understood. Let me just read my 2 questions out: "1. Should the 12 Parish Constables remain as Members of the States as an automatic right? Yes or no. 2. Should Senators and the Island-wide mandate be retained? Yes or no." Now the word "retained" could be deemed to be slightly misleading but I do not think it is. What is difficult about it? You cannot get 2 much simpler questions than that. The chairman of P.P.C. is right when he says that if it is a "no" to the question that they tabled then the public have voted on the issue of Constables and Senators. Can we then take it that he and other Members, that if it is no, will accept that Senators and Constables are to stay, because we have to

assume that? But again a “no” vote is going to leave us assuming all sorts of things where once we establish once and for all that the Island want to keep Constables in the States and they want to keep Senators in the States, we know where we are going. To me it is as simple as that. I have judged the mood of the Assembly. I hope they realise that if we do not agree any of the amendments and we do not agree P.P.C.’s question then we are left without a referendum and even more egg on our face. I will leave it at that. Thank you.

The Greffier of the States (in the Chair):

Now you indicated you may wish to take the amendments separately, Senator. Do you wish to pursue that or take them together?

Senator L.J. Farnham:

Yes, please.

The Greffier of the States (in the Chair):

Very well. Very clearly the first amendment which substitutes all other questions for each of the questions is dependent on the vote on part 3 of the second amendment, so I think logically the first vote should be on part 1 of the second amendment which substitutes the words in the first question on the ballot paper.

[14:45]

So we will vote firstly on amendment number 2, part 1, which is changing words in the question about the Constables. The appel is called for. If Members are in their seats, I will ask the Greffier to open the voting.

POUR: 22	CONTRE: 26	ABSTAIN: 1
Senator P.F. Routier	Senator A. Breckon	Deputy of St. John
Senator P.F.C. Ozouf	Senator S.C. Ferguson	
Senator A.J.H. Maclean	Senator F.du H. Le Gresley	
Senator B.I. Le Marquand	Connétable of St. Clement	
Senator I.J. Gorst	Connétable of St. Brelade	
Senator L.J. Farnham	Connétable of Grouville	
Senator P.M. Bailhache	Deputy R.C. Duhamel (S)	
Connétable of Trinity	Deputy R.G. Le Hérissier (S)	
Connétable of St. Peter	Deputy J.A. Martin (H)	
Connétable of St. Lawrence	Deputy G.P. Southern (H)	
Connétable of St. Mary	Deputy J.A. Hilton (H)	
Connétable of St. John	Deputy of Trinity	
Connétable of St. Ouen	Deputy S.S.P.A. Power (B)	
Connétable of St. Martin	Deputy K.C. Lewis (S)	
Connétable of St. Saviour	Deputy M. Tadier (B)	
Deputy of St. Ouen	Deputy T.A. Vallois (S)	
Deputy of Grouville	Deputy M.R. Higgins (H)	
Deputy J.A.N. Le Fondré (L)	Deputy A.K.F. Green (H)	
Deputy E.J. Noel (L)	Deputy J.M. Maçon (S)	
Deputy G.C.L. Baudains (C)	Deputy J.P.G. Baker (H)	
Deputy S.J. Pinel (C)	Deputy J.H. Young (B)	
Deputy of St. Mary	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy R.J. Rondel (H)	
	Deputy N.B. Le Cornu (H)	
	Deputy S.Y. Mézec (H)	

The Greffier of the States (in the Chair):

I will ask the Greffier to re-set the voting system. The Assembly will then vote on the part 2 which is to substitute words in the second question concerning the Senators. So it is the vote on amendment 2, part 2, and the Greffier will open the voting.

POUR: 21		CONTRE: 27		ABSTAIN: 1
Senator P.F. Routier		Senator A. Breckon		Deputy of St. John
Senator P.F.C. Ozouf		Senator S.C. Ferguson		
Senator A.J.H. Maclean		Senator F.du H. Le Gresley		
Senator B.I. Le Marquand		Senator P.M. Bailhache		
Senator I.J. Gorst		Connétable of St. Clement		
Senator L.J. Farnham		Connétable of St. Brelade		
Connétable of Trinity		Connétable of Grouville		
Connétable of St. Peter		Deputy R.C. Duhamel (S)		
Connétable of St. Lawrence		Deputy R.G. Le Hérisssier (S)		
Connétable of St. Mary		Deputy J.A. Martin (H)		
Connétable of St. John		Deputy G.P. Southern (H)		
Connétable of St. Ouen		Deputy J.A. Hilton (H)		
Connétable of St. Martin		Deputy J.A.N. Le Fondré (L)		
Connétable of St. Saviour		Deputy of Trinity		
Deputy of St. Ouen		Deputy S.S.P.A. Power (B)		
Deputy of Grouville		Deputy K.C. Lewis (S)		
Deputy E.J. Noel (L)		Deputy M. Tadier (B)		
Deputy G.C.L. Baudains (C)		Deputy T.A. Vallois (S)		
Deputy S.J. Pinel (C)		Deputy M.R. Higgins (H)		
Deputy of St. Mary		Deputy A.K.F. Green (H)		
Deputy R.J. Rondel (H)		Deputy J.M. Maçon (S)		
		Deputy J.P.G. Baker (H)		
		Deputy J.H. Young (B)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy N.B. Le Cornu (H)		
		Deputy S.Y. Mézec (H)		

The Greffier of the States (in the Chair):

Very well, so we come finally to amendment number 2, part 3. This is to delete the third question on the substituted ballot papers. This would delete the question in the Deputy of St. John's ballot paper concerning the number of elected Members and the Greffier will open the voting.

POUR: 23		CONTRE: 26		ABSTAIN: 0
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Senator F.du H. Le Gresley		
Senator S.C. Ferguson		Senator P.M. Bailhache		
Senator A.J.H. Maclean		Connétable of St. Peter		
Senator B.I. Le Marquand		Connétable of St. John		
Senator I.J. Gorst		Connétable of St. Brelade		
Senator L.J. Farnham		Connétable of St. Martin		
Connétable of Trinity		Connétable of Grouville		
Connétable of St. Clement		Deputy R.C. Duhamel (S)		
Connétable of St. Lawrence		Deputy R.G. Le Hérisssier (S)		
Connétable of St. Mary		Deputy J.A. Martin (H)		
Connétable of St. Ouen		Deputy J.A. Hilton (H)		

Connétable of St. Saviour		Deputy S.S.P.A. Power (B)		
Deputy G.P. Southern (H)		Deputy K.C. Lewis (S)		
Deputy of St. Ouen		Deputy M. Tadier (B)		
Deputy of Grouville		Deputy E.J. Noel (L)		
Deputy J.A.N. Le Fondré (L)		Deputy T.A. Vallois (S)		
Deputy of Trinity		Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		Deputy of St. John		
Deputy J.M. Maçon (S)		Deputy J.P.G. Baker (H)		
Deputy G.C.L. Baudains (C)		Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		Deputy of St. Martin		
Deputy of St. Mary		Deputy R.G. Bryans (H)		
		Deputy R.J. Rondel (H)		
		Deputy N.B. Le Cornu (H)		
		Deputy S.Y. Mézec (H)		

The Greffier of the States (in the Chair):

Accordingly your first amendment, Senator, falls away.

4.5 Draft Referendum (Composition of the States Assembly) (Jersey) Act 201- (P.118/2014): amendment (P.118/2014 Amd.) - resumption

The Greffier of the States (in the Chair):

So the debate resumes on the Deputy of St. John’s amendment in its original form. Does any Member wish to speak on that amendment in its original form? Deputy Mézec.

Deputy S.Y. Mézec:

Deputy Martin had her light on before me.

The Greffier of the States (in the Chair):

Ladies first. [Members: Oh!]

4.5.1 Deputy J.A. Martin:

I think he is giving way to age. Just to be brief, I listened to the Deputy of St. John on his “this is clarity, clarity, clarity” well where are we? We still have only yes/no on the Constables, yes/no on the Senators and we still have a reduction to 44. That is the bases of his question so if we get the: “Yes, we must retain the Island-wide mandate” and: “Yes, we must keep the Constables in the Parish” and: “Yes, we must reduce to 44”, where do we divide the Deputies again? We will get people coming back to this House and saying: “That was not a clear question.” We have been told P.P.C. consulted with a design company. It was not a design company. The question we have brought is Clothier. It explains it and explains it. As I have said before, we could not before put 3 questions to the public, again the numbers question totally leading, then we will be told: “Get on with that amount of people.” Again, it will be the Deputies. The Parish Constables never offered up their Parish Deputies to make the numbers work in the old system. This does not work. I really hope that people throw this one out along with all the other amendments. The only thing we were told to do was go away and do Clothier. Yes, and do the Constables remain? It is quite clear in the writing that the Constables will go if you want one type of single-States Member. So this does not do it. It is blank on the Deputies. Why did we not have the 4 questions? Because they were in Senator Ozouf’s amendment, the related amendment, and we threw that out just before lunch. This is even worse. It does not attempt to look at all 3, so please let us get on with this debate. Throw

this amendment out and let us get back to the substantive after we have thrown out the other 2 amendments. Thank you.

4.5.2 Deputy S.Y. Mézec:

I endorse every word that Deputy Martin said.

The Greffier of the States (in the Chair):

Then do not repeat it.

Deputy S.Y. Mézec:

Yes, of course, I have different points to make. The Deputy of St. John has said that the aim of his amendment is to take it back to what Clothier was saying because the referendum proposed by P.P.C. is one question and there is not anything about the number of States Members, so I want to read out 2 very brief sections. One is from P.116 from last year which is section (e) that was accepted to have this referendum in the first place. It says: "To agree that a referendum under the Referendum (Jersey) Law 2002 should be held" and then at the end talks about "to enable the referendum to take place". That is the singular. P.P.C. were asked to put forward one referendum question, they were not asked to put forward several, so I think this amendment fails on that count. Taken from the epilogue of the Clothier report itself it says: "As we remarked at the outset of this report, change is uncomfortable. Yet our recommendations amount to a comprehensive plan for the revision of the machinery of government in Jersey. We hope that the plan will be implemented as a whole, rather than piecemeal. Employing for the last time the metaphor of machinery, it is no use assembling some parts only of a machine and expecting it to work well." So what we could end up with in this situation if this amendment is accepted and then put to the public is we still cherry-pick Clothier because we may end up choosing one element of Clothier and not choosing another. This is where this States Assembly for the past 14 years, or whatever it has been, has gone wrong. It has cherry-picked Clothier whereas the referendum question that is presented to us by P.P.C. ... okay, it does not have the same numbers originally proposed by Clothier but then the population has gone up quite a lot since then. It is going to keep going up until the Government gets control of the population but that is another matter altogether. This Assembly went wrong 14 years ago and what P.P.C. is trying to do is to correct what went wrong there. They should be commended for doing so and this amendment will just put us in a worse position where we could end up taking this aspect, leaving that, *et cetera*. It is just going to keep leading us into a mess and I think we should reject it.

4.5.3 Senator S.C. Ferguson:

I am only going to speak once in this debate with all the myriad amendments and so on that are flying around. But with this particular amendment I was looking at it and thinking about what the results would be. Suppose we ended up with: should the 12 Connétables lose their right to sit in the States? So we say "yes". Should Senators cease to exist? So we say "no". Should the total number of elected States Members be reduced to 44? So we say "yes". So, picking up from Deputy Martin, what is the resultant position? It sounds to me as if we are going to have to have 44 Senators which is fine for some of us but I do not think it is perhaps what everybody wants. Are we going to abolish the Deputies? I do not know, that sounds like quite a good idea to me. **[Laughter]** Quite frankly, then we would need another referendum for the number of Deputies and the split as has been said between Deputies and Senators. I should perhaps like to point out to Members that the P.P.C. proposal is effectively 'Option A' versus 'Option C' which is what we should have had in the first place with the Electoral Commission. So forget all these side tracks that are passing to us with these amendments. The basic proposition that P.P.C. have come up with is a simple question: do you want the Clothier version or do you want to stay as we are? Frankly, that is all we need to do at this point in time. I ask Members to reject all the amendments and go for the P.P.C. proposition.

4.5.4 Deputy G.P. Southern:

I will just briefly read again, back to the basics of the Clothier report summary, when he talks about Senators should be abolished, the evidence it produces is the following: “The panel received no convincing evidence that there is a significant difference between the nature and content of the Senators’ role in the States and that of the Deputies.” Then further on: “Every topic of States debate should be of Island-wide interest and the concern of every Member but it is sensible that each representative should have a constituency of voters whose opinions may more easily be sampled over a small area rather than a large one.” Equally, I give one comment on the Constables, again from Clothier: “Constables have no role in the States distinguishable from that of the Deputies.” This is no improvement on the first amendment we discussed today and is wrong for exactly the same reasons.

4.5.5 Deputy M. Tadier:

I am reminded with you sitting in the Chair of the Christmas sketch that is infamously given by your *alter ego*. I do not know, is it Clarrie, I think, his name? I remember the first one when he was explaining that we do not have a complicated electoral system at all, it is as clear as mud. You can imagine people campaigning: “Which group are you in?” “I am in the yes/no/no group.” “What about you?” “I am in the no/yes/no group.” “What about you?” “I am in the no/no/no.” “I am in the yes/yes/yes” or: “I am in the yes/yes/no group” and there are a finite amount of permutations but the campaign is going to be amazing, is it not? It may well be that some people concentrate on just campaigning on the first question, on the number one, to do with the Constables. Others only concentrate on Senators and others say: “Well I just want to campaign on the Deputies’ role. I think that we need super-constituencies.” “Oh, that is not in there” and that is something we are going to hear about later. So it is a recipe for confusion, if not disaster. The other thing is we have the underlining of the “automatic”. I am not sure why that has been underlined because maybe we should just underline one random word from each of those questions and then see if it has an impact. But of course it is significant because the automatic right is something that is in the mind of the people. Perhaps something in me thinks these questions are quite good. If you wanted to campaign on “yes” for all of these, although perhaps not for the third one, you have got a positive campaign. We can go out there and say: “We are the ‘yes’ campaign and we think that the Constables should not automatically be in the States but they can stand for election.” A very reasonable-sounding question, is it not? We do not want to get rid of the Constables, we just want to think whether or not you want them in there, and they can stand and they can be elected if they so choose. It is not just Senators. So should Senators and the Island-wide election cease to exist? Well that is the same thing, is it not? You want to keep Senators but get rid of the Island-wide mandate so it is certainly a superfluous question. It is not the Deputy’s fault, it is just because he did not have time to put this to a proper question selection panel which is what we did on P.P.C., but that is because we were charged to do that. We were asked to do that and we used our resources we had to do that. The third question we all know about, we have touched on it earlier, people will vote for a reduction in numbers blindly, irrespective of whether that is the right decision to make. So you can imagine Clarrie again trying to explain the difference. **[Laughter]** We can imagine Clarrie at the Christmas party trying to explain the 3 different referendum questions that are going to be put to the public. Again, it will be clear as mud; it will not ingratiate ourselves to the public. At the end of the day if the States did not want P.P.C. to bring forward a referendum question on Clothier, the States should not have asked us to bring forward a referendum question on Clothier. They should have asked the Deputy of St. John or another Member to go away and to do those calculations and to bring them back to the Assembly. But as far as I know the Deputy of St. John has not been mandated to do that piece of work. We were mandated to do that and I think we should have our day in court, so to speak. If Members do not like that proposition, by all means kick it out, but do it after we have had a meaningful debate.

I think it is correct that even though part of me would be tempted and even relish such a campaign on these first 2 questions, it is not the correct process to follow.

4.5.6 Senator L.J. Farnham:

Welcome back, Sir, but it is a shame, I was just going to ask the Greffier to remind us of the sketch he did at Christmas. It was very useful; I understood it more than I do this debate, I think.

The Bailiff:

I could not possibly emulate that. **[Laughter]**

[15:00]

Senator L.J. Farnham:

Well you are welcome to try, Sir, I am happy to give way if you ... The Island-wide mandate, of course Senators bring a balance to this Assembly, an important balance to this Assembly. Now I understand that everybody here works at times with the Island's interest as number one. Sometimes though Parishes might have differences with other Parishes; Deputies and constituencies have differences with other Parishes. I have been a Deputy and I have been a Senator and I can say there is a difference in the role. As a Senator, one is, I think, more able than a Deputy to be able to take the Island-wide interest without prejudice. I know when I was a Deputy in St. Saviour No. 2 I know how urgent the need for housing was, yet I had a real dilemma about protecting the green lungs and not having more housing built in that district. That is the sort of thing. As long as we have a unicameral system, then I think it is important that you have to have the different classes of States Member. For example, I could not imagine seeing an Assembly with super-constituencies. Well, I could. I would rather have an Assembly with super-constituencies and 12 Constables than without the Constables. Constables do provide a very good balance and a level head at times to this Assembly and thank goodness they are here at times. We will not expand on that point. I wanted to ask Deputy Ryan if it is possible to take the amendment in 3 questions. I am quite happy to support the first 2 but I am concerned that trying to tie the Assembly to an exact number is desirable. Thank you.

The Bailiff:

Are you saying you want the different questions in the ballot? I do not think that is possible. The way the ...

Senator L.J. Farnham:

I was just wondering, Sir, the way the amendment was structured.

The Bailiff:

It is as set out there or not at all. Does any other Member wish to speak? Senator Bailhache.

4.5.7 Senator P.M. Bailhache:

I agree as a matter of fact with a great deal of what Deputy Tadier has just said. One of the really important things about a referendum question is that people should understand what they are voting about and they should understand what the implications are of casting their vote in one way or another. If one looks at the results of the referendum, the vast majority of people who voted thought that the total number of elected States Members should be reduced; there were too many of us. That was certainly the experience of the Electoral Commission. Those who made submissions to the Electoral Commission were almost unanimous in thinking that the number of States Members should be reduced. So one might anticipate therefore on this ballot paper that the people, or the majority of people, might vote "yes" on the basis that that would reduce the number of States Members; 80 per cent of those who voted in the referendum decided that either 'Option A' or

'Option B' was the favoured solution. Both of those options removed the Senators from the States. So it is at least possible that the majority of people would vote "yes" despite the valiant efforts of Senator Farnham and one or 2 others to the question: "Should Senators in the Island-wide elections cease to exist?" What is the consequence of that? There are 8 Senators at the moment. If we deduct 8 Senators from the total of 49 Members we come to 41 but members of the public are being asked to reduce the total number of Members to 44. Well which is it going to be: 44 or 41? How are they going to be composed? Are there going to be an extra number of Deputies and, if so, how are they going to be spread about? Are they going to be spread in large districts in a kind of egalitarian sort of way or are they going to be tacked on to one or 2 Parishes? I do not think that this works and I am going to vote against it.

The Bailiff:

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

4.5.8 The Deputy of St. John:

I would just like to thank those Members that have spoken and forgive me if I do not address each one individually. I think most of the points being made have been made many times before so I will just try to conclude reasonably quickly. We are all politicians here. To be a politician you have to have conviction, it is in the D.N.A. Each of us needs to listen and sometimes we need to listen again. Sometimes, again, we need to ask questions just in case we do not have it right. The composition of the States Assembly is absolutely key to the democratic access of the people of this Island to their elected representatives and yet we have allowed the process of its reform to become so contaminated that the public have lost heart. When we make assumptions because we think we know better how they feel, they feel patronised and marginalised. The people of the Island deserve better. They asked us to sort this out many years ago and when Clothier was commissioned, what was it that it sought to do? We all need to stop trying to manipulate the referendum questions. I have tried to not do that in the questions that I have put forward. I have tried very hard not to do that and we have to stop manipulating those questions to fit our own personal agendas. Only by giving the people the yes or no vote clearly, simply and categorically will we understand what the public of our Island wants. Sometimes the best solutions are the simplest, most obvious ones and I really cannot agree with those Members who think that the result of the referendum on these 3 questions will not give a very clear steer to the next States Assembly. Two weeks ago, I sat in this Assembly and I was proud. Deputy Martin railed against the Minister for Social Security's proposals about the State support for disabled children. She was clearly right. The Minister for Social Security quickly realised this and found himself, on reflection, agreeing with the Deputy and he was man enough to say so. To his credit, he immediately sought leave to withdraw his proposition. I want to feel proud again. I want a referendum and the public want their say. They want a referendum; they want their say finally on the 3 core questions posed by Clothier. But, I find I cannot support P.P.C.'s proposals and I fear a majority of the States may not be able to support it either so the opportunity will be lost. Some Members may prefer that. Perhaps they think that they know better ... **[Interruption] [Laughter]** Can I just thank the Greffier for his obvious approval of my statement? Some Members may prefer the fact that there is no referendum. Perhaps they think they know better than the public or perhaps they are of the mind-set that believes you should not ask the question if you do not like the answer. If you want decisive leadership, you have to consult as widely as possible beforehand. So why are we afraid to ask these questions? This morning, I was at last struck by a new concept contained in the speech on electoral reform. We have had so many; new concepts are rare. I think it was probably fitting that it was from the Chief Minister. He talked about leadership and the next Council of Ministers needing to take the initiative perhaps. So today might just be a seminal and defining moment in Jersey politics. Are we each, individually, big enough to set aside our agendas and convictions? What better way to prepare the ground and provide the ultimate consultation result for the next States

Assembly and potentially the next Council of Ministers to lead the way forward. Will this be the moment, when looking back, people will say that this decision was the start of the democratic reconnection between the States and the public? So let us go to the public with this, what I believe would be, clear and democratic set of 3 questions. I maintain the amendment and I ask for the appel.

The Bailiff:

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

POUR: 13	CONTRE: 35	ABSTAIN: 0
Senator P.F. Routier	Senator A. Breckon	
Senator A.J.H. Maclean	Senator S.C. Ferguson	
Senator B.I. Le Marquand	Senator F.du H. Le Gresley	
Senator I.J. Gorst	Senator P.M. Bailhache	
Senator L.J. Farnham	Connétable of Trinity	
Connétable of St. Peter	Connétable of St. Clement	
Connétable of St. Lawrence	Connétable of St. Mary	
Connétable of St. John	Connétable of St. Ouen	
Connétable of St. Martin	Connétable of St. Brelade	
Deputy of Grouville	Connétable of St. Saviour	
Deputy of Trinity	Connétable of Grouville	
Deputy E.J. Noel (L)	Deputy R.C. Duhamel (S)	
Deputy of St. John	Deputy R.G. Le Hérisier (S)	
	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy of St. Ouen	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy S.S.P.A. Power (B)	
	Deputy K.C. Lewis (S)	
	Deputy M. Tadier (B)	
	Deputy T.A. Vallois (S)	
	Deputy M.R. Higgins (H)	
	Deputy A.K.F. Green (H)	
	Deputy J.M. Maçon (S)	
	Deputy G.C.L. Baudains (C)	
	Deputy J.P.G. Baker (H)	
	Deputy J.H. Young (B)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Mary	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy R.J. Rondel (H)	
	Deputy N.B. Le Cornu (H)	
	Deputy S.Y. Mézec (H)	

4.6 Draft Referendum (Composition of the States Assembly) (Jersey) Act 201- (P.118/2014): second amendment (P.118/2014 Amd.(2))

The Bailiff:

Very well. We come next to the amendment of Deputy Green and I will ask the Greffier to read the amendment.

The Greffier of the States:

Page 22 Schedule. For the ballot paper set out in the schedule, substitute the following ballot paper. Ballot paper. Should the Constables remain as Members of the States as an automatic right? Yes/No.

4.6.1 Deputy A.K.F. Green of St. Helier:

Members will be pleased to know that I am not going to speak for very long [**Approbation**] [**Laughter**] because I think most of it has been said and I think that most Members will have already made up their mind. I will say that I thought long and hard whether to bother to bring this amendment at all but I bring it because I find - and no disrespect to P.P.C. - but I bring it because I find that their yes and no question is so multifaceted that without trying to do the public down, I do not think that the question is clear and therefore the consequences of a yes or no answer also will not be clear. You will remember that in December, the States made 2 decisions. One was to ask P.P.C. to come back with a referendum question and the other one was to come back with the question on whether the States - and that is my amendment - should, as an automatic right - and I know Deputy Southern has a variation on a theme, which we will talk about later - but whether the Constables as an automatic right should remain in the States. We cannot navigate our way through the very rocky and treacherous seas of reform without knowing exactly where we are. I might suggest that we do not know where we are. I have heard today about whether we should have 41, 44, 47 States Members. The truth is, we do not know how many there should be. It is very popular to say there should be less but it might be that we have got the right amount or it might be that we need some less. That is not the question that I want to ask. The question that I want to ask is one question and one question only and I do not give my opinion as to the answer. The question I want to ask, because we hear so many times the public want the Constables in the States, or we hear from other Members that the public does not want the Constables in the States.

[15:15]

I might be misquoting and I am sure the Constable will correct me if I am wrong. I remember on one occasion, the Constable of St. Mary saying that the truth is, we do not know. We have never asked the question... I think that was right, in one of the referendum debates. It was some time ago. That is the truth. We do not know. I would just like to pick up on a couple of other points that if we keep trying to fix it in one patch, we are going to keep failing. We need to know where we are, subject by subject, before we can move it forward. If we keep putting a whole package together, which is many people in the community outside will vote for it or vote against it, you do not get a clear outcome. If you ask members of the public, do they want the Constables in the States or do they not, at least you have a base plate to work forward from. Some people might have thought that the Senators should have been part of that question, but a good referendum, as we have heard before, only has one question. The States has already agreed that this question should be asked and that is why I brought it back. Some Members have said that - and I think it was the Constable of St. John - that we are not ... I do not think he used these exact words but I think, to paraphrase, we are not a county council of the United Kingdom. We are Jersey and many people want to keep the Constables, some do not. The truth is we do not know to what proportion and we need to find out. We need to ask that question. You cannot move forward until you know where you are. It is as simple as that. Now, as to the wording in the question, I will listen closely to Deputy Southern on his amendment and hear what he has to say. As for the wording, I am happy to be advised but we will see what Members say. You cannot move forward unless you know exactly where you are. We have never asked this question and I think that we should ask this question and at least move forward. If we go forward with P.P.C.'s question, if it gets through this Assembly

today, we will have the same result as the last referendum: unclear. Not able to move forward. We will be back where we are. At least we could move it forward incrementally. I do not think I can say much more. There are all the things about equal number of votes and equal number of value on the votes and all that, of course, is absolutely correct. But let us get our foundation sorted out first and then move forward. I do not think I can add much more so I will listen very carefully to what Deputy Southern says as to whether I accept his form of wording or mine.

The Bailiff:

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

4.7 Draft Referendum (Composition of the States Assembly) (Jersey) Act 201- (P.118/2014): second amendment (P.118/2014 Amd.(2)) – amendment (P.118/2014 Amd.(2)Amd.)

The Bailiff:

Then we have an amendment to that amendment, proposed by Deputy Southern, which the Assembly agreed to debate this morning, so I will ask the Greffier to read that amendment.

The Greffier of the States:

Page 2. In the substituted ballot paper, for the words “remain as Members of the States as an automatic right” substitute the words “no longer be entitled to sit in the States simply because they are Constables; should they seek election to the States, if they wish, like everyone else”. **[Laughter]**

Senator L.J. Farnham:

I doubt he had a number of panels think that one up, Sir.

4.7.1 Deputy G.P. Southern:

I thank Members first of all for agreeing to hear me today. I do believe that what P.P.C. was instructed with was to go away and devise a referendum question that reflected Clothier. I, too, believe in some ways that we must get a simpler question that people can focus on in order to decide which way they want to vote. Now, the Clothier Report did not ask: “Should the Constables remain as Members of the States?” It said: “The Constables should cease to be *ex officio* Members of the States.” That is what Clothier came to with its majority of Jersey people. They did so for 3 fundamental reasons. As they say, Constables have no role in the States distinguishable from that of the Deputies. Constables are busy in their Parishes doing useful work. They are, in general, less active in the States than Deputies for their respective Parishes. Thirdly, those Constables with time and inclination could stand for election to the States, there being no conflict in the roles of Parish Constable and States Member. So a clear line is drawn there and a clear recommendation made all those years ago in 2000. My wording is just designed to reflect that. In the main body of the report, the Clothier Panel says: “Constables should no longer be entitled to sit in the States simply because they are Constables. They should seek election to the States if they wish, like everyone else.” Again, the report gave some detail as to why this was the critical issue around which revolves the issue of getting towards a single type of Member. Cecil Clothier said: “A few of our witnesses maintained that the Constables were in the States because their parishioners elected them in the knowledge that this would automatically confer upon them a seat in the States. The concomitant belief was that the Constables were there to represent the particular interests of their Parishes on any topic coming before the States. Our firm conclusion is that these comfortable beliefs are not borne out by the evidence. In the first place, the election to the office of Constable is rarely contested. During the period of our review, 4 new Constables had been elected and a fifth re-elected all of them unopposed.” They went on to say: “We were impressed by the evidence of many of the Constables to the effect that they placed their work in the Parishes at the head of their priorities and we were left with the impression that some of them felt somewhat uncomfortable

with their position in the States. Indeed, an analysis showed that in general, the Constables asked fewer questions, introduced fewer propositions and spoke on fewer occasions than the Deputies for their respective Parishes.” They conclude: “Because they have no role in the States distinguishable from that of the Deputies, we recommend that the Constables should cease to be *ex officio* Members of the States. Of course, those Constables who have the time and the inclination could stand for election of the States, there being no conflict in the dual roles. They would then be truly elected by their Parishes to represent them in the States.” This is the key issue, as we have known for many years, is the role of the Constables. The role of the Constables should cease in the States *ex officio* and they should be free to stand for the States and be elected like the rest of us. That is the position of Clothier. That, I believe, is the position reflected in the question I am asking and not in the question of Deputy Green, which appears to put the opposite case.

The Bailiff:

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

4.7.2 The Deputy of St. Ouen:

Just very briefly. We start with what I believe to be a relatively simple question posed by Deputy Green that has turned into an essay, almost, by Deputy Southern. In fact, I mean, I do not know if it is the time of day or just the fact that we are spending too much time talking about the composition of the States, but I do not even understand what is meant by the last part of the question. Perhaps when the Deputy sums up, he can make it clear exactly what is meant by: “Should they seek election to the States if they wish like everyone else?”

4.7.3 Deputy J.M. Maçon:

In considering Deputy Southern’s amendment to Deputy Green’s question, while we appreciate that, the amendment seeks to address the risk that Deputy Green’s proposal referendum question may be leading. While this is achieved, framing the question in 2 sections is not ideal. The first part of the question asked voters whether Constables should no longer be entitled to sit in the States simply because they are Constables. The second part describes what the position would be if Constables were no longer automatically appointed as States Members in that they would be required to seek election. I consider that the second part of the question simply describes the position if the proposal to remove the automatic seats of the Constables is accepted. This really should be contained within information prior to the referendum and not really form part of the question itself. Again, with these things, they need to be simplified and while I will be speaking on Deputy Green’s amendment separately, I just thought that Members should be aware.

The Connétable of St. Saviour:

Sir, could I have slight clarification. I went and I was elected as a Connétable. If I am now going to be discharged of my duties in the States, does it mean when election comes I stand for Connétable and I also stand for Deputy? Could you tell me what would happen on election day?

The Bailiff:

It is a matter for the Chair but I think the Clothier Report says that if you want to stand as a Deputy you can stand as a Deputy as well as standing for Constable.

The Connétable of St. Saviour:

So we stand for 2 positions?

The Bailiff:

You stand for 2 positions.

The Connétable of St. Saviour:

Lovely, thank you.

4.7.4 Deputy R.G. Le Hérisier:

Just to support Deputy Reed. I know Deputy Southern is a fine student of the English language but there is no way this can be put in front of the public. Thank you. [Laughter]

4.7.5 Senator L.J. Farnham:

I have not got quite his respect for Deputy Southern but I have just listened to him take apart everybody else's question. I will leave it at that.

4.7.6 Deputy S.Y. Mézec:

Very briefly just to agree with what Deputy Le Hérisier said. A question on the Constables should not be put independently of all the other million issues to the public but the question that is proposed by Deputy Green is very unsatisfactory, both in principle and in wording, so the overall amendment should be rejected and whether Members want to vote for or against this is, of course, up to them.

4.7.7 Deputy J.A. Hilton:

Just very briefly just rise to say that I will be supporting Deputy Green with his amendment and I think Deputy Southern's amendment and the wording of his amendment just muddies the water. Thank you.

The Bailiff:

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

4.7.8 Deputy G.P. Southern:

This particular section of this glorious day started with the Deputy of St. Ouen who said he cannot understand what I am saying, what the second half of my statement says. It says that if Constables wish to stand, to represent their Parish in the States, they should seek election to the States like everyone else because presently they are elected to their role as Constables of their Parish, *ex officio*. That entitles them to stand in the States but that reality should be they should be properly elected to the role that is in the States, an addition to the role that they do as a Constable. The 2 are different. They should stand under the same electoral law with the same oath as we found when we discussed, was it yesterday or the day before. That is the reality. I think my version more accurately reflects the position taken by Clothier, and secondly, is perfectly clear and understandable. I maintain my amendments and call for the appel.

The Bailiff:

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

POUR: 4		CONTRE: 44		ABSTAIN: 0
Deputy G.P. Southern (H)		Senator P.F. Routier		
Deputy M. Tadier (B)		Senator P.F.C. Ozouf		
Deputy M.R. Higgins (H)		Senator A. Breckon		
Deputy S.Y. Mézec (H)		Senator S.C. Ferguson		
		Senator A.J.H. Maclean		
		Senator B.I. Le Marquand		
		Senator F.du H. Le Gresley		
		Senator I.J. Gorst		
		Senator L.J. Farnham		
		Senator P.M. Bailhache		

	Connétable of Trinity		
	Connétable of St. Peter		
	Connétable of St. Lawrence		
	Connétable of St. Mary		
	Connétable of St. John		
	Connétable of St. Ouen		
	Connétable of St. Brelade		
	Connétable of St. Martin		
	Connétable of St. Saviour		
	Connétable of Grouville		
	Deputy R.C. Duhamel (S)		
	Deputy R.G. Le Hérisssier (S)		
	Deputy J.A. Martin (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 E.J. Noel (L)		
	Deputy T.A. Vallois (S)		
	Deputy A.K.F. Green (H)		
	Deputy J.M. Maçon (S)		
	Deputy G.C.L. Baudains (C)		
	Deputy of St. John		
	Deputy J.P.G. Baker (H)		
	Deputy J.H. Young (B)		
	Deputy S.J. Pinel (C)		
	Deputy of St. Mary		
	Deputy of St. Martin		
	Deputy R.G. Bryans (H)		
	Deputy R.J. Rondel (H)		
	Deputy N.B. Le Cornu (H)		

4.8 Draft Referendum (Composition of the States Assembly) (Jersey) Act 201- (P.118/2014): second amendment (P.118/2014 Amd.(2)) - resumption

The Bailiff:

Very well. Then we return to the debate upon Deputy Green's amendment. Does any other Member wish to speak? Senator Farnham.

4.8.1 Senator L.J. Farnham:

I think this is a good question. It is a very good question, but regrettably I cannot support it on its own for the arguments I made. How on earth can we ask a single question about retaining the Constables and not ask the same question about retaining the Senators? I think not only is there no logic in that because it leaves the Island-wide mandate issue still wide open, I think it is also extremely discourteous to the electorate. They need to be asked about this. It is a very good question. I am sad I cannot support it on its own. As part of 2 questions I think it would have worked. So I apologise to my good friend, Deputy Green but I hope he understands my position.

[15:30]

I urge Members, please do not leave any loose ends about the Island-wide mandate. At least the chairman of the P.P.C. has acknowledged that if the question his Committee has tabled is not approved by the electorate then that can be taken that they want to retain Constables and Senators.

4.8.2 Senator P.M. Bailhache:

The real division in my view among the electorate in the Island is whether or not the Constables should remain as Members of the States. It is the division which was apparent in the very close result in the referendum between those voting for 'Option A' and 'Option B.' I would be interested to know from the representatives who advanced the argument of 'Option A', in particular the representatives of the new Reform Party whether, if this amendment of Deputy Green is adopted and the public vote in favour of keeping the Constables in the States, they will respect that decision? Will they then agree to campaign for some solution to the electoral problem which involves keeping the Constables in the States in accordance with the decision of the electorate, or are they going to, as they have done in the past, ignore the decisions of the people? I think it is a very important question to which I hope we will get an answer. The Electoral Commission, if I may be permitted not to go into the details of discussions, but the Electoral Commission did consider whether there should be a series of referenda and whether or not there should be a question as to whether or not the Constables should remain in the States as one of the first questions. The Electoral Commission rejected that idea, partly because it seemed to be inconsistent with the terms of reference of the Commission but also because it created a risk of uncertainty in the minds of the public as to what would happen if they voted for the Constables to be removed from the States. In numerical terms there are 12 Constables and there are 49 Members of the States. If the Constables are removed from the States, that leaves 37. Now does that mean, if the public vote in a referendum against retaining the Constables in the States, the public is voting for an extreme reduction in the number of Members to that effect? One could construct arguments against the amendment of Deputy Green but, in fact, I am going to support it and I am going to support it for the reason that the Deputy gave at the outset of his speech when he said: "We have to realise" I paraphrase: "fixing it in one go will not work" and I think that that is absolutely right. We have got ourselves into an appalling mess and the notion that somehow some *Deus Ex Machina*, some wonderful solution which everyone is going to embrace is going to emerge is cloud-cuckoo land. It will not happen. The only way in which we can make progress is by slicing up the issue into different questions. I think the most important question is that of the Constables and I come back to that which I said at the beginning of my speech; will the 'Option A' supporters agree to work towards some solution which involves the Constables if that is the wish of the people? I hope that they will. I hope that they are democrats. I would have wished, if I may be a slightly pedantic lawyer, that the question on the ballot paper was slightly differently worded. I do not like the phrase: "As an automatic right." It somehow suggests that because you are a Constable you have some automatic right to be here and that is not the question. I think it would have been much better had the question been phrased: "Should the Constables remain as Members of the States by virtue of their office?" which is what we are talking about. But that is not the question on the ballot paper. I have not brought an amendment, I regret that, and so we are stuck with the wording in the amendment of Deputy Green. But for the reasons that I have given I am going to support it.

4.8.3 Deputy S.Y. Mézec:

Senator Bailhache issued a direct challenge to Reform Jersey in his comments, which I understand Deputy Tadier will be trying to address when he speaks so I will not seek to make the points that he will be making. I think there was something in what Senator Farnham was saying before. He said that he could not back this because he believed that it was wrong to ask a question on the Constables without also asking the question on Senators. I agree with the principle of that although I do not arrive at the same conclusion as him. He is right that it is wrong to ask a question about one element without asking about another element, but he is wrong that you should be dividing that

up into multiple questions. I think the only way forward is to have a single package of reforms put together because people's belief in the individual aspects can be changed by what they know the other elements of reform may be. In an earlier speech today, I said: "How can somebody vote on whether they want the Constables in the States or not when they do not know if the future of their Parish Deputy is secured?" People identify with the Parishes and I suspect that many people in the Island want some form of Parish link to the States rather than super-constituencies or whatever but many of those people do not feel it is necessary that that link is via the Constables. They may believe that it would be entirely satisfactory for that link to be provided by a Deputy so they may vote to get rid of the Constables because that is what they believe and then a few months down the line, when the new P.P.C. then comes to look at the subsequent elements of reform, decides that: "Okay we are not going to have the Constables. Let us follow the super-constituency model" when that is not what those people will have voted for. They will have voted to get rid of Constables hoping that super-constituencies would not feature as part of the final solution to reform. So I do not think that you can ask this as an individual question. What happens if the result is 51 per cent in favour of keeping the Constables, 49 per cent against? We could theoretically end up in a situation where 5 out of 12 Parishes could have voted 90 per cent in favour of not having their Constables in the States yet they still end up in the position where they will have their Constable in the States, so I do not think that that is a satisfactory democratic position. I think there has to be an overarching context. Asking questions on the minutiae is not a satisfactory way forward. I suspect that if this question is asked a very, very high percentage of the voters in St. Helier will probably vote not to have a Constable in the States. We can see that by the previous referendum result but then they would be forced to have their Constable in the States if a majority of the other Parishes support that. How is that democratic? I do not see that as democratic. I think the bigger picture has to be taken into account and this does not do that. It looks at one aspect. Democracy is about much wider concepts than just: "Should the Constables be in the States or not?" Most countries do not have Constables so it does not feature into their vision of what a democracy looks like. It is about broader principles. Will there need to be a compromise at some point depending on what the answer of this ended up being? Senator Bailhache asked what Reform Jersey's position would be if the answer was, yes, to keep them. We would obviously have to think but if there is going to be a compromise position, that compromise cannot be based on the principle of ignoring the principle of voter equity. Voter equity is non-negotiable and that is where Senator Bailhache made his real mistake putting 'Option B' to the public because it threw that principle out of the window and it is non-negotiable. You are not a democracy if people do not have an equal vote because it is just not fair. So if the Constables were going to stay, the other elements of reform that went along with it would have to do something to address the voter inequity that exists if the Constables stay. Something else would have to be done and if that was not included as part of that package, no, of course, we could not support it because voter equity is non-negotiable and I am going to keep hammering that point because that is where this Assembly has really messed up in the past by thinking that my constituents in St. Helier No. 2 are second-class citizens who do not deserve a vote worth as much as people from some of the country Parishes. That is the outrageously unfair situation St. Helier has been in for hundreds of years and the reform question will not go away until my constituents are treated fairly. I think some of the Senators do St. Helier a real disservice by not supporting any system that will treat them as equal voters. So I urge Members to reject this and go for P.P.C.'s option because it looks at the broader context.

4.8.4 Deputy G.P. Southern:

Just briefly, I still believe that Deputy Green's amendment as worded is leading and, like Senator Bailhache, I too object to "the automatic right" as a way of expressing the rights of the Constables. But unlike him, I will not be voting in favour of this because of that doubt.

4.8.5 Deputy M. Tadier:

It is often said that there is a solidarity between Left and Right and perhaps again Senator Bailhache and myself find ourselves agreeing on certain points although we may well be on a different side of this actual vote. I think he is correct; the wording of this is not correct. It is leading. I draw the logical conclusion from that that we should not be putting questions to the electorate which are completely unsatisfactory. I was chatting outside in the common room to another member of P.P.C. I will not mention his name, suffice to say that he is a Constable. **[Laughter]** We commented on the fact that could you imagine any place in the world - the U.K. in particular, Scotland at the moment - where a Back-Bencher can just come up with a question which has not been tested, is put to the Assembly and said: "There you go"? We know that we have got a committee which is dealing with this. You have got a specific in-house committee which deals with these kinds of things which has invested. It has done the research. It has tested the questions. People have come back to us and said: "Actually you need to tweak this. People do not understand that. It has got to fit into the context." Then you pull out of your back pocket one of these and then you say: "I think this is what we should do." The correct wording, perhaps, as Senator Bailhache has alluded to is: "Do you think that the 12 Parish Connétables should have an automatic seat in the States Assembly by virtue of their office?" Hopefully we agree that is slightly better. In fact, that is what was put to the Assembly in 2009, believe it or not. Who was it put to the Assembly by? It was by myself. What was the result of that vote? It was rejected. It was rejected by 29 votes to 17 with one abstention and that was from the Constable of St. Lawrence. That is because I think ... well, she will know why she abstained and it will be interesting to see who changes their vote now. I think there is just as strong an argument, for example, in this particular case for the Constables to abstain *en bloc*. Well, let us have a look at some of the vote that took place there. One Constable who voted in favour was Constable Norman. No other Constable supported that. Some of them are no longer in the Assembly. The Constable of St. Helier voted against that. The Constable of Trinity voted against. The Constable of St. Peter voted against and the Constable of St. Mary voted against that. So something must have changed. I am not sure how this vote is going to pan out. The now Chief Minister voted against that as well. Deputy Green voted against it. He did not want a referendum question on the Constables. It seems that there has almost been a complete *volte-face* on this question, as an afterthought, even though we have a proper process of electoral reform which P.P.C. has been charged to do. So I really am not sure about this. I am hearing rumours, and one does not know what to believe, that this is the amendment which is going to save it, is the Chief Minister's preferred question. I must admit I have got to be frank. I am a Member of P.P.C. I am not sure where the Clothier recommendations are going to go. I do not know if the public are going to accept the Clothier recommendations. I also agree that the only logical consequence of what is being put forward to the public is a single-seat electoral system because we are dealing with the Parishes which are of unequal size, and that is where the impasse lies so there is an attraction, if you like, to put this question to the public.

[15:45]

But again what does somebody like the Constable of St. Clement, who has been an avid supporter of Clothier ... "You cannot take these things in isolation" is the argument because if you want Parish representation necessarily in the States Assembly, that can come in one of 2 forms: it can either come from the Constables' benches or it can come from other seats, Deputies, who are elected in Parish-based constituencies. That is what is being put forward in the Clothier recommendations. We are saying: "Okay. We know it is not ideal. We know you can never achieve absolute proportionality but we can achieve as far as we can best proportionality and still have Parish representation." To answer the question of Senator Bailhache, it is an interesting one, is it not? We are always told that 'Option B' won. The truth of the matter is, and it is a statistical truth, is that 'Option B' did not get the support of the majority of voters that came out to vote. Less than 50 per cent, even including the second vote, did not vote for 'Option B.' More than 50 per

cent did not vote for 'Option B.' That is the actual truth of it. The whole system which was designed to produce a winner in terms of, if you like, a race, did not even secure what it set out to do. The great gerrymander did not even work. I think the answer to Senator Bailhache, and I do not know why it is only being directed at Reform Jersey, because there was a majority of States Members who kicked out the referendum when it came back, I suppose, is that we do not compromise on principles of democracy. We do not negotiate with democracy terrorists, which was clearly what happened with the Electoral Commission process and 'Option B'; it was an act of democratic vandalism. The point is if the public voted, for example, to bring back hanging or to bring back an overtly racist policy, and a majority of States Members got in on that ticket, on a racist ticket or whatever, we would still stand firm in a minority against the majority as saying: "No. We cannot support this. It is against our principles." But none the less, of course, if Clothier gets kicked out you would have to work with it. If the public absolutely want Constables in the States, fine. Maybe let us just change the Parish boundaries. That is the way you resolve it. If you are so fixated on having 12 Parishes in the Island just change the Parish boundaries so that every Parish has got the same amount of people and there, hey presto you have fixed it. It is easy. Until we grasp that nettle and say that ... it is entirely sensible, I think, to say: "If you want your Constables in the States, let them stand for election as Deputies." Many would not want to necessarily be in the States. Alternative candidates would not want to be in the States. So although I will be very happy if it comes to it to campaign on a clear yes/no campaign, and one does not have to question which way our bread will be buttered on that question, and I would also say be careful what you wish for. Do we want the single question that is going to be buzzing around, along with same sex marriage incidentally, which will be a question at the hustings? It will be those 2 questions: "Do you believe same-sex marriage and do you want the Constables in the States? Yes or no." That will be interesting to see what people say because we will be going out there, telling people: "These are the ones who voted against same sex marriage, to defer it and by the way, we also think that Constables should no longer in the States." If that is what the States wants, to kick out the hard work from the Greffier, from P.P.C. and all the consultation that has taken place and to replace it with this one question which, 6 years ago, most Members in here kicked out resoundingly, then that is fine but I think we need some justification for that process. But as a democrat, at the end of the day, I will be quite happy to campaign for either Clothier or to have the Constables removed as an automatic right in October and, in fact, I will start doing that today.

4.8.6 Connétable J.L.S. Gallichan of Trinity:

I think it is well known I have been in this Assembly for nearly 12 years and we have discussed the composition of the States on numerous occasions. I look across at my good friend, Deputy Le Hérisier who was slaughtered, I think, when he brought something many years ago. The problem with what we should be doing, I think we should say we are starting with a clean piece of paper. We do not know what the people want and the most contentious thing in the Assembly over the years has been: "Should the Connétables remain in the Assembly?" Whenever the vote was taken in this Assembly we always had a massive majority because we had great support from other Members. However, that is not the case. I think the time has come where we should go out to the public and know for once and for all whether they wish the Connétables to sit in the States, in this Assembly or not. Now whatever that result is then P.P.C. can then ... I do not want to talk about any other changes and numbers ... just know where we are going so we can say: "Right. We have heard the views of the Island public. They do not wish the Connétables to be in the States." You then start working out your numbers. You can work out whether you want Senators or Deputies but then you would definitely know that the Connétables have not got the support or have the support and that is all I request really. Until we know what the general public's wishes are, we cannot really move forward. Now, P.P.C., their version, I am afraid you would have to be a genius

to understand that when you come to a referendum. They are saying they are going to do every Parish Hall before ... because I can just see now, they will vote on that and they will come back: “Well, I did not realise the Constables were not going to be sitting in the States. I did not realise that that was their question.” So unless you want to do a complete road show you will have problems. This question is simple. You will get a yes or no or support, whatever, and then P.P.C. in the future Assembly can start working to something which may have a chance of getting through this Assembly. I will be supporting Deputy Green’s proposition, or amendment.

4.8.7 Deputy M.R. Higgins:

I will be very brief. I was not even planning on speaking in the debate. However, I cannot support Deputy Green’s amendment. The reason is I am backing the P.P.C. one. Why? Because, to be honest, the States have got themselves into a real mess. I have now been in here almost 6 years and debate has been going on and on and on and a lot of it revolves around a name. Constables. Senators. Deputies. Personally, I could not care less what we are called. I know we are called a lot of things outside in the public [**Laughter**] but within this being a Member of this Assembly does not revolve around a name. So many people are hung up on the fact: “I am a Constable” or: “I am a Senator or a Deputy.” As far as I am concerned, if the P.P.C. proposition is put to the people and they say: “Yes, we agree with a single class of Member” we could all be called Constables or we could all be called Senators. We could all be called Deputies but maybe people do not want those. Or an M.S.P. (Member of the States Parliament)(?). I have no concern whatsoever about what Members of this House are called. I do not think the vast majority of the people are. Now, the 49 Members would be elected. Well, that is fine; it is a number. The allocation of seats within Parish districts would be proportional to the population. It comes down to the equality of a vote and, as far as I am concerned, every person should have the same weight when it comes to their vote; the number of Deputies they get ... or the number of Members they get, put it that way. So I do think the debate over the last 6 years has all been around vested interest in terms of: “I am a Constable. I am a Senator. I am a Deputy.” I am not interested in all that; I never have been. Let us just get a very democratic system based on equal boundaries, one class of Member and if it is 49, it is 49. What I like about the P.P.C. proposition and the reason why I am opposing the amendment is it is the most positive thing of the lot. It is actually putting a proposal to the people. One class of Member. All would be elected, 49 Members elected. The allocation of seats would be based on proportion of the population. To my mind, that is putting forward a positive proposal, not trying to retain Constables, not trying to keep Senators in the States, not trying to increase or reduce the number of Deputies. Let us just put this to the people and see what they say. That is as far as I am going to say.

4.8.8 Senator P.F.C. Ozouf:

The P.P.C. option that we will revert to after ... if Deputy Green’s proposal is not accepted is not a worked-up solution. There will be a lack of clarity and either people will not vote for it because they do not understand it or they will vote against it because they are against losing the Connétables. I listened to Deputy Mézec and I was hearing the anger in his voice and I was comparing ... and another member of the Reform Party spoke of the same sex marriage issue. Last night, as perhaps a number of other Members saw the Archbishop of Canterbury speaking live in interview, and I encourage Deputy Mézec to watch that. I am not an Anglican ... because it was measured. It was carefully thought through. It was carefully judged. Compassionate. It was dealing with a controversial issue. We need to deal with this controversial issue but we need to deal with it in a positive way. I am going to support Deputy Green’s amendment. I would have preferred the other questions to be asked and I am trying to find a least worst option, and all of the issues, as other people have said, effectively the referendum and the public are furious at the referendum. Some people think the referendum questions were wrong. Other members of the public thought the referendum questions were okay and they voted, and even those members who

voted against the referendum do not like the fact that the States has voted not to pass it through. There are huge amounts of, I will not use the word “anger” but there is just exasperation. If we do not give the public something to vote for in this election now that we have promised, if the outcome of this debate is nothing, because I am not sure there is a majority in the Assembly that is going to agree with the unworked-up Clothier proposal. I have not done the numbers but I cannot personally. I hope not and I do not think there is one. The difference between the referendum was obviously ‘A’ and ‘B.’ That is the real difference, and the difference between ‘A’ and ‘B’ was the Constables. That means there is a legitimate question to settle; that is effectively the question of whether or not the Constables should remain in the States. We are where we are because it was impossible to get a coalition of Members. The ‘A’ supporters did not support the ‘B’ supporters in getting the thing through and getting some reform through. The ‘C’ supporters would not compromise. Well, if we are where we are, and I do not like that saying, then let us deal with the issue of the Constables once and for all. Let us have a Constables’ referendum. A number of Members have said the question is not quite clear. It will be as clear as daylight. It will be a question that the public will understand: Constables in or out. It does not matter what the wording is. It is a single question and there will be a very clear debate, and I say this has been one of the problems. There are going to be some consequences to the decision that can be dealt with. Let us have a debate about the Constables in the States. Let us have a debate. Let us have them arguing the Parishes for their right to be in the States, arguing about how they are going to improve people’s lives, what they are going to do for value for money, how they are going to be relevant to people’s community lives, *et cetera*. Let us have that debate. Let us fix it and then after we have fixed it, if they are here then we have to have an electoral system that works, that does balance some of the unfairness issues, some of them. But if there is legitimacy, if it is a “Yes” vote for the Constables, then that is a “Yes”, knowing what the consequences are for the electoral unfairness of the different sizes of the Parishes that can be dealt with in the second part of the reform. Reform has to come. The distribution of seats is not right. But if we bank the Constables issue then we can try to move on, so I will be supporting this amendment. It is not perfect but it is better than nothing and it is certainly better than the P.P.C. Clothier option which is going to cause, I think, a lot more anxiety, more exasperation and it is the time to come and let us settle the question once and for all.

4.8.9 The Deputy of St. Ouen:

Senator Ozouf says give the public something to vote for. The Constable of Trinity says we do not know what the people want. But Senator Ozouf then goes on to say in his speech that we have had a referendum and we have had options ‘A’ and ‘B’ and also ‘C.’ What was the difference? Constables in or out. I would suggest the only thing we do know with some certainty, following the previous referendum is the public wants the Constables to remain. So why go and ask them the same question again? I really do struggle with some of the logic that sits behind this. At least allow a question.

[16:00]

I know some Members might not believe it to be perfect but I do believe that the Privileges and Procedures Committee in the question they are posing will certainly provide us with a clear steer on the overall system that is wrapped-up in that question. I think that will help the States moving forward. It will deal with some of the issues that Senator Bailhache quite rightly raised. But to simply go and ask the public a similar question to the one that was contained in the referendum before I think would be ridiculous in the extreme and I cannot in all honesty support this amendment.

4.8.10 Senator F. du H. Le Gresley:

I am about to break my vow of silence on this debate. [Laughter] It was really the very highly respected Constable of Trinity, Chairman of the Comité des Connétables, who said: “This question

is simple.” Then even more so I broke my vow when Senator Ozouf said: “It does not matter what the wording is.” Goodness me, it does not matter what the wording is of the referendum question. Let me tell you before I came into the States I did not know that the Constables were Members of the States by virtue of their office. I did not know that, so I suggest to you that I am quite interested in the Island’s affairs but I did not know that and therefore I suspect that probably more than 50 per cent of the public do not know that the Constables are only in these States by virtue of their office. What Deputy Southern tried to do was make Deputy Green’s question more understandable to the public. He failed abysmally and he got 4 votes. But we still have the problem that Deputy Green is saying: “Should the Constables remain as Members of the States as an automatic right?” I do not know what that means. I am one of the 50 per cent who do not have a clue what he is talking about. Should the Constables remain in the States? I think yes they probably should. I am an anonymous member of the public, by the way, not me. Should they have an automatic right? No, so how do I vote? I think yes, they probably should be in the States. No, they should not have an automatic right. I do not know what to do so I am not going to take part in the referendum.

4.8.11 Deputy J.A. Martin:

Very well spotted, Senator. Yes, what another state we have got ourselves into. I would just like to make a few comments on Senator Ozouf. The Senator can always spin something all the way except this. I have been to workshops the Senator has organised. Does anyone remember? Imagine Jersey 2000? Yes, yes, yes. Think tank, think tank after think tank, and given the right information the people came up with the right answer. What P.P.C. is doing is giving exactly where we are now. The Constable of Trinity and the comments that the Constables, come on, P.P.C. have not come up with what they asked them to do. Exactly we have. We have put Clothier. We have a whole batch. Has anyone read pages 9, 10, 11 and 12 of our proposition and it will all be there. It is a factual what is in the States now and what is not in the States. It is easy. If you want to keep the system you vote “No”. If you want the system to change to one Member you vote “Yes”. Senator Bailhache for some reason could not do it when he did not want to get rid of this one question once and for all, a bit like Deputy Tadier. Maybe he did not think he would get support and he is wondering why Deputy Tadier did not get the support. Senator Bailhache says we put this one question and when we come back the answer is “Yes”. But does that mean we have 37 Members because we want to get rid of 12? What do you do? Our question is quite clear. We have 49. Either way we have 49. You vote “Yes” or you vote “No”, you have 49. It will be Clothier. The big question is: is it not that clear out there? The Deputy of St. Ouen thinks the dismal turnout, very badly put, transferable vote system that was put to the referendum was very clear that the public wants to keep Constables. Well, sorry, it was not clear. Was anybody who did not know the answer voting for the reduction in States Members that was in the question? Does anybody really know? We were asked to go away and get a campaign. This does not do it, and as you say, this leading question, or is it leading? Because, as Senator Le Gresley has just pointed out, I have never been anti-Constable. Why I was more ‘Option A’ is because the system... the proposer said it was the most undemocratic system if you kept the Constables but went into a large district. Then I had to be ‘Option A’ because I could not let that system go through. Was I voting against the Constables or was I voting against a real democratic system? What does this mean? Should the Constables remain as a Member of the States as an automatic right? Without again lots and lots of work, which I should imagine the P.P.C. will still have to do, we will have to say what the Constables’ job is, how they are elected, what is their automatic right, why it is there. This will still happen on vote.je and my chairman says I must get that in every speech I can do so when the public want to know what is going on that is where they look. This is a too simple question. It is not what ... and the Deputy of St. Martin laughed. Maybe it is too simple for him. Sorry. He said right at the beginning he is not going to speak again so I will not provoke his wrath. **[Laughter]** We will be no further forward because the question is wrong. The question has never been agreed

to be put before so we were sent away. P.P.C. will live with whatever the States decide. The P.P.C. will do the advertising on the question they decide. But always be careful what you wish for. You think you know the answer to a dismal turnout on a day that there was not an election where we are already told there are very many angry people out there. I am told they will not turn out because they are so fed up. They are telling me they are going to turn out because they are so fed up again. So, where are we? This very defined question will be campaigned either way. I just think if it had been put into an Electoral Commission or someone who decides on whether a question is leading or not in a referendum this would not have cut the mustard. I urge Members to vote against it and I urge Members to vote with P.P.C. on what they sent P.P.C. away to do.

4.8.12 Connétable L. Norman of St. Clement:

This is a very bad amendment. In fact I would say it is the worst amendment we have been asked to debate today except, of course, for Deputy Southern's amendment to this amendment. **[Laughter]** The main problem with this amendment, and there are many problems, is that it asks a single question on a very narrow issue that offers no contest whatsoever on the future composition of the States and certainly offers no solution to the problem we have been grappling with for the last 14 years. It only offers a choice to those whom the only thing about the composition of the States that is important is whether the Constables are in the States or not in the States. It takes no account of the proportionality which is very important, apparently, to Deputy Mézec and, in fact, non-negotiable to Deputy Mézec. It takes no account of the Island-wide mandate position. It does not offer, as I said, any sort of solution, even a hint of a solution, to the problems we have been grappling with. It would leave me in a position come the referendum that I would not be able to vote because I really do not know what I would be voting for. There is no endgame. The most important thing to me, and I have made this clear ever since the Clothier report came out, is that every Member should be elected on the same basis on the same term and on the same day. But I also, as Clothier wanted and recommended, would also want to have Parish representation and that is what the Clothier proposals give us. That is why the States agreed all those months ago to have a referendum based on the Clothier proposals and that answers the question Deputy Green is asking. It answers a lot of other questions as well at the same time. I will not be able to vote in the referendum because I just have no idea what the endgame is going to be. As I said, I want Parish representation and should we have Deputies or the States made up of Members elected on Parish-based constituencies then I will absolutely happily say yes, it is time for the Constables to leave the States as of right. But if the plan is to have too big constituencies and no Parish representation then I want to vote to keep the Constables in the States. If I am offered this question in a referendum I do not know how to vote because I do not know the endgame. That is why we need to reject this and support P.P.C.'s proposal because that gives us the answer to everything that we want. Is it "yes" or "no"? It offers us everything that Deputy Green wants to know but gives us the endgame as well and people want absolute clarity when they come to vote in the referendum.

4.8.13 Deputy J.A.N. Le Fondré:

It is a bit worrying coming after the wise words of the Constable of St. Clement. I will probably take twice as long to say half as much, I am afraid. **[Laughter]** I will try not to. The reason I want to speak, although I did not appreciate I was coming directly after the senior Member of the Assembly, is obviously I clearly and have always supported the Constables in the States and there is no "but" to that at all. As far as I am concerned it is a key part of the Parish system and that is all crucial for the community and all that makes Jersey great and different. The problem I have is what we said about the wording of the question. "As an automatic right" does not sit well with me. What prompted me to want to say something was the words of Senator Ozouf when he talked about the alternative, obviously the main proposition by the P.P.C. which he said was unworked-up. I thought that was very unfair to P.P.C. because my understanding is they put a lot of effort into this and they have done it through 12 focus groups or something along those lines. How can one turn

around and say that something that has taken this long in gestation and was lodged a month ago is unworked-up, and yet this other question was lodged, to be fair to Deputy Green, a week ago, at least it was not yesterday, is fully fine and worked-up and will be understood by members of the public? I do take the point that at the very least ... and by the way if we do reject Deputy Green's, I really do hope Members get behind the P.P.C. amendment. To reject everything would be ridiculous but I do not think Members should go into the fall-back scenario that we want to have something to put to the public if it is not clear and unambiguous in what Members are voting on. To me the proposition from P.P.C. at least if one votes against it, is sending everyone a message that the single type of elected member concept is rejected. In other words, the Constables in a sense should stay in. I think Senator Farnham is correct in saying that just having a one-dimensional question about the Constables still leaves us open to all sorts of ramifications going forward. It does not tell us what the package looks like. What are we trying to achieve? Is it basically a survey? We did the survey in 2007 and I think the Constables were highly supported under that Mori poll if I remember correctly. I was slightly disappointed in Deputy Green but I appreciate he also changed his mind. My understanding was that back in November, after the dual vote, and it is fair the States not only instructed P.P.C. to go away and do the question they have done but they also suggested a question about the Constables. My understanding is at that time he had accepted that to have the 2 questions together was an unworkable situation. I think it is unfortunate that it is just a week before the debate that this came through and there was not some form, if the Deputy felt so strongly about it he should have been in there thumping the table at P.P.C. much earlier. Maybe he was, I do not know. But I really want to emphasise if this is rejected we need to back P.P.C. because we have agreed the principle of having a referendum and we have previously agreed what the basis of that referendum would be.

[16:15]

To say nothing to going to the public would not be a good reflection of this Assembly irrespective of what other comments have been made about such things in the past. The words I have said, I do not consider the P.P.C. amendment to be unworked-up, to use that phrase. They have done a lot of work on it. To me I might vote "No" in it, I do not know, but it is at least putting it to the public. The question before us now in this amendment I think is ambiguous because the question has the inclusion of the automatic right. It also does not address all the other ramifications that go with a package and I think that is what we need to be voting for. On that basis, with regret to Deputy Green, I will not be supporting the amendment and I urge other Members to do so.

4.8.14 Deputy N.B. Le Cornu:

Britain is an old country and in many ways we still live under the shadow of the *ancient regime*. Our struggle to modernise this particular institution of the States Assembly has been going on for several hundred years. In the 19th century there were great battles by outsiders campaigning in civil society. They did not succeed very much and it is only in the 20th century that some reforms did come about. When I spoke at the same sex marriage rally on Saturday the point I made to the people present was their presence would not be necessary at all were it not for the fact that 60-70 per cent of the Island's electorate did not vote. Jersey would look entirely different. It would elect people for whom same sex marriage would not be a problem. They would simply vote for it because it was a "no-brainer". Because they do not engage we get what we get. Because good people do not vote we get bad governments or governments that rather represent the interests of the few. I recall doing the referendum outside the Petit Baguette restaurant in Queen Street and there was a very beautiful young lady came up to me. One could only describe her as posh, and she was very concerned to know that the Parish representation would continue. I had to reassure that yes, indeed, her Constable would be able to stand as one of the new Deputies in the new districts. Yes, that link would remain if she wished and she would have the choice and she went away satisfied. What it said to me, I took something else out of it. It was about social class and it is the issue that

is never discussed and never explained as to what is the issue of the Constables? Why is it an issue? It is about class and it is about power. Why is it about class? Because in the country districts, and there is still a divide between town and country, it is a divide not between, as I spoke about this morning, the seigniorial interests in the countryside and the capitalist interests in St. Helier. That has changed. It is new wine in old bottles. It is about social class. It is the wealthy who live in those northern Parishes and it is the working classes who live in St. Helier and the urban areas and the lower middle class. The establishment on the right is absolutely petrified about them engaging, voting and changing Jersey into a democratic system. But the pressure is on and I am very appreciative of the Chief Minister's comments this morning, the flattery, that he understands there is a need for a firm hand, that Government gets hold of this issue, stops messing about, reform it, modernise along the lines of the British Government. Probably in those corridors of power people are saying: "Chaps, it is about time you got your house in order", and they would have said it with that kind of accent. It is unacceptable that a centre for international finance has such a peculiar political system that has 60-70 per cent that does not vote. It does not look good. They are not engaged. Government lacks legitimacy and there is a lot of huffing and puffing inside I can hear from the Constables' benches because I think I have touched a raw nerve. I have got to it. That is what it is about.

Deputy S. Power:

Sir, it was the Deputy that huffed and puffed. [Laughter]

Deputy N.B. Le Cornu:

And I will blow your house down. We need to modernise this system. Keeping the Constables perpetuates unfortunately a gerrymandered political system. The answer is one category of States Member all elected on the same day in new constituencies of equal size. Senator Bailhache issued the reproach against Reform Jersey: "Are we Democrats?" Of course we are but the reproach has to be equally thrown back to the Constables. Would you vote for yourselves out of the States of Jersey as did the Rectors in 1948 because they abolished themselves? As I understand it, likewise with the Jurats when some of them abolished themselves some of them came back as new Senators, Deputies, whatever and that continued for some time in the 1950s. I think that capable Constables, and there are many who would be back again in the States doing what they do best which is being States Members being Statesmen, but the Constables and those who want to be simple Constables who enjoy all that kind of Parish stuff, and they do it well, will do it there but you cannot do both because there are different demands from different institutions. It is imperative that we get proper representation for the urban areas, in particular St. Helier. If only we can get the 60-70 per cent who do not vote to vote, and until that time probably not much will change but still the pressure is on the Council of Ministers to modernise and reform. That has not gone away.

The Bailiff:

I must ask you to come to the amendment which is whether there should be a vote on this not the merits of the competing cases.

Deputy N.B. Le Cornu:

We should vote to reject this because it is simply being used by the lobby and will be used by the lobby because they can mobilise La Police, that 19th century term for the interest of the Honorary Police and so on, are an organised group and they will be lobbying heavily for the yes vote on this issue. It completely side-tracks the issue of democracy which needs to be dealt with in a quite different way in a non-populist, non-plebiscite fashion.

4.8.15 Deputy G.C.L. Baudains:

I would like to get back to debating whether we should amend the proposition or not. **[Approbation]** Some speakers have referred to the previous referendum and in my view I do not think we should read too much into the results of that as some Members have tried because we must not forget there were several options combined in each of those questions which, in my view, made the result ambiguous because if you wanted the Constables in or out then you also had to agree to super-constituencies, reducing numbers and other things. What I would really like to refer to, and the reason I rose to speak is the last paragraph of Deputy Green's report. There is a sentence in there which says: "The truth is we just do not know what the electorate want and we have never asked them." Of course that is in relation to whether the Constables should be in the States or not. Deputy Green may not be aware that a previous Privileges and Procedures Committee, which I was on, engaged Mori to hold a poll and asked a number of questions, about a dozen different questions of which this was one. If my memory serves me well I believe the majority were in favour of keeping the Senators but when it came to whether the Constables should be in the States or not, if my recollection is correct, I think the result was pretty even. It was about 49 per cent, 51 per cent and my fear is presumably if we asked the same question the same result will be achieved. We would be back at square one with no mandate to do anything. That does bother me. I thought this question was simple until I heard some of the speeches; the amendment was simple but what I wonder is why do we ask it when first of all we already know the answer and, secondly, it will lead us nowhere when it is repeated.

4.8.16 Deputy J.H. Young:

Pretty briefly, as the Constable of St. Clement said not only is this amendment wrong but it is completely out of context. It may have been that this question proposed in the amendment was the right one at the time of Clothier 14 years ago but life has moved on far too much. We have a situation where the whole change, the restructuring in the States Assembly is desperately overdue. In that situation if this amendment were to be passed, and I plea to Members to reject it, where it would bring us is a situation whereby we would only have part of the piece of the changes in the States Assembly sorted out at the time of this year's elections. It would need further work to go on and inevitably, I believe, on the questions that are not covered, the issues of the all-Island mandate, number of Members and their constituencies, all that would lead inevitably to another referendum which I do not think could happen until 2018. That effectively means that that issue is kicked into the long grass and the whole issue of change is kicked into the long grass for the very long-term future and that is desperately unsatisfactory. What this amendment does is it looks only at part of the issue. It is going to confuse the electorate because I know everybody in this Assembly thinks that everybody knows this issue, everybody understands it but the work of the focus groups indicated they do not, not universally across society. People will be puzzled: "What is this question about", of course at the same day, on the very same day, when some Constables are being elected. They are going to vote for a Constable and then at the same time there is a referendum that says: "Should the Constables remain as Members of States as an automatic right?" They are going to pose questions and issues and put doubts in their mind. They are going to be confused. However superficially attractive this amendment might seem, and it may have been right at the time when Deputy Tadier spoke about it previously being proposed at the time of Clothier it is too late. We have to see the mandate on the overall position and that is why the question in P.P.C. amendment is one; simple, should this new system be introduced. The documents with it explain, and the work that will go on will explain the new system. There is absolute clarity about it. We will know whether the public buy into that change or whether they do not. I strongly ask Members to reject this amendment.

4.8.17 Connétable J. Gallichan of St. Mary:

With trepidation I rise to speak because I really had said everything I could ever say during my term as Chairman of P.P.C. and on the Electoral Commission. I understand that the Chairman of

P.P.C. as ever in this situation is between a rock and a hard place. Nevertheless I find myself rising because the question as posed by P.P.C. to me is totally weak and does not give the public what they need and does not give a future Assembly what it needs. Listening to these debates on the amendments - and it is quite obvious we need to stray at this point into the main proposition as well - there is confusion on all sides. Each side is accusing the other of not having worked-up the answers. One thing that is clear to me is that we do not know an awful lot of the possible outcomes of the P.P.C.'s question. The focus groups that Deputy Young has just referred to: I read those reports, I do not know how many other Members obtained them and read them, it showed there was confusion among the focus groups even when the question quite clearly said: "A single type of Member." Members of the focus group even though they knew that was what was being asked they still felt that somehow miraculously there would be a Senator available somewhere or a broader mandate.

[16:30]

I just want to go back to the Electoral Commission, not to the referendum but to the work of the Electoral Commission and I am not aware that anybody has criticised the in-depth consultation and incredible public response that the Commission received, and to remind Members that when the Electoral Commission worked it had access to and took cognisance of all of the work that had gone before. That was our starter pack before we engaged the public. We knew what the Clothier report had said. We knew the work that had been undertaken and we knew long before apparently many States Members knew that Clothier had never finished the work on how the States would be elected. We do not know and I do not know today, and I have had this argument many times, how we would elect our Members. Would there be under P.P.C.'s proposals simply single Member constituencies? That would be awful because the work of the Electoral Commission showed that one of the public's concerns was the narrowing down of issues in single Member constituencies. They wanted the broad issue. Ideally, and many people have said this, an Assembly composed completely of people on an Island-wide mandate would be wonderful but we know through various consultations and all the work we have done that that is simply impractical, which is why during the work of the Electoral Commission the idea of the larger electoral districts was explored so thoroughly. Having been on all the road shows and having discussed the concepts with people you could see how the public were in many cases comforted by the fact that if they might lose their Senatorial mandate they would at least have a wide mandate of some kind. Under the P.P.C. proposal, if we go to single Member constituencies all of that work that the Electoral Commission found to be so important to the public would be washed away with single Member constituencies. That is a concept that Islanders probably are not focused on. Certainly the focus groups were confused by that issue. To say that Deputy Green's amendment is not worked-up, you can reinforce that by saying that neither certainly is P.P.C.'s. Neither of these are satisfactory and I am finding myself narrowed down now to a situation where I am trying to choose which is the least unsatisfactory option, and do not the public deserve more than that? It really does concern me that we are heading to another referendum that probably will not be conclusive. The worst thing about the referendum is that the way it is structured is that if the public reject it we will not know why because there are options there, we will not know which one of those options is the one that ticks the voter from a yes to a no. Somebody said if we vote against this we will at least know that the public do not want a single class of Member but no, we will not. It will not be conclusive and we will be in the same situation that we have been in every time before. I really cannot believe that 14 years after Clothier with the outcry of the public, I can remember it in St. Mary's and I remember saying it myself: "At the moment I have 14 votes, 12 Senators, a Constable and a Deputy, and under the Clothier proposals I would get one." It was shocking then and it is shocking now because the people of this Island have always looked to elect more than one Member. We could end up with lots of single Member constituencies which I think would be terrible personally, but the public

may think differently, but then from this question I might not find out that answer. What would be worse is we might end up with a whole load of single Member constituencies and then other constituencies with more Members in which the electors continue to have more votes. Deputy Mézec says Members in his district must be given equal parity. It is about time that each voter in St. Mary had the same number of votes as each voter in his district does because it cuts both ways, Deputy Mézec. I say to Deputy Mézec that it cuts both ways and he will have to start accepting that different things mean different things to different people. There is a broad viewpoint here which neither of these options comes down to narrowing down for me. At the moment I am minded to say, as other people have said, once and for all let us hear what they say about the Constables but at the same time I am cognisant of the fact that it is not in a context of any kind. That to me is not satisfactory. The Electoral Commission worked very hard and it did come down, as Senator Ozouf said, but for different reasons: "We have these options" and the difficulty was the position of the Constables. We have always known that. This might tackle the question of the Constables but we did go through a long process on the Commission with expert advisers, with outside assistance to try and work out how we could put the options to the people in such a way that they knew by voting for part of it what the fallout from that would be and what they would end up at the end. In many ways we were successful although of course if the people who did not get what they saw as the ideal answer did not like, it would be exactly the same with this and I really feel that if we go to the public with a second referendum which is less than pristine and less than cast iron in its outcome we will be doing the public a great disservice. I really do not believe that the P.P.C.'s proposition, well intentioned as it is, gives the public that certainty and it certainly does not give me any certainty at all. I am either going to have to go with this amendment or even reject the entire thing which to me is a catastrophe. That is all I have to say.

4.8.18 Deputy J.M. Maçon:

Just briefly, again to accept the arguments made by Members that Deputy Green's amendment does pose the problem in that what does the "no" vote produce? Will that just bring us into a void and what will happen then? To answer the question of the Constable of Trinity, as Deputy Martin said, regardless of what is approved, if anything is approved, P.P.C. would have to go round and do an educational campaign on whatever is done, we absolutely accept that. I just hope that Members will reread the comments of P.P.C. that we have produced about this amendment. We do appreciate that both of the votes that were taken last year were close however P.P.C. very much felt that it was better to take a package to the people and at least people know where they stood then rather than just on the single elements going forward. We hope that Members will bear that in mind.

The Bailiff:

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

4.8.19 Deputy A.K.F. Green:

I will try and do it concisely and briefly but there are some points that I do have to pick up. I am not going to mention everybody by name but I do thank everybody that spoke for, against and those that were not sure, particularly I would like to pick out the Constable of St. Mary. I thought she gave a very good speech in parts. **[Laughter]** The only bit that I thought the Constable needed to be clear on is why we need to have this question and not P.P.C.'s question. I thought she made a very good case for not having P.P.C.'s question because it is, as I said, multi-faceted. You have to take the whole package which some people will find unacceptable for different reasons. My question is about the Constables of the States and should the Constables have an automatic right to stand and my question may not be as eloquent as some of those that have had better education but I bet if you went out there to Joe Soap they would understand my question which is half the battle. If we carry on, one of the things I often say, doing the same thing we are going to get the same

outcome. If we go with this question unamended we will get the same outcome as we had from the last referendum and will be no further forward. If we go out there and ask the public whether they want Constables in the States or not we do not leave a void if they say “no.” That gives P.P.C. and the new Council of Ministers a very clear steer on the direction that they need to move reform in. You do not suddenly find yourselves short of 12 Members but that is quite ridiculous. Deputy Mézec, just to pick him out a little bit, said something like well-meaning or something like that but I say to the Deputy we all share your need to bring about satisfactory change but if we carry on doing it in the same way we are going to end up in the same place - nowhere - and frustrate the voters even more. I have been told that my question is leading. It is not intended to be leading and, as I said, it is nice and clear and normal English that people in the street will understand. My voting last time, 6 years ago, I cannot remember the exact quote of Senator Ozouf when he said something like: “When you first suggest something people think you are mad and then they think you are just a bit ahead of your time and then your time has come.” I would suggest the time has come, 6 years later, to ask that very clear question. I thank the Constable of Trinity for his words. I say to my Deputy, the Deputy of St. Ouen, that the answer will give the Council of Ministers and the new P.P.C. a very clear steer, “yes” or “no.” We all think we know the answer but the truth is we do not. We do not know the answer. We do not know why people last time just went for ‘B’ rather than ‘A.’ We honestly do not know. What we need to know is where we are, have a concrete foundation, Constables in or out. That concrete foundation allows us to move forward. Of course I agree with equal weight of votes and equal number of votes. That comes later. That is not dismissed by this amendment. This amendment allows us to get in a position where we can really bring about change if we want to. Change is overdue. Change needs to happen but if we carry on doing the same thing in the same old way we will end up in the same place. I would probably be well retired and probably pushing up daisies and they will still be having the same conversation. I make my amendment and I ask Members to support.

The Bailiff:

The appel is called for in relation to the amendment lodged by Deputy Green. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 29		CONTRE: 20		ABSTAIN: 1
Senator P.F. Routier		Senator A. Breckon		Connétable of St. Lawrence
Senator P.F.C. Ozouf		Senator S.C. Ferguson		
Senator A.J.H. Maclean		Senator B.I. Le Marquand		
Senator I.J. Gorst		Senator F.du H. Le Gresley		
Senator L.J. Farnham		Connétable of St. Clement		
Senator P.M. Bailhache		Deputy R.C. Duhamel (S)		
Connétable of St. Helier		Deputy J.A. Martin (H)		
Connétable of Trinity		Deputy G.P. Southern (H)		
Connétable of St. Peter		Deputy of St. Ouen		
Connétable of St. Mary		Deputy J.A.N. Le Fondré (L)		
Connétable of St. John		Deputy S.S.P.A. Power (B)		
Connétable of St. Ouen		Deputy M. Tadier (B)		
Connétable of St. Brellade		Deputy T.A. Vallois (S)		
Connétable of St. Martin		Deputy M.R. Higgins (H)		
Connétable of St. Saviour		Deputy J.M. Maçon (S)		
Connétable of Grouville		Deputy G.C.L. Baudains (C)		
Deputy R.G. Le Hérisier (S)		Deputy J.P.G. Baker (H)		
Deputy of Grouville		Deputy J.H. Young (B)		
Deputy J.A. Hilton (H)		Deputy N.B. Le Cornu (H)		
Deputy of Trinity		Deputy S.Y. Mézec (H)		
Deputy K.C. Lewis (S)				

Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

The Bailiff:

That completes then the amendment.

**4.9 Draft Referendum (Composition of the States Assembly) (Jersey) Act 201- (P.118/2014)
- as amended**

The Bailiff:

We now return to the debate upon the Act itself as amended by Deputy Green's proposition. Does any Member wish to speak? Very well, then all those in favour of adopting the Act kindly show. The appel is called for then in relation to the Act. I invite Members to return to their seats. The vote for the Assembly is whether to adopt the Act lodged by P.P.C. in its amended form and the Greffier will open the voting.

POUR: 31	CONTRE: 14	ABSTAIN: 4
Senator P.F. Routier	Senator A. Breckon	Senator F.du H. Le Gresley
Senator P.F.C. Ozouf	Senator S.C. Ferguson	Deputy J.A. Martin (H)
Senator A.J.H. Maclean	Connétable of St. Clement	Deputy M. Tadier (B)
Senator I.J. Gorst	Connétable of St. Lawrence	Deputy J.H. Young (B)
Senator L.J. Farnham	Deputy R.C. Duhamel (S)	
Senator P.M. Bailhache	Deputy G.P. Southern (H)	
Connétable of St. Helier	Deputy S.S.P.A. Power (B)	
Connétable of Trinity	Deputy T.A. Vallois (S)	
Connétable of St. Peter	Deputy M.R. Higgins (H)	
Connétable of St. Mary	Deputy G.C.L. Baudains (C)	
Connétable of St. John	Deputy J.P.G. Baker (H)	
Connétable of St. Ouen	Deputy of St. Mary	
Connétable of St. Brelade	Deputy N.B. Le Cornu (H)	
Connétable of St. Martin	Deputy S.Y. Mézec (H)	
Connétable of St. Saviour		
Connétable of Grouville		
Deputy R.G. Le Hérisser (S)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy K.C. Lewis (S)		
Deputy E.J. Noel (L)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy of St. John		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		

Deputy R.J. Rondel (H)				

Deputy M. Tadier:

Can I say it may have taken 5 years but I thank Members for their support. **[Laughter]**

5. Island Plan 2011: revised draft revision – approval (P.37/2014)

The Bailiff:

The next matter on the Order Paper is the Island Plan 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 refer to their Act dated 29th June 2011 in which they approved, as amended, the Island Plan 2011, and to approve, in accordance with Article 3(1) of the Planning and Building (Jersey) Law 2002, the revised draft revision to the Island Plan 2011.

Senator P.F.C. Ozouf

May I make a declaration of interest? I am sure that I am not alone but I have a current planning application that could be affected by one or more of the amendments. I am trying to insulate myself from any discussions at the Council about it. But I will not take part in any of the amendments that could possibly have something to do about an application that is current. There would be, I think, a direct financial interest with the consequences, I am advised, so in that case I will declare an interest and withdraw for that amendment. But I do not know whether you have any guidance for Members about any matters ... it is a wide category of interest but still planning matters are obviously a significant financial ...

The Bailiff:

I think it is a matter for Members. Obviously without knowing the details of the application and the policy which might affect it, it is impossible to give general guidance but to take an extreme example, if somebody were to be the owner of a plot which was going to be rezoned that would clearly be a direct financial interest. If on the other hand, you are applying to put a plastic window in and something of that nature may be affected, indirectly by a policy, perhaps not. So I think I have to leave it to Members to ... but clearly if a Member feels that he has or she has a current application in which might be significantly affected the best thing would be to declare it and withdraw.

Deputy J.A.N. Le Fondré:

May I also make a declaration? I do not think there is pecuniary interest but obviously I am a longstanding Honorary Secretary of Les Vaux Housing Trust, which obviously deals in social housing and obviously some of the sites we are looking at for housing, *et cetera*. There is no pecuniary interest and as far as I am aware ... I do not know what our interest is in any of the sites, but we also have planning applications in the process.

Senator B.I. Le Marquand:

Although not withdrawing from the debate I think I should declare that I do own property in the Countryside Zone, which definition of which could be changed by this.

The Bailiff:

I think that is quite a remote involvement. Minister, you have lodged a number of amendments to amendments, I think. You have also lodged the twelfth amendment. Under the law, this is not under the Standing Order that we considered before, under the Planning Law late amendments lodged by the Minister may be taken either forthwith or at any time approved by the States, that is a provision specifically put in the law because it is appreciated the Minister might need to react at the last moment to amendments lodged by other Members. But, Minister, it would help Members, I think, to take a decision at the beginning so that we know whether we are going to debate all the amendments you have lodged. Do you wish to say anything about that?

Senator R.C. Duhamel of St. Saviour:

Yes, I do, Sir. I would like to ask the Assembly to agree to allow me and this Assembly to debate all of the amendments that I have put forward, and in particular the twelfth amendment, which is absolutely vital in bringing sense and coherence to the proposals that will be debated.

The Bailiff:

Correct me if I am wrong, Minister, but as I understand it, many of them relate to amendments of Deputy Young and it is in fact going to ease the Assembly's path.

Senator R.C. Duhamel:

It certainly will, Sir. There has been a lot of work that has been ongoing behind the scenes in order to assist Members in coming forward with a scheme for the debate that will perhaps shorten the outcome. So it is with those amendments in mind that I am proposing them. If indeed the Assembly were to object to those late amendments being agreed to then I think it would radically change not only my position but Deputy Young's.

The Bailiff:

Is that request seconded? **[Seconded]** Does any Member wish to say anything? Those in favour of granting the Minister then permission to lodge all his amendments and amendments to amendments please show. Those against. You have your wish, Minister. Do Members also agree that in relation to the twelfth amendment, I think, Minister, it amends a number of your own propositions and you presumably want to take it as amended, do you?

Senator R.C. Duhamel

I certainly do, Sir.

The Bailiff:

Do Members agree to see it in that way? I think so. Minister, I invite you to make the proposition.

5.1 Deputy R.C. Duhamel (The Minister for Planning and Environment):

In bringing this proposition to the Assembly today it is important to remind Members why we need to amend the Island Plan. The key thrust of this proposed change is the need to provide affordable homes but why do we need affordable homes? It is because the evidence is that there are at least 1,000 households who will be in housing need up to 2020 and we need to have a plan as to how we might house them. The evidence, and all the assumptions and the data that underpin it, has been publicly and independently scrutinised and tested and has been found to be robust. So what was wrong with the 2011 Island Plan? Surely that had a strategy to deliver homes. Members may recall that in approving the 2011 Island Plan the Assembly took some critical decisions about the tools that would be available to me as Minister for Planning and Environment, to deliver affordable homes. First it said that it would not rezone any land to meet the need for affordable homes. Secondly, it agreed to the principle of making the private sector deliver affordable homes as a proportion of all the new residential development, which was set out in Policy H3. Third, it said

that we should better use our own land to provide some affordable housing. Unfortunately the housing strategy in the 2011 Island Plan has failed to deliver. Why is this? Because Policy H3 was not implemented and we have not yet delivered as many homes as we would wish on States-owned land. People are still in housing need. So the main purpose of bringing my proposition to the Assembly today is to set out a new strategy that can realistically deliver the affordable homes to most in housing need, that we require. That is what I, as Minister for Planning, have been charged to do. Why is my new housing strategy better than the last one? It is better because it is achievable and because it is focused on where the housing need is. It is achievable because its delivery is largely within our own control. The vast majority, possibly more than 70 per cent of the affordable homes that we need, can be delivered on land that is owned by the States or by bodies that are owned by the States, such as Andium Homes. We can redevelop and regenerate existing housing estates to deliver better and more affordable homes in places and in ways where more people can have a better living environment and a greater sense of community and identity. It is achievable because it also focuses on the better use of other States land on sites such as the former Jersey College for Girls and the Ambulance Station in the Summerland site, for the provision of affordable home and it is better because it is explicitly focused on those in real housing need rather than those who might otherwise be able to secure their own home in the housing market. My new definition of Category A affordable homes means that they will only be accessible to those who are on the median income level or below, which can be tested through the Housing Gateway. This is a sound strategy and is also one which sits comfortably within the framework of the existing 2011 Island Plan itself. This focuses development activity in the Island's existing urban areas. This is sustainable because that is where people are closer to work, school and services. It also means that we can continue to protect our coast and countryside. Part of the strategy does involve a limited amount of rezoning on the edge of some of our key settlements and in some of the northern Parishes, which together could deliver about 300 or so homes. The justification for bringing forward sites for rezoning is twofold. First the strategic sites in St. Clement, St. Saviour and Grouville are put forward to help provide much needed affordable homes in the short term. They all have landowners who are willing to release sites for development. We have not delivered many affordable homes since 2011 and States-owned land will not deliver many in the short term either. The sites are needed to deliver homes over the next 2 to 3 years. These are the ones that are due to be rezoned. They are also former glasshouse sites that are well related to the existing built up area. Secondly, the rural sites in St. Ouen and St. Martin are there to help sustain the vitality of Parish communities and are supported by Parish authorities. I think that my new housing strategy is much more targeted because it is focused on those in real housing need. It is also sound when considered against the existing Island Plan. The majority of new affordable homes will be built in the existing urban areas and only a small proportion, about 30 per cent, or slightly less, are coming from former glasshouse sites to help alleviate short-term need. Perhaps most importantly it is deliverable. We have landowners who are willing to release sites and we have the resources available to make progress on our own sites. The other changes that form part of my proposition to amend the Island Plan, are there to improve it and to make the policies in it more robust and up to date. In the light of experience from using and applying the policies for the coast and countryside since 2011 some changes are proposed to better protect the Coastal National Park, and the Green Zone. Our most precious landscapes are contained in these areas and my proposed changes provide better protection for them. At the same time there is a need for greater clarity for those who live and work in the countryside and along the coast about what changes they might be able to undertake to their property without harm to the landscape character of the area they are in. My changes clarify how the policies will be applied. Amendments have been lodged following some concern expressed by specific sectors of Island community about my changes for planning policies for the coast and the countryside. I think that the justification for them is weak and ill-founded generally but I have sought to review the content of my changes further and have refined them to provide greater

distinction between a higher level of protection for the most sensitive landscapes in the Island, which are found in our Coastal National Park and the remainder of the countryside. We will come to these later. Other changes to the Plan aim to bring it up to date, new data to define the level of risk to people around the Airport Fuel Farm has been published. My change to the Plan at Policy NR8 simply reflects this new information. I am also proposing a pragmatic change, Policy GD2 of the 2011 Island Plan is a policy which seeks to test whether it can be environmentally justified to demolish a building when compared against building a new one. The policy is presently written in absolute terms and is incredibly difficult to measure, analyse and apply. It is particularly onerous for applicants. As a result, the policy is not achieving what it set out to do and I am proposing its removal. There remain other more appropriate environmental safeguards however within the Plan. My own proposed changes were purposefully limited in scope as I consider most of the 2011 Island Plan to be robust and fit for purpose. Some Members have taken the opportunity to lodge their own amendments about other parts of the Plan and where they think further amendment is required. As with my own changes, I have exposed these amendments from States Members that have raised new issues to public consultation and the scrutiny of an independent planning inspectorate. The report was published last week. I have considered this and have sought to respond to these amendments in a constructive and pragmatic way.

[17:00]

I have sought to retain the essence of the proposed changes while best aligning them with the rest of the Plan and the resources that are available to me. This has resulted in a handful of further amendments, which this Assembly has just agreed to be debated, to the Plan and I trust that the Assembly can accept these as an appropriate response to the issues raised. To conclude, the need for affordable housing in the Island remains acute. The strategy previously adopted has not worked. I have been charged with preparing a new one and I believe that my proposition does this with a strategy that is sustainable, robust and deliverable. My other change is simply to bring the Plan up to date and provide decision makers with the appropriate tools to manage change in the countryside. With that, I commend the proposition to the Assembly.

The Bailiff:

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

5.2 Island Plan 2011: revised draft revision – approval (P.37/2014) – tenth amendment (P.37/2014 Amd.(10))

The Bailiff:

Then we move on to the amendments taking them as set out in the running order, so the first amendment to be considered is the tenth amendment lodged by Deputy Young, parts (a) and (b). So I will ask the Greffier to read them.

The Connétable of St. John:

Before we start is there any chance we can have the air conditioning turned up. The temperature at the moment in here is 24 and, honestly, I may have to leave the Chamber because it is getting so warm.

The Bailiff:

It has just been put back on.

Deputy J.H. Young:

I would be happy to have my amendments taken as read because I can explain them ...

The Bailiff:

If Members are happy that the amendments will be taken as read? I think it would assist the Assembly probably knowing in advance if matters are to be accepted so that then hopefully debate can be short. Minister, do I understand that you are content to accept this amendment if your amendment to it is also accepted and do I understand that Deputy Young will accept your amendment.

Deputy R.C. Duhamel:

That is right, Sir.

Deputy J.H. Young:

Absolutely, Sir.

The Bailiff:

So on that basis no doubt you will propose in the light of that knowledge, Deputy Young.

5.2.1 Deputy J.H. Young:

I appreciate that. As you realised my amendments are on important matters but only in one case they touch on the vital subject of housing, which is obviously the main event. But nonetheless I do need to say one or 2 words briefly on them. Obviously the process has been and is that my amendments did ... under the rules I was only able to put them forward late in the day. I am grateful the Minister has organised the planning inspection and also the additional public consultation on them, which has resulted in the inspector's report, only delivered on Friday, and since then Deputy Duhamel and the planning officers have come to agreement. So in terms of this particular one, I am maintaining proposition 10(a) and (b) and I am agreeable to the amendment. The amendment of the Minister's is quite small. The purpose of these 2 amendments deals with the very top level of the Island Plan. This says: "Where development should be located in the Island", what is called the "Spatial Strategy." In a nutshell, the Island Plan says development should take place in the town of St. Helier first of all, first choice. Second choice, within other built-up areas of the Island. Thirdly, on brownfield land outside the built up-area. Fourthly, in the communities around the Island other than the built-up areas. That is what they call the hierarchy of development. My amendment concerns the second. The built-up areas; if one looks at the Island Plan map what one sees is loads and loads of different white areas, all of very different quality. Some are suburban, some are clearly urban, some are rural settlements and so on. My amendments propose that the Minister issues Supplementary Planning Guidance for each of these areas to try and identify their characters, but not everyone. I accept this is a big task and so my amendment will result in a commitment being made in the Plan. There should be a study of their characteristics to try and develop, identify those areas that are more sensitive than others, those areas that are more appropriate for a different type of development than others, and the Minister, if the amendment is adopted, and for the lifetime of the Plan - because this is still 7 years to run on this Plan - will bring forward that guidance which generally seems to be accepted as important.

The Bailiff:

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

5.3 Island Plan 2011: revised draft revision – approval (P.37/2014) – tenth amendment (P.37/2014 Amd.(10)) – amendment (P.37/2014 Amd.(10)Amd.)

The Bailiff:

There is the amendment by the Minister to this. Again, I do not propose to ask for it to be read if Members are happy. It is set out in the running order. Minister, do you wish to propose your amendment to Deputy Young's amendment?

5.3.1 Deputy R.C. Duhamel:

I do, Sir. I think it is only fair to say a few words as well briefly. In bringing forward my own amendments to the proposals put forward by Deputy Young, which were not part of my original proposals to amend the Plan, I am seeking to offer a pragmatic way forward in a way that retains the essence of his proposed changes within the realistic constraints of time and resources available to me over the remainder of the Plan period. Consequently my own amendment, insofar as they relate to the development of supplementary planning guidance for the Island's built-up area proposed by parts (a) and (b) of this amendment, seek to ensure 2 things that are done. That the guidance is on a selective and prioritised basis targeting those more sensitive parts of the built-up area that would most benefit from the supplementary guidance, and by limiting the extent of the guidance to an assessment of character rather than seeking to be prescriptive about the limits and densities of development that might take place. The Deputy has accepted the amendment and I think together this represents a sensible way forward. I propose my amendment.

The Bailiff:

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the Minister's amendment to Deputy Young's amendment? All those in favour of adopting it please show. Those against. That is adopted.

5.4 Island Plan 2011: revised draft revision – approval (P.37/2014) – tenth amendment (P.37/2014 Amd.(10)) - as amended

The Bailiff:

Does any Member wish to speak on Deputy Young's amendment as amended? All those in favour of adopting Deputy Young's amendment please show. Those against. It is adopted.

5.5 Island Plan 2011: revised draft revision – approval (P.37/2014) – ninth amendment (P.37/2014 Amd.(9))

The Bailiff:

Then we come to amendment number 9, part (a), also lodged by Deputy Young. Again it is set out here. Deputy, would this be a convenient moment, I think you had indicated you planned to withdraw certain of your amendments. It would be helpful to Members, I think, to know that. I think it is amendment 7 and parts (b), (c), (d) and (e) of number 9, is that correct?

Deputy J.H. Young:

Yes, Sir, to confirm that. Amendment 7 and items (b), (c), (d) and (e) of amendment number 9 I seek to withdraw.

The Bailiff:

You can do that unilaterally at this stage.

Deputy J.H. Young:

I withdraw it because in the long discussions I had with the Minister, and I am really grateful of it, I could set out the reasons for these but if Members want to ask questions but I do not think it is necessary to go into those reasons.

The Bailiff:

No, not necessary. Then we do come then to paragraph (a) of your amendment, which you are proposing, and which is, I understand it, the Minister will accept subject to his own amendment of your amendment.

Deputy J.H. Young:

Yes, I would like to say a few words on that, if I may.

The Bailiff:

Of course. I invite you to propose your part (a) of Amendment 9.

5.5.1 Deputy J.H. Young:

Moving on in the Plan, all of this debate of course, the running order, is going through, as it were, the pages in the Island Plan, so we are now on to the part concerning what we call the General Development policies. These are very important because these apply to all development, no matter what their type, and they kind of set the limits of where people ... if people transgress those general development policies, it will generally result in rejection. The sort of things that have been in there, bad design, problems with traffic, major impact and so on, unacceptable impact and so on. My amendment deals with just one. This is the question of the harm to neighbouring properties and neighbouring uses. It is only a very small one but it is very important. Since I have been an elected Member I have certainly probably ... nearly all the problems that come to me on planning are neighbour issues, where neighbours have concerns about developments taking place in the built-up area, usually next door to their properties, which they consider have an excessive impact and damage their amenities. Issues to do with losses of light, losses of overlooking and so on, and there is a prevalent tendency, I regret to say, but I think it is part of where the Island is, of garden-grabbing, where developers effectively are looking for opportunities to buy-up low density buildings and then redevelop them at much higher densities. I am withdrawing my amendment on the question of density but I think because it is sufficient that I maintain this amendment (a), which changes the criteria, the bar if you like, of how damaging a development has to be in order to be rejected. The present policy says an application would be allowed unless it causes serious harm to the amenities of neighbours. Serious harm. Of course, having listened to many Planning Applications Panel decisions that is quite a tall bar because any development causes some impact but if it is serious it means it can be seriously harmful. We had this debate - I say "debate" because there were public representatives there, people from the community - in the inspector's hearing and it was the inspector that suggested that my amendments, which sought to replace serious harm with material harm did not succeed in doing what I wanted. Therefore he recommended in his report that we should bring in the question of unreasonably. I indicated at the inquiry that that was what I sought to achieve and so that is the substance of the amendment brought by the Minister for Planning, which if the Assembly agree to that change in the policies I will be happy to accept the Minister's amendment. I think it is very important because I think it will aid all of the appeal processes. We have recently adopted new appeal arrangements, planning appeals are going to be on their merits and the interpretation of these policies will be critical to those appeals, and I think it will benefit our citizens of the Island about having new criteria for how high the bar needs to be in allowing developments that affect immediate neighbours. So I maintain my proposition.

The Bailiff:

Is Deputy Young's ninth amendment, part (a), seconded? **[Seconded]**

5.6 Island Plan 2011: revised draft revision – approval (P.37/2014) – ninth amendment (P.37/2014 Amd.(9)) - amendment (P.37/2014 Amd.(9)Amd.)

The Bailiff:

Then we have an amendment to that amendment by the Minister, which Deputy Young has indicated he will accept. So I invite the Minister to propose that amendment.

5.6.1 Deputy R.C. Duhamel:

We heard from Deputy Young that his previous amendment ostensibly promoted an absolute form of material harm in a general sense and the better words that he agrees with is: "Unreasonably harm

the amenities of neighbouring uses including the living conditions for nearby residents.” I think this, in essence, is not just a question of semantics. It is a balancing exercise crucial to the determination of many planning applications, particularly those in the built-up areas, and that is why the amendment is being proposed. If agreed by this Assembly, this will enable much needed development and regeneration in urban areas to go ahead while providing appropriate safeguards for the amenities of neighbours. Deputy Young is supporting the amendment and I ask the House to do the same.

The Bailiff:

Is the Minister’s amendment seconded? [**Seconded**]

5.6.2 Senator S.C. Ferguson:

I wonder if the Minister would like to explain what “unreasonable” is. Give us an example of what unreasonable is.

5.6.3 The Deputy of St. Martin:

I can only agree with Senator Ferguson. I was going to ask the same question. Material is obviously something which the fabric has changed. Unreasonable sounds much more difficult to define and I would like also the Minister to tell the Assembly exactly where the rules for the level of unreasonableness will be found.

[17:15]

The Bailiff:

Does any other Member wish to speak? Then I invite the Minister to reply.

5.6.4 Deputy R.C. Duhamel:

As Members will know, planning decision making is judgmental and we have to balance a whole number of factors. So material harm, for example, might be a building being built next door to another building in a way perhaps that it ... it is quite difficult because there are a whole stack of differing examples. But the one I am thinking of at the moment will be if a building were to be built next door to another building that enjoyed particular garden and domestic curtilage and they built it within established standards and guidelines, away from your boundary walls and things, you could argue there was a material harm in changing the setting of the first building in relation to the new one. Unreasonability would presumably come into that in terms of the amenities that were enjoyed by that particular building prior to the application to post. An unreasonable example might be if somebody built a 20-storey tower block next door to a little cottage. Things like that. So I think “unreasonably” allows a flexibility and the determination to take place, which is absolutely right, and to balance out the merits of the applications, which is where the planning system is going, but just a statement of material harm could be identified perhaps as being absolute to mean that no development might take place because you would be changing things and you could argue harm in any context. That is my understanding.

The Bailiff:

All those in favour of adopting the Minister’s amendment kindly show. Those against. It is adopted.

5.7 Island Plan 2011: revised draft revision – approval (P.37/2014) – ninth amendment (P.37/2014 Amd.(9)) - as amended

The Bailiff:

We then return to the debate upon Deputy Young’s amendment as amended, does any Member wish to speak?

5.7.1 Deputy R.G. Le Hérissier:

Just to clarify further, he has given us an excellent background, but could Deputy Young just explain slightly why he did agree to go with the Minister’s new term of unreasonableness?

The Bailiff:

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

5.7.2 Deputy J.H. Young:

I was just re-reading, while the questions were being placed by Members, the paragraph in the inspector’s report on Friday about this. The case for my change is made that the inspector concludes that the term “serious harm”, which it is now, may be giving rise to misconceptions that developments must be permitted because when they are not harmful enough and they are not to warrant refusal. Obviously he recommends that that really needs to be clarified. There was a debate about the word “material”, and the problem about “material” is that basically anything is material. I put my amendments before Deputy Duhamel’s amendment that “material” would be the criteria and “material harm” would rule out anything because it means that any development that had any impact whatsoever could not be permitted. Of course one cannot disregard the fact that the sequence of development are St. Helier and then the built-up areas and one would be at risk of saying there should be no development or no intense development in the built-up area, and we would never use sites more effectively. They came out with the idea of unreasonableness because interestingly enough I have to accept, I did not really know this, but apparently planning inspectors are well used to interpreting the word “unreasonableness”. It is a normal planning concept and of course I had in my mind that these very inspectors who are dealing with the inquiry are the very people that are going to be deciding this on appeals. So I thought if they are telling me this is the right thing to do, and they feel they can judge unreasonable, who am I to say no? There were some other elements in the proposition that I accepted were a stage too far. I think this is the modest level of change. It is a really important thing to have built-up area policies. I know it is just a few words, but it really is significant, so I ask for the Assembly’s support.

The Bailiff:

The appel is called for in relation to the amendment of Deputy Young. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 32		CONTRE: 2		ABSTAIN: 0
Senator A. Breckon		Connétable of Trinity		
Senator S.C. Ferguson		Deputy of Grouville		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				

Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

The Bailiff:

The next matter therefore is amendment number 11 lodged by the Minister for Economic Development. Minister, are you happy to commence this one now?

Senator A.J.H. Maclean:

I am in the hands of Members. I think probably not. I am getting some shakes of heads around the Assembly.

The Bailiff:

Because this is not accepted by the Minister, as I understand it.

Senator A.J.H. Maclean:

No, that is not the case but I will be wanting to say a few words, so I am just wondering about the time in that respect.

The Bailiff:

Very well. Is the adjournment proposed?

Deputy J.M. Maçon:

Can I propose the adjournment please?

The Bailiff:

Then we will adjourn at this stage and we will reconvene tomorrow morning at 9.30 a.m. when we will continue with the eleventh amendment lodged by the Minister for Economic Development.

ADJOURNMENT

[17:21]