

STATES OF JERSEY

OFFICIAL REPORT

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

[09:34]

PUBLIC BUSINESS – resumption

1. Green waste from commercial operators: introduction of charge (P.20/2011)

The Deputy Bailiff:

We now return to the Order Paper and it was agreed by the States yesterday to take P.20 - Green waste from commercial operators - and I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion - to request the Minister for Transport and Technical Services to introduce a charge for the reception of green waste from commercial operators. Deputy Le Claire?

Senator J.L. Perchard:

Before Deputy Le Claire makes the proposition I think I need to declare an interest in this, unfortunately.

The Deputy Bailiff:

Very well. Noted. You declare an interest, and you will withdraw, Senator. Deputy Le Claire.

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

Good morning, Sir. Thank you. Members have been here before with me, so I do not intend to take too long with them this morning. Many Members who have not been here before do not need to endure a long speech about the history of green waste in Jersey. I am certain that the coverage in the media over the last few years has probably given them an insight into it as well. The reason why I brought the proposition was because I asked questions and I have been asking questions for a number of years about the costs and the operation of the green waste facility and I have been trying over the years to keep a comparison going so that we could keep a handle on the costs, and in questions I asked on 1st February this year I determined from the answers of the Minister that the costs have increased and that the operation is continuing to increase in cost. First of all can I say - and I need to be quite clear about this - this is no criticism whatsoever of the excellent work that the department undertakes and that the personnel who undertake this work, some of them working on a voluntary overtime basis, undertake. It is no criticism whatsoever of their work and their efforts of which I would like to commend those in this speech this morning. It certainly is not a criticism of the current Minister or his Assistant Minister who worked on this issue with me, the Assistant Minister that is, in tabling my composting report a few years ago. Both Members have been nothing but supportive to me on many issues. However when I look at what we are spending on this operation and when I see and understand that this is something that we do not need to be doing as a statutory obligation it does get me a little upset. I recently - and it is coming to a finish now - managed to secure from the Parish of St. Helier some funds to help the Transport and Technical Services team deliver a better exit to Garden Lane in terms of pedestrian safety. Something that I had been asking for since the previous Minister changed the direction some 4 to 5 years ago and the sticking point was not that we did not have the plans and the sticking point was not that we did not have the expertise, the sticking point was that we did not have the money. Yet for 4½ years what I consider to be a very unsafe exit for children and mothers with prams was left unattended because of a lack of funds. Meanwhile in my district 80,000 vehicles a year were trundling backwards and forwards to La Collette to a site that was estimated in 2006 to be worth £3 million to £6 million in W.E.B.'s (Waterfront Enterprise Board) estimations of alternative value to deliver compost to the site. I thought this morning I could do a *Dragon's Den* speech and come into Members and say: "Here I am in the *Dragon's Den*, I have got this great idea, let us take £1 million a year, create a really big nuisance, sit on a site that is worth £6 million and produce £50,000 worth of compost a

year.” Would I get the support of the panel? I do not think I would. There is an issue surrounding all of these things in terms of what we can do with the waste. We can add it to our recycling totals and the 13,000 tonnes a year representing something like 26 per cent of what we do, or a third of all we recycle looks good on paper. We can mush up and turn around all that compost and we can use it to bury the asbestos and ash pits and cover the ash pits that are going to be coming out of the new incinerator, because the ash pits are going to be continually needed because we are not treating the ash properly, and it will help to build up banks to protect the residents from any possible explosions from the fuel farm. We can give it to the agricultural industry because they need our support, but the agricultural industry, as I have mentioned before, are quite amazed to learn that this £1 million a year operation only gives them £14,000 worth of subsidy. So struggle as I have over the years to try to get the States to make the decision to rationalise this, I spoke to the Minister for Transport and Technical Services, the Constable of St. Brelade, who I have found refreshing in his approach to concerns of Back-Bench Members in this Assembly. Unlike his predecessor I feel that he is a can-do Minister, and it was with his blessing that I brought the proposition in the first instance. Unfortunately by the time he got up to South Hill, having told me that there was no way because he is a can-do man that they will say no, his final journey obviously ended up on the roundabouts because he did a complete U-turn and swings and roundabouts since then. So unfortunately I do not have his support this morning. He continues to have mine as a Minister, I think he is doing an excellent job and I congratulate him and his Assistant Minister in the department for many of the things they are doing. I do not like some of them, but that is neither here nor there. That is in reflection to the incinerator. We will park that one. £900,000 or £1 million a year, a £308,000 increase in 5 years, a £162,000 increase in staff costs in 5 years, £1 million and we have got no money to do anything. Yet we are doing this. There was a States agreement that the nuisance caused by this site was going to be tackled when money set aside for an in-vessel composting facility was identified and rather than continue to just argue with the department and get nowhere, because I am intending to continue to argue this, I have said before in the past and I say again, let us invest to save. Let us engage with the private sector, let us invest in the in-vessel composting facilities, let us help them to get into the industry, let us produce better compost, let us start selling different qualities of compost, let us stop selling poor quality of compost, let us stop importing all of the other bags of compost we are importing and let us give real benefit and support to the agricultural industry in a meaningful way. I am asking for us to request the Minister to introduce a charge for the reception of green waste from commercial operators. It is unlikely that if we agree to this the Minister will come back and say no, but if he does come back and say no there will be a robust argument as to why he is saying no. At the moment there is just no argument. I am very disappointed with the comments from the Minister for Treasury and Resources, which Members have on their desks or should have with them. The Minister for Treasury and Resources comments: “The Minister for Treasury and Resources supports the view of the Minister for Transport and Technical Services that the department consider this matter in putting forward their C.S.R. (Comprehensive Spending Review) proposals and is committed to reviewing waste charges on a strategic basis. Should this proposition be approved however the Minister for Treasury and Resources wishes to make clear that any additional income received would not necessarily be available as of a right for T.T.S. (Transport and Technical Services) to use as it sees fit if it is not included in the States-approved Business Plan. In the first instance the income would need to be applied to any additional administration costs for collecting that income. Any receipts in excess of that requirement may need the approval of the Minister for Treasury and Resources before they can be spent in accordance with financial directions.” There is no financial analysis of what is going on and no financial analysis in relation to the timeline of events and the operations and no cost benefit analysis.

[09:45]

If it was approved and in the Business Plan if you were to say to the Minister: “You can keep this money” then perhaps he would have money for some of the issues like potholes in the road, pedestrian crossings, traffic signs around the Island which the Minister for Home Affairs has pointed out recently and no doubt other things that Members are thinking of. I find it remarkable that we have all of these Ministries making all of these monies and in certain circumstances under the private hospital provision the private hospital monies can be reinvested within Health, but you cannot reinvest the rents within Housing and you cannot reinvest the money that might be accrued in this example into the Ministry for Transport and Technical Services. Just before I sit down, there is always the argument that there is going to be fly-tipping. Fly-tipping is illegal and if fly-tipping is going to occur, as it does certainly occur at this time - at the moment it occurs - then the police and the courts need to deal with that illegal activity. It is for them to decide how to deal with that illegal activity based upon the circumstances of that activity, whether it pollutes the water or whether it is rubble thrown on the beach. The laws have been put in place, they are not there for us to police, they are there with maybe some exceptions of the Minister for Home Affairs brief, they are there for the Police to police and they are there for the courts to adjudicate upon. But for us to say we should not be introducing a charge for the commercial aspects of this operation when we have got no money for school milk and everything else, I just find amazing. These are in my view operations that are making commercial gain and are not paying any money for the disposal of that product. If it was infill they would be paying £11 a tonne. In St. Helier the vast majority of people who live in St. Helier do not have gardens. In fact we do not have many trees, so the vast majority of this waste is occurring outside of St. Helier yet it is being processed by the vehicles driving in and out of it every day into the heart of St. Helier. It is not fair on the ratepayer that has to maintain the roads and the taxpayer who has to pay for the adverse health effects from airborne particulates from the lorries, *et cetera*, because this operation is occurring. So let us get some money back from the commercial end. They are not operating their businesses for free for their customers, and if there is a gardening service that happens to be supplying a gardening service to a family who has a large house with a large garden then they can create an in-house or an on-site composting facility. We offer throughout the garden centres many opportunities to do this through the subsidised availability of composting bins and with the help of the department and the help of the real knowledgeable gardeners this can be achieved. So I would ask Members for us to get real about this issue and for us to stop seeing these escalations in cost, without there being at least an attempt to address the matter. In my view, and I am sorry to say this to the workers, but maybe we can privatise them and give them good futures, the whole operation in its entirety needs to come out of St. Helier back into the countryside and it needs to be privatised away from the States, away from the final salary pension schemes, away from the nuisance that it has caused and make it wash its face, because it can commercially. It is certainly not washing its face at the moment. £1 million a year for £50,000 worth of product. I make my proposition and ask for somebody to second it

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** I call on the Minister for Transport and Technical Services.

1.1.1 Connétable M.K. Jackson of St. Brelade:

I would like to start by saying that as I have indicated to the Deputy before, that I do support the principle for this proposition and agree that charging for waste services has a very important part to play in waste policy in the near future. In other jurisdictions charging for the use of waste facilities such as landfill or energy from waste is almost standard procedure, particularly for commercial customers. Gate fees for waste disposal not only generate income but can be a powerful tool for influencing behaviour such as discouraging unnecessary waste or encouraging recycling, and these are key objectives as we continue to implement our solid waste strategy in the Island. We have already met our first recycling target milestone of 32 per cent in 2009, which has been the result of hard work on the setting up of new collection systems and outlets supported by successful

community education. Recycling and composting is now well on the map and a key part of how we deal with the Island's waste with around one-third now managed through one of these methods. But there is much to do and we need now to be heading towards 40 per cent if we are to stay on track with our objectives. Our solid waste strategy was approved in this House over 5 years ago and I have asked my officers to review it this year with particular attention to the option of the use of fees and charges as a mechanism for influencing positive behaviour and funding more recycling services. It is my view that new charges for waste must be carefully considered and we must think carefully about how best to use this tool, which waste streams to target first, what level of charging, what will the short and long-term impacts be? We must avoid the wrong kind of behavioural change. There are points which the Deputy brought up, particularly with regard to splitting-off the collection throughout the Island which has been mentioned and I think there was a report in October 2006 which my department responded to. The difficulty is, and I think it is an ideal solution to provide collection areas throughout the Island, because the question arises where they are going to be, and the department has worked hard to try and establish the principle of having several composting site facilities. This attractive idea would make them more accessible to users, reduce the overall journey and transportation distances and so on. But it is not necessarily going to be a cheaper option. They would need to be managed, that means staff and increased costs, and once you split the staff facilities into multiple units it multiplies the cost of those staff. Once again the Deputy mentioned land values, but I think it must be noted that it is easy to compare the valuation of the La Collette site with that of another. Now the valuation down there must be based on a site that really is undeveloped with no infrastructure, roads or anything like that and that is why principally it has been used for this purpose. If it were to be a developed site we would not see a composting site down there, I have no doubt whatsoever. I think the Deputy did conflate domestic waste with that of commercial. We are going through a process whereby the implementation and the commissioning of the new incinerator at La Collette will allow us to decommission the existing one at Bellozanne, thereby releasing space for us to develop the recycling centre down there and certainly enhance the reception for domestic waste. In the short term we are still taking commercial waste at La Collette. I expect as time goes on as the site is redeveloped that will change and it could well be that may end up at Bellozanne as well, but of course it is early days. So there are a lot of variables. With regard to implementing the proposals of the Deputy straight away, there are some upfront costs which the department would have to incur such as the building of a proper weighbridge. There is a sort of a weighbridge down there but I have been assured that it is inadequate for the purposes required to link into charging. There is the vehicle flow element which we have to consider and my suggestion is that, as I have said before, I do fully understand and empathise with the Deputy's wishes and I can assure the House that I will be implementing charges as soon as I can. I am not one for not charging where there is an opportunity. I am also conscious of the effect that the Deputy intimated of fly-tipping. It is all very well saying that fly-tipping is illegal, which quite clearly it is, but there is a resource attached to controlling that and quite candidly there is not the resource to deal with it, and I am apprehensive of the result of adopting this position. So I am not going to continue any longer. For the reasons I have explained, I would urge the House at this point not to support the Deputy and his proposition but accept my assurance that the wider issue of waste charging will be reviewed by my department and brought back for consideration here in this House later this year.

1.1.2 Deputy R.C. Duhamel of St. Saviour:

I think it is a real shame that when Back-Benchers or other Members bring forward propositions they are met with an element of negativity. We have heard that the Minister for Transport and Technical Services will be looking at charging, but that is as far as it goes. I would have personally liked him to have said - and maybe he can say it at some future date, or even today - that he was not only supportive, as he did say, of a charging structure perhaps if it was applied to particular materials and it was possible to do, but I would have much preferred him to have said that although the Minister for Treasury and Resources has suggested that his department is looking at the whole

issue of composting under the C.S.R. process he was supportive or more supportive than perhaps he has mentioned so far of perhaps looking into privatising the whole operation in order to get more value for money. This is not a particularly new idea, it was mentioned as one of the ways forward in the compost reports that were written a number of years ago. One of the key financial things that we really have to address is that we were promised - a number of years ago - in-vessel composting. In-vessel composting would have enabled the Island to reduce its cost overall, because you need less staff than the wind-drying methods that are adopted by the department at the moment. Nobody can deny that the products that are being made are useful, but that does not necessarily mean that we are making the best use of the materials that are being delivered to the department in terms of value adding to the extent that perhaps the goods could displace the peat and other compost products that are coming into the Island. When we looked at the composting review all these years ago there were a number of private farmers and other businessmen, landscape gardeners and whatever, those very persons who have been delivering their materials to T.T.S. over the years to have it processed for nothing, who were quite willing to embark on the diversification of the economy, if you like, and to set up a company to make the things that the department were making and perhaps to adopt more up-to-date methods. But one of the things that was stopping them was the high cost of the investment. The point is this, if over the years we spent over £5 million in revenue costs and other capital costs for running the system as it stands now, and the cost of the in-vessel composting containers and units was of the order of £3 million, then you do not have to be an economic genius to realise that had we embarked on that as the particular method and endorsed any of those persons who were wishing to set up a private company to operate the service we could have gifted £3 million out of the £5 million to that particular company to assist them in doing the job for us. Now a lot of people would turn around and say: "Do not be so naïve, if the department cannot make any money out of the composting exercise how will a private company be able to do so?" But that is where this idea of positivity and negativity in approach comes to the fore. Private businesses have to make a profit. That means they have to be a little bit more nimble on their feet, they have to be receptive to new ideas and they have to be able to make money, but not necessarily just by charging subsidy monies, if you like, for the delivery of the raw materials.

[10:00]

If indeed we did have a privatised service I am pretty sure that within a short period of time, as I mentioned earlier, there would be a drive to eliminate the importation of all those peat and compost materials coming into the Island that are sold in vast quantities at the existing garden centres. If we could do that, in terms of our recycling credits or our green brownie points, so to speak, I think the Island would be able to go up several notches because we would be displacing a particular commodity by substituting a home-grown one, and that has got to make economic sense, financial sense, green sense, environmental sense across the board. And not only that, it would be fulfilling the Minister for Economic Development's aim of trying to diversify the economy and to get us moving in the area that all other countries around the world are beginning to move in, which is green businesses. So I would like an assurance from the Minister for Transport and Technical Services that he will not only look at charging for the delivery of materials from the gardeners who are delivering there free of charge at the moment, and have been for years, but he will also take a deeper look in terms of the Comprehensive Spending Reviews to see whether or not the time is right to offer States assistance - our assistance, the taxpayers' money, which is being spent at the moment for a short period of time - in order to offset or to assist other businesses to set up, to deliver better services in different places to the Island's greater benefit. One other point about fly-tipping is that it has been mentioned, and again this is the negative element coming forward, that fly-tipping is a reason for not encouraging anybody to do anything but when we think of the materials, they are green materials and green materials rot, so what is the problem even if we did have fly-tipping or an element of that on our fields providing it rots down? Nature will do its bit, the materials will disappear and that is what happens naturally at the moment, so I do not think the

fly-tipping element is such a big issue. The other thing is that we saw in the evening newspaper just recently that even the definition of fly-tipping is different depending on who you talk to. Members of the department were mentioning that people were fly-tipping materials like electrical goods or whatever at a local site that was set up to take materials to be recycled. That is not the fly-tipping that I understand. I thought fly-tipping was the indiscriminate disposal of materials in places that were not specifically set aside for their particular disposal. The public are interested in recycling. The public are interested in getting value for money. The States have said that they are interested in both those things as well, so I think the way forward is pretty clear. Let us have a Comprehensive Spending Review to see whether or not just a charging mechanism will deliver the goods in a better way or indeed if we can square the circle, so to speak, and move ahead to develop smaller businesses that can accommodate the practices that T.T.S. are doing at a loss at the moment but in a fashion that makes them money then perhaps that might deliver a betterment that is worth paying for. I am in 2 minds given the comments from the Minister for Transport and Technical Services whether or not we should support the introduction of a commercial charge. In some ways I find it strange that the Minister has already said that he supports the idea of charging and yet he is not supporting the proposition which strikes me as a little bit odd. So I think before I decide how to vote I will listen to other comments and maybe other speakers can elaborate on how the Minister can say one thing and do another.

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

I am slightly confused with the proposition insomuch that the proposition simply asks for the Minister for Transport and Technical Services to introduce a charge for the reception of green waste from commercial operators. However in making the proposition Deputy Le Claire went on to say that he was looking for private enterprise to take on this issue and also to outsource it, and it does not chime with the proposition itself, so that gives me my first problem with supporting the proposition, in that there is something else within there which we may well be voting on. It made me think more about the difficulties involved, and the difficulties in quantifying what would be the net gain when we take into consideration the administration cost of collecting the charges that were being yielded, bearing in mind the Deputy Le Claire said in his proposition that the infill waste is being charged at £11 per tonne. If we charge green waste at that similar sort of price I know where it is going to end up, and it will not be down at the reclamation site, it will be somewhere else. It will be at sites out in the Parishes, and even if some of the operators decided that they wanted to recycle on site there are a number of neighbour issues. Obviously in St. Peter we had an issue in Clos Saut Falluet where the original reclamation site was, and the rats issue and the smells that emanated around about the airport, which then had it moved into La Collette and then we had the problems with La Collette with people at Havre des Pas also suffering from the smells and spores coming from the waste tip there. So it is not a good neighbour, and to try and suggest to move it back into Parishes to private operator sites is probably, in my view, not the best way to do it. But equally if we look into the report going along the proposition and some of the comments we note that the yield from doing this recycling is very, very low. We are talking a gross yield of less than £100,000 a year that they are making on selling the soil improver. I really cannot think of an entrepreneurial person with 2 men and a lorry going to try and make that a thriving business that is going to expand in the fullness of time. Added to that we already know that T.T.S. are under a certain amount of financial pressures in having to fund farmers to take the soil improver they cannot sell via the normal mechanisms, so I really do question the arguments being put forward about being a viable private enterprise because at the moment the numbers just do not stack-up, unless somebody can show me where I am in error, then I would be prepared to give way. So coming back to the Minister for Transport and Technical Services, he is under considerable pressure - as are all Ministers at the moment and some Assistant Ministers - in producing some considerable savings in C.S.R. and I feel certain that the Minister for Transport and Technical Services and his officers would have been very, very focused in looking at that as an option. However I note that Deputy Le Claire's proposition is one the principle of which is supportable

insomuch as a user pays charge... it is a levying of that charge which does create in itself a further problem and whether it does produce a positive yield. That is the conundrum I have got, and at the moment there is nothing in the proposition and report that gives me the confidence that to support this proposition today is the right thing to do. Thank you very much.

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

It is always a pleasure to follow the Constable of St. Peter and we will probably have another 10 speeches if they all speak today of where will it be, and it will not be in my Parish. I really cannot agree with what he is saying. He cannot support the words on the proposition because of Deputy Le Claire's speech? What are the words on the proposition? To request the Minister for Transport and Technical Services to introduce a charge for the reception of green waste from commercial operators and it does not say, by the way, Minister for Transport and Technical Services, it does not say do it tomorrow. It does not say when to do it, and in principle they all agree with it. I feel even more sorry for a Back-Bencher, because it will be done, but it has not come from the centre. This is this control at the moment. It is a good idea, it will be done and it should be done, because for those of you, when you read the comments: "Oh, it should not be just financial, there must be a sound, scientific reason for doing it." Well, what is going to concentrate big commercial operators than to, as Deputy Duhamel says, thinking more and doing things more nimble and less? They are laughing all the way to the bank. We have created - we use them, Education use them, Housing use them, T.T.S. use them - some 2 or 3 massive big companies over here, and for anyone who does not believe they are making masses of money watch *Dispatches* that was on, on Monday night. This is exactly where we are going, we are paying these people with taxpayers' money and if any of the Parishes are using them you are paying ratepayers' money, and people want to be asking questions. Why are they then allowed to take lorry loads of green waste for free down to a site that is owned by the States? They are laughing at us. A lot of these companies, and one of the companies are over here that were on ... a section of them are over here. As the Minister said, in no other place is a commercial operator not charged. They charge for it in their contract with us, but they laugh at the end of it. They are laughing at us. As I say, the comments from Treasury are not about really whether he supports it, he just wants to know where the money is going to go, and all this. It will happen and for Deputy Duhamel, who says he now has to think about it, what Deputy Le Claire is requesting is sensible. The Minister has done all his research in his speech. In the first two-thirds of his speech it was in support of the proposition. Everything has been done, he knows the problems. Being a Constable he will also know the problems if private companies ... I mean the Constable of St. Peter is worried about 2 men and a van. Well, it would not be that, and they are not a good neighbour, but in-vessel is a good neighbour. There are things out there if there is money to be made, but my more annoying part is big companies over here are making money out of the taxpayer, out of the ratepayer, and they are getting a free ride at the end. It has got to stop, it really has got to stop. This is supportable, it does not give a date, in fact it is completely open-ended. Completely open-ended. If you cannot support it you really are saying: "Well, come on, big business, rip us off, bring it on more, take your waste down there and you can dump as much as you like." That will really concentrate their minds, will it not, for doing a bit less and doing a bit more environmental thinking. Of course it will not, not at all, and they are not doing it and it could halve the green waste and it may be there are other solutions. But for me and I know that we are looking at every penny the taxpayer is putting in, somebody ought to be asking about these contracts and what they do ask is where they are putting their waste, how much they are charging us, in the contract, to dispose of the waste that they are getting free. These are the questions you should be asking and this proposition is totally supportable because it does not say when. On that note I will sit down. Thank you.

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

I have taken an interest in this issue for quite a while because we have a valuable resource in terms of all the green waste in the Island and then when I found out it costs the States £750,000 a year

more or less to process this waste and we do not seem to get much back for it, that really raised my interest. Why are we in this situation? It really poses the question, and I am glad that we have this proposition and I will come closer-in to the proposition later, but I think the background is important. There is a real opportunity here and we are talking about making a charge on people who go down there, the commercial operators who go down there. That charge will be insignificant compared to what we should be earning out of this resource. The first thing is retail. I did a very quick survey just now of a couple of garden centres, I did not have time to do more but even from just a couple you get a very clear picture. The first thing is that T.T.S.'s soil improver is good stuff, the product is fine and it flies off the shelf. Well, not the shelf, the ground. But it flies, anyway, and it sells well. So that is a pointer, is it not? They are producing something that sells well. There is a problem of quality. The pH varies, it goes up and down, the amount of lime that has gone on to the various crops and ends up in the compost makes the pH wobble and if you are going to have sustainable business over a longer period then you are going to have to remedy that. But they both said that the supply had stopped in the last 2 years, that there was a point at which they went to T.T.S. and said: "Can we have the next lot?" and they said: "We are not doing it anymore." I just do not get it, because how can you be selling a good product that is flying off the shelves and then you stop doing it? Businesses need continuity of supply. So there are a sort of range of issues there.

[10:15]

The other thing that they said was that it was very competitively priced and that is why it sold well, and that it was a good product. So there has got to be an opportunity there. Then on the commercial side this business of the growers and the farmers and the fact that they are paid to take this material and put it on their land, we looked at this in the Rural Economy Strategy review and in fact if you look at the figures on page 7 of the proposition the amount paid to the farmers is insignificant in terms of costs at £17,000, it is £10 a vergée, I think it is more now. But the main costs are the preparation of the material and the haulage, hire of pay loader, the bagging and the haulage of the compost. It adds up to £200,000 a year to take this material and give it to the farmers and growers for nothing, or rather pay them to take it. I have here the key findings and recommendations of our review, of the Rural Economy Strategy review and the first one, the response to the Minister: "It is considered that this is a highly cost-effective method of waste disposal", that is to haul it to growers' land and put it on the land. Highly cost-effective, £200,000 a year with no income at all. Then we had a finding that: "There is concern among the agricultural sector as to compliance issues arising from using the green waste produced by T.T.S." and the response, and this is the interesting thing because there is a pledge in here: "Correct. There is evidence that in some cases the quality of the green waste would jeopardise compliance with industry assurance schemes. The environment, management and rural economy section will liaise with T.T.S. reference the quality of the fertiliser and soil conditioner and help ensure it is able to meet the relevant industry standards in order to alleviate the concerns of the agricultural sector" and this is the important bit: "enhance its value and minimise the costs of waste disposal to the public purse" and that task is supposed to be finished by September this year to sit around a table, talk about why the quality is variable, to make sure the quality is good enough and then to look at the whole financials around it, why we are paying out £200,000 a year instead of generating an income from improving the land of the growers. So that is the background. There is a big opportunity here, we are missing a trick. To come more closely to the proposition, if charging is introduced for commercial operators, in my view that would encourage the operators, and I am thinking of the people who come and do large gardens or who come and do the grounds of hotels or whatever it might be, I would have thought that would be an incentive not necessarily to fly-tip, because they might end up with a hefty fine, but it might encourage those operators to talk to the proprietors of the hotels or the big gardens, and say: "Why do we not do this a different way, why do I not set up a compost heap around the back there?" and of course some big gardens do that. I think there is an

incentive to localise the composting in that way, to do it where it is generated. The second option of course is to do it on a localised basis and we have heard 2 views. We have heard Deputy Duhamel say: "Why do we not do it on a localised basis? Why do we not have in-vessel composting on local sites? It is completely controlled, the quality would be fine and there is a commercial aspect to that as well, so why do we not do it?" Then we have heard the opposite view from the Constable of St. Peter which is: "Well, it is all too difficult and it cannot be done." I really do think that we should be more positive and I think the charging, which has been accepted basically by the Minister, is a kind of spur to making these other changes happen. My last remarks concern the statement by the proposer that the States does not have to do this. I do find that a bit difficult. He says that the States has no legal requirement to deal with green waste. Well, that may be so, we do not have a legal requirement to do lots of things that we do do, and we do them because they are right. I support the Minister for Transport and Technical Services in his comments when he talks about a behavioural change, a change that will benefit the environment, and the objective of recycling organic matter into the soil instead of burning it. Those are correct objectives and I am not sure the proposer is right to say that because there is not a legal requirement therefore we should not do it. I do not think there is a legal requirement to fill in potholes, but my goodness we heard yesterday, there is not even a liability. If a cyclist hits a pothole, falls under a bus and is killed or maimed then there is no liability, there is no case to answer. It is quite extraordinary, so we fill in the potholes because it is the right thing to do. So I think that part of the argument of the proposer is flawed, but otherwise this is a step in the right direction I believe, but there are many other steps. There is a lot of money going missing here, we are missing a big trick. We should be using the opportunity that green waste represents, as Deputy Duhamel pointed out, and he made all the other points necessary, so that is all I have to say. Thank you.

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

Yes, it is always good to follow my vice-chairman. I recall when I first came to the States they had a problem with disposing of potatoes by hundreds of tonnes. I think they were disposed of in the Parish of St. Brelade, which cost this Island a fortune for many, many years. What do we do with potatoes now? We do not put them in our green waste, the farmers keep them and they put them on the land. They put them about this deep on the land and they found a way of returning their crops back to the ground or their waste back to the ground. I must say what is wrong with doing that? Why do we as taxpayers have to pick up this bill? It was quite interesting when I heard the Minister's comments, the T.T.S. recycling targets. I do not mind if it goes down by 4 per cent, Minister, because it will still be recycled. The targets may not come through the Minister's department, but that recycling will still be happening if we tell growers, farmers, gardening contractors, to do their own recycling on the land that the waste comes from within that particular area. When I was a youngster each farmer had its own recycling area. It was called a manure heap or whatever. We had also ... the Parishes used to collect their own *bannelais*, which would be sold on to a farmer, all recycling in its own way, the old-fashioned way, and some of the old things are still probably better than what we are doing today. I do not want to tell the Minister that because he has got a 40 per cent target, or that is his aim at the moment for recycling, that he should be looking at 36 per cent because the other 4 per cent, or 34 per cent and the other 6 per cent, those figures should not be set in stone, if there is a better way of doing things. We have heard from the Deputy of St. Mary about green waste and what we pay farmers, £28 a vergée to receive green waste which then we spend additional monies on having to deliver it and spread it. If savings can be made Deputy Le Claire is absolutely right, it might give us the impetus to do things in a different way, but do not let us get tied-up in trying to look at numbers. Recycling can be done in the home. We do not need to know that 1 per cent is being done of recycling in people's gardens. We do not really need to know those numbers, but we know that the numbers will not be passing through your green waste plant. That is the way I would say we should be looking at recycling. I am green, I think we are all green to a point. Some are different shades of green. If I look at my 2 colleagues in the Deputies benches across the way here I would say they are dark green. I would put myself

somewhere in the middle. I do not know where Senator Le Main is on that, what colour green he would be, but I think we all want to do what is right for our Island. What really worries me... I think it was in 2008 when I was looking at the tax returns for the agricultural industry, were somewhere in the region of just below £5 million a year and yet we were spending something like £14 million to £16 million a year in subsidies in that area. Really we have got to get our thinking caps on and come up with something better. Deputy Le Claire here I think is right in bringing this to the House, because I think there is a way around... just accept it, we know it is going to happen. But really is it because this has come from a Back-Bencher and therefore there will not be a press release on it as we see on a daily basis from the Ministers - a press release, this is going to happen, that is going to happen *et cetera* - this comes from a Back-Bencher so there will not be a press release, therefore the Minister or his department cannot claim to have thought of this idea. I think we must do what is right and I believe this is the right way forward, but please do not get hung up on these statistics that you want 40 per cent recycling when the recycling would still go ahead. All right, it would be a number out of your box. So what? Just think forward, Minister. I am supporting this proposition.

Connétable A.S. Crowcroft of St. Helier:

Before speaking I wondered if I could seek advice from the Attorney General on whether this proposition falls foul of the Bellozanne Covenant, which to my understanding means that a charge cannot be levied for waste that is generated in St. Helier?

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

I am not sure that it could be said that this proposition as such falls foul of what I understand the Bellozanne Covenant to be. I think it is *intra vires* the Minister, if he is able to do so, to introduce a charge of this nature. Naturally if there are pre-existing contractual arrangements then one would expect the Minister to honour those contractual arrangements, but I am not able to comment, I am afraid, on the validity or enforceability of any contractual arrangements without the opportunity to study the precise terms and the circumstances in which they came into effect.

Deputy S. Power of St. Brelade:

Sir, may I make a comment on that? Another speech?

The Deputy Bailiff:

You can ask the Attorney General further questions, not another comment.

Deputy S. Power:

That is what I wanted to do. It is a question, thank you for correcting me. Would the Attorney General not agree that the Bellozanne Covenant - I think it is 1948 - applies purely to the ratepayers of St. Helier, so therefore it does not really apply to the other 11 Parishes?

The Attorney General:

My understanding, and again I am sure Members will appreciate I have not had very much notice of this question, is that indeed the Bellozanne Covenant does only apply to the Parish of St. Helier if it applies at all, and therefore none of the other Parishes would be affected by it. So to that extent at least this proposition would be *intra vires* were it to be adopted by the Assembly.

Senator S.C. Ferguson:

Sir, may I ask a question of the Attorney General?

The Deputy Bailiff:

Yes.

Senator S.C. Ferguson:

Presumably the covenant will apply to official vehicles of the ratepayers of St. Helier. There are 2 types of business; the business that operates out of St. Helier which is a private business and is cutting trees out in St. Ouen, or you have the business from St. Ouen which is cutting trees in St. Helier. Does the covenant differentiate between the private and the public in this respect?

The Attorney General:

I am afraid that as I am not familiar with the full details and terms of the covenant I am unable to assist very much. As a matter of my understanding, and that understanding may very well be imperfect, it relates to the Parish of St. Helier and I would take that to be the municipality as opposed to people merely resident within St. Helier, but I am not able I am afraid to be definitive in that without the opportunity to consider the documentation.

The Deputy of St. Mary:

I do have a further question. He has opened a can of worms, has the Constable of St. Helier, but my understanding of the Bellozanne Covenant was it applied to materials taken to Bellozanne and therefore it does not apply to La Collette, but I am seeing heads shaking so maybe the Attorney General could confirm that is not the case.

The Attorney General:

I am afraid I cannot. I understand that it may be the case that whatever the arrangement was for Bellozanne it has been transferred, I think, to meet the current arrangements, but I am not able to say with certainty that is the case because as I say I simply have not seen the documentation.

[10:30]

Deputy P.V.F. Le Claire:

I am sorry to ask a question of the Attorney General but I think the position needs to be made quite clear and I will preface a lot of this by saying from the speech this morning, from the Minister for Transport and Technical Services, it looks like overall charging of waste will be introduced in the future, so I will be tabling questions on the Bellozanne Covenant in the near term as a heads-up. But just as a point of clarification, if I could please, to Her Majesty's Attorney General because now I am confused and I know it does not take much, but there we are. The Attorney said that it would be *ultra vires* to introduce a charge, if this was agreed, am I right, to the Parish of St. Helier? Because if that is the case and if I am not mistaken then I would like to follow that up by asking how is it that we can charge at the moment for infill being delivered to La Collette?

The Attorney General:

The expression: "*ultra vires*" simply refers to the powers available to someone to do a particular thing. Do they have the power to do it? My advice in saying that it is *intra vires* for this Assembly to pass this proposition merely is to the effect that the Minister for Transport and Technical Services or the appropriate Minister would in my view have the power to introduce such a charge. Whether that would be consistent with pre-existing understandings or contractual relationships of course is a different question. The *vires* question simply goes to power, not to in effect whether it can be done as a matter of all the legal issues that apply to it.

Deputy P.V.F. Le Claire:

Thank you.

1.1.7 The Connétable of St. Helier:

I think it is important to keep this matter alive. First of all can I say that if this proposition does not go through I foresee problems for the Business Plan later this year. Surely the States have a job to do to make savings, we have heard a lot about that, but the other side of it is to increase charges where those charges do not go to the taxpayer but go to the person who is making use of a service.

We have already agreed that in principle, when a long time ago now there was an agreement about not increasing charges over inflation. We do not even have a charge here, so we do not need to worry about it being more than inflation. It is quite clearly a basket case at the moment and that needs to be put right, and there are no excuses for inaction that we heard from the Minister. He spoke of a lot of variables, we need to build a weighbridge and stuff like that, and Deputy Martin said very rightly that the proposition simply asked the Minister to agree to introduce the charge. It does not say how, it does not say when and I hope the Minister and the Council of Ministers will change their minds on this and put their support behind this. Because if we cannot save money where we are wasting it, if we cannot introduce a charge where a charge is quite clearly required, then how can we take away school milk and other things like that? It may surprise my colleagues to know on the Constables' benches, I am not going to pursue the hare that I think has been set running possibly by the Constable of St. Peter when he said that composting is not a good neighbour, therefore let us leave it in St. Helier. I am not going to pursue that because what we are talking about today is not where composting takes place, but whether we should charge the companies who avail themselves of this service. Let us not turn over those spore-rich compost heaps about the siting of the compost thing, and indeed I think it is unfortunate that so many Members have been talking about privatising the service. My first thought was how do the people feel down there at La Collette who are doing a very good job for T.T.S. processing green waste? How do they feel without any consultation States Members saying: "Well, we are going to privatise it" and arguing about whether there is a private sector interest. We have a very good public sector capacity to create this compost and I want to reassure the staff that if this proposition is accepted it is not tantamount to saying that we are going to privatise T.T.S.'s composting operation. There is a very good reason in many manual work areas to keep those services under direct employment. Of course that reason is profit, that the States does not have to make a profit but for goodness sake, the States has to start charging for a service when commercial operators are imposing enormous charges on the people whose gardens they are currently working on. So what I believe we should do is we should approve this proposition. This gives the Minister the ability to announce that thanks to Deputy Le Claire he is going to impose this charge and he can begin a process of consultation - that is important too - with the landscape architects and the other companies that currently use this service. He can consider whether it would be fair to charge them and not to charge for example the householder turning up with a boot full of clippings. That in fact of course happens with inert waste and of course you can get round the charge there, you do not need a covenant. You can get round the charge by simply putting all your building waste into the back of your car and taking it down. It is not particularly good for the springs, I have discovered. So what I am saying is I think we should get behind this; we should not get involved in a town versus country debate, we have been satisfied that this is not a problem with the covenant. Let us give the Minister clear direction that we want to see him imposing charges for this service which we are offering certain members of commerce and let him begin that process of consultation with both his staff and with the businesses so that hopefully by the time the Business Plan comes around we can see a charge being levied at that time. Thank you.

1.1.8 Deputy T.M. Pitman:

Senator Routier will be pleased to know that I am not going to even use up my 15 minutes because there are a lot of people who know a lot more about this than me. However listening to the Deputy of St. John and as we are talking about compost, all this discussion that we are all being different shades of green, I have to use the joke that all politicians apparently come in green, although unfortunately many quickly turn yellow and soon end up rotten. I think it is probably quite appropriate for this subject. I support the principle of the proposer, Deputy Le Claire, and as he tells us the Minister himself supports this principle. The only difference it seems to me is that I support confirming that we are going to do something about this now, and the Minister, much to my surprise because I also think he is a can-do Minister, appears to want to take something of a *mañana* approach and I do feel quite surprised at that. So my real issue I suppose is why does the

Minister feel the need to oppose the proposition and I think that it has probably been touched on by a couple of other speakers, we must not give Back-Benchers that credit for coming up with something and that is a shame, especially from a good Minister. After all Deputy Martin said it very clearly and the Constables echoed it, Deputy Le Claire is simply asking the Minister to state that he is going to be doing something. There is no deadline, there is no sell-by date, it is really about sending out the message and confirming to the public and those big businesses out there that this is going to happen, it is not always going to be put off. So I have to say to the Minister where is the problem and politely suggest to him that as Deputy Le Claire said to him he does another U-turn on the roundabout at South Hill and withdraws his opposition and gets behind this, because really I think it is just strengthening his hand as a Minister with the House showing their support for him. The Constable of St. Helier did not want to do it, but I do feel I have to say something on the Constable of St. Peter's highlighting of the process not being a good neighbour, because the people of St. Helier No. 1 who put up with an awful lot on behalf of the rest of the Island, they deserve good neighbours too. What is good enough for someone in the country should surely be good enough for these people. It seems to me, as Deputy Martin has said, there is this constant attitude among some that we must not touch profits of big business and I am afraid this view seems to be absolutely endemic for this Council of Ministers and it is something I believe has to be stopped. Where charges are appropriate I think they should be made and really I leave it there other than to echo how pleased I am to hear the Constable of St. Helier confirm for the staff that if we support this it is not about privatisation and taking away jobs. It is about making things more effective for the Island and I really see absolutely no problem why the Minister cannot support this and would urge him to do so. Thank you.

1.1.9 Deputy M. Tadier of St. Brelade:

I was reassured by the speech of the town Constable because I too have reservations about privatisation as was alluded to by Deputy Le Claire, which I will address in my speech. I find it remarkable that we start off again with the Minister for Transport and Technical Services saying that we agree with this principle, we have heard that he supported it initially as a politician when he was talking to a fellow politician and then on a short drive up the hill when he managed to talk to some civil servants they managed to talk him out of it, so interesting dynamics going on in that relationship. We also heard arguments about the short term costs from the Minister for Transport and Technical Services. Clearly I think he knows that this is not a strong argument. He realises that of course there would be costs, if you need a new weighbridge that would have to be done, it is an 'invest-to-save', which I know the Minister voted for, giving extra money to finance to set up offices in the Middle East, *et cetera*, because he realised that for him that was an 'invest-to-save', so it was not money that was being wasted, it was money that would generate an income. That is exactly what is happening here, so I think that argument again is a red herring. This reminds me of speaking to a civil servant recently in the Treasury Department - it was in one of the sub-departments of the Treasury, if I can put it that way- an experienced officer who says that there are so many barriers to innovation within the current Civil Service and within departments. One example that he gave was that in Education money and revenues could be made and accrued, for example if they rented out car parks after hours. This idea was explored on a very superficial level, it was raised and said: "Why do we not just rent these car parks out? We can get X thousand a year which we can put to other uses" but he said the reason that these ideas do not get progressed is because there are no incentives for the department because that money is not ring-fenced and it gets taken out of their budget the next year. So they can spend all their time finding innovative ways to make savings, and of course at the moment under C.S.R. they are obliged to do that, but there is no real incentive for them to make savings because the hassle for them to do it and the department for no net saving in the long term or no net increase in their revenue in the long term encourages laziness, or it discourages innovative thinking. I think there is definitely a parallel going on here. I do also think that it is very strange we have not had any comments issued by the Environment Department, as it is now called. We have had the speech from Deputy Duhamel, which I suspect is

not representative of the Environment Department. There have been no comments submitted. I suspect that were the Minister for the Environment here he would not agree with the proposition of Deputy Le Claire and my concern is that the personal relationship between these 2 Deputies is clouding the Assistant Minister with responsibility for the Environment's judgment when he would not necessarily support this, or certainly the department would not necessarily support this as a department. It is very strange that we have heard comments from the Treasury Department, we have heard comments from the T.T.S. Department but nothing officially has been put forward from Environment. That certainly is noteworthy, although it is difficult for us to judge what the real comments would be, but it certainly would have been helpful. There are points which concern me however about this proposition. The first one is I think the fly-tipping comments, my colleague, Deputy Duhamel I think was slightly dismissive about the risk of fly-tipping. He said that it does not matter if fly-tipping occurs anyway because it is compost materials, it is materials which will break down, so even if somebody for example dumps a load of branches in a farmer's field in St. Ouen or in Trinity it does not matter because they are going to break down. Well, yes, they will break down but perhaps it might take 10 years rather than 6 months or a year for a banana skin or orange peel. It is completely different and I think also the arguments about composting and home composting have been conflated slightly here. We are not talking about the same thing. You cannot put branches and more hard core materials into a composter because they do not break down. That is why when you are at home you do not put pieces of wood in your home composter, and even banana skins we need to chop up, *et cetera*, we know that because they do not break down that quickly even though they are organic. So I think that is clearly an issue which needs to be looked at but I do take into account the wise words of the Deputy of St. Mary who said that it might encourage more entrepreneurialism among perhaps the small gardeners or even the bigger garden contractors to come up with their own areas. But again that seems to me to tie-in with the whole privatisation idea. The point of having a centralised system which is run by the Government for the Island is because that works, that is the most cost-effective way to do things.

[10:45]

You have a centralised system and maybe you have more than one site where people can go and dump things, but it is because Government for all its flaws can organise things on a mass scale, whereas individuals I am not saying they cannot do it but they will not necessarily do it. There is a presumption that they will need to communicate first of all which is not always the case from people running around being busy. So I think if it was not for the fact that Deputy Le Claire had focused so heavily on this privatisation angle that we need to currently send out a system which is not making us any money, and maybe there is a reason for that, because this is, at the end of the day, a public service, then I would be more likely to support it. I think the issue for me, the argument to do with privatisation versus public ownership of this particular thing is exactly that, it is one of ownership, whereas I think what we should be focusing on is the economic model on which it is based. We should be able to, I believe, quite rightly introduce charges. If there are big garden operations that are making vast amounts of money with big turnovers, it is quite right that they should be charged for using those facilities. But what I would ask the Deputy in summing up is what safeguards are there in place for the small operators, the man with the van or the men with "ven" as someone once put it, which do not necessarily make massive margins in their operations. Sometimes they might be a one or 2-man or 2-woman operation, they are running around the Island and they are not making huge profits, they are really existing from hand to mouth, so to speak, and I think we would need to make sure, and I appreciate the fact that this proposition does not specify but I would like to know who is classed as a commercial operator. Because clearly somebody with a van who is doing jobs for £10 an hour for a couple of people in his Parish or her Parish is not going to be making vast amounts but it is clearly providing value for money and if they are going to have to be charged say £100 a vanload they are simply either not going to do it, they will either fly-tip or they will have to find another way to get that material out or they will just simply say: "Well,

I can no longer work and maybe I am better off not working and I can claim income support.” So as long as those safeguards are in there and as long as we can extract the maximum for those who are getting the most value out of these sites then that is fine, but are we going to introduce a sliding scale and are we going to ask to see people’s turnover when they come with a van? That does not seem to be particularly equitable. If you have got a big vanload, surely you pay per vanload but I get the argument that those who are producing more waste are probably going to be those with most income, but it does not necessarily always follow. So these are areas that I need to be reassured about. I think I have covered the main issue, but I am generally supportive. I wait to be convinced from the Deputy but I do think it is good that we have a Back-Bencher coming forward and doing something which the Minister and the department agree in principle with, and I do suspect if I am being slightly cynical though, that it is really just because it was not thought of by the department and these arguments that we want to wait for the right time in the Business Plan to make sure that it is working does not really wash. I think if it is the right thing to do it needs to be done, we can decide the principle here today, and although I am wary of detail coming later, because we do not know what we are voting on in that respect, I think that certainly the principle of those who are commercial operators at the very high-end who have lots of contracts, who are making profit and can afford to pay them, I think that is ultimately right.

1.1.10 Senator S.C. Ferguson:

I am pleased to speak after the Deputy of St. John because I agree entirely that targets can create totally dysfunctional behaviour. The statistics in the proposition are raising considerable questions as to the economic value of recycling. There is an environmental value, but I think it is only fair that the public should know exactly what the recycling policy is costing, or the net cost of it. It is really quite worrying. But returning to the actual composting area, the C.S.R. process was *inter alia* intended to identify core activities of the Government and to consider whether peripheral activities should be continued, ceased or dealt with in another way such as transferring to private enterprise. Now, part of that was looking at what the statutory requirements were of a department. There is no statutory requirement for dealing with green waste. This is a classic case of a peripheral activity which the States should be considering very carefully whether they should continue, cease or transfer to private enterprise. I have said before in this House Government should never try to identify a promising commercial business. It should never try to run a commercial business. I think this is probably a basic economic fact that Deputy Tadier might like to take account of. The Constable of St. Peter mentions difficulties such as the good neighbour policy and rats. Well, I parked in Snow Hill car park last week and there was an enormous rat which ran across the car park. I wondered if it was a politician going to the States parking space. **[Laughter]** Then marketing. Now, in garden centres and supermarkets there is an old principle that you put the high margin items at the front, and certainly when I was buying Jersey compost it had to be dug out from the back of the shop. It is a basic marketing ... I hesitate to say “ploy”, practice, perhaps. As for fly-tipping, most of the commercial deliveries are made by companies who have been performing services for a customer so that the charge will just go on to the cost of having your trees lopped or hedges cut or so on. So, from that point of view, there will not be fly-tipping. I understand from what the Minister said - he will no doubt correct me if I do not have it quite correct - that the private green waste disposal will continue as before. Then localisation. Well, with great respect to the Deputy of St. Mary - I am sorry he is not in the House - my own personal efforts at composting resulted in brown sludge, so I would welcome an opportunity to purchase local compost. The Deputy of St. John mentions that the old practices were the best. Well, one of the old practices was a bonfire but unfortunately that is a bit antisocial in a crowded urban community. Deputy Pitman talks about taking away jobs. Well, if a business can be run efficiently and commercially, there will be more jobs. This is the experience of other governments, not the U.K. (United Kingdom). I do not think that is the best advertisement and perhaps the example that we should always follow. Frankly, I congratulate Deputy Le Claire for this proposition and I will be supporting it.

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

Just a number of points. Firstly, some of the contractors who are doing this work have had a bit of a kicking this morning because everyone is saying they are ripping people off. Well, they are implying that and saying that they are charging for charges that do not exist. I happen to know that certainly some of the smaller operators do not pass on any charges because there are not any charges. So they do operate fairly and I think it is perhaps unfair that we are giving this impression. The next part is that if we have an issue with the covenant I can see the easy way round that is perhaps to contract the Parish of St. Helier to dispose of all of our green waste as Parishes and then we will not have charges to pay. Basically, this has to be looked at because one way or another we have to find a sensible solution to this. It is crazy that we are doing this work. We are not charging when we should be because it is costing the Island money. I do not think people mind paying a reasonable charge, but no one wants to pay more for getting one's waste disposed but the fact remains it has to be done. It is better if it is done centrally at an efficient station, but the charges have to be reasonable. The problem we have is that at the moment T.T.S. are sitting there and not doing anything. I think this proposition if nothing else will produce some action and hopefully we will get a charge, we will get less cost to the Islanders, and it will be a more efficient situation.

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

I think maybe the Minister is starting to see the way the tide is going on this one, but could I just add a few things? I do have slight concerns on charging. Well, I say a nominal charge. A lot of old members of the Parishes or properties have gardens and we do not dispute that, but as they get to a certain age they then cannot cope with their garden and the garden becomes quite a problem to them. So they do use contractors to come and help them out. My concern is that if there is a gate charge and it is maybe, say, for instance, £25, most contractors do not drive to La Collette free of charge. That will be taken into their cost. They say: "St. Brelade, it takes an hour to drive to St. Brelade to tip" and whatever, so that gives a charge. My concern with another gate charge, which is completely reasonable, is will the person who is taking that waste to La Collette decide: "Well, I can put it on my account as a gate charge of £25 but I am going to go via Trinity and just gently drop it in a field entrance." That is all I am bringing up. It could happen, but in general I am supportive of this. I would just ask that the Minister, with the way the tide is going, if he has any sense being a naval man, might review his position.

The Connétable of St. Brelade:

On a point of clarification, if I may, given the strength of opinion of Members I am prepared to accept the Deputy's proposition. However, as I suggested earlier, I am apprehensive of the consequences but commit to coming back to the States later in the year with more specific proposals.

The Deputy Bailiff:

In the indication of that comment from the Minister, do Members who have said they wish to speak still wish to speak? The Connétable of St. Ouen.

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

I thank the Minister for having accepted that because I, like a lot of Members, was going to support the proposition. But I do not think I can let the occasion go by without making some comment on the contribution of the Assistant Minister for the Environment, who, in fact, gave lip service to the support of fly-tipping. I say that it is an obnoxious practice and I think that this House should be standing up for what is the law, and the law is that you cannot fly-tip. Unfortunately, what the Deputy said was that by the very nature of the fact that it is green waste that is being fly-tipped it does rot. But again, the very nature of rotting is smell. If it is dumped in somebody's gateway and the tractor drives through it going into the field, it produces smell. Unfortunately, we have moved into a society in 2011 where the country areas are not inhabited only by country people who accept

that living in the country produces smells. A lot of people who come and live in the country now have not experienced smells and when they do they complain about it. I think that for the Assistant Minister for the Environment to give any sort of support to that should be frowned on. I do have 2 other points to make. I heard the Deputy of St. Mary - and I am glad he has just walked back into the House - say about the fact that we should be using other areas across the Island. I am just wondering how much support he gave when the exercise was undertaken at Crabbé.

[11:00]

Finally, when the proposer made his proposition he brought up the Dragon's Den and how if he made the case to the panel of the Dragon's Den it would not get their support. I respectfully suggest that most services supplied by the States would not get that support either.

The Deputy Bailiff:

Can I say to Members I have 2 Members who have indicated they wish to speak. The proposition is to request the Minister to introduce a charge for the reception of green waste from commercial operators. The Minister has said that he is going to bring back to the States a proposition for approval, and for the efficient administration of States business it is hard to see how any further contributions can be useful. **[Approbation]** Do those who have indicated they wish to speak still wish to speak? Deputy Le Hérisier.

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

Very quickly, could the Assistant Minister for the Environment clarify whether or not he is putting forward the official view of the Environment Department and could he clarify their position in relation to this proposition and how they will support it?

The Deputy Bailiff:

He cannot speak; he has already spoken. Deputy Higgins.

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

I can be exceptionally brief. I just want to make the point that I think it is absolutely insane that we do not charge for disposing of this commercial waste and then pay farmers to take the compost that we create from it. I thought that this was what the Comprehensive Spending Review was supposed to deal with. They were supposed to be looking at everything root and branch **[Members: Oh!]** ... and it was not intended in that way. However, the truth of the matter is this just exposes the fact that the States departments are not talking to each other. There is no real joined-up thinking and we really do need to address these matters. I also want to say that I think the Constable of Trinity is an optimist if he thinks that under the covenant St. Helier is going to take all your green waste and not charge you for it. We would. Or was it St. Saviour, was it? Sorry.

The Deputy Bailiff:

If no other Member wishes to speak, then I will invite the Deputy to reply.

1.1.16 Deputy P.V.F. Le Claire:

We are obviously cognisant of the fact that under the States spending at the moment any new user pays charge has to be brought back to the States for approval, so there will be an opportunity for Members to debate the charge, if there is one to be introduced, at what time and at what cost. I thank the Minister for accepting very gracefully his acceptance of this and the mood of the Members. I would like to thank the Members that spoke. I will just take a moment, if I may. I think that there were a lot of good speeches and there was an implication on both sides of the argument - both from Senator Ferguson, who I thank, and I also thank Deputy Tadier - about whether this function should be privatised. In parking that argument for another day, my point today is commercial operations should be being charged on a sliding scale in my view. They do not

need to be charged necessarily the same amount as inert waste and they should be, in my view, identified and they will be identified under the excellent proposals coming forward from Senator Routier and his team under the new Migration Law and Housing Law, which are going to bring about real checks and balances to who operates and how they operate. It will negate these operators coming into Jersey in their vans and operating willy-nilly. So I think there is a measure of hope and congratulations for those proposals coming forward. That will negate people in vans fly-tipping. I would also echo the views of Deputy Tadier again and also from Deputy Le Hérissier and, most notably, from the Constable of St. Ouen. I spoke to the Assistant Minister with special responsibilities for the environment and he said: "The department does not want to issue comments but I am going to support you." I have established in the last few weeks that although we have had a name change in the Environment Department we still do not have any real support there. We do not have any budget. The Assistant Minister cannot make comments on his own and he certainly does not have the support as somebody in charge of the environment in my view should have, especially if he cannot even get his own officers to commit to writing a report that he wants to submit to the States. I think there is a grave failing there at the moment. Not to go on, I will just quickly scan through my notes to make sure I have not missed anything extremely important. I thank the Deputy of St. John for a very wise set of principles. Just because it is stacking-up in statistics does not mean to say it is stacking-up in sense. I thank Her Majesty's Attorney General for his advice. I am a little concerned and I think we all need to get away from the town and country argument, so I thank my fellow Deputy from No. 1 District for supporting me on this because it does impact upon all of us. There will be questions in the near term to Her Majesty's Attorney General from myself about the Bellozanne covenant because the subtext or the translation from the speech of the Minister this morning was that we will be looking at charges for all waste in all areas in the future. As this is now established *inter vires* - in other words well within the Minister's capability to charge for waste - I believe personally when the new incinerator charge is up, all of the Parishes and all of the households in Jersey will be getting charged for their domestic waste. That is what I believe and I certainly see it coming. So, heads-up, everybody, there is a garbage charge arriving. Hopefully now we will at least see commercial operators who have been taking green waste into St. Helier paying their due. I ask for the appel.

Deputy M. Tadier:

Can I ask for clarification from the speaker? States Members are not supposed to infer improper motives with each other, but I believe in the comments that the Deputy has inferred improper motive to officers of the Environment Department, implying that the reason that comments were not issued was due to negligence on their part, whereas I think what I have understood is that the reason for comments not being issued is because the Minister for Planning and Environment himself disagreed with the Assistant Minister and, therefore, on purely pragmatic grounds did not want to create a conflict. So I think it is unfair in a situation where officers cannot answer back maybe that the Deputy would like to reconsider that allegation.

Deputy P.V.F. Le Claire:

It was not an allegation. So often am I misconstrued in this Assembly. Let us be clear about this. The responsibility for the environment was transferred when a proposition of mine came to the Assembly fully over to, free hands, hands-on solely of the Assistant Minister, Deputy Duhamel. He has in our view full control of the Environment Department. Therefore, I am wondering why it is he cannot get his officers to submit a comment when he is asking them to do so. What I am saying is if there is a conflict from the Minister for Planning and Environment then it needs to be brought out into the open. I am not suggesting the officers are conducting themselves in a wrongful way. I am suggesting we do not have the checks and balances to protect the environment. I would not know these things unless the Assistant Minister for the Environment had bravely shared those concerns with me. I have brought them out; the cat is out of the bag. I think he needs more support, as do the officers in Environment. I ask for the appel, please.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is whether to accept or reject the proposition of Deputy Le Claire. I ask the Greffier to open the voting.

POUR: 44	CONTRE: 1	ABSTAIN: 0
Senator T.A. Le Sueur	Connétable of St. Peter	
Senator P.F. Routier		
Senator T.J. Le Main		
Senator B.E. Shenton		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Connétable of St. Ouen		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of Grouville		
Connétable of St. Brelade		
Connétable of St. John		
Connétable of St. Saviour		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Mary		
Deputy R.C. Duhamel (S)		
Deputy of St. Martin		
Deputy R.G. Le Hérisier (S)		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy I.J. Gorst (C)		
Deputy of St. John		
Deputy M. Tadier (B)		
Deputy A.E. Jeune (B)		
Deputy of St. Mary		
Deputy T.M. Pitman (H)		
Deputy A.T. Dupré (C)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		

The Deputy Bailiff:

At the time of debating this proposition on green waste, I have been sent a note by the proposer asking whether there would be any communication from the Chair about the dreadful crisis which has struck Japan, where the environmental consequences of what is taking place and the human

consequences are obviously of an order and scale quite beyond anything that is happening in Jersey and we have had to concern ourselves with. The question of what sort of communications come from the Chair in relation to these sorts of incidents is a matter that has been discussed by the Bailiff and me recently. It has not been the custom to make communications that express concern outside those jurisdictions with which the Island has a particular affinity, such as Madeira, taking as an example the connections with Madeira, or members of the Commonwealth. But it may be that this is a matter which should receive further discussion between the Bailiff and the Chief Minister, who is responsible for external relations, and the Chairman of the Privileges and Procedures Committee, who is responsible for the workings of the States Assembly, because it is not simply a governmental matter. But nonetheless, the note prompts me to say today, that I am sure all Members would want to join with me, in expressing sympathy with the inhabitants of Japan for the dreadful problems which they are now facing. **[Approbation]**

Deputy P.V.F. Le Claire:

I thank you, Sir, for that.

2. Ratification of the Agreement for the Exchange of Information Relating to Tax Matters Between the Government of Jersey and the Government of Canada (P.8/2011)

The Deputy Bailiff:

Very well, we now return to the top of the Order Paper and come to P.8, the ratification of the exchange of information relating to tax matters between the Government of Jersey and the Government of Canada. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to ratify the agreement for the exchange of information relating to tax matters between the Government of Jersey and the Government of Canada as set out in the Appendix to the Report of the Chief Minister dated 12th January 2011.

2.1 Senator T.A. Le Sueur (The Chief Minister):

Yes, another in the series of agreements for ratification, this time with Canada, a country with which we do have far greater connections and links over a long period of time. I was pleased to welcome the Canadian representative in Jersey earlier this year. This follows the standard form of previous tax exchange agreements and I am sure it will be very beneficial particularly to some of the major commercial activities that go on in the Island. I propose the agreement.

The Deputy Bailiff:

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

2.1.1 Deputy R.G. Le Hérissier:

I thank the Chief Minister for progressing this. I do not think my question was fully answered yesterday. Could the Chief Minister say whether this will be followed by an agreement on double taxation?

The Deputy Bailiff:

Does any other Member wish to speak? Chief Minister.

2.1.2 Senator T.A. Le Sueur:

The normal arrangements are that we will either enter into a D.T.A. (Double Taxation Agreement) or a T.I.E.A. (Tax Information Exchange Agreement) depending on the inclination of the country concerned. It has taken quite a while to get even as far as a Tax Information Exchange Agreement with Canada, but having done that - and I am very pleased that we have done that - there is no

immediate objective now to extend that into a double tax agreement, which I think would be very difficult to achieve in the climate which pervades in Canada at this time. So the short answer is no, this will be the end of the line as far as that is concerned. It is not necessarily for ever and ever, but certainly for the immediate future. I maintain the proposition.

The Deputy of St. Mary:

Could I ask for a point of clarification? The Chief Minister said that it was almost *au choix* whether it was a D.T.A. or a T.I.E.A., that it just depended on the particular jurisdiction which one we go for. I am a bit puzzled by that because I thought that they were very different animals. I am puzzled by the Chief Minister saying: "Well, it just depends what the other country feels like." Could the Chief Minister tell us what the difference is if they are nearly the same?

The Deputy Bailiff:

Do you wish to clarify that, Chief Minister?

Senator T.A. Le Sueur:

Well, yes, I thought I had yesterday in that it takes 2 territories to negotiate either a Double Taxation Agreement or a Taxation Information Exchange Agreement. Our objective would be a Double Taxation Agreement in preference but we will settle for a Tax Information Exchange Agreement rather than nothing. Many territories, especially those with a higher taxation or more complicated tax arrangements, do not see the need or the benefit to that country of a Double Taxation Agreement but they are prepared to see the benefit of a Taxation Information Exchange Agreement. On that basis, if we cannot achieve the Double Taxation Agreement we take a Taxation Information Exchange Agreement as being a good second best. On that basis, it is not that it is equal but our objective is to make sure that there is something in place, either a D.T.A. or a T.I.E.A.

The Deputy Bailiff:

Very well. All Members in favour of adopting the proposition kindly show? Those against? The proposition is adopted.

3. Geneva Conventions: Additional Protocol III - extension to Jersey (P.9/2011)

The Deputy Bailiff:

We now come to P.9, Geneva Conventions: Additional Protocol III - extension to Jersey, lodged by the Chief Minister. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to signify, pursuant to Article 31(1)(b)(i) of the States of Jersey Law 2005, whether they agree that a request be made to Her Majesty in Council for the making of an Order in Council that would extend to Jersey, with appropriate modifications and adaptations, Section 1 of, and the schedule to, the Geneva Conventions and U.N. (United Nations) Personnel (Protocols) Act 2009 as summarised in the report of the Chief Minister dated 24th January 2011.

[11:15]

3.1 Senator T.A. Le Sueur (The Chief Minister):

I think events of recent weeks have brought into focus the important work done by the International Red Cross Society and I am anxious that Jersey should do all it can to support the activities of the International Committee of the Red Cross. They are an organisation whose activities aid the countries throughout the world, many of whom have particular policies and principles of their own.

For that reason, the original symbol of the Red Cross has in some jurisdictions been not so welcome and there has been, therefore, a need to have instead a red crescent. It has now been found that for a few countries neither a red cross nor a red crescent is regarded as particularly appropriate. Rather than deny the activities of the International Red Cross Society it has been agreed that there should be a third symbol available, that of a red crystal. The symbol is shown on the final page of the proposition and it may take a little bit of imagination to consider that as a crystal, but certainly that is regarded as a red crystal. From our point of view I am sure we would want to maintain the longstanding tradition of the Red Cross, which we are I think acutely aware from the days of the occupation, but in order to maintain the activities of the International Red Cross Society throughout the world, I am anxious that Jersey should ensure that the up-to-date arrangements are fully in place and acknowledged and endorsed by the Island. I therefore propose the adoption of this red crystal and the documentation and legislation to accompany that.

The Deputy Bailiff:

The proposition is made. Is it seconded? [**Seconded**] Does any Member wish to speak? Senator Ferguson.

3.1.1 Senator S.C. Ferguson:

I shudder to think of how much money has been expended on this particular and what appears to be a politically correct logo. The Red Cross, composed as it is of the Swiss flag in reverse, is as far as I understood known and respected worldwide and we in Jersey owe them a considerable and particular debt of gratitude. The insignia was amended to a red crescent for branches, which I understand are financed and operate in Islamic countries. I am at a complete loss to understand where this particular logo would be used. Where has the red cross or the red crescent been a problem? Perhaps the Chief Minister could advise us. Because the red cross, based as it is on the Swiss flag, is not a religious symbol and I do feel that this is political correctness run amok.

3.1.2 Deputy I.J. Gorst of St. Clement:

I hesitate to rise. Like the last speaker, we as a community do owe a great debt of gratitude to the Red Cross and the work that they have done over the years. In my role with Overseas Aid, we have great pleasure in supporting Red Cross and their projects and their response to disasters and emergencies in developing communities around the world. We are confident that we receive from them value for money. So they operate in very complex political arenas, and while on the one hand I do understand that it might appear to be political correctness gone mad, if they as a community, which is well respected across the world, believe that this extended emblem will allow them to work in these politically complex areas then I believe that we should take their lead and we should accept it. Because we should ensure and we want them to be able to assure us that, yes, they are operating in a non-political manner and they are reaching every community and every person that is in need in those communities. Therefore, I do ask that while we might on the one hand think it is going a little bit too far, that we put the benefit that that organisation brings to those communities to our forefront and we do accept this as a third alternative.

The Deputy Bailiff:

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

3.1.3 Senator T.A. Le Sueur:

I thank the 2 who have spoken and I acknowledge the view, which I share, that this is perhaps political correctness gone mad, but it is also political necessity or expediency in ensuring that the International Red Cross can indeed be the “international” bit, which is so important to their activities and, as Deputy Gorst says, to be seen to be a non-political organisation. It is in strengthening that aim that their work can be further enhanced and their reputation equally enhanced. So I am happy that even though it may appear politically correct, it is the right thing to do to support that organisation and I maintain the proposition.

Senator S.C. Ferguson:

I did ask the Chief Minister in which countries has the Red Cross been a problem politically.

Senator T.A. Le Sueur:

Countries in which the Red Cross may have been a problem politically are some of the Islamic countries. I thought the question was those countries for which neither the cross nor the crescent were acceptable. For that I do not have the answer. This is a matter which has been discussed by the International Committee of the Red Cross. They feel the need for it and I am not going to second guess their needs.

The Deputy Bailiff:

Very well, the proposition is made. All Members in favour of adopting it kindly show? The appel is called for. I invite Members to return to their seats. The vote is on whether or not to adopt the proposition in relation to the Geneva Conventions: Additional Protocol III. I ask the Greffier to open the voting.

POUR: 45		CONTRE: 0		ABSTAIN: 1
Senator T.A. Le Sueur				Senator S.C. Ferguson
Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				

Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

Before we move on to the next item I take the opportunity of announcing that the Freedom of Information (Implementation Plan), P.41/2011, in the name of Deputy Le Hérissier has been lodged and circulated.

4. Draft Banking Business (Amendment No. 7) (Jersey) Law 201- (P.10/2011)

The Deputy Bailiff:

We now come to the Draft Banking Business (Amendment No. 7) (Jersey) Law 201- lodged by the Minister for Economic Development, and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Banking Business (Amendment No. 7) (Jersey) Law. A Law to amend further the Banking Business (Jersey) Law 1991. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

4.1 Senator A.J.H. Maclean (The Minister for Economic Development):

This draft law will amend the Banking Business (Jersey) Law 1991. The Banking Business Law 1991 makes provision to regulate banking and other categories of deposit-taking business. The primary purpose of this amendment is to allow matters relating to the accounting and audit of persons registered under this Law to be made by Order. This is to enable a revision of the current requirements and provide for future changes to be implemented in a timely manner. The present provisions relating to financial accounts of registered persons and appointment of auditors have not been changed significantly since the principal Law was enacted. There is now a need of revision for 3 key reasons: first, to ensure they are appropriate for the Financial Services Commission to carry out its functions; secondly, to respond to recent developments in international standards, in particular the recommendations of the International Monetary Fund following a recent assessment against those standards; and, thirdly, to provide consistency with requirements set out in other regulatory legislation, in particular the Financial Services (Jersey) Law 1998. Bringing in a power to make Orders relating to accounts and auditors will allow provisions to be rewritten and updated to address these particular issues. The power will be equivalent to that already approved by this Assembly under Article 17 of the Financial Services (Jersey) Law 1998. Proposals relating to accounting requirements to be incorporated in an Order under this power were the subject of a public consultation conducted by the Financial Services Commission between February and April of last year. The Commission will conduct a further public consultation when the new Order has been drafted. Simultaneously, Regulations relating to auditors of registered persons are currently being revised across all sectors of the financial services industry in Jersey. This will be the subject of a separate public consultation by the Commission and which will be issued shortly. Any associated changes relating to this review will also be incorporated in the Order made under this power. This is likely to include provisions related to auditor's appointment, to powers and to duties. The introduction of this enabling power will have no direct effect on any financial services business. It will, however, allow improvements in the way the banking business is regulated to ensure consistency with international standards and the future development of those particular

standards. It will also achieve a greater degree of consistency across all sectors of the industry, which will be especially beneficial to banks that are subject to regulation under other laws in the Island. The amendment also updates the definition of auditor to correct an out of date reference in the Law. The definition refers to the Companies (Jersey) Law 1991. As a result of a number of changes to this Law, in particular the substitution of Part 16 last year, the definition requires amending to ensure it refers directly to the relevant part. I do not believe that this particular change or changes are controversial. They have been fully consulted upon and they do fall into line with international standards. I therefore commend the principles to the Assembly.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak? Deputy of St. Mary.

4.1.1 The Deputy of St. Mary:

Just briefly, 2 points. One is the Minister's favourite word in that introduction, "consultation". I think that is a good sign. I am glad that stakeholders were consulted and I hope that other Ministers take note of this emphasis on consultation. I think it is very valuable and very important. The second is a question for the Minister, which is about the offences under this Order and the maximum penalty being, I think, 2 years. I just would like him to comment on the nature of that limit and whether it is adequate when you consider the damage that can be done by auditors colluding with principals to cook the books, to put it bluntly. I am not saying it happens, of course. What I am asking is whether the 2-year limit is appropriate, and I would welcome the Minister's comments on that.

The Deputy Bailiff:

Does any other Member wish to speak? I call upon the Minister to reply.

4.1.2 Senator A.J.H. Maclean:

I thank the Deputy of St. Mary for his comments. Firstly, about consultations, the point I made and I will just reconfirm that, there has been a consultation last year. Indeed, this particular recommendation is to bring forward by Order the ability to make changes both to auditors and to account provisions. Of course, there will be a further consultation. I think his question with regard to the term, the 2 years, in fact it is open for further consultation. Indeed, it may well be tightened-up further. This is all about tightening-up the regulatory provisions, so I hope that will give him additional comfort. Indeed, imprisonment is also a possibility under this, so I think there is plenty of provision in there in order to ensure necessary protection and deterrence to those who do not act appropriately. I maintain the proposition.

The Deputy Bailiff:

The principles are proposed. All Members in favour kindly show? Those Members against? The principles are adopted. Deputy Higgins, does your panel wish to scrutinise this legislation?

Deputy M.R. Higgins:

I am sure the Minister will be relieved to know that we do not wish to look at it.

The Deputy Bailiff:

Minister, do you wish to propose the Articles *en bloc*?

4.2 Senator A.J.H. Maclean:

Yes, if I may. I will just make a very brief introduction to it. I thank the chairman of the Scrutiny Panel. Of course, I do always welcome him and his panel scrutinising anything that we plan to do. **[Laughter]**

[11:30]

Articles 1 and 4 of the draft law relate to the interpretation of the citation and commencement. Article 2 amends Article 1 of the Business Banking (Jersey) Law 1991 to substitute the definition of “auditor” so that it refers to Part 16 of the Companies (Jersey) Law, as I have already referred. Article 3 substitutes Article 33 of the Banking Business (Jersey) Law to bring in a power to make orders relating to accounts and auditors. I propose the Articles *en bloc*.

The Deputy Bailiff:

Are the Articles seconded? [**Seconded**] Does any Member wish to speak on the Articles? If no Member wishes to speak, all Members in favour of adopting the Articles kindly show? Those against? The Articles are adopted. Do you wish to propose the Bill in Third Reading?

Senator A.J.H. Maclean:

Yes.

The Deputy Bailiff:

Is that seconded? [**Seconded**] Does anyone wish to speak in Third Reading? All Members in favour of adopting the Bill in Third Reading kindly show? Those against? The Bill is adopted in Third Reading.

5. Draft Public Elections (Amendment No. 4) (Jersey) Law 201- (P.14/2011)

The Deputy Bailiff:

We now come to the Draft Public Elections (Amendment No. 4) (Jersey) Law 201- lodged by the Privileges and Procedures Committee, and I invite the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Public Elections (Amendment No. 4) (Jersey) Law. A Law to amend further the Public Elections (Jersey) Law 2002. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

5.1 Connétable J. Gallichan of St. Mary (Chairman, Privileges and Procedures Committee):

In late 2009 P.P.C. (Privileges and Procedures Committee) established a working party to review the current operation of the Public Elections (Jersey) Law 2002 under the chairmanship of its then Vice-Chairman, the Deputy of St. Peter. The working party reported its findings to the States in July last year in R.94/2010. After consideration of those findings, P.P.C. has brought forward these amendments to give effect to the recommendations that have been agreed by the committee. Also included are one or 2 other matters that were not dealt with by the working party but which were raised directly with the P.P.C. The only significant recommendation of the working party that was not agreed by P.P.C. was that the opening time for the polling stations should be changed so that the poll would open at 9.00 a.m. and not 8.00 a.m. Having said what is not covered by the amendments, the draft law does deal with, among other items, the following: the single election day, including whether or not persons should be entitled to stand for one or more position, the use of known names on the ballot paper by candidates who are commonly recognised by names other than their given names, the consideration of election deposits, the format of the ballot paper, the mechanisms for taking the poll and for the count, the arrangements for the taking of votes from persons who are sick or disabled and for postal and pre-poll voting, and the time limit for making an application to the Royal Court to dispute an election. I will be proposing the majority of the Articles individually and this will allow a full debate. So for now I simply propose the principles.

The Deputy Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak? If no Member wishes to speak, all Members in favour of adopting the principles kindly show? Those against? The

principles are adopted. Senator Ferguson, does your panel wish to scrutinise this piece of legislation?

Senator S.C. Ferguson:

No.

The Deputy Bailiff:

Very well, chairman, we have in a moment the amendment of Deputy Southern which I would propose to take after we have considered Articles 1 and 2.

5.2 The Connétable of St. Mary:

Thank you, that is what I was hoping to do. I propose Articles 1 and 2 together. Article 1 is simply the usual interpretation provision. Article 2 updates the interpretation provision of the principal law and deals with an outdated cross-reference to the 2002 law. It makes a further change to definitions that are consequential on the substantive amendments later in the law. I move Articles 1 and 2.

The Deputy Bailiff:

Articles 1 and 2 are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak? All Members in favour of adopting Articles 1 and 2 kindly show? Those against? The Articles are adopted.

5.3 Draft Public Elections (Amendment No. 4) (Jersey) Law 201- (P.14/2011) - Amendment (P.14/2011 Amd.)

The Deputy Bailiff:

We now come to an amendment lodged by Deputy Southern. I ask the Greffier to read the amendment.

The Greffier of the States:

Page 21, new Article - after Article 2 insert the following Article and renumber the remaining Articles accordingly - 3: Article 5 amended. In Article 5(1)(c) of the principal law (a) in clause (i) for the words "2 years" there shall be substituted the words "12 months"; (b) in clause (ii) for the words "5 years" there should be substituted the words "3 years".

5.3.1 Deputy G.P. Southern:

This is, as I say in my report, I think the fourth time I have tried to amend this particular bit of the Public Elections Law. Essentially it concerns the issue of length of residence. Now, in the original Public Elections Law dating back to the time of the Deputy of St. Martin - before my time - there was no length of residence qualification. You were a resident, you were entitled to vote, but you had to be a British citizen. When we changed that law so that other nationalities, other origins - people from other origins - could vote without being a British citizen, for some reason, we introduced a length of residence qualification in order to be able to vote. That was in the good old days when we did not have I.T.I.S. (Income Tax Instalment Scheme) and we paid our income tax a year in arrears. The law has changed since and now people, when they arrive on this Island, start paying income tax from day one on every penny they earn. What we say is: "You will pay us income tax from the day you arrive but we will not give you the right to vote on how we spend your income tax for at least 2 years." In an ideal world, I would argue that as you arrive here, commit yourself to the Island, start to work here, live here, then you get the right to vote. However, I am not asking for that. It is not an ideal world, all I am asking for that we reduce what was introduced as a 2-year residency period down to one year. I see absolutely no reason why, if you have committed yourself to the Island for a year, you should not be able to vote in an election because you have not been here long enough. I will not hear people argue that: "Oh well, these people do not understand our system" which I heard last time and the time before when I tried to reduce the 2 years. Give people some credit. If they are here, committed to the Island, and have been here for a

year and want to vote, which is the key critical issue, it probably means they do understand our system and they do wish to participate and wish to have a say in how we spend their taxes. That is the principle; the effect is to reduce 2 years residency qualification down to one year. It is simple. The second clause talks about those who have been here on and off for a certain length of time. It refers to returning Jersey people usually, Jersey born who come back to the Island but have spent previous lengths of time on the Island and, again, that gets reduced not quite *pro rata* but from 5 years to 3 years in total time spent on the Island. These are people with connections to the Island. So there it is, very simple, I do not think we need to spend too much time on it, you decide whether you are in favour of that principle, we should reduce the length of time by which people have to live on the Island before they can vote from 2 years to one year.

The Deputy Bailiff:

Is the amendment seconded? **[Seconded]** Does any Member wish to speak? The Connétable of St. Ouen.

5.3.2 The Connétable of St. Ouen:

While not necessarily disagreeing with this proposition, there is a practical problem if the Deputy is intending to have this inscribed in law for this coming year's elections. Under the present law the Parishes have to send out the statement by 1st June to be returned by 1st July, it is very unlikely that this amendment could be achieved in time for that to happen. I just wish to point that out because it would need amendments to other parts of the law to be able to achieve it for this lot of elections.

5.3.3 Deputy P.V.F. Le Claire:

I remember trying to vote on a constitutional issue the first time there was an issue in Canada, when I was living in Canada, and being told that I could not until I was a citizen. I did not really like that and then decided if I was to do something about it, the way to do something about it was to become a citizen. I think a length of residence in Jersey, under the new migration laws coming forward, it does establish this. I do not think I can support the first part for people who pay tax because we go to many countries and we pay tax but we do not have the right to vote. I pay tax in the U.K. every time I buy something and I pay in France on my petrol when I go on holiday. I was paying tax in Canada for a significant period of my life before I had the right to vote and I do not think just paying tax gives somebody that level of engagement to shake the community. It also would travel over and need to be considered in relation to referendum laws where at the moment there is some consideration about who has the right to vote in referenda. So I will not be supporting the first part. However, I do believe the second part has, with the same arguments, merit. So if the Deputy is prepared to split the votes I can support part (b) but I cannot support part (a).

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

Deputy Southern, quite rightly, mentioned my name when he was proposing his amendment. I think he has to be complimented again on what he is trying to achieve. It is rather sad that, again, we are going to have an obstacle, and I fully understand what the Constable of St. Ouen is saying, he is not saying he is not going to support it but he is just identifying a problem. But one has to go back to, I think, about 1994 when, along with the former Deputy Dorey, we looked to see how we could make the system a lot fairer because at that time anyone who came off the boat from the U.K. could vote the next day. That was it. However, if you were a foreign national who had lived in the Island for 50-odd years, you could not vote unless you chose to have dual nationality or changed over to be a British subject. That seemed to be totally unfair. A lot of people felt they did not want to lose their own national identity just to vote but at the same time we look to see how we could amend it. I am sorry to say there was a certain amount of prejudice in the House about certain people from a certain part of the world. It was felt, how would these people have the right to vote if they had just come over and could not even speak the language? It is not the fact that people want

to vote, it is having the right to vote, that is what this is all about; the right to vote. As a way forward, it was felt that the best way we could do it really was we do not pay income tax in Jersey until 2 years so to have a fairer system it was ... we proposed that it would be fair for everybody, whether you came off the boat from the U.K. or whether you came off the boat or plane from Madeira or any other part of the world, you would have to wait 2 years, by that time you would have shown a commitment to the Island, i.e. you were paying your taxes. That went through and that has been the way ever since. I think we ought to be looking to have a much more inclusive society, making people feel that they are making a contribution to the Island and they should have the right to vote, not necessarily whether they want to vote but having that right to vote. While not going all the way, as indeed Deputy Southern says, that you come off the boat, you pay your taxes, you have the right to vote. What I think we have got here is a reasonable compromise, it means that if you are living in the Island you can have the right to vote if you have been living here one year. There are a tremendous number of people, and I know that certainly as someone who knocks at doors at election times but people feel rather upset that they are living here and yet they just miss out, maybe by one month. In which case, now particularly, this is even more important and it is a shame really it had not been picked up earlier. But now we are going to have a single-day election it may mean that people have to go almost 5 years without the right to vote because if they miss out this year, they maybe miss out by just one month, at the same time before they can vote again in another 3 years' time, it will be 5 years. So what we are asking for really - well, I am asking for but I think Deputy Southern is quite rightly asking for - is let us make it a little easier for those people who are making a contribution to the Island, why not give them the right to vote and let us see whether they want to vote.

[11:45]

I would hope that Members would give their support to it. The issue that the Connétable of St. Ouen quite rightly has addressed, I would hope that we could look at the possibility of getting this, if we agree today, giving people the right to vote after one year and also reducing that other period from 5 to 3. Some arrangements could be made to enable people to have the vote. I think it is so important that people have that right. If we do not give them the right this time it will be another 3 years before they probably have another opportunity to vote, particularly now as we have that single day election. I would hope that Members could be a little bit more forthcoming. I think this is the first time that this particular House has had the opportunity to vote on the matter and I would hope they give their support to Deputy Southern on this amendment.

5.3.5 Deputy T.M. Pitman:

Very briefly, I think this comes down to the simple issue of democracy and we saw just yesterday how 18 of the so-called democrats from a month ago suddenly disappeared over the hills and far away very quickly. I do wonder if we will see that again here because this does come down to 2 interrelated things as far as I am concerned, regardless of what fine excuses we are likely to hear, and I am sadly sure we will hear them. It comes down to whether individual Members are committed to democracy and/or do some Members - and I am afraid I have to look at the Council of Ministers benches on this point - want certain types of people to vote. I believe I know the answer to that. Certain Members do not want types of people to vote because that might change the course of some elections. Really that is the only points that need to be made. To conclude I would just say no taxation without representation. It does sound like just a slogan but it is or should be a fundamental cornerstone of any self-respecting democracy. I fully support what the Deputy of St. Martin has just said. Deputy Southern is not asking us to leap the full 9 yards, it is quite modest what he is asking, but things have moved on. If people can pay tax then they have a right to vote. What impact that will have on making those people vote I am not sure. I do not think anyone in this House can say. But it is about the fundamental principle and it absolutely deserves the support of this House. I hope the Constable was just flagging it up as he sees it as a proper thing that needs

to be tackled and overcome. But that certainly does not mean that we should use these excuses to avoid doing something which is so important and so fundamentally right.

5.3.6 The Deputy of St. John:

I hear a lot about democracy here this morning but what is my democratic right if I go to America, or to France or to Portugal? I do not have one. Yet we are prepared to give, shall we say, an American who has been living here for 12 months the right to vote without even ... that person may not have contributed anything whatsoever to our Island. Yes, he will have paid his I.T.I.S. like the rest of us but he would have been using the services. Yet when a general election in America comes around he has still got a vote, although he is living in Jersey he is entitled to vote there, as they do in France, Portugal and many other countries, they call on their nationals to vote for their particular party, President, whatever it may be. Yes, we are a society of very open people. We have opened the door to people who have committed themselves and I do not think 2 years is a bad period of time for somebody who has committed themselves. I can think of a gentleman in St. John who within 6 months of moving to the Island was invited to join our Honorary Police, did not have a vote - well, he does have a vote now because he has been in the Parish 3 years - but he realised that he had to find out how Jersey worked and he has made a valuable contribution in our Parish over the following 18 months - 2½ years now, sorry - but without a vote and he understood that. He understood at the same time while he had his house in England he still had a vote over there because he was paying his rates and his taxes in another place. I.T.I.S., as far as I am concerned, is paying for what we are using at this time and therefore I do not think the argument stands up. None of us in this Chamber, I do not believe, have a right to vote somewhere else. I think because we are Jersey residents, I think that would fall away unless you are, as I say, a French national, Portuguese or American, or one of these other nationals. I think we are being very generous to people who come from outside. We have a 5-year residency before you can take up certain types of housing qualification and I think that is set about right. When this was set at 2 years I think we set it about right. Things can be improved in certain ways but I am aware that people coming over, shall we say, from the Middle East, Far East, and there are quite a number of people in the Island, and they have difficulty with the language. They do not understand. They do not understand our language and they have difficulty in learning it. I know that because I have been dealing with one or 2 issues where a foreign national has come to our Island and they have to meet certain immigration criteria and the like, and the language can be very difficult to learn. The proposer is asking that we take all these people on board and give them a vote after 12 months. If he had brought the proposition saying that person must be fully fluent in one of our languages, either English or French, then possibly I might, just might, get on board but possibly not. But to have somebody who does not understand English or French and cannot converse in our language, to me is asking ... is going that step too far. So I think I have said sufficient to be the person to speak against the proposition and to lead that particular side of it.

Connétable G.F. Butcher of St. John:

Can I just make a clarification of what the Deputy just said. He mentioned 5 years and some housing qualifications, I think he meant to say employment qualifications and jobs, just to clarify.

The Deputy of St. John:

That is correct.

5.3.7 Deputy J.A. Martin:

I totally disagree with most of what the Deputy of St. John has just said. I think what the Deputy of St. Martin said ... and I fully understand practically we might not get it in for this election, so what are we saying if we cannot pass it today ... we pass it today and we cannot practically get it in. We are not having scattergun elections any more. As the Deputy of St. Martin says, we will now be elected, all of us, on one day. The principle of paying tax, you agree that 2 years is okay but 12

months is not long enough. I do not understand that, I really do not. We are being ordered somewhere from the E.U. (European Union) that we have to look at giving the prisoners the vote. That is a debate for another day but these people, whether or not they are fluent in English - I probably should not be here, I am not fluent in English or French either, but I try my best - if they are interested enough to take the trouble enough to get registered to go through our system ... I even noticed today the advert for census and I obviously I was mistaken because I thought I was watching Channel Television and it was in the U.K., fill your census in online. Are we going to be able to do that? No. Can we vote online? Can we even register online? No. So if somebody comes to me and I am knocking on doors and they are interested enough to want to vote, it is the principle of 12 months or is it 2 years. The other one, 3 years if you have had connections with the Island, I would be very frustrated. I think I have lost all right to vote in the U.K. now being that I have been here so long but I accept that. If I went back I do not know how long it would be but I would hope it would not be more than 3 years and I would be quite annoyed if there was a general election coming up, being the political animal that I am, everywhere I have lived I have been able to vote, I would make sure that I was on the register. So what are we saying again in principle? This could be looked at ... as Deputy Le Claire said, we are introducing the registration card and what I have read - I have read the whole thing - and I just have one initial problem, but that again is for another day. But this could be something that is on your register, when you are registered you have one year, no problem, you fill it in, it is all done at the centre. Something else that could be on the card. Unfortunately the Deputy does tell you that he has been trying to do this for so long and he does not ... we have not got the actual Article in front of us to what is being amended, it is not in any of the law, which makes it difficult for people to really - unless they were to listen to everything the Deputy says ... so when he sums up maybe he can be quite clear about (b), totally understand who (a) would affect, but in principle I do not have a problem. People will come in here and, as the Deputy of St. Martin said, we take their money straight away. The Deputy of St. John is concerned that they are using the services. They are using the services that they are paying for. If you want to go around there are Jersey people who have never worked all their life, never paid tax. Are you going to deny them the vote? Of course not. So it is a principle of you either believe they had the vote and then they have it after 12 months. What is the difference between 12 months and 2 years? I personally cannot see it. I think it is fairer and it is, as the Deputy says, no taxation without representation and we tax them the minute they start work. I really think that it is a good proposition and I will support both parts.

The Deputy Bailiff:

Can I just indicate to Members at this stage that although 2 Members have now spoken about supporting both parts, it is only one part? The proposition is to insert the following Article and renumber the remaining Articles accordingly. It is therefore not possible to split that vote because the proposition itself inserts one article. I call on the Chairman of Privileges and Procedures.

5.3.8 The Connétable of St. Mary:

I just rise to comment on the points raised by the Constable of St. Ouen because a comment was made that perhaps he was looking to put a spanner in the works, I think. In fact what this is is simply a statement of fact. We have a situation at the moment where the forms that go out for registration this year will be under the law that is in force at the moment and will not have this provision. I hope as chairman of Privileges and Procedures that we will have this law registered by the Privy Council and on our statute books, as you can see from the citation clause, in August. If we do not have the law back in time it will be raised by an Appointed Act after the elections. But if we do manage, as I hope, to get the law in force for the elections, it will still be possible, as I understand it for people who have not registered because they were not entitled at the time the forms went out to approach the Parish Halls as people have right at any time to go on to the register, and they will then proactively - and hopefully there would be some publicity given anyway - be able to register. They would not be debarred, but what we are saying is

administratively because the law is as it is at the moment we cannot anticipate this at the time. So although there is a structural problem, it is not something that is insurmountable, I think I am correct in saying that. Really this simply is a political decision. Do Members consider that the time as we have it now is appropriate or would they like to see a reduction? A lot has been said about no taxation without representation. That is a phrase that is easy to say. It was in a different time, a different circumstance, in colonial times. People are represented here in different ways but it is a matter of Members simply to make their political choice, would they like to see it shortened, are they happy as it is? But structurally if the law is changed in time I am sure that a way can be found to capture people on the register.

The Deputy of St. Mary:

Could I ask a point of clarification of the previous speaker? It is probably good to raise it right at the beginning of all these discussions and it is relevant to this Article. On page 10 of the report accompanying the main proposition about Article 23 there is a paragraph that I find quite difficult and the speaker touched on it just now about this law being registered.

[12:00]

The main law should be registered by August, we hope, and yet these are amendments, as I understand it, the whole package is amendments to that law but they will come into force for the election even though the main law ... so I just want the speaker to clarify that. Then I think she said if this amendment goes through that we are discussing then it will be in force, people will be able to rely on it and go to their Parish Hall and say: "I want to be registered." Is that also the case because there seems to be some problem with the original law? So if you could just run through that again, please.

The Connétable of St. Mary:

It is really quite simple. We hope that the law will be able to be registered in time for it to take effect before the elections. If we receive it back by, I think it is, 12th August, the citation clause, then it will become registered. If it is not able to have it in force with certainty before the election - I am talking about the whole law - it will come in later with an Appointed Day Act. What I have said is that if Deputy Southern's amendment is agreed by the Assembly the statutory forms which go out now, according to the current law, will go out as they are cited in the current law. We cannot anticipate whether the new law will be in place or not. But if, in the fullness of time, it does come back and is registered before the elections, then there will be a way where people can approach the Parish Hall and can register, as long as they register before 5th September, which is the cut off date for the election nominations. So there will be time to do that. I think that should be clear.

The Deputy Bailiff:

Chairman, I wonder if I can just add to that. The provisions of Article 23 of what is being called the main amendment law mean that if the Royal Assent is given so that the law is registered in the Royal Court by 12th August, it comes into force straight away. If it does not get registered because it has not been considered from the Privy Council in its meeting of July, if it is not registered before 12th August it needs an Act of the States in order for it to come into force because the Act of the States would then determine when it comes into force. So there will have to be a proposition and a decision by the Assembly as to when it come into force. That is the effect of Article 23. Now, the whole law will go up to the Privy Council, with or without the amendment, depending on what Members decide when considering this amendment but that is the position so far as coming into force is concerned.

The Deputy of St. Mary:

The reason I am puzzled is that my understanding was the Privy Council had to ratify laws which we send up before they come into force. I now see that with this law apparently they do not have to ratify, we can, on our proposition, make it come into force without the Royal Assent, is that the position?

The Deputy Bailiff:

No, that is not the position, Deputy. The law will not be registered unless it has Privy Council consent. The court registers the law when it has Privy Council consent and not before.

The Deputy of St. Mary:

In that case my problem remains. I am sorry, people can go tut but I am sorry this is a serious problem. If the law does not receive Royal Assent, and we cannot pass the proposition to do it ourselves, then how can it be in force in time for the election? This is a big problem for me and people are saying: "Well, that is all right, that is all right" and I do not think it is all right.

The Deputy Bailiff:

Deputy, the proposal has been made by the Privileges and Procedures Committee, if it is considered by July in the Privy Council it will be registered and therefore will come into force on the day it is registered. If it is not considered by July then it will be considered by the Privy Council at some later date. It will still be there to come into force but the date it comes into force will be a matter for this Assembly.

The Deputy of St. Martin:

The same could be said for the whole package. If it is not in by time nothing will get through so by voting today in support of Deputy Southern's proposal makes no difference because if it is passed...

The Deputy Bailiff:

Deputy, you are absolutely right but you will be able to speak in a moment. Deputy Tadier.

5.3.9 Deputy M. Tadier:

I think that clarification is helpful but ultimately I think, as the Deputy of St. Martin says, it does not change the way one votes, one is either in favour of this or not. It is academic, it may come ... it is a technical point, I think, rather than being academic, as to when it comes in but personally I would like to see it come in so if it comes in sooner rather than rather that is all the better. If one does not want to see it come in at all then presumably it does not matter to that particular States Member. I am often asked the question, perhaps as a young States Member or as a newly-elected States Member: "Why did you get involved in politics?" This is not only a question I am asked by other people, it is a question which I am asked by myself sometimes after a long day in the States. It is on days like this when I remember the reasons why I did get involved in politics, because one of the first debates I remember listening to do ... it is not to do with that, I think that means money which the Constable of Grouville is referring to but we are not all driven by money. As I said in one of the hustings at St. Ouen, I would do this job even if it was not paid but I believe that States Members should be paid because it makes sure our motives are correct. That is an aside point. I was sitting upstairs in the gallery on that day and I remember Deputy Southern bringing exactly the same proposition, it may have been for 18 months, but I remember it being a very close debate, a very interesting debate, and I remember sitting up there and getting so frustrated and bordering on angry because of some of the arguments that I heard and which I disagreed with it. I was completely frustrated because at that time I did not have a voice. I said: "That argument is completely wrong, you have not thought of this." It inspired me to get motivated into politics. That was one of the key things. The other reason, of course, is that I am a firm believer in democracy, as hopefully all States Members are, even though we might have different ideas of what that ideal democracy should entail. I think today we have a choice here. We are at a crossroads, we can either go down one road which is one of prejudice, or we can go down the other of

inclusivity. That is what it boils down to for me and clearly there is an idea of balance here. I do think the idea of taxation without representation is being played up a little bit too much but I think ultimately the principle is correct. There are a few reasons for that. Clearly one is not obliged to pay tax in society to have the vote, so you cannot just say: "Only those who pay tax will get the vote." I think that is initially perhaps how the system worked but now we realise that democracy is universal. Nonetheless the 2 years did, as I think the Deputy of St. Martin referred to, have its roots in the idea of the fact that in those days when it was decided the 2 years, one had to be here for 2 years in order to start paying tax. So it is not an arbitrary figure for all that the Deputy of St. John says. It is not as if you say: "I agree with 2 years but 1 year, 364 days is completely unacceptable." It is not an arbitrary figure, it is because in those days it was based on the fact you had to be here for 2 years to pay tax, now that is no longer the case. We have I.T.I.S. and for those who come to the Island they start paying tax straight away and for many of us we pay it a year in arrears.

The Deputy Bailiff:

Could I just you to pause for a moment. There is a hum from the Senatorial benches which is certainly disturbing proceedings of the States insofar as it makes it difficult for the Chair to hear what is being said and is contravening Standing Order 99(3)(d). I should be grateful if the hum could be reduced, if not removed.

Deputy M. Tadier:

I hope the hum was a good hum and it is a positive one. I think the taxation issue is a correct one, it is not simply about taxation, but taxation has been an issue and it has been one of the factors we have taken into consideration up until now in deciding what time limit we should put on people. Personally I am probably slightly more radical, I think that we should allow anyone to vote as far as possible but clearly there have to be practical arrangements to do that, we need to know who is resident in Jersey and I think we can do that quite clearly within a year. People do have to register for all sorts of things, to pay tax, *et cetera*, and if they are doing that we know that they have got a clear commitment to Jersey. We do not know how long they are going to stay in Jersey. I want to deconstruct a couple of the arguments that the Deputy of St. John came out with because it seems to me at the end of the day... I have boiled it down to the fact that the reasons he has given have got nothing to do with the 2-year residency. He is saying, I think, that people should not be able to vote because some of the people who might vote might not know what they are voting for. He seems to be saying that we should not let illiterate people vote because he is saying there is a risk if you have only been there 2 years that you cannot speak English so you will not be able to read a ballot paper. I think when you go into a ballot box, first of all, there are provisions made - we have discussed this on P.P.C. - for Portuguese and Polish instructions there. That is not the only languages of foreign speakers that exist in Jersey but it is quite right that they should be there. But, at the end of the day, you are voting for a name on a piece of paper and you put a cross next to it. There is no real need for any rocket science or any literary genius. The names themselves may not be English or French. You can have any kind of surname on a ballot paper, it is a case of recognising the name and putting a cross next to it. I believe there is going to be pictures anyway of candidates up there so you do not even need to be able to read, you can just see someone's face who has knocked on your door and then you can put a cross next to that person's face or the symbol of a party. That is the beauty of the democratic system. It is as simple as possible but it is also fundamentally important. I get the feeling that the Deputy of St. John, if he had his way, would say that in St. John the only people who can vote would be those who spoke Jersey French, not just any Jersey French but only the particular dialect of Jersey French that is spoken in St. John because that would be the litmus test. If we want to go down that route and say that we need to make sure that people who vote know what they are doing, that is one option. It has not particularly been followed up to now, but we could introduce a test to make sure that everyone can speak English or French, because I think the Deputy of St. John said one of the home languages in Jersey is fine. We should also make sure that they know how the system works in its entirety and maybe we should vet them to see who they

are going to vote for beforehand. But I suspect I am going into the realms of facetiousness there. Far be it for me to do that. But the bottom line is what the Deputy of St. John and those who would believe his arguments do not realise, I would ask, what about those who have been here less than 2 years but are fluent in English and who may also be fluent in French and German and Polish or any other language, who are highly literate, they may be doctors, they may have done lots of research before coming to Jersey, they may be (j) cats, they might work as nurses, they could work in schools as teachers and they might know a lot more about our system than - not necessarily as we do as politicians - the vast majority of those in the Island do already. What about the 1(1)(k)s who come here? They contribute vastly to our Island in different ways, not simply in terms of wealth but they do that socially. Clearly they will have done a lot of research about Jersey before deciding to come to the Island. Is it right that they should have to wait for 2 years before being able to cast a vote and have a say about how their money and their taxation is spent? I think what we need to be doing is encouraging more inclusivity as early as possible. We have a choice, and I would argue ... we heard yesterday, for those of us who went to the Children's Strategy that early intervention is key. I think it is exactly the same in a society when you are trying to engender integration and you are trying to make people feel as welcomed as possible that the earliest opportunity you can do that will be beneficial not just for society but for the democratic model in which we live. Clearly if you have the chance to vote at one year you are more likely to get involved earlier than if you have got the chance to vote after 2 years. There is a risk of alienation. I think also that is why the argument about America is completely flawed. I would argue maybe we should be able to vote in America when we have been there for a year. Yes, quite rightly. The Americans have a different system. Jersey has got a completely different system, we are a very small Island, we have always relied on immigrant labour and people coming into the Island to do work. It is quite right, I think, that we have a different ethos and a different outlook to other countries because we know that the immigrant labour has been the backbone of our economy. Not simply immigrant labour but they settle here and I think it is quite right. I would urge Deputy Le Claire ... he is not here at the moment but I am sure he is listening in some nook and cranny - he is the son or the grandson of immigrants just as my grandparents were, and I remember how they had to suffer not only due to bad working conditions and due to prejudice in the Island, but they also were not even allowed the vote. I had French uncles who were over here living for 30 or 40 years, clearly knew how the Island worked, in many ways they were part of the rural community. They knew exactly many of the players but they were not allowed to vote and thankfully we changed that. But I think that the 2-year rule is no longer the correct measure. I think we need to look at one year. But the last point I would make, and this will be my last point - there are lots more I could make - is that I would not even say it is so much about the right for people to vote, it is giving the option to vote. So if you have been here for a year, if you have gone to the effort of registering and informing yourself then, quite clearly, it is a self-selecting process. Why should people not, who are informed enough and feel that after a year they have done their research on Jersey, that they have some politically ideology perhaps, they come from a system with party politics or another system and they have done the research and said: "I want to vote for this individual because he represent the free market politics that I think we need more of in Jersey" or *vice versa*.

[12:15]

It is very patronising for us to say: "No, you cannot do that because 2 years is the limit, after 2 years you will immediately be given full cognisance of how the system works but up until 2 years you cannot possibly know enough to be able to vote." I think it is patronising, I think the year is the correct measure for the reasons I have given and I think we need to be a more can-do government, we need to be promoting and engendering democracy at the earliest possible stages and that is why I will be fully supporting this amendment.

5.3.10 Deputy R.G. Le Hérissier:

I do support, maybe not the jokes, a lot of what Deputy Tadier said. It is very strange because unlike other states and, in one of my few conversations with Senator Perchard this morning where we agreed or fully agreed, we were talking about citizenship in the Caribbean states where there is a notion of ‘belongers’ in a lot of these states, particularly the overseas territories and you have to go through a very tight test. I was honoured last year to attend 2 or 3 citizenship ceremonies in Jersey and I was quite amazed. I asked for the examination paper and I was quite amazed at the severity of the test. It almost had questions as difficult as: “Do you think the Bellozanne covenant should apply to St. Helier?” That was how difficult it was. I thought it was a remarkably rigorous test and I was quite embarrassed as I struggled through questions and was awaiting the covenant one, which fortunately did not appear. But it is very strange that we do apply these different tests to people in order that they may enjoy, certainly for that group, the full benefits of citizenship which essentially lie, probably, in the passport and what that entails, whereas we cannot, of course, employ the kind of tests which, as I said, certain Caribbean nations employ which are almost self-evidently applied to their nations where they distinguish between the indigenous population and people they call ‘incomers’, ‘belongers’ or whatever. I think, yes, as Deputy Tadier said, we did have 2 years because that was thought to be a settling-in period to get to know how this place worked. It is fairly optimistic to do it in 2 years. But on the assumption that you may still struggle at 2 years I think, let us say, in a reductionist argument you could also have the same struggle at one year. My view is, like, Deputy Tadier, if you are prepared to register then you have shown interest. But, of course, our registration - I have got to bring up a certain perverse consequence - campaigns have shown that more people that register do not mean the more people that vote. In fact once they see the enormity of the step they have taken they pull back. I will support it; it is a very small and important incremental step. Sadly, I do not think it will change the electoral landscape because the irony is if the groups who come as “immigrants” to the Island did vote they could dramatically change the whole of this electoral landscape. But for various reasons they choose not to and obviously people tend to vote where they see their own living conditions, their mortgages and so forth, they get concerned about these issues and this is what engages them with politics. Apparently there is, after obviously being on the same downward trajectory as us, a lot more interest in politics in England at the moment as people see the impact of the cut backs and of the new financial austerity that is hitting the country. So maybe things will change. But I certainly support it. Sadly I do not think it means the revolution is around the corner.

5.3.11 The Connétable of St. Helier:

I think Deputy Tadier sensibly demolished some of the arguments brought forward by the Deputy of St. John, so I am not going to go over those again. I myself do not think we are in a position with the sort of turnout we have in Jersey at elections to be turning anybody away from the ballot box. I am reminded of the vote where we decided to lower the age down to allow 16 year-olds to vote. I remember some of the arguments were: “Well, none of the 16 and 17 year-olds are going to bother to vote.” It does seem to me that if that change in the law allows just a handful of 16 and 17 year-olds who are interested in politics, interested in the way the Island is run, it allows them to vote. If it empowers them then why not do it. That is, I think, probably why we did do it. I think the same applies here. There may be very few people who have only been here just over a year who want to get involved, who care enough to go to the ballot box, but if they do then who are we to say that they cannot do it. I feel that we will be, as we did before, allowing more people to take an interest. People who vote, in my experience, care about other things as well. They care about how the society in which they are living operates, they care about their environment, they care about their Parish. I think that is the message we should be sending out, if you have only been here a year but you want to get involved in how Jersey operates then we believe that you have probably found out enough about it to want to vote and we should allow them to do so. So I will be supporting the amendment.

5.3.12 Senator T.J. Le Main:

I am not going to be supporting the amendment. I think we are slowly eroding our way of life. I think that we are selling our identity slowly and the way we operate. I have a problem in allowing someone who has just come in the Island and lived for 12 months, they are allowed to vote, if this was approved, yet during that 12 months that person can still vote in their country from where they come from thus that country could be in conflict with the U.K., it could be in conflict with us on human rights and other issues and yet we have got people that will be coming into Jersey and allowed, after 12 months, to vote in 2 countries. That cannot be right. Voting in our country in Jersey after 12 months and voting in theirs, which as I say could be in conflict with our policies, our aims and ambitions for democracy and for people to live decently and yet they could be voting in Jersey and in a small way changing the policies of all we hold dear. I do not support that. I think the 2-year residency is a good sensible one at the moment. I have also been listening to the proposer of this amendment, and others, who kept talking about those who come and pay taxes should be able to immediately, after 12 months, be registered to vote. In my last couple of weeks having experience in listening to the nursing staff and (j) cats at the hospital where nurses have come into Jersey, bringing with them husbands and children often - because that is one of our difficulties in recruiting, they bring their husbands - and immediately a (j) cat or a nurse would be able to, going with the argument of the proposer, claim after 12 months yet the people I have been speaking to, many of the spouses of (j) cats and people that come to do essential work in Jersey are not working and are having difficulty in finding work within the Island at the present time. So you would have, if you listen to the argument of Deputy Southern, people that immediately after 12 months qualify and others, the husbands or spouses or wives, would be some time later because they do not pay tax or anything at all. Perhaps I would like to hear from the Attorney General on this point about the ... I thought that years ago there was, within the law, that if you voted in your own country of origin you could not vote in Jersey. I seem to remember that and I remember very well when foreign nationals, particularly the French, are not allowed to vote unless they change to British nationality. But I have a problem about selling our identity and I have a problem with this big problem where people within 12 months are still able to vote in their own country. I am not going to support this. Every time we come to this Assembly we are slowly eroding our way of life, our aims and ambitions and what we fought for for years and I certainly do not agree with this. I do agree that 2 years is a good set time, and the next thing we are going to have Deputy Southern come back next year when they come off ... as soon as they arrive in the Island everyone will be able to, whether they speak the British language or the English language or anything at all. No, I do not support this. I think it is sensible for 2 years and I am going to support P.P.C. on this.

5.3.13 The Connétable of St. Saviour:

Can I just start by saying I am a little puzzled by that last statement because I do not think P.P.C. have got a position on this. There are a number of issues here, the first one was the practicalities of this and I thank you, Sir, because I think your advice has dealt with that, I do not think it is a problem. Secondly, people have raised tax and, like it or not, one of the benefits of G.S.T. (Goods and Services Tax) is that people are now paying tax the moment they walk off the boat so that is not an issue. What this is really about is about commitment to Jersey. People can commit to Jersey when they walk off the boat or walk off the plane. They can come here and say: "This is where I am going to be. This is my life, I want to live here and take part." They can come here and live for 10 or 20 years and still not really commit to Jersey. The answer is it is their own choice, they do not have to vote and some of them do not. Unfortunately a lot of them do not. But that is a personal choice. I think if people come to the Island and they commit to the Island, they should be entitled to vote. So we have to make a judgment. I think in practical terms it is no use having people walking off without necessarily having a fixed address and then saying: "Yes, I want to vote." They need time to settle in, we have to make a judgment on the amount of time. I think 12 months is perfectly adequate. I will support this.

5.3.14 The Deputy of St. Mary:

I am going to address the issues raised by what the Deputy of St. John said and the last 2 speakers as well, and also Deputy Tadier when he accused those speakers, I think, of prejudice and raised the issue of inclusivity. I think there is a really important underlying issue here about the difference between rights and belonging, or, as I think the last speaker called it, commitment to Jersey. I think that the right to vote is a different sort of animal from where you feel you belong or where you are committed to. The right to vote, in my mind, is in a separate box and then we can discuss whether it is 2 years or one year that you will be living somewhere that you will come to exercise to have that right. But the other box, which people are conflating with, that is this matter of commitment to Jersey, or involvement. The first point I would like to make, I think, is that it cannot be an absolute. There may be some people in here who are 100 per cent committed to Jersey, almost right or wrong, Jersey is where they live, they belong, their forefathers and way, way back have lived in Jersey and they always will do. That is a level almost like 100 per cent commitment and then there are scales going down from that. We need to be sensitive to that and I read an article about this issue as it related to Scotland and Scottish villages and incomers, people who had houses in the village. What rights did they have in terms of determining which direction that village goes, or whether there should be a wind farm on the nearby mountain or whether the pub should be open until 12.00 a.m. or 2.00 a.m. or whatever it was, what rights do these incomers have relative to the people who have lived there for, not hundreds of years but their families have lived there for hundreds of years. That really struck a chord with me. There is a difference and that is what the Deputy of St. John is saying that that is what Senator Le Main is alluding to when he talks about our way of life but in a way that I would not necessarily agree with. When he says he aligns himself with P.P.C. I noticed the frantic nodding heads of P.P.C. saying: "No, we do not agree with that." It is not really about eroding our way of life but there is an issue around this thing of what say does someone have who has settled in the Scottish village. It is easier to look at in terms of something far away, is it not, because then we can see the issue more clearly, and is that the same stake as some who has lived there for years and years.

[12:30]

My way round it, I just suggest to Members really, is that - and I was on the Community Relations Trust for quite a while - one of the issues is the welcome mat, if you like, put out by the society to people who come and live in it, whether they come to work or whether they come to retire, the fact is people do arrive in Jersey and, at one point, the Community Relations Trust and others engineered a welcome pack for people who "come off the boat". That meant that they knew that if they went fishing on the southeast coast they might get caught by the tide, and it meant that they knew the ins and outs of what the Parish Hall system were and getting done for speeding and all these things. So the welcome pack covered that it immediately means that you feel more part of this place that you have come to live in or come to work in. I think maybe it is that that is turning it on its head and saying: "What do we do to integrate people? What do we do to welcome them?" Not necessarily integrate in the sense that they all become suddenly Jersey people but that they become part of our society in some way that means something. So I think we can enhance the stake that people have in our Island by doing that. I will just give 2 examples beyond the simple act of having a welcome pack. I do not know if it still exists, by the way, maybe Deputy Power can enlighten us, because he is on the Community Relations Trust, whether that welcome pack still exists for everyone who comes to live here. But 2 examples of where people reported back to the Community Relations Trust how they had felt more at home, and that is what we are talking about. One was a concert given at St. Thomas' Church by a renowned Portuguese artist and people coming out from there - it chokes me up to think about it - saying: "I felt at home at last. I felt that Jersey had done something that made me feel that I belonged." The other case was when the Portuguese representative football team, I forget whether it was from Madeira or whether it was from Lisbon, came to play at Springfield and there was a whole stand packed and waving Portuguese flags or Madeira flags. I am sorry, I am not terribly up on which team it was. But the

fact is I saw that and it was an image of an Island saying: “Fine, we can handle the fact that you live here, you support your home team, which is Lisbon, but you live here and that is okay.” I found that a very potent image and I think it is along that track that we ought to be thinking. But in terms of the right to vote, that is a different issue. It is just a right to vote if you live here. The only question before Members is 2 years or one year. I did mention those other things because I think some Members have been conflating this issue of belonging and this issue of stakeholding with the issue of the right to vote.

5.3.15 Senator S.C. Ferguson:

As Senator Le Main said, it is an unusual situation where immigrants here have the right to vote here as well as in their country of origin. Normally your vote goes with your citizenship or where you are living. To have a dual vote is odd. Even the U.K. immigrants retain their vote in the U.K. for 7 years. It is unusual. We have heard a lot about taxation without representation, I would ask people to remember the origin of that saying. It was in the days when tax was somewhat more simple than it is today, perhaps less international but it happened that the Americans were being taxed and all the tax collected just went into King George’s fighting fund. It was not being left in the community. We have heard comments about people ... Deputy Tadier mentioned his relatives not being allowed to vote here, but they were retaining their French citizenship. My sister lived in France, she paid French taxes but unless she took out French citizenship she had a very limited ability to vote. She could vote for the local things, in the local community, but in the national elections she had no vote at all and yet she was paying tax over there. I understand, if I recall rightly, that I cannot vote in the United States unless I take up citizenship, and I certainly cannot be President unless I am U.S. (United States) born. We do not have that problem here. I came for 6 months 40 years ago and I am still here until I am evicted or repatriated or something. You know, you can attain a high position over here where you cannot in America. The Deputy of St. Mary mentioned that perhaps we were conflating 2 issues, I do not think I quite agree with him on assimilation. Admittedly, yes, you have got to have some degree of welcoming from the people living where you have immigrated to but you also have to make the effort. If you go to live in a different country, you honour their traditions and customs, you learn the language and you take part in the community. Going further, on a local basis over here, much as my sister in France, as a ratepayer your immigrant can go to a Parish Assembly and take part. So I think basically 2 years is not too short a period to demonstrate commitment to the Island. I think the taxation argument is somewhat specious because it is not directly comparable; it is, I suppose, something we are always guilty of, cherry-picking a nice slogan without looking at the context. I think perhaps the limit should be kept at the moment and they will no doubt be revisited for a fifth or sixth time, I am sure, if Deputy Southern is still in the States, but for the moment, let it go.

Deputy M. Tadier:

Could I ask the Attorney General a question? It may be easy to answer. We just heard from Senator Ferguson that at Parish Hall one just needs to be a ratepayer rather than being a resident here for 2 years, if that is correct ... I also understand that Constables are not elected under the same law as Deputies and Senators are, they are elected under a different law, does that mean in order to elect Constables of a Parish that as long as you are ratepayer there is no requirement for one to have been resident in the Island for 2 years?

The Attorney General:

No, I would have to look at the statutes to give the House chapter and verse, but, no, I do not think that is the case, I think the position is the same.

5.3.16 Deputy I.J. Gorst:

Yes, very briefly. I think the last speaker touched on the 2 main points. Right to vote tends in jurisdictions to be linked to citizenship or length of residency. The citizenship issue that the United

States have - which the mover of this proposition makes great play of in his comments - is no taxation without representation for American citizens. If you are not a citizen then that does not apply to you. Of course there is the anomaly as well in Washington City where you pay tax and you still do not have representation, but we will not dwell on that. We do not have the direct read-across for citizenship I would suggest in Jersey or its length of residency. When we last discussed this the P.P.C. produced a very helpful table of other jurisdictions and length of residency and if memory serves - and it may not - we were one of the shorter residency periods attached to the right to vote at that time anyway and therefore I am personally of the view that 2 years is reasonable and we should not change it. I recently had the honour of sitting next to a representative from the Cayman Islands and when we were discussing the length of residency required before one had a right to vote he really could not understand how it was that we have such a short term. If I am right again I think theirs is 10 years, therefore I think 2 years is absolutely reasonable. There have been a number of arguments which have been put forward which are, in many ways, not even relevant to this debate. It really is a matter of without the citizenship test, how long should the residency test be and I believe that 24 months is reasonable.

5.3.17 Deputy S. Power:

I will be very brief because it is 5 minutes to the break. I lived in the U.S. for 5 years, I did have a green card and I was not allowed to vote even though I lived in 2 states, Maryland and Virginia. So I am not quite sure this taxation without representation, what it means any more, you have to be an American citizen. My own personal experience is that I came here in 1982 and did not really have any interest in Jersey politics until 1987 when I first voted, I was trying to keep my head above water. I am one of those that do have dual citizenship. I have British and Irish citizenship as do my 2 sisters who are Irish and American. They were not allowed to vote in Ireland until they became American. Having said that, I have to say to Members that the last time I voted in the Irish Republic was in 1977 and I voted here for the first time in 1987. We are talking here about a very small tweak to the ability to vote in Jersey, which is reducing the residential period from 2 years to one year. There are many, many groups of people in Jersey, as Deputy Le Hérisier has said, that if they did vote and exercise their rights, they would dramatically change the appearance of this Chamber but if, for whatever reason, they choose not to vote, it is not for us question why they do not vote, but they decide not to. That is not just referring to the Portuguese or the Polish or the 18 year-olds or recent arrivals, it also applies to many, many groups of English arrivals on the shore and Welsh, Scottish and everyone else, including Irish. When I have stood outside Communicare for many months, many times, the vast majority of those who vote are between 45 and 85 and I think the majority would be Jersey born. In my view, I think we have got it about right at 2 years, I do not see any benefit to democracy in the Island by reducing it to another year because I think the number of those that would vote would be in a handful. I do not see how that would improve a democracy by reducing it from 2 years to one year because the number of people that would appear would be very limited. I think we have got it about right, I think P.P.C. have it about right, I think Deputy Southern's intentions are good but from my own experience, and from the experience of those 13 or 14 Members of this Assembly who were not born here, I think it is about right.

5.3.18 Senator P.F. Routier:

Very briefly. I am listening to this debate very carefully and I have not heard any evidence from anybody to say that is being called for by people who have come into the Island in this last year or so. I would really like the Deputy, when he is summing up, to explain to us what evidence he has that people are crying out for this opportunity.

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

It is 12:45 p.m., I draw that to the attention of Members, nobody else is down on my list to speak and the adjournment is proposed. The States now stands adjourned until 2.15 p.m.

[12:45]

LUNCHEON ADJOURNMENT

[14:15]

The Deputy Bailiff:

I would like to invite Members to return to the Chamber as we are not currently quorate. Very well. We now return to the debate on the amendment to P.14. Does any other Member wish to speak? If not, then I call on the proposer to reply; Deputy Southern.

5.3.19 Deputy G.P. Southern:

Perhaps I am encouraged to do this more often, this type of debate: 17 contributions, and I was impressed as I have been in the past by how any debate in this Chamber can swoop from soaring highs to abysmal lows, without mentioning any names whatsoever. I have to say I was singularly unimpressed by some of the contributions, but I thank everyone who did contribute. What I want to refer to is 2 particular contributions, the first made by the Deputy of St. Mary who pointed out the whole spectrum of differences in welcoming people into our community and the ways in which we can do that. He said it is like a welcome mat on the front door step; how do we treat people from the word go? It seems to me he made a perfectly good case for reducing further from 2 years to 12 months the length of time you need to reside here in order to vote. I think that is a perfectly reasonable statement. As many people said, it will not result in a flood of people rushing into the polling booth to vote; there will be a trickle who have been here for 12 months and are interested and wish to exercise their democratic right. I think it was Constable Crowcroft who pointed out the difference between almost encouraging people to vote, making people vote, people wanting to vote, but not being stopped from voting. Every time we say there is an age limit or there is a length of residence limit or there is this limit or that limit, we discourage people from voting; and there is absolutely no reason why we should. If we can encourage a few more people to take part in the democratic process and exercise their right, then that must be for the good; and it will be. As Deputy Le Hérissier said, it will not be a revolution, it will not be a flood, it will be a trickle. Senator Routier asked me: “Where are the clamouring hordes who are chaining themselves to railings in order to get the vote, and really want the vote because they have been here 12 months?” Of course that is not the reality. The reality of voting as we know full well on most ordinary people’s minds is very, very low indeed, even in election year. Barely 50 per cent turn out in the country Parishes; certainly a 30 per cent turnout in town if we are lucky. So encouragement of a few more people to vote and allowing a few more people to vote would be a good step. The clamour I heard was a single voice. It was a single very annoyed voice who knew intimately the goings-on in this Chamber of politics in Jersey - knew exactly what it meant because in a very close eye-view of what was happening and was barred from voting in his first election when he could because he had been here just short of 2 years. So, when I called on his door because he lives in my Parish, I had to point out to him that he could not vote, so I would not be spending very much time with him, but I might do next time; and the Dean was very unamused. **[Laughter]** But no, we must not give people like him the vote when they have been here 12 months, must we, because he does know intimately what goes on; he knows something of what goes on in the tearooms. So we could not possibly have him voting, could we? That is the sort of person I want people to imagine when they say: “Well, shall I make this person wait 2 years? Or can I let them vote after 12 months?” Think of the Dean and vote yes. I call for the appel.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. On the amendment of Deputy Southern to the Public Elections (Amendment No. 4) (Jersey) Law and I ask the Greffier to open the voting.

POUR: 17		CONTRE: 25		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Senator F. du H. Le Gresley		Senator P.F. Routier		
Connétable of St. Ouen		Senator T.J. Le Main		
Connétable of St. Saviour		Senator J.L. Perchard		
Connétable of St. Lawrence		Senator S.C. Ferguson		
Deputy R.C. Duhamel (S)		Senator B.I. Le Marquand		
Deputy of St. Martin		Connétable of Trinity		
Deputy R.G. Le Hérisssier (S)		Connétable of Grouville		
Deputy J.A. Martin (H)		Connétable of St. Brelade		
Deputy G.P. Southern (H)		Connétable of St. John		
Deputy of St. Peter		Connétable of St. Clement		
Deputy M. Tadier (B)		Connétable of St. Mary		
Deputy of St. Mary		Deputy J.B. Fox (H)		
Deputy T.M. Pitman (H)		Deputy of St. Ouen		
Deputy T.A. Vallois (S)		Deputy of Grouville		
Deputy M.R. Higgins (H)		Deputy J.A. Hilton (H)		
Deputy A.K.F. Green (H)		Deputy P.V.F. Le Claire (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy J.M. Maçon (S)		

5.4. Draft Public Elections (Amendment No. 4) (Jersey) Law 201- (P.14/2011)

The Deputy Bailiff:

Very well. We now return to the Public Elections (Amendment) Law as proposed by the Privileges and Procedures Committee and, Chairman, we come on to Article 3 which deals with Article 9 amendments.

5.4.1 The Connétable of St. Mary:

Article 3 simply makes some consequential changes following the replacement of Part 7 of the principal law by this draft law. It is very simple, and I move Article 3.

The Deputy Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak? All Members in favour of adopting Article 3 kindly show. Those against. Article 3 is adopted.

5.5 The Connétable of St. Mary:

Article 4. Members will be aware that for the first time it is possible that there could be contested elections for all 3 categories of States Member, all on the same day. Article 4 is the first of a number of amendments to the law which make changes to facilitate and to accommodate the new single election day. This article amends Article 12 of the 2002 Law concerning the production of electoral registers. The law was amended in 2008 to accommodate the single election day for Senators and Connétables, and at present the arrangements are that when nomination meetings are held on consecutive days the same electoral register can be used for both elections. This minor amendment to Article 12 simply extends the reference to include 2 or more public elections so that the electoral register in force at midday on the day before the day when the first nomination is held can be used for all 3 elections. I propose Article 4.

The Deputy Bailiff:

Article 4 is proposed. Seconded? **[Seconded]** Does any Member wish to speak?

5.5.1 Deputy G.P. Southern:

I think I heard correctly when I heard the chairman say that this allows the electoral register applicable for the first election to be applied to the rest. The question I want to ask her is, is there any space in between the 2 elections as there currently is now - they are not 2 elections, they are on the same day. Okay, right. So I think I am going to sit down because **[Laughter]** I am about to make more of a fool of myself than anyone else in this Chamber has done hitherto.

5.5.2 Deputy M. Tadier:

I think the point maybe that needs to be raised, although I do not think it is one that will make or break it for many Members, is the fact that while there will not be 2 election days, there will be 2 nomination days. So that is perhaps the issue which Deputy Southern was getting at. So the issue is now, previously in the past the electoral roll would shut on the day before the nomination day; so what it means is that the Senators' nomination day will on one day, the Deputies and Constables will be on the second day. So it does mean that there is one day less. You could argue I suppose if we are being strictly pedantic that you should be able to register for the Deputies and Constables' election up until that nomination date. So there should be a day's difference. But I suspect for pragmatic sake it is just easier to do it on the same day. So on that basis I will not be objecting.

The Deputy Bailiff:

Does any other Member wish to speak? I call on the Chairman to reply.

5.5.3 The Connétable of St. Mary:

Very briefly. Yes, that is precisely why there will be nomination meetings on consecutive days. For logistical reasons they are meeting on separate days, but for simplicity and for just plain common sense it makes sense that all the elections held on the same day are held to the same electoral register. I maintain the article.

The Deputy Bailiff:

Article 4 is proposed. All Members in favour kindly show. Those against. Article 4 is adopted. Chairman, Article 5.

5.6 The Connétable of St. Mary:

The Public Elections Working Party gave careful consideration to whether a candidate should be permitted to stand in one or more elections when several elections are being held on the same day. The Working Party received legal advice on the consequences of making any restrictions and the recommendation made was in line with the legal advice received. The Working Party found that a number of difficulties would arise if a person was permitted to stand for multiple offices. Any candidate successful in multiple elections would be unable to serve in more than one capacity and so could take up only one office. There would therefore need to be one or more by-elections to fill the office or offices vacated. This would mean that the Assembly would not be fully constituted for the important elections of Chief Minister, Ministers and various chairmen, and of members of panels and committees, *et cetera*; in addition any Member elected at a subsequent by-election would be too late to be considered for a position of official responsibility as the post-holders would already have been appointed. The working party therefore recommended that candidates should be prevented from standing for more than one office at the same time, thereby extending the restriction already in force for the 2008 election that prevented a person being nominated for both the office of Senator and Connétable. If adopted this article will amend Article 18 of the 2002 Law to provide that if a person is nominated for more than one office in relation to elections being held on the same day, any later nomination will cancel out the earlier nomination. For example, anyone nominated for Senator on one day who is then nominated as Deputy on the following day would see his or her nomination for Senator cancelled. The practical consequence of the amendment is that at the end of

the 2 days of nomination meetings each candidate would only be validly nominated for one office, apropos Article 5.

The Deputy Bailiff:

The article is proposed; seconded? **[Seconded]**

5.6.1 Deputy T.M. Pitman:

Just a couple of points. It obviously makes sense with what we have done, that I cannot stand for more than one post. I do think it really highlights the absurdity of a so-called general election, which is not really a general election, because we have still got 3 types of Member. Hopefully we will get one day to sort that out. What I think is totally wrong, if we were going down this route, is the way we have left it open for people to say: "Well, I really, really want to be a Senator" but then look around on the night and then think: "There are 10 people who are better than me. So next day I am going to have myself nominated for Deputy." We heard a lot from some people in this House about the second bite of the cherry, and I can honestly say no one has ever complained about that for me, because I think it was the late Senator Mike Vibert who rightly pointed out, just because you did not get elected the first time as a Senator did not mean you were a failure. It meant you were beaten on the night, and it could be by a very small number of votes. I do not think that most people do it - maybe I am not cynical enough - but I do not think most people do it to raise their profile. Most people will go and put themselves as Senator because they will think: "There is no one there who represents me." There is an element of that in when I stood. Also I think: "I am better than these people", which I clearly felt - perhaps not enough people agreed with me - but it is a completely valid reason. You know, I did not have the benefit of a high profile job or being well-known, but several thousand people still voted for me. So I think if we have gone down the route that we are now it is completely wrong to have this situation where ... and it is going to happen now, because there are going to be about 8 people who desperately want to be in the already appointed agreed Ministry posts who are going to suddenly look around them, as I say, and think: "Oh, no. I think I will go and stand as Deputy" and I think if we were going down this route - and I was not on P.P.C. at the time - then we should have made sure that this could not happen. Because if we are saying the second bite at the cherry is wrong, then this has got to be wrong. I will leave it at that.

The Deputy Bailiff:

Does any other Member wish to speak? I call on the Chairman to reply.

5.6.2 The Connétable of St. Mary:

The only thing I can say in response to what Deputy Trevor Pitman has said is there will obviously be consequences, will there not, by all candidates in deciding where they stand, and they may find that it is not politically acceptable in some locations to be seen as going for the Deputy, for example, as being the second choice for that candidate. But Members will have to make these decisions, and that is part of the electoral process, I think. Having said that I move the article.

[14:30]

The Deputy Bailiff:

Article 5 is moved. Will Members in favour kindly show?

Deputy G.P. Southern:

The appel, please.

The Deputy Bailiff:

The appel is called for in relation to Article 5 of the Draft Public Elections (Amendment No. 4) (Jersey) Law and I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR: 41		CONTRE: 3		ABSTAIN: 0
Senator P.F. Routier		Deputy J.A. Martin (H)		
Senator T.J. Le Main		Deputy G.P. Southern (H)		
Senator J.L. Perchard		Deputy T.M. Pitman (H)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

We now come to Article 6. Chairman, I am going to direct you from the Chair that we will deal with paragraphs (1) and (2) separately.

5.7 The Connétable of St. Mary:

Article 6 makes 2 separate changes to Article 20 of the 2002 Law. Firstly, following your direction, the first change is set out in paragraph (1) and it concerns a matter that was brought directly to the attention of P.P.C. It was not considered by the working party. In the June 2010 Senatorial by-election there were 9 candidates for the one vacancy. P.P.C. received representations concerning the fact that several candidates had received an extremely low number of votes, indicating that the candidates concerned perhaps had little realistic prospect of success. One

candidate received no votes at all in 3 Parishes and only one vote in 4 other Parishes, which seems to indicate that they had not secured any Island-wide support before standing for the position of Senator. Concerns were voiced that had this had meant that it was more difficult for electors to hear the views of those candidates likely to obtain a reasonable percentage of the votes. P.P.C. is therefore bringing forward this amendment, which provides that any person being nominated as a Senator must have his or her nomination paper signed by a proposer and 11 seconders, with one of the 12 people coming from each of the 12 Parishes. P.P.C. does not believe that this would prove difficult for any serious candidate for Senator and considers that it is not unreasonable to require that candidates should be able to show some initial support across the Island before standing for the Island-wide mandate. I move Article 6 paragraph (1).

The Deputy Bailiff:

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

5.7.1 Deputy M. Tadier:

I spoke earlier on this. This is something I feel passionate about to the extent to which I submitted a paper to P.P.C., after I was on it, and it is basically... I think this is folly. I think it is completely unnecessary. Simply to say that just because it will not pose a problem for any serious candidate is not a reason to do it. There are lots of things which would not pose a problem for any successful candidate, but we do not impose them simply on that reason. I think I am going to try and give 3 basic reasons why I think this is flawed. The first one is that the constituency is the whole Island. So currently you get 10 signatures from your constituency; that is what we all have to do, whether you are a Deputy, a Constable or a Senator. As a Deputy I do not have to go and get signatures from every Vingtaine; there are 2 Vingtaines in my district of La Moye and of Les Quennevais, but I do not have to go to make sure that 5 are from Les Quennevais and 5 are from La Moye. I would probably do that anyway. I would probably get a mixture anyway. But it is not simply a geographical mixture that I look for on my paper, and I think the same applies to a Senator. When you go to get your 12 signatures, if it is going to be 12 - it is currently 10 - one looks for a mixture of people on there and it is up to the individual candidate to decide where they get their signatures from. The same thing applies for Constables. Why are we not proposing that Constables have to get a signature from every Vingtaine in their district? That would be ultimately sensible, and maybe they do that already. But there should not be any obligation for them to do that. For a Constable they need to get a majority above any other candidate to get elected. That brings me on to my second point: there is no obligation for a Senator to get votes in every Parish. Somebody could stand for Senator because he really believes there is such an important issue. It could be the Waterfront. I could believe that the Waterfront has such an impact on Jersey for the whole Island because it is such an important area, all La Collette, everyone uses it; they dump green waste there, and it has impact on the whole Island, and I would stand simply on the basis that I have strong feelings about La Colette and I could be elected predominantly on votes from St. Helier, St. Saviour, St. Clement, maybe even a few from Grouville, with no votes from the rest of the Island. So there is no requirement there for votes to be cast from the whole of the Island, and that is just the way it works. As long as you can secure enough votes in the whole constituency, which is the whole of the Island, then one will get elected. So it does not follow. I think those are the 2 strongest arguments. I also think the third argument is one which will come back later on in the £500 deposit. Just because somebody cannot secure a signature from every Parish, does not mean that they do not have an intrinsic worth on being on the platform during a Senatorial debate. I know that the argument will come back that if you cannot secure votes in certain Parishes, then you are unlikely to get elected. That may be statistically true, but that does not mean that any such candidate does not have a worth in influencing argument that they can still make the other candidates, put them on their toes more and ask relevant questions which will start debate. So I think those are the 3 main reasons. I also suspect, if I am being cynical - and this is not necessarily true, but it is a consequence - that simply it is being done so that people know exactly, so that word

can get back to those who want to about what is going on in different Parishes. If the potential Senator has to go round to every Parish to try and canvas for support, then presumably somewhere on the grapevine it is going to get back to those in power who like to think that they run elections and they want to be able to control all the strings and to know which candidate is standing where, and clearly somewhere on the grapevine that will get back. That is not probably a strong argument, but that is something in the back of my mind. But I think certainly those first 3 arguments I have given - the Island is the constituency, it is not the 12 Parishes, and I think let the electorate decide who they want to have, and I do not think that the 10 signatures on the paper needs to be changed. We are just looking for strange and fantastical ways to make it more difficult for people to stand for election and I do not think this is something that sensibly needs to be supported.

5.7.2 Deputy M.R. Higgins:

I will be exceptionally brief because I think Deputy Tadier has given the 3 main reasons that I would have put forward myself. I might also add that the P.P.C. were not unanimous on this; I voted against the proposal on P.P.C., and so I shall not be supporting it. In fact, while I am on my feet I am just going to make a point about one of the sheets that has been given to us. When we come on to looking at the £500 for Deputies there is an error in that 2 of the candidates would have lost their deposits.

The Connétable of St. Mary:

I thank Deputy Higgins for pointing out. It is being re-circulated.

5.7.3 Deputy T.M. Pitman:

Just 15 seconds worth: I totally endorse what Deputy Tadier said. This is something that does not need to be done, and I really do not know why we are doing it, to be honest.

5.7.4 Deputy G.P. Southern:

I too will be brief, but just point to the opening of the paragraph which deals with this Article 6, which I believe shows the nature of this amendment. The fact is, as Churchill said, democracy is a lousy way to run a country but it is the best one we have got, and here we have putting a barrier - a hurdle - in the way of people standing for that democratic principle. It may well be only a small hurdle, but the very fact that this was not an issue which was asked to be considered by the working party - it was an extra issue considered by the Privileges and Procedures Committee themselves as an add-on, I think reveals, quite frankly I can only express it as the petty nature of the way in which P.P.C. was thinking on that day. This is a mistake. Deputy Tadier described it as a folly. I think it is fundamentally nit-picking, anti-democratic and should be thrown out by this House. We should take a hard look at this and say: "No. This is just silly. Let us not go here."

5.7.5 The Deputy of St. Mary:

I just want to make one point apart from endorsing what others have said that the point that the constituency is the whole Island and that therefore this is completely irrational stands, and I do not think there is any counter-argument to that. But my point is the seventh line in the report of P.P.C. where they say: "That the candidates concerned perhaps had little realistic prospect of success and that is demonstrated by the fact that they received very few votes in the last analysis." "Perhaps had little realistic prospect of success" and my question is, who is to make that judgment in advance? It is certainly not us or a committee or anything else. That judgment is made by the electorate, and that is the flaw of this proposal. I notice that P.P.C. write "perhaps" because they know that this is a weak proposal. "Perhaps had little realistic prospect." But maybe something amazing happens on the election trail, or maybe as was pointed out in a circular sent out by one of the bloggers referring to a former once Deputy Buesnel. I have to mention the name because people will then realise what I am talking about. He tried again and again and again and again to get in, and finally got in. I do not know how many times he would have fallen foul of this. It does not stack-up and we should reject it.

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

I am sure a number of Members were not going to speak until they heard Deputy Tadier and I was certainly one of them, and I do agree with what he has said. I must admit I had obviously read all of the explanations on the articles. One thing that did strike me when I was reading the P.P.C.'s comments on Article 6 was the irony of their phrase "and if the Island-wide mandate is to have any meaning" and I am just reminded of the debate that we had a couple of weeks ago. I do not believe that P.P.C. is keen on the Island-wide mandate and certainly the use of that expression in Article 6 I think leaves a lot to be desired. I thank Deputy Tadier for drawing this to my attention and I will not be supporting this particular Article.

5.7.7 Deputy P.V.F. Le Claire:

It is an interesting speech, inferring that we should go to the people and ask their opinion. Twelve people, one from every Parish, could present a problem for somebody who lives in town and lived in town most of their lives, then went away and then came back and wanted to represent them - someone like myself, who perhaps had support in other Parishes and who on their first standing in an election as a Senator lost, stood successfully as a Deputy, stood again as a Senator and came in fourth. What difference does it make if you have got signatures from all of the Parishes to achieve the aims of P.P.C? Are we achieving anything by doing that? No, we are not. What we are doing is we are saying basically: "Paul, rather than the 10 people in town that know you really well, get in touch with Uncle John in St. Ouen, he is Bernie's cousin, he knows me; tell him you are Dad's son and get him to sign your form if he is on the list." "Okay. Now where does he live?" "By the racetrack." "Oh, okay. Right, okay. Hello. Are you Uncle Bernie?" "Yes." "Will you sign my form? Thanks. Fine." Boom. Tick the box, in I come; Uncle Bernie has signed my form because my Dad has asked, and Uncle Bernie and I - this is all hypothetical **[Laughter]** - it is not really the racetrack; no, it is the cricket ground. I prefer cricket to racehorses any day. So there is my point. I think it is much better to have people sign your form that know you than this. I think this is absolutely ridiculous what we are doing. I find on reflection after a few years of being in politics that it would be better if people that had been elected did not even use the 10 signatures and came in with a proposer and a seconder, because you have got hundreds of people that support you. It creates a disadvantage to those candidates that are not known, and normally you regularly see the great and the good, the great and the good, the good and the great and the great and the good and the great and the good. In a Jurat's election, how many signatures may I ask are required for the Jurat to be nominated?

The Deputy Bailiff:

Attorney General? **[Laughter]**

The Attorney General:

I am afraid I cannot answer that off the top of my head. I will happily look it up if it is thought to be of any importance.

The Deputy Bailiff:

It is just 2.

Deputy P.V.F. Le Claire:

I am so sorry, Sir. I did not mean to ... because I did not know either. I am so sorry. That was really not my intention. Yes, I thought there were 2, because I have supported on occasion various Jurats for elections. I have not been there on every occasion in the Royal Court when people are appointed to various offices and I must confess I missed a couple of important appointments myself, to yourself, I think, Sir, and to the Attorney General, for getting my dates crossed and my appointments mixed up. But nevertheless, the point I am trying to make is this: we have Jurats sitting in the Royal Court of Jersey determining matters for the whole Island in grave circumstances.

[14:45]

They are not required to run off and get a signature from everybody to say they meet the requirements of public office; yet they hold the public office that is held in the highest esteem in the Island. They have to determine upon the future of many people's lives and they come into the role of Jurats as having had or holding very admirable qualifications in service to society.

The Deputy Bailiff:

Deputy, I am afraid I must ask you to withdraw this part of your speech.

Deputy P.V.F. Le Claire:

Right, Sir.

The Deputy Bailiff:

Standing Order 104 paragraph (f) of sub-paragraph 2(f) says: "A Member of the States must not refer to Jurats or other persons performing judicial functions unless the debate is on a proposition the purpose of which is to discuss the conduct of any such person." If I may say so the Jurats are performing a different sort of function because they are considering matters in relation to the particular case before them and not Island-wide matters of the same kind as a Senator. So it is not a really apposite comparison in any event.

Deputy P.V.F. Le Claire:

On a point of order, could I ask you to withdraw your comments? Okay. I beg your pardon. I did not realise that Standing Order was kicking-in there and I withdraw those remarks. I am just trying to make the point that I think this is overkill in trying to establish, you know: "Let us make it hard for any emerging would-be candidate to achieve office unless they have got the support of the establishment" in my view. So I think it is wrong. I think it is a hold-back, it is a step back in the wrong direction and, as I said, are you going to have somebody tick the box by having 10 signatures of people that arguably do not know them when they could have 10 signatures of people that know them very well?

5.7.8 The Deputy of St. Martin:

Very short and sweet. I get the feeling - I do not know why I look at Senator Routier when I thought of that, but it gave me the impression that someone woke up in the morning and thought: "That is a good idea." [Laughter] I am sorry, Senator Routier; I know it was not your proposition, but it seemed to be a good idea. When one looks at the evidence one is looking at to sustain this proposition it is based on the fact that someone did ... or one candidate did not get any votes in 3 Parishes, another one in a fourth Parish, and really it does not really stack-up. I just wonder why we are spending a lot of time with this, all based on one by-election. If someone wants to stand, surely he should have the right to have those people who wish to nominate them to sign their form. It should not be mandated to get one from each Parish.

5.7.9 Connétable L. Norman of St. Clement:

Just very briefly, what those who are opposing this Article, this part of the Article, are saying - in fact, admitting - is that the Island-wide mandate is in fact a myth. What they are saying is that the Senators are elected by the electors of St. Helier, St. Saviour, to a lesser extent St. Clement and St. Brelade, and that the votes and the opinions of those that live in St. Mary, St. John, Trinity, St. Ouen, are totally irrelevant and unimportant to a Senatorial election. The irony of course is they are absolutely right; they are absolutely right, because it is the populous Parish who decides who the Senators will be, and this ... by rejecting this amendment we are confirming that the Island-wide mandate is a myth and has really had its day.

5.7.10 Deputy C.F. Labey of Grouville:

I had not anticipated that speech before me, but I would say that I totally disagree with it. **[Laughter]** I would just like the chair of P.P.C. in her summing up to tell Members where this notion comes from; where it came from; why are we debating this? As Deputy Tadier pointed out, it is not dependent on the amount of votes in each of the Parishes as to whether the Senator is elected or not; so why on earth do they need a particular person in a particular Parish to sign their nomination papers? I would just like to know where these ideas come from, because I am reminded of the last session we had here whereby again we were voting on my proposition to remove or not to, the 4 Senatorial seats. Where did that notion come from? Yes, the public had said they want a reduction in States Members, but why and who suggested the most democratically elected seat? I would just like to know what P.P.C. do when they sit around their table and who comes up with these ideas.

5.7.11 Senator P.F. Routier:

I thought it was rather strange we had not heard from a Senator yet in this debate. So I thought I might as well get to my feet, and having obviously been successful in a Senatorial election, I can recall when I wanted to fill up my nomination paper the way I went about it. I think that what I tried to do is to achieve a cross-section of the community, whether it be women, professional people, people in the social area of the Island. I can remember I wanted to get a farmer, so one day I cycled out to St. John and got their signature on the form. As I say, I tried to get a good cross-section of the community so that those people were fairly well recognised within the community. I think this is a step too far which is being proposed here. I really think that the electorate will decide and look at the people who are nominating a candidate, and I think this is just going that step too far. I will not be supporting it and we should leave it to the electorate to decide.

The Deputy Bailiff:

Does any other Member wish to speak? I call on the Chairman of Privileges and Procedures Committee to reply.

5.7.12 The Connétable of St. Mary:

I will do that as quickly as I can, but getting to everybody's points. Firstly, not in any particular order but most logical perhaps: where do these ideas come from and why do P.P.C. bring this directly without it going through the working party? Well, the question of that particular result in the by-election raised a lot of comment in the media and also directly to P.P.C. after that by-election. The by-election of course was in June last year; the working party at that time had already done its work and was getting its report together. So it came direct to P.P.C. Simply to show there were concerns raised, but people were not ... a certain candidate in this case just highlighted the issue - had not had any votes at all in some of the Parishes. One idea was trying to just broaden that support because maybe that candidate would have got more support if he had had contacts in the other Parishes first. Simply one idea was to test out the Assembly's view on this proposal, which is exactly what we agreed to do. We agreed to put it in this amendment so it could be aired and so the Assembly could make its decision. So there is no pettiness there; it was done without the working party because of the timing issue. The Deputy of St. Mary I have to pick up; he said: "Who is going to make a judgment? Certainly not P.P.C." Absolutely correct. P.P.C. is in no way saying that the judgment should be made. It is the electorate that makes the judgment. All we are saying is the candidates should demonstrate some Island-wide support by having one Member in each constituency. So nobody would have fallen foul of this and the previous States Member that the Deputy mentioned would never have fallen foul of anything because it was simply a question of signatures on a nomination paper. It was not any impediment. So unfortunately I have to tell Deputy Tadier this: it is not a strange and fantastical way to make things harder; it was an attempt to enable candidates to show broad support. I do not think there is anything else that I really can say on it. It is up to Members to vote how they feel, and I move the article paragraph.

The Deputy of St. John:

May I ask for a point of clarification on the Chairman's remarks? She was asked to say where these representations came from as it did not go through the normal process of being considered by the Public Elections Working Party and I do not think I heard the answer to that question.

The Connétable of St. Mary:

From the public.

The Deputy Bailiff:

Very well. Paragraph (1) of Article 6 is now proposed. All those Members ... did I hear someone call for the appel? The appel is called for. I invite Members to return to their seats. The vote is on paragraph (1) of Article 6 and I ask the Greffier to open the voting.

POUR: 14	CONTRE: 31	ABSTAIN: 0
Senator T.A. Le Sueur	Senator P.F. Routier	Deputy J.A.N. Le Fondré (L)
Senator J.L. Perchard	Senator T.J. Le Main	
Connétable of St. Ouen	Senator A. Breckon	
Connétable of Grouville	Senator S.C. Ferguson	
Connétable of St. Brelade	Senator A.J.H. Maclean	
Connétable of St. Saviour	Senator B.I. Le Marquand	
Connétable of St. Mary	Senator F.du H. Le Gresley	
Deputy J.B. Fox (H)	Connétable of St. Helier	
Deputy of St. Ouen	Connétable of Trinity	
Deputy of Trinity	Connétable of St. John	
Deputy K.C. Lewis (S)	Connétable of St. Clement	
Deputy I.J. Gorst (C)	Connétable of St. Peter	
Deputy A.E. Jeune (B)	Connétable of St. Lawrence	
Deputy A.T. Dupré (C)	Deputy R.C. Duhamel (S)	
	Deputy of St. Martin	
	Deputy R.G. Le Hérisier (S)	
	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy of Grouville	
	Deputy of St. Peter	
	Deputy J.A. Hilton (H)	
	Deputy P.V.F. Le Claire (H)	
	Deputy S.S.P.A. Power (B)	
	Deputy of St. John	
	Deputy M. Tadier (B)	
	Deputy of St. Mary	
	Deputy T.M. Pitman (H)	
	Deputy T.A. Vallois (S)	
	Deputy M.R. Higgins (H)	
	Deputy A.K.F. Green (H)	
	Deputy J.M. Maçon (S)	

The Deputy Bailiff:

We now come to paragraph (2) of Article 6. Before you go to propose it, Chairman, can I just inform Members that the reason that I gave the direction I did a moment ago was that if you look forward to Article 8 of the amendment there is a reference to Article (2)(4CA), which is the new provision which is proposed by this article, and if therefore this article is not adopted by the States there is a practical difficulty when we reach Article 8 because it would not be possible to maintain that proposition and at the same time the notice ought to give notice of the time, day and place of the poll.

5.8 The Connétable of St. Mary:

Hopefully I can get back on the good side of the Assembly with this change. The second change made by this Article 6 paragraph (2) then arises from a recommendation of the working party. At present candidates must only use their given names on the ballot paper. In the present Assembly, for example, it is very well known that my vice-chairman is universally known as Ben Fox. Previously he would have always been John Benjamin Fox on his ballot paper. This amendment allows the use of any name by which the candidate is commonly known to be used on the nomination form and then on the ballot paper. I propose Article 6 paragraph (2).

The Deputy Bailiff:

Seconded? [Seconded]

5.8.1 Deputy T.M. Pitman:

In speaking about this I am minded of a conversation. I was talking to Senator Le Main just before about my mum who has not been at all well. One of the things she still enjoys, and luckily I do, is watching the football. Sitting there last night for about the 300th time, she asked me why the goal scorer Hernandez, Man United, had Chicharito on his back. I do not know how many times I explained it; it did not seem to sink in; and I am sure it is not just because she is a woman. [Members: Oh!] It is all right; I am not anti-grey, I am not on a £3 million contract.

The Deputy Bailiff:

You do appear to be anti-Manchester United, Deputy. [Laughter]

Deputy T.M. Pitman:

I love Manchester United. It has probably lost me many votes, but I have adored them since I was knee-high to a grasshopper. I just have to ask - I was not part of P.P.C. when this was discussed, but how far are we going to go with this? I mean, just to highlight another possibility, and use one of Senator Ferguson's political icons, what if Che were standing for election? What would be on the ballot paper? Che, or it would be Ernesto Guevara? It is just how far are we going with this? Perhaps more realistic if we could have the names on the ballot paper the names some of the public probably call us, or ... because that might really make things interesting. But is it going to make things clearer, or is it going to make things more difficult, more confusing? I do not know. Again, I wonder why this was done. So I am not sure if I am going to support it or not. Maybe the chairman can push me one way or the other.

5.8.2 Deputy P.V.F. Le Claire:

I think this is a good move. It will help Deputy Fox be known in the future as Ben Fox rather than somebody in his former life who was known as John Fox.

5.8.3 Deputy R.G. Le Hérisier:

You know, apropos what Deputy Pitman said, I was going to ask, if you are known by what can be seen as a term of abuse by the public, who makes the choice as to which name is chosen? Is it the candidate?

The Deputy Bailiff:

Does any other Member wish to speak?

[15:00]

5.8.4 The Deputy of St. John:

I have to ask if this is just moving the chairs on the deck of the Titanic in some of the things we are discussing here. They can call me the Plumber of St. John but my name, when I go to the ballot box, is P.J. Rondel. They can call me what they want but really I think this is going into too much

detail, and I am surprised that the group that make up the P.P.C. Committee allowed such minutiae as we are discussing at the moment to be brought into this. This is well over the top and I think we should get real and get on with governing this Island but not doing things like this at this time.

The Deputy Bailiff:

I am grateful to Deputy Power for acknowledging fault in relation to his mobile telephone and his name will be added to the list of contributors to the States charity.

Deputy S. Power:

I apologise to you, Sir, and to the Assembly.

5.8.5 M. Tadier:

Yes, I see the Constable of St. Saviour has got his light on too, probably to make similar comments because we did thrash these issues out on the working party. We did not agree on the whole of the report but certainly this was not one of the more contentious issues. It has been done simply to be helpful to Members, and it has been done in a way which is trying to make the ballot paper as neat as possible. That is why we have suggested that brackets be put alongside. We have not opted for this long-winded phrase “also known as”. It is important to note that in Guernsey, out of the 88 candidates in the 2008 elections, 15 of them did use this option. So although it is not the majority by any means, it is something that is useful and we know that Members in this House go by other names, and it was also noted that there was no difficulties regarding offensive or misleading names on the ballot paper and I would hope that there would be relevant safeguards if it became apparent that that was an issue. So it is really just to try and be helpful to Members. If somebody is known as Jack but their real name is John, it might be quite right that they want to known as Jack so people know exactly who they are voting for. I do not think this is controversial at all. There is an issue, quite rightly, which has been raised but that has been dealt with, I think, by the panel and we are quite happy for it to go through.

The Connétable of St. Saviour:

Deputy Tadier has covered all the points.

5.8.6 The Deputy of St. Martin:

Just to say that, as I am one of the people mentioned in the report, I can honestly say I am very relaxed about it. It does not bother me one way or the other. I always tell everybody: “Vote Hill” that way they do not have to think that I am Frederick. The only people who know me as Fred are those in the police and everyone in Jersey does not know who Fred is. So I am fortunate in having 2 lives. From my own personal point of view, because my name is mentioned here, I do not have a problem with it, I can see where P.P.C. is coming from. I think it makes sense if people are known by a certain name, I see no reason why that name should not go on the ballot paper. I will be giving support to P.P.C. but not from my own point of view because, again, I always tell people to vote for Hill.

The Deputy Bailiff:

Does any other Member wish to speak? I call on the Chairman to reply.

5.8.7 The Connétable of St. Mary:

I can only echo the words of the other Members of the working party and indeed of what Deputy Hill just said. This is done to facilitate things. There are people who go through their whole lives known by a different name. I can only say in response to the question of what would happen if the name was offensive or whatever, I am sure that nobody would want to stand for election under an offensive name but I am sure there must be a level of public decency which will kick-in concerning unacceptable names. The candidate would have to decide what name they wanted to go under but I

think there would be a line which would not be crossed, I would hope. Having said that, I move the paragraph.

Deputy T.M. Pitman:

Could I ask for clarification from the Chairman, please? Now, I am sure this would not happen but what if I wanted to put my name “Trevor, please put a cross by this name, Pitman”? It is really silly but what if somebody did it?

Senator T.J. Le Main:

But nobody would be silly enough to do that, would they? **[Laughter]**

The Connétable of St. Mary:

I am not sure I really do need to answer that but the thing is, this is names that people go by which are not their given names. That name might be the name the Deputy went by on the day of the elections but no other time. We are looking at names here which people are known by in their ordinary everyday lives.

The Deputy Bailiff:

Very well. The paragraph is proposed. The appel is called for. I invite Members to return to their seats and I will ask the Greffier to open the voting.

POUR: 40		CONTRE: 3		ABSTAIN: 0
Senator T.J. Le Main		Senator S.C. Ferguson		
Senator J.L. Perchard		Senator F.du H. Le Gresley		
Senator A. Breckon		Deputy of St. John		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				

Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

Very well. We now come to Article 7, Chairman.

5.9 The Connétable of St. Mary:

This article represents a further policy change forwarded directly by P.P.C. in response to concerns expressed following the June 2010 by-election. The new Article 21A introduces a deposit for any candidate in an election for Senator, Connétable or Deputy initially set at an amount of £500. P.P.C. believes that this level strikes an appropriate balance between the need to make the deposit meaningful without placing too great a financial hurdle in the path of those who wish to stand for the States. In common with deposit systems used in other jurisdictions, the deposit will be returned to candidates if they receive a certain percentage of the votes, which in this law has been set at 5 per cent of the persons voting in the poll. P.P.C. accepts that there may be those who consider that any form of deposit is unfair as it may prevent some persons from putting themselves forward for office in the States. P.P.C. believes that this must nevertheless be balanced against the desirability of ensuring that any person who wishes to stand for election and thereby gain a place on the hustings platform and an entry into any free publication about the candidates, which is of course ultimately funded by the taxpayer, must have some serious chance of obtaining support from at least 5 per cent of the voters or be willing to sacrifice the deposit. P.P.C. believes it is right that this matter should be raised and debated by the Assembly and accepts that it is a political decision. Members will see from the report accompanying this proposition that deposits are a common feature of elections in many jurisdictions. Under the proposed Article 21A, the deposit will have to be paid in cleared funds before the nomination can be made at the nomination meeting. Deposits will only be forfeited if the candidate is not elected and less than 5 per cent of the persons voting in the election vote for the candidate. The deposit is automatically refunded if the candidate's nomination lapses by reason of the candidate being nominated at a subsequent nomination meeting, if the election is uncontested and the candidate takes office without a poll or if the candidate dies before the day of the poll. If, before the poll, the candidate becomes disqualified for office, the Royal Court already has the power under Article 23 of the principal law to make such orders as it thinks fit. That power is extended so that the court may further order that the candidate's deposit is either returned or forfeited. In any other case where the candidate withdraws before the poll, the person who convened the nomination meeting and who holds the deposits has a discretion as to whether to return the candidate's deposit. If a candidate is elected, his or her deposit is returned. If a candidate is unsuccessful but gains votes from at least 5 per cent of the persons voting, his or her deposit is returned and other unsuccessful candidates lose their deposits. A forfeited deposit paid by a candidate for election as Senator is paid into the Consolidated Fund because that is where the election is paid for and a forfeited deposit paid by a candidate for election as Connétable or Deputy is paid to the Parish in which the election took place. Power is given to the States to make regulations amending the amount of the deposit and the 5 per cent threshold below which an unsuccessful candidate forfeits his or her deposit. Sir, I propose Article 7.

The Deputy Bailiff:

Article 7 is proposed. Is it seconded? [**Seconded**] I call upon Deputy Southern.

5.9.1 Deputy G.P. Southern:

This one really is dangerous. I do not think the House can logically hold 2 positions which are mutually exclusive. This House takes a pride, do I not know it, on the Jersey way and Jersey elections and our peculiar system of electing this Chamber. Essential to that, I am told time and time again, whenever I mention the words “party system”, political party, I get told: “No, we are based on individuals.” Now I will keep coming back to say: “And that produces a chaotic form of government in which no voter gets to connect and say that this will happen ever because we are all 53 individuals” and I will keep arguing the toss, and this House will probably keep arguing with me and saying: “No, we are individuals; that is the way we want to go forward; that is the Jersey way.” So when we say: “Hang on, comparison with many other jurisdictions reveals that they charge a deposit”, what is the element that is missing? They charge the deposit in a system which is party political where the party, mindful of its funding, makes certain if it can, that it does not stand up “wallies” for election. [Aside] Now we do not have that. We have got a problem, last election, in that some people said there were 3 people down the bottom of that list who just got in the way and they should not have been able to stand. How can we stop them? In a party system, your party vets them very carefully and, yes, the wally at the bottom does not get to stand.

The Deputy Bailiff:

That is the second time you have used the expression “wally”, which is rather unfortunate to anyone who is called Walter. Perhaps you could find a different expression.

Deputy G.P. Southern:

I will gladly rescind it, Sir, and say the “no-hoper” at the bottom of the list, the no-hoper gets vetted and hopefully eliminated by the party. Now you cannot have it both ways. We may have a problem in that we get 21 candidates on a list for Senators. I do not think we will get it again, but nonetheless we might, of whom a large number are really no-hopers. But then putting a test on it that says in order to eliminate some of the no-hoppers, we are not going to vet them in any way whatsoever because we do not have a system which enables us to do that, what we will do is we will put a financial penalty on standing as a no-hoper and losing it. What will that do? That will enable wealthy no-hoppers to stand to their hearts’ content because the £500 does not mean that much to them. But woe betide anybody who happens to be relatively poor where that is a serious lump of money. They are not going to stand. Now think about it, just think about it. We are about to introduce a move in a system, which is fairly unique in the world of individual representation, which puts a financial penalty on standing for election and losing badly. That will inevitably reduce the number of people who come forward to stand. Is that what we want to do? I do not believe it is. Then let us just think a bit wider. Now the problem is seen to occur because I was on that platform and while it was hard work, it was not impossible and there was not that much difference between the no-hoppers and the non-no-hoppers because they all pinched my policies anyway and pretended they were theirs, which was a very successful technique for some of them because they got elected. [Laughter] [Aside] I could not resist that one, Sir, sorry. But let us look at it and look at it seriously. There may or may not be a problem with the Senatorials. I do not think it is going to exist for very much longer after what we have done to Senators and their position and reducing their term to 4 years like the rest of us. I do not think we will see that again for very long. However, let us take a look at the other positions. I do have a similar problem with Deputies with their great tales of no-hoppers that are just getting in the way that we need to get rid of. I do not think so. There are reasonable numbers. There is healthy competition, a wide spectrum some of which I would say are completely no-hoppers but others would say maybe I am a no-hoper. [Aside] Never [Laughter] because there is always hope, *nil desperandum*. In the Deputies, do we have that problem? Do we need to do this? No. In the Constables’ elections, now think about this one. Who is going to stand ever against the sitting Constable? Name me that man and I will get them locked up whether there is £500 deposit on it or not.

[15:15]

Come on. What it will mean is we very, very rarely ever again see a contested Constables' election. But that is still reality, what will happen, because people will say: "I do not stand a chance. The Parish knows who it wants to lead the Parish. Never mind it is an election for sitting for the States. I have got political beliefs and there is an opportunity for me to stand but I will not do that". Do not want to stand against the Constable. It is a foregone conclusion, 9 times out of 10, absolutely foregone so we will get fewer elections. Is that really what we want to do? I do not think so and if we should consider it, it is certainly not now. I do not believe we should be acting and I do not believe we should be doing this sort of move putting a financial penalty on being a no-hoper, on giving it a go whatever your politics are. I do not think we should be doing it. I think it is completely the wrong move. I believe it is fundamentally undemocratic and it is the wrong answer to a problem, which I do not think is that serious. So please, Members, think carefully before you consider voting for this amendment. It is fundamentally very ... and I use one of Senator Walker's favourite phrases: "It is a very dangerous thing", a very dangerous move to our fundamental democracy. Please reject this.

5.9.2 Deputy T.M. Pitman:

I really do not have to say much after that because I agree with everything that Deputy Southern said. I do not want to get into hot water over the "wallies" of the world but the point is well made. What this will do is say it is fine to be a very wealthy complete no-hoper but, put in a nutshell, many of the most lacking in common sense people I know also happen to be very wealthy. Why should they not have a relative barrier then put up to them because as Deputy Southern says, £500, nothing, so they can go and waste people's time. Might be completely absurd policies yet here we have the peasant to whom £500 really is a lot of money, and there are a lot of people in Jersey for whom £500 is an awful lot of money. Completely unfair in my view and more importantly, completely undemocratic I believe. Now we look at the last election and, well, I can mention his name. He will not mind if I do. His name is on the list anyway but the gentleman who came last, Mr. Worrall. To me he was one of the most entertaining speakers you could ever hear. I have never seen either man or woman make the leap from allotment to biblical quotations in one sentence. It was quite impressive and if we had been charging people to go to the hustings, he would have been worth the entrance fee on his own. Why should he not stand? He was a very passionate man. Why should he not be able to stand without the worry, because as he made quite clear, he was not a wealthy man. Why should he be deterred from standing, exercising his democratic rights and the power of his convictions with this £500? I think that is totally wrong. What I think is it would be another step on the road to ensuring it is only people who are quite well-off who stand and that has got to be a bad thing for democracy. We need people of all sorts. We probably even need lawyers in this House. Sometimes I have doubted it over the last couple of years but we need a good mix. We need educators, bankers, lawyers. We need everyone and I think this is totally unnecessary. But Deputy Southern makes a very good point about the big differences in the U.K. and other places which have a party system and you are not going to put someone up if you think they have got absolutely no hope. The actual argument that how many votes you get is necessarily related to how good your arguments are I am afraid just does not stack-up. You may be putting out a message, which is totally relevant but happens to be very unpopular because some people with vested interests are going to be upset by it. Should we make it so that you cannot stand because of that? I do not think we should. Most people I have seen on the election platform, I may vehemently disagree with some of their policies but I would fight to the last for their right to be up there and I just think this is an unnecessary route to go down, and I think it is one that should be resisted. I was not on P.P.C. again when this was done and I had been getting on so well with my chairman over the last few weeks so I hope I am still going to be a member after this debate, but maybe not. I cannot support this one.

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

To use the words of Senator Routier earlier on, this is a step too far. We have not got a problem. Why are we using a sledgehammer to crack a nut? If you take the last Deputies' election, I have not counted how many people stood but only 2 would have failed and would have lost their deposit. So why are we putting a whole system in for 2 who I would say have the democratic right to stand? I would like to just look at a slightly different angle to the 2 people that spoke before me and look at it as if I were a public servant now considering standing. With the new system that you are going to bring in, it is going to be a much longer period from the nomination date to the date of the election so already that sort of person will have a much longer period where they will not be paid. On top of that, they have to find the money for their campaign and you are going to ask them to find another £500. This is going to restrict candidates from standing and I urge Members not to support it.

5.9.4 The Deputy of St. Mary:

Just so that it is not left to the Chairman of P.P.C. at the end summing up to pick up on the point made by the last speaker, there are a few candidates who would have lost their deposits. It is one Senatorial in 2005, 2 Deputies in 2008, 2 Senators in 2008 and 4 Senators in the 2010 by-election. So that is my first point, that there is a problem here and I just want to question the method being used to solve it. But my first concern is that this is a fundamental issue as people have said. There were 30 people at last count - there are probably 29 now - in the House. We are very near to being inquorate and I just worry that people troop-in to vote and vote the very backward looking measures - I am going to explain why - through, without having really thought just how damaging this might be. The first point is that this was not part of the original report from the working group. The working group on elections looked at all these issues. They did not come up with this one. This came straight to P.P.C. from another source or from people probably reacting to the 2010 by-election. Well that is just a little indicator that maybe this was not given the full consideration that it would have been given within that working party, so that is just a little caveat in a sense. The second point is that in their report, P.P.C. say that there is a cost attached to people standing which there is. They get free this and free that, not much, I think, not much support from the public purse but a bit but I do wish to impress on Members that the cost of this in terms of possibly deterring people from standing when we are trying to encourage voting, we are trying to encourage participation, I really think that additional little cost of one or 2 extra candidates is not the issue. It is not an issue that should bear with us in deciding on this. So those are minor points if you like. Now coming to the more important issues. P.P.C., in their report, say that what they are concerned about is the desirability of ensuring that any person who wishes to stand for election must have some serious chance of obtaining support from at least 5 per cent of the voters or be willing to sacrifice the deposit. It does not make sense. They must have a serious chance of being able to attract support. Well I think that possibly we should look at ways of making that stick but then they make the jump to: "Oh and by the way, that will cost you £500." It does not make sense. Those 2 things do not go together. Your ability to come up with £500 is no indicator of whether you will reach the magic 5 per cent or not, and that is a serious matter of principle that seems to have passed P.P.C. by, so just be careful because the answer is not the answer to the problem. P.P.C. say that it is a common feature elsewhere and that it would not stop anyone standing. Well there are 2 aspects to the reply to that and I am going to mention him because he does send round things which are very, very useful sometimes and it is Tony the Prof on his blog, and I do not think there is any harm giving him the credit for most of what I am going to say. He says about this issue of being a common feature elsewhere, he refers us to the justice aspect of what we are going to do and he said that the second principle of justice is John Rawls in his political liberalism. The second principle of justice is that offices and positions must be open to everyone under conditions of fair equality of opportunity. That is justice. This proposition denies that justice because it puts a financial hurdle in the way of standing for office. Now he goes on to point out that this is a financial hurdle for some and not for others. Some people can find £500; other people are more disadvantaged and cannot find it. He cites the case of India, which has provision for smaller election deposits for

candidates from scheduled castes and tribes so they have a graduated system. Ability to pay comes into it. Maybe we should have looked at that, but of course it is too late. It is a flat rate being proposed of £500 regardless of ability to pay. It cannot go through this House. The second point about justice is the possibility of the misuse of this deposit later on down the line, and it was interesting that the chairman, in introducing this article, twice said that the rate would “initially” be set at £500. She was quite right to do so. That is accurate. The rate will be adjustable. In his blog or his mailing, Tony the Prof rightly points out the effect that this has had in other jurisdictions, the chilling effect. The Green Party has lost deposits across the board because they do not have concentrated votes. They have them spread out across all the constituencies and in first past the post, you lose the lot. You lose deposit after deposit after deposit and it was a barrier to their democratic involvement, a barrier and it was possibly meant to be. In Singapore... he cites Singapore where the amounts were considerable, US 9,000 dollars for standing. He cites Malaysia where the deposits for parliamentary election were tripled in 1974. I am not saying it would happen here. I am saying we are opening the door to this kind of thing happening here. Misuse of the deposit mechanism for other ends does happen. It has happened elsewhere. We should not open this door. The final point is about signatures not deposits. I mentioned earlier that charging a deposit to people as some kind of indicator of whether they are going to be successful in getting some support from the electorate is bananas. It just does not add up so what might an alternative look like? Well it might look like signatures, more signatures, so the people if they do not know 50 people have to go and get to know 50 people so that they can show that they have stood on doorsteps, talked to people about what they stand for and so on. There was a very interesting exchange in the House of Commons which shows just how odd this deposits matter is. Mr. Mellor was suggesting that the deposits be raised to £1,000 and another M.P. (Member of Parliament), Mr. Robert Atkins, says: “Does my honourable friend agree that anyone in this country should have the right to stand for Parliament representing a particular point of view, whether we agree with it or not? It would therefore be wiser to increase the number of signatures required as evidence of some measure of support than to restrict people from standing by raising the deposit.” The answer from the Government Minister was: “As I think I made clear earlier, and with great respect to my honourable friend, we do not consider that that proposal would be advantageous.” Mr. Canavan: “Why not?” Mr. Mellor: “In our view, the proposal that a sum of money should be put up by candidates is an eminently proper way to proceed and it has been the way that we have always proceeded. We are consulting about the proposal to increase that amount so that we may determine what it should be. It is the way we have always proceeded.”

[15:30]

Well it is not the way we have always proceeded in Jersey. We do not have to follow this crackpot. Really that answer in the Hansard of House of Commons shows how crazy this is when an M.P. says: “What about raising the number of signatures?” and the Minister responsible says: “We do not do it that way”. That is how strong the argument is and I am sorry, it does not stack-up, and I remind Members once again, £500 and the ability to attract support have nothing to do with each other at all. Please vote this out.

5.9.5 Deputy P.V.F. Le Claire:

I would like to thank Deputy Wimberley for circulating that correspondence to us and I would like to just read a little bit from it: “Inequality of rights is created by a combination in one part of the community to exclude another part from its rights. Whenever it has been made an article of a constitution or a law that the right of voting or of electing and being elected shall appertain exclusively to a person possessing a certain quantity of property, be it little or much, it is a combination of the person possessing that quantity to exclude those who do not possess the same quantity. It is investing themselves with power as a self-created part of society to the exclusion of the rest” and I thought that Jersey was striving to be, under the States Strategic Plan, an equal

society. I thought Jersey was trying to have equality. I thought Jersey was trying to eradicate poverty and yet, when I see things like this, it is almost like a declaration of war against the poor. We go on to read about the inequality of rights in Laos where they used the same techniques to further ostracise from the electoral process the poor community by introducing educational standards that could not have been attained by the vast majority of people in certain tribal elements because of the fact that they lacked basic educational skills, because they lacked basic fundamental rights and access to education, because they lacked the money to go to school in the first place. So we have the old adage my mother used to say to me: “Manners maketh the man” and I tack on to the end of that: “Manners, not money”. So £500 for a deposit will, in some people’s views, do away with the frivolous candidates that we see pouring on to our streets. Well, I am sorry, I do not see frivolous candidates pouring on to our streets but I do see frivolous candidates regardless. In the United Kingdom, there is a requirement for a £500 deposit for the entry into the United Kingdom Parliament and yet we see on a regular basis in the media the official members of the Monster Raving Loony Party who have paid their £500 deposits and who are entering into those elections. It is nonsense. What it is in reality is a bar of opportunity for people to come to the Assembly, the vast majority of people in society, because most of the wealth is held by a very small percentage of society; 9 per cent of the United States owns 87 per cent of the wealth; 7 per cent of the country of Scotland in 1965 owned 84 per cent of the wealth and I wonder what percentage of Jersey owns 90 per cent of the wealth in this Island. I certainly did have once upon a time an amount of money. I took that, ran a Senatorial election, came a decent second behind Deputy Dorey and through no fault of my own, was not elected. I beat off some other candidates. I then, as I have said before, took what little money I could make from busking and printed off some more leaflets to run in the Deputies’ elections and was successful in getting elected. Had I been forced to pay £500 at that stage of the game, I would have been out for the count and Deputy Bridge, who was supported by some of our Council of Ministers, would have been there instead of me. Is it right that that is the case? Is it right that that is the bar because taking that £500 before the election debars people? It stops people. Taking £500 ... it is an important point I am trying to make, Sir, so I would ask Members just to bear this in mind ... taking £500 away from somebody day one rips out of their pocket perhaps their entire marketing budget. It certainly would have been mine for that Deputies’ election. What will £500 buy you? It will buy you a picture of something of this size on the front page of a periodical. It might even buy you a banner advertisement this size in an election year. Maybe £500 would buy you that and get your name and your picture up-front and focused. Of course there are other ways of presenting your arguments about getting elected. You could already be a States Member. You could have your own States magazine or your States department magazine or your Parish magazine or your “Welcome to the Harbours” and “Welcome to the Airport” billboard and you could have a department that is being paid hundreds of thousands of pounds to knock-up some very impressive “look at what we are doing” press releases. What certainly is abysmal is this notion that you can get it right by adding £500 on to the front end. It is wrong, it is absolutely wrong, it is fundamentally wrong. Privileges and Procedures should be the last people trying to introduce more bars to standing for office in this Island. Next it will be educational qualifications. Why do we not go into how many languages we can speak or how fast we can run or how thin we are or how tall we are or how little we speak. At the end of it all, having failed to achieve the number required, perhaps due to some very, very wealthy individuals in the community who have millions of pounds and many, many, many, many friends in media who waltz into power and privilege and position just so they look good at the cocktail party and the poor individual on the street who will not or cannot stand who has just lost: “Bang, there you go. Better luck next time and do not even think about it next time because we are keeping your £500. We are putting it up to £1,000 next year. How dare you stand, you intolerable upstart”.

5.9.6 Deputy J.A. Martin:

That was a very passionate speech by Deputy Le Claire. Yes, I am on P.P.C. and when this was first mooted round the table, I was slightly suspicious and I was looking at the Constable of St.

Mary and the Constable of St. Peter and I was looking at the Greffier and saying: "Yes but, yes but". If people have got to get 5 per cent of the electorate, surely all the Constables will forfeit their £500 because taking signatures on a nomination paper is never ever going to be 5 per cent of the electorate. But they persuaded me. You could see it was a bit of: "No, that will not happen will it? That will not happen?" When the law came back, no, it is written very carefully and I did think of amending it but we are talking about we are all equal, but anybody who is not standing in an election ... it is at the nomination meeting so one of the ... "Lend me £500, Deputy of St. John" or that might be your Constable: "You will have it back in an hour. You will get it back in an hour because I am not going to have an election in the Constable of St. John" so it is money passing around, it is theoretical money to these people in this House who are not equal. They are above us because they will definitely not lose with 10 signatures - and I do not know how this guy has got 1,000 here but he would lose his - in 10 signatures. The Constable of Trinity, if he has gone 10 ... he has never even achieved 100 if he has got 10 in 10 times. He has got 10 electors on his ... same as, I am sorry, some of the Deputies - I am looking at the Deputy of St. Ouen, he will not stand an election. The Deputy of Trinity has never stood an election. It is £500 ... sorry I said the Deputy of St. Ouen has never, he did the first time. I will rephrase that and say unlikely to. Mind you, with his record on Education at the moment, I do not know. **[Laughter]** Even then I know people who want to stand and they live in St. Ouen but they will not go up against the sitting Deputy. It is a thing and I really cannot ... I hope this is thrown out because when you think about it ... I was convinced in the first place, well, it is £500 and you want to be taken serious I am sure it ... it is different, it is the party that put it up and it would double my election expenses because I never normally go up to £500 but it is not personal, if it was there and I did not achieve 5 per cent of the vote and I forfeit it, good, as long as all 53 other Members were playing by the same rules. I am not going to see people who can hardly afford £500 to scrape it together when people who can afford it will not be facing an election. It is as simple as that. This is not equal, I have made by feelings quite clear on P.P.C. but it is for different reasons. Until we are all elected, and it must be all with 5 per cent of the vote because in the other part it says ... I wrote what really 7(a) should say: "After the election a candidate's deposit shall be returned to him or her as soon as practicable if the candidate is elected and achieves 5 per cent or more. Then at 21A, we would have to take out (b) because the candidate is taken to have been - that is a curious use of words - elected by virtue of Article 21 which is an uncontested election. They will get their money back even before I go to the polling station that day. So I am very sorry, this is not a good law. This is a very bad law and it is a totally unequal law, and I look forward to the Deputies who have not stood in an election in the last 2 times, and the Constables who know, even the 4 that stood last time ... I would rather put my £500 with Honest Ned to see whether there would be elections in the country Parishes. I cannot support it, I am sorry.

5.9.7 Deputy M. Tadier:

I think Deputy Martin raises an interesting anomaly there. I think basically the problem is it does not just apply to Constables, some Constables have faced elections and there are other elected Members who have had uncontested elections and the difficulty mathematically is that you cannot figure out what zero per cent or 5 per cent of zero is because if nobody turns up for an election because there is no election in which votes are cast then zero per cent of zero is a mathematical absurdity. So I would suggest it is probably ... we should not worry ourselves too much about that, but there are other flaws in the system which I think we can look at. I think there are serious flaws, irrespectively of politics, which I will draw out in a moment. What I would say, first of all, is one cannot have it both ways. It is a little bit like the proposition that Senator Routier brought with the 7 signatures. You cannot say on the one hand: "This is not going to make any difference" it either has to be unfair in the sense that it is going to prevent people from standing for election, I think honestly that is the reason it is being put forward. This is to try and stop people standing for election, people who are not going to get elected who are no-hopers, who are nutters, whatever the vernacular might be. That is the argument. I have not yet heard the other argument that it is not

going to make any difference this bit of legislation because you can have people getting a whip-around. If somebody really wants to stand for election, why do they not just take a bucket around to a pub and they can just whip-up £500 and they can get support. But either way, I think, if that is one's opinion then the answer is that this proposition is completely meaningless. But that is the best scenario. But even under that scenario it is unnecessary. I would like to focus on the first point about the basic democracy, that democratic right for people to stand for election. I think it is correct that this is being put forward to try and stop people standing for election. We are not satisfied with trying to stop people voting by putting all sorts of mechanisms, by potentially getting rid of the postal vote, which hopefully will not happen - that is another debate - by making it more difficult for elected Members to register people when they are out canvassing, saying: "You have not got a vote, let us register you to vote" not touching the ballot paper, not influencing you in any other way, we cannot even do that. We are making it difficult for people to vote. We have, again, reinforced this idea that we want as few people to take an interest in politics as possible by saying you have to wait for 2 years, you have got 2 years to build-up your indifference to politics, rather than just one year so your apathy can now be well entrenched by your second year rather than your first year. But now we are saying that we want less people to stand for elections because they are undesirable types who are just wasting everybody's time.

[15:45]

Let us boil this down. Whose time are they wasting? Whose time was Mr. Worrell - and I will name him because he was in the public domain and I know he would not have a problem being named, I have spoken to the gentlemen, a very nice and humble chap, it has to be said - wasting if the accusation is correct that he was wasting everyone's time? No, he was simply wasting his time but he does not believe that he is doing that. Who are we to say what a waste of time is. He went around to, I believe, at least 12 hustings, there were more than 12 hustings and those of us who have done the Senatorial trail know that it is an arduous task and he quite rightly exercised his democratic right. He explained that he was not a man of means, he was on income support. Does that mean that people who are on income support should not be able to stand for election? I say absolutely, we need to hear from every Member and every good cross-section of society. Was it simply because he did not achieve 5 per cent of the vote? This is another thing, we are going to talk about flawed nature of the 5 per cent vote because, of course, he did not get 5 per cent of the vote, there was only one vote, it was by-election. If there had been 6 votes he would have easily got one of the votes. I know a lot of the people who, even if they had, 2 votes would have certainly given Mr. Worrell one of their votes and they would have definitely given him one of their 6 votes if they had had the 6 votes. If there were 6 votes he may have even come in. It is entirely possible, he is a refreshing chap. So the 5 per cent, that is my next point, this is the fundamental flaw because if we look at the stats that have been circulated by P.P.C. this only goes to reinforce the fact that this has not been thought out properly because if we look in one of the districts, in my district No. 2, the person who placed last got 29 votes out of 2,000, okay that is not a particularly good way to go, it was not a very high score, so he got less than 5 per cent but clearly there were only 2 votes available. Somebody in St. Helier No. 3 and 4 has got 4 votes to go for and it is interesting that out of the table of 11 candidates, I think it was, that the person at the very bottom... in fact the 3 at the bottom all got very similar votes, they got 308, 340, 359 out of a possible 2,310. Of course they had 4 votes that they could be getting their votes from. So that is a fundamental flaw. It should not be just done on the number of voters that turned out, it should also take into account the number of votes, because if you have got one vote it is going to be a lot more difficult to get 5 per cent of the vote in a field of, say, 8 candidates than it is if you have got 4 votes for 8 candidates. That is simply unfair. For that reason alone this should be kicked-out today and sent back to the drawing board with P.P.C. It has already been pointed out this was not discussed on the election working group, it did not come up and it is not certainly something that we wanted to pursue at the time. It is interesting that P.P.C., in their other wisdom, in their other incarnation,

have sat down and then decided this is something they want to pursue. I think what happened is that they saw the Senatorial elections in 2008 where there were 21 candidates that were there for 6 seats and they thought: "This is a problem for the public." That is an administrative problem really and it should not be solved by punishing the public who want to stand for election by making it less democratic. I think what we should be doing is seeing how the 4 seats pan-out over the next elections. I would be very surprised if we see a problem with a high turnout such as 21 for 6 seats. When there are 4 candidates we know that there is going to be more limited candidates putting themselves forward. There is another issue. What made me laugh here is I submitted comments on this issue as well to P.P.C. and I am sure they discussed the problem. It is predicated on the fact that we want to keep people who are going to maybe waste their own time or our time out of it. But what it does, and I will coin the phrase because it is what the public use, they say we want to stop nutters running for election. But it does not stop nutters, it just stops poor nutters. If you were rich...

The Deputy Bailiff:

Deputy, that is not parliamentary language.

Deputy M. Tadier:

Sorry, Sir, it was supposed to be reported speech, that is the vernacular but I take that. They want to stop people who are no-hopers, people who perhaps have not got any realistic chance of getting elected who might have zany views compared to the norm in the bell distribution graph. So the issue here is that it does not stop very rich people who have got no chance of getting elected. Quite interestingly, I did have to laugh when I looked at Article 7, the comments of P.P.C. when they say: "They have deposits elsewhere and in London there is a £10,000 deposit required for the Mayor of London" I rest my case. I do particularly like his style, Boris Johnson, he is a millionaire from all I know, and I will say no more about that. So it does stop poor people getting elected certainly. No tramp is going to come in off the street and run for the Mayor of London, even though he or she may have interesting things to say. Parties are an issue, that is another issue. I am strong believer, I think, in organised politics and I believe party politics has a value but I am also wary about certain organisations sending delegates into the States who can afford, simply because they are organised, to pay for States Members. For example, it is not going to stop the union backing 10 candidates if they want to because they have got the money to do it. So if somebody says: "I will agree to sign-up to the union ticket, I will do that" they will be quite happy to shell-out £5,000 for 10 candidates and only get perhaps 5 of those deposits back. While I am a strong union supporter and 9 times out of 10 I would probably vote in a way which would be sympathetic, I would not take any money from the unions for my election expenses because I believe it is imperative that Members remain impartial. But nonetheless what I am trying to say is if we want to engender a system where people are having to militate to these organisations, sometimes they could be N.G.O.s (Non-Governmental Organisations) or whatever, to just pay people to stand, if you want to engender party politics then that is a consideration. Maybe go down the deposit route. It is not going to stop an organised party which has got a funding stream from funding members of the public but if we do agree on the importance of independence in politics, and I agree with both- I think we need independent people in politics who can remain impartial and away from the party whip - then I think that is definitely a consideration because this will militate towards parties. I think the last point I will make is that ... let us not be too hasty, it may not be the last point, but certainly a further point I will make is that - and someone came out with it the other day - this is a fine, I think Senator Perchard made a slip, I do not know if it was intentional or not, he said: "We are going to be fining people £500 if they do not get 5 per cent of the votes." That is the way to look at it clearly, if you say ...

Senator J.L. Perchard:

I have not spoken in the debate. [Aside]

Deputy M. Tadier:

At last I agree with something that Senator Le Main has said, and, Senator, I am not stopping you. Clearly Senator Perchard has not spoken in this debate but he did make this comment the other day, as I said, which would not have been in this debate because this debate has only started taking place today. I am sure that Senator Perchard may also want to go home and consider not coming back. The point is that this is essentially a fine. We are saying if you have not got 5 per cent of the vote we are going to fine you. What is the right of appeal? I do not think there is a right of appeal. Is it equitable? No, because we know that it is easier to get 5 per cent of the vote in certain Parishes, easy to get 5 per cent of the vote in St. Helier No. 3 so we will all just pile into St. Helier No. 3, shall we? I am not going to stand in St. Brelade No. 2 because I know I have got less chance. I am not going to go for any single-seat constituencies because single-seat constituencies already ... sorry, Senator Perchard?

Senator J.L. Perchard:

This debate is not about Deputy Tadier.

The Deputy Bailiff:

Deputy, this is a debate, you do not invite comments from across the floor. The rules of parliamentary debate are to make your speech, hopefully keeping it to the point, and then sit down.

Deputy M. Tadier:

Absolutely, Sir, but when a Member stands up and looks one in the eye and makes a comment directly, not through the Chair, one tends to think that that person perhaps wants to make a point of clarification, so being a polite individual it is not unusual that I would sit down and give Senator Perchard the right to stand up. Of course if he does not have anything to say, then he should remain seated and not speak.

The Deputy Bailiff:

Deputy, a point rightly made. Senator Perchard should not be encouraged to stand up and interrupt you.

Deputy M. Tadier:

Perhaps we should just consider another way and say you can only stand for election if you are already elected. That might be easier and I think that is essentially what Deputy Le Claire is saying. The system militates to those in power, it militates to those who have power, who have influence and who have money. This is another way of stopping the poor and those who do not have influence getting elected. So I think those are the key issues but if Members only take one point that I have made from this speech, and unfortunately it has been slightly more rambling than normal ... it is very difficult to speak to a half-full Assembly when you are getting interrupted all the time, you get interrupted and you try and be polite and then you get told off for being interrupted by the Chair and then ... it is very strange. But, anyway, getting back to the point. If we only take one point from this, I would normally under most circumstances ask for a reference back if this was coming from Ministers because the 5 per cent thing is completely flawed. You should not have 5 per cent of the voters that turn out. So on that single issue we can reject this. Certainly, by all means, let us bring it back another day and discuss it but this is inherently unfair for that sole reason, and for many other reasons in my opinion.

5.9.8 The Deputy of St. Martin:

I was hoping to have spoken earlier because I just feel we are drifting on and I just wonder whether P.P.C. were really serious with this particular amendment. However, I can understand why they brought it because I think it was at the time, basically because of one by-election where we had quite an interesting situation, we had 9 candidates for one seat. So there is every possibly a lot of people were not going to get many votes. However, I am grateful to P.P.C. for giving us the

evidence to show why we should not support their proposition and, again, it is good to talk, if only we do not talk for too long. There were 63 candidates at the last election and what we would have been doing is 2 would have lost their deposits as we have seen here. Interestingly, not one of the 25 candidates in town. There is always the perception there is a poor turnout in town, there may well be but not one of those 25 would have lost their deposits. What we would have had is that the Parishes, the Connétables and their staff would have taken all the trouble of collecting 63 deposits to return 61, now is that good use of people's time? The evidence is before us, I rest our case and I would ask maybe that P.P.C. would consider withdrawing this without us wasting more time. **[Approbation]**

The Deputy of St. Ouen:

Thank you. **[Laughter]**

5.9.9 The Deputy of St. John:

I thought I was a ventriloquist. Can we have silence, please? Thank you. Having been involved in elections since the 1960s, and I can recall being involved with the late Senator Romeril, having stood myself in the 1975 Senatorial election, when I came last and I was booed off the stage in the Town Hall at the end of that particular hustings **[Approbation]** but I still managed to get more Island votes than a number of Senators sitting in this Chamber at the moment, on that election, and I came last. But, of course, I was against the heavyweights, the Ralph Viberts, the Cyril Le Marquands, the Jane Sandemans, the Clarrie Farleys and the Dick Shentons of the era, all the heavyweights and I was the new boy. Yes, it did not deter the likes of Phil Rondel because 3 years later he had a go in St. Helier No. 2 District, when he lost to Senator Terry Le Main, or Deputy-elect Terry Le Main on that night, by 3 votes, or it might have been 4, no more. **[Laughter]** I think the 303 was all that was on your box.

The Deputy Bailiff:

Deputy, if you will try and learn the lesson from the Deputy Tadier/Senator Perchard exchanges, you are not to encourage talking.

The Deputy of St. John:

Yes, Sir, but what I am getting to, in those 40-odd years that I have been involved, or a bit longer, in elections, one way and another, I have seen some candidates - what have been called as the no-hopers in here today - standing for the Communist Party, and I will refer to 2 or 3 of them, who became shining lights in this Chamber. The Norman Le Brocqs of this world who became Housing President and President of Planning and others, having stood on a number of occasions and been defeated and people taking the Mickey out of him.

[16:00]

Jimmy Johns, the same thing, who went on to become the President of Harbours and Airport. Maurice Buesnel, who stood probably the most, 8 or 10 times, and got elected and contributed in this Assembly. It is all well and good for people to be called no-hopers but people have to start somewhere. They want to serve their community, and that is important. It is a democratic right. By doing what we are doing here, yet again we are not being democratic. I am an independent, whatever you want to call yourselves, there is a group over here that call themselves a particular party, that is fine. But I stand here as an independent representing the people of Jersey but in particular obviously the people of St. John. I think this is yet again taking away from democracy, wanting to put people in boxes, having to find £500, £50, whatever the figure is, I think you are doing a disservice to those people who at some time in the future could contribute greatly to this Assembly, to the people of Jersey. I have mentioned a couple of names here earlier on, who stood umpteen times. I can recall being at the count in the late 1960s, early 70s for the likes of the late Norman Le Brocq and there was this undercurrent, and each time he lost by a few votes and they

said he was a no-hoper but when he did get in he made a difference. He made a difference to the people in housing, the people in planning. There was a gentlemen, if you had had to put a deposit down, he probably could not have because he could only come to this Chamber because there was a small bit of money put aside that made it possible, that made it possible for someone to contribute. I think it is wrong that we put any building blocks in place that would prevent somebody from coming forward. We have all got to cut our teeth somewhere. Yes, somebody will stand in the Senatorial knowing they can get a bit of free publicity, call it what you will, because it is not easy getting yourself known among the people of Jersey. So that is how people cut their teeth. You have got to be fair to everybody and I ask the Chairman of P.P.C. to withdraw this. This is being totally unfair to people who have not got a great deal but who want to serve their Island, but you are putting these bridges in the way. I ask her to withdraw it.

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

I believe this debate has rambled on for far too long and there are no more points I could possibly add to this. This is a nonsense and I will not be supporting it.

5.9.11 Deputy M.R. Higgins:

I am a Member of P.P.C. and I shall not be supporting the proposal. I happen to agree with a number of the statements been made by the candidates but the main thing I think of as I look around this House **[Interruption]** ... Okay, start again. I agree with what other Members have said. Looking around this House the only thing I can see, though, are the lucky ones. The candidates who, in previous elections, were elected to this House. Why were we elected? I do not have a clue why people voted for me, probably there is an awful lot of them wondering why now but, however, the point is I stood for election, I did not know if the public were going to appreciate the message that I was giving or realise that I had any particular attributes that they wanted to vote for. I stood because I felt I had something to offer, the same as you have done. I do not believe that it is for us to put barriers in the way of others to go forward. So, in other words, what I am trying to say is the public have put their trust in us, when it comes to the elections there are going to be other candidates that may feel they are better qualified and they will choose them, in exactly the same way that they are going to judge us by our performance in here. We should not be talking about no-hopers. It is not for this House to put barriers in the way of people standing for election, it is for the electorate to decide who they want to represent them, and that is the bottom line. So I hope you will all reject this proposal.

5.9.12 The Deputy of St. Ouen:

I knew my time was coming. I think first of all I would like to stress that the public elect all States Members no matter who they may be, whether it be the Senators, the Constables or the Deputies, and they are elected for a specific term of office. Then all States Members need to go through the prescribed process, part of which we are discussing today, which includes getting your proposers, seconders, filling out nomination forms and attending nomination meetings. There are some who are elected unopposed rather than not elected, and I think it is high time that States Members - especially States Members - recognise that fact and properly use the right terms when they are discussing how States Members are elected. I am also struggling, and I have been sitting here quite quietly I believe up until now, to understand why on earth there is so much resistance to this particular article. We have heard from Deputy Southern that there needs to be checks and balances, there is also responsibility for the candidate involved when they step forward for election. One is that they should canvas opinion and support, what support they may or may not have, in the particular office that they are considering. That is the first point. The second is that they need to give consideration to how their election campaign might impact on their particular lives, whether employer or employee. Secondly, they have to think about how they are going to conduct their campaign and the amount of money that they are going to use within the confines that we set to engage with the public. Those are all realistic considerations that one would expect any candidate

to undertake. This is another; we are saying in this article that a deposit is required to recognise and to make the candidate think about how successful he may or may not be, based around what? The ability to gain 5 per cent of the overall vote. Five per cent. I am sorry, if anyone cannot achieve 5 per cent there is no chance that they should even be thinking about standing for election because they will be wasting the public's time, and they will be wasting their own time because they will not have done the preparation, they will not have spoken to the people they wish to serve. The time that we have spent on this is ridiculous. This is a reasonable request and another check and balance in the process.

Deputy G.P. Southern:

Can I seek a point of clarification from the previous speaker? When he said someone should not even consider standing, would the Deputy consider standing for Senator this time around?

The Deputy of St. Ouen:

I stood for Deputy and if the public in St. Ouen or my constituents wish me to stand again, I will do exactly that. Thank you.

The Deputy Bailiff:

I do not regard that as a clarification necessarily in relation to the Deputy's speech. I call on Senator Breckon.

5.9.13 Senator A. Breckon:

Just a few words. I was a bit curious when I first read the comments with Article 7 because it said that P.P.C. had also received correspondence in relation to this matter from the Standing Conference of Women's Organisations in Jersey. I wondered why it was really an issue for them. If it had been something to do with the reciprocal health agreement or something like that, I could understand that, but deposits on elections I am not sure where this comes from at all. The other thing, it says in here that a deposit of £500 would have to be paid up-front. Supposing you had a couple with a household budget and then they are deciding, you know, what they are spending their money on and one or the other says: "I am going to stand in the election so I am going to have to take £500, because it says I must pay the money up-front, out of the household budget." Now, if they have got family responsibilities that is not an easy decision and it is some money that they, indeed, might not have so it could debar somebody from standing and then there is a danger, if you have to look for a sponsor then I would not think that is a good way to go. The other thing is ... it is interesting following the Deputy of St. Ouen because there could be somebody out there who wants to stand on an issue and it could be, for example, paying fees in education and what that is. As a result of that they might live in St. Ouen or they might know somebody who does who says: "Right, get him on the stump and get him to answer this. The Minister must answer for this and if he gets a free ride he does not but I can have a bit of fun baiting a Minister in there and make them answer for their policies. If I get 10 votes, so what?" It has got the publicity, it has done the trick. I say that because I remember years ago - we were talking about composting this morning - there was a prominent farmer, it was not the one behind me but it was a prominent farmer, who was spraying the land with stuff - what is known as the Maufant Smell - and a lady in the Parish said she was going to stand because she was fed up with this lot and she was going to show them up. In the end she did not as something was done about it. But that might be an issue where somebody wants to stand on one issue and give it a higher profile and maybe embarrass the sitting whoever, or a Minister or somebody else. I think that is good and healthy and if they get 10 votes, people do not agree with them, then they have achieved what they wanted to and I do not think they should have to pay £500 for the privilege of doing that, that is good and healthy. The other thing, the final point I would make is there was a party in the U.K. led by somebody who has now passed away, the Monster Raving Loony Party. Some of their policies have now been adopted by the Government in the U.K. That has happened. They said things like nationalise some of the banks

because you cannot trust them. They said: “You are nuts, that is not the thing to do.” It has happened now because banks in some instances have proved to be incompetent. Now there you would have a conference at Brighton and they would have fun and games or whatever it was, and people said: “They are all mad” but they were not because some of that has gone full circle in the things they said. There might be somebody who is willing to stand and wants to maybe provide some interest, some entertainment and some variety, and I think that is good and healthy and I personally I do not think they should have to pay for the privilege of that, the system should allow it. In this instance I do not support what I think is this interference from the Privileges and Procedures Committee.

The Deputy Bailiff:

For the sake of consistency, Senator, can I just mention that the expression “that is nuts” is not a parliamentary expression.

5.9.14 Senator S.C. Ferguson:

I did not know that the Monster Raving Loony Party had issued a manifesto, I hope that Senator Breckon would make it available to Members after the sitting. I am against this particular deposit idea basically because of independence. If you have somebody ... Senator Breckon touched on it and it is something I feel very strongly about because if you have to rely on a party or a sponsor for your deposit then you are tied and you lose your independence, and I think that is one of the important and valuable parts of this house, the independence of Members. The amount of publicity money you spend, that is purely discretionary. We do have an upper limit but apart from that, that is discretionary spend. But to put a mandatory spend on, I am sorry, no. With the greatest respect to the Deputy of St. Ouen, I am glad he knew what percentage of the poll he was going to get when he started, quite frankly I have not got a clue. I was very new to politics and it was a constant wonder and mystery to me. So I think perhaps that is not really a valid argument. I shall not be supporting this article.

5.9.15 Senator J.L. Perchard:

It seems as though P.P.C. are fighting a lost cause here, but I would just like to provide a little bit of balance to the argument and I have not been lobbied by anybody on P.P.C.

[16:15]

But many Members, particularly Deputy Tadier, have spent a lot of time talking about themselves and the consequences of this particular article had it been imposed on them and how they would feel. I put it to Members that this is not about individual candidates, this is about other candidates and this is about the electorate. As the Deputy of St. Martin has already pointed out, I do not think there were just one or 2 people in the whole of the last Deputorial election who would have lost their deposit and in the last 4 Senatorial elections, excluding the very last but from 1999 to - I cannot find the particular page ... but there were 68 candidates and only 3 of which would have lost their ... from 1999 to 2008 there were 4 Senatorial elections, 68 candidates, only 3 of whom would have lost their deposit. So this is not about trying to stop those 3 candidates ever standing again. This is not about, as Deputy Hill has pointed out, trying to stop the one or 2 candidates that may have lost their deposit in the last Deputorials ever standing again. This is simply a revamping or a rewriting of the draft Public Elections Amendment (Jersey) Law - hopefully 2011 when it is approved. So the P.P.C. are prudently looking at possible abuses of the Electoral Law in the future. I must just point out a few Members have ... Senator Breckon just a moment ago said if somebody wanted to stand on a single issue, it does not matter if they get 10 votes, it is their right to stand and have nothing to say but talk about, in this particular case, possibly a smell. Others have said it is the right of an individual to ridicule the electoral process. Somebody suggested a candidate may wish to stand as a joke. I suggest in future there may be candidates who stand as a bet or a dare, and certainly there may be in the future candidates who are not serious. This is not about stopping

the people that have stood historically, this is a rewriting, a redrafting of the Public Elections Law to ensure that there is not an abuse in the future. Now, we do know that there are so few people would have lost their deposit historically that, as Deputy Hill says, there would be no point introducing it. It is simply ensuring that there is not abuse in the future. I put it to Members that it could be that we could get a whole class of sixth formers, of 17 ... in fact it may have to be 21 under the Public Elections Law, but 21 year-olds standing just for fun in an election because they just want to and they can. It may happen one of these elections and we will be back here bringing in some type of legislation to ensure that that this abuse of process never happens again. This does not really stop anybody who has a serious issue to raise with the public. In St. Mary you need 33 votes, that is 5 per cent. If somebody cannot get 5 per cent of the votes, really they should not be wasting the time of the electorate, the Adjoint, the Jurats, the Parish authorities and they should not be wasting the time of the serious candidates with whom they are seeking to compete with. It is not about Deputy Tadier, it is not about the one or 2 people who are bound to fail, it is about respect for the electorate and respect for the candidates who do genuinely feel that they can obtain at least 5 per cent of the votes of their parishioners.

Deputy M. Tadier:

I have a point of order, and I did wait until the end of the speech. Senator Perchard made an allegation there which I believe is untrue. He said that I stood up and talked about myself and how this would affect me, I did not do that. Can the Senator clarify? Or we can wait for Hansard to be produced and perhaps have a little wager.

The Deputy Bailiff:

If it is a point of order it requires a ruling from the Chair. I thought that the Senator was entitled to make the comment that in some parts, but not all parts, of your speech you were addressing the matter from a personal perspective. That was my impression from what you said, that may be wrong and, as you say, Hansard may show it to be wrong. But for the purposes of the ruling today I rule against you on the point of order. I call on the Deputy of St. Peter.

5.9.16 Deputy C.H. Egré of St. Peter:

I just want to make one point first off. As you will see from the proposition I chaired the group that looked into the Public Elections Law and I have to say that during that period no one came rushing to us knocking at our door saying this was a very, very serious issue, hence it was not put forward as one of our recommendations. I think it is important to put that into perspective. Secondly, I was a bit confused with the last speaker because he seemed to be talking against himself. One minute he was saying that this is a very important issue and the next thing he is making the comparison by looking at the stats and saying it has affected very few people. I will use the word, if I may, on this occasion - and it has been used already once in this debate - using a sledgehammer to crack a nut because I think this is what we are doing on this particular occasion. I do not think the problem exists as it has been described. I do think though that there is perception that will be taken away from this debate form by the general public and that is that we are discouraging people from standing in elections. Now, that does concern me. **[Approbation]** That is a public perception. It may not be true but I think people out there will think that we do ourselves a great disservice. I will not be supporting this.

5.9.17 Senator T.J. Le Main:

I have been a Member of this Assembly 33 years this year and I have stood against no-hopers like Deputy Southern and the Deputy of St. John and they made me look, on the platform in the Senatorials, bright and articulate. **[Laughter]** They did me a favour some of these people. But let me just say, of all the points made by the Deputy of St. John in regard of the likes of Norman Le Brocq, Dick Buesnel. Dick Buesnel was a classic example, he must have tried 10 times, he was that committed, he was that dedicated, wanting to serve his Island. He tried and tried and tried St.

Helier No. 2, eventually he got elected and I can say that he was a fine Member. I served with him on various committees, I think Overseas Aid was one of them, R.R.B. (Resources Recovery Board) was another one and he was a hard, hard worker. Norman Le Brocq, everybody knows the history on Norman Le Brocq. In those days there were no salaries, nothing. When I was first elected in 1978 £250 a year we received for expenses only. That is all, for many years. I think this is a retrograde step, this thing. I have had loads of fun on the elections with some of the characters that have put their names forward, and in fact in those days some of these characters that have put their name forward for election, many of them as I say with very, very genuine views. People used to mock them. They had very genuine views on specific areas. We all knew, or others knew, they did not stand an earthly chance of getting in or getting elected but they had their highly principled views. In those days the lorry used to go around with the bands or something, it was magnificent and I have had ... I could write a book on some of the rucks I had with even Cyril Le Marquand who stood up one day at St. Mary, I always remember he had to publicly apologise to me, and said that I did not have the brains to even do up the flies on my trousers. **[Laughter]** Sorry, Sir, I do not know if it is a ... I will withdraw that if it is not parliamentary but ...

The Deputy Bailiff:

I was just thinking it would have exposed you to ... **[Laughter]**

Senator T.J. Main:

I did not want to disagree with him at all. I feel that we are slowly losing some of our identity, as I said this morning, and I look at the Constable of Trinity, for instance, he has had some terrific elections over the years in all the Parishes and some of these characters are part of the democratic process of creating an atmosphere that people do want at times to go and listen to them on the public platform. I think this is retrograde step. I would urge the chairman of P.P.C. to reflect on this. **[Approbation]** As I say, we have had some damn fine Members over the years. **[Members: Oh!]**

The Deputy Bailiff:

That is not parliamentary language, Senator.

Senator T.J. Main:

Highly principled ...

The Deputy Bailiff:

Senator, will you sit down, please.

Senator T.J. Main:

Sorry, Sir?

The Deputy Bailiff:

Will you sit down, please?

Senator T.J. Main:

Will I sit down, why for? **[Laughter]**

The Deputy Bailiff:

Because the expression "damn fine" is not parliamentary.

Senator T.J. Main:

I do apologise, Sir. I will happily withdraw that. We have had some fine Members of this Assembly **[Laughter]** hardworking, highly principled individuals that have brought great credit to

this Island and I would urge P.P.C. to withdraw this proposal because quite honestly I think this is a step too far and I certainly will not be supporting it. Long live the current system.

The Deputy Bailiff:

Does any other Member wish to speak? If not, I will call on the Chairman to reply.

5.9.18 The Connétable of St. Mary:

I am glad to be able to sum up at last. A couple of Members did say will I withdraw it. No, the reason I would not withdraw it is that, as I said, P.P.C. put it into the law because we thought it needed to be raised and debated. Having done that, rather than having it come back, I think it needs to be voted on so that there is a clear message taken one way or the other, having done that. That is why I did not withdraw. A couple of points. I am very grateful to all Members, it is has been a very spirited discussion and I think a lot of points have been raised that needed to be raised. A couple of things I would just like to bring out. We did receive representation on this and as the Deputy of St. Peter has said, it did not come to the working party, and I think again that was an issue of timing that the election happened at the time the working party was drawing to a close. Senator Breckon asked why was the Standing Conference on Women’s Organisations getting involved in this, well, Senator, women have the vote, you know. Generally speaking I think this has been an interesting thing. A lot of different people were concerned that they could not get to the core of what the candidates were saying because of the width of the platform. So this is why it came forward, not to discourage but to make people reflect and to give serious consideration to what I feel certainly is a very serious issue. Standing for an election is not auditioning for the Royal Variety Performance. Serious matters need to be given serious consideration and that is why... I am sorry, I am having difficulty because I am getting a lot of baffling in my ears, shall I say. So just to sum up briefly what people have said. This was done in order not to put a barrier but just to make a ... I cannot think of the English word, for people to focus their minds and to think, will I be able to bring something to this election which will mean I will get a significant number, and 5 per cent is not a terribly high threshold, I do not believe. Senator Le Main and other Members have mentioned people who stood in the past and where would they have been. He mentioned particularly Maurice Buesnel and I would just like to say I do have the figures for those elections. I think he stood about ... I do have the figures, he would never have lost his deposit in all the times that he stood. There is no impediment to a candidate being dogged and determined. We all enter elections knowing that we have a possibility of losing, that is part of it and that is nothing to be ashamed of. Standing is an important thing.

[16:30]

Having the confidence, having the mature reflection to say: “I believe I can make this difference and I am prepared to lose my deposit because I do not believe I am going to. I am going to really bring something to this.” That is what P.P.C. were trying to do and it is down to the person who stands to make that decision. P.P.C. is not making that decision for them, we are just looking at what is available in other jurisdictions to cover the issues that, as Senator Perchard said, we see could be a problem going forward and this was the time to do it while we were revising the election law, this is the time to debate it. Members have had their say, I put to the vote. I ask for the appel. Thank you.

The Deputy Bailiff:

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

POUR: 15		CONTRE: 29		ABSTAIN: 0
Senator J.L. Perchard		Senator T.A. Le Sueur		
Senator B.I. Le Marquand		Senator P.F. Routier		

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

The Deputy Bailiff:

We now come on to Article 8. Chairman.

5.10 The Connétable of St. Mary:

This article amends Article 22 of the principal law which relates to the notice that the Connétable of a Parish must publish to publicise the taking of a poll for a public election. The amendment also makes consequential changes following other substantive amendments made by parts of the amending law. The affect of the amendment is to specify that the notice must give the office for which the poll is being held and given details of any known name of the candidate that have been declared on the nomination paper and that will be used on the ballot paper. I propose Article 8.

The Deputy Bailiff:

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on Article 8? If not, all those in favour, kindly show? Those against? Article 8 is adopted. Chairman.

5.11 The Connétable of St. Mary:

Moving on to Article 9, which amends Article 24 of the principal law concerned with the arrangements for printing of ballot papers and makes 3 changes to the format. The first change is a consequential change in relation to no names, to allow no name to be used in the ballot paper. Secondly, the amendment allows the States to make regulations to specify the type of paper on which ballot papers may be printed. The working party recommended that different coloured paper should be used for the different elections being held on the same day so that electors can distinguish easily between the ballot papers and to facilitate the count. The third and final change will mean that the nature of the election and the number of votes that the elector may cast will be clearly printed on the ballot paper itself. I propose Article 9.

The Deputy Bailiff:

Article 9 is proposed, seconded? **[Seconded]** Any Member wish to speak on Article 9. All Members in favour of adopting Article 9, kindly show? Those against? Article 9 is adopted.

5.12 The Connétable of St. Mary:

Article 10 amends Article 6 of the 2002 Law, a minor change is made to remove the requirement to display a copy of Articles 28 to 36 of the 2002 Law in every booth. P.P.C. cannot see any practical benefit in displaying lengthy extracts from the law when electors remain in the booth for only a matter of seconds, particularly as the extracts that are currently displayed run to some 5 pages of legislation. The second change made by this article is that in anticipation of 3 ordinary elections being held on a single day there must be at least one ballot box at a polling station for each election and each box must be marked so as to make it clear in which public election it is being used. P.P.C. considers that it is appropriate for the box to be marked clearly so that electors are clear which box to put the ballot paper into, and they hope that in practice the same colour coding will be used for the ballot papers as for the ballot boxes to facilitate the voting process. I move Article 10.

The Deputy Bailiff:

The Article is moved. Seconded? **[Seconded]** Does any Member wish to speak? All Members in favour of adopting Article 10, kindly show? Those against? Article 10 is adopted.

5.13 The Connétable of St. Mary:

Article 11 amends Article 32 of the principal law which sets out the administrative procedures that Autorisé or Adjoint must follow when giving a ballot paper to the elector. When elections of Senators and Connétables, together with a referendum, were held in some Parishes in 2008 there was some confusion as to whether electors arriving in the polling station should automatically be handed ballot papers for the 3 elections or whether electors should be asked which elections they wish to vote in, in case an elector wished to vote, for example, in the referendum and for a Connétable but not for the Senators. The amendments made by this article to Article 32 of the 2002 Law put the matter beyond doubt by requiring the Autorisé or Adjoint to ask each elector which election he or she wishes to vote in and then only handing over the relevant ballot papers to the elector. The electoral register is then marked to show which elections the elector has chosen to participate in. So if a voter decides to vote in one election only but later in the day changes his or her mind, the voter is not prevented from returning to the polling station to vote in the other elections. When the working party considered this matter and discuss the practical arrangements with the Jurats it was agreed that the alternative, whereby electors would be automatically handed all ballot papers, whether they wished to vote in the elections or not, was unsatisfactory as it could simply lead to electors spoiling their ballot papers or even taking them away from the polling station without completing them. This could lead to difficulties with the reconciliation of the number of votes cast. I propose Article 11.

The Deputy Bailiff:

Article 11 is proposed. Seconded? **[Seconded]** Does any Member wish to speak? Deputy Trevor Pitman.

5.13.1 Deputy T.M. Pitman:

Very briefly. I have to say that I think this is going to be the biggest exposé of fudge that we have got into where the general election is not really a general election, because we have got those 3 types of amendments. I know it is too late to do anything about that now but I would ask the Chairman if she can clarify, is there going to be a standard wording for people to use when people come into the polling stations, because it could completely alter things. If I walk in and someone says to me: "Do you want to vote for Senators?" some people are going to say: "Yes, of course I do" and that may be all they will get. I think that issue has to be considered. Do I think that people will end up voting in all 3 elections, if they have got the possibility of voting in all 3? I think

unless this is handled rightly, absolutely not. I do feel that as a result of this - and it is a fudge - we are going to get some very skewed results. Now, how that will pan-out, I do not know, nobody can tell but I do think that this is where we really went wrong. Again, I was not on P.P.C. then so I cannot take any of the blame. But I would like the chairman to give some reassurance that everyone in every district and Parish are going to have the same approach made to them so we do not get a completely skewed vote, perhaps with loads of votes in the Senators and none in Constables and Deputies or any other connotation. I do think this is a serious issue that needs to be thought out before we go down that route.

5.13.2 The Deputy of St. Mary:

That is very interesting what the previous speaker says and completely not the problem that I had with this. I did correspond with P.P.C. about this and the Chairman kindly replied at length to my various questions, so I am grateful for that. On this one I had a problem about the secrecy - I called it - of the ballot but that is a bit loose because the ballot itself remains secret but what is not secret is which elections you decided to take part in. There are going to be 3 columns in the electoral register marked to show which elections the elector has chosen to vote in, and that rings alarm bells with me. I am not sure it should but I think it does because anyone looking at that list can see: "Oh, so and so did not bother to vote in the Constables' election or so and so did not bother to vote in the Senatorials", whatever it is, there is some kind of trace on what I, as a voter, decided to take in part in and what I did not decide to take part in. So I just wrote posing that question to the chairman. Her reply was basically that the 2 options are that every voter coming into the polling station will get the 3 coloured papers and then they go in, they decide to use 2, they decide not to use the third one, cannot be bothered with the one of the elections maybe, whichever it is, and they might go home with this paper in their pocket that they have not used. That will throw out the reconciliation process. The other choice is this business of which election are you to take part in. We have just heard the difficulties with that. There are real difficulties, and as a linguist I know all these things about which question do you put first and how people say yes or no depending on the way the question is put and so on. There are very serious issues around this business of people not taking all 3 automatically and it worries that ... in my belief I think probably people should take all 3 automatically, get given them, and then they decide what to do with them. Now, that leads to the point: "What about the third one in the pocket?" that they just walk out or chuck it in the bin or possibly give it to somebody else, which is suggested by the chairman, which obviously is a possibility. I think that there is an issue here that the main problem appeared to be that the third unused ballot paper of this mythical elector should not be just have a cross put through it and they stick it in the relevant ballot box and it becomes a spoilt paper. That mythical elector did not want to vote in that particular election for that class of Member so they just put a spoilt paper in. That seems to be the concern that we do not want more spoilt papers. I am sorry, not having more spoilt papers is not a criteria in a democracy, it is not as important as secrecy. It is not as important as confusing electors or getting possible mishandling of the choice of the 3. I am really not happy with this because it seems to me that a spoilt unwanted paper ... and her reply says: "Thereby increasing the number of spoilt papers." Frankly, so what? If 10 per cent of the people in X Parish decide they do not want to take part in the Deputies' election or they do not want to take part in the Senators' election, tough. That will come out in the stats: "Oh, a lot of people decided not to take part in that election and just put a line through all the candidates." But the alternative is this business of asking people to choose, asking people which colours they would like, asking people which classes they want to vote for, and there are pitfalls there, there are dangers. So, again, not happy with this and I think there should be a standard procedure, there should be a standard wording, or preferably even a standard process: "Bang, there is all 3, get on with it, do what you want with your ballot papers, do not take any of them out of here." How you ensure that happens is another question but there are problems with this Article.

5.13.3 Deputy M. Tadier:

I can probably address some of those because we were party to the discussions on the working group. First of all, though, it is interesting that Deputy Trevor Pitman and myself uncannily think the same in many ways because I had the exact same thing written down, it is imperative that the phraseology is consistent when one is asking. It is slightly pedantic but of course certainly in a referendum it is important and there is a difference perhaps between saying which elections would you like to vote in? Do you wish to vote in all elections? It is probably preferable to say there are 3 positions which can be elected in this voting booth, would you like all of them or how many of those would you like? I think that is something which can hopefully be resolved. It is not rocket science. I think it is important but at the end of the day the bottom line is that this is one of the consequences of having 3 elections, having 3 positions, and that was another correct point that Deputy Trevor Pitman pointed out. Pretty much this is the first time we are going to have a general election of this kind and there are lessons that we have to learn. There are going to be unintended consequences, that is clear. There will be complications both from an administration point of view and there will be unexpected, hopefully positive results as well, because we would hope that now ... we know that more people tend to vote for Senators but when they are out there hopefully the logic is might as well vote for the Deputies as well, we might as well vote for the Constables. But I think it is still important that the choice is given because when I was door knocking in St. Brelade I came across one chap who said: "Are you standing for Deputy? I only vote for Senators" which I thought was really bizarre personally because I thought if you are going to get out there and vote for Senators they are in the minority, you might as well go out there and vote for your Deputy and your Constable as well. Anyway, each to their own. Everyone should be allowed to have the choice and that is the issue. The next argument we had: do you have one big ballot paper? Do you say we will put a big black line in between the different sections and here are your Senators, here is your Deputy, here are your Constables, but that is another option. What I would take exception with regarding the Deputy of St. Mary's comments is that a blank paper or choosing not to vote in an election is not the same as a spoilt ballot. I quite agree, I think I raised the same point on P.P.C. that we should not be overly concerned about spoilt papers, if someone wants to spoil their paper that is fine, that is a protest vote, we do not have a box which says: "None of the above" and that is what many members of the public who feel like that will either write in that at the bottom of the paper or just spoil their paper. Although some spoilt papers are not done deliberately, of course. But that is completely different to not wanting to take part in an election in the first place.

[16:45]

In the past you could make a conscious decision not to turn out for any one type of election. You cannot do this at these elections so it is important to give people the choice. Clearly this is not the be all and end all. I think what we need to be looking at in the future is being able to vote, preferably anywhere in the Island, no matter where you live, to have centralised systems which are done on the computer. I think we could probably do that already. The technology is there but we have not got to grips with it. I would hope at the next elections you just turn up with your I.D. (identification) card, you scan it and it says: "These are people that you can vote for" and you will still be given a paper. But I think these will be resolved in time, the technology will be there. I think for the moment we just have to go with what we have got here, it is the sensible way forward, we have tried to do the best that we can and I am sure that the Constable when she sums up will be able to allay any fears.

5.13.4 Deputy G.P. Southern:

I have to ask the question first, if I vote against this particular amendment, does what is left, unamended, have a fallback position, i.e. if I vote against the choice of saying what do you want to vote for, which election do you want to vote in, does the unamended law permit a way forward so that you get automatically, for example, the 3 ballot papers and you vote in those elections for which they are called. I really want to vote against this because I think it is worse than other people

have already said and I am struck by it because it happens time and time again to me. I went out of the building yesterday at lunchtime in recess and a woman flagged me down: "Hello, Senator Sutherland." Yes, I am known to a remarkable number of people as Senator Sutherland, and every time I say: "No, it is Southern and I am not a Senator yet." As you do. She then said: "You are a lovely man. I want to vote for you, have you got an election this year?" "Yes, where do you live?" "Jane Sandeman Courts." "Sorry, I will not be standing as Senator, I am not a Senator and you will not be able to vote for me." But I know what she will say when she goes in, when she is asked: "Which election do you want to vote in?" She will say: "I want to vote for Senator Sutherland" because that is what she has gone there to do, to vote for me. She will be in the wrong place because she will not see Southern on the paper, or work that it is Sutherland. While we appreciate and fully understand that we are having 3 elections - Senator, Deputy, Constable - and exactly what they mean, I think ... I do not know what the word is, a substantial minority of people out there who go along to vote, good citizens all, and are interested vaguely in the political process, to the extent they want to vote. They have got no idea what the difference between a Constable, a Senator and a Deputy is, and some of them will be coming along and saying in answer to: "Which election do you want to vote in?" they will say: "I want to vote for Senator Sutherland." There could be some long conversations. In terms of working out ... we should not be doing this. Do you want to come along to a polling booth and not vote in one of the elections? Where is the logic that says that is the way we should be going forward. Again, it is another one where we have got another amendment here that does not make - and I will use the word, I hate doing it - common sense. The assumption should be you are there to elect somebody, you should be electing ... if we have got 3 elections you should be voting in 3. If you do not want to vote for X then you do not vote, what is the problem? Okay, that paper might get taken away and ... come on, no, we should be encouraging people to vote, we should be encouraging people to vote in all 3 elections, if we have got 3 elections, if not a general election, but nonetheless the instruction should be that that is what we are doing and we should not be giving people the option not to vote in one or 2 of those elections, because they only want to vote for me.

5.13.5 Deputy J.A.N. Le Fondré of St. Lawrence:

I think we are making rather a lot of mountains out of molehills here and I will come to that in a second. What is the problem? To me it is about the democratic right of someone to vote and for someone to be able to vote when they want to effectively. I think what I am going to say ... I will deal with a couple of issues, for example the Deputy of St. Mary made a comment about the issue of being able to see whether someone has voted in an election or not. That already exists because certainly on any individual elections - let us say the Deputy elections, certainly in St. Lawrence - we have a list of all the voters on it and as people come in you cross their name off. So anybody within that team at the end of the thing, in theory, in the 5 seconds you have got before the books are taken away and locked up, they can see that, yes, there is probably a third of parishioners who have not voted, or whatever it is. So that problem already exists and I am afraid that is a fact of life, there are not that many practical ways of getting around it. I am not too sure how the Senator Sutherland story ... I was trying to read my handwriting ... I was going to say it must have been Deputy Southern's wife that he was talking to, in terms of calling him a lovely man. **[Laughter]**

Deputy G.P. Southern:

Surely, Sir, that breaks some Standing Order?

Deputy J.A.N. Le Fondré:

I am obviously being highly facetious, Sir, but it is getting late in the day. But, again, it is going to be the same issue whether you have got one, 2 or 3 ballot papers in front of you. But go back to the practical point. In 2008 in the Senatorials elections, the elections of Constable and the referendum that we had I can certainly see in St. Lawrence, and I was one of the people assisting in the elections on that day, we had 3 columns and 3 lots of ballot papers to get out. All I can say in

practical terms is the system worked. Also in practical terms, this goes back to a more serious point of why we are asking the question, perhaps there is an issue of the phraseology. Do you really want to vote in all 3 elections? Do you want to vote in the Senatorial? There is an issue but that is dealt with in common sense. But we did have the experience of somebody coming in and being asked the question: "Which elections do you wish to have a ballot paper for?" only took one or 2, and in certainly very rare instances, but in those certain instances, people came back and took another ballot paper for an election they had not taken part in earlier on. The point was whether they had only been focused on the Senatorial elections and had not really thought about either the referendum or whatever it was, went away having voted for what they wanted to vote on the Senatorials and then on reflection came back and said: "No, I do want to exercise my vote on the other election or elections that are taking place." I think you have to allow for human nature on that one. Yes, it may not be a perfect system but it can be handled and that is where I go back to the point about the democratic right of someone to vote on what they want to vote for at the time. So on that basis, I have no problems with these particular articles and I think we should support them.

5.13.6 Deputy J.A. Martin:

I probably should know the answer to this being on P.P.C. and I do not. I myself do have slight reservations about people being asked but I am assured and I am told as the build-up comes to E-day that there will be a much more public awareness and everything else. I do think, and this is the question I am asking is how the questions is asked so people say: "Oh yes, I will take all 3" but they have only come to vote for me hopefully. Some people do do that. Then they would not know what to do. The Deputy of St. Mary says: "You must not take it out" well, I do not know, would they just put it in their shopping bag and leave with it. My question is, I am imagining if we do not pass this Article the fallback will be where we were before, it is a decision for the people at the polling station on the day and it would not be consistent, but my main problem is the last paragraph on page 7 where this could lead to difficulties with the reconciliation of the number of votes cast. How many out, because at the moment you would have 100 cast, so-and-so got 50, 2 spoilt papers and they add up exactly. How many out is ... is there a law? Then that election is null and void because it cannot be reconciled. I think that is a problem. I do not know the answer and I hope the Chair does, and if not she might get some quick speedy advice. But as it has always been reconciled, in every other election, because it was one election one time, whatever, and this time it will not be, because if people do not ... if people are given 3 voting papers and they do not use them and they take them home, they will not add up, the 3 will be marked off and they would only use one. They will not reconcile. I think it is quite simple. As I say, the fallback is where we were, I am not sure ... I think I will probably stay with the committee on this one but I would like to find out the answer, because I certainly would not want elections to be null and void. I do not know, I still sort of shudder when this day draws nearer. I am praying I am proved wrong. Thank you.

The Deputy Bailiff:

The Attorney would have been able to hear that speech and if he is able to help the Assembly later on, no doubt he will. Senator Le Marquand.

5.13.7 Senator B.I. Le Marquand:

I want to try and bring some clarity in relation to some of the issues raised by the Deputy of St. Mary. Firstly, the Deputy of St. Mary seems to be worried that because there will be a book which will record who has voted for what election that somehow there is a risk of people going back and looking at this subsequently and deducing something adverse to a particular individual. Well, in reality, of course, the books in relation to each election already exist. There has to be a method by which it is marked off who has already voted, who has received papers, so that people will not seek to vote twice. My understanding of the situation is that all the documentation in relation to an election are collected together at the end of the election and delivered to the Judicial Greffier. I

should know that for certain because that used to be my department. But that is my understanding and therefore the risk does not exist unless somehow there is some mole in the Judicial Greffe who is going to be looking at things. But in any eventuality what I am saying is there is essentially no difference. I do not believe there is a risk but the situation is still the same because at the moment with elections on different dates it is being marked off at different times. The information will still exist but it is protected information. So I do not think the Deputy of St. Mary really needs to worry about this particular issue. The second issue is to reinforce what has just been said by Deputy Martin about the importance of reconciliation of numbers. The whole point here is we want to be confident that nobody has destroyed a ballot paper on which a person has voted. Therefore, for that reason, it is desirable that people are not walking out of the election place carrying papers with them in their pockets which is going to create a situation where perhaps there are 5 or 10 or whatever number missing. The reason for that is simply because there might be suspicion raised as to the validity of the election because there was a number that had gone missing, had they been destroyed improperly. That is the whole point. That is the whole issue, so we need to have a system which as far as possible ensures that does not happen. That is why very often when you to vote there is a person standing near to the ballot box to check you are putting something in there, and if you do not to say: "Well, have you forgot to put it in there?" This, of course, becomes more complicated the moment you have more than one election at the same time, which brings me to my third point, the law sets out the framework of this. But in reality the conduct of the election is entrusted to the Autorisé and there will always be a need for flexibility, indeed the decision has been made in relation to that. Now, what I would expect would happen would be that the group of Autorisés would agree a policy, a plan, as to exactly what wording will be used, *et cetera*. That is the normal process. The Autorisés are, after all, very responsible people, they are mainly Jurats but there are sometimes other people such as Crown Officers, A.G. (Attorney General), S.G. (Solicitor General), sometimes even some of the staff of the Judicial Greffe.

[17:00]

They will work out the details. Those details will inevitably change from election to election depending upon how many elections are taking place, whether there are also papers being given out at the same time for any - I have lost the word - referendum and so on. Frankly what I am saying, very simply, is we can trust these people to make the necessary arrangements. It is not necessary for us to be going down in to the minutiae of it. That has always been so. There have always been exceptional circumstances which have arisen. They have to make decisions sometimes in relation to spoilt papers and things of that nature. So Members need to be reassured in relation to that that the actual details will probably be worked out in the way I suggest. Thank you.

5.13.8 Senator J.L. Perchard:

Just briefly. Deputy Southern made a very, very valid point and I will draw Members' attention to page 25 of the Article, (c)(a). The quote just made by the Minister for Home Affairs and I wrote it down exactly: "It is desirable that people are not walking out of the polling booths with papers on them." I assume he means unused ballot papers. If, as a voter, I attend a polling station and there are 3 categories in which I can vote I expect to receive 3 ballot papers. I do not expect to be asked do I want one, 2 or 3. Deputy Southern is absolutely right. What I choose to do with them, if I choose to deface them or not vote at all, the Autorisé, the Adjoint, will check that I have placed a valid ballot paper, a red ballot paper in the red box, a green ballot paper in the green box and a brown one in the brown box. There will be no opportunity for me to leave that polling booth without having posted 3 papers. I would ask the chair of P.P.C. if, when we take Article 32, we could vote on (c)(a) separately. If we did choose not to approve (c)(a) it would read that the Autorisé, Adjoint, in charge of the polling station shall, because we are deleting (c)(a), give the person a valid paper for each of the polls. I think if we could delete (c)(a), delete any possible confusion, the Autorisé will the required number of ballot papers, depending on the number of

people or categories of persons seeking election, categories of election, to the person attending the polling station, it would ensure, as Senator Le Marquand wishes us to do, that people do not leave the polling station without posting all their papers and Deputy Martin's fear of not reconciling the vote then I am sure will be satisfied. So I ask the chair of P.P.C. if she will consider taking (c)(a) separately, and if I not I am afraid I am going to vote against this whole article.

Deputy M. Tadier:

Could I ask a question of the Attorney General? It arises out of something that Senator Perchard has said. Is it human rights compliant if this is rejected to force somebody to cast a vote in an election that they do not want to vote in, because if it is being proposed ... if by rejecting this we say you have to have all 3 ballot papers and you have to then cast a vote and somebody says: "I only want to cast a vote in a Senatorial election but not the Deputies" would that be a contravention of their human rights to oblige them to cast that vote?

The Attorney General:

The only human rights article which I think bears directly upon elections is, of course, the obligation to have free and fair elections, to allow individuals the free expression of their chosen representatives. I have to say I am not aware of any law on the subject which would touch upon the human rights of an individual having a legal obligation to cast a vote but my sense is that no one can be compelled to cast a vote in any particular way if they elect not to do so.

Deputy G.P. Southern:

While the Attorney General is on his feet, may I ask him the question I asked of the chairman of P.P.C.? If we vote against this particular amendment, does the underlying structure of the law make sense or not? If it does and everybody, without this amendment, gets 3 ballot papers ... whether or not I am going to vote against it anyway, but it is just whether they will have to come with something or something works today.

The Attorney General:

The way the law is currently structured certainly is against the idea that an individual will get a single ballot paper when they come in. I think if these amendments were not passed there would not be a mechanism for providing multiple ballot papers in the way that has been suggested. That would be my view.

Deputy G.P. Southern:

Just for absolute clarity, so therefore if this were to be rejected by the House, this amendment, then P.P.C. would have to come back with the other way of doing things?

The Attorney General:

Before I give a definite answer I wonder if I could just take a short amount of time. But while I am on my feet, I am conscious that a further question had been posed and I just want to make sure I understand exactly what I am being asked so that when I do come back I answer the right question.

Deputy G.P. Southern:

Yes, if I may ...

The Attorney General:

I thought it was a question from Deputy Martin.

Deputy J.A. Martin:

You are not the only one in here. **[Laughter]** Yes, is there a point in the law, the election law, if the ballots are not reconciled that the election will be null and void? People are saying 5 or 10, if they are allowed to walk out people who are not strong enough to maybe say: "I do not want all 3"

may only use the one and shove them in paper. I do not agree with Senator Perchard that they can be forced to put in each ballot paper. So is there something in the law?

The Attorney General:

I will, of course, check while I am reading all the other documentation. My initial reading is that there is no specific provision in the law for a percentage beyond which an election is rendered null and void or anything of that nature. The ability to render an election null and void would be by order of the Royal Court on application by any party for a declaration to that effect. The Autorisé exercises a wide margin of discretion in dealing with the way ballot papers are dealt, provide that it is done within the terms of the law and provides a report at the end of poll to the Royal Court by depositing that report with the Judicial Greffier. It would be open, I think, for anyone who wished to challenge the election after that, but that would have to be by way of application to the Royal Court. I will, however, consider the matter further and return to the Assembly in just a few minutes if I may.

The Deputy Bailiff:

Attorney, if you can get your pen out, I think there are a number of other questions for you from Members. The Deputy of St. Mary.

The Deputy of St. Mary:

My question is to ask the Attorney General to take into account when he is looking at all this the situation as put forward by Senator Perchard which is that everyone gets given the 3 and that there is somebody standing at the door saying: "Have you done all 3?" and that there is an option for that person to put a filled in ballot paper in box A, a filled in ballot paper in box C and to put a blank paper in box B? I am putting that as an option that needs to be covered in your reply.

The Deputy Bailiff:

Can we collect the questions and then I will ask the Attorney to come back. Deputy Higgins, did you have a question?

Deputy M.R. Higgins:

I am just slightly concerned that if we do reject this as Deputy Southern has mentioned, whether we are going to have the time before the election to change things.

The Deputy Bailiff:

Is this a speech or is it a question?

Deputy M.R. Higgins:

No, it is a question, I am coming up to it. My question is, the way that the law is at the present time, is there anything to stop having like the Americans do, a long sheet of paper which has all 3 categories on the same ballot paper, it may be broken up independently but at least people can vote on the ones and we can still meet the timescale?

The Deputy Bailiff:

Are there any other questions for Attorney General while he is collecting questions? Good, then he will give time to those matters. Connétable, you wished to speak?

5.13.9 The Connétable of St. Saviour:

Quite briefly. I can see that a lot of the problems that people are raising here arise because they do not really understand the way the system works. Having been an Adjoint for some 25 years, before I was elected a Constable, one is charged by the Autorisé with having a fair election. We are watched by the Autorisé to make sure that mistakes are not made. If people are going to ask the wrong sort of question or questions with the wrong intonation or in the wrong way, I am quite sure

the Autorisé will be watching that right from the start to make sure they are done properly. There will be, I am pretty sure, a fairly standard way of asking the question. That is something the Autorisés can make a decision on before. They have the power to decide how the election is held, even where it is held, whether people are close to the polling station, whether they are causing a problem, they can clear people away, they have a tremendous amount of power. We put a lot of trust in these people as Senator Le Marquand has said, and quite rightly so. It is only right that the Autorisés have this authority. I really do not think this is a problem. The main concern of the Adjoints and the Autorisé in these elections is that it is fair. You want to see the people are not being influenced as they cast their vote and you want to be seen that you have the right number of ballot papers at the end of the day. This system that we have come up with in P.P.C. is as a result of serious thought about this. If you give people more papers than they want, if they specifically do not want to vote for one election, yes, they have the perfect right to put a cross through it, right through the paper, they can leave it blank and cast it. Spoilt papers is not a problem at all. You just add up the spoilt papers, no problem. What really does cause a problem is a missing paper. You are trying to reconcile the right number of ballot papers if you are going to get a fair vote, that really does cause concern. I know from the number of elections where I have helped, that the first and major question is to make sure you have reconciled your number of ballot papers, that you have the correct vote. We have come up with this scheme as the way least likely to cause problems. It does not influence the way people want to vote, if they want to vote for 3 different types of candidate they will do so. If they want only one, they can do so. That is not the problem. What we do not want is people going out with a ballot paper in their pocket and we need to be able to reconcile the number of votes. The Autorisés have got the authority, I suspect if the number of missing ballot papers was considerable the Autorisé would report to the court and the decision would finally be made to the court as to whether the election was valid. But, again, we give quite a lot of authority to the Autorisé and I believe these are the people we have to trust with the minutiae of running the election.

5.13.10 Deputy P.V.F. Le Claire:

It is not to cover the ground that has been covered. I wondered if the chairman of P.P.C. could tell us in relation to who has voted ... it sprung from the speech of the Constable of St. Saviour, if somebody chooses to vote for a Senator and chooses to vote for a Constable but does not choose to vote for a Deputy, how will we reconcile the percentage of people who turned out to vote if they are only registered as having taken those 2 and not the third?

The Deputy Bailiff:

Does any other Member wish to speak? Attorney General, are you ready to answer the questions?

The Attorney General:

I hope so. My response to Deputy Martin, I think has not changed given my ability to consider. As far as I am aware there is no minimum percentage threshold or anything of that nature which would, of its nature, render an election void. It will be a matter, as I have said, for application to the court. The current article that relates to the issuing of ballot papers specifies that a single ballot paper is issued. It would have to be a single ballot paper in that case. It seems to me that if - and I have not considered this in the time available in a great deal of detail - one were to have an extremely long ballot paper with every single possible candidate for every single election, that to me would be a recipe for potential confusion and disaster. How those ballot papers would effectively be counted as between the different elections and the different categories, whether that would be a recipe for people to put too many ticks in too many boxes and all those kinds of things, it seems to me that that would be significantly problematic. I do not think that the current system would permit very easily the issuing of a single ballot paper. I think if there is to be a single day for a different number of categories of Member then one needs separate ballot papers for each of those elections.

[17:15]

I am afraid I have lost what the third part of the question might be, it might have been the Deputy of St. Mary's question. I am not sure if I have answered that.

The Deputy of St. Mary:

My question was about the option put forward by Senator Perchard of the 3 colours and people being checked effectively: "Have you got rid of all 3?" "Yes, I have, although in fact one of them was a blank put into the middle box." Whether there is anything militating against that, either in the existing system or the one we are being asked to endorse?

The Attorney General:

There is nothing that prevents someone putting what is, in effect, a spoilt paper - and a blank paper would be a spoilt paper - within a ballot box.

Deputy G.P. Southern:

My final question, which was, if we do not vote for this amendment, does the underlying structure unamended make sense or does P.P.C. have to come back with something that does make sense but is the alternative way of doing things to what they have proposed?

The Attorney General:

I am sorry if I was not clear before, the current system means that a single ballot paper is issued and that will be the system that will continue absent the amendment.

Deputy J.A. Martin:

Sorry, then under what article was the election for the Constables and the Senators, and they were all given different ballots, and the referendum held in 2008? Surely we would revert back to that Article because there were 3 ballot papers given out. It was just a matter of how they were given out I think was the question.

Senator J.L. Perchard:

While the Attorney is pondering the answer to that question, could I ask you whether it would be in order for the House to vote separately on Article 32(c)(a) and if it were in order, could I then ask the Attorney what the consequences would be?

The Deputy Bailiff:

Sorry, Senator, I am not prepared to permit paragraph (c)(a) to be taken separately. Standing Orders 74 makes it plain that provisions cannot be subdivided.

Deputy P.V.F. Le Claire:

May I propose the adjournment, as the Attorney General is considering something.

The Deputy Bailiff:

Technically you can propose it.

Deputy P.V.F. Le Claire:

I will buy him 30 seconds anyway. I propose that we adjourn now so that we can have a considered opinion from the Attorney General in the morning.

The Deputy Bailiff:

Is that seconded? **[Seconded]**

The Deputy of St. Mary:

I do have another question for him.

The Deputy Bailiff:

Those in favour of adjourning now?

Deputy P.V.F. Le Claire:

I ask for the appel, please, Sir.

The Deputy Bailiff:

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

POUR: 18		CONTRE: 25		ABSTAIN: 1
Senator T.J. Le Main		Senator T.A. Le Sueur		Connétable of St. Mary
Senator S.C. Ferguson		Senator P.F. Routier		
Senator A.J.H. Maclean		Senator J.L. Perchard		
Senator F.du H. Le Gresley		Senator A. Breckon		
Connétable of Trinity		Senator B.I. Le Marquand		
Connétable of Grouville		Connétable of St. Ouen		
Connétable of St. Brelade		Connétable of St. John		
Connétable of St. Peter		Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		Connétable of St. Clement		
Deputy of St. Peter		Connétable of St. Lawrence		
Deputy P.V.F. Le Claire (H)		Deputy of St. Martin		
Deputy J.A.N. Le Fondré (L)		Deputy R.G. Le Hérissier (S)		
Deputy S.S.P.A. Power (B)		Deputy J.B. Fox (H)		
Deputy M. Tadier (B)		Deputy J.A. Martin (H)		
Deputy A.E. Jeune (B)		Deputy G.P. Southern (H)		
Deputy of St. Mary		Deputy of St. Ouen		
Deputy A.T. Dupré (C)		Deputy of Grouville		
Deputy M.R. Higgins (H)		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy T.M. Pitman (H)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		

The Deputy Bailiff:

Does any other Member wish to speak?

The Deputy of St. Mary:

I wish to ask a question but clearly the Attorney General is busy with the previous question.

The Deputy Bailiff:

What is your question?

The Deputy of St. Mary:

My question is that if we were to reject this Article, it is as matter of the timing and the Privy Council which I think probably the Attorney General is in a better position to answer than the Chairman, I do not know. If we were to reject this and therefore effectively be asking P.P.C. to come back with an amended version more in line with what Senator Perchard is suggesting with the change to subparagraph (a), whether that will inconvenience the process of getting ratification, whether there is a time issue involved. I do not believe there is but I would just want the Attorney General to confirm that.

The Attorney General:

I think I can answer at least that question without giving it too much further consideration. The position is that the last sitting of the Privy Council for assent to our legislation in time for it to be in effect, I think for the next election is in the middle of July. It is certainly likely, although not certain, that anything passed today will reach Assent by July. It seems to me unlikely given the lodging periods or even a truncation of the lodging periods that anything passed subsequently by the States would achieve Privy Council assent by July and come into force in time for the next election. So my answer is that I think it is very significantly open to doubt that it would be possible to bring in a further statutory enactment in time for the election if this is not passed. Could I just be clear on the question that I have been asked, that I am giving further consideration to, it is, I think, the basis on which an election was held in 2008 for more than one category of individual on the day and on what basis was that? I will give that some consideration.

5.13.11 The Connétable of St. Ouen:

We are making very heavy weather of this. **[Approbation]** At the end of the day we were faced with a situation where the Jurats, the Autorisé at the last election were faced with multiple elections for the first time and they realised that the old law did not cater for multiple elections. This merely tries to give some guideline so that, as asked by Deputy Trevor Pitman, everybody will be reading from the same hymn sheet. That is all this happens to do. I would just like maybe to comment on the point which Deputy Martin raised about the real need for justifying the numbers, because if you have 4 or 5 papers that have disappeared but you have an election like, I think, No. 3 District had last time, where there was only one vote in it, then obviously that is going to go to court and that election will be void. So I think that this is really just to try and give a definite guideline on how to run the next election.

The Deputy Bailiff:

Does any other Member wish to speak? Chairman.

5.13.12 The Connétable of St. Mary:

I find it very hard not to speak, having to keep my peace then, because I agree with the last speaker, we did make very heavy weather of that. There was an issue identified during the course of the last election. The working party considered it, the working party with the Autorisés, discussions were held on how to remedy it, how best to overcome the situation and the working party believed, P.P.C. believed and I certainly believed that the article that is being proposed now is the best way around. But having said that, I will deal with the issues that have been raised. Deputy Pitman raised a very good point about standard wording. Of course we could not have allowed leading questions but the Autorisés control the election. Before every election the Autorisés meet together, then the Autorisés who are appointed by the Royal Court for each Parish or each polling station come and meet with the people in that polling station and give directions. I believe, as has always happened in the past, in every aspect of the election, they give very clear and uniformed directions across the Island. I certainly have no issues with that at all. I have been, as other Members have said here, acting as an Adjoint in elections for a good many years, even before I came into office. Certainly the wording in the Article is quite clear, that the Autorisé will - I say it is quite clear but I cannot find it now. I am going to get the exact wording as I think it is important. In fact the Autorisé in (c)(a) ask the person wishing to vote in which of the polls the person wishes to vote. The question may be as simple as that, in which of the polls do you wish to vote? I am quite sure, and I have absolute confidence the Autorisés will address the issue of how the wording is to be phrased. The Deputy of St. Mary was concerned about the audit trail. I think Senator Le Marquand has already issued that but certainly there has always been this ticking-off of the register, there has to be for the purposes of ensuring that people do not vote twice. It became even more important when we introduced postal and pre-poll voting because people had already voted before they came to the ballot box so they were not even recognised by the people who were there in the Parish Hall

or the polling station and so there had to be a record. The books are - I can certify to this - taken away by the Autorisé with all the spent ballot papers, everything else goes into a big sack, it is taken away and is deposited I believe with the Judicial Greffe, though it is kept during the time in which the election could be challenged. I am not sure that barring a challenge it is ever opened but it is always kept there. I really feel the Deputy has nothing to worry about. The process of ticking people off as they go through, only one page of the register could be available at any one time, the thought that anybody could look who was voting in which election I think is really ... it is just too far-fetched to worry about. But also what the Deputy of St. Mary did say was that he could not see what was wrong with a spoiled paper. Well, there is nothing wrong with that, but what is wrong is if somebody is told they have to take that third paper or that second and third paper that they did not want at that time and spoil it because they did not want to vote at that time, but then later on comes back to that polling station and wants to make that vote, changes their mind, unless we adopt this particular article they would be disenfranchised at that point. I think that is particularly unfortunate. When in the past we have gone to greater and greater steps to make sure that people who perhaps have had an oversight at one time or another and not participated, for example, people who ordered a postal vote and the postal vote came but for some reason they did not fill it in and they suddenly realised it was too late to do it. We changed the law so that they could come along to the polling station with that postal vote and they could vote in the election. We changed it to make sure they were not disenfranchised at one point of the process because of something they had done at the earlier point. This is exactly the same thing. Somebody may really not be considering a referendum question or whether they want to vote for a Deputy, but really may go home and think: "Well, that was stupid of me, I should have done that, I should have exercised my right, I wish I had done it." Well, under this article they jolly well can. They can change their mind, they can come up and they are not disenfranchised. I think that is important. Deputy Sutherland can use his given name now on a ballot paper if he wants to so that should avoid any problem in future. I was glad Senator Perchard was so certain that he wanted to take all 3 ballot papers but I can tell him he was not in 100 per cent good company there because analysing what happened at the last time we had the multiple election in 2008, as Deputy Le Fondré has already alluded to, there were discrepancies in the number of people who went for ... who took part in the Senators and the Constables election in the same polling station. People did not necessarily want to vote in both and we have proved that. The figures for the referendum were different to those who participated in the Senatorial. We know that. People do not always want to exercise all their votes but I believe, and this article allows, them to change their mind and come back and do it. I do not see anything wrong with that, in fact I think that is a great strength. So the existing law allows for a ballot paper and the Jurats - in my recollection of what happened - and the Autorisés had to get together and make some pretty snap decisions of how they were going to handle those multiple ballot papers, and they did. What this article does is to put into law, to put beyond doubt, the process that is to be followed. I think wherever we can in elections, we need to put processes beyond doubt. We need certainty into how things will be run.

[17:30]

This article does that. I urge Members not to be concerned by the hares that have been sent running here, there is no agenda to see how people are voting, there is no agenda not to have spoiled papers. There is every intention to give people the right to vote, right up until the line and change their minds about not having voted on something and come back and do it. I really, more than anything else I have proposed so far today, commend this article to the Assembly and I call for the appel.

The Deputy Bailiff:

Attorney, do you wish to add anything?

The Attorney General:

Yes, I think I have an obligation to come to the Assembly given that there is an outstanding question. Firstly, can I apologise that I was not as clear as I might have been when the question was first put to me and that I overlooked the effect of the 2008 situation. My advice to the Assembly is that Article 32 is really best designed and best expressed for a single ballot election. The reality of it was that on the last occasion it was undoubtedly used for a multiple ballot election and that, as the chairman of Privileges and Procedures Committee has said, a lot was dealt by the Jurats - the Autorisés - to make what was, in effect, the best and a consistent position of a difficult job. My understanding is that, however, it would have led to some inconsistencies with different approaches being taken at different polling stations. Potentially some people handing out all the ballot papers, some people asking the question: "Which ballot paper do you want?" Therefore there was a lack of certainty and a lack of consistency. I think that Article 32 is best designed for the single ballot and that the suggested amendments are designed to deal with a multiple ballot situation. But if they were not passed we would revert to the position that we currently enjoyed and which we obtained in 2008.

The Deputy Bailiff:

Very well, the appel has been called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR: 43		CONTRE: 3		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy G.P. Southern (H)		
Senator P.F. Routier		Deputy of St. Mary		
Senator T.J. Le Main		Deputy T.M. Pitman (H)		
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				

Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

It is now 5.30 p.m., chairman, I think we are unlikely to finish this legislation this evening.

The Connétable of St. Mary

No, Sir. May I propose the adjournment.

The Deputy Bailiff:

The adjournment is proposed and the States will stand adjourned until 9.30 a.m. tomorrow.

ADJOURNMENT

[17:33]