

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 8th NOVEMBER 2006

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The Roll was called.

PUBLIC BUSINESS - RESUMPTION

1. Waterfront Enterprise Board: appointment of Chairman - publication of transcript of *in camera* debate (P.119/2006) – amendment.

The Bailiff:

When the Assembly adjourned yesterday evening, the proposition of Deputy Le Claire had been proposed and seconded. There is an amendment to that proposition in the name of the Connétable of St. Helier and I ask the Greffier to read the amendment.

The Greffier of the States:

In paragraph (a) delete all the words from “except that” to the end of the paragraph.

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

Some Members, with whom I have discussed my amendment to the proposition, have been really quite concerned - quite surprised - that the amendment has been brought, given that they spoke with the promise that their comments would be kept secret, and they have more or less said to me: “Well, it is the principle; it is not fair. We spoke in the knowledge that whatever we said would not be disclosed.” I was reminded of Members of some kind of private club; and I had gone into the club the wrong way, I had worn the wrong kind of tie, I had broken some kind of club rule and I was in trouble. Of course, there is a principle at stake here and no one likes retroactive decisions - although I have to say we do from time to time rescind propositions and decisions made by this House - we do go back on what we have done and said from time to time, but no one likes them. I do not particularly like them either and I accept there is a principle involved. All of us who spoke -

and I spoke on that day and I supported the in camera debate - I think we were well-intentioned when we did; we thought it was the best thing to do. But given what happened afterwards, I think there is a very important second principle that needs to be considered and, at the end of the day, Members will have to decide which of the 2 principles is the more important. There is, of course, the second principle of fair play. A member of the public ordinarily is able to examine *Hansard* and find out what was said about him or her; albeit not directly because we try - not always successfully - to avoid talking about members of the public. Knowing, as we are, that we are personally protected by parliamentary immunity we try, quite rightly, to avoid singling out and naming members of the public. The second principle that I am referring to of course is that, after our debate, and really through no fault of our own - one assumes - a member of the public has suffered distress as a result of what was said in that debate. Now, it matters very little who that person was; whether they were an ordinary person in the street, someone running a business, an honorary officer, a member of the civil service. It does not really matter whether they were a person in ordinary life or, as was the case, someone who had given more than 20 years of service to Jersey and continues to do so. Just to highlight some of the important work former-Senator Horsfall achieved for us; the development of our international reputation; the important discussions and agreements signed with the U.K. Government at the highest level; the sorting out of the knotty problem of the fisheries with the French Government - and I remember him telling us that that was largely achieved because, very luckily, he had some knowledge of Breton inherited from his, I think, mother - the signing of the first major international agreement with the United States over financial drugs laundering and so on, and Jersey's efforts to assist them. A gentleman whose years of service were recognised by both the C.P.A. (Commonwealth Parliamentary Association) and the A.P.F. (Assemblée Parlementaire de la Francophonie). But, as I say, those are things that are true of Mr. Horsfall but the person who was caused such distress by the events following that debate could have been anybody, and the principle that we have to decide upon is whether our right to speak in camera is more important on this particular occasion than the fact that this person believes that things were said in that debate that injure his reputation. Now, of course, we are quite used to having our reputation injured; I know I am. **[Laughter]** When I entered this house I think I was a sensitive, poetic type and I have certainly lost that. You have to toughen up, but at least you can read what is said about you, you can read the innuendos. You can see them in *Hansard* and I am pleased that it was my amendment to the Clothier recommendations that brought *Hansard* into being. *Hansard* is a jolly good read and I am sure we all benefit from it, but we are denying a member of the public the chance to go through *Hansard* on this occasion and find out what was said. Reputation is a funny thing. Is it, as Cassio says in the play: "I have lost the immortal part of myself, and what remains is bestial"? Or is it, as his friend, I think, Iago says straight afterwards: "Reputation is an idle and most false imposition; oft got without merit, and lost without deserving"? Well, it depends on what view you have of reputation, but it certainly seems to me that we need to recognise that the in camera option is fundamentally there not to protect us - we already have the protection we need through the parliamentary immunity - it is there to protect the public. In this case - and it is not our fault, we were well-intentioned in going into camera - the public has not been protected by our going into camera and the public, in this case a gentleman who has given many years of service to the community, has found his reputation slandered. I think that is important enough; for me that principle is greater than the principle that we should not re-visit our decision. The situation, of course, is all the more unsatisfactory now we have had this debate because we have, if you like, re-opened the wound; yesterday in particular. I think Deputy Le Claire did a good job of opening up the subject, in bringing out the issues of freedom of information and so on, but inevitably - and unfortunately - that wound which perhaps was starting to heal up has now come open and I do feel particularly for Mr. Horsfall in these circumstances. I think the only way to make amends - even if, as it turns out, the transcript is something of a damp squib and it does not produce the kind of insults and innuendo that people think were there - I think we owe the public in this case the ability to read what was said. Of course, in future I know I for

one will be extremely careful before I vote in favour of going into camera. Sir, I make the amendment.

The Bailiff:

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

1.2 Senator Syvret:

Briefly, I did not really feel that that was a speech especially about the amendment, more about the overall principle of the proposition. I will be supporting the amendment, as I will be supporting at least part (a) of the proposition. The amendment I think is important; if we are going to release the transcript, if we are going to make that decision, then we must release the transcript. We must either release it or not release it. Releasing half of it, or whatever proportion it may be, is simply a complete non-starter. So, I will be supporting the amendment of the Constable of St. Helier I do not really think the amendment need detain us a great deal of time.

1.3 Deputy G.W.J. de Faye of St. Helier:

I wish to echo entirely what Senator Syvret has just said. I do not think this amendment should really take the House too long to make its mind up and I want to just give some practical indications why. Clearly it is about does this House operate in a collective way or not. Either you are going to read all the transcripts or you will read none of them; and why is it wrong that some Members might be accorded, under the original proposition, opportunity to withdraw their transcript from publication? It would be a mistake for this particular reason. A Member may feel, on principle - because they believe in the principle of in camera debates and debates being held in secret - that under no circumstances would they want their transcript to be published, and they may take that stand on principle. We would end up in a position, potentially, where 3-quarters of the transcripts were published and then there are a number of transcripts that are not published. No one would have the slightest idea as to whether those were the transcripts that allegedly contained all the character assassination, or whether they were simply States' Members who had absolutely nothing offensive to say whatsoever but believed, on a point of principle, that their transcript should not be published. It would simply create complete confusion and would not take us anywhere further forward because, at the end of the day, the media would simply be able to say: "Well, clearly all the offensive stuff was contained in the transcripts that were not published." So, it seems to me quite clear that this is all or nothing and the real debate lies on the question of whether we turn over the principle of having the ability to debate in this House in secret or not. But that is to come; the question, when it does arise will be it is either all the transcripts or none of them.

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

Briefly, I speak to support that point of view. It is about a box and it is either opened or it is closed. It cannot be partly open; and, whether it is Pandora's Box or not, it must be fully opened or fully closed.

1.5 Deputy C.J. Scott Warren of St. Saviour:

I cannot support this amendment. The in camera debate was just that. Members spoke in confidence, not expecting what they said to be heard by others. The merits, or otherwise, of in camera debates in future are not relevant to this past debate. I do support open debates unless there are extreme circumstances which prevail. The argument that as the people being talked about are happy to hear what was said about them then that is okay is strange to say the least.

The Bailiff:

Deputy, are you not addressing the principle proposition?

Deputy C.J. Scott Warren:

I was addressing the fact that I believe it was the entirety of the debate that should be... I will continue further...

The Bailiff:

Well, if I may help, what is under debate at the moment is the amendment of the Constable of St. Helier which says that it is either all or nothing.

Deputy C.J. Scott Warren:

Well, Sir, I do not support either; both are wrong. I cannot support the release of a proportion of the debate suggested by Deputy Le Claire; it is like hearing half a conversation. The whole sense of the debate would at best be somewhat depleted, and at worst be lost or completely changed. So, in camera comments in full or part should stay just that, private and confidential to those States' Members who were present at the time. However, I would reiterate that in future I think wherever possible open debates should prevail, but you have to know the ground rules before you start.

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

Maybe just in order to help speed up the Assembly's deliberations, I am happy to accept the amendment, Sir.

The Bailiff:

Well, if no other Member wishes to speak, perhaps I could call upon the Connétable to reply.

1.7 The Connétable of St Helier:

I am grateful for the Members who corrected me from moving into my speech on the main debate. It is, as Senator Syvret said, all or nothing. Deputy Southern said the box is either open or shut, and of course the Privileges and Procedures Committee themselves, in their comment, say that to publish only part of the transcript would be unworkable. I maintain the amendment.

The Bailiff:

I ask the Greffier to open the voting which is for or against the amendment of the Connétable of St. Helier.

POUR: 40	CONTRE: 7	ABSTAIN: 0
Senator S. Syvret	Connétable of St. Saviour	
Senator L. Norman	Connétable of St. Peter	
Senator F.H. Walker	Deputy C.J. Scott Warren (S)	
Senator W. Kinnard	Deputy S.C. Ferguson (B)	

Senator T.A. Le Sueur	Deputy of St. Peter		
Senator P.F. Routier	Deputy of St. John		
Senator M.E. Vibert	Deputy I.J. Gorst (C)		
Senator T.J. Le Main			
Senator B.E. Shenton			
Senator F.E. Cohen			
Senator J.L. Perchard			
Connétable of St. Mary			
Connétable of St. Clement			
Connétable of St. Helier			
Connétable of Trinity			
Connétable of St. Lawrence			
Connétable of Grouville			
Connétable of St. John			
Connétable of St. Brelade			
Connétable of St. Martin			
Deputy R.C. Duhamel (S)			
Deputy A. Breckon (S)			
Deputy J.J. Huet (H)			
Deputy of St. Martin			
Deputy P.N. Troy (B)			
Deputy R.G. Le Hérissier (S)			
Deputy J.B. Fox (H)			
Deputy G.P. Southern (H)			
Deputy P.J.D. Ryan (H)			
Deputy of Grouville			
Deputy J.A. Hilton (H)			

Deputy G.W.J. de Faye (H)			
Deputy P.V.F. Le Claire (H)			
Deputy J.A.N. Le Fondré (L)			
Deputy D.W. Mezbourian (L)			
Deputy of Trinity			
Deputy S.S.P.A. Power (B)			
Deputy A.J.H. Maclean (H)			
Deputy K.C. Lewis (S)			
Deputy of St. Mary			

2. Waterfront Enterprise Board: appointment of Chairman – publication of transcript of *in camera* debate (P.119/2006) (continued)

The Bailiff:

The debate now returns to the proposition of Deputy Le Claire with the last 7 lines of paragraph (a) removed.

2.1 Deputy P.N. Troy of St. Brelade:

If we go back to that day when we held the debate; it started with Senator Walker bringing forward the proposition, and then Deputy Breckon spoke and then Deputy Ryan, and then the Deputy of St. John asked for clarification on whether we should move into *in camera*. So the debate started and when it started to get a little bit more personal, Members clarified as to whether they wanted to go into camera. There were 38 who voted in favour of it going into camera and 9 voted against. I was one of the ones who voted in favour at that time, but since then a lot of water has gone under the bridge and ex-Senator Horsfall and ex-Deputy Voisin - Mr. Horsfall and Mr. Voisin - stated publicly that they have no objection to release of the transcript. Now I think if one of them were objecting to the transcript being released I would probably feel a little bit more inclined to be more reserved on that issue. But I do feel that since both parties who are the subject of this whole issue have stated publicly that they have no objection to release of this transcript I do not see why we cannot do it. As the Constable of St. Helier said, Members here are protected by parliamentary privilege and what are we protecting? Who are we protecting? Is there anything really groundbreaking in there? Is there anything that is so slanderous that it should not be brought forward? I do not think there was anything on that day that was particularly damaging. I do not remember any damaging statements. I do not recall any particularly inflammatory statements. I do not recall anything that could particularly offend anyone. So, I now very much support this proposition, and having reflected on the fact that it went into *in camera*, now that the parties are content with it to be released, why not let us release it, and, as the Constable said, it may be in the public interest. There has been a lot of speculation already as to what was said in that debate and the *Jersey Evening Post* seem to have printed some items. I do not know where they obtained them from; I do not know where they got their quotes from or their information from, but much of it was fairly accurate. So I am quite content...

Deputy G.W.J. de Faye:

Point of order, Sir; I apologise to Deputy Troy for interrupting him in that way but it seems to me that we have a difficult issue at hand in terms of how Members comment on the in camera debate during this debate. I believe very strongly that, if an in camera debate is held the entire contents of that debate are secret, and that includes the flavour of the debate, the tone of the debate and indications as to what may or may not have been said. Now, it seems to me that in the course of...

Deputy P.N. Troy:

Is this a speech? I started to give way, Sir, but this does appear to be a speech.

The Bailiff:

Please sit down, Deputy; he is making a point of order.

Deputy G.W.J. de Faye:

This is a point of order and I think the House would very much welcome an indication from yourself in the chair, Sir, as to how we are to tackle this particular issue during the course of this debate, because I personally believe it would be entirely improper for any Member to make any reference to the quality, nature and tone of the in camera debate.

Deputy J.J. Huet of St. Helier:

Maybe we should have the debate in camera, Sir.

Deputy P.N. Troy:

I have in fact...

The Bailiff:

I am about to rule on the point of order, Deputy, so would you mind sitting down please. It is a very difficult matter because, as Deputy de Faye has rightly said, in principle when a debate takes place in camera the contents of that debate are entirely confidential to Members of the Assembly and should not be disclosed. The difficulty that arises of course is that, in this case, the proposition of Deputy Le Claire is that that principle should be set aside, and it is difficult for Members to debate the setting aside of that general principle in the context of this debate without referring in some way to the debate which took place, but as a matter of principle it seems to me that Deputy de Faye is absolutely right. There should certainly be no direct reference to anything that was stated during the in camera debate and so far as the flavour, or quality of the debate is concerned, I think that Members must simply exercise discretion. It would be quite wrong to outline what took place in camera before the Assembly has decided whether or not it should be made public or not. Deputy, I think you did stray if I may say so and I would be grateful if you would be a little bit more discreet.

Deputy P.N. Troy

I did refer to newspaper articles which referred to what happened in the debate and all I said was that they were fairly accurate which is not, Sir [**Members: Oh!**]

The Bailiff:

Deputy, I am sorry if I have not made myself clear but that is precisely what you should not say. [Laughter]

Deputy P.N. Troy:

Okay, Sir. Newspaper articles referred in the public domain which commented on what happened in the debate and, as I said, we do not know where they obtained their source of information but there was quite a lengthy discussion of the whole issue within the public domain. This is something that is of public interest. This whole question is of public interest in that... I can hear a fire alarm, Sir, or something similar. Oh, it is a car alarm. I beg your pardon. [Laughter] I have been interrupted by that, but what I was saying was that much has occurred in the public domain and I think that many people across the Island do feel that this is of public interest. We have had a lot of discussion over the constitution of W.E.B. (Waterfront Enterprise Board) and the actions of W.E.B. and the way in which the whole Waterfront has evolved and as a result this is of significant public interest. I feel that nothing was said in that debate which will affect anyone in any great way and I really do ask Members to support the amended proposition.

2.2 Deputy of St. Peter:

The comment from the last speaker is interesting. This House made a decision with a high majority to go into camera for whatever reason. That was a decision of this Assembly. To say that we do not know where this information, or how this information got out, cannot be true. We do know, regretfully. It must have come from a Member of this Assembly, regretfully. We cannot go through a witch hunt and try and find out who this individual is. That would be also inappropriate, but I would just like to bring that element to this Assembly. It was one of us. Without one of us doing that there would not have been the public interest because people would not have known the content of that debate. I leave my point there, Sir.

2.3 Deputy J.A.N. Le Fondre of St. Lawrence:

I would just say I voted for the amendment because I agree it must be all or nothing; however after some reflection on the matter I am not going to support the proposition. I understand what Deputy Le Claire is trying to achieve and personally speaking I did not speak in camera and I am sympathetic to his view. However, I think it is difficult to release something when Members were not aware of that possibility at that time and when Members were in the position of being able to speak freely. I do not think you can go back now and release the transcript of that debate. That is all I am going to say on the matter and accordingly, Sir, I will not be supporting the proposition.

2.4 Deputy C.J. Scott Warren:

Starting back to front with part (b), I very much support the comments of the Privileges and Procedures Committee to review future appointments. Regarding (a), this is a major principle. If I speak to A about B in confidence, I do not expect A to tell B what I said. Yes, certainly, Sir, we should review the rules for all future debates - appointments. I fully support, as I have said before for the amendment, an open government wherever possible I totally support, but this is a matter about keeping past confidences confidential and I certainly cannot support this proposition. Thank you, Sir.

2.5 Senator F.E. Cohen:

Deputy Le Claire began yesterday by saying that he hoped the debate would progress without detailing what Members had or had not said during an in camera debate. We have had a clear ruling on that this morning. However, he then proceeded to read out the various press reports

detailing leaked details of what was supposedly said in the in camera debate. This seemed to largely place me at the centre of the alleged controversy. I am not going to go further on what I said and what I did not say but this is well known to members here, so in my case my interests would be best served by the release of the transcripts as it would clear the air from my perspective. However, my personal interests must be subordinated to a very important principle. That is that Members spoke understanding that the matter was being debated in camera and that the only audience would be the Members of this House. We simply cannot allow the confidentiality of an in camera debate to be compromised as a response to quell rumour. If we allow the transcripts to be released, Members will be never again feel able to speak freely in future in camera debates. There is a case that if someone offers themselves for public office, part of the process may naturally involve an assessment in this House of their suitability for the proposed office. For the future we should bear this in mind. In conclusion, while my interests would be best served by the release of the transcripts, I will on principle be voting against part (a).

2.6 Senator T.J. Le Main:

Yes, I need to follow the last speaker and Deputy Scott Warren and Deputy Le Fondre. I did not speak one word in that debate, but the principle is quite right as highlighted by the last 3 speakers. I think there are speakers that perhaps would not have spoken or otherwise felt free to be able to voice unbiased opinions and views during that debate. Sir, I will not be supporting the proposition part (a), because I believe that I was - similar to other views - under the great assumption that it would be discussed in confidence to Members only. As I say, I did not speak in the debate - not one word - I have nothing to fear but I believe on the principle of it, it would be absolutely wrong to support this proposition.

2.7 Deputy G.P. Southern:

On the day, I believe I voted for an in camera debate. It is only with some reflection and guidance from my colleague - the colleague who sits on my right, Deputy Martin of St. Helier - who is time and time again crystal clear on principles, that I have come to change my mind. I have gone along with the habit - the routine of this House - that in camera debates are held on a regular basis where appointments are made, but the principle must be, surely, whether we speak ill or good of any particular individual we should do it in public. That principle must apply. It must be done to somebody's face and not behind their back. Our opinions must be held and must be held honestly and spoken honestly and straightforwardly in a public manner. That principle, I believe, is the principle that should apply and is the overriding principle that should govern this House in the vast majority of cases, so therefore part (b) of this proposition automatically gets my support. In terms of the debate which was held partly in camera, I believe we lose nothing by exposing what was said on that day and I will also be supporting part (a).

2.8 Deputy A.D. Lewis of St. John:

Firstly, I must apologise that I missed Deputy Le Claire's opening words. I was preparing to receive you all at a function at the T.A. last night, which I would like to thank you all for coming. I would have liked to have seen a few more Ministers there but thank you for those that did attend; so consequently I missed the points that Deputy Le Claire was making. However, I understand it made some very valid points about open debate and I am all in favour of open debate. I was here for the in camera debate and I believe I did vote to go in camera. I agree with the sentiments of P.P.C. (Privileges and Procedures Committee) that in future, why do we have as many in camera debates as we have? As a new Member, I was quite surprised that we went into camera at all in a public Assembly, such as we have and the for reasons and the times that we have done. I have been a little surprised that we have, so I am very much in favour of P.P.C.'s comments and report which suggest that perhaps we should do that less. In fact, a lot less and I am well in favour of that.

However, as a Member, I voted to go in camera. Had I spoken at that debate - which I did not apart from a few brief words of clarification at the beginning which Deputy Troy has already said - had I spoken at length and I thought it was going to be in camera and then suddenly it was not in camera any more - in other words we released it all - I would be somewhat concerned because I would have voted in good faith that that was going to be the situation and it would not be disclosed. So I would urge Members not to vote this proposition.

2.9 Connétable T.J. de Feu of St. Peter:

The principle that the proposition is trying to achieve, I have no difficulty with at all and I fully agree with it, but I would like to ask you, Sir, as the person in charge of presiding over this Assembly, whether we are correct in effecting in what will be deemed - I am sure - a retrospective decision on a debate which has already taken place and whereby a decision had been made very clearly in the full knowledge of everyone to go into camera. Are we, in fact, correct in dealing with this matter at this moment which we will bring about in a retrospective decision?

The Bailiff:

Standing Orders allow the Assembly, Connétable, to make public the transcript of proceedings in camera and that is really the very issue which the Assembly has to decide.

The Connétable of St. Peter:

Thank you, Sir. Sir, dealing with the principle - which I state again that I have no difficulty with at all - but I do not believe that we should be conducting our business in this manner. I think we have to be enlightened with the future - and that wider picture in the future - that we do not get into this situation ever again. I believe that the way forward is clearly for the mover of this proposition to meet with the P.P.C. in order that they may bring forward a proposition with the appropriate Regulations which will deal with, effectively, the ending of in camera debates once and for all, because the public have an interest and quite frankly they have a right to know and if... I would go further than that, if someone in here feels that they wish to express a view about an individual and the only way they feel they can express it is in a tight-lipped secrecy, well, quite frankly they should keep their views to themselves.

2.10 Senator F.H. Walker:

I would have absolutely no problem personally with my speech in this debate being released into the public arena, but that is not the point. There is, as other Members have said, an extremely important point of principle lying behind this debate and the proposition before us. Whatever the decision may be on part (b) of the proposition it simply, as other speakers have said, cannot be right under any circumstances to take a retrospective decision against the very clearly stated wishes of this House at the time. Members spoke in the clear belief and understanding - in the trust, if you like - that they were speaking in camera. We were speaking in camera because, as Deputy Troy has reminded us, 38 members voted to go into camera against 9 who voted against, so it is a very heavy majority of this House who believed that the debate should be held in camera, and that is a long established principle of this House. There is nothing unique in that context about going into camera for this debate. We have done it on many occasions in similar circumstances in the past. It is a long established procedure of this House. Rightly or wrongly, it is a long established procedure which this House followed. Nothing different, nothing strange, nothing unusual whatsoever. We were sticking to the principles of this type of debate drawn-up and followed over many, many years indeed. So what has changed? Why are we having this debate over a particular debate? Well, sadly a Member, or Members of this House, decided that they would breach the confidentiality of the in camera debate and leak information to the *J.E.P.* (*Jersey Evening Post*) and I know I am not

alone when I say how appalled I am at their actions in that respect. So what we have had as a result is, as P.P.C. have said in their comments, an exaggerated report of the debate in the *J.E.P.*. Are we really going to allow those Members who have leaked the information and then the *J.E.P.* who have taken it and frankly embellished it; are we going to allow that to dictate the principles and procedures of this House because we should not? The Constable of St. Helier has referred quite rightly to former Senator Horsfall's record in this House and no one has a higher regard for former Senator Horsfall in that respect than I. I worked very closely with him over quite a number of years and I can well understand the deep concern he feels, but equally I can imagine him standing exactly where I am standing now giving almost exactly the same speech defending the principles and the processes of this House and the rights that Members have to believe that when they spoke in camera, they were indeed speaking in camera and I can hear him and see him doing it now. Sir, we believed in the principle of an in camera debate when we voted on it. The principle has not changed. The principle remains and it would be perverse and absolutely unfair on those Members who believed - who trusted - that they were speaking in camera; absolutely perverse and unfair to change that decision retrospectively. It simply goes against, without doubt, the best principles of this House and I think breaches the trust of those Members who spoke, so I will certainly be voting against (a). I will also be voting against (b), because I believe that there are still legitimate times when such debates should be held in camera, but I think P.P.C.'s proposal of a full review is absolutely the right way forward. But, Sir, I really do urge Members not to be drawn into changing their minds or voting in favour of (a) because some Members have acted wrongly and the *J.E.P.* is now seeking to dictate our principles and our procedures.

2.11 Deputy G.W.J. de Faye:

I am sure many Members who are parents who have in the past had occasional difficulty disciplining young children will have come across the phrase: "What is it about the word 'no' that you do not understand." I say quite seriously to the States' Member or Members who indulged in post-debate tittle tattle with journalists; what is it about the word "secret" that you do not understand? Because it was the folly of that Member or States' Members that has precipitated this entire farrago. Behaviour, as one or 2 Members have already elicited, was quite disgraceful and utterly dishonourable to this House and I think as a result of what has happened there lies some rather clear confusion in States' Members minds about what in camera debates are all about. First of all, I am of course wholly sympathetic with the persons who felt themselves impugned as a result of the media attention that was brought to this particular issue. Regrettably, we will never really know what the... I mean I believe that we will be faced with a situation where, of course, the public will never have an exact grip on who said what to whom and about what, but that is the entire point of an in camera debate. There have been suggestions that because the gentlemen involved, former Deputy Voisin and former Senator Horsfall, feel relaxed themselves personally about having these transcripts published, that that is okay. Well, I am sorry to say that neither of those gentlemen have any standing in this matter currently. The matter of releasing those transcripts is entirely the business of this House and no one else. Certainly, not the Editorial Department of the *Jersey Evening Post* whose views are well expressed. Yes, it may be that the public are very interested in this debate and the public are very interested in what may have been said in the previous debate, but why are the public interested? Because the situation became an issue due to a breach of the confidentiality of this House. That is why. That is why the public interest exists. But while I believe that the majority of the House will take a sensible and appropriate decision on part (a), I am a little concerned that some members are in doubt as to what position of principle to adopt with reference to part (b) which says: "To agree that debates relating to appointments should no longer be made in camera." I do not agree with that. I think it may be that some appointments should be made in open debate, but I also believe that there are appointments, particularly somewhat more sensitive ones, that should be held in camera. Now, why do I say that - and the reason that debates on appointments and, in particular, appointments made to positions where persons may have

controlled a very substantial amount of public funds and have the ability to exercise control over public monies - those appointments carry a level of responsibility. If it is the case that someone in this House believes that for one of those appointments the person may not be appropriate for whatever reason, that States' Member should feel free to be able to criticise and make their concerns about a particular appointment known. A States' Member can do that because what we say in this House is protected by parliamentary privilege. But why would you want to have that type of debate in secret? As I say, I think we are probably looking at a rather limited area of appointments to sensitive financial positions. It is precisely so that if one or more Members gets up and says: "Well, I happen to think that Joe has got a bit of a reputation for dipping his finger in the till" and it turns out that is entirely fallacious and mistaken opinion, based on rumour and speculation and gossip, but nevertheless someone can say it in this House and not be subject to any legal action for committing a gross slander, it would clearly be a deeply unfair position for that person to be left in. Perhaps entirely innocent of that charge, but nevertheless the charge had been made in the States by a States' Member under privilege who cannot subsequently be brought to book for having made that accusation. That is why, in my view, it is important that from time to time in relation to appointments to certain posts, the States must retain an ability to discuss a number of potential appointees, character, reputation, possible blemishes in an open debate within the House, but not a debate that is exposed subsequently to public analysis. Because of the situation I have just outlined there is obviously a potential for people's characters to be impugned and for them to suffer public ridicule, or whatever, at a time of subsequent publication of the transcripts of the debate, which is why you have to conduct a debate in secret. The entire idea is not that we are somehow withholding information from the public; the entire idea of conducting those types of debate in secret is to protect individuals who have put their names up as appointees to particular positions from potential damage and therefore, I do ask Members, do not simply vote against (a) and then vote for (b) because it seems like it might be a good idea, because it is not. What is a good idea is that we vote against today, both (a) and (b), because I do think that it is wrong to say that all debates relating to appointments should no longer be held in camera, although I think some of them should be. But it is right, I think, for the House to ask in due course for Privileges and Procedures Committee to look at the appointments procedure and determine which appointments to the various tribunals and sub-government bodies that we have are appropriate to be discussed openly in the House and which are the sensitive ones where it will be important for the appointees to be discussed in camera, because clearly some will merit attention to a greater level than others. So I would suggest to Members that today's position is quite clear. There has been a ghastly breach of the procedures of this House that has created some unfortunate and entirely unwarranted consequences. That cannot be undone by going ahead and upsetting the principle of in camera debate and this House should always retain the ability, should the House so decide, to conduct a debate in secret. The second issue relates to appointments and I think we should leave it to the Privileges and Procedures Committee to determine which types of appointment are appropriate for open debate and which are appropriate for in camera debates. I have urged the House to reject this proposition in its entirety.

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

This is a very important debate. I had to leave the debate earlier for a prior States commitment but already at the point when I had to leave the press who had been removed from the House were aware of the contents, or believed they were aware of the contents that had been said, which I did not enlighten them on as the debate was still in hand. I have sympathy for open public debate because that is the stage that we as politicians - we as a community - are holding dear to, is open upfront honesty and openness and it is very important. Having said that, we also have to respect protecting individuals, we have to recognise that there is appropriateness - which has already been said - and looking at the response made by P.P.C., there is a long appendix of which there is nearly 50 States' appointments that are made through the States, and I am not going to go through the list

of all the Members present, but there are some very sensitive appointments here and Members do have to have the freedom to be able to speak for or against or make an opinion, and if they do not that could put our democracy at jeopardy. Someone could be appointed that should not be appointed. I respect the fact that it is an individual that we are talking about and they might not have a personal reason why the information should not be in public, but when you go into camera you do not know what someone else is going to say. That is the important part. But if that person feels prohibited, that could come up with a valid point, then one has to respect that. With having both the 2 persons involved in W.E.B. subsequently saying that they would have no problem in the transcripts being published, I was going along with that thought. It is a debate; it is pretty well obvious what the subject matter is. But after reading this long list of nearly 50 States appointments I can see a lot of dangers in retrospective decisions. If that is what the States wants to make for the future then that will be a decision of a future States' debate. I shall be voting against both of these now having reviewed and considered the contents. As I say, I do not think it would be appropriate me to go through some of the lists, it is in the public domain and there are a lot of them. I think that the States are very honourable but they have to protect others and I do not want to see things being put in jeopardy just because of a *carte blanche* decision. Life is not like that. We have to respect that there are different levels that we have to do and the States will make a judgment on that level, or the public outside will, if we get it wrong.

2.13 Deputy K.C. Lewis:

I was in the House, Sir, during the in camera debate. I did not leave at all, for any reason. I was not aware of any vitriolic attack or character assassinations. I did not recall nodding off at all at any point. Regarding (a), I am wavering at the moment. I do not recall anything said there that I would not want to be in the public domain. Regarding (b), I think definitely not. I would like those taken separately as well, Sir, later on. I agreed with the Constable of St Helier. I voted for that. I thought there is no point whatsoever in getting half a conversation and I think I must come down on the side of Privileges and Procedures Committee. I think we are required by law in certain aspects with appointments, et cetera, regarding agents, commissioners, Jersey Financial Services, et cetera, so I will, reluctantly, be voting against this, Sir.

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

I think one of the issues been brought up by many Members is that there is clearly a clash of principles here. In other words, the principle of, as the Constable of St. Peter said, do we deal with retroactive law and I, like him, Sir, am exceptionally reluctant to do so. I really think no matter what perceived wrong may have been performed, to move to retroactive law having made solemn... or people having operated under certain solemn principles and understandings, is, I think, wrong. But having said that, Sir, I do not think this is an episode, no matter how high minded the debate might have been, which does us justice. I think the reason it does not do us justice is not because of what people are saying, Sir, that perhaps awful things were said about certain individuals and so forth. In a sense, that is irrelevant. What I think is spectacularly missing - and I think Deputy de Faye, as much as I respect him, was spectacularly missing, Sir - is the fact that 53 people cannot act as an appointment board. We try and do this with so many issues, as we know, and the notion that we, as States' Members, to use his example, Sir, do not stand up and say: "There is evidence that so-and-so perhaps had their finger in the till" I find quite remarkable. If that is the level at which we are discussing evidence, and we are discussing issues about people and about their lives and commenting upon their professional career and the kind of competencies they can bring, no wonder we are held in the low esteem that we are. That is what happens, I think, when you try and make yourself into an appointment board of 53 people. It simply does not work. That was, of course, the whole rationale why we set up the Appointments Commission and, as the P.P.C. report says, many of the positions are now left to them and, indeed, many cited by P.P.C. are, in

essence, left to them even though the formal decision is made by the States. So, although the list looks gigantic, in fact in terms of real involvement of the States, it is more limited than is, perhaps, suggested. But, nevertheless, Sir, that is why the Appointments Commission was set up. It was set up, Sir, to take the politics out of appointments and, of course, the big issue arises with something like W.E.B. If you study its history - and it will be wonderful when calm, dispassionate history is written - the big issue arises: "What do you do with positions that have become heavily politicised", and that clearly is what happens. Of course, a point for P.P.C. and a point for the appointments boards, whenever they are dealing with these things in the future - and I think this was mentioned in some press commentaries - think very carefully about what is going to happen when you appoint former politicians to these bodies. Think very carefully about the politics of the situation because rightly or wrongly people do bring histories, they bring views and it is very hard, Sir, in a small community, to disassociate the 2; to disassociate the notion of having a very dispassionate look at a person's background and the contribution they can make and the kind of political history that follows them. We all have those histories and we are all stereotyped, as we know, for good or for bad with those histories. So, my view, Sir, would be while it is very good to set up this kite about: "Is it not terrible about the secrecy issue and about the people who have broken it" and it is terrible - and it is not me, I should add. I am not going into massive denial which is the usual psychological trick in order to cover over my own deficiencies in that regard. What I think they spectacularly overlook, of course - people like the Chief Minister and Deputy de Faye - is we thought... and I did not vote for in camera debate, but those who did, quite sincerely thought there was going to be a sensitive discussion. But what I never thought, Sir, was that there was going to be necessarily an appointment board of 53 people with all the emotion and loose comments and so forth, which will invariably arise in that situation. You just cannot avoid it because, obviously, it is a very difficult one to organise, which is why we have the Appointments Board, to lance the boil, so to speak; to take the politics out of it insofar as we can. I think that is what worried me, Sir; that once you go into secrecy certain things come into play. One, as is inevitable, you say things you would not say in public and I think that leads to very potentially dangerous situations. I have mentioned, Sir, you become an appointment board of 53 people which is an untenable situation in my view unless, as people like Deputy Fox have said, there are some positions that simply have to be dealt with, but they must be very, very, very few. I think what also happens, Sir, of course, as soon as you go into a secret debate you inevitably get almost hysterical and totally wrong and totally supercharged interpretations of what went on and that, quite clearly, is what happened. When you read the transcript, as I have been reminded by Deputy Le Claire in a conversation I had with him, in fact, there are very few contributions of, perhaps, the kind that people thought occurred. There are, perhaps, very few. I am more worried about comments in these situations that are loose, that are not being justified and we have an Appointments Board. We have a human resource function. There are all sorts of professional standards by which these bodies are meant to operate, by which their evidence is meant to be tested and so forth, and with the best will in the world, Sir, we simply cannot operate in that kind of context. Again, it is why we have the Appointments board. So what disappointed me, Sir, about the whole thing was that what we were promised in camera never materialised but there was never any real possibility that it could, or would, because of the way of the dynamics of this kind of situation. I hope we never go down this road again. I hope P.P.C. look not only at the appointments of people - because they should be very, very limited - but I hope they reduce the need for going in camera to a very, very small number of situations. I think none of us can be proud of what happened, we allowed ourselves, rightly or wrongly, Sir, to be drawn into a situation which should never be repeated.

Deputy of St. John:

Can I have a point of order, Sir?

The Bailiff:

Yes.

Deputy of St. John:

Members seem to be making out as if when these candidates come to the House in the form of appointments that we know nothing about them before the debate occurs. We all get white papers that suggest all about the individual therefore there is plenty of time before a debate to comment on it. Also, has there ever been a situation where somebody has been turned down? I wonder if the Chair could answer that, Sir? Can you also answer, Sir, I assume everybody is screened before the white paper is produced?

The Bailiff:

I think, if I may say so, Deputy, this is off point of the debate and I think I should...

Deputy of St. John:

It refers to item (b), Sir.

The Bailiff:

Well, I do not think it would be appropriate for me to give any ruling in relation to that, Deputy. There are a number of issues which relate to paragraph (b) as to whether these appointments should be conducted by the States at all, whether they should be done in camera. I am sorry, I do not think I can helpfully give a ruling on that.

2.15 Senator S. Syvret:

I will, on this occasion, uniquely perhaps, vote for part (a) of the proposition to release this transcript for reasons which I will get on to later. I was going to vote against part (b) because I can see the argument and I did believe the argument that sometimes it is better for Members to be able to speak frankly and openly in these kind of debates about matters of public interest in terms of people who are being appointed to public positions. However, I am starting to think I might even support part (b). I have to question whether the habits of this Assembly and its culture really work in the public interest. While I certainly do not advocate this Assembly becoming like the braying pantomime that is the House of Commons, I do think, frankly, sometimes we are a little too genteel and a little too polite - a little too discreet - and we do not often speak plainly, clearly or bluntly enough about the issues that face our community. I really think perhaps we ought to start being a little less precious and moving away from the habit of unquestioning deference which is part of the culture of the political environment in Jersey. Deputy Le Claire quoted at some length yesterday the *J.E.P.* reports of the time and he reminded me of them. I listened to those quotes and I shook my head in disbelief. Mr. Horsfall wants transparency, the right to defend himself, fair play. The ability of people to reinvent themselves and reinvent history is truly breathtaking. Is this the same Pierre Horsfall who so resisted transparency when he was a member of the Finance and Economics Committee back at the time of the Bank Cantrade fraud scandal?

The Bailiff:

Senator, I think that this is off point to the proposition. I appreciate that you may think that you are responding to a point made by the proposer of the motion but the invariable rule of this Assembly is that unnecessary criticisms of people who cannot defend themselves is not done and I think you ought not to pursue this line, if I may say so.

Senator S. Syvret:

Okay, I will set aside the Bank Cantrade material. It is an interesting point you make about the right of people to defend themselves whether they are Members or not Members of this Assembly. Senator Horsfall was one of the key players in the L.L.P. (Limited Liability Partnership) saga and decisions of this Assembly that prevented me from defending myself at all when I was indefinitely suspended from this Assembly for pointing out an inconvenient truth. He was also instrumental in not only having me not in the Assembly when I was summoned back and asked to give a speech but I was also - even on that day - not allowed to sit in the public gallery. So the ability of Members to reinvent history and reinvent themselves is really quite remarkable. Before we shed any tears for the wounded Pierre Horsfall let us remind ourselves - or perhaps Members are not aware of this - that this is a man who encouraged others to dig financial dirt on an ex-Member of this Assembly because he did not like him politically.

The Bailiff:

Senator, I am afraid this is entirely out of order. I do not think you ought to continue in this vein.

Senator S. Syvret:

As I said, Sir, the ability of people to reinvent themselves is truly astonishing. Turning to the actual debate in respect of the chairmanship of the Waterfront Enterprise Board, really, can people expect a completely easy passage and not to be criticised when they have, for example, left political office, in a matter of months taken up a post with Dandara, completely in the face of Nolan requirements and standards and then, at a time later, leave working with Dandara and then take up a job with the Waterfront Enterprise Group, again, completely contrary to Nolan standards? So, I am sorry, Sir, but, I am afraid, these are the inconvenient truths that people really need to deal with. I was interested in some of the comments that Members have made about how the *Jersey Evening Post* reported this issue. I do think Members are being a little too precious about this. In democratic societies, governments and administrations leak all the time. It is almost a crucial part of the democratic processes and I do not think Members really can get too upset about it. My understanding is the methodology adopted by the *Jersey Evening Post* was that several of their reporters apportioned-up Members of the Assembly between themselves and rang the Members and then picked their brains as to what might have been said and on the back of that pieced together what they considered to be an accurate story. So, it is not necessarily the case that one Member, or Members, went to the *J.E.P.* and said what it was that they reported. I just think Members ought to bear that in mind. My record on freedom of information is extremely good. I think I can probably say with some confidence that I have done more for freedom of information than any other Member of this Assembly so I certainly will vote in favour of part (a) of the proposition in this case. I am going to think very seriously about voting for part (b). I might not vote for part (b) because while I am prepared to speak frankly, because I believe a little more robustness is going to be in the public interest, I could not be confident really that that will necessarily be taken up by other Members of this Assembly. When we are making some of these appointments I am not sure we could rely necessarily on full and frank discussions if they were always open and never in camera. To finish on one final point, the *Jersey Evening Post* has suggested that we are a Chamber too wedded to secrecy and have contrasted our performance in this matter with the House of Commons and, indeed, a number of Members of this Assembly recently dismissed, or attempted to dismiss, some of the items that come before us as trivial. Well, I just think it is worth reminding people that we are not the House of Commons. We are a very small Assembly that has embodied within it several of the different layers of government that you find within the United Kingdom. The House of Commons rarely makes the variety of appointments that we make. It rarely has to deal with the kind of small, low-scale issues that we have to deal with and if Members really start to imagine that we should be like the House of Commons and not deal with small items and not deal with the occasional appointments then I am afraid Members are getting delusions of grandeur. We have a

variety of different tasks at different scales at different levels of government that we must fulfil in this Assembly. We are not the U.K. Parliament.

2.16 Senator J.L. Perchard:

It is a widely held view outside this Chamber that moving that July debate in camera was a mistake and a serious misjudgement of the public mood. People expect the States to deliver on their promise of greater openness, transparency and public accountability. Outsiders are suspicious of what went on that day. Some, who are ignorant of the facts, have insisted that there is no smoke without fire, whatever that means. It has also been suggested to me that some of the things said during that debate may not have been accurate, Sir, and Members may have been misled by some of the speeches. I do not know if that was the case, and I certainly hope not, but I am concerned by the suggestion. I am concerned by the public suspicion of us and I think this House should be concerned. I remind Members that proposition P.89 was debated on 19th July in the last session. It was presented in 3 parts. Part (a) read: "To appoint Mr. Francis Gerald Voisin for a period of 3 years expiring on 20th August 2009 as a non-States director and Chairman of the Waterfront Enterprise Board Limited." Part (b) read: "To reappoint John Claude Tibbo and Mr. Peter Joseph Crespel for a period of 3 years, expiring on 20th August 2009." Part (c) was just a housekeeping matter, asking the Greffier to notify W.E.B. of the States' decision. Approving P.89 would, or did, cost in excess of £150,000 in salary over a 3-year period which W.E.B. would be bound to pay as P.89 was, effectively, a contract for the 3 employees for 3 years. Strangely, however, we were informed outside the in camera debate that these appointments were just interim, just temporary, just for a few months, as W.E.B. was to be subsumed by a new, wholly-owned States' property company and that Members could look forward to this being the subject of an important proposition to be lodged in September. We were assured that when this new company was formed, the position of Chairman would be properly advertised this time and the appointment made formerly through the recognised process of the Appointments Commission. Members will remember that P.89 was lodged and debated within 2 weeks. It was all very rushed; in fact, it was quite frantic. Here we were at the last day sitting before the summer recess, with a term of the current Chairman and non-States' directors due to expire during that recess. The States were being forced into a corner. We were compelled to support the Council of Ministers' proposition, in most cases I believe, against our better judgment. The Council of Ministers chose not to take the opportunity to extend the appointment of the existing Chairman for the interim period despite his offer to accommodate that option.

The Bailiff:

Senator, I am sorry to interrupt you but this does not seem to me to be in point to the proposition which is before the Assembly. It is a different matter.

Senator J.L. Perchard:

If you could just bear with me, I am about to wrap up on this theme. I do think it is relevant and I will prove that as I conclude.

The Bailiff:

I think you must come quickly back to the point, please.

Senator J.L. Perchard:

The Council of Ministers wanted him out, Sir. They wanted him replaced. They made their own rules. They did not advertise the position. They did not engage the recognised services of the

Appointments Commission. I ask Members, is it surprising that people outside this Chamber are suspicious of what when on? Privately, the Council of Ministers decided their course of action. It went something like this. After realising they had failed to organise the appointment of directors of W.E.B. in good time they hurriedly picked their man and they successfully forced his appointment past an anxious and reluctant States by informing Members - who were about to break up for the summer recess - they had no choice but to appoint this Chairman and the 2 directors as failure to do so would mean the Board of Directors would not be properly constituted and, therefore, W.E.B. would be unable to conduct its business. I am convinced that in taking this course of action they did a great deal of damage to the reputation of this place and, unfortunately, without doubt they did damage to the reputation of others outside this place. Those at the centre of the debate, but outside this Chamber, will never know if what was said about them was fact, fiction or just an economical version of the truth but they do know something was said. The *J.E.P.* knew something was said when they covered the story - innuendo and all - on their front page the following day. But not only - and this is very important, Sir - not only will those outside this Chamber never know if what was said was accurate but more important, and more worryingly, nor will the States. I ask Members to consider carefully the reality that the States will remain ignorant of the facts unless those people who were cited during the debate have the right to comment on what was said. As has been rightly said, there is justification for the States to move in camera on occasions; security matters or when the House needs to debate commercially sensitive information are good reasons. In this instance, we moved in camera to consider a public appointment. The decision to move in camera was taken by Members to protect the appointee. My point is, Sir, surely it was unacceptable for us to disappear in the dark shadows of an in camera debate to protect States' Members. This is one of the reasons why I ask Members to support part (a) of the amendment. During that disturbing debate, many States' Members had much to say on subjects other than the appointments. Is it right that Members who are protected by a parliamentary privilege should be allowed to say what they like about third parties without fear of contradiction? If people outside this Assembly are to be criticised in a States' debate natural justice dictates they should have the right of reply. I, too, have recently spoken to the new chairman of W.E.B. and wish to confirm that he has no objection, whatsoever, to the transcripts being made public. I have also spoken to his predecessor, who would welcome the release of the transcripts. I believe Members' genuine concerns over the reliability of the debate can only be satisfied if those outside the Chamber are given the right to comment on what was said. Quite simply, natural justice dictates that they should have the right of reply. The opponents of this proposition seem to be basing their arguments on the premise that a decision was made to go in camera - rightly or wrongly - but it was made and Members spoke freely, knowing they could, and we cannot betray that principle now. I understand that sentiment, but I say to Members I believe we were wrong to go in camera. I voted against it at the time and I believe we will be wrong if we do not recognise that we were wrong to go in camera and do something about it now. We have the chance. We have a chance to put right that mistake today, Sir. I think the old adage 2 wrongs do not make a right applies perfectly in this case. There is huge public and media interest in the outcome of this debate. We simply cannot be seen to approve a cover-up. I ask Members when voting on part (a) of this proposition to consider the integrity and reputation of this House as the integrity and reputation of this place is more important than that of any individual.

2.17 Senator M.E. Vibert:

Unfortunately, can I start by saying how very much I regret that a previous speaker was critical of a previous Member of this Assembly who is now a member of the public and has no right of reply in this House. I personally regard this as an abuse of parliamentary privilege and I am glad, Sir, that you picked the speaker up on it but I regret, Sir, that the speaker was allowed to say so much. Turning to the proposition...

The Bailiff:

Senator, may I just say that Standing Order 109 gives any Member of the States who believes that a Member speaking has used offensive, objectionable, unparliamentary or disorderly words, can draw the presiding officer's attention to that and the presiding officer can rule. It is much more difficult for the presiding officer to act off his own bat.

Senator M.E. Vibert:

I will try to jump in more quickly in future. I thought you were dealing with it, Sir, but unfortunately it went on. Returning to the matter of the debate, I think this is important that it is a matter of principle or a matter of 2 conflicting principles. I certainly have no problem with the matter of facts in discussion; I do not believe there would be any practical problem with publication of the transcripts. I also believe that we should not have gone into camera, on reflection, in the debate and that in the past we have gone into camera far too easily. We should be - and I think we will be - more circumspect about doing so in the future. The real question that we are being asked today is should we set a precedent and agree to retrospectively publish an in camera debate transcript? I think we have got to think very seriously about this. The danger obviously here is that we may undermine any future necessary in camera debate and there may be a need to hold an in camera debate in the future. One of the areas that spring to mind is that it could be a debate which involves legal advice which could be prejudicial to the Island's position if it was made public at that stage and I think that we must accept, that though we should hold in camera debates as little as possible, there may be reasons in the Island's best interest why we may have to have some in future. But if going into any such debate Members feel restrained in what they may otherwise have said because they are concerned that there may be a subsequent States' decision to publish the transcripts, will we be serving the public's best interests? I think Members have got to consider the long-term implications of such a decision as supporting this today, because it would be setting a precedent; the precedent of retrospectively publishing the transcripts of an in camera debate when not - like in a Les Pas debate - deciding beforehand that that will be done depending on the outcome. So, it is quite a different case because we all went into the Les Pas debate knowing that depending on the outcome the transcripts would be published eventually. States' Members went into this debate in the knowledge that it was an in camera debate. It is a principle that I am concerned about and I accept that the confidentiality of an agreed in camera debate conflicts with the principle of total freedom of information. I accept that and it is a difficult issue. We have to decide which principle should prevail in this instance and what is in the public's best interest. We must look to the future and if we feel there is an overwhelming reason to hold an in camera debate in future, I believe that Members must be able to do so secure in the knowledge that "in camera" means "in camera" and that the rules will not be subsequently changed. I think it is a matter of principle and it is a difficult issue but I am more concerned about safeguarding the position for the Island in the future, rather than bowing down to a media-led campaign of today. I think we have to look at the unintended consequences that may occur if we agree with this by setting this precedent. One of the unintended consequences, I believe, will be rewarding those Members who broke the States' Code of Conduct and spoke to the media because they will be getting what they wanted, which was full details of the debate published. I really question, as others have done, their behaviour but I question their motives as to why they did it. I am afraid that someone who goes against an agreed code of conduct in that way, I do not ascribe very high motives to freedom of information and so on, but I would ascribe lower motives to personal - probably political - point scoring. So, that is one of the unintended consequences. I think another unintended consequence would be the suggestion that if you have done it once, any other in camera debate that has been in the past that somebody might have had an interest in, people will go back and say: "Let us make that one public" and any in the future. I think we are in danger of being on an individual basis, and individual cases make bad law. I think we are in danger of trying to be pushed into setting a very

dangerous precedent and I think the issues should be based on those principles, not about this individual issue, which is why I have refrained from referring to it. I think Members should think and vote in the long-term best interests of how the Island can be served by this Assembly, not short-term gain and acclamation by the public by going along and publishing something that has been asked for by a media-led campaign.

2.18 The Connétable of St. Helier:

I do not know if the previous speaker was listening to the one before him - perhaps not. On a positive note, however - just to begin that way - it is clear that the whole issue of in camera debates has truly been aired today and, I think, we are going to, all of us, be much more careful in future about pressing the “for” button for in camera debates. Clearly, Privileges and Procedures are going to do some good work on how we use them in future in relation to appointments. I appreciated very much Deputy Le Hérissier’s contribution into the whole subject of how the States is involved in making appointments. But, as is often said, we are where we are and the decision to move into camera was effectively broken when we moved out of it after the debate. I think the point... and I probably shot my bolt rather early this morning in the debate on the amendment, but the principle that many Members seem to be forgetting and one which Senator Perchard, I think, very effectively highlighted, is a principle of natural justice. It is all very well to go into camera to protect the public but if you then come out of camera and the public are no longer protected then that decision, I am afraid, has been unpicked already. For the last speaker to say that this decision today, if we support part (a) will set a precedent, I do not understand that. I do not see how the States will always retain the ability to revisit their decisions, whether in the form of rescindments or, in this case, perhaps more a nuclear option to make a retrospective decision. The States will always have that decision. If another in-camera debate should take place in the future, I am sure there will be fewer of them, and if a Member shall subsequently come back and ask for that transcript to be revealed you can bet your life there will be a pretty stiff opposition to it as we have seen today. Are we saying that if we approve part (a) that every in camera debate is going to be somehow undermined: that Members are going to change the way they speak in a future in camera debate? I would remind Members that even in an in camera debate, the tape is rolling. The record is being kept. Why is it being kept? We know it is not going to be published. Presumably it is so that at St. Peter’s gate we can be reminded of what we said all those years ago. I was considering another option this morning, which is that if any of us ever feel inclined, and I can think perhaps Deputy Le Hérissier might be the sort of person who might be inclined to publish his collective speeches made in the States, what is he going to do? What is he going to do about the one that was made in camera? Presumably he has the copyright to it. I suspect he will be contacting the Greffe and say that he would like to put that speech he made in that debate in his collective speeches. I think Members are being a bit precious about this. We are a mature democracy. Something has gone wrong with the in camera system and we can put it right by allowing this transcript to be released. I do not believe this will fundamentally affect, as Senator Walker suggested... he said that the House has a long procedure and that this, somehow, will attack the roots of our democracy. I do not believe that is the case. This, as I say, is a decision which has effectively been forced upon us and I do not have a problem with making it because, I think, we have done harm and some Members appear not to find a problem with that. We have done harm to a member of the public and I think that is an important principle that needs to be attended to today and I will be supporting part (a) and part (b) of the proposition.

2.19 Senator L. Norman:

I was not here for the original debate and I have deliberately not read the transcripts so I come to this debate somewhat unburdened. I know no more or no less than the general public what happened that July evening in this place. I have read the Privileges and Procedures very short

report on part (a) of Deputy Le Claire's proposition and, indeed, the Council of Ministers' even shorter comment. I have listened carefully to those this morning who have suggested that we should vote against Deputy Le Claire's proposition. But quite honestly, from those reports; from those comments; and from the debate this morning, I can find no justification whatsoever for withholding the publication of the transcripts. Why do we have in camera debates? They are, quite rightly, rare - not rare enough perhaps - but certainly rare. They happen when we debate matters of a commercially sensitive nature; when we are given legal advice which needs to remain confidential in the public interest; and to make certain appointments which we are required to do by law. But none of these criteria apply in this case. I have read the *Hansard* report leading up to the decision to go into camera and from that cannot understand for one moment why the States decided to go into camera in the first place. There really was no need. Both the current Chairman and the past Chairman of W.E.B., as I understand it and I have spoken to both of them, were the only individuals discussed during that debate and both have indicated that they have no problem with the transcript being released. Indeed, the former Chairman is extremely keen that it should be released. So just what is the problem? Do the words "accountability" and "transparency" really have any meaning at all? In whose interest is it that what was said in that debate remains secret? Not the public because they will be entitled to suspect that our buzzwords - accountability and transparency - really mean secrecy and self-interest. Not States Members, as other speakers have pointed out: we are protected by parliamentary privilege and Senator Cohen made it quite clear this morning it will be in his interests if the transcripts were published and yet he is going to vote against. A bit of machismo coming in there but whatever turns him on. **[Laughter]** If Members who spoke in that debate spoke truthfully and honestly, ask the question what harm is there in releasing the transcripts? In fact, to remove suspicion, it is essential that they are released. On the other hand, if any Member did not speak the truth, and I do not believe for one moment that was the case, but if that was the case then it is even more essential that the transcript be released so that those untruths can be exposed and challenged. Sir, if we are serious about improving communications with the public; if we are serious about accountability; if we are serious about transparency, then we must support this proposition today. Not to do so will mean suspicion and doubt will fester and grow and the rumours will become even more exaggerated. The assumption should always be that discussions in this place are open. There will always be exceptions but there is no justification whatsoever for keeping this particular debate secret. Otherwise, we could quite easily stand accused of having double standards. We could be accused of being prepared to say things to our fellow Members that we are not prepared to say to the public. That is outrageous and arrogant and I want no part of it. Any Member considering voting against this proposition should ask themselves: "Who do we represent: the public or ourselves? What do we stand for, accountability and transparency or secrecy and self-interest?" We will all answer those questions in the same way. There is only one way we can prove it and that is by supporting Deputy Le Claire's proposition.

2.20 Deputy A. Breckon of St. Saviour:

I was reminded when Deputy Troy spoke: he reminded me of the events leading up to that and I remember the day that this was raised. I cannot remember who spoke first, whether it was I or Deputy Ryan but we spoke in open session so what I said is on the record so therefore, in this respect, I did not speak again. I did not know whether I could but I did not because I said what I wanted to say and I voted the way I did at the end of the debate. I cannot remember but I think I voted against going into camera but, again, I have never checked the record because what I said is on the record. But the problem I have, Sir, is those that did speak in camera believed it was in camera and unlike, I think it was Senator Vibert mentioned with Les Pas, I think the understanding was we would have the debate when the legal niceties were sorted out. It would be available to the public - I think it was after 28 days or something, I cannot remember exactly, but that was the tone of it - so those that spoke knew that it would be in the public domain within a given time. But the

problem I have, Sir, with public appointments - and Deputy Le Hérissier has mentioned some of the problems of the appointments panel of 53 - is that if people do put their names forward in good faith then they do not expect to be maligned in open court if there is an election. I mean, if I stand as Minister for Social Security against Senator Routier we say what we have to say, Members decide, and then we go away and get on with it. Somebody is the Minister and somebody is not and that is part of our process, but we cannot expect the public to get involved at the same level because they do not necessarily ask for it. They might be approached: "Are you interested in doing something", and then they do not want to get involved in a public contest - perhaps some mud-slinging - and people assassinating their character or whatever else. So I think there is a place for that; but having said that, things that do come to this House come with somebody's recommendation. It is either a Minister now, or it is a Committee, or it is whatever it may be and that is the way it is but, as I say, that is where I have the problem. If you involve the public at this level then people say: "Well, thank you very much but I am not interested. I do not want to get into, you know, horse-trading" and whatever may be said. Sometimes somebody may get the wrong impression about this. I would just like to make another point, Sir, which I think is relevant to this. Not very long ago I was approached by an individual who had a complaint about a newspaper, and it was about the information held by the newspaper about them. I was involved; an approach was made; and the newspaper in question refused to release the information. After some pressure they did change their mind and there is the bogeyman of data protection, freedom of information, human rights; we cannot do this, that and the other. I would not mention which newspaper it was but that did happen. Also quite recently, Sir, a number of members of the public have approached me because, again, a certain newspaper would not print letters which the writers believed were in the public interest for them to do so and, of course, that again is within their purview to edit them, refuse them, send them back or do whatever. So, I would ask Members to bear that in mind. Sometimes you need to have procedures and protocols and I am interested in what some Members have said about giving information in secrecy because I have brought a number of things forward as an individual and they were propositions. Some of the people who were saying: "Now, we must disclose everything" have voted against some of this, and the principle must be we must disclose it unless there is a good reason for not doing so; be it a Council, what we are considering and even, dare I say, when we are developing policy which, again, seems to be an issue. But I would say, in conclusion, that I am in favour of sharing information with as many people as possible for as much of the time as possible, but I do have a problem here in that Members who have spoken in that debate really believed that that was an in camera debate. I understand where Deputy Le Claire is coming from and there is a media interest, probably more than a public interest, and I think this has been aired and it serves no useful purpose to dig some of this up again. It is a shame that it has been handled the way it has but I think it is a media complaint as opposed to a public one.

2.21 Deputy J. Gallichan of St. Mary:

It is a shame that Senator Syvret is not in the House because he did say that we did not often speak plainly, bluntly or clearly enough. So plainly, bluntly and clearly I say focus. Focus on what you are being asked here. We are being asked to make public something that was discussed in camera after a democratic process took place. Democratic process in which we could all have our say and which a large majority of the House agreed to move into camera. Previous speakers have made many references to former Senator Pierre Horsfall in various ways but this debate is not about Senator Horsfall and the July debate was not about Senator Horsfall. I am not going to make any illusions to what or was not said during that debate but the whole point of going into camera was to ensure that no person would be discussed in public and, most importantly, that the discussions we did have would remain within the confines of this Chamber. Furthermore, quite apart from any reference to individuals, there is often a case when considering appointments for a certain amount of background information to be given, not necessarily about a character but about the position -

about the venture concerned - and some of that information is going to be commercially sensitive at times. There is a valid reason to move into camera. I would say that what was said in that July debate at this particular time is totally irrelevant. It was said only for the purposes of aiding Members on that day to reach a decision as to part (a), (b) or (c) of that Projet 89. I believe that having made the decision to go into camera we have now a right to respect that decision and I would advise that I will be voting against part (a). I will also vote against part (b) because I believe that the comments made by the Privileges and Procedures Committee have validity and we should allow that process to take place.

2.22 Senator W. Kinnard:

I am only going to speak very briefly, really just to put my position, but I am glad to be following the last 2 speakers. It happens at different times in this House that Members become almost the bellwethers of good commonsense and I think that certainly the last 2 speakers - both Deputy Breckon I - have looked to in that way in the past, and I can see the Deputy of St. Mary is fast becoming a bellwether in this way, which I certainly give my respect to her for it. Listening to those I find myself in a very difficult position. I was not present during the debate or the vote. By that time of the day, I had left the Island for a very important appointment in London so was not at all present. Again, I - like Senator Norman - have not gone back to read any of the transcript and even reading it one just would not get a sense anyway as to the flavour of the debate, so there is little point in doing it. But I am in an impossible position in the sense that I feel that Members are divided in their view here. I was not present, therefore I think in terms of part (a) - I do not like doing this - but I think I can only but abstain. That is all I can do. But I will be voting against part (b) because I am much more in favour of what Privileges and Procedures are suggesting in undertaking their review and I think that that will be a very important piece of work and one that I very much welcome. I have felt that there are too many occasions in which we sometimes choose to go into in camera debate. I also do not believe that there are circumstances when it is necessary and I think, therefore, the right way in which to deal with this particular issue is to have a proper review under cool reflection rather than on the back of something which has contained, I think, quite a lot of emotional contents in terms of the debate, way back in July. So really, Sir, I do not have anything to debate. I really just stand to explain my position so it is not in any way misinterpreted.

2.23 Deputy S. Power of St. Brelade:

There are times when we are elected to this Assembly to make decisions for and on behalf of the public and, as Deputy Breckon said, sometimes the public does not want the minutiae of some of the information and some of the decisions that we have to make and there have been times in the past, and there will be times in the future, when this Assembly will be in a position to have to consider information that is sensitive and confidential. Now, God forbid this ever happens, but we may have to have an Assembly to discuss a major health issue; or a security issue; a constitutional issue; an emergency issue; or even a financial issue - and I am very much guided by the report of the Privileges and Procedures Committee and the fact that they are going to look into the whole status of in camera debate. For that reason I believe that to support either of these paragraphs today is a mistake. To a large extent I believe that the media has a very important role to play in a local economy like Jersey, but I believe that this debate - to a certain extent - has been driven by the media and it is unfortunate that the confidentiality of what was our in camera debate was breached in this way and I believe we are all sitting here listening to this debate because of a breach of confidentiality. In a specific situation it could even be said that the media can spread information, misinformation and even rumour, which is not in the best interests of the community; and I also would add to that, that to do so in certain occasions can cause anxiety and concern to the public. I do not mean that specifically about P.89 but I mean it about other sensitive and commercial

information that we may have to consider in the future and I believe that is why there are times - hopefully rarely - when we have to have in camera debate. I spoke very briefly on the debate. I spoke because I supported the speech of the Planning Minister, but I also supported the speech of the Health Minister, because I believe they were influential speeches, and my lasting impression of that evening's in camera debate was not so much what was said about former Senator Horsfall, but what was said about the dysfunctional way of aspects of the Waterfront Enterprise Board itself. So, I am not going to support paragraphs (a) and (b) because I believe it may undermine the role and the authority of this Assembly.

2.24 Deputy P.J.D. Ryan of St. Helier:

There were 2 speakers in this debate while it was still in the public domain before it went into camera. I was one of them, and I asked several questions and made certain points, so when Senator Walker... those points and those questions, as we speak now, are still unanswered. The public have no idea what the answers were, but when Senator Walker proposed that the debate should go in camera I gave him the benefit of the doubt, as I think lots of other Members did. He may - or others may - have had important information that was best kept confidential after all, either in the public interests or perhaps in the interests of the individuals concerned. Now when an in camera proposal is made the proposing Member, I believe, must... well, I think they must clearly only do that with great care and with a very high level of responsibility, and many Members were persuaded, in the absence of inside knowledge, that there was information that could only be imparted in camera. But even then, when we do go in camera, the conduct of Members, I believe - the choice of words, what is said - those words must surely be as responsibly chosen as if we are not in camera. Surely there is no difference. So the issue for me is simply whether or not an in camera debate was warranted or not, and I understand the principles taken by Members speaking against the proposition, but surely the overriding principle is that of open government. There must be overriding reasons and a very high test to determine whether or not an in camera debate is appropriate. National security is an example. So, in common with all proposals to debate in camera, Members can, with hindsight, examine whether or not the proposer was justified in his or her proposal to go in camera. We do have the benefit of hindsight. We can check whether we believe it was justified or not and that is the position that we are in. Because my questions and things... I think it is in order for me to refer to what I said in the debate in July because, in fact, it was in public and I think that is in order. I am sure you will correct me if I am wrong. I think it is worth reminding Members what I asked and, because in the context of the knowledge that the public do not have the answers to these questions, I think that is paramount; and the kinds of things I said and were asked were things like the ex-Deputy Voisin was aligned with Senator Walker as a previous Member of the Policy and Resources Committee. That is inevitable. W.E.B. is supposed to be independent of politics. Okay. The former Senator Horsfall was also aligned to Senator Walker, many people would say, and I would agree with them. So were we to have more of the same kind of political alignment with the Chief Minister, and was this the right thing to do? Or was, indeed, Senator Horsfall not responding to the string-pulling, perhaps? The second concern that I had about ex-Deputy Voisin at that time was would he have a conflict of interest in that he was a large retailer and as W.E.B. are a developer of, in many instances, retail premises was this the right thing to do? I just remind Members the public have no idea of what the response was. They have no idea. I said: "Surely this appointment would be longer than 6 months, or should have a good chance of being longer than 6 months, because no one could prejudge what a debate of the States might be on subsuming W.E.B. into a new property holdings company. No one could presuppose what that might be so we could be looking at an appointment that was much longer than 6 months, and why was the Appointments Commission not involved? What had happened to the Appointments Commission that we used for ex-Senator Horsfall when he was appointed? If this was a 6-month interim appointment why, indeed, was it not offered to Mr. Horsfall? Indeed, since then, we were told that there was going to be a September lodging of a report and proposition. I

have not seen it yet. Perhaps it is coming soon. So these are the questions, and I think the public are unaware of what the correct response from government and the Council of Ministers is. So, Sir, finally, I think Members should be aware... or certainly it is my belief that the attack on whoever the mole was, although undoubtedly justified is, in fact, a red herring in the context of the main principles of this debate. **[Interruption]** Similarly, I believe that Senator Syvret's attack on Pierre Horsfall is also a red herring. That has nothing to do with what we are talking about today and no matter what Senator Syvret would say about the ex-Senator Horsfall, on principle, I have no doubt he would never be acting as a defending lawyer for Senator Horsfall, but I know that he would defend his right to a defence with just as much gusto. But it is a red herring. It is nothing to do with it. In the end, in the final analysis for me it is simply this, which is the strongest overriding principle? Is it - and there are conflicting principles - the one where if we have made a decision we should stick by it? But for me the overriding principle; was an in camera debate warranted? Was it warranted? If not, we should release the facts of this matter. It is as simple as that.

2.25 Deputy A.J.H. Maclean of St. Helier:

Sir, I am going to be very brief indeed. **[Interruption]** I knew that quick comment would get support. I would just like to say that as far as I am concerned I was not here, first of all, for the debate in question and, like previous speakers, I have not had the opportunity to look at the transcripts. Frankly, it is not relevant - I do not think - to this particular debate. As far as I am concerned this House voted on the in camera debate by - we were told earlier - 38 votes to 9. The Members who spoke were under the belief, because of that, that they were speaking in camera and I think that should be honoured in this particular instance. I am a great believer in transparency and transparency of government. I do not think we should have too many in camera debates at all, but the fact is, one was voted on in this House by Members of this House, and on that basis and that basis alone we cannot support this proposition. It would be entirely wrong to do so. An area that I feel particularly strongly about, having gone in camera, a Member in this House has run off to the media and told them, or indicated to them, what went on in an in camera debate, and there was some suggestion earlier that, frankly, this should not be a witch hunt. Well, I think there should be a witch hunt. We should know who went running off the media. It is just not good enough. I think it was a point that Constable Crowcroft mentioned, he said that something went wrong with the procedure. Well, the procedure that went wrong was that parliamentary rules and the code of this House was broken by an individual or individuals in this House, and that is the issue. That is what this is all about. As far as the proposition is concerned we cannot support it. It would be entirely wrong to do so. But let us have less in camera debates; let us have more open government; let us have more transparency - but in this instance we voted for it, let us get on with it.

2.26 Deputy D.W. Mezbourian of St. Lawrence:

As Deputy Maclean said he would be brief, I will be brief also. Sir, we are not Members of a private club: we are elected Members of the States of Jersey. As such we are governed by Law, by Rules and Regulations, by a code of conduct. The States of Jersey Law 2005 states that decisions of the House are decided by a majority of the House present and voting on them. On 19th July we voted by a large majority under Standing Order 81 to go in camera for the debate on the appointment of the Chairman of the Waterfront Enterprise Board. We have heard from Senator Perchard today that we were wrong to go in camera. The fact, though, is that it was a majority decision of the House: a democratic decision. With the benefit of hindsight Members may feel that perhaps their decision to go in camera that day was, indeed, wrong. We have the opportunity today to make a retrospective decision and agree that the in camera discussion be released to the public. I believe, though, that I should stand by my original decision on the day, that we debate in camera. My vote allowed Members to speak freely and I respect the fact that they did. I will not be supporting the proposition.

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

We seem to be extending the debate, but I was one of those 9 who voted for the matter not to go into camera because I felt it was not that type of debate. Can I also say I have not spoken to the press either, and I do not think we need to look too much into speaking to the press because I believe, honestly, that the press put 2 and 2 together and they have come up with 5, as usual. So, really, I do not think we want to make too much of that although I would say certainly if one did speak to the press that was a mistake and, indeed, I believe the going in camera debate was a mistake. But what is a fact is the hare is now running. People out there have got a mixed message coming over from the States and, more importantly, our credibility of self is now at stake and I think it has been alluded to by Senator Perchard and by Senator Norman that we are seen to be some form of secret club. I do not think that is right. I think what we have is an opportunity of rectifying the mistake. We have heard Ministers this morning talking about principles. Well, I think they are defending the wrong principle. The principle they should be defending is that of the integrity of those who feel that their integrity has been put about. They are seen to be defending States' Members. I think that is wrong. What I would ask Members to do is to rectify those mistakes. Vote for part (a). What I would ask Deputy Le Claire is to consider withdrawing part (b) because I think part (b) really will send out the wrong message to Members from us. I cannot really support it because I believe that P.P.C. are best placed to address that issue.

The Bailiff:

I call upon Deputy Le Claire to reply.

2.28 Deputy P.V.F. Le Claire:

I would like to thank all Members that have spoken, Sir, and again my speech... by saying, just at the very outset, when I made my speech yesterday I was careful not to enter into the content of what or what was not said in the debate, and I made that quite clear. Unfortunately when I speak most people do not tend to bother to listen and I cannot be blamed for that. If they do not have the decency to open their ears and close their mouths when a Member is speaking that is not my fault. However, hoping that Members will take this on board after having prefaced this remark with that comment, I would like to make it quite clear for all Members to know and for all Members to hear, and the members of the public too, that my speech yesterday did not refer to the content of the debate. I would like to make it quite clear that while I went on to read from the *Jersey Evening Post* as to what they had printed I, in no way, have said that that is either correct or incorrect, and I would not want anybody to draw from that speech I made yesterday that I was confirming any of the substance in the media's reports. I would like to make it quite clear and, as has been pointed out by a couple of Members - not least himself - Senator Cohen's best interests would be served by releasing the transcript, although he has stuck to the principle of defending other Members who have spoken in the belief that their speeches would remain in camera and has done himself a hurt, and I, for one, have great respect for Senator Cohen and I hold him in high esteem. So before we go into what will be a relatively short summing-up I would like to make that quite clear, and my remarks in reading the newspapers that I did yesterday were not to denigrate in any way, shape or form Senator Cohen and I have not spoken to him personally - I will do afterwards - but I certainly hope that this public explanation will go some way towards assuring him that I still hold him - and have held him since I have met him - in the highest esteem. Secrecy: the States and the public - until the late 1980s even the existence of MI5 and MI6 was a State secret. The world is moving away from secrets and the world is moving towards freedom of information. The rationale behind it is because governments and corporate bodies have been harming people in a number of ways, both environmentally and health-wise, and personal possession-wise, for a number of years. What we have today is an opportunity to release the transcript of a debate that was quite wrongfully leaked in some part by Members to the media, and I stand by the comments of some Members who

have said that it was wrong for the Members who have spoken to the media about the content as they did. But I do not stand by the comments that there should be a witch hunt. Now that is exactly the opposite direction to the way we should be moving. What there should be is an examination of the principles of the in camera debate which has occurred in some way today and has been put forward as recommendations by the Privileges and Procedures Committee that we go forwards into looking at the way the States operates. There was an argument that we should be continuing to appoint these people in the ways that we are, and there is an argument that we should be continuing to sit in camera. As I said in my previous speech, I am quite relaxed on part (b) of the proposition and I am not filled with emotion on whether or not I drive that part home, so there is no need to speak to that. I will ask for the vote though and see how Members feel about that. The Members can indicate themselves as to which way they would wish for that part to proceed. In regards to part (a) - the substance which has now been amended - I take quite a jaded view of the people that are willing to support a proposition that has been amended and yet will not support the proposition. I think it is really setting-up principles for everybody to examine and then backing-down once the time is called for them to put their principles on the line. I do not believe it is a matter of safeguarding the futures of the public, as Senator Vibert has said. I believe it is a matter of safeguarding the principles and the position of the Council of Ministers and their actions in relation to the whole matter. If the transcripts were to be available, and if people were to reflect on the issue in its entirety, then we could all come to a conclusion as to what the actual real issues were. It was pointed out by Deputy Ryan the reasons for it going into camera were, in themselves, questionable. It was interesting that while we democratically voted unanimously to go into camera, we were led into believing at that time...

Senator J.L. Perchard:

A point of order. We were not unanimous.

Deputy P.V.F. Le Claire:

Oh, no, I said... did I say unanimous? Well, I did not mean unanimous. I meant to say - I stand corrected - by a majority. I beg your pardon. There was a majority, and we had the numbers read to us as to what they were. 38 people voted in favour and 9 were against, and there were no abstentions, but when we finished the debate, quite interestingly, the votes for the proposition itself were 32 people in favour, 10 against, and 2 abstentions. So what had happened during that in camera debate had made that outcome. Two different issues, yes. Whether or not to take a debate into camera because somebody is being spoken about - to protect that individual - as we were told, or those individuals? To protect them, but once the damage has been done to them, as in this case with Mr. Horsfall, an innuendo is left to fester over his reputation, there is an opportunity in this instance not to set a precedent - as has been suggested - but to right a wrong. It is not setting a precedent if it is in Standing Orders that this is something we can do. If it is setting a precedent then it should come out of Standing Orders. That would set a precedent: set a precedent by doing something for the very first time. Why have the ability to do something if we are never going to do it? What is it there for? There are times when these things can and should occur. There are also, quite obviously, times when in camera debates must remain in camera. National security, commercial confidentiality, et cetera, and one of the nicest speeches I think I have heard today in relevance to all of this was from Senator Kinnard who said that she was going to abstain from voting because she was not here. I would urge the same of the Assistant Economic Development Minister, Deputy Maclean. He was not here to consider whether or not - having not read the transcripts and having had a hard opinion - voting on this issue is something that he can do with great conscience. I am not going to get into great detail about the issues. I think they were covered. It is just a couple of points I think that are quite important to make. I think there is an issue out there in the streets of St. Helier and other places around the Island where people do

believe the States are too secretive and I believe that this will - if we release this today - have that opportunity of demonstrating to the members of the public that we have accountability and transparency ahead of secrecy and self-interest. There is not really a great deal to say. I think one of the things that is quite relevant is that any Member considering voting against this has to reflect upon what they are doing, who they represent. Do they represent the Council of Ministers and the allegiances that have been called upon them to vote for today? I did not hear anybody jumping to their feet and say: "Oh, please do not publish my speech." There was not everybody defending everybody else. I believe if the States do not approve this today they do not stand for accountability and transparency and they are still moving in the ways of the old States Assembly, which was secrecy, self-interest, intimidation and self-promotion rather than public good. Sir, I call for the appel on both paragraphs.

The Bailiff:

And a separate vote, Deputy, on both paragraphs?

Deputy P.V.F. Le Claire:

Yes, please.

The Bailiff:

I ask all Members who wish to vote who are in the precincts to return to their seats. The voting is first of all on paragraph (a) of the proposition, as amended. I ask the Greffier to open the voting.

POUR: 12	CONTRE: 30	ABSTAIN: 1
Senator S. Syvret	Senator F.H. Walker	Senator W. Kinnard
Senator L. Norman	Senator T.A. Le Sueur	
Senator B.E. Shenton	Senator P.F. Routier	
Senator J.L. Perchard	Senator M.E. Vibert	
Connétable of St. Helier	Senator T.J. Le Main	
Deputy R.C. Duhamel (S)	Senator F.E. Cohen	
Deputy of St. Martin	Connétable of St. Saviour	
Deputy P.N. Troy (B)	Connétable of St. Mary	
Deputy G.P. Southern (H)	Connétable of St. Peter	
Deputy P.J.D. Ryan (H)	Connétable of St. Clement	
Deputy P.V.F. Le Claire (H)	Connétable of St. Lawrence	
Deputy I.J. Gorst (C)	Connétable of St. Martin	
	Deputy A. Breckon (S)	

	Deputy J.J. Huet (H)		
	Deputy C.J. Scott Warren (S)		
	Deputy R.G. Le Hérisier (S)		
	Deputy J.B. Fox (H)		
	Deputy S.C. Ferguson (B)		
	Deputy of Grouville		
	Deputy of St. Peter		
	Deputy J.A. Hilton (H)		
	Deputy G.W.J. de Faye (H)		
	Deputy J.A.N. Le Fondré (L)		
	Deputy D.W. Mezbourian (L)		
	Deputy of Trinity		
	Deputy S.S.P.A. Power (B)		
	Deputy A.J.H. Maclean (H)		
	Deputy K.C. Lewis (S)		
	Deputy of St. John		
	Deputy of St. Mary		

The Bailiff:

We now come to paragraph (b) of the proposition. I ask the Greffier to open the voting.

Deputy of St. John:

Sir, just on a point of order?

The Bailiff:

Yes.

Deputy of St. John:

The Deputy of St. Martin suggested that Deputy Le Claire should consider withdrawing it. He did not say he would not in his closing speech.

Deputy P.V.F. Le Claire:

Sir, I did...

The Bailiff:

I think you made it clear to me that you were not going to withdraw it, Deputy. Yes. So the Greffier will open the voting on paragraph (b).

POUR: 10	CONTRE: 33	ABSTAIN: 0
Senator S. Syvret	Senator L. Norman	
Senator J.L. Perchard	Senator F.H. Walker	
Connétable of St. Helier	Senator W. Kinnard	
Deputy R.C. Duhamel (S)	Senator T.A. Le Sueur	
Deputy R.G. Le Hérissier (S)	Senator P.F. Routier	
Deputy G.P. Southern (H)	Senator M.E. Vibert	
Deputy P.J.D. Ryan (H)	Senator T.J. Le Main	
Deputy of Grouville	Senator B.E. Shenton	
Deputy P.V.F. Le Claire (H)	Senator F.E. Cohen	
Deputy of St. John	Connétable of St. Saviour	
	Connétable of St. Mary	
	Connétable of St. Peter	
	Connétable of St. Clement	
	Connétable of St. Lawrence	
	Connétable of St. Martin	
	Deputy A. Breckon (S)	
	Deputy J.J. Huet (H)	
	Deputy of St. Martin	
	Deputy P.N. Troy (B)	
	Deputy C.J. Scott Warren (S)	
	Deputy J.B. Fox (H)	
	Deputy S.C. Ferguson (B)	

	Deputy of St. Peter	
	Deputy J.A. Hilton (H)	
	Deputy G.W.J. de Faye (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy D.W. Mezbourian (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy A.J.H. Maclean (H)	
	Deputy K.C. Lewis (S)	
	Deputy I.J. Gorst (C)	
	Deputy of St. Mary	

The Bailiff:

Well, that concludes public business.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Bailiff:

We now come to the arrangement of public business for future meetings. Connétable Gray.

Connétable D.F. Gray of St. Clement (Chairman of the Privileges and Procedures Committee):

The schedule is outlined under M in the pink Order Paper with the exception that there is an amendment - P.114 - which will be debated on 21st November. That is the Draft Restriction on Smoke (Workplaces) (Jersey) Regulations 200- and the amendment is from the Minister for Economic Development and that is the only addition to the list that is on the pink slips as I proposed.

The Bailiff:

The proposal is arrangements for public business have been proposed by the Chairman of PPC. Does any Member wish to make any observations? Very well. Well, those arrangements are approved.

ADJOURNMENT

The Bailiff:

The meeting is now closed and the States will re-convene at 9.30 a.m. on 21st November 2006.