

STATES OF JERSEY

OFFICIAL REPORT

In Camera

TUESDAY, 26th JUNE 2012

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[14:50]

PUBLIC BUSINESS

1. Statement made ‘in camera’ on 8th December 2008: release of transcript (P.48/2012)

The Bailiff:

Very well. Just before we proceed, Deputy Higgins you will now wish your piece of paper to be circulated to Members, I understand? The Greffier advised me they have been numbered and I think the best course from everyone’s perspective is that at the end of this debate, if it is lost, then they should be surrendered back to the Greffier and all recollected, so I hope Members will agree to that. Clearly if the debate is won, then they can be kept because it will all become open.

Senator I.J. Gorst:

Sir, I could not agree more with your statement there. Could we ensure that the usher distributes in a numeric ... obviously it is going to be in numerical order so that we can know if one is lost ...

The Bailiff:

What I think we will do, Chief Minister, at the end of this debate, before we move on to the next one I shall ask the usher to collect from all Members here the ...

Senator I.J. Gorst:

We must be able to make sure that the numbers are correct and have been handed in, Sir, yes. Thank you.

The Bailiff:

Yes.

Connétable D.J. Murphy of Grouville:

Perhaps it might be more convenient if the Members names were put on the pieces of paper.

The Bailiff:

Well, that would be the best one of all, I suppose. Very well. That might take a moment, will it, Greffier?

Senator L.J. Farnham:

Well, I wonder, Sir, if we are capable of writing our own names on the paper. Like we used to do at school.

The Bailiff:

I am sure Members can be relied upon to comply with the spirit. So perhaps Members would write their own names on the document which is being handed out. So if Members just write it on the front cover, the name of each Member. Deputy, do you want to wait until they are all distributed before you continue?

Deputy M.R. Higgins of St. Helier:

That is beneficial.

The Bailiff:

Very well. I think it will be sufficient for Members just to write their name on the front page.

Senator I.J. Gorst:

Sir, perhaps the Deputy could provide a clarification. Am I to understand it that this is not the full copy transcript, or is it, Sir? Or is it just simply an extract?

Deputy M.R. Higgins:

It is both. There is an extract of the main pieces that I am going to be referring to but there is a full transcript so that everybody can see that it is accurate.

The Bailiff:

I see, yes. Just to be clear, Deputy, the Greffier has advised me this is not the extract from Hansard, this is what you have produced from your notes of looking at it. Is that right?

Deputy M.R. Higgins:

Yes, Sir, and I stand by it. I spent 10 hours going through all the original transcript and making sure every capital and hyphen is in place.

The Bailiff:

Yes, I am sure of that but it is just so Members are clear it is your record of what was said rather than the official.

Senator L.J. Farnham:

Sorry, Sir, just to be clear then; it is not a full transcript? It is excerpts, because it does not exactly match Hansard?

The Bailiff:

No, I think Deputy Higgins has said that it is full. Is that right, Deputy? You have recorded everything in here, you say?

Deputy M.R. Higgins:

Yes, Sir, I have taken the open session and then added the closed session to the back of it. So everything that was said on the topic is contained here.

The Bailiff:

So where does the closed session start? The full record of the closed session; where does that start?

Deputy M.R. Higgins:

It is about the seventh paper in. It says: "States Members eyes only unless proposition is approved. *In camera* proceedings."

The Bailiff:

Very well, so from there until the back is your record of the full record of what was said *in camera*?

Deputy M.R. Higgins:

Yes, Sir.

The Bailiff:

Thank you. I hope that clarifies the position. Now, does everyone have a copy of this document? Very well then, Deputy, please continue.

1.1 Deputy M.R. Higgins:

The actual *in camera* question answer session revolved around 2 issues. The first issue was concerned with whether the Minister for Home Affairs of the day had correctly followed the procedure laid down in the Disciplinary Code for the Chief Officer of Police or not. Now, there were a lot of things on that, I am not going to be addressing that part of it at all. And in fact, that was answered by Mr. Napier who carried out the inquiry into this issue and is referred to in paragraph 107 which is on page 2 of this document. So if you look at paragraph 107, you will see

what he feels. He felt that there were failings in the procedures that were adopted and you can read it there and see why he felt so. The second part of the debate was concerned with the interim or preliminary report of the Metropolitan Police into the conduct of the historic child abuse case into Haut de La Garenne. The Minister has made various statements and they can be read starting on page 4, extracts from the *in camera* debate headed: "Extracts from the *In camera* Debate, 2nd December 2008, regarding the suspension of Chief Officer of Police." What I have done, I have just taken from the transcript every reference to the report and you will see from this document that the Minister said: "Members will be aware that an investigation has been carried out by the Metropolitan Police and I was presented with a preliminary report on the basis of that investigation. So far as I am concerned that is the preliminary investigation. I acted on the information contained in that in order to pursue a disciplinary investigation." The key words here: "I was presented with a preliminary report" and "on the basis of that investigation", and then he acted. If we look at the second one, he starts off by saying: "Having Ministerial oversight of the investigation in question, I began to ask a number of questions and it would seem right and proper to appoint another force to investigate such matters the Chief of Police agreed to. The result of that is some fairly damning evidence about the command controls and supervision of that investigation." Now, again, he says: "The result of that report was damning evidence by the command and control." So, yes, the process was adopted and: "The outcome was a report that was presented to me." This was the key part. Presented to him: "That gave me absolutely no choice other than to suspend the Chief Officer of Police in order to investigate the allegations of gross misconduct in terms of management, supervision and control of quite considerable sums of money and quite considerable resource." If we could then go to what Senator Syvret said, paragraph 1.1.17: "The Minister has made reference with great store on the preliminary or interview review by the Metropolitan Police, but having taken the action he has done that review remains incomplete. It is not yet finished. No final review document by the Metropolitan Police has been produced." The reason why he says it has not been finished, he says: "I know, because I have contacted Mr. Sweeting of the Met. (Metropolitan Police) and I know that he still has got a great number of people yet to interview; germane witnesses. So does not the Minister accept that his actions have been pre-emptory and quite unacceptable given that the Met. review itself was not complete?" Now, again, and this is again the key phrases, really. The next paragraph, the Deputy of St. John: "As far as the accusation you raise by the Metropolitan Police, when I saw the preliminary report I was astounded so much so that my actions, I believe, are fully justified. If the preliminary report is that damning, Lord knows what the main report will reveal so my successor will have an interesting time. The report that I was shown gave me no doubt at all." The truth of the matter is he did not see that report and the evidence for that is cited on the first page of this document. If you look at the start of paragraph 101 in the Napier Report: "As previously has been noted, neither Mr. Lewis nor Mr. Ogley saw the interim report nor did they seek it." Further down, paragraph 104: "Since the interim report provided by the Metropolitan Police was not seen by either the Minister or the Chief Executive, reliance was placed on the summary of its contents contained in a letter sent by Mr. Warcup to Mr. Ogley on 10th November." So what we are saying, in effect, is, I am saying that the Minister lied and, in fact, I have to say that because as you look through the documents you will see he repeatedly talks about this report and Members were influenced by it.

[15:00]

Deputy Le Claire for example: "The Minister has made reference to the Metropolitan Police report which, as an interim report, he has described as alarming. As an interim report, he has said that that has swayed and made his decision." Something he has relied upon. The truth of this matter is Members were influenced by that and, therefore, possibly they were not as vociferous or questioning as they might have been. How many of us, had we been in the Assembly on that day,

would think there is fire along with the smoke, there is far more to it. He has a report. It is damning and so on. So the Minister was quite categoric; he had a report from the Metropolitan Police. He never did and that is where he misled the House and I do not believe the Minister should be allowed to get away with that. So in other words, we have had a situation where the Chief Officer of the Police... and I am not going into the reasons for his suspension subsequently because they are other issues; I am talking about the original suspension. Now, the Minister made the suspension because he has the power under the law to do so but he came to the House with a statement which was highly misleading. As I say, the basis of my argument is that I do not believe that with such a blatant case I can be charitable and say: "He slipped-up at the beginning" but the report was mentioned time and time again and I believe that it should not go, I say, unpunished in the sense of not revealed. I, personally, was not happy with the suspension of the Chief Officer of Police as regards the first suspension was concerned and, quite honestly, I felt that this had been a total denial of natural justice and what we have here, then, is the first one was totally unreasonable. In fact, if you look at the comments in the Napier Report in the first 2 pages, you will see, for example, the Solicitor General, who is now our current Attorney General, gave advice to Ministers beforehand that before they took any action they should make sure that they have the evidence, first of all; that there is a report from Metropolitan Police; it should be unconditional. It was heavily conditioned; they had not finished it, they had not spoken to everybody. It could change, and that before they did anything they should take that on board. So they had advice, and the Minister also said how he took advice. He did not take advice in this case. He did not see the report. He did not have the evidence. He may have been misled. There are questions about whether Mr. Warcup, by the time the former Acting Police Chief had told Mr. Ogley or Mr. Lewis, that it was a qualified report but, as I say, this Police Chief was condemned on the basis of a report that the Minister had not seen. So that is basically the argument. Other than that, I think it is an appalling state of affairs but I do believe that we should release a transcript and let the public know the truth about how he was really suspended in the first place. Again, it is not a case of saying there was not a justification for the second or third suspension or whatever the case but what Members have to understand is that although evidence was produced in the Wiltshire Report, and some of it was highly damning or highly critical, and I must admit I did think myself there were some aspects that I thought: "There are certainly some things the Chief of Police is going to have to answer for here" but the point is, he never went before a tribunal or a court and he has never had the opportunity to present his own case, his own answers, to the allegations in the Wiltshire Report.

The Bailiff:

I think that is going off the point a bit.

Deputy M.R. Higgins:

I am not trying to get into the other thing. I am just trying to make the point that I am not saying that subsequent suspensions were not justified. I am saying in this particular case I do not believe it was justified and I believe the Minister misled the House on it and I think that we should publish that information.

The Bailiff:

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

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

Just a couple of points which perhaps the proposer might be able to deal with in his summing-up. I have followed his argument and I can understand that there is a question over the report that was relied upon but as I read it, and I have just had a quick glance, the report of Brian Napier QC, mentions on the first page, numbered 104, says: "Since the interim report provided by the Metropolitan Police was not seen by either the Minister or the Chief Executive, reliance was placed

on the summary of its contents contained in the letter sent by Mr. Warcup to Mr. Ogley on 10th November. If you look at the extracts from the *in camera* debate, you will see it was on 2nd December. I do not know, necessarily, what the former Minister for Home Affairs at the time exactly what he was referring to but it is quite likely that the report that he was referring to was, indeed, the summary that Mr. Brian Napier acknowledges was contained in a letter sent by Mr. Warcup to Mr. Ogley on 10th November. So if that is the case, we are going to have extreme difficulty in determining whether the report that is referred to which, indeed, was a summary, presumably reflected the main points of the interim report and it was that which was relied upon, rightly or wrongly, by those at the time to determine the actions that they took.

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

I do not feel that I am going to be able to support this proposition. The proposer has given us a reasonable sized document to read and to new Members here who have not had the benefit of sitting in the last House, this is all new. We are trying to listen to the debate, read the document at the same time and then pass judgment that has been well made. I do not think I can do this justice in the period of time we are going to be here. So I will not be supporting the proposition.

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

In studying this material it is clear to me that I was misled and that Members of this Assembly were misled by the then Deputy of St. John. The clarity of this information is manifest. On side 4, there is a clear statement in the debate of 22nd December *in camera* where the Deputy of St. John says clearly: "I was presented with a preliminary report. On the basis of that investigation, I acted on the information that was contained in that. In order to pursue a disciplinary investigation it was necessary to suspend the police officer." So it was a clear statement from the Deputy of St. John that he saw the report and acted on it. Yet, on page 101 in the report by Mr. Napier, it says clearly: "As previously has been noted, neither Mr. Lewis nor Mr. Ogley saw the interim response, neither did they seek to see it" and it then goes on to give reasons. Furthermore, that is confirmed on 22nd June on side 3 of this document in a statement by the Minister for Home Affairs, I presume the current Minister for Home Affairs, where he says: "Both letters were considered by the said Minister in relation to the original suspension of the Chief Officer of Police but the Minister for Home Affairs did not see the said interim report." In other words, he acted on a partial extract of that report in letters he received and yet he states clearly: "So far as I am concerned, that was the preliminary investigation. I acted on the information that was contained in that in order to pursue the disciplinary instigation." It seems to me this House was misled and I believe that given the public concern that has been expressed and has been rolling-on for the past over 2 years now that information should be released to the public and as the proposer of this proposition has said, having looked, admittedly fairly briefly, through the entire Hansard I do not think anybody in there has anything at risk from having this particular document released to the public. So I will be supporting this proposition.

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

I do have concerns, unlike others, not dissimilar I suppose to the Deputy of St. Martin, having been Deputy of St. John on 2 occasions prior to this and after this all going ahead. But I do have some concerns and I presume that it happens to many of us at different times. You are put in a position of authority and you act with the evidence you have at the time and at that particular time, and I have not had time to read all of this in the short time we have had it, which is of concern, but you deal with incidents with all the evidence you have in front of you at the time and I presume that the Deputy of St. John of the day, or the Minister for Home Affairs of the day, dealt with this in that particular way. He was given evidence. He had to make a decision. He was the final person to make that decision, or the only person able to make that decision, of having to suspend a person or

not. Given that I would have thought things were moving at quite a fast pace, and I am only assuming this, Sir, and you will know and I am sure have had to make some decisions sitting in your time on the Bench, with all the evidence that is given to you at that time. If further evidence comes to light at a later time then there is cause for an appeal or whatever else. But I have to say that from my understanding of things and, as I say, it is from the outside looking in, that you must take that into account. No matter what is being said here by my colleagues today, I am having difficulty in saying that I could support this because I have not had all the evidence. We are dealing with this *in camera*, which is fine as far as that is concerned, but as far as going further than that, without the former Minister being here to answer for himself, we are somewhat in the dark and I would not like to be the person sitting in judgment of somebody who was not here in front of us and able to answer for himself and I do have concerns and I do not think I can support it on those grounds.

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

I do have some sympathy with the Deputy of St. Martin as he feels as a new Member he cannot do this justice and I say that because I chaired the review into BDO and all the expenses, the costs, that hopefully go in, and I feel I am reasonably well placed to have an opinion on this and it has certainly been disquieting to me and the other members of the panel. There has been this continued reluctance for the media, and other Members I would have to suggest, to acknowledge the complete rubbish of a man's reputation and not only that, but what unveiled. Now, I do not want to go into all of that. I know this is not the place. However, the complete myth that Power and Harper wasted £7.5 million... and it worries me that we have had almost no media coverage; in fact, they misled the public the other way to try and perpetuate this demonization of an individual. I sat through all that evidence and I am fully aware - as much as anyone can be - that there were some shortcomings in the actions of the former Police Chief and the acting officer in the inquiry. However, I would urge Deputy of St. Martin to change his mind and do support this motion because, as Deputy Higgins said right at the start, this is really about the integrity of the Assembly. Ministers, okay. The individual is not here now but they must be held accountable for their actions and, more importantly, the public have a right to know if those actions were correct. Whether it was through error that they were wrong or something more sinister we will never know what the reasons were. However, as the Deputy also highlights, a direct consequence of the action taken by the then Minister for Home Affairs was a huge amount of money spent on a suspension, on the basis of the way the decision was made, was not justified in any way whatsoever and the facts demonstrate that quite clearly.

[15:15]

That has to be seen as completely different to what happened later. We can surely not as a democracy work on the way of: "Well, we will act now, suspend someone, and we will find the evidence to make it fit later." That is not the way a democracy should work and I hope all Members would agree. Perhaps as important as the £1.5 million or so that was wasted as a result of this decision has been the huge dip in confidence in the States Assembly by a significant number of the public. Rightly or wrongly, they do think there have been cover-ups and without that foolish process of all this secrecy, I think it would have been a lot easier to highlight what was wrong with the historic abuse inquiry. What those failings or shortcomings were for those individuals. But it is this horrible - I do not know what the term is really - but this horrible gathering together and batten-down-the-hatches and we will not look at this again. That is the attitude which people who speak to me are very, very uncomfortable with. The Constable of St. John, as he is now, said that you sometimes have to react with the evidence that you have in front of you and that, of course, is certainly true. But what you should surely not do is make that evidence up. I am afraid that when

you look at the cold, hard fact, if someone says that they have read a report, which the evidence proves that they never had seen, what message does that send out? Should that be kept from the public? That the Minister for Home Affairs had never seen that report yet he told this House he had. Far from it being damning, as we now know from the inquiry, from the police complaint's body, that report, that interim report was not damning at all and that is in black and white. Any Member can find that out and read it. So what we have here, and because we cannot say "lie" in the States, I appreciate that, but the House at that time, and I was not in it then, they have been misled. Even worse than that, the public has been continued to be misled for years. If we do not go along with the proposer, we are sending out the message that, yes, the hard evidence is there, all of us are a new House, a new Assembly, we can see that there has been an injustice done, there has been an error, but we are not going to tell the public. What would that suggest to me as a member of the public? I would assume a cover-up and so off we go again. There are conspiracy theories. The evidence is, and I know that Deputy Higgins does not really want to go *in camera* in secret and nor do I. I agree with what another Member said; we should be open absolutely as much as possible. But what the Deputy is trying to do is just right a wrong. He is not seeking to reopen all the arguments about what those shortcomings were. We know... as I say, I know there were shortcomings in the historic abuse inquiry but that does not justify keeping up this falsehood that his original suspension was merited. It was not. It was done on the basis of something that was not true, on a Minister who had not seen a report, on a report that, even if he had seen it, was not damning as he told Members. How is that acceptable in a democracy? I would have to say, and if I upset a few people, well, it has never worried me before but then I would have to say that Members who think that is okay should hang their heads in shame. This is not about black and white, left and right, who did not like what - sorry, I nearly said his name. Well, I can, can I not? I am *in camera* - what Mr. Power did. This is about the process by which he was suspended. It was completely wrong. It was flawed. My own belief is that there was something sinister involved but, as I say, we will never know that. Deputy Higgins is not seeking to find that out. He is seeking to put into the public domain the true, hard facts and that is something that every Member in this Assembly should support because it is about natural justice and whatever we thought of the former Chief Officer, his reputation has been absolutely ... I cannot say trashed, I suppose, but it has been attacked. It has been ruined and quite unjustly in many aspects. If new Members do not understand that, go and read the BDO review. Read the document Deputy Higgins has put before us. This deserves support of Members and I really do hope they will all do that.

1.1.6 Deputy R.G. Bryans of St. Helier:

We seem to have wandered off the path a little bit here. I feel that I understand what Deputy Higgins has brought to this Assembly. But I am very concerned and I support what the Deputy of St. Lawrence and the Deputy of St. John has said, it seems now that there are 2 germane documents that seem to be missing and that is the summary provided by Mr. Warcup and the actual interim report itself. Because if these 2 things marry-up and look very similar and the content is germane to the whole situation, then there is not, as the Connétable of St. John says, that to me seems, as he said, in the middle of all of that situation with it in full flow you would have to make your decisions as you go along and although I totally understand where Deputy Higgins is coming from, I think those 2 documents would now have to be discovered by certainly the new Members who have not been party to all of this and so I could not support this motion.

1.1.7 Senator P.F.C. Ozouf:

I do understand the frustration of Members but I think that we are not in a position to be able to release information that was collected and expected to remain *in camera*, I think as a matter of principle. The Deputy believes that the former Minister has said something incorrect. I do not know. I am in the same position. I was in the debate. I simply do not know. The difficulty is that

I do not think that we can publish a transcript because it reveals also other Members' questions which they had a legitimate expectation that would remain secret. It was an *in camera* debate. The point has already been made that the Le Pas transcript, it was agreed before we started that debate that it was going to be published. There was no such agreement in this. So I am told that parliaments in other places rarely go into camera and perhaps that is the real lesson in this; that we should not go into camera, we should debate this in public. Even this. I voted against us going into camera today. The result of publishing this transcript is, no doubt, that the former Minister's reputation will be blackened by simply publishing it and I cannot help but feel that if there is a case to be answered by a former Minister then this needs to be dealt with in the proper way. Just simply publishing a transcript but without all the information and the other supporting information is not the way to deal with it. So I do not know whether there is a problem. It is a matter of principle. An *in camera* debate is an *in camera* debate and it must remain so.

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

I believe there are 3 questions that Members need to consider before they commit themselves to voting one way or the other. Firstly, will the publication of this *in camera* transcript prejudice any individual whether in the States or a former Member of the States? Secondly, whether the publication will prejudice the process of having *in camera* debates in the future? Thirdly, and perhaps most obviously, will publication achieve anything at all? First of all, I know this transcript pretty well because I was a player in the proceedings. I successfully argued for the questions on the statement to be prolonged so that we could pursue the Minister about a number of issues. Members who have had a chance to see it will note, and I am not trying to blow my own trumpet, but I certainly saw warning signs during this reading of the statement that the disciplinary process had not been followed properly and further down the track I could see a very expensive P.R. (public relations) disaster for the States and all sorts of other things which, more or less, is what happened. So I remember it very well and I am pretty sure, unless Members can point me to a comment in the transcript which disproves my view, but nothing in this transcript if published, if made public, would cause anyone any problems. Let us be clear about one thing; when we speak *in camera* as Members of the States, we speak freely but we speak the truth and we must know at the back of our minds that whatever we say *in camera*, although we are perhaps less worried about getting some things right, less worried about offending people or naming people, we must know that we have to speak the truth and it is always possible because the Assembly is the master of its own procedure. That any debate, any transcript, will one day be made public. But as I say, looking at the comments by individual Members, including those of the former Minister, I cannot see any problem with publication. The reverse perhaps applies, and Senator Ozouf talked about the danger of blackening the reputation of the former Minister for Home Affairs. Deputy Higgins has already impugned the reputation of the former Minister and Deputy of St. John and he did that in open session before we went into camera. If I was a former Minister, I think I would rather this transcript was published because then I could defend myself and say: "Well, what was said there, if you look at the paragraph concerned, I honestly thought I had seen the preliminary report and not just a letter from a police officer." So I think I would rather it was published and, certainly, in terms of other States Members' interventions during the *in camera* section of this questioning on this statement, I see nothing there that would cause any Member embarrassment at all. I think the other point is Members are trying to get around the problem by saying: "Well, the Minister did not really say he saw a report. What he meant was that he saw a letter." Now, I just want to draw Members' attention, and this might cause the former Minister some embarrassment, but I would not say it would blacken his reputation, but certainly, in several places as the questioning became more intense, he said: "I was presented with a preliminary report." He says, again: "The outcome was a report that was presented to me that gave me absolutely no choice." He then calls it: "Fairly damning evidence." "When I saw the preliminary report, I was astounded. If the preliminary

report was that damning, Lord knows what the main report will reveal” and at that stage the Bailiff wisely corrected him because he was forgetting what he said at the outset about the suspension being a mutual process which implies no criticism: “The report that I was shown gave no doubt at all.” He is not referring to a letter. He says again: “I have read an alarming report from the Metropolitan Police.” I must have quoted there 8 occasions when that report was referred to. I do not know why the Minister of the day did that but all I know is that he has a right to explain why he did it. He is not going to get that right unless this transcript is made public. The second question I asked was whether this would prejudice the future *in camera* debates. The question has already been interestingly put to us, I think, by Senator Ozouf that as we could review, perhaps P.P.C. should review the use of the *in camera* debates anyway. In fact, this morning I have made a note that we must review the use of censure motions and this afternoon I made a note that we must review the use of *in camera* debates because both, it seems to me, have occurred on the same day and they both require looking at. But as I said a few minutes ago, an *in camera* debate does not absolve Members for speaking with their conscience, for speaking the truth and nothing we say in this Assembly, whether it is *in camera* or not, we should never assume will be hidden from public scrutiny one day in the future. Thirdly, will the publication of this transcript achieve anything? Well, certainly, it will clear the air; it will allow the various parties involved in this to discuss what took place. It does, I think, as I perceive myself in my questions, indict the process that was followed in the suspension. Whatever you think about whether it was deserved and whether the police officer in question was doing a good job, there is no doubt about it that the removal of the Chief of Police was clumsily executed and turned out to be very expensive for the States of Jersey and, of course, very distressing for the individual concerned. So I think we are kind of in a position now... because the Deputy has raised it and I take my hat off to him for doing it because he has been doggedly pursuing this where others involved have tried to move on, and maybe that is our failing and his strength. But I take my hat off to him. He has done his research. An injustice was done under the cloak of an *in camera* debate and, therefore, I think it is right that it is published and I would urge Members who have said they are not going to support it to reconsider because, I am afraid, that history will out. Eventually history will take a view on this and the sooner the transcript is available for people and historians to look at, the better.

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

I, too, felt extremely uncomfortable with supporting this just like my fellow newbies in front of me, Deputy Bryans and Deputy Luce of St. Martin.

[15:30]

What I am hoping is that people that were there do speak and advise us exactly that happened because it is very difficult to look at all this information in a short space of time and make a judgment. Since I did press my button, however, I am extremely grateful to the Constable of St. Helier and Deputy Pitman, Senator Ozouf, and that perhaps will help me and I hope others do speak on this to help with the new people that did come into the Assembly to make a decision because I am supportive of open government as much as possible.

1.1.10 Connétable J. Gallichan of St. Mary:

As I mentioned earlier when I spoke, trying to get my thoughts in order about whether we should go to camera or not, this gave me a great deal of concern especially, I think, for exactly the reasons Senator Ozouf has said; the more we are *in camera* the harder it is to keep our thoughts straight and to be fully accountable. But I have to say I do not believe I will be able to support this proposition. If I take it down to the fundamentals, Deputy Higgins says he is trying to right a wrong but in the process of doing that he is doing much more. He is seeking to publish the transcript of an *in camera* debate when, as I said, research that the previous P.P.C. did in similar but not identical

circumstances upheld that what is said in *in camera* debate has very serious implications if it is revealed. Obviously, if it is revealed without the express authority of the Assembly it is a breach of privilege and that is a very different thing but Members, when they are in an *in camera* debate, have an expectation that they can speak freely and confidentially and that is something that if we allow this transcript to be released, we are, perhaps, jeopardising in future ... we have heard that this has been done before only when the States, at the time they were debating *in camera*, agreed that after a certain time limit the transcript would be released. I was expecting to have my decision made easier by what I was expecting to be a revelation from Deputy Higgins as to exactly what it was that he had discovered that would make me understand that this was an important thing to do and that is the thing that is missing because I have not had that from Deputy Higgins. I have had excerpts and the transcript highlighted to show several times the reference to “preliminary report” and the assumption is that that preliminary report was the interim report and, therefore, the Deputy of St. John at the time was saying he had seen the interim report when it was later revealed that he had not. But if you simply read the transcript and understand the way that the Deputy of St. John expressed himself habitually and how you knew how his mannerisms, et cetera, were, he says: “I saw a preliminary report” as if I was given some information at the beginning. It is not, necessarily, I would put it to you “the interim report” and if we are hinging the entire possibility of changing the way we look at *in camera* debates and the release of transcripts on the interpretation of a couple of words, I think the Assembly does itself no justice at all and I really was expecting a more cataclysmic revelation from Deputy Higgins than what he has given, and from that point of view I really am at a loss as to how we justify the trade-off between our tradition and something that Members have come to rely on as being very important even though it is to be used extremely sparingly, i.e. the *in camera* debate. We have no way of knowing unless we talk to the former Deputy of St. John exactly what he meant by that and, therefore, I really cannot see that the basis for making this transcript public has been made, that the case has been made at all by Deputy Higgins. If he has something else that he is relying on then it is unfortunate that he has not said it because, of course, in summing-up he does not introduce new information, he just sums-up. So on the basis of the fact that the Deputy has not given me any hard facts about misleading but has simply put his own interpretation on the transcript that is there, I will not be able to support this proposition.

1.1.11 Senator F. du H. Le Gresley:

I am pleased to follow the Connétable of St. Mary because she has virtually made all the points I was going to make. There is a difference between the words “preliminary” and “interim”. I have been involved over the years in doing reports for various matters and you sometimes issue preliminary findings, you then produce your interim report and then you finalise it with your final report. The Deputy for St. John in the Hansard report we have here always refers to the preliminary report and, therefore, I would conclude, as the Constable of St. Mary has and possibly others, I think the Deputy of St. Ouen also made the same conclusion, what he was referring to when he was referring about his preliminary report was the report from Mr. Warcup. So he was not intent, I do not believe, on deceiving the Assembly at all. He was referring to an initial report that he had from Mr. Warcup. Now, other Members, and in particular Senator Syvret, introduced the word “interim” report in one of his comments and also Deputy Higgins has provided us with the excerpts from Mr. Napier where he talks about the interim report. He does not talk about the preliminary report which I would again, in common with others, suggest that that was the letter from Mr. Warcup on which the Deputy of St. John at the time made his decision to suspend the Chief Officer of Police. So I share the view of the Constable of St. Helier that to put this in the public domain is not going to do any harm at all. In fact, it will clarify the issue because if we do not and we have this debate today *in camera* and nothing comes out of it, the conspiracy theories will continue and the former Deputy of St. John has the opportunity if he wishes - he has no obligation to do so - to clarify what he

meant when he said “the preliminary report”. To me, I can only conclude, he had the letter from Mr. Warcup and it was on that basis he decided to suspend the Chief Officer of Police at that time. He had not had the interim report and he obviously had not seen the final report. I do not think he did anything wrong. He worked on the information that he was provided with. So I think Members’ decision is quite simple. Put this in the public domain. Let the former Deputy, if he wishes, comment but to me there is a distinct difference between the words “preliminary” and “interim” and I think in any of these sort of debates it is the accuracy of words that matter. Some Members were present. I was not, obviously, present but when we have only had, as a couple of Deputies have pointed out, a few minutes really to read these transcripts in depth but the 2 words stand out to me. He refers to preliminary. Deputy Higgins and Napier refer to an interim report. I am sure they are 2 different reports and, therefore, I see no harm in this transcript being released.

Deputy T.M. Pitman:

Could I seek clarity from the speaker, or perhaps yourself, I am not sure which. It is just that the Minister referred to a report from Mr. Warcup. As far as I know, and I have been in quite ... there is no report. It is a letter and the others are reports so I just wonder if that can be clarified because I think Members could get confused. There is no report from Mr. Warcup.

Senator F. du H. Le Gresley:

My assumption and, of course, I was not there, but the preliminary report which the Deputy of St. John refers to is the letter from Mr. Warcup. That is my conclusion from reading these transcripts.

1.1.12 Deputy M. Tadier of St. Brelade:

I am minded to and I will go with the Chairman of P.P.C. - not the former chairman but the current chairman - when he says that just because a debate takes place *in camera*, and I am paraphrasing here, that it does not resolve Members from acting with their conscience and giving thorough and frank information. Just as a little aside, Members will know that there are various reviews going on at the moment. We are conducting a Machinery of Government review. We are at the point when we are interviewing the chief officers and other officers and when we get them in there, we say: “You can speak freely with us. It is all confidential. We are not going to release anything.” The chief officers say: “I am not going to tell you anything that I would not tell you if it was in a public forum anyway.” That is very circumspect to do that because they probably know they are covering themselves but also because they are people of integrity. The facts do not change just because you happen to be *in camera* and I think that is the salutary reminder. The Constable of St. Helier, the Chairman of P.P.C., stole my first line which was we give him a chance to defend himself if we put this in the public domain. At the moment he cannot do that. He may not want to but clearly, if there is a benign explanation for why he called what we are being told is a letter, he referred to as a preliminary report, then he should be able to explain that very quickly to the cameras when they ask him the questions. I do think that the Constable of St. Mary has underplayed this somewhat. She is a fellow linguist like myself. She knows the importance that a very small change in a word can make. The difference between “the” and “a”, the difference between a definite article and an indefinite article, and she referred to the letter. She called it and was hypothesising that the former Minister for Home Affairs saw “a” preliminary report. He calls it “the” preliminary report which I think is significant. It is something tangible. It is a definite article. It was the preliminary report. He was so astounded by reading this preliminary report, we are told, on page 4: “So much so that my actions, I believe, are fully justified. If the preliminary report is that damning, Lord knows what the main report will reveal.” This is a report. It is not simply a letter which he is referring to. If somebody has seen a letter then the question is why is not the letter circulated? You do not usually see letters that are that damning and you do not tend to refer to letters as a preliminary report unless something is going on and, in fact, we know subsequently that he said he had not seen

the preliminary report. We know that the Police Complaints Authority, following a complaint from Deputy Inspector Harper, he had made complaints and the Complaints Authority say: "Well, it is not damning and it is heavily qualified" and this was not given at the time. So I think any States Member would have a right to feel completely aggrieved by what was clearly some kind of misrepresentation of the document he had, the misrepresentation of the facts. There might have been good reasons but I would like to hear what they were and I think the public would like to hear that. If we had a Freedom of Information Law - which we do not have at the moment - which we did some work on with the previous P.P.C., this probably would not be coming to the States. I would imagine that the first step would be for an application to be made under the Freedom of Information Law, possibly by a member of the public, possibly by a States Member, and then there would be a body who would apply a test, which is called the public interest test. So they would be aware that under general circumstances debates that happen *in camera* are not released but public interest test is applied to that and if it is seen to be in the public interest, it would be released. Over and above that, we as States Members also have an internal test called our conscience and it is always to act in the public interest. I think simply by putting this information into the public domain, it can only be a good thing. There is more information out there. We know that transparency is hopefully one of the aims of our Government and it seems to me that the whole problem is alluded to by Senator Ozouf, I think, is that perhaps this initial debate should not have been *in camera* anyway. Perhaps we should not be using *in camera* debates. So this helps, right or wrong. It is proportionate. I think we should not be dogmatic about saying: "No, we should never, ever release any information that happens *in camera* because that is how Standing Orders work and we must not ever transgress them." I think we have to be slightly more nuanced and flexible in our rationality than that. If I can also say, let us live in the real world. I know there are some new Members there but the first point is that there is a bit of a nonsense about *in camera* debates. For example, I can quite happily give my speech to a member of the public, a constituent, and say: "I am going to the States this afternoon. I am going to give this speech and this is what I am going to say and it is going to be *in camera*." But the speech that I wrote when I wrote it was not *in camera*. When I give it to my constituent they have an absolute right to publish that, do what they want with it because it is my copyright on that speech and I have given them permission to do that implicitly. So if I happen to give the same speech that I had given to my constituent that was not *in camera* but it matches it directly, and there are all sorts of philosophical questions that one can raise around that. But enough with the hypothetical situations.

[15:45]

Let us get real here. We know that whether or not we release the transcripts here, within a week the transcripts as we have here will appear on some Jersey blog site. I am pretty sure that will happen one way or another. I certainly will not be the one releasing that because, clearly, my position on P.P.C. I have to uphold the privileges of the States but I am sure that another States Member, acting on his conscience or her conscience, might think this is in the public interest, the States have not made that decision.

The Bailiff:

You are not suggesting that any States Member is going to go back on what has been said because this is held *in camera*, are you?

Deputy M. Tadier:

I am advocating that they should not do that. It would be a terrible thing if they did that, Sir.

The Bailiff:

I think you suggested that somebody will do it?

Deputy M. Tadier:

I am suggesting I know how things work. I look at other jurisdictions and documents get leaked and, ultimately, States Members need to sleep at night and I certainly could not sleep if I had ever leaked a document but, similarly, I know other States Members could not sleep if they did not leak a document which they perceive to be in the public interest. With that in mind, let us take a pragmatic stance and say we have a choice here of releasing a transcript which, in reality, there is nothing particularly controversial in there said by other Members. It does give the former Minister for Home Affairs a chance now to talk on that issue and Senator Ozouf is perhaps quite right. Maybe this is not ideal forum. If we had a Select Committee which was doing an investigation into this whole thing, if we had a Committee of Inquiry with terms of reference to look at what the former Minister for Home Affairs said, then he could be summonsed to that Committee of Inquiry or to that Select Committee and he would be forced to give evidence under oath, presumably, to that effect. But that is not what is happening at the moment so I think we have to use our logic. We have to support Deputy Higgins here, show that we are open to accountable government. The last point I want to make which may be slightly uncomfortable is the conflict of interest. I would almost be willing to bet that those Members who vote against this will include the Members who have received some kind of assistance with their election campaigns from the former Deputy of St. John. We know there is no great secret that Andrew Lewis, after he left the Chamber, was going around offering assistance to States Members. We also know that in our Code of Conduct we are required to be as open and transparent with the public and accountable as possible. So I would just invite perhaps those Members who have been approached and received assistance, financial or otherwise, from Andrew Lewis who I believe works in P.R. in his current job to say that because it may be material to the debate.

The Deputy of St. Ouen:

This is a point of order. All States Members have had to declare what support they have had throughout the election period and it is public knowledge.

The Bailiff:

Thank you, Deputy.

Deputy M. Tadier:

I do not think that is the case. I think one has to declare particular funds. One does not have to say from whom the funds came. So if I employed a P.R. company, I would not be under any obligation to say if I was doing that.

1.1.13 Deputy R.G. Le Hérisier of St. Saviour:

I want to make a very short point. I totally accept the logic of the Constable of St. Helier. I thought he made a very good point and turned the subject on its head in the right direction. The only point I wanted to make as somebody who was there, is that the elephant in the room, of course, is the report and the contents of the report. Of course, we were so besotted, so to speak, by its importance and so forth that, of course, the whole debate hinged on whether you thought there were such major and damning matters in that report that the Minister simply had to act and that was the view put across in the debate. So I think rather than look at was the Minister consistent in whether he said he had or had not read the report, the point of the Constable of St. Mary which, while it is important, I do not think it is by any means the clinching argument. The real issue is what we cannot at all decide today which is, what was in that Metropolitan Police report and what was in that that apparently motivated the Minister to act as he did? We still do not know that and there is no way that as a result of today's debate that we will know that. That is all part of the bigger issue, unfortunately, and there has then been run subsidiary arguments that the report itself, some parties say, it was not a good report. Others, of course, argue adamantly that it was never taken into

account. That was a bigger issue; it was never taken into account. So I have no problem with opening up the transcript and following the Chairman of P.P.C.'s view but to me that is not the real issue.

1.1.14 Senator B.I. Le Marquand:

I have been holding back in this debate to see the direction in which it went before trying to clarify some details. The first issue, in my view, is whether my immediate predecessor misled the Assembly because that is what Deputy Higgins has said, in relation to whether he looked at and had seen the interim report of the Metropolitan Police. On the first reading of the document as presented by Deputy Higgins, I thought he was right but, in fact, I am very grateful to the Connétable of St. Mary and to Senator Le Gresley for coming up with an alternative view on this. Having now looked back through the documents I think they are probably right and I am going to explain why I have come to that conclusion. Firstly, on page 4 to the first section, you will see that the Deputy of St. John there says: "Members will be aware that investigation has been carried out by the Metropolitan Police and I was presented with a preliminary report on the basis of that investigation." So he uses 2 different terms; "investigation" and then "report." Then, unfortunately, he confuses the issue by saying: "So far as I am concerned, that is the preliminary investigation." That confuses the issue. But if Members would now turn to the next page, page 5, to the last section at the bottom, then I think that read in conjunction with the first 2 phrases on page 4, it clarifies things: "Whether or not I am purely acting on information contained in a report that was about an investigation into an operation which was code-named Rectangle." So, he refers to the police operation, code-named Rectangle, which was the historical abuse inquiry as an operation. We then have an investigation and that ties-in with investigation carried out by the Metropolitan Police and then a reference to a report and that, I believe, logically, following the reasoning of my 2 colleagues, must be referring to the letter and the letter which sent that letter to him; letter from the former Chief Executive accompanying a letter from the former Deputy Officer of Police, I think if I could use his name it would help - Mr. Warcup - because I get terribly confused.

The Bailiff:

You had better not because one of the propositions here is that this debate itself should be made public. So I think I would propose it remains the former Deputy Chief Officer.

Senator B.I. Le Marquand:

The former Deputy Chief Officer who subsequently became the Acting Chief Officer. I hope Members follow my drift. I think that, in fact, with respect to Deputy Higgins, and I did go with him initially with this, I think he has misunderstood what the former Deputy of St. John meant because he does, in my view, distinguish in those paragraphs between the report and the investigation by the Metropolitan Police. Unfortunately, it was not, in fact, an investigation by the Metropolitan Police at all but that is what he refers it as. In fact, it was a review of the general conduct of the case. It was not produced for disciplinary purposes but for assessment as to how the general investigation was going. But there we are. Having said that, I think that there are 2 possible approaches in relation to this proposition. The first approach is to say that the purpose of matters relating to the Chief Officer of Police being the ... discussions or debate or questions being *in camera* is to protect the credibility of the Chief Officer of Police of the time. The disciplinary matters were discontinued about 2 years ago. There has been considerable public debate and information in relation to that and, therefore, there can be no possible prejudice to him by virtue of this. In addition to the debate there was, of course, the Napier Report. That is one approach. The second approach is that where there is any debate of a matter that individuals who contribute to the debate must have the right to expect that what they have said *in camera* will remain *in camera* and

remain confidential and that is a very important principle that should not be overturned, and the effect of this proposition is to do that. I have found this extremely difficult because I understand both those principles. I think the first principle is right. That is a reason why the statute requires these matters to be *in camera* and I think the second principle is probably right as well; Members should be able to trust that what was *in camera* remains *in camera*. But if one looks at the particular transcript, much of the transcript is, in fact, questions and answers. It is not debate. It is not Members expressing a view on matters except, oddly enough, for the comments which exist under 1.23 of former Deputy Peter Troy, who expresses a very strong view in relation to the yet more former Deputy Police Chief - this is where I get into difficulties - and does circulate his name in that case. That does slightly trouble me. Would the former Deputy Troy of St. Brelade, when he said what he said, have been influenced by the fact that it was currently *in camera*. That I know not. I have not finally made up my mind either way on this but I merely set out the principles and some of the background for the assistance of the Members of the Assembly.

1.1.15 The Very Reverend R.F. Key, B.A., The Dean of Jersey:

Of course it would be entirely improper for me to express any opinion as to the rightness or otherwise of this proposition although I do want to applaud Deputy Higgins, if I may quote from Bunion “Valiant-for-truth” attitude to this subject. I just want to hold up a mirror to the Assembly, if I may, on 2 things. The first is that if the Assembly does go with this then I think we would need to understand that the definition of “*in camera*” from this day forward, and I look forward to Deputy Tadier correcting my Latin, would become a kind of *in camera nisi*, unless something else happens that means that the *in camera* would be overturned. That may well be the absolutely right thing to do but that would be a change because, as Senator Breckon very helpfully told us, the only precedent we have is where it was already said it would be unless and until something else happened. I think it means that we should be very careful indeed about the whole principle of *in camera* debates. I find myself in agreement with Deputy Tadier and with Senator Ozouf, that they are simply something that should not appear unless there is some great matter of national security, it seems to me that those who are governed have the right to know what those who govern them in their name and by their election are saying. I think the other thing I would not want us to forget, no matter which way this goes, is something that we have said in this House, if I can borrow Deputy Le Hérisser’s phrase “an elephant in the room” is that as an Island, as a jurisdiction, we do not exactly excel in human resources at the highest level and therefore however that is done it seems to me, whether it is the Council of Ministers or any other body constantly examining how we deal with those things at the top of those whom we employ, as well as at lower levels, is something that we should not put on a back-burner but have very much on a front-burner because we cannot undo the past. Whether this is published or not it will not reinstate people whose services were dispensed with, it will not bring back into this Assembly some who are no longer with us but it seems that for the future we can make a difference if we are prepared to learn the lessons of the past and that, it seems to me, is one of the great responsibilities of this Assembly which I hope Members will take to heart.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon Deputy Higgins to reply. I am so sorry, Deputy Power.

1.1.16 Deputy S. Power of St. Brelade:

Very briefly. I just wanted to say a number of things. First of all I found this very difficult to interpret because there is no page numbering and the vagueness with regard to what we are reading and what the word “report” means to me is very difficult to follow. That is the first thing I wanted to say.

[16:00]

It would have been far more helpful if Deputy Higgins had numbered the pages in the submission he has given to us. The second thing I wanted to say is on the extracts that the former Minister for Home Affairs, the Deputy of St. John, when he opened by saying: “Members will be aware that an investigation has been carried out by the Metropolitan Police and I was presented with a preliminary report” that could be an email report, that could be a letter, that could be a synopsis of what has happened. It is not specific in this text as to what he is referring to and he refers on the bottom of that page, which is the fourth page that we have, he refers to it again. He says: “I believe if this preliminary report is that damning, Lord knows what the main report will reveal.” So, again, he is referring to a report, which is a synopsis or some sort of briefing situation because I am quite sure ... and I knew the Deputy of St. John, he never offered me any help I can assure the Assembly. He never offered me any help on - not that I would need it - but he never offered me any help in promoting myself for political purposes for an election. Again, we have this vagueness as to what he is actually referring to in using the words “preliminary report” and Senator Le Gresley has referred to that. Then on the bottom of page 4 he refers to the fact that: “I am purely acting on information contained this time in a report.” He does not even use the words “preliminary report” and we do not know what the source of that report is, we do not know where it came from, and we are not sure who prepared it. Somebody else has said that this report that Deputy Higgins has presented for us, to a large part the front part of it is the more important bit rather than the question and answer session afterwards, but on the basis of my limited cerebral powers I find myself on very tenuous ground trying to interpret the source of this information that the former Deputy made these big decisions on, and again what I wanted to say was knowing the man he had obviously some information to hand which made him make these momentous decisions at the end of 2008. I do believe that he was acting, as somebody else said, on good faith. That is all I wanted to say.

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

Very briefly. As a newbie I have found this debate extremely difficult and I am grateful for 2 speakers, the Constable of St. Helier and the Minister for Home Affairs. I think they have clarified very much the issue for me because I certainly have sympathy with the tenacious work of Deputy Higgins in bringing forward injustices and seeking to take action to write them but of course these papers I found just as confusing as other Members have said and I could follow the transcript but I could not see the link to what reports have been around. I simply just do not know. I think for me, where I finished up, is that what people say in *in camera* debates, elected States Members, I think Members do need to be accountable for that and I like to think that we will be reviewing the rules for *in camera* debate in the future because I feel very uncomfortable where quite benign things on these transcripts are kept secret. Having read through I cannot find anything that is not benign, except the one comment about the former former Deputy Chief. I would like to feel that could be redacted because it is about another third party but other than that I am convinced now, having listened to the debate, and grateful to Members, that I will be supporting it.

Senator P.M. Bailhache:

I would like to speak but I would like to speak when we are back in open session.

The Bailiff:

At the moment, Senator, I think what the Assembly has agreed is this whole debate will continue *in camera*. That is the proposition put by Deputy Higgins, which I clarified, and so the whole matter is *in camera*.

Senator P.M. Bailhache:

I did not understand that. Does that mean that Deputy Higgins replies in public?

The Bailiff:

No, *in camera*. The whole matter is *in camera*.

Senator P.M. Bailhache:

The whole matter is *in camera* and the vote is taken in public?

The Bailiff:

In public. Yes. I am sorry, but I did specifically clarify that.

Senator P.M. Bailhache:

I am sorry that I misunderstood the position. I did want to say this in public, but I shall say it in private just the same, I think ...

Deputy M.R. Higgins:

Can I just come in for a second? The reason why, I am trying to help the Senator, part (b) of the proposition is this part of the proceedings can be released. If Members agree then this debate can also go out there. So, therefore, if you want whatever you are saying can go out to the public as well, even though you are saying it now.

1.1.18 Senator P.M. Bailhache:

That is very subtle of the Deputy, Sir, but I am not going to fall for that one. **[Laughter]** I think this has been a melancholy day which I have not enjoyed. It has been a day when we have regressed to the kind of personality politics which was so widely criticised during the elections last year and which I thought we had put behind us. We have seen the Minister for Treasury and Resources, I am afraid, treated with unfairness and now we are asked to agree that the transcripts of an *in camera* debate be released so that the reputation of a former Member can be dragged in the dust. We are asked to do this on the flimsiest of evidence and without hearing what the former Member has to say about it. I agree with the Senators Le Gresley and Le Marquand and I am not at all persuaded that there was an attempt or an innocent misleading of the Assembly. Deputy Pitman says that the integrity of the Assembly is in question and he is right. Even if the former Police Chief was treated unfairly, and I simply do not know whether or not that was the case, I do not think that that is a justification for treating the former Deputy of St. John with unfairness. The short answer for me is that the former debate, or the debate held on 2nd December 2008, was held *in camera* in accordance with the mandates of the law and it should take a very, very strong reason, in my view, for that to be overturned. There may be reasons why such a transcript should be released but at the moment I cannot think of such reasons. Of course a Member should speak the truth, whether they are speaking *in camera* or in public; that goes without saying. Some Members have said that the transcripts clarify matters and therefore they should be put into the public domain. I must say that as a new Member I do not share that view at all. If you are a new Member you need a great deal more information than we have heard this afternoon in order to understand what is going on. I suspect that if you are an ordinary member of the public you will need even more than that. If it is important to dredge up this old and hoary controversy then it seems to me that a case for that should be made openly and frankly. I am sure that this was not the intention of Deputy Higgins but I am afraid that the release of these transcripts of the *in camera* debate would lead only to muckraking to the advantage of no one. I am going to vote against the proposition.

The Bailiff:

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

1.1.19 Deputy M.R. Higgins:

I am going to start off by first of all apologising for the late nature of the document and the fact it was not numbered. I might add that first of all obviously I could not give it to you beforehand because of the nature of the rules. If I was giving Members a copy of the transcript of the *in camera* debates ... I could not give Members a copy of the transcript before because I would have been breaking our own rules and I would have obviously been up before P.P.C. and discipline. In terms of today I must confess I was caught on the hop. I did not expect us to be debating this this afternoon because I figured the censure debate was going to be going on and I had hoped by that time to number them and also change the order and change the presentation somewhat. It did not happen. Let me go through a number of things. It is a great pity in one sense. New Members are at a loss on this because they did not go through all the last 3 years of what this matter has been. It has been debated many times in the States and there have been many, many documents. What you have to understand is that Members in the past were dissatisfied with what we were hearing about the suspension. I might add, first of all, I was not even in the States on that day. I read the transcript as a result of subsequent debates that took place in this House and I wanted to understand what had gone before. We have had things like Napier and Napier shined a light on quite a number of things, including the fact that the Minister did not have sight of the report. I believe the Minister knew that he had not seen the report. It was not a question of ... I am just trying to think how to put this. If you had read the Napier report, and those who have not might still get it and read it, when Mr. Power was suspended he was called to a meeting on 12th November and at that meeting he did not know it was going to be disciplinary, he had no idea what it was about, and within a few hours of that meeting there was going to be a press conference which was being held by Mr. Warcup, who was the Acting Chief Officer, and others about the Haut de la Garenne inquiry and about things to do with evidence and so on that was going to be given out. When he walked in that meeting he was given a letter and that letter stated that he was going to be suspended on the basis of information that had been given to the Minister. There were 2 drafts of that letter that came out in Napier and, by the way, I might add our former Chief Minister did not want people to know about all the previous drafts of these things. It had to be taken to a review body to get the information released. But the first letter referred to the report and within a few minutes, or a relatively short time, it was changed to the letter from Mr. Warcup. So, in other words, the Minister was not given the report by the Metropolitan Police, as the letter intended, and as they all intended. They had intended to have a Metropolitan Police report which they believed was going to be damning and they could use to justify the suspension. What happened was, when it came through it was not that damning and in fact, if I can just mention, the former Mr. Harper - I do not know what his title was in terms of the police - was so aggrieved by all the statements that had been made about how he had mishandled this and all the rest of it and how damning it all was, that he made a complaint to the Metropolitan Police about a document that was not for the purposes of discipline, it was to review the case and give advice on handling and say what went right and what went wrong and so on, had been misused and how his name had been dragged through it and, by implication, Mr. Power. He made a complaint to the Metropolitan Police and they did not want to hear it. They rubbished it. So, he went to the Independent Police Complaints Authority who ordered the Metropolitan Police to respond about it. In their report they said there was no case to answer; the Metropolitan Police did not have a case to answer because the report was not damning. It did not name him and did not criticise the Chief Officer of Police as well. On the basis of a letter, this is what the former Minister for Home Affairs used to justify his suspension of the former Chief of Police. He was told by the Solicitor General at the time that ... I say "he", he and all the others involved, received advice from the Solicitor General saying: "If you are going to take an action like this it has to be based on a report. It has to be based on hard evidence." He also said, and this is in Napier, it must be unconditional. There must be no caveats to it. There must be no vagueness. It must be strong and basically the advice essentially was: "Do not suspend unless you have it." Well, it arrived on 11th November, the day before the press conference was going to be called, the day before the

meeting with Mr. Power, and the evidence was not there because the report was not handed over to the Minister. There was a letter that went from Mr. Warcup to the former Chief Executive, who made various statements because he had been drip-feeding information into the Minister for some time that he was not happy with the way the investigation was going but there was not the evidence on the Metropolitan Police to substantiate what they really needed. So, they changed it from: “You are suspended on the basis of the report” to “the basis of the letter.”

[16:15]

Now, I believe you can come up with all sorts of interpretations on the wordings that were used in this particular document. I believe that Members were misled, that they were told there was a report that was damning, alarming, there was no choice, and people backed off. That is my view on that. To fully understand this, and I do feel sorry for the new Members, I could have spent a lot more time going through it and doing it. It did come much earlier than I expected, however, it has to be seen in context. Going back to other people’s comments, I know people have mentioned Deputy Troy’s comments about Mr. Harper, why was he not suspended? Well, to be quite honest, that was a legitimate query for quite a number of Members at the time. Many people felt that Mr. Harper was the one who ... some of his actions may have been considered over the top. I do not criticise Deputy Troy for making that comment and asking the question. It is legitimate. I cannot criticise any Member other than the former Minister for Home Affairs for anything that is in that document. As I say again, had I heard what States Members on that day heard I would have thought there was fire with the smoke, that there was something really substantive there. There was not. States Members were misled. Other ways of dealing with this situation; I would like to know how it could have been dealt with other than me bringing it to the States. I am not aware of any other mechanism that we have that we can address this. People are saying they feel sorry that the former Minister for Home Affairs, if it is published, he is going to have to answer to it. Well, fine, at least he has the chance. He can give his own interpretation on it. He can defend himself. The former Chief Officer of Police was not given the right to defend himself. Going back to the Connétable of St. Mary, I never said it was going to be a revelation, I just presented the facts. I have not put a spin on it. I have just told you what the Minister said and what Napier said and also what the current Minister for Home Affairs said. He had never seen the report. But the impression that States Members had from the text of the transcript, you will see that they believe they did. Deputy Le Claire’s comments, for example. I am just going to repeat one or 2 things again. This case has been totally mishandled. The original suspension was totally mishandled. Why? Because first of all the Minister at the time and others were trying to use the Metropolitan Police report for discipline, to justify a suspension. That report was not commissioned as a disciplinary report. Remember it was a review. It was supposed to be helpful to police forces to see what they do right and what they do wrong. The Metropolitan Police have also disowned its use as a disciplinary document and in fact there are questions and answers to the current Minister for Home Affairs where he says that he cannot release the report because the Metropolitan Police said it was not for discipline. “We cannot release it because of this and that.” The report officially has not been released although it is on the blog. I think in finishing I am just going to say that it may be unsatisfactory the way the debate is done and some Members may feel uncomfortable about it but what I am trying to do is stand up for the integrity of the States. I do not believe it is right for any Minister or any Member to mislead this House and I do not care whether they have left the House or not. It is wrong and it should not be allowed. I also happen to believe that if we do not release it some people have said that a lot of people are going to say: “Why did the States not release it?” If it is so uncontroversial, or the former Minister can explain it away, let him explain it; there is no issue, but if the House does not release the transcript then those who do believe in conspiracies will feel again that many people are trying to hide what is there. The only other thing I would say is

that I know some Members here, who were part of the original House, did not like Mr. Power or did not like Mr. Harper. People brought in complaints about them, they argued in the States about them and so on. Those views have to be put aside. I think what I am trying to get over is not the individuals; I am just talking about whether things were done properly. I do not believe it was done properly. I think the House was misled and I think we should rectify that wrong and also clear up the fact of the original suspension. I am going to call the appel and ask you to support this proposition. Sorry, in 2 parts: part (a) and then part (b).

The Bailiff:

Very well. We need to reopen the Assembly for the vote. So, usher, if you would reopen the public gallery and invite the media back. The Greffier has helpfully suggested that perhaps we could return all the papers now, on the basis that if the vote is won then it is going to be published anyway and so this is not necessary and if it is lost then they need to be returned.

Deputy R.J. Rondel:

Sir, on that point, is it this piece of document that is going to be published or is it going to be the actual document?

The Bailiff:

No, it will be the official document. So I do ask all Members please to return the paper handed out by Deputy Higgins. I am going to ask the Greffier to pick it up.

Senator F. du H. Le Gresley:

Sir, while we are collecting these documents it struck me we should have a roll call to make sure that everybody who has received a document is in the Chamber.

The Bailiff:

I think that the Greffier has collected all of them. Hopefully, if there are any empty seats ... there is another one there.

Deputy M.R. Higgins:

Members, I did not get a copy, that is my copy that I was working from. Thank you.

The Bailiff:

Very well, we are now back in open session and the vote is now to be taken, first of all on paragraph (a) of the proposition. The appel has been called for. I invite Members to return to their seats and now the Greffier will open the voting.

POUR: 17		CONTRE: 30
Senator S.C. Ferguson		Senator P.F. Routier
Senator F. du H. Le Gresley		Senator P.F.C. Ozouf
Connétable of St. Helier		Senator A. Breckon
Connétable of St. Brelade		Senator B.I. Le Marquand
Deputy R.C. Duhamel (S)		Senator I.J. Gorst
Deputy R.G. Le Hérisssier (S)		Senator L.J. Farnham
Deputy J.A. Martin (H)		Senator P.M. Bailhache
Deputy G.P. Southern (H)		Connétable of Trinity
Deputy of Grouville		Connétable of Grouville
Deputy J.A.N. Le Fondré (L)		Connétable of St. Clement
Deputy M. Tadier (B)		Connétable of St. Peter
Deputy T.M. Pitman (H)		Connétable of St. Lawrence

ABSTAIN: 0

Deputy T.A. Vallois (S)		Connétable of St. Mary
Deputy M.R. Higgins (H)		Connétable of St. John
Deputy J.M. Maçon (S)		Connétable of St. Ouen
Deputy of St. John		Connétable of St. Martin
Deputy J.H. Young (B)		Deputy of St. Ouen
		Deputy J.A. Hilton (H)
		Deputy of Trinity
		Deputy S.S.P.A. Power (B)
		Deputy K.C. Lewis (S)
		Deputy E.J. Noel (L)
		Deputy A.K.F. Green (H)
		Deputy J.P.G. Baker (H)
		Deputy S.J. Pinel (C)
		Deputy of St. Mary
		Deputy of St. Martin
		Deputy R.G. Bryans (H)
		Deputy of St. Peter
		Deputy R.J. Rondel (H)

The Bailiff:

Do you still wish Paragraph (b) to be voted on, Deputy?

Deputy M.R. Higgins:

Yes, Sir, but I think I know the answer.

The Bailiff:

Very well. The Greffier will reset the voting machine for paragraph (b) and the Greffier will now open the voting.

POUR: 15		CONTRE: 30		ABSTAIN: 2
Senator S.C. Ferguson		Senator P.F. Routier		Deputy J.A. Martin (H)
Senator F. du H. Le Gresley		Senator P.F.C. Ozouf		Deputy J.H. Young (B)
Connétable of St. Helier		Senator A. Breckon		
Connétable of St. Brelade		Senator B.I. Le Marquand		
Deputy R.C. Duhamel (S)		Senator I.J. Gorst		
Deputy R.G. Le Hérisssier (Senator L.J. Farnham		
Deputy G.P. Southern (H)		Senator P.M. Bailhache		
Deputy of Grouville		Connétable of Trinity		
Deputy J.A.N. Le Fondré (L		Connétable of Grouville		
Deputy M. Tadier (B)		Connétable of St. Clement		
Deputy T.M. Pitman (H)		Connétable of St. Peter		
Deputy T.A. Vallois (S)		Connétable of St. Lawrence		
Deputy M.R. Higgins (H)		Connétable of St. Mary		
Deputy J.M. Maçon (S)		Connétable of St. John		
Deputy of St. John		Connétable of St. Ouen		
		Connétable of St. Martin		
		Deputy of St. Ouen		
		Deputy J.A. Hilton (H)		

		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		
		Deputy J.P.G. Baker (H)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		