

# STATES OF JERSEY

## OFFICIAL REPORT

**WEDNESDAY, 15th MARCH 2017**

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[WORK IN PROGRESS 17.03.17]

STATES OF JERSEY

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[9:30]

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

**PUBLIC BUSINESS - resumption**

**1. Concessionary bus fares for the disabled: costs to be met by the States (P.9/2017)**

**The Bailiff:**

We return to the Consolidated Order Paper. The next item is P.9/2017: ‘Concessionary bus fares for the disabled: costs to be met by the States’, lodged by Deputy Tadier. I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to request that the Minister for Infrastructure should not implement a £15 administration charge for disabled bus passes and that any costs of issuing the card should, instead, be met from within his departmental budget.

**1.1 Deputy M. Tadier of St. Brelade:**

Good morning. Now some Members may no doubt be thinking: “This is only £15, why are we quibbling about it? People can afford £15. Deputy Tadier, why do you not quit while you are ahead? We have agreed to give free bus fares to people and the £15 charge is just an administration fee which goes towards those costs.” Of course, the vast costs of this scheme will be paid for by the taxpayer, the huge part, and this is only the very small part: why are we even debating this today? There were several reasons for that and I have listed those in my report, but the key area that disappoints me is that these charges are not necessary. It was not necessary for the Minister, or for LibertyBus - I know that LibertyBus will be listening - and part of my message is to them today, is that this fee is not necessary, is not necessary because LibertyBus already administer a parallel and equivalent scheme, a much bigger scheme, which is the pensioners’ bus pass. There will be more people claiming that bus pass than there will this trial period disability pass for those who cannot drive. It is limited already to those who are disabled and who cannot drive, even when, I suspect, the trial period is finished there will be a vastly greater number of pensioners still claiming their free bus pass without the administration fee. I hope there will be no administration fee in the future and there should not be an administration fee for this trial period, or for the issuing of an equivalent disabled bus pass. The reason I say that again is because LibertyBus currently issue it without a fee. LibertyBus will be the ones benefiting from this new programme, because the Minister has explained that £1.50 will be given to LibertyBus for every fare; that is equivalent to what you, or I, would get if we used our pay-as-you-go AvanchiCard. It is £1.50, they will be getting the £1.50. They are the beneficiaries of that and I do not understand in the first place why the Minister did not say to LibertyBus, or why LibertyBus did not offer to do this as part of the deal. They are getting the money for the fares, they will be getting increased traffic, presumably, from people who do not currently use the bus, but will use the bus in the future. It seems to make good business sense for them, but it is also more public-spirited if they continue the same mechanism, because how long is it before they say: “Well we have started charging for this disabled pass”? We have seen it with Jersey Telecom putting on charges to recoup their costs. They would be quite within their rights today, once this precedent is set, to turn around and say: “Well, we want to start charging for pensioners’ bus passes, for the application process for that, because, essentially, we are not a public body. We do run a service for the States and we think that is reasonable.” So, I am not trying to go down the slippery-slope argument; I am trying to argue one of principle that this fee is completely unnecessary. The staff, I suspect, will not be getting paid any more for the issuing of this bus pass. I suspect there is not going to be any more manpower requirements at LibertyBus to issue these. I might be wrong, but they should be able to

absorb that within their operating model anyway. Now, the other key arguments I think for our consideration are the facts that certainly, when I understood it, the Minister was charged to go away and provide a free bus pass for people who needed it. Now, he may quibble over the fact that the wording said a “concessionary bus pass” and that there was nothing in the proposition that said he could not put an administration fee on that to issue it. Of course, he does explain that there is a charge for issuing the Blue Badge driving pass and that is true, but I do not think that is the right comparison to make. To compare like-for-like we compare it with what exists already, which is the pensioners’ concession, which I have already spoken about. Of course, there is an issue here, because the 2 passes are not mutually exclusive. It is entirely possible that somebody, who cannot drive through disability, will be in possession of a Blue Badge or, rather, perhaps, one of their family, or their carers, or friends, who give them lifts will be in possession of that and they will have paid for that already, so to ask them to be charged for a separate concession seems to me a duplication. I will just go through the points, some of which have already been covered. The cost is for applying for the pass and this is what I would like the Minister to clear up. It is not a clinching argument, incidentally, it is just a point of information that I think would be useful for the Assembly, is point 2 on my report. It says: “The cost is for applying for the pass, not for the issuing of the pass. Presumably, it is possible that someone will apply for the pass, but not be successful. It is not clear whether an unsuccessful applicant would be entitled to their money back.” That, I am sure, can be cleared up very quickly. But, there is also another associated cost because, while I appreciate the fact that the Minister is trying to make this light touch and he is not going to scrutinise with a fine comb every application that comes in and says: “Are you really disabled? Can you really not drive?” he will rely on the advice of a medical professional. Presumably, for most people, that means a visit to the G.P. (general practitioner) which we know again in Jersey is not free. If you suffer from a disability in Jersey, presumably, you are visiting your G.P. more regularly than others might do. Now, some of that may be covered through social security / income support, but some of it may not be and you get people paying already for the costs of living with a disability, something which many of us do not have to face those kinds of challenges on a weekly, or daily, basis. So, these people are already in a position where they will have to go and approach their G.P.s to get this kind of information. This is just yet another hurdle. Now, the Minister does say that he wants some kind of disincentive in there. He quotes, in the Ministerial Report on page 9, that he wants a level of disincentive for people, who are not likely to use the bus very often. So, if there is a £15 charge and you only use the bus 10 times in a year, it is probably not worth you applying for that free bus pass for £15, because you can pay £1.50 a time, although, in reality, you will probably be paying £2 cash fare for it, but it might put those kinds of people off. I accept that is an argument. But, my concern is that it is going to act as a disincentive and to put off people for other reasons, namely, people who are not particularly well-off. We have spoken in the last week, as we seem to do every sitting, about the fact that the income support component has been frozen, but people are finding it really tough at the bottom. It may sound strange to us who, perhaps live more affluent lives, that there are people who at the end of the week have no money left, who are eating into their shop bill already when they get the cheque in their hand, that they are paying half of that out to pay for their costs of the week before. That is not, I suggest, because they are indolent, they are bad people, they do not know how to manage money; it is just that things have become particularly tough in Jersey, even for middle Jersey, but especially at the bottom end, where £15 is not money that is just lying around. Again, it sounds strange to us. I am particularly concerned about those people, who will be put off and we will not know about them, because they are not going to come and say to us: “Well, I do not have £15, I am not applying for this bus pass”, it is likely that they will suffer in silence and just not access that. Because this is a trial period, presumably, we do not want to deliberately suppress the demand. The trial period should be there to find out what the actual demand is. If it turns out that there are far too many people applying for this scheme, which I do not think will be the case, because, as I have

said, it is already limited, then that may be the time for the Minister to think: “Is it right now to put an administration charge on this to restrict and put off those people?” He will also have the figures, of course, about the usage per card and if it turns out that the majority of people are using the bus, let us say, for 400 journeys a year; conservatively, somebody uses the bus to go to work twice a day for 40 weeks: that is 400 journeys. LibertyBus will presumably get £600 for that, but I want the Minister to hold that thought, because that is another question I have got in a moment, but that is not central to this argument. So, I think there are enough reasons here, which I have listed, for the Minister to go away. It should not be taken as a criticism of the Minister, I do not think, he is a thrifty Jerseyman. Ironically, this money does not go to his department, it goes to LibertyBus and the preference for me is that this money should not come out of the Minister for Infrastructure’s funds. If it does, that is fine. If it needs to, it should be the hit that is taken by LibertyBus, because they are the ones benefiting in the first place. I would like the Minister to go away, as a matter of preference and I would like the mandate from this Assembly to do it, to tell the Minister to go to LibertyBus and say: “We want you to not charge this £15 administration fee for the duration of the trial period. You will still get your money, we will see how it pans out, and then at the end of that trial period, we can have a discussion about whether an administration fee is justified or not.”

[9:45]

Just one further question that I have, and I touched on it just now, is: I would have hoped that we might have got a better deal out of this. I can understand that LibertyBus run as a business, I would have thought we could have got a better fare than £1.50 per journey. That would have been a way to save money, perhaps, for the tax coffers if we said: “Well you are going to get X amount of new traffic per year and, therefore, you can justify giving us a bulk discount”, but then again that is something which, perhaps, could be revisited at the end of the trial period. My concern is - and the question is quite a simple one to the Minister - will there be a cap on the money payable to LibertyBus? As I have said, somebody who makes 400 journeys a year at £1.50 would be paying £600 to LibertyBus. But you can get an annual pass for LibertyBus for only £495, so I would hope that the Minister would have already figured that into the calculations to say that whichever of these passes are issued, you will never get more than £495 per card, and that is the upper level. Of course, if somebody only uses the bus 10 times, you will get your £15, hopefully, not the £15 administration fee on top of that. I think all these things, hopefully, will have been considered by the department. There are certainly ways, perhaps in the future, to save money, but the point of this is that we have agreed to a concessionary pass. I do not understand the difficulty in saying: “We are going to put a £15 charge on simply because we cannot bring ourselves to give something for free.” I think “free” should mean free. It is, of course, paid through general taxation. I think the majority of taxpayers are quite happy to pay a small amount to help those who are less fortunate and perhaps struggle with challenges which we cannot always understand or, thankfully, in many cases, do not have to experience ourselves. So, I do make the proposition, I hope it is a reasonable one, and I hope that Members will support that.

**The Bailiff:**

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

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

Just a point of clarification, if I may, from the proposer. He mentioned in his speech that he would like LibertyBus to pick up this cost, but in the actual proposition he says that it should come out of my department. Could I seek clarification on that, please?

**The Bailiff:**

I did not understand the proposer to say that but, Deputy Tadier, can you clarify, please?



**Deputy M. Tadier:**

I think, as far as I can read it, it speaks for itself. We are simply asking the Minister not to implement the £15 administration charge and that any cost should be met from his department, so that there is not necessarily a cost; we are saying that he should not implement the £15 administration fee. Now, if there is a cost to it, if LibertyBus are intransigent and say: "We absolutely are going to maintain that £15 charge" then only under those circumstances should we give the Minister permission, or request him, to meet that fee. But, of course, he has more than one avenue open to him, that is what I was trying to explain. That is why I have put "any cost" rather than "the cost".

**The Bailiff:**

Does that clarify the position, Minister?

**Deputy E.J. Noel:**

Yes, Sir, I thank him for that.

**1.1.1 Connétable M.P.S. Le Troquer of St. Martin:**

I did some reading over the weekend, as all Members did, I am sure, preparing for this week's sitting. The notes for 2 of my speeches went back into my file last night and we did not use them yesterday; we did not need to use them. The third one is this one and I was not sure how much I would use today but, as a first speaker, I will speak. I am sure many Members, the longer termers in this Assembly, will remember the concessionary bus fares debates that have taken place. I read up on some at the weekend. The former Senator Shenton asking the Minister for Transport and Technical Services at the time, Connétable Jackson, regarding, hopefully, to keep free bus passes for pensioners, to continue with them; and questions in July 2015 about pensioner bus passes being used during peak time and the Hansard of Deputy Tadier's proposition in the Medium Term Financial Plan. That was the initial plan, the second one, when we were asking for details, it was in 2 parts, as Members will recall, and that regarding free bus passes for those that were disabled. Then, his proposition on the same subject that we debated in February 2016 and then, finally, the Ministerial Decision that came out in August from the Minister that has brought about the debate today. Basically, I think we do have the simple questions posed by the Deputy to try to stop the £15 administrative fee and to clear answers received from the Minister as to why they are there in the first place. I do not need to speak for the Minister, I am sure he is going to be speaking shortly, I thought he might have spoken first. He is more than capable of explaining himself, I am quite sure, without my support. My understanding of what is to happen - and I think it has just been what we just said a few moments ago - the Minister is not implementing the £15 administration fee, in any case; the fee is being taken and used by LibertyBus, by LibertyBus themselves, to cover their fees for the additional work that they will have to undertake. I suppose the Deputy is asking whether the Minister should pick up that fee as well. LibertyBus will not be using the additional money, they will not be using it themselves, because, I think, there is probably going to be additional costs to the £15. I do not think the £15 would cover it. If there was a part (a) and a part (b) of the proposition today, it is all in one, I can understand that, it does not quite make sense the way it is worded at the moment. I think it could have been worded slightly differently. If I can speak on a couple of points. I was not going to speak about these, I was going to cut them out, but from the proposition and the way it was started today, I have a little bit of experience in disabled parking permits, having worked for the Constable of St. Helier for nearly 9 years. The Constable of St. Helier, or the Parish of St. Helier, issue the permits, the disabled parking permits, on behalf of the Minister. We got false declarations to obtain permits. There were suspect declarations, regarding health conditions and most people know, if you go to your own G.P. and you tell your own G.P. that you have got an injury, or something, you cannot walk, or drive, you are very likely

to get it. There is not a central department that does it. We have had family members - and the Constable of St. Helier will recall them - using the disabled permits, using the parking permits when people have died, or they no longer drive. But I can just remind Members, there is a £15 fee for that, for the work that has to be undertaken. It only lasts for 3 years. You have to pay for your doctor's letter, as well, and there is provision in legislation to cover false applications on that. So, you go through the Road Traffic Law and also the Disabled Driving Permit legislation and the orders are there to cover that, so offenders can be prosecuted. If I can just add, because I think it comes in a bit later on, the disabled parking permit application form is simple. It is a page and you fill in that and it is quite simple to do. Then, we come to the concessionary bus passes for pensioners. I have got one there, I use it. I use the bus a lot. Difficult to abuse that. I am either 65, or I am not. I go to LibertyBus, I can produce something, I am 65; female, 60. My wife had the bus pass before I did, it was great. You go down to the bus station, you take your proof of age, as simple as that, your pension card with you and a utility bill. They take the photograph for you there and then, you have got your pass in a moment. They handed me the card and I walked away. I am just concerned, I noted yesterday, it may be something Liberty knows that I do not, but it is only for 5 years that one. I thought I was always going to be a pensioner, but it expires in 5 years' time; I am not sure why they do that. This is a little bit from a disabled driving permit, because I do not think there is legislation that covers that. Now, the Minister for Social Security may say there is something, maybe a common law fraud, if you applied, but I do not think there is legislation like there is for the disabled driving parking permit. I go back to the question asked of the former Minister that was recorded in the Hansard debate that I read at the weekend and it is a concession. That is a concession. That can be taken away at any time. There may be, at some stage, the pensioner card for buses, your pass may be taken away. There is nothing in legislation to cover it. Now, we have got the concessionary one we are talking about today: the pass scheme for residents with long-term disability that prevents driving. Again, it seems to fall under its own remit. It is a new concession. It is a trial at the moment; we have heard it is a trial. Neither the Minister nor LibertyBus have any idea how many people will apply for it. It will create extra work for LibertyBus, there is no doubt on that, compared to me turning up and smiling to a camera and being given that permit straight away. They will have to do some work: reviewing the application, supporting documentation from a doctor, or from an organisation and the relevant accepted authority, because there are authorities as well. If there is any criticism of this, and the Minister might want to take it back: it is a 10-page application form. I spoke before of the one page, this is a 10-page application form. I have the application form there. It is quite simple to fill in, but it is 10 pages. If there are people listening on the radio, please do not be put off by receiving that, it is easy. If you are listening, or watching, on the States debate, it is not a difficult form to fill in. I have followed the progress of LibertyBus with interest, living in a rural Parish. I rely on the buses. A lot of people in our Parish do and the country Parishes do. I have also looked at it, as a States Member, right from the beginning. As Members will know, they had a rocky start. Nobody likes change and we went from Connex to Liberty and everything was going to go wrong and there were new routes and there were concerns. But, they are a social enterprise group, they said that from the beginning. They would come back into the community, give things to the community. I personally think they have. I have done a little bit of research over the weekend of what they did. They are totally committed to their drivers - I have got the list there - over the last 4 years who have helped customers in difficult situations that have arisen on the streets. I have a list of each of those, I will not read them out today. The company too working in so many areas; LibertyBus, a social enterprise on this Island. They are working with people with disabilities, their transport for charity events that they are offering, attempts at the Parish Links. That did not work, but they tried it. They said they were going to do that and they tried it. Their work with Mencap, with J.E.T. (Jersey Employment Trust), with La Moye, in preparing prisoners, who are released and getting back into the workplace. So, Deputy Tadier has, quite rightly, not criticised LibertyBus in his proposition, all

the work that they do. There is no criticism there. I know Deputy Tadier is trying to improve even further what was on offer for disabled people. As I said, I think it falls into 2 parts, but it is not divided like that. The main issue, I suppose, is whether the Minister's department should pay for the administration of the scheme, as well as subsidising every fare too. We do not know how many people that might be: 1,000 people, £15,000. That might come from the Minister's department: 5,000 people with disabilities, £75,000. That is money that they might be able to put back into the social enterprise work they are doing on this Island. So, in concluding, and if it helps the Deputy, if it helps Members today, I attended the exhibition at Fort Regent on Friday afternoon, and I know some other Members did attend: Taking Part Making Art. This was an exhibition of work, excellent work, undertaken by members of Mencap. Members today can visit that at any time. It is going to be open and I hope more members of the public do. Their paintings and sewing, the haberdashery work that they did. They even have got the model of Charing Cross, which was referred to as Cheapside Inn in the local media, but it was Charing Cross. I was speaking to some of the people who were helpers there. One of the tutors, and I know she is not a spokesperson for the whole of Mencap, we were just talking in conversation, I cannot remember the exact words, but she was saying to me: "Thank you very much for sorting out the bus passes for our members." I came back to her and said: "What about the £15 that is causing so much distress and we are going to be debating next week in the States?" She just said, and, as I say, she is not a spokesperson for everybody: "That is not an issue. Some of our members are having to take 2 bus journeys to get to us every day and 2 bus journeys to get home. A minimum of £6 a day without the AvanchiCard, or £8 a day." This is what she said: "No one has complained to me about the £15 fee for their card. Thank you for sorting it." I am sorry, I cannot really support the Deputy's proposition, because I think it would be more money, effectively, available for the social work that LibertyBus do. Thank you.

### **1.1.2 Deputy E.J. Noel:**

It is a pleasure to follow the Constable of St. Martin and his wise words this morning. I would like to start by providing a brief history about the concessionary travel pass scheme, which Deputy Tadier wishes to interfere with. In November 2015, I invited Deputy Tadier to work in partnership with my department and LibertyBus, so that the feasibility could be introduced for the free bus passes for disabled Islanders and we could discuss and implement a suitable scheme. At that time, we were liaising with the officers from the Chief Minister's Department, who were carrying out work to assess the general prevalence of disability in Jersey and the wider issue of travel assistance for those who need it as part of the development work for the Disabled Strategy. It was our intention to wait until the outcome of that strategy work to enable us to provide the right form of concessionary travel to those who need it.

[10:00]

It would have been helpful, and logical, to have let that process reach its conclusion prior to looking at a more specific issue of bus travel passes for disabled persons, because mobility access is not just about bus passes: it is a much broader topic. However, immediately prior to that meeting in November 2015, in fact the day before, Deputy Tadier chose to lodge his proposition P.140/2015, which the States, quite rightly, adopted on 23rd February last year. As a consequence, in August last year, ahead of the States deadline, I confirmed, via an official Ministerial Decision and public report, that a concessionary travel scheme for Jersey residents with an ascribed disability that prevented them from driving would be introduced in early 2017 and I did include, in that, details of the £15 administration fee. The M.D. (Ministerial Decision) was reported in the media and, of course, was publicised on gov.je. So, from 1st March this year, those eligible for the pilot scheme can take advantage of unlimited free bus travel on any route at any time. This is a massive step forward when, previously, the purchase of an annual unlimited travel AvanchiCard does cost £495.

We were able to do this with joint working with the Minister for Treasury and Resources and myself and we identified a funding source and this is an investment by this Assembly of £1.8 million over the next 3 years in disability-access provision. I am now being asked to rescind the £15 administration charge and the basis of which it was introduced was clearly set out in my Ministerial Decision of last August. If Deputy Tadier was against the administration fee, I am curious to know why he did not raise it with me at the time and instead leave it until the scheme was effectively already underway. I acknowledge that he did try to lodge and debate the proposition on the same day at our last States sitting on 14th February, but I did not see why there was a special case to do so when he had 5 months to bring this to the Assembly's attention. He did know about my M.D. in August, because I did draw it to his attention in the autumn so, in some respects, I am disappointed by this proposition. Members will recall that Deputy Tadier did claim, in an email which was circulated to States Members, on 14th February and I quote: "I have lodged the proposition as soon as I became aware of the charge." I find that a curious statement to make by Deputy Tadier, as I even reminded him by email of my Ministerial Decision and the report back in November of last year, so I am at a loss to understand why he thought he did not know about this until 14th February of this year. In Deputy Tadier's report, his second point is that he claims that the £15 charge is for applying for the pass and not issuing it. It appears that he may not have read the application form clearly, because it clearly states in there that it is for the card being issued. I would remind Members that the only reason - and I repeat - the only reason a card would not be issued was if the applicant had fraudulently completed part 5 of the application and, for Members' benefits, that is the section that the authorised signatory, such as a G.P., or health professional, should complete. If the applicant has completed that fraudulently then, perhaps, they should not get their £15 back. In advance of launching the scheme, my department engaged with a wide range of representative organisations, medical practitioners and individuals, as set out in my comments paper. They have all been entirely supportive of the pilot scheme, which went live at the beginning of this month. They were aware of the administration charge, but no one raised it as an issue. I have received nothing, to date, but positive feedback about this scheme and we, as an Assembly, should be proud that we have introduced it. **[Approbation]** Within the first couple of weeks there have already been 95 disabled Islanders benefiting from the new concessionary pass that gives them free, unlimited, travel for their journeys. As of midnight on Monday night, so far 802 journeys have been completed by those individuals. I am confident these numbers will grow significantly over the coming weeks and months. Of course, there is a cost associated with handling enquiries, processing the applications and, importantly, validating the authorised signatories that is over and above the normal AvanchiCard, or the normal senior citizens' card, and that has to be paid for. I would remind Members that my department already subsidises the bus service to the tune of over £4 million per year. It is not fair that this would impact on the excellent service that LibertyBus gives us. It is also reasonable that we do not oblige LibertyBus to absorb all of the costs. They are absorbing some of the costs for carrying out this scheme, but they should not be forced to absorb all of the costs. As the Constable of St. Martin has already indicated, for the same reasons, applications for the Blue Badge disabled drivers' parking permit carry the same modest charge and that £15 goes to the administrator of that scheme, which is the Parish of St. Helier. I cannot understand why Deputy Tadier would now wish to create an inequality, by abolishing an administration charge for one facility for disabled persons, while retaining the charge for another facility for disabled persons. At no time have we received any adverse comment about the modest administration charge from those associated with the scheme; nor have I received any complaint whatsoever from those who are eligible for the scheme since it was first announced in August last year. Relative to the overall benefit of the new travel pass that it offers, the administration charge is a very small amount; it is something like 10 pence per week over the 3-year period. I am confident that the fact that by having a small charge people will appreciate the pass even more. I believe that Deputy Tadier is championing an illusionary cause. There is no real

controversy about the administration fee, certainly not from the users of the scheme. A great many disabled persons are going to be eligible to use our bus service completely free of charge for their journeys. This is a positive thing. In February last year this Assembly did something really good for our community. It is a substantial investment of £1.8 million over the next 3 years and, I believe, Deputy Tadier should share the glory: it was his proposition back in February last year that made us move quicker and bring this in, which we did ahead of time, and so I find it perplexing that he is now trying to turn this into a negative issue.

### **1.1.3 Deputy A.D. Lewis of St. Helier:**

I, among a few other Members, was privileged to meet Sir Vince Cable recently at a luncheon that was organised by the Minister. I was impressed by the social enterprise initiative that he described which is the bus service that we have in Jersey. It is a social enterprise. I would just like to read you something about what social enterprise is and what LibertyBus is really about: “Social enterprise trades to tackle social problems, improve communities, people’s life chances in the environment and a way of doing business that puts people and the planet first.” That is what LibertyBus are about, they are a social enterprise. So, when I read the Minister’s comments, I see the list of stakeholders that have been consulted on this, which is significant. My particular constituents here are very, very pleased with the bus service, because it has the best bus service of all constituents, I think, because of the routes that go through it; I get very few complaints, if any, about LibertyBus. I have received no contact from the many mobility-impaired people that live in my district about this issue. They are nothing but positive about LibertyBus and, in particular, the initiative for the disabled. A number have mentioned that to me, but nobody has mentioned the £15 charge. That said, it does seem to some, and Deputy Tadier included, a little petty to charge £15 in the scheme of things, when you are investing £1.8 million in this initiative to satisfy the disabled, so I can understand why some Members might see some merit in supporting this. But, I would urge Members to, perhaps, just look at the LibertyBus website, just see their mandate. If they do not charge £15 to do this, they will not do some of the other things that the Constable of St. Martin alluded to. All Islanders benefit from that, particularly those that are, perhaps, more marginalised, such as disabled people, so there is no free lunch. Well, there is a free lunch on the Minister when Sir Vince Cable came across, but it was a very enlightening speech and it was all about putting more back into the community and this is what LibertyBus does. If the £15 charge is not picked up by the user, it will be picked up by LibertyBus, or, potentially, the Government so that less investment can be made for more people to enjoy mobility in the way that the Minister wanted to implement it and in the way Deputy Tadier wanted to as well. So, I am slightly concerned here that we are maybe getting too far into the deep grass about a minor detail and losing sight of this huge opportunity that we now have before us for a £1.8 million spend over 3 years on mobility and disabled access, which has been long overdue. I can go back many decades and remember the Year of the Disabled. I do not think there has been once since. Perhaps this should be our 3 years Year of the Disabled. I hope we do promote a number of schemes, and not just this one, but to have a big debate, or potential argument, about £15 does, in the scheme of things, seem perhaps a little over the top. But, I had hoped the Minister would explain more clearly as to why the £15 has not been absorbed. But, I hope that I have given my thoughts as to why it might not be being absorbed because, if it is, then the money that social enterprise generates will simply not be spent on other things that we all would benefit from, but, particularly, those in groups that are most in need, such as the disabled. So, I will listen to the summing-up and what other Members may say but at the moment, with the amount of investment being made in this area, which I applaud, I think this is a small concession for those that are going to access it. I have received no complaints, as has clearly the Constable of St. Martin, about the issue of the £15 charge, so I am minded to oppose it at the moment, unless the proposer comes up with something that I have not heard yet. Thank you.

### **1.1.4 Deputy S.Y. Mézec of St. Helier:**

In February last year I voted for a free bus pass system for disabled people and the reason I will be backing this proposition is because that is not what the Government has delivered. If there is a £15 charge for that bus pass, it is not free. I voted for a free bus pass system, the Minister has not delivered it, and this proposition, I believe, simply tries to get back at the ethos of what that initial decision was meant to be about. Let us not forget that this is a decision that the Minister had to be dragged kicking and screaming over, because the Members, who stood for election as prospective Ministers, promised that this would be something they would deliver. I believe Deputy Tadier deserves to be commended for not dropping the issue, for pushing it, and for getting to the situation where we are now in, where there is progress. Now, Deputy Noel stood up and said we should not be so negative about it. Well, we are not being negative about it, this is progress. The difference between him and I is that I believe you should always strive for progress, not just get a bit and then give up on any further progress. The clincher for me is the fact that the senior citizens' bus pass does not have an administration charge but, for some reason, there is with this one. There is no reason why that same principle cannot be applied to this as well. We voted for a free bus pass system, the Minister has not technically delivered it on that, so I think we should accept this proposition, get back to the ethos of what that promise was initially about, free across the board, whether you are a senior citizen, or whether you are somebody with a disability, make it a genuine free pass and that is why I will be supporting this proposition.

[10:15]

### **1.1.5 Deputy J.A. Martin of St. Helier:**

I think my speech is a bit along the lines of Deputy Andrew Lewis of St. Helier, because when I did read, first of all, Deputy Tadier's proposition I was, as in his own words: "Now, come on, Deputy, it is £15", but then you have to weigh up: what did we vote for, is it free? No. Is it means tested? No. I go back to V.A.T. (Value Added Tax): keep it simple. So, we do not know if there are people out there who are not complaining, who cannot afford the £15, or it is going to be a stretch for them. They might have to go without something today, this week. The comments are all over the place. The Minister says there are over 11,000 senior citizens' bus passes, but only 5,000 get used and some of these are used only 5 times. So? Tackle that problem. Do not bring it on an administration charge. I am not necessarily going to support Deputy Tadier. I literally have to sit here and weigh up: is it the principle or, as Deputy Lewis said, is the Minister being: "We are going to charge £15. I am not really into this, so I want to get something back"? I was at the meeting with LibertyBus and, yes, they are non-for-profit putting something back, what are they going to do? To me, I heard: "When we reach a level of income, then we will start putting something back." I am not knocking LibertyBus, I have 3 routes that I can choose from. The last comment on here which, really, as the Minister for Infrastructure says: "Well, we charge for Blue Badge parking." Would you not want to stop people coming to town, driving round the Island and parking? You want to get them on the buses. This is the Minister's strategy, but he is comparing apples and pears and they are not even comparable to me. I will wait for the Deputy to sum-up, but the point that people pay for a parking permit, so what? I do not want a disabled person coming into St. Helier, or going from St. Helier to one of the country Parishes and having free, or cheap, parking. I want them to be able to use the bus. That is the top line here. So, do we think the Minister is being stingy and do we think the Deputy is being over: "Well, I did not get it free"? Well, remember what you voted for. I will listen to the Deputy to sum up, but it is not arguing over £15, it is, to me, the absolute principle of what we asked to do. Is it the worry, is it the gatekeeper, or the opening of the gateway? Why did, in the comments, they keep mentioning senior citizen passes? Do they want to charge £15 for that? So, remember it is the principle, not the money. £15 does not half cover what this ... it is not simple, because the Minister has just said it needs to be verified. Well, a doctor's letter signed, you have to pay to go to the doctor, what do they do? Ring the doctor? How do you verify a doctor's letter? Because, I will tell you now, you ring my doctor and ask if they

have written that letter about me, you will get short and sharp: "I am not giving out that information." So, I really do not know what the Minister is trying to achieve here. I think it is a fantastic scheme. Is this like a little bit of a fly in the ointment, or is it justified? To me, I need to wait for the Deputy to sum up, but I need to weigh up which one here is going too far: is it the Minister, or is it the Deputy? I need to know nobody is suffering, I need to know the scheme is working, and I do not need to hear that you can pay for parking when we are trying to get the majority of our people, even and including disabled people, on to the bus, so the Minister is not comparing the same. So, as I say, I will listen to the Deputy. I am a bit of a "I am not sure", but so far the Minister has not convinced me that he needs this money and is there nobody out there that has complained? Well, it is very early, maybe people are sitting back who are not applying for it when they should be. It does not mean there are people out there who should be getting this pass and they are not. Thank you.

#### **1.1.6 Deputy G.P. Southern of St. Helier:**

It is a pleasure to follow Deputy Martin, as ever. She is absolutely right about who is making the fuss here. The administration charge is completely, I believe, unjustified and the words of the Deputy, when he stood for his position as Minister in this House, on 6th November 2014, were as follows: "These disabled people need to have access to public transport, which is free." Access which is free. Not access with a charge on it. I was there at those hustings meetings when Anthony Lewis said: "When are we going to get free bus passes for disabled people?" and man after man, candidate after candidate, stood up and said: "Yes, this is what we are going to do." We are finally getting towards doing it; now, the question is: £15. Is that an enormous amount? Is that a small amount? It is a small amount to me, £15 for an administration charge; not necessarily to the people who may be using this. Here is my card, do I need that? An O.A.P. (old-age pensioner) AvanchiCard concession? I do not need that, nonetheless it comes to me free. It comes to my wife free. I am on Deputy Noel's list as a not-very-frequent user of the bus pass, but I do use it. My wife certainly uses it more often than I do when she goes shopping. It comes for free, not a charge on it; all I have to do is turn up at the bus station with the photographs and the utility bill and it is done. Is it really £15 to check on somebody's signature? Is that what you are saying? Is that the difference? Is that what we are going to do? Are we going to be phoning up doctors and saying: "Have you signed one of these?" Really? Right, okay. Well, that should happen for free, because I know the sort of person for whom £15 is more money than they have. I am thinking of a specific person: she is on the old-fashioned invalidity benefit, 100 per cent, rarely gets out. I know her, she is in her 50s, she is disabled. I know her, because I am helping her try and clear her rent arrears. At the end of the week she does not have a spare penny, never mind £15. Why? Because, as a disabled person, as of October 2015, she lost £12 a week in her income, because the disregard for disability was removed; so she is £12 a week worse off. She is the sort of person who needs this bus pass and would usefully use this bus pass, but she cannot afford £15. That is the reality for many disabled people today. We have just cut their disregards and they are worse off by £12 a week - that is in some cases - than they were previously. Now, we are going to say: "We have got free bus passes for you at a charge of £15." If you go out there and offer a scheme that says: "We are introducing free bus passes for the disabled. Oh, by the way, it costs £15", is anybody going to complain? Yet, Member after Member said: "Nobody has complained." Did they go to the persons involved and say: "You can have this for a £15 charge, or you can have it for free"? Did anybody say: "You could have it for free, is that what you prefer?" then you might get a different response. Of course, nobody is going to turn down a concession, nobody is going to complain about a concession while it is being devised at £15. It will not happen. I know the people for whom £15 represents too much money and it is the people who, in many cases, this is aimed at. Do, please, support Deputy Tadier's proposition.

#### **1.1.7 Deputy R. Labey of St. Helier:**

Yes, I hear what Deputy Southern is saying and I, too, know people who are living in constant debt and in constant arrears, for whom even £15 is not readily available. I wonder if any Ministers could advise if there is, for those very desperate few, if there is anywhere else they can go in the system where they might be able to claim £15 directly for the concessionary bus fare. Deputy Tadier's original proposition does ask for a concessionary bus fare, not a free bus fare. I would like to hear from him, because he praises the Blue Badge scheme in his original proposition as a valuable benefit in a civilised society which it is, of course. Did he realise, at the time, that there was a £15 charge for the Blue Badge? How does he reconcile that? I am a bus user, I use the bus a lot. I would use it a lot more if it went both ways down and up Route de Trodez, instead of just one way. I know some of my constituents would use it more if the number 1 bus route did a loop and went over Mount Bingham and around those awful bends, either down Pier Road, or down through Commercial Buildings, but that is another subject. So, it is a difficult one for me and I am waiting to hear what Deputy Tadier says in reply to Deputy Andrew Lewis. We are in danger though of turning what is a good-news story about the concessionary bus fares into a bad-news story, which would be a shame.

### **1.1.8 Deputy M.J. Norton of St. Brelade:**

A pleasure to follow Deputy Labey of St. Helier. Like Deputy Lewis of St. Helier I, too, was greatly pleased to be at the LibertyBus lunch, if you want to call it that, showcase of their social enterprise. I was very impressed by their social enterprise, I was very impressed by the work they have done so far, but let us not forget LibertyBus last year won a national award for their work here in Jersey as the most-improved bus service in the United Kingdom. **[Approbation]** I think very few people can argue that it is not an excellent bus service. As many Members will know, I am a regular bus user and always carry my card with me. It is very, very useful and where I happen to live happens to be the busiest bus route in the Island, so it is very useful for me. That aside, the social enterprise aspect of LibertyBus and their operation is working very, very well for a great deal of people in Jersey, including those with disabilities, including those who need to get back to work for various reasons and are struggling to do so. The work they are doing is very, very important and very valued to this Island. I take up the point that Deputy Lewis mentioned earlier: they do need a certain amount of funds for this non-for-profit organisation of social enterprise, in order to furnish and assist these people. They have an administration charge on a concession. Somebody has to pay for that administration charge and, yes, it could be argued that government should pay for that. It is in the hands of LibertyBus. LibertyBus, rightly, will get an administration charge, if there is to be one, which at the moment there is. They need that administration charge to cover those costs, in order that they can further the social enterprise in this Island. I have been privy to some of the plans that LibertyBus have for further social enterprises and, over the next year, people will see LibertyBus develop further social enterprises that will be of great benefit to those with disability, those who are attempting to get back to work, those who are going through rehabilitation through the prison service. It is crucially important that they have the finances to do that. "Interfering" was a word that was used earlier on and, in a way, although well-intended by the proposer, and I can understand in some ways why the proposer has brought this, this would interfere with that, and I do not think it should.

[10:30]

The proposer also said, in his opening address, that he felt that LibertyBus should be the ones to "take the hit" for this. I think those were the words that were used. I do not think they should take the hit for this. I think it is a reasonable charge. Would I prefer that there was no administration fee at all? Yes, of course. But, if there is administration, it has to be covered. It has been covered in an appropriate way. I can understand why the proposer has brought this forward, but I think, as has already been said quite eloquently, this is already a good news story, this is a concession of



something that we should be celebrating that we are doing very well, and it is a moderate charge for free use of the buses. If the forms have to be processed, they have to be processed, but the end result is that people will get a bus service that they can use for free for a long time over and over again, and that will make it excellent value. I think, going back to my original point, LibertyBus is a social enterprise and it is doing some excellent work, and it has got excellent plans going forward of things that it wants to do and I would not like to see those be put into danger under this proposition. With that, I will not be supporting the proposition.

#### **1.1.9 Senator P.F. Routier:**

Many Members will be aware that I have a close association with some charitable organisations, which represent people with disabilities and I should declare, also, that my son will be applying for one of these bus passes. The way that I look at this is that there are a number of people, who have a disability, who currently use the bus service and it has been costing them a fair amount of money. The introduction of this is a major benefit for them to have that cost taken away from them. I think it was the Connétable of St. Martin, who mentioned people who have been doing a couple of bus journeys to get to and from their daily activities and they have been bearing the cost of having to do that. The introduction of this scheme is a real bonus for people with disabilities, there is no doubt about it: it is a significant improvement for them. It removes the barrier, which they have experienced, of perhaps not being able to afford the bus fares, and people have had to be very careful about how they balance their budgeting and so, by removing the barrier of having to pay a full fare every journey they make, this has got to be an enormous benefit for them. I accept that the Minister has come forward with the introduction of a fee for administration, which, I think, is an appropriate thing to do. I have to say, with all the people who I do know within this community, who would be likely to apply for this, I have not had one say to me that they find the imposition of a £15 fee as a barrier for them. I leave it there. I just hope that Members will ensure that we are able to celebrate what has been the fantastic introduction of a disabled bus pass.

#### **1.1.10 Senator S.C. Ferguson:**

It seems as if the sticking point is this cost of £15, and this is understandable. Whether we are doing the bus pass for partially disabled people, to make it easier for them to get to work, or for more severely disabled people, in order to enable them to afford to move around the Island, but if the £15 is this sticking point, what is the likely cost to be? How many disabled people do we have in the Island below retirement age? Perhaps the Minister for Social Security can help here. Because, above retirement age they will all get their free pensioner's card. So, could we please have an idea of how much it is going to cost at £15 and whether it is something that the States can, in fact, afford to pay, or whether this is just a matter of principle that we cannot give any more money away, but we can go and spend it on something else? Could we have some figures, please?

#### **1.1.11 Deputy S.J. Pinel:**

It is just a point of clarification with people saying there are people who cannot afford the £15. People currently on income support, with a disability, are in receipt of the mobility component of income support, which is £23 a week.

#### **1.1.12 Senator P.F.C. Ozouf:**

Very quickly. I have a basic philosophical view that, while there is a strong case for public goods to be provided for free, in certain cases, where something of value is given, even to recipients in need, then a co-payment system, even of a modest amount, makes that good valued by the users to a greater extent and it also prevents the misuse of free goods. That would extend to - and I am afraid I am going to upset some Members by saying - free prescriptions; I think that if you pay for something then you value it, even if there is a modest, nominal fee. That is a philosophical view. A concessionary bus pass, I remember well, all senatorial candidates remember well, when

Mr. Anthony Lewis stood up and asked at the senatorial hustings in Grouville about concessionary bus passes. He did not say: "A free bus pass"; he wanted a scheme, I think; I do not think I am misrepresenting him. I have not heard any criticism of any of the users, or from any of the organisations involved, that the Minister has done anything else apart from introduce something that is good and is providing real benefit. You could argue whether, or not, it is too generous, means-tested, all the rest of it, but we have made a decision and we have done it. But, a nominal fee of £15 is a payment, which is a co-payment system, which means that you value it. Deputy Tadier used the word "hit", and he said it in the context of hitting LibertyBus. LibertyBus does not need to be hit for social enterprise. They make profits and they reinvest it in the community. He used the words, Hansard will record it: "Hit LibertyBus."

**Deputy M. Tadier:**

Would the Minister give way? He is misrepresenting ...

**Senator P.F.C. Ozouf:**

I am not the Minister. Sorry, I am not giving way. We should not "hit" the Minister, or "hit" LibertyBus. A co-payment of £15 is reasonable and makes the users of it value it and we should reject this proposition on that basis, and we should also consider reforming the other free bus passes, which are triggered at age-related benefits. These things are things of the past: they are unaffordable and they are not right. To link the issue of the fact that you get a free bus pass, at no cost, when you are a certain age; 2 wrongs do not make a right, and Members should reject this. £15 is modest and it is the right thing to do and people will value it. I think the Minister should be congratulated in what he has done, and Deputy Tadier to the extent that he brought this forward and accelerated the process, him too, but £15 is an administrative charge, it is needed, let us keep it, please.

**1.1.13 Deputy L.M.C. Doublet of St. Saviour:**

I am thinking along the lines of Deputy Martin; I am undecided on this one because, in some senses, I think, well, £15 is a nominal charge; for us it might be a small amount of money. But I am a little concerned that lots of Members seem to be basing decisions on the fact that no one has come forward to them and said that it is going to disadvantage them. No evidence of a disadvantage is one thing, but we do not have evidence that nobody will be disadvantaged; there is a difference. I do not know how many people are out there, who have a disability, who really cannot afford this £15; I do not have that evidence and that information in front of me, so I am struggling to make a decision here. I just think we should guard against that, more generally, in the decisions that we make; just because people have not come to us and said: "I cannot afford this. This is a problem for me" does not mean they are not out there. It is those people, without a voice, who do not have the confidence to speak to us, who we need to consider even more, I think. I am undecided and I will be listening to the Deputy's summing up.

**1.1.14 Deputy R.J. Renouf of St. Ouen:**

In my view, most of those, who would be eligible for this bus pass, would be perfectly willing to pay a reasonable administrative charge for it, recognising that they are receiving something of value. This is a good news story, which they would understand, and I do not see an objection to that reasonable administration charge, because there is a cost to issuing and the process. But, it may just be that there are some recipients, or likely recipients, who would find it difficult, at the end of the week, to find that £15, but who would, nevertheless, benefit from a charge. For those people, we have a means of considering them and helping them, I believe, in that the Parishes have a limited amount of funds, which they can apply at their discretion. In my panel's review *Living on Low Income*, we sought to highlight this: that, generally, they are legacy funds, but in the past benefactors have given money to the Parishes, Don Gruchy is one example, Don de Faye, but

people who have wished to benefit Islanders less fortunate than themselves. Those funds are not sufficient to provide an income support scheme for parishioners, they are not that large, but they are sufficient to pay £15 for somebody in need. Therefore, I think, we can have recourse to those funds; I hope the Connétables would agree. If LibertyBus were able to point people towards their Parish Halls to discuss that, and the Minister likewise, if people come along to say that this is causing a difficulty, and we as Parish Deputies, can we work with our Connétables, can we get together? Because, I think it is very likely that we would be able to identify those in our Parishes who might benefit from this scheme, who would gain a huge advantage by increasing their mobility, increasing their social inclusion. We can make sure that they know about the scheme, we can go out and tell them about it, let us co-ordinate a bit that way. If it is felt, or if the person tells us that £15 is just too much for them, then let us try and do it through the Parishes; that is what those funds are there for. £15 can be met without any serious impact on those funds, I am sure. Let us make those funds known for the purpose for which they have been created, which is to help those who need help in our communities, but let us not remove this charge for those who find it a reasonable proposition that they should pay what is a reasonable cost for receiving the concession they are to gain from this. I cannot support the proposition, but I would urge that, if there are people who may be in difficulty meeting this cost, let us find that way of resolving it.

#### **1.1.15 Deputy J.A.N. Le Fondré of St. Lawrence:**

Like a number of other people, I am struggling a bit with the debate. It is going to sound slightly contradictory, but to me it is probably not entirely about the money; it is also about a principle as well as the magnitude of the financial impact that we are discussing. If I am going to be critical of anyone, it is going to be the Council of Ministers, because we have got no data here that tells us the financial impact of what we are talking about. I will come back to that later. I will start at the very beginning: (1) I am very clearly a fan of LibertyBus. I have heard people saying this is not about criticising LibertyBus. The bits I have heard, I have not heard people being critical, but some people are accusing them of being critical. I have heard comments about interfering. I think one of the other fundamental bits, right at the beginning, Deputy Tadier brought a proposition to this Assembly.

[10:45]

I have dug out the main proposition, because it was then amended, but what it said, at the time, was to: “Request the Minister for Transport and Technical Services to enter into discussions with LibertyBus” and I think it is: “... for the provision of concessionary bus passes for those who have a prescribed disability, and to bring forward proposals to the States no later than ...” and it was May last year - now, that was changed, I think - “... detailing both the potential cost implications and the criteria which applicants would have to meet in order to access the service.” So, from that point of view it would seem definitely that credit is due to Deputy Tadier for pushing this process forward. Now, I had a quick look downstairs, because I honestly cannot remember what happened in May, June, or August, last year in terms of the exact details and paperwork that came in front of us, but I could not find online a report from the Council of Ministers giving that information. Great, it was then accepted, effectively. Bear in mind, this was voted, almost entirely unanimously, by this Assembly. You see, if it had come back as a report and then a proposition had come through, perhaps in the M.T.F.P. (Medium Term Financial Plan), or whatever, then you could have had the argument, because you would have had a clear picture, of what is going on. The other point in here, because in the actual comments from the Minister, and we have heard it, there has been reference to the AvanchiCard. That has got to be completely irrelevant to what we are talking about. Let us talk about the senior citizens’ travel pass. They talk about: “Without the application fee, it is probable that an inflated number of applications would be received from persons, who do not really need the travel pass.” We always get accused of anecdotes. And then we get to the

magnitude of the problem. Now, the Minister, from what I heard, when I was trying to do a quick Google downstairs, said there had been 95 applicants so far. That is great. That is a cost of £1,425. Bluntly, somebody sneezes here and we lose about £10,000, it seems. So, what is the magnitude of people we are dealing with? Because, I can recall, and I recall from Senator Routier, who got rid of prescription charges. I remember being in the Council of Ministers on that day and I think saying that he was ... I was not overly complimentary, I do not think, because I could see that that was going to cost a fortune. I remember his response being: "Well, I can do it, so that is what I am going to do." I was a mere Assistant Minister, I hasten to add, at that point. So, I am trying to marry that up, which has cost us a lot of money, to something when we are talking about ... so, I agree with what Senator Ozouf said, I do agree with this principle that there should have been some charges in place, because it prevents this abuse, if you like, or this giving out of free goods all the time. But, it is about magnitude as well. The disability area, to me, has never really been about means testing, because our psychology has changed so much in the last 10 years; whereas disability for me has always been about helping people who have suffered way above and beyond. That is not about means testing. That is not about income. I do not care if they are a millionaire, or they are homeless - you know, obviously you do - but the point is they have suffered above and beyond; I am talking about genuinely disabled people here. So, it then comes down to this issue of £15, what are you achieving that way round? That is why I am struggling, because we have not got the data here. Reference was made to helping people back to work; I would not have thought they were disabled. I might be wrong there. I would not have thought that would apply to this kind of situation. No, about a concessionary pass for disabled people to have bus travel. That is not about helping people back to work, necessarily. Is it? Have I missed a point? Yes, they could be disabled and you are helping them back to work, in which case they are qualified for disabled, but if they are not disabled and you are trying to help them back to work, they are not going to be eligible for concessionary bus fares, does that make sense, for a disabled one? No? Have I lost the plot?

**The Bailiff:**

Deputy, the usual thing is the Deputy makes the speech and nobody else intervenes. [Laughter]

**Deputy J.A.N. Le Fondré:**

My apologies, Sir. But that was my reaction: somebody said: "This is about helping people back to work" and my original reaction was: "That is not necessarily just to do with disabled people and concessionary passes." It is very clear this is a huge improvement, but I need to know what the magnitude is. As far as I have always understood, it is not Deputy Noel's department that subsidises the bus service, it is the taxpayer, because most of the money that goes into any service we offer is via the taxpayer. Therefore, the magnitude again is an issue. If it is 1,000 people, we are talking £15,000. Unless somebody comes up to me and says: "This is going to cost us several hundred thousand pounds", if we are in the order of somewhere between 1,425 and £15,000, £20,000, I am minded, unless somebody comes up with a really compelling argument, to support Deputy Tadier. On the basis of, for me, it is not about income support and assessing relief, and all this type of stuff, it is recognising that we are trying to help people, who have been severely disadvantaged through no fault of their own. That is a message. Deputy Martin made the point: if you are trying to incentivise bus travel, then you make the bus travel cheaper and I think she made reference to that there is a charge for car travel, or something, so you should make one cheaper than the other. But fundamentally, it is about helping people who, through no fault of their own, have suffered greatly. As far as I am aware, it is inconsequential money, relatively. It is in the very low thousands, which we can blow on so many different things so easily. I think, to be honest, bearing in mind all other things that have happened in the past, where we are on prescriptions and things like that, I do not really see the argument that the department is trying to make. If somebody comes

up with a far better argument, brilliant, I will be persuaded. At the moment, I am minded to support Deputy Tadier.

**The Bailiff:**

There is a growing background hum from Members speaking whilst the speaker is speaking, in this case Deputy Le Fondré. I should be grateful if Members would try to keep that to a minimum, thank you. Deputy Kevin Lewis

**1.1.16 Deputy K.C. Lewis of St. Saviour:**

As usual, I will be brief. When is a free offer not a free offer? There are lots of those around: you just pay a subscription fee and away you go. This is not something we need to do and, as Deputy Le Fondré said, in the whole scheme of things, this is not an awful lot of money. To a lot of people £15 up front is a lot of money; you can always tell if you go into your local supermarket the amount of people who are after the things that are going out of date, or best before date, that is at a reduced price. It is the way of the world at the moment. I would agree with a lot of what the Deputy of St. Ouen has said, and the Parishes do excellent work, but the days when you have to go cap-in-hand to the Parish, hopefully, have gone. A few years ago, I was the Minister for Transport and Technical Services, Deputy Le Fondré was with me, the bus contract came up, and LibertyBus stood out among the others head and shoulders, because of their social conscience and the good work they were doing. This would just be an extension of that, and I will be supporting Deputy Tadier.

**1.1.17 Senator A.K.F. Green:**

I was not going to speak in this debate, but I suppose I must start by declaring an interest because, like Senator Routier, my son is not going to apply for a pass, he has applied for one, and I did it for him, and the form was very simple to do. I took it down, on his behalf, to the bus station on Saturday and returned 2 hours later to pick up his pass. He did have the choice; this has not been mentioned. He had the choice of getting his G.P. to certify that he had any of the conditions within the criteria that allowed him to apply for this pass, or he could have just presented his awarding - if he has one, and he does, others may not - letter from Social Security, in regard to his disability. So, you do not always have to go to the bus pass. I have to say the people were really helpful down there, and I know that is not what we are talking about, but it was simple. It might have been a fairly thick form to pick up, but it was really simple to fill in. I did it on his behalf because I act as his agent. I took it down to LibertyBus and they were really helpful. The point that really made me stand up to speak, though, was when Deputy Le Fondré made comment about bus passes would not allow ... I do not want to misquote him, I did not write it down, that there was no evidence, or it would not allow disabled people to get back to work. If you cannot drive because, by law, you cannot hold a driving licence, and if you are on a very low income, a bus pass will make a huge difference to people returning to work. In the summer, my son works for Heritage Trust under a very good scheme that the Minister for Social Security has. He gets the bus into work every morning and he gets a bus back in the evenings. It is more difficult in the winter when he works in Trinity. That would cost him £20 a week, or £15 if he had an AvanchiCard. For one week's bus fare, he can have 3 years' travel. That is good value. I do not know why we are making such hard work of it. This is something to celebrate for the people in Jersey and this is about enabling those, who cannot hold a driving licence, to be socially included and to get back to work. I think it is time that we just got on with it and allowed people to pay their £15 administration fee; it took about 2 hours for LibertyBus to carry out the process of checks that they needed to do, so £7.50 an hour that LibertyBus are getting for their processing. I will be supporting the Minister, not the Deputy in removing this fee.

**Deputy J.A.N. Le Fondré:**

A point of correction, Sir? The Minister, I believe, quoted me as saying that I could not see how, for a disabled person, receiving a bus pass, would not be assisted in going back to work. I had understood it to have been said in the Assembly that people going back to work would be part of this disabled bus pass process, and I was suggesting that not all people in the Back to Work scheme were disabled. It was not anything around disabled people and going back to work; it was non-disabled people.

**1.1.18 Senator I.J. Gorst:**

I just wanted to reflect on one or 2 speeches, and I understand that some Members are struggling to decide whether to maintain the scheme as it is currently structured. I do not want to add to what the Minister said about the creation of this scheme and notification that he gave to this Assembly, but I think it is worth bearing in mind that a number of speakers have referred to other schemes and suggested that they do, or do not, have a charge, particularly the mover of the proposition to remove the administration charge suggests we should look at the age or O.A.P. bus pass, and because it does not have an administrative charge we should not have one in this new scheme. I am not sure that is a reasonable argument. This is a new scheme. The important factor is that there is now a scheme for those with disabilities to access public transport, and that gives them free access to public transport, i.e., they are not paying the fares of that transport. There is, however, a £15 administration charge to receive that free access for a period of 3 years. The question that I asked myself, when this was first discussed with me, the scheme, and officials in my department was ... is when introducing a new scheme which gives that access - and it is absolutely right that that access is given - and it is a fair criticism that some Members have made that it has taken too long and that some had to be, not quite dragged along to the party, but something that looked similar to that, but we have got there. So, for me the question was, is it reasonable to have a £15 administration charge to help cover some of those costs? I am grateful to the Minister for Health for his confirmation, from first-hand experience about how it can work, about how not everyone will need to go to their G.P. and suffer that particular charge.

[11:00]

There are certificates, which are already issued from the Social Security Department and which could be issued, which means that they can mitigate that potential charge. Is it reasonable, therefore, that bringing in a new scheme that there should be this administrative charge and we hear that the mover of the proposition is suggesting, in his view, it is not reasonable and I ask Members to ask that question of themselves; is it reasonable? For me it is reasonable. It is a new scheme. It is delivering what this Assembly wants, and rightly supported, and, therefore, that is the reason that I will not be supporting this amendment to the scheme. I ask Members to ask themselves that question. I hope they come to the same conclusion that I did but the vote will tell us if they have or not.

**The Bailiff:**

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

**1.1.19 Deputy M. Tadier:**

I thank Members for their contributions. I thought they were thoughtful. I think, of course, the overall tone of what we are doing here is a positive one and we must not take away from that. We have had this expression being banded around, that this is a good news story and it is risking becoming a bad news story. I do not see it like that. I think it is a good news story, whatever happens, but we can make it a better news story. We can make 2 good news stories. In fact that good news story about the concessionary bus passes is in the past now and people are enjoying that now and we can say: "Well, in the grand scheme of things ..." and I will explain the rationale for it again why it is that we could say, as a civilised States Assembly, why we should not be applying

that £15 fee, why it is well within our gift to say: "There you go, there is a concessionary free bus pass for you free" in the true sense of the word. Now, I do want to address this one point of correction - which I tried to interrupt Senator Ozouf and I should have known that because I am summing up that was not necessary, because I do get to address it now - what is the difference between a verb and a noun, asks the linguist. Well, when you use the word "hit" it can be a noun, or a verb, and when I said that LibertyBus should take the hit, that is a noun; and when Senator Ozouf tries to misrepresent my words, possibly because he did not remember them accurately, I did not say we should be hitting LibertyBus, which is an active verb. I said that they should take the hit. They should pay for it, in other words. So, it is not about hitting LibertyBus, or saying that they are bad, *et cetera*, just to clarify that. I know lots of people who use the bus. I know bus drivers, *et cetera*, they all do a grand job. I would not want myself to be represented like that on the public record. Now, the good thing about LibertyBus, according to the definition of many here, is that they do not just provide free bus passes for the O.A.P.s and for disabled people now. Of course, I say "free", they get paid. The scheme originates from us. LibertyBus provide free bus passes for everybody in Jersey, so long as you are willing to pay a £495 administration fee for the application of your card then you get a free bus pass and you can enjoy the bus for free. You do not even have to be disabled and you do not have to be an O.A.P. There is just that £495 administration charge to cover the costs of issuing it and the cost of the travel and employing everyone else. But, you could spin it like that, absolutely. If LibertyBus wanted to spin it like that, free travel, unlimited travel for only ... terms and conditions apply, asterisk. The terms and conditions that we apply and that this Minister is applying is of a lower magnitude, that is true - it is £15 - but where do you go on the scale of saying it is a free bus pass. It is not a free bus pass: it is a bus pass which costs £15. Some think that is reasonable, some think it is not. Many people have asked: "Is it reasonable to put a charge on?" I would turn it the other way round: "Is it reasonable to not charge for the bus pass?" I think it is entirely reasonable to not charge for something, which we have all agreed on and which is a public good for a small section of society, who suffer adversity that many of us do not have to deal with, as I have said, on a daily basis. If the Minister had come to the Assembly without an administration fee and said: "We are going to issue this in the same manner that we do for bus passes", we will not be knocking at his door and saying: "This is absolute disgrace. You must put a £15 fee on it, because there are disabled people out there who are very rich, who have got very good jobs and they can afford to pay £15. This is an absolute disgrace." The public would not have been knocking on our door, ringing us saying: "Why is there not a £15 fee for this concessionary pass?" That is simply what I am asking for. This is where we should have been in the first place. I was contacted by at least one member of the public recently but also at the time ... he has phoned me a few times and he said to me: "I think it is disgraceful that this charge is being put on." He, strangely enough, has just transitioned from being of working age to an O.A.P. He would have qualified, incidentally, for the concessionary disabled bus scheme. He has just become 65, so he has now got this bus pass that Deputy Southern has shown us and that is free and that is issued in the same way. If it had been a year ago, he would not have had to pay, but his wife, on the other hand, who also suffers from complex disabilities, will be charged this £15 fare. I say that is the basis for the inequality there. Now, we managed to tease out during the debate when Senator Ozouf stood up; he thinks that we should be applying charges, even for O.A.P. bus passes and that is, again, one of my underlying concerns. If we open the door to LibertyBus and say: "It is okay for you to charge this, because you are recouping the cost." How long will it be before they say, like J.T. (Jersey Telecom) and like other enterprises, because they are private enterprises, albeit we are told with social enterprise attached to them, how long will it be before they say: "Well, no, we want to be reimbursed for the admin fees for all these O.A.P. passes, because there is a cost, it is not just a notional cost." Do we think that nobody is going to mind that? Do we think that then we will not get any people phoning us up and saying: "What is this cost?", because we will be inundated by that. Deputy Doublet, and I am glad to see her back in the

Assembly, raised the very important issue: just because people are not knocking on our door, just because they are not a vocal lobby group, does that mean we do not listen to them. No, of course, that is not the case. I have put it on record that I would strongly oppose any suggestion of an introduction for charging for the issuing of an O.A.P. bus pass, because I think it is all about the dignity with which we treat people of certain categories and have a welfare state. I firmly believe in the principle of a welfare state, which, it seems, is constantly under attack from many directions. It almost seems like there is a type of sadism and this is why I talked to the individual who phoned me. He says: "Why are they constantly trying to attack the disabled? They have reduced the amount of money that we are receiving on a week-to-week basis from income support and now they want to charge us for the issuing of this cost and many of us cannot afford this. We are living hand to mouth. We simply do not have £15." Someone said that disabled people might find it difficult, depending on their circumstances, to afford to pay £1.50 when they go on the bus. But, if they cannot afford to use the bus, because they cannot afford £1.50, where are they going to find £15 from in a lump sum? The Minister says it is only 10p a week. That is fine. So, will they be able to go off to LibertyBus and say: "You know, I am finding things a bit tough, can I pay 10 pence a week? Will you accept a payment of 10 pence a week for that?" No, of course, they will not. We also have to put this in the wider context of how we are seen by the States and what are we here for. Who are we here to serve? What did we get into politics to do? Who did we get into politics to help? The public look at us, and they are a diverse bunch, of course, with diverse interests, of course, but they look at us and say: "Well, it is okay for the States to subsidise and invest in big businesses. It is okay to make loans speculative and to lose £1.2 million and write that off. It is okay to subsidise an aircraft register for £860,000 a year, for the sake of 2 planes." That is the overall cost. So, basically, for 2 people to be able to register their planes in Jersey, at a subsidised and competitive rate for them; good luck to them. They benefit. It costs £430,000 per plane to register in Jersey, yet, when it comes to our own people, our own taxpayers, our own residents, our own constituents, we cannot find the £15 in the bank needed to pay for that and, of course, I have said that is not the first port of call, anyway, because LibertyBus, as a social enterprise company, as somebody with a social conscious, why can they not find that £15, that notional £15, and just absorb the cost? It is fine for them to run all these great social enterprise schemes, but that is not their prime *raison d'être*. Ultimately, why are we charging £15 for disabled people to fund social enterprise when that should, essentially, be done through central taxation? It is another stealth tax. Now, I think the issues remain. A pensioner, it has been said ... well, we could talk about the Blue Badge guide. There is a Blue Badge pass, sorry. There is a charge for that, of course, but pensioners have to pay for a Blue Badge pass, as well, but they do not have to pay for a bus pass. A disabled person under the age of 65 has to pay for a Blue Badge pass and they will be forced to pay this £15 admin fee. That is fundamentally unequal. For the pensioner, who may be well-bodied, or, in this case, if they have got a disabled badge, of course they paid for it. They only get charged once. The disabled person, who may, or may not, be working, gets to pay twice. That is fundamentally unfair and I think that is a strong enough reason to support this and to say to the Minister: "I am sure, Minister, that you can find a way with your negotiating skills to talk to LibertyBus for this trial period to get rid of the £15 fee, so that we can find out what the real demand is out there." I am concerned about the individuals who are under the radar. We know that, politically, many people do not engage in the system, anyway, and, of course, there are people who go to these groups, who will be going to whatever group, once a week, will be saving their money anyway. They can afford to get the £15 paid. In some cases, I am sure, that actually the clubs and the associations may pay for the £15 fee. We had a great suggestion from the Deputy of St. Ouen who said: "Well, maybe, in situations where people cannot afford the £15 we can use these Dons, they can come to the Parish." But my concern is the people, who just do not engage with the system, so these people who definitely have that money, will they be going to Parish Hall and saying: "I cannot afford this. Have you got any Dons? I have heard that there is something



called a Don.” Do I direct them to the Deputy of St. Ouen, because he seems to know about that? How many people are there out there? The problem is that may not engage in the first place and we will not know about that. Now, if the proposition had been, because I saw some nodding heads, that the £15 admin fee should be met from the Parishes, or from the Dons, across the board, then that is fine but that is not being proposed. It could have been proposed but that is not the way we fund things generally. Public services concessions and benefits are done through a central scheme. So, I think those are the prime reasons. I hope people will excuse me if I do not individually address everybody that has spoken and every point that has been made, but I think there is sufficient reasons that I have gone through that we can ask the Minister to go away, remove this £15 fee, see how the scheme works and then review it in 2 years with all the facts and figures and then see how the scheme works, but I certainly will be opposed to any suggestion in the future of charges being put on for O.A.P. issuing. I think that is a slippery slope and we should be levelling up not levelling down.

**Deputy J.M. Maçon of St. Saviour:**

Can we raise the défaut on the Constable of St. Saviour please?

**The Bailiff:**

Proposed the défaut be raised on the Connétable of St. Saviour.

**Deputy M. Tadier:**

I should have asked for the appel.

**The Bailiff:**

The défaut is raised. The appel is called for. I invite Members to return to their seats. The vote is on the proposition of Deputy Tadier: ‘Concessionary bus fares for the disabled’. I ask the Greffier to open the voting.

<b>POUR: 13</b>		<b>CONTRE: 33</b>		<b>ABSTAIN: 1</b>
Connétable of St. Saviour		Senator P.F. Routier		Senator S.C. Ferguson
Deputy J.A. Martin (H)		Senator P.F.C. Ozouf		
Deputy G.P. Southern (H)		Senator A.J.H. Maclean		
Deputy of Grouville		Senator I.J. Gorst		
Deputy J.A.N. Le Fondré (L)		Senator L.J. Farnham		
Deputy K.C. Lewis (S)		Senator P.M. Bailhache		
Deputy M. Tadier (B)		Senator A.K.F. Green		
Deputy M.R. Higgins (H)		Connétable of St. Helier		
Deputy J.M. Maçon (S)		Connétable of St. Clement		
Deputy S.Y. Mézec (H)		Connétable of St. Peter		
Deputy A.D. Lewis (H)		Connétable of St. Lawrence		
Deputy L.M.C. Doublet (S)		Connétable of St. Mary		
Deputy of St. Mary		Connétable of St. Ouen		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of Grouville		
		Connétable of St. John		
		Connétable of Trinity		
		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy E.J. Noel (L)		
		Deputy of St. John		
		Deputy S.J. Pinel (C)		

		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy of St. Ouen		
		Deputy R. Labey (H)		
		Deputy S.M. Wickenden (H)		
		Deputy M.J. Norton (B)		
		Deputy T.A. McDonald (S)		
		Deputy G.J. Truscott (B)		
		Deputy P.D. McLinton (S)		

## **2. Electoral Reform (P.10/2017)**

### **The Bailiff:**

We now come to the next item on the agenda, P.10, Electoral Reform lodged by Senator Farnham and I ask the Greffier to read the proposition.

### **The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion (a) to agree that legislation to change the composition and election of the States Assembly arising from Proposition P.133/2016 as amended, agreed in principle on 2nd February 2017, shall only come into force if it wins the support of the majority of Islanders who vote in a Yes/NO referendum, to be held before the end of 2017; (b) to request the Privileges and Procedures Committee to bring forward an Act for a referendum and to consult independent experts to ensure that the wording of the question put to the electorate is fair and unbiased.

[11:15]

### **2.1 Senator L.J. Farnham:**

I felt compelled to bring this back because my third amendment, during the previous debate, was deferred while some clarification was sought on the process but I will address that in just a minute. But also I am bringing this because I believe that changes to the constitution and election of the States Assembly should be endorsed by the electorate before being implemented and I know a number of other Members feel this way as well and I did promise these Members that I would bring this back so we could debate it accordingly. I also believe that the referendum will promote more political and public participation thus helping to create a better informed electorate in relation to the changes being proposed. I do not know about other Members but I certainly find ... even with the existing system there is still confusion among members of the public about our electoral system. The journey of reform we are now on, I am pleased to say, having been agreed to make some progress at the last debate will help that matter but I do believe a referendum will help to engage people to understand exactly what the changes are, which I think will be a good thing. Just to briefly clarify the process, and I will refer to my report. Members will know that we agreed recently, P.133 as amended, and the Privileges and Procedures Committee were charged with bringing back a law to reflect that decision which they have done which was lodged yesterday, P.18, which we can debate, I think, on 2nd May if the Assembly agree to do that. The process for this referendum will be that between discussing P.18, and hopefully approving it in line with the previous decision, and that going off to the Privy Council for amendment, the arrangements will be made for the referendum to be held and that will be presented in line with this proposition if this proposition is approved and we will have that referendum in September or October. If the majority of the Islanders vote in the referendum vote yes it will be open to the States then to make an Appointed Day Act bringing in the changes as agreed in P.18 into force. This should be possible

by the end of November or even October, depending on when the referendum is held. If the majority of Islanders vote no, the amending law would not come into force and would be repealed with the effect that the Jersey Statute Book remained unchanged. So that is the process and I would like to just thank the Solicitor General and the Attorney General for their advice and guidance when I was putting the report together for this proposition. It has been very helpful. Finally, I want to keep this as brief as possible, we have all talked and debated reform quite a lot recently. This is not a proposition about reform. This is a proposition about holding a referendum for the public to endorse what we agree. I do not want to see a repeat of the actions of the Assembly where in days gone by we have agreed to remove, for example, 4 Senators without the endorsement of the electorate and moved to a single true election day. I am not saying that is the wrong thing but perhaps, with hindsight, we should have agreed the electoral reform and the makeup of the Assembly before making those sorts of decisions. Of course, this is also not at all to manipulate or kick into the long grass or try and stymie in any way the reforms that have been agreed. I hope Members will treat this proposition for what it is meant to be; which is a debate on whether we have a referendum to seek the public's endorsement of what we have approved.

**The Bailiff:**

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

**2.2 Electoral Reform (P.10/2017): Amendment (P.10/2017 Amd.)**

**The Bailiff:**

There is an amendment lodged by Deputy Maçon. I ask the Greffier to read the amendment.

**The Deputy Greffier of the States:**

Page 2, Paragraph (a) – after the words “Yes/No Referendum,” for the words “to be held before the end of 2017” substitute the words “to be held on the same day as the General Election in May 2018”. Page 2 paragraph (a) – after paragraph (a) insert the following new paragraphs – “(b) that the referendum should be subject to a minimum participation threshold of 40 per cent of those on the electoral register at the time of the referendum; (c) that, subject to compliance with the aforementioned measures, should the proposal be supported by the public, it should come into effect in 2022;”; and re-designate the remaining paragraph accordingly.

**2.2.1 Deputy J.M. Maçon:**

As I say in the beginning of my written report to this, this is not about whether we support the proposals that have been supported by the Assembly or not. This is about how to hold a proper referendum and how that should be done. To explain that to Members, that I will be taking my proposition in 2 parts so that they will have the choice about the general election day and the minimum participation threshold because I appreciate Members will have different views on those elements. So why have I brought this? Why have I dared to raise my head above the parapet? As I explained in my report, presumably the point of holding a referendum is so that we have a representative turnout of the electorate to endorse whatever decision is being put before them. So in order to achieve that we have to then decide when do we feel we can get a representative proportion of the public to engage in the process. Now, when Deputy Le Hérissier tasked a previous Privileges and Procedures Committee to look at this what we concluded when we researched it and looked at international standards and what other countries did, the conclusion came back quite clearly that the best time to do that was during a general election day and that was the best time, particularly in Jersey, that you were going to get the best turnout and therefore the most representative result of the public and not have a minority view deciding the future. Again, we have trodden this road before when we had the Constables Referendum at the last general election no one questioned the result; people accepted it because it had the same turnout as the

Members elected to the States Assembly. Where, of course, when we had the one in 2013, granted it was not a yes/no question, and so I question whether that was a referendum or not, but never mind, the turnout was significantly lower and ultimately deemed by the States Assembly invalid because it did not have enough people there to be able to cast a valid result. Now, Einstein describes insanity as doing the same thing over and over again and expecting a different result so what are we being asked to do today with an unamended proposition? We are asking ... well, what we are not doing is we are not learning from history. We have been here before, we know exactly what is going to happen if we have a referendum not at the same time as a general election, the turnout is not going to be particularly high and, therefore, if you are honest, the results either way really would be inconclusive but of course we know the politics behind it will deem it otherwise but perhaps that is my statistician training coming through there. There are also various problems of going forward with the particular proposals because even if we do pass the legislation and we may not, come May, that is still under a year; that does not conform to the Venice Commission guidelines on how you should not change your electoral composition a year before the elections and we will be just on the cusp of that. Turning now to the 40 per cent minimum turnout, again it is trying to establish and to be clear with the public how much we feel, as an Assembly, we need of them to engage in the process so that we have a representative view of the community and not a minority view. So I have chosen 40 per cent. In a previous report that I presented to this Assembly there was a report done by the House of Commons Library which looked at various countries and they varied between 30 per cent and 40 per cent when you are looking at minimum participation thresholds with really countries which really are not democratic, like Ireland and Denmark and Sweden, all include minimum participation thresholds and when you look a bit closer for those jurisdictions that do not include minimum participation thresholds, the reason for that is because they hold their referenda at the same time as a general election. So that is why it is not included within their processes. I think we also have to remember that the cost needs to be borne in mind when we are talking about the referendum. It is not a small amount of money. I think cost-wise it would also be better to have it held at the same time as a general election simply for administration and for cost reasons. It is also the time when most people are going to be engaged in our political process. We know that the composition of the Assembly for the general public is not the most exciting subject to get behind but of course for us, as States Members, of course we feel very differently because we know it is about power. It is about how power is given and constructed within the States Assembly so it is something which of course States Members will feel very passionate and strongly about. So I feel that there are 4 options which are before the States Assembly today. Of course, the first one is to chuck everything out and therefore we do not have a referendum at all. The second one is to adopt the proposition of Senator Farnham unamended, without my amendments, which would be to proceed with a referendum in perhaps October where we know we are going to get a low voter turnout. There is the option of proceeding with my amendment to hold it on a general election day and therefore have a much more representative of the community's view on the composition of the States. Then also the fourth one to include a minimum participation threshold again for the same reasons, in order to get a representative view of the community. Whenever we deal with any other type of matter we always ask the Statistics Unit: "Has your research been balanced? Has it been weighted against other various groups so that we have a fair and representative view from the community?" Of course, when we are talking about constitutional change this is even more important and that is why there are thresholds in other countries, not just about referenda in general but specifically to deal with constitutional matters there is that threshold put in place. As I say, we should learn from our mistakes. We have been here before and I quite like that quote so I will repeat it. "Insanity is doing the same thing over and over again and expecting a different result." Let us do things properly as has been researched by a previous Privileges and Procedures Committee. I hope someone will second my proposition.

**The Bailiff:**

Is the amendment seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting the amendment kindly show. Deputy Martin, all very well, holding back. We want to keep the debate going.

### **2.2.2 Deputy J.A. Martin:**

No, I understand, people have been sitting on their hands until they decide that they did not like what the previous speaker said so I am going to be the previous speaker for this round. Now, did I vote for change? Yes. Do I think we are rushing it? Well, people would say we have been trying to do this since the ministerial government in 2000, Clothier, and then the ministerial government. So, no, you are not rushing it. Then I sit back and I think: "Literally a year and 4 weeks from today we, to me, are starting the elections."

[11:30]

A year and 4 weeks, we are starting the elections. Many people told me they did vote for change on the understanding there would be a referendum because the proposition was in 2 parts. Then the penny dropped, there is a lot of rushing around and the referendum would not have been able to take place in the next few months. It will be when the main proposition says, something like September or October. You can see from the timeline in P.P.C.'s (Privileges and Procedures Committee) comments, like without the referendum it is a clear timeline. States of Jersey Law has already been ... P.18 has already been lodged. Privileges and Procedures can bring that back. Again, I hear muttering or mumbblings that when they do other people who were not happy with the districts will be changing the districts. So you have also got another chance then to vote it down or keep it the same. But my point is, I am literally in ... not in election mode but I am a year away. Now, when does the Venice Convention kick in? Am I going to go to the public this year, in September or October, with basically one man and his dog turning out and saying yay or nay because we have now decided we have got to have change, it is has got to be now and we have got to rush it. Not that I have been trying to get change for the last 15 years but we are where we are as they say. So if I am going to have a referendum the only ... and the research has been done, like Deputy Maçon says, it has got to be on election day. I absolutely hammer this home and I asked the question yesterday as well of the Connétables, and I know the Comité, and they have a problem. They have not been allowed to have enough meetings. They have not put this in because they do not know if we are going to change. When we adopted this change in ... I think it was 4 weeks ago or 6 weeks ago the Constable of St. Mary, to me, made the best speech and understanding of the process. Do it, put it to a referendum, then the new States will know exactly where we are and they will have 4 years to iron out where the nomination, where the polling station, is the district central, is it away from the Parish? We will have technology coming along by then. It will, to me, be another 4 years. I mean next year I have been here 18 years and it has gone in a blink of an eye. Can I wait another 4 years to get this right? Yes, I can. I cannot let a referendum go in September, October, November, whenever, that will be ignored because it will be such a low turnout, you have got no ... you have got to get all the interest out, you have got to ask, not even sure what the question is, yes or no, this is what we have adopted. As I say in the meantime, somebody is definitely going to change the districts again, rightly or wrongly. So I absolutely urge people to stand back ... yes, we want change. We have got some ... people who have only been here in the blink of an eye say: "Oh, we have got to have change. We cannot do this." Well, no, you have got to get it right. You have got to take the voters with you. You have got to take the Constables with you. You have got to take the Jurats. I mean I probably could not ask the question of the Jurats yesterday but if I had asked them: how many meetings have you had to discuss the new electoral districts? I am sorry to say the answer would probably be none because, again, what are they working with? But these are the people who run our elections. Give them a good steer. Let the public give them a good steer and the only way you are going to get that is on an election day when

people are going to come out. It is now for people ask, the interest is out there. Let us hope you will get ... the 40 per cent, well, when the electoral rule comes back it may be just on the good turnout, if it is 38, but hopefully this time we will get 50 per cent turnout on the election day. Why not? The rest of the world has gone mad. Has Jersey been left behind? People who have never voted in their life, out there for some cause but I want the cause to be added of a referenda on the way we go forward in the States and I am not rushing it. I can be called a wrecker. I can be called what you like but I can stand here and say, we, the Connétables, the Jurats, the system we have now is not ready for a year from now when we finish here on 10th April, start having nominations, we go out there and we start saying: "Elect me, I am good guy. Elect me, I have been doing this for you for X amount of years." The system, put it under scrutiny, is not ready. So we get ready, we put it to a referenda next May. Not this May, so May 2018, and then you have 4 years to get all these T's crossed and I's dotted. It makes an absolute sense to me and obviously it is going to be a very short debate because nobody else wants to speak but I just leave it there and I thank everybody to really think about this. It does not affect St. Helier that much. We can divide it into 2 instead of 3. Think about the rest of the Island and I absolutely say; not ready, system is not ready, people are not ready, do not rush it.

### **2.2.3 Deputy K.C. Lewis:**

Deputy Martin has put the case very well. I will be supporting Deputy Maçon. There are quite a few problems I have with this. Even P.P.C. accepts that this will be slightly outside of the guidelines adopted by the Venice Commission in July 2002, Good Code of Practice and Electoral Matters, which states: "That the fundamental elements of electoral law, in particular the electoral system proper, membership of electoral commissions are ... and the drawing of constituency boundaries should not be open to amendment less than one year before the election." I think "slightly outside" might be pushing it. I think 6 months outside by the time ... we may have people coming to Jersey from other countries to witness the election and make sure everything is run properly but what do we say to them: "Well, do not worry about that bit. We will ignore that bit." Either we do it properly or we do not. I do not see how we can be slightly outside of it. We are either outside or we are not. It is like saying someone is a bit dead. You either are or you are not. So we must do this properly. I will be supporting this in (a) and (b) from Deputy Maçon. I have a slight problem with (b) inasmuch as the referendum should be subject to a minimum participation threshold of 40 per cent. A lot of people are elected on far less than 40 per cent so reaching that might be problematic but the main body of the amendment I will be supporting and I urge Members to do likewise. Going to super-constituencies, which is slightly outside of the subject, is not something I really approve of. It works in Guernsey and best of luck to Guernsey ...

### **The Bailiff:**

No, Deputy. I am sorry we are not going down that road. That is not relevant.

### **Deputy K.C. Lewis:**

We are not going down that road. I was just about to say that not many people know the Constables in Guernsey so we do not want to go there. So I believe in the Parish system. It has served us well for many years and I urge Members to support this amendment by Deputy Maçon.

### **2.2.4 Connétable C.H. Taylor of St. John:**

When we voted on the amended version of Deputy Lewis of St. Helier's proposition I came back into the Parish and my secretary and staff said: "How is this going to work?" and I, as I hope I always am, was truthful and I said: "I have not got the faintest idea." Now, with about a year to go, if the Constable of a Parish has not got a clue how something is going to work within his Parish and it is being used as a polling station or a nominations venue or for whatever purpose during the electoral system I think one needs to stop and say: "Well, hold on, we need to iron out these issues

before the rollercoaster continues heading towards disaster.” It is common sense to have a referendum and it is common sense that it is done at a time when people are at the polling station, i.e. at the next election. That is simple, straightforward common sense. There may be some who stand up and say there is a cost issue. Yes, there is a cost issue to a referendum especially if it is going to be held outside a general election time. We heard earlier this morning how much £15 is and how vital it is that that money is saved or not saved and we debated for, I think it was nearly 2 hours, over an issue of £15 and yet this referendum could cost, goodness knows, £15,000, £20,000, £30,000. “Oh, that does not matter.” It does matter. This is changing the constitution of this Assembly. It is not something that is going to take place for a 3-year trial period. It is not something that is going to be in any way reversible and therefore it must not be rushed and it is vital that we take the electorate and the people we represent with us on this decision and it is not a decision to be made lightly or solely by ourselves but with the people we represent. I urge Members to support firstly the amendment that we have a referendum on election day and I urge Members even further to support the original proposition that we do have a referendum.

### **The Bailiff:**

Before the debate goes any further can I just say from the Chair that I think for the purposes of the amendment there is an assumption of a referendum. Paragraph 1 of the amendment deals with when it takes place, not whether it takes place. Whether it takes place is the subject of debate on the proposition of Senator Farnham. So if Members could contain their speeches on that point that would be helpful. Of course, the second paragraph is a different issue, that is the percentage question and of course that should be addressed in this debate.

### **2.2.5 Deputy A.D. Lewis:**

Members may well expect me to speak on this and I was finding it ... and I was getting a little bit hot under the collar just listening to some of those last speeches, as eloquent as they were, because it sounds to me, and it will sound to the public listening out there today, that we do not want change. They have waited 4 years already. They will wait 8 years if this amendment goes through. That is on top of the other 10 years that we have been discussing this in this Assembly and the 10 years previously to get to ministerial government. We are really not very good at this and frankly at times it is embarrassing. If we adopt this amendment we will have further delay. In Deputy Maçon’ speech he once again, as others have done, criticised the last referendum. Let us criticise the referendum until it gives us the answer we want. That is why people criticise referendums, when it has not given them the answer they want. I would urge Members to vote against this and I will try not to stride into the reason why we should have a referendum or not but it is difficult. When I presented P.133 I was hoping it was not going to be amended. It was. That is why Constables went back to their Parishes and had a confused public because that was not what they voted for in the last referendum. We did not listen to the people of Jersey after the last referendum which is why I proposed P.133. But I took quite a lot of advice before I did that. I did it with a heavy heart because I knew that P.P.C. had worked very hard on this for several years in the hope they would bring a proposal of their own. When they did not, having discussed this matter with the Chairman of P.P.C. well before that, saying that I may well bring this proposition and I said I would not until P.P.C. had completed their work. When I realised that time was running out to get things in place, as Members have spoken about today, in time for the next election, that is when I presented P.133 knowing, having consulted with the Greffier and other parties and P.P.C. that, yes, it was absolutely possible to get these changes in place ready for the next election, with full consultation with those that want to run elections; Constables, Jurats and so on and so forth.

[11:45]

Yes, there absolutely is time to do that. Perhaps not if you have a referendum but that is the subject of the next debate. But if we follow Deputy Maçon's amendment here you will have no change for 8 years, as far as your constituents are concerned, and your parishioners, 8 years, because we have had 4 years of procrastination over whether we were going to adopt the referendum or not and of course it was defeated initially when the Constable of St. Helier brought it as Chairman of P.P.C. Amended, when I brought it and now an amendment has been suggested about a referendum which will delay it for a further 4 years. That is not what the public want. That is not what they voted for in the referendum. I have been spoken to by numerous constituents and members of the public on this issue over the last few weeks and many of them have said: "You want to have a referendum about a referendum? Then we hear somebody wants to delay it another 4 years as well." It is getting really quite embarrassing and we have spent years and years on this and yet we want to support an amendment that delays it further. So I think this is a huge disregard for the public and the fact that they, in many numbers ... you can criticise numbers if you like but 17,000 people turned out and voted in the last referendum. Do you really think they will do that again if we adopt the amendment that Deputy Maçon is suggesting? There is no way that we are going to meet the 40 per cent threshold that he is proposing so that, in itself, would wreck the proposition of having a referendum of those will not support a referendum, which we will come on to in a moment. I quite understand why Deputy Maçon would suggest having it on an election day and in a perfect world, of course, and the Constable of St. John said as well. Of course it is easier. It is lower cost. You may get a higher turnout so why would you not? But we are where we are in the timetable of elections. We cannot control that. That is fixed in law; has been for many years. So we are where we are. If we want to tell the public we listened to part of what they said at least, okay, P.133 was amended, then we get on with this. We do not delay it for another 4 years. When we get to the substantive proposition to debate then I will have further words to say about the need for a referendum or not but we must not delay this any longer. The public are expecting progress. We have some small progress on reform. We need to get on with it and I would urge Members to vote against Deputy Maçon's proposition, hear what is said in the next debate and make their own decision as to whether the referendum is appropriate or not but this is simply a delaying mechanism which the public are not in favour of and I think it would be a huge disrespect to them if we were to adopt it.

#### **2.2.6 Senator P.M. Bailhache:**

I am glad to follow the last speaker because I hope that we are not going to try to delude ourselves. We are certainly not going to fool the public. This is a long grass amendment by a Deputy who really does not want to see any reform at all. It is a disappointing amendment after all the debates that we have had over the last few weeks. There are 2 reasons why it is a long grass amendment. The first is that the minimum participation threshold has been set at a level which is very unlikely to be reached. The last referendum concerning the position on Constables was a proposition which might be expected, I would have thought, to interest people and to make them want to vote. What was the participation rate in the referendum for Constables? It was 39 per cent. So it would not have reached Deputy Maçon's level; just missed it. How very unfortunate. The second reason why this is a long grass amendment is that, as Deputy Lewis has said, it pushes it back by a minimum of 4 years and that gives plenty of time, does it not, for the first forces of inertia to get to work during the next Assembly and to make sure that the reform, at which we have tentatively arrived, does not come into effect. I hope that Members will not spend too much time on this amendment. It really ought to be kicked into the long grass itself.

#### **2.2.7 Deputy J.A.N. Le Fondré:**

I am rather disappointed to follow the last speaker. I have heard his comments: "We are where we are. Let us do it. Let us get on with it. This is about forces of inertia, trying to block." This is not



amateur night at the London Palladium. We are a Parliament. This is; we have proposed as an Assembly, and it does not matter when one agrees with it or not, a significant change in this constitution of this Island and so I will seek to be addressing the comments of the previous speaker just in case you think I am going off tangent anywhere. The route to democracy must surely lie in the right of the electorate and how they elect people to this Assembly. The proposals adopted by this Assembly affect how the electorate will elect over 50 per cent of this Assembly and will, therefore, impact on all Islanders. That is a significant change in how we elect Members and therefore, in my view, it is right it is put to the population. That is going slightly to the main debate. However, therefore I am going to say I will fully support the principles of a referendum but in my view it is completely consistent with the principles adopted by the Assembly when Senator Bailhache brought his amendment in relation to the position of Bailiff, which was hugely endorsed by this Assembly, because it would set the principle that significant constitutional change should be put before the electorate for approval. You cannot have it both ways. To come back directly to the main amendment, so I wanted to address those comments because that is what the Senator just set running. But if you look at the details of this amendment; if you are going to do a major constitutional change and you are going to send it to the ... to me it is right that you do put it to the people who are the ones who ultimately ... you are affecting their right to elect people then surely you should set a threshold and surely 40 per cent of people voting, that is not half the electorate, that is not saying you have got to get a 30 per cent people voting in favour of something. It is saying, 40 per cent of the entire electorate must vote on this. Now, if it is that serious, which I think it is, then surely that as a principle stacks up. So on that basis I am definitely supporting the reference to the 40 per cent. In relation to when one does this; well, I am sorry, I do have to be critical of not the last referendum, the one before, which was not a yes/no and was mid-term, and we saw the turnout. We have heard the comments already. It will be a paltry turnout and it will then descend into the arguments about: "Oh, well, we did not meet that threshold but everybody has voted who was remotely interested", and we know how that all goes. This is incredibly important. We may be very blasé about it because we live politics most days if not most hours. Joe Bloggs out there, or sorry perhaps a better way to refer to it, members of the public their main engagement with us or their main time is when they put that cross in the box and that is what we are impacting upon and therefore in my view that makes it incredibly significant. If one goes down that line therefore one puts in nothing particularly controversial, I would have suggested, a threshold. If you do not achieve that then it is perfectly right not to regard the results of the referendum irrespective of which way it goes. It therefore makes sense to do it on the date that everybody is voting. It is as simple as that. It is not about inertia. It is not about blocking forces for change. It is saying you are doing something significant, something of a major change to the constitution and therefore you treat it sensibly. I hope I make my position clear.

### **2.2.8 Deputy S.Y. Mézec:**

It is not often that I stand up in this Assembly and begin my remarks by saying that I completely agree with every word that Senator Bailhache said, but I completely agree with every word with that Senator Bailhache said. I will freely admit that and that is all the more remarkable because on P.133 Senator Bailhache voted in favour of it and I voted against it. P.133 does not represent a system that I particularly like but I have just gotten to the point when I feel like we just need to get on with it. This kicks even minor reform into the long grass until 2022, over 20 years since Clothier. That is completely unacceptable. I think we need to get on with this and do something meaningful. As I said, I do not think this particular reform is anything special. It is not radical. It does not fundamentally change the makeup of this Assembly because it still includes having 3 categories of Member. I might understand this argument if we were, say, to have a referendum on election day on substantial reform but this is not substantial reform. We are only reducing the numbers of Members by one. We are keeping 3 categories of Member. We are just changing the

constituencies for Deputies to make them more fairly distributed and to hopefully end uncontested and under-contested elections for those Members. That must surely be a good thing and I think it would be wrong to hold a referendum on our electoral system on the day of an election. Bear in mind, what does it say if the public do vote in relatively large numbers in that referendum and vote to change the system? It means we have 4 years of government with an illegitimate Assembly elected on a system that has been rejected by the public. So for 4 years we have to subsist with that which I think is the wrong thing to do. So I hope Members will reject both parts of this proposition. Voter turnout for the referendum, as Senator Bailhache said, election turnout last time 39 per cent so where would that leave us then? If of that 39 per cent you got 90 per cent in favour I would still say that that is a much more significant mandate than many of the elected States Members would have in their own constituencies in that vote. So I hope that we can ignore this amendment which is designed to kick things into the long grass. I think the public deserve to get at least some progress on this issue and that means, I think, just getting on with it and I say that as someone who voted against the proposition. The States has had its say. Let us just get on with it and vote against this amendment and vote against the main proposition but I will make a separate argument for that in that main debate.

### **2.2.9 Deputy G.P. Southern:**

Both the proposer of the main proposition and the amendments have both said that this debate should just be about a referendum in one form or another but I cannot help but go to the root cause of that which was P.133 and P.133 ...

#### **The Bailiff:**

Deputy, please do contain yourself to the date of the referendum because that is what we are assuming for the purposes of the amendment and the percentage.

### **Deputy G.P. Southern:**

Yes, and P.133 was a car crash. It was a very bad, very nasty car crash, it amended the life out of the original proposition. In trying to put that right, both the proposer of this amendment and the proposer of the main amendment are trying to mend what is a real write off, it was a disaster. It cannot be done and fiddling around with a referendum in one form or another is not the way to do it. Can anybody say with their hand on their heart they would be proud to go out and present this to the electorate as a referendum? A referendum on what? On a car crash. A complete write off. We should not be doing it. We should not be voting for this particular amendment, or the next one.

[12.00]

### **2.2.10 Connétable S.A. Le Sueur-Rennard of St. Saviour:**

I came late this morning because I was giving a talk to some people and one of the questions I was asked was what was the best debate and what was the worst that I have had in the States. I said one of the best - if I can remember back that far. No. One of the best I had was the fact that we had saved the park and we were not going to build the hospital on it and one of the worst was the super-constituencies. Some of the grown-ups there said to me: "What do you mean super-constituencies?" So I said: "Well, we voted to have a different layout." "How does that affect us?" So I said: "Well, where are you living?" "St. Helier." I said: "Well, it is not going to affect you, you are going to be able to vote just the same, you are not going to be linked with any other Parish. But most of the other Parishes other than St. Helier are going to be linked with another one. So you may have somebody, for argument's sake, living in Trinity who is looking after you but you do not live in Trinity." They said: "Well, where is the fairness in that?" So I said: "Well, it has already been debated and there has been a lot of publicity about it." They said: "Well, we have not seen it so what happens today?" I said: "Once I have finished here I am going into the States and

hopefully I will not have missed the vote because I am not going to vote for that.” And she said: “Oh God, I hope not because I do not want to lose my Parish.” So I said: “Well, you will not lose your Parish, where do you live?” She said: “St. Helier.” I said: “Well, you are safe, my love, there is not a problem. It is the outlying areas that are going to lose their identity.” Some of the people there (a) had not quite grasped about the super-constituencies ...

**The Bailiff:**

Connétable, the date of the referendum or the percentage vote, that is what this debate is about. It is not about the substance of the referendum.

**The Connétable of St. Saviour:**

Sorry, Sir. Then I did say to them we are hoping that when you come to vote in May of next year that you will be able to decide for yourselves if you want the super-constituencies or if you do not. St. Helier, as I say, is safe, the rest of us are hanging on a thread. Thank you.

**2.2.11 Deputy D. Johnson of St. Mary:**

I am disappointed that in some quarters reference has been made to the fact that anyone choosing to vote for a referendum is somehow trying to kick the proposal into long grass. In the last debate, I voted for change but I did so on the strict understanding that it would be subject to a referendum because I did not know at that stage the will of the people. I still do not know and we will not know until there has been a referendum. So I hope that the basic proposition for a referendum will be passed. I also am concerned that we do not get into the same state that the previous referendum put us into, which was of course of the small vote, the legitimacy of that very point was questioned. Again, if we do not have a sufficient turnout that will happen yet again. I wish to bring finality to the situation and I am inclined therefore to agree with Deputy Maçon’s amendment that the only reasonable date to have this, which I think is supported by P.P.C., is on election day. Where I differ from him is that we should have a minimum vote. I think people can reasonably expect us to have a higher voting requirement for a referendum vote than would appear on the referendum quota, so I will be voting against that aspect. But as to the basic concept of a referendum, I think it is essential for constitutional purposes that it goes ahead and I would agree with Deputy Maçon’s point that to bring finality to the situation election day is the best time. But that, again, is not a vote against change.

**2.2.12 Senator L.J. Farnham:**

I just want to make it clear that I do strongly oppose this amendment while respecting Deputy Maçon’s views and his right to bring it. Perhaps it is a debate worth having but I strongly oppose it because I, like many others, believe we have to start reforming ourselves before it is taken out of our hands. It is simply unacceptable as far as I am concerned to wait another 5 years from now. We simply cannot allow that to happen. So I will be voting against the amendment. I just wanted to make that clear. But also, as other Members have mentioned, the minimum turnout figure is a dangerous precedent to set. I think it was Senator Bailhache that mentioned the 39 per cent turnout in the referendum on Constables. A number of elected Members do not even achieve that. They do not get anything near that in a general election, never mind a by-election, so I cannot support that either.

**2.2.13 Connétable L. Norman of St. Clement:**

Just briefly, I think we should remind ourselves that if we do have a referendum on this matter, be it this year or next year, there is a big difference between that referendum and those we had in 2013 and 2014. I say that because the decision that we are asking the public to make is really just to endorse a decision which this Assembly has already made, which we had not done in the 2013 and the 2014 referenda. So on that basis what we are doing is asking the public to endorse or otherwise

what we have already decided, why do we have to wait another 12 months? It does not make sense to me. Now, a couple of Members have mentioned the Venice Convention and it is quite right, that recommends that best practice as a fundamental element of the Election Law should not be open for amendment less than one year before an election. That is important but that is in fact only guidelines. In the main those guidelines will be met, particularly in the situation of boundaries and numbers of Members, that will be that we lodged the amendment to the law yesterday and it will be debated on 2nd May. Hopefully, adopted because it is only putting in practice, putting into effect, what this Assembly has already decided. Of course the States can change their mind and we will have no change whatsoever if the States decide to reject that. I think it is also worth reminding ourselves that any referendum is advisory. At the end of the day it is the States who make the final decision and that decision has in many ways already been made. So if that decision is made, the referendum is advisory, it does seem to me if we are going to have a referendum and I am not convinced that we should but if we are going to have one it really is rather silly to wait another 12 months. Clearly and obviously the 40 per cent threshold, which again would only be advisory but nevertheless I feel the States would take note of it as they have proved today, is a wrecking motion because very rarely do we get a 40 per cent turnout. If Deputy Maçon wanted to be taken seriously, if he had put 35 or 30 per cent, then we could have perhaps we could believe this Member means what he is saying. But this is so obviously a wrecking motion that we really have to reject it.

#### **2.2.14 Deputy M. Tadier:**

I will speak to the amendment, I know that is radical but nonetheless it is good to be radical sometimes. I think the issue here, and some of them have been touched on, and I agree with much of what the previous speaker has said, although I prefer to think that the Deputy who is bringing this is doing it for the right reasons and I think that his preference for a 40 per cent threshold at an election time, so a referendum held at election time is reasonable but, of course, if you have a referendum that is held not at election time, and that is the risk here, by putting a 40 per cent threshold on outside of an election, if that is what the States agree to, and that is obviously not the Deputy's preferred end point, is unobtainable. It is quite remarkable in Jersey we are to the point where a 40 per cent threshold is considered the high bar, even for a referendum or a by-election but that is unfortunately the health of our democracy and electoral system at the moment, the appetite. So I would hope that Deputy Maçon could give some reassurance that he would only maintain part (b) subject to the whole of his amendment going through because we might as well, in the absence of this referendum taking place during a general election, say that the threshold should be one per cent more than whatever the turnout is for the referendum. That would be the reality of what we are doing, i.e. let us have an unattainable threshold there, which of course is not his intention but that would be the reality if the referendum were to be held outside of an election period. It might even be the result if it was held during the election, it may well be that people just vote but do not vote in the referendum. I am quite open to the idea of having a referendum at the same time as the next general election but with a question that is worth asking. At best these are interim proposals, they are temporal, it would be an insult to put this question to the public - and I know I am straying into the main debate but I think it is germane as to why we should not accept this amendment. By all means let us have a referendum on election day and we ask them: "Do you agree that the Clothier recommendations for one type of States Member should be implemented? Yes or no." Then we would know and then we can have campaigns around that. I would certainly be supportive if that were to be proposed and it may well be something that we or other Members think about supporting. Because we are always told, are we not, it is now coming up to 20 years from Clothier, what progress have we made? We have never implemented some of the key democratic changes envisaged by Clothier and surely within a 20-year period - before we get to 20 years - the public need to be put those questions. They have ministerial government, they did not ask for it. Some of them do not want it, but we have it. Let us have the good stuff that Clothier

talked about and not just the consolidation of power. Let us have the democratic safeguards that go with it. So I cannot support this amendment and I will save my comments for the main proposition.

**Connétable J. Gallichan of St. Mary:**

Not to speak yet, Sir, but could I just ask you a point of procedure because I am not quite clear and I may be just getting muddled here. Regardless of whether the amendment or the main proposition goes forward, if we in a couple of weeks' time reject the legislation itself, for example the Standing Order changes, does that mean ... obviously there will be nothing to put forward, does the proposition still say there would be a referendum on the question of a change? In other words, would there be the opportunity then or the requirement to then come back and represent legislation in debate, or would it mean that if we rejected the legislation that the referendum issue would fall away?

**The Bailiff:**

The proposition of Senator Farnham is that the legislation which is intended to change the composition and the election of the Assembly in accordance with P.133 should only come into course if the proposition wins the support of the majority of Islanders who vote in a yes/no referendum. If the legislation is not adopted by the States there will be nothing to put to a referendum.

**The Connétable of St. Mary:**

Thank you, Sir. May I speak now?

**The Bailiff:**

You certainly may.

**2.2.15 The Connétable of St. Mary:**

I know that my intervention then may have sounded strange and I am going to stick very close to the proposition as I can because at first I thought I had 3 choices, that we proceed without a referendum, that we have a referendum now, essentially, or that we have a referendum at the next election. But from my own point of view, and I will speak on this when we do the legislation, I believe this Assembly made an awful mistake, dreadful mistake and my only concern in whatever option I take is ... and this is really difficult because Deputy Andrew Lewis made lots of assertions about, you know, we will be rejecting change, we have to be careful, people definitely do not want change. The same was said about Deputy Maçon for one reason or another. I think I have a record of change, of bringing change but not just any change, not change for the sake of change. Not change because we are so frustrated that if we do not press pour now there will not be a change, but the right change. The time will come for me to make my case on that and for this Assembly - hopefully in my opinion, and it is only my opinion at this stage - to put that right when we come to the legislation. That is where I have to focus my attention because I cannot believe we made the choice we did, drifting away from the research that had been done.

[12:15]

For my own fundamental concern, giving up our Parishes effectively for centring our elections on without the quid pro quo of the change in system and the change away to 2 sets of Members, it was a huge mistake and we made it, I believe, because, as I said in that debate, we are on the edge of a precipice. So from my own point of view I am reassured by the fact that there is another option and that the focus I must make is to try and persuade this Assembly at the right time that a wrong decision has been made and it should not be proceeded with. For that reason I find it very difficult to think about timing the referendum at the next election because I think it is wrong to go another year heading the public down a route which I fundamentally believe is wrong. I think if we are

going to do anything, and if we did pass the legislation, we should head it off at the pass as soon as possible with a referendum. I know that people have said repeatedly that we need to get the turnout and we need to have it at the time of the general election to ensure that there is that turnout but I keep coming back to this feeling that I have that it is not the public of this Island that are so wound up about electoral reform. If I am wrong about that and if it is the public who are crying out for it then they will turn out if they are given this opportunity. But I have always said it, every single Assembly that is newly elected, when those new Members come to their first electoral debate, whether it happens fairly soon after they are sworn in or, as probably in this Assembly, quite near the end, they simply cannot believe that there is not a better way to do it. For that reason alone reform stumbles every time. So I am afraid that I have no belief, no confidence that if we put the public to a referendum again at the next election that there will not be some way of believing that a different choice could be made. I really believe we have to focus a referendum in the lifetime of the States Members, the political lifetime of the States Members, who would be empowered to take that change forward. In other words, this Assembly puts a referendum to the people as soon as possible now, we then act on that decision. So as far as I see it, from my personal perspective, 2 ways forward: one with the legislation and if that fails to persuade people now that this is the wrong change and to allow this Assembly to act on that decision if the people endorse it. I am afraid, as much as I thought I would be supporting Deputy Maçon, I realise now that I cannot.

**2.2.16 Deputy R. Labey:**

Talking of the London Palladium, which Deputy Le Fondré was earlier, when I was there our worst attendance, our worst month for attendance for ticket sales was September. That is a pattern that is repeated throughout the West End. September was bad and January was bad but September was the worst because kids were going back to school, new schools, and their lives were adjusting for that. September is a terrible to organise a referendum. October is not much better because September precedes it and there is the run-up. So I do believe that a referendum in September or October, but particularly September, would be a travesty and a depressing disaster. I just do not think we can go there. Today I have found out from the Constable of St. Saviour that the date of the next election is 16th May. I put the date for decision on whether to stand for another term exactly one year before the next election, because I think you need a year to prepare for an election, especially if you are coming to this having previously not been elected. You need a year to strategise and prepare. I just cannot believe that we are contemplating not knowing what our constituencies are or what our makeup is until 6 months before a general election. I do not think that is right. I am not going to quote the Venice Commission because the Venice Commission is worthless to us because we are not Venice compliant. All we do is pick out bits of the Venice Commission that support our argument, never mind that we are way off the Venice Commission. Before Deputy Tadier spoke I had already written down that my problem also with the referendum is that I am not sure that the dog's breakfast we have before us is worthy of putting before the electorate. I am not sure it is worth their trouble because who among us can go into that wanting to champion and wave the banners for either side?

**The Bailiff:**

That is for the main debate, Deputy.

**Deputy R. Labey:**

That is for the main debate. I will, in which case, leave it there.

**The Bailiff:**

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

**2.2.17 Deputy J.M. Maçon:**

I thank those Members who have contributed to this debate. Now, we have heard obviously from some Members who will not be supporting my amendment that they will not be supporting the main proposition either, which suggests to me that - regardless of the timing - they do not want to put this matter of constitutional change to the public regardless, full stop. As a Member that does want to put constitutional change to the public, myself and those Members will never see eye to eye. I have been called someone who does not want to see any change but, again, in my very brief time as Chairman of P.P.C. I did try to bring change forward based on the Clothier proposals, if anyone cares to remember that. So, again, I think that is not a fair criticism of myself as an individual. I would like to thank the very helpful comments made by Deputy Martin who spoke very eloquently in kind of outlining the administrative issues of putting this forward. Also I would like to thank the Constable of St. John for explaining the Parish issues, the administrative issues that the Parishes face in having this aspect rushed in the manner that it has been. Now, not everyone will agree with the 40 per cent turnout and that is why I will be taking my proposition in sections, but may I remind Members that in 2005 the turnout was 44 per cent, in 2008 it was 44 per cent, in 2011 it was 45 per cent. It just so happened that in the last election we had a dip to 39 per cent. So the criticism against me again has been: "40 per cent is totally outrageous, we have never reached that, how has Deputy Maçon ever come up with these figures?" Well that is the normal bar that we reach during the elections, and there was a slight dip at the last election. But of course again further I have been criticised, but I said explicitly in my report if anyone does not agree with a 40 per cent turnout they are open to bring an amendment to it. I said it quite clearly in my report. Did anyone change it? Did anyone say: "We find this a bit difficult but this could make a bit more sense." No. Each Member of this Assembly had the opportunity to change that if they felt that was an issue and no one has brought that forward. There are other Members who cannot see that the whole issue around voter turnout is important in order to bring legitimacy to a referendum decision. I think either you do agree with that principle or you do not. But I really urge States Members not to repeat bad history and not to make the mistakes that we have already made of the past, and endorse the timing of bringing this to a general election when the public will be most engaged with our political processes. I also thank the technical points that Deputy Labey pointed out around how even if you follow the timeline that is proposed unamended, September, October is not a good idea either. Again, that is why we have changed our election cycle, we have changed it to a spring one to get away from these particular timings, so we have already acknowledged that is not a good time to be holding these types of processes. But, hey, that is not what everyone agrees with. I agree with Deputy Tadier's comments that is this not a sad turn of events when even in Jersey we see 40 per cent turnout as a high bar, and even lower in some districts. That is something to be ashamed of. In one sense while I am asking for that to bring in some political mandate, it is a strong criticism against all States Members who do not even have near that in the way of a percentage turnout. Now, also I have been criticised for other aspects of my proposition but of course what I am trying to do in part (c) is trying to tackle the Constable of St. Mary's concern which is this Assembly should deal with the legislation how it works in. That is why I have been trying to get the commencement provisions to occur within the lifetime of this Assembly and, therefore, for it all to be triggered - pending the outcome of the referendum - at the general election. That is my attempt at part (c), if Members want to look back at my amendment. In order to tackle the issues that Deputy Martin has pointed out quite clearly, which is the administrative issues, that the Public Election Law needs quite a significant amount of change in order to allow for the aspects to work. That will give the next Assembly 4 years to iron out all these issues and to know exactly where we are, provided that of course it gets the endorsement of the public. It is a strange thing that we hear that Members do not want to put a significant change - as Deputy Le Fondré pointed out - to the public of this Island. How power is given and split up and shared within this Island is not something that certain Members of the Assembly want to put forward in this manner. I think it is

quite a simple matter. I feel that we really must learn from the past and I call for the appel on part 1 and then part 2 of my amendment, thank you.

**The Bailiff:**

The appel is called for. The vote is on the first part of Deputy Maçon’s amendment, which is: “After the words ‘Yes/No Referendum’ substitute the words ‘to be held on the same day as the General Election in May 2018’.” I ask Members to return to their seats and the Greffier to open the voting.

<b>POUR: 16</b>		<b>CONTRE: 31</b>		<b>ABSTAIN: 0</b>
Senator S.C. Ferguson		Senator P.F. Routier		
Connétable of St. Ouen		Senator P.F.C. Ozouf		
Connétable of St. Saviour		Senator A.J.H. Maclean		
Connétable of Grouville		Senator I.J. Gorst		
Connétable of St. John		Senator L.J. Farnham		
Connétable of Trinity		Senator P.M. Bailhache		
Deputy J.A. Martin (H)		Senator A.K.F. Green		
Deputy of Grouville		Connétable of St. Helier		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Clement		
Deputy K.C. Lewis (S)		Connétable of St. Peter		
Deputy J.M. Maçon (S)		Connétable of St. Lawrence		
Deputy of St. Ouen		Connétable of St. Mary		
Deputy L.M.C. Doublet (S)		Connétable of St. Brelade		
Deputy R. Labey (H)		Connétable of St. Martin		
Deputy T.A. McDonald (S)		Deputy G.P. Southern (H)		
Deputy of St. Mary		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy M. Tadier (B)		
		Deputy E.J. Noel (L)		
		Deputy of St. John		
		Deputy M.R. Higgins (H)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy S.Y. Mézec (H)		
		Deputy A.D. Lewis (H)		
		Deputy S.M. Wickenden (H)		
		Deputy M.J. Norton (B)		
		Deputy G.J. Truscott (B)		
		Deputy P.D. McLinton (S)		

**The Bailiff:**

I ask the Greffier to reset the voting. We now vote on part 2 which is the 40 per cent threshold, and coming into effect in 2022, subject to the support of the public; and I ask the Greffier to open the voting.

<b>POUR: 14</b>		<b>CONTRE: 33</b>		<b>ABSTAIN: 0</b>
Senator S.C. Ferguson		Senator P.F. Routier		
Connétable of St. Helier		Senator P.F.C. Ozouf		
Connétable of St. Ouen		Senator A.J.H. Maclean		
Connétable of St. Saviour		Senator I.J. Gorst		



Connétable of St. John		Senator L.J. Farnham		
Deputy J.A. Martin (H)		Senator P.M. Bailhache		
Deputy of Grouville		Senator A.K.F. Green		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Clement		
Deputy K.C. Lewis (S)		Connétable of St. Peter		
Deputy J.M. Maçon (S)		Connétable of St. Lawrence		
Deputy L.M.C. Doublet (S)		Connétable of St. Mary		
Deputy R. Labey (H)		Connétable of St. Brelade		
Deputy S.M. Wickenden (H)		Connétable of St. Martin		
Deputy T.A. McDonald (S)		Connétable of Grouville		
		Connétable of Trinity		
		Deputy G.P. Southern (H)		
		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy M. Tadier (B)		
		Deputy E.J. Noel (L)		
		Deputy of St. John		
		Deputy M.R. Higgins (H)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy S.Y. Mézec (H)		
		Deputy A.D. Lewis (H)		
		Deputy of St. Ouen		
		Deputy M.J. Norton (B)		
		Deputy of St. Mary		
		Deputy G.J. Truscott (B)		
		Deputy P.D. McLinton (S)		

## 2.3 Electoral Reform (P.10/2017) - resumption

### The Bailiff:

We now return to the main proposition of Senator Farnham and open the debate.

#### 2.3.1 Deputy M. Tadier:

This is an interesting one because there were obviously arguments on both sides. Certainly the Reform Jersey position, I think we can say, is that this referendum is a great idea. We are very much looking forward to it.

[12:30]

It means that just only 7 months before an election we will have our candidates lined up, we can send them out to campaign during the referendum in the constituencies where they may be standing, we can get hold of a copy of the electoral register, which goes hand in hand with the referendum presumably. Great for us, that is gold dust. We will be using that to train our candidates up, as well as ourselves, to go out and engage with the public, to be able to knock on their doors and say: “Mr. and Mrs., are you registered to vote? Have you ever considered voting in the past? Would you consider voting for Reform Jersey?” So we really think this is a great idea. It is something that we would like to do anyway during normal periods, but we cannot always access the electoral register. That is perhaps something we need to consider in the future, that anybody should really be able to access the electoral register, subject to a data protection disclosure, so that

they can go around and engage people and lobby outside of election time. These are all really good ideas. But I suspect that Senator Farnham is not doing it for our benefit, although that is just a by-product. Of course it does pose problems perhaps for other people - and possibly for ourselves as well - in the sense that if you are an independent, and you may be a current States Member, you may be a current Deputy, but you may be somebody who is looking to stand for election. Not to mention the public, of course, you will not know until less than 7 months before the next election what the constituencies are even going to be. So if you are a St. Brelade resident or Deputy even, or a St. Peter Deputy or a St. Ouen Deputy, you will not know until a few months before the election whether or not you are standing in a relatively small district with perhaps 5,000 registered voters, or if you are standing in a super-constituency with 15,000 or however many potential electors. So there are for and against, and of course we would be very happy, as I said, if a referendum goes ahead but how on earth is anybody going to campaign during this referendum? How do you campaign for something which is a dog's breakfast or a pig's ear? Is anybody going to get excited about this? At best, as I have said, this is a temporary reform which does not merit being put to the public. Okay, there are people out there who are against the changes because they see it as being a breakup of the Parish system. I do not accept that, incidentally, I think the Parishes have been kept. I think the States in these types of reform have bent over backwards to make sure that the Parish representation is maintained and kept in this Assembly by the presence of the Constables, their *ex officio* presence will continue into the future. That is the link with the Parish. So I do not really accept people standing up to say: "But you have got rid of the Parish system by joining St. Brelade and St. Peter together and then adding St. Ouen. It is somehow terrible because of course we cannot speak to each other because we are essentially different Parish nationalities." Complete nonsense. What we have seen here is that 30 people on the day, only a couple of months ago, decided to vote for the reforms. There was no guarantee of a referendum; there was no mention of a referendum in that proposition. It did not say: "Subject to a referendum." Now we hear people saying, no doubt having been taken in by somebody mentioning: "Well, perhaps we could have a referendum on the back of this." No explanation about how that would work, or whether it would be viable or even timely to bring in the relevant changes. It was just done on a whim. I think some Members quite honestly just got caught off guard. It had been a long debate; there was not even any debate on the final amended form of that, no debate whatsoever. Quite remarkable, it just went straight to a vote. Then people presumably get back to their rural constituencies and some people are saying: "What on earth were you thinking of? You have not discussed this with us." Although remarkably I have had very little, if any, people talking to me about it. When I go to my constituency surgery in Communicare, there are always people around and they are talking to me about the usual issues, J.T. bills, for example, and when I sat in the room with the knitting and sewing club and I said: "What do you think about States reform? What do you think about super-constituencies?" Completely indifferent. They had not even really thought about it, no doubt maybe they will nearer the election but there was no clamouring whatsoever. So this idea that somehow we are going to get people to come out to vote in a referendum outside of election time ... I think you are going to get the people who do not want this, perhaps the vocal minority who do not want it. The large majority of people are saying: "Yes, whatever, just tell us what it is going to be. Tell us what the system is going to be in good time so we know and then we will just go along with it." It does not mean that people are indifferent to reform, it is just people have obviously other priorities going on in their life. Like Deputy Labey says, people have school children, people have families. They are not like us, completely obsessed with electoral reform and the different permutations and combinations that you can have about a system. They want a system that works, they want a system that is fair, and they think that we should get on and show some leadership in this. So as I said earlier, for various reasons, if you take out the personal vested interest that we might have as a party - I completely accept that was said tongue in cheek, although there is definitely truth in that, we would relish any opportunity to engage, and we will, outside of

election time of course anyway - this is not really something we can do in good conscience. The reforms are at best a dog's dinner. Putting this to the public 7 months before an election is certainly not acceptable, irrespective of what the Venice Commission says. I mean, it is just not common sense and it is not good form or best practice, or even good practice for us to do that. I think we have to kick this out and consider, do we put a reasonable question to the public at the next election for wholesale States reform, completely revising a new system in which we will have a good 2 or 3 years in the new Assembly, whoever is here, to bring meaningful change through. At best these are reforms which will be interim before we can get on to meaningful reforms, not just of the Assembly presumably but in many of our apparatus and institutions throughout the Island.

### **2.3.2 Deputy J.A. Martin:**

It is not often that I rise after Deputy Tadier, and he has left me totally confused because I heard him say and I heard Deputy Southern say we have a dog's dinner: "We do not want to put that dog's dinner to the public." The Reform guys behind me are in absolute reform mode that they want any change for the sake of any change, so which is it? But we happen to be on the debate of whether we hold a referendum now - I mean, I had my chance so I went for the one where I thought we would get the turnout - or do I hold a referendum on the changes we have agreed ... and if you did listen to the Constable of St. Mary, she is coming from: "I am going to vote against the States of Jersey Law, I am going to vote against P.18." Well you are not going to get reform to do that so you also lost your chance, Constable, to put this to the people. Because whatever you may think on "this is the last chance hotel" we have a referendum on what we decided in February, not going forward what we may think Deputy Tadier wants to put to the public. As Deputy Labey said, my election starts nomination night next year which should hopefully be about 10th April - we are only just over a year away - and so does it for the public. I cannot in all sense and absolute responsibility stand here and support this referendum outside of the election, which we have just voted out. Because I want to respect a good turnout and what the people vote for. Do I think this is the right question? Possibly no, but this is all we have got. So it really saddens me that we have now walked past the only chance I think we did have to get what I think is the public's view on the changes, the desperate pleas we had from Deputy Lewis of St. Helier that Senator Bailhache ... and it always worries me when Senator Bailhache and Deputy Mézec actually agree on something wholeheartedly. There has got to be something wrong. **[Laughter]** **[Approbation]** They are voting for this for totally different reasons. Deputy Mézec has not been here that long but he wants to have change, it has to happen, it is going to happen in his lifetime, but I cannot put this to the public outside of when we are going to get a decent turnout. Yes, we could have voted for part (b) and could have a 40 per cent turnout, which would have been a wrecking motion, to have a referendum in October or September. If you can get 30 per cent of the electorate to turn out, probably 25 or 30 people the way we treated them last time, and I was one. It did not suit St. Helier, we did not go along, so why would I support the referendum? We are heading to absolute chaos but I am not going to endorse this and I am not going to have a referendum outside of where I can hopefully think we will get a lot of people turning out. You will get other people voting against it for different reasons, they just want to get on and do it whether it is right or wrong, people do not care, people are telling Deputy Lewis they have got to do it now. Well, no, I am a St. Helier Deputy and his constituents might. I am not that selfish. St. Helier will not change; just split it down the middle. The rest of the Parishes, you needed to put this to a referendum but you do not do it in September. As Deputy Labey says, the show will be over.

### **LUNCHEON ADJOURNMENT PROPOSED**

#### **The Connétable of St. John:**

Sir, I am mindful of the time and my speech may exceed and rather than break it would I be able to ask for the adjournment?

**The Bailiff:**

Do Members wish to adjourn? Very well, we adjourn until 2.15 p.m. this afternoon.

[12:41]

**LUNCHEON ADJOURNMENT**

[14.18]

**2.3.3 The Connétable of St. John:**

I think the Assembly should note that Deputy Mézec and Senator Bailhache agreed, and that should be a warning to everyone. I have been giving this much consideration and I think the question that is being posed, which nobody has really quite grasped, is how does a minority get their way? The answer is: persistence. This has been going on for a very long time and the strongest argument that is being put forward against having a referendum is because it has been going on for a very long time. To those people I would like to say it is about time you got the message. The changes that are being proposed are not right. That is why we need this to go to a referendum so that the people and the electorate of this Island can decide for themselves. We have heard Deputy Lewis of St. Helier say: "I have had lots of people phoning me." I have not had anybody phone me and when I do question people they have looked at me and said: "What a stupid idea." I do not know whether it is the way I pose the questions but I do try to do it as honestly and openly as I can. I hope they are just not being very kind to an old man and pleasing me by giving the answer I want to hear. But I give more credit to my parishioners than that. They are, I hope and I believe, very similar to myself in St. John, and I think previous people who have held my position have also been similar because it is a St. Jeannais trait to speak bluntly, openly, and to speak your mind. It is for these reasons that I very firmly believe that we are changing a significant history of this Island. The Parish boundaries are being merged into super-constituencies. That issue has never been debated, and we need to make it very clear all the pros and cons and the mechanics ...

**Deputy A.D. Lewis:**

A point of order, if the Constable would give way?

**The Connétable of St. John:**

No.

**The Bailiff:**

If it is a point of order, Deputy, the Connétable must give way; if it is not a point of order and you have interrupted him you will incur the wrath of all your colleagues.

**Deputy A.D. Lewis:**

The Constable is saying that the issue of super-constituencies has never been debated. That is completely untrue. It has been debated to the death in this Chamber, and with the public through consultation.

**The Bailiff:**

I think that is not a point of order, I think it is a point of correction and you should normally make it at the end of the speech. Connétable?

**The Connétable of St. John:**

Thank you, Sir. There has not been the opportunity to debate the pros and cons of super-constituencies in the countryside, and to bring forward the fact that within certain Parishes the

Deputy is the Deputy of the Parish and he or she is very much part of that municipality. In St. John they sit on the ...

**Senator P.M. Bailhache:**

May I raise a genuine point of order? I would like to know whether we are going to re-debate the issue which we debated a few weeks ago or whether this debate is about the question of whether or not there should be a referendum. The Constable is not talking about whether or not there should be a referendum.

**The Bailiff:**

I rule against you, Senator. I think it is almost impossible to avoid having a debate on the importance of the subject matter of the referendum in determining whether to have a referendum. I cannot see how we can make that distinction.

**The Connétable of St. John:**

The issue for the referendum is whether we should have a Deputy representing a district as opposed to representing a Parish. I certainly know that within the country Parishes this is very badly received. They do not want a super-constituency Deputy representing them. They want their own Parish Deputy. I could go on probably until lunchtime tomorrow but I am sure the Assembly would not wish me to do so, outlining the problems that would arise. One such issue is that within many country Parishes the Deputy does play a municipal role, but if we do not have a Parish Deputy who will fulfil that role? We come back to a very simple question again. What is the object? What are we trying to achieve? We are trying to achieve greater voter involvement and voter equity. How are we going to do that? By having a super-constituency such as St. John, Trinity, St. Lawrence and St. Mary, if one had 6 candidates nominated from St. Lawrence when there are 4 vacancies will St. Mary, St. John and Trinity bother to turn up? No, of course they will not, thank you. So, how does that increase voter representation and voter equity? This needs to go to those people to decide whether they want this change and to say: “no, we are not going to let them choose what changes we are imposing on them” is very wrong. This is the biggest change this Assembly will see since 1947 and we are in effect riding roughshod over longstanding constituency boundaries being the Parish boundaries. We are effectively saying we do not want Parishes anymore. We do not want Parish boundaries. What we want is super-constituencies and to do away with what has worked for so very, very long. I urge Members in this Assembly, not just for the sake of voter equity but to have the assurance that we are in unison with the public, that the public is supporting what we are doing and that a referendum is the only way to ensure that we have that support and that we can go forward with confidence and say we are doing the right thing, the public supports us and anybody who is against that obviously is fearful that P.133 might be wrong.

**2.3.4 Deputy S.Y. Mézec:**

I usually enjoy the speeches of the Constable of St. John, even when I do not agree with the point he is making because I think he makes some very valuable contributions and does so usually in quite an eloquent way, and I am sad to say that the speech he has just given certainly does not count as one of the best that I have heard him give previously because I think he made several points in it that are manifestly untrue. The first of those is that there is no support in the country Parishes for the idea of super-constituencies and he knows this because he speaks to his parishioners. I should point out to him that he has thousands of parishioners and it is more or less impossible to have a direct conversation with every one of them to know what they think. The best exercise of determining the opinion of people in a particular jurisdiction, and he will agree with me on this point, is a referendum. However, we have already had one on the subject of super-constituencies where in his Parish Option B won by quite some distance, which included super-constituencies and

keeping the Constables, and Option A also did reasonably well in there, which included super-constituencies and in that referendum Island-wide 80 per cent of the public voted for a form of reform that included super-constituencies. I simply cannot understand how people can stand up in this Assembly and say that there is no support for super-constituencies in this Parish or that Parish when the greatest exercise of democratic consultation that this Island has ever done on this subject, which was the Electoral Commission and the referendum afterwards, showed that when that option was presented to the public of a form of super-constituency 80 per cent of those who voted came to endorse it including in the country Parishes where admittedly the version of super-constituencies that kept the Constables, so kept a Parish link, won overwhelmingly in those Parishes and Island-wide it won as well. So, this idea that because I have spoken to a few people here and there I can judge that there is no appetite for super-constituencies I think there is simply no evidence of this and in fact the evidence says the opposite. If we are having a referendum on this particular model of reform because we do not think there is any evidence that the public in those Parishes want super-constituencies then I think we are having a referendum for completely the wrong reasons and on that basis this proposition should be opposed. I do have to say I resent the comments that this is somehow the end of the Parish system.

[14:30]

This would be the third referendum if it were to go ahead where an element of that debate would include whether the Constables are kept in the States or not and Members know my view. I do not particularly want the Constables to be in the States. That is a position I have held for a long time. However we have had 2 referendums that have said the majority of the public want to keep the Constables here. They want that version of the Parish link maintained and that is safe and I think that those of us who on principle do not like that fact are prepared to bend over backwards to accommodate that and say, well, okay, we have lost that element of the argument so let us have some compromise moving forward and I think these sorts of delaying tactics are incredibly unhelpful and the public is ultimately suffering by having to wait for delay after delay before they get improvements to our democratic system. Much has been said about the Venice Commission. There are 2 Venice Commissions. There is the Venice Commission code of good practice on electoral systems and there is the Venice Commission code of good practice on referendums. The problem I have with this proposition is that it is out of line with both those codes of good practice. The code of good practice on referendums stipulates various criteria that outline what a good referendum process is and what the rules regarding how you conduct a referendum to make sure that it is a fair debate, to make sure that there is equality of arms on different sides and that the role of public administration is not biased when it comes to implementing that referendum. P.P.C. has been working on updating our referendum legislation to make sure that when we have referendums in future they are in line with the Venice Commission code of good practice on referendums and that is important because if you do not abide by a code of good practice the obvious implication is that you are adopting bad practice and I would hope that nobody in this Assembly would think it is right to conduct referendums under a bad practice. This proposition, if it had come a year ago, the argument for not holding a referendum would have been quite weak. Today it is very strong because the Privileges and Procedures Committee has had to delay debating updating our referendum legislation so there is no chance of it being in force in time for this referendum so it will be a referendum held under bad practice in line with the Venice Commission's guidelines and that surely is something to be worried about, that we would be undertaking something that is a bad practice. But the other Venice Commission code of good practice, the one on electoral systems very clearly says that you should not make changes to your electoral system less than a year in the run up to the election and this proposition is so blatantly out of line with that particular guideline to the point where I think it would be madness to adopt this and leave the shadow hanging over our electoral system, until such a late stage in the process. So, we may be about to in a few weeks

adopt the legislation, the amendments to the States of Jersey Law to update the schedule that allocates Deputy seats for this particular system but if we have a referendum at the final moment where this will be 100 per cent enshrined in law and cannot be changed is likely not to happen until potentially December, less than 6 months before the election. That is simply unacceptable and cannot possibly be the way forward. If we are to have an election under a different system that needs to be enshrined in law as soon as possible and the last moment for any potential wrecking amendment or any potential speed bump is the Commencement Day Act, the Appointed Day Act. That is the very last moment. Once that is past nothing more can be done. We have certainty from that point. Having this referendum means that the Appointed Day Act will not be decided until December whereas if we go ahead as things currently stand on the current timeline yes, we will still be very slightly outside the Venice Commission's code of good practice in that the Appointed Day Act will come within that 12-month period but it is not that far into that 12-month period where the referendum pushes it much further backwards. I think the other issue is that the wording of this proposition is to hold the referendum based on the decision that we made a few weeks ago in this Assembly on that system. We can approve that decision in principle today and the instruction that would be given to the Privileges and Procedures Committee would be to hold the Yes/No referendum on the system that we chose to adopt a few weeks ago. However, as we speak today we have not yet adopted the changes to the States of Jersey Law which could theoretically be amended at this point. So, we could agree to hold a referendum on a decision that was made a few weeks ago and then in another few weeks we vote to change the States of Jersey Law amendment so we would be holding a referendum on a system that would no longer have any legal backing behind it because the States would have chosen to amend it or potentially even not to adopt it. So, there are numerous problems with this proposition that make this journey a lot more of a bumpy ride and I do not need to emphasise how bumpy it has been up until this point, just in the last few weeks, let alone the last few decades. I think to have that shadow hanging over our electoral system for further months or more than that is not the right thing to do. I do not think it is right to say that we have to ask the public once more on the issue of super-constituencies when there has already been a referendum on that where 80 per cent of those who voted supported it. There was a contention at the time about the issue of the Constables and then we held a second referendum and that issue has been settled. So, as much as I do not particularly like this proposed reform, I do not think it goes anywhere near far enough, I do not think there is any real democratic implication to say we are somehow letting the public down if we do not let them have a direct say on what is ultimately in the grand scheme of things a minor reform alongside one main reform in it, that they have already endorsed the principle of in that referendum, in that consultation, the 2 greatest exercises of democratic consultation the Island has ever had in its entire history. I think we would just end up wasting more time, breaching codes of good practice and I think the public's patience would wear very thin at that point and really when so many people out there have as little faith in the States Assembly as they do I think it would be doing a good thing to say: "Right, we understand you are fed up with this. We are going to go for this. We will run with it." It might not be perfect but that I believe is the way forward and a referendum that is conducted under bad practice is certainly not the right thing to do. We need to have this dealt with as soon as possible.

### **2.3.5 The Connétable of St. Mary:**

I do not wish to speak but I think I have to because the things both the 2 previous speakers have said have really made me come to my feet. I would like to say what Deputy Mézec said about the greatest exercise in democratic consultation ever in the Island; yes, I think it probably was. The Electoral Commission was a massive piece of work and it is certainly true that the vast majority of people, as the Deputy said, endorsed the move to super-constituencies but they did not consider the reform that we have before us today. I know because I was on the Commission and I attended half of the meetings in the Parishes when the Commission divided into 2 and went back to the Parishes

that the issue of super-constituencies was well discussed at Parish level but the acceptance of it was extremely hard won and it came about as a change was perceived. As we talked through our initial findings at the second stage of consultation and explained about the loss of the Senators and the fact that the Deputies, as they would be elected in large electoral districts - I do not think we called them super-constituencies - and would be the elevated Members of our Assembly. Not a 3-tier system as we have although obviously we all have the same vote, but the loss of the Senators was balanced by the move to the large electoral districts and the way the Deputies then, and we struggled with whether we should be calling them something different to differentiate between what we have now and what we would then have, it was a new way forward. It was not simply replacing the Parish basis with the larger basis for election. It was removing our Island-wide mandate and making a different large, broader mandate. So, I believe fundamentally that the acceptance of the large districts was intrinsically linked with that process and you cannot simply say, yes, we agreed a large electoral district. We did in the context of the interim proposals and recommendations which then went on to be endorsed in the referendum. I think it is very important that we are honest with ourselves and the electorate and that we do not read different conclusions into the results of specific questions that we are asked. I think that is really important so I wanted to say that because I really fundamentally believe, and that is the basis of my opposition, my discomfort with the situation we are currently at. Also, listening to the Constable of St. John, after he had spoken I turned to him as I often do and said: "Absolutely right and absolutely wrong both at the same time." I think he is fundamentally right that we need ... I have a problem. I was elected to make decisions. That is my job and sometimes those decisions are not easy. There comes a time when you think this is such a huge, momentous decision that yes, we need to make a public statement, we need to have a referendum or get a public opinion or whatever. But I think we have to be very wary of making that the norm because that is not the style of our politics here. We make decisions. That is what we are supposed to do. I am very wary of moving to a referendum. It almost seems as if we are asking the public to bail us out. I need to be able to go to a referendum and say to the public: "This is the question. This is the matter that we honestly believe is the way forward. Do you agree, yes or no?" I am very uncomfortable with the decision of going forward with something that I feel is not right, asking the public to say: "Do you support this or do you want to overturn it?" I think there is a subtle difference to the way we are approaching this question to how we have approached things in the past. Certainly I needed to say there are certain things that have been said that I think need to be taken in a different context and that is why I rose to speak. I think we are in a muddle and the only people who can really take us out of that muddle is ourselves. I will say what I said before. I just hope that Members will reflect on where we are and how we got here and reflect in the weeks to come as to whether they believe that they should endorse that decision or whether it is time to think perhaps we have made a mistake. Perhaps this is not where we should be and how do we salvage that and go forward in the hope that we can keep the trust of the public, that we are only acting in their best interests, not perhaps our own.

### **2.3.6 Connétable A.S. Crowcroft of St. Helier:**

The Constable of St. Mary did not say how she is voting on this proposition. I suspect she is going to vote against it because the idea of putting the public through a referendum into a suite of proposals that one does not believe in is surely a bad thing to do and I would urge Members who are unhappy about the super-constituencies to simply wait until P.18 comes forward and either amend it or vote against it. That is the battleground where we should be focusing and, Sir, you have been quite generous in the latitude you have given Members who wanted to talk not about whether to have a referendum but about whether we should have a fairer distribution of Deputies, for example. I am not going to go down that road. I would just urge Members to save their powder for the debate on P.18 because that is where we need to have the debate. That is where I will talk about the difference between the Constable of St. Mary's vote and the power that has and the power



that my vote has. But today is not the time to do that. Today is simply to decide whether we want a referendum in the autumn about a suite of proposals a lot of Members are unhappy with and I think we should vote against this referendum. It is not going to be helpful and let us get on with the debate on P. 18 in due course.

[14:45]

### **2.3.7 Senator P.M. Bailhache:**

To continue with the love-in with Deputy Mézec **[Laughter]** may I just say that everything he said seemed to me to make complete sense. Every element of the proposed electoral change save one has already been put to the public in one or another. The position of the Constables was put to the public both in the 2013 referendum and then subsequently in a specific referendum and to whether they should remain in the States. We know what the public thinks about the position of the Constables. So far as super-constituencies or 6 large districts are concerned we know what the public thinks because the referendum in 2013 decided that 80 per cent of the people were in favour of large districts. The only element that has not been put to the public is the position of the Senators and I know that is an issue that concerns Senator Farnham. Senator Farnham wants no change. He was an Option C man. He likes things more or less exactly as they are. Or if there is to be change I believe the position of Senator Farnham is that he would like the issue of Senators to be put to the public in a referendum and that I assume is why he has brought this proposition this afternoon. But that is not what we would be putting to the public. We would not be asking the public whether Senators should remain in the States, whether the Island-wide mandate should remain. We would be asking the public whether the compromise solution at which we arrived after such long debate is something of which the public approves. Deputy Southern described it as a car crash and Deputy Labey I think described it as a dog's dinner or a dog's breakfast, and both those descriptions are probably correct but it is a compromise solution. If we had a referendum on this compromise solution what would it tell us? It might tell us that the public do not like the compromise solution but it would not tell us whether the public wanted Senators to remain or not. What the public might mean if they rejected this referendum if it were to go ahead is simply that they want to go back to what they approved in 2013. They want 6 large districts; they want Option B. It seems to me that it would be wrong to put this issue to the public again in a referendum. It would tell us nothing. It might simply add to the confusion that we have at the moment. I was not sure where the Constable of St. Mary was going at the end of her speech. Perhaps we shall see in due course. But the compromise is a small step forward. It means that in future no Deputy will be elected to this Chamber without an election. It means that every Deputy elected to this Chamber will have been elected by a reasonably significant number of voters. That is progress. It is a small step forward. The referendum would do nothing but muddy the waters. It might lead us nowhere. On the other hand if we do not have a referendum it enables the Privileges and Procedures Committee, which has lodged, if I may say so, a really sensible report in relation to this matter... It enables the P.P.C. to get on with bringing the legislation forward and enables us to have the debate on the legislation and to give a reasonable period of time to elapse before the election takes place in 2018. I implore the Members to reject this proposition.

### **The Connétable of St. John:**

May I ask for a point of clarification? The Senator said that the one question that had not been asked was should we keep Senators, which rather implies that the question of should we keep Deputies has already been asked. Could he tell us when that was and what the result was?

### **Senator P.M. Bailhache:**

I thought I had made it clear that the question was put to the public in the referendum in 2013 as to whether they wished to have Deputies elected in large districts or not and the public decided by a

margin of 80 per cent to 20 per cent that they approved the idea of large districts. The matter is absolutely clear.

### **2.3.8 Deputy G.P. Southern:**

Just briefly I will return to my car crash analogy. As you witnessed we were involved in the car crash a few weeks ago and notwithstanding that perhaps Senator Farnham was the cause of that car crash here he comes now offering a solution to the wreckage in order to repair things. There he comes along the road in his fluorescent jacket with his *bleu de travail* on. He looks at it, takes a sharp intake of breath: "That is a mess, a real mess that, but I think I have an answer. I will just get the tow truck, I will tow it away to my garage and I tell you what we will do. We will take the front end of that car and we will weld it to the back end of that car. That is the way to solve things." Members of this Chamber, do not get in that car. Do not attempt to drive it. Whatever you do, do not attempt to go over 30 miles per hour in it. It will be fatal.

### **2.3.9 Deputy M.R. Higgins of St. Helier:**

I am standing reluctantly because I am just going to say what I think. I thought 2 weeks ago we came to a solution as to where we were going to go with electoral reform. It was not particularly what I wanted. It was a compromise. Yes, we are going in a particular direction. I went with it. Today I have been disheartened by everything I have heard and the prospect in a few weeks' time when the States of Jersey Law comes back in debate, we are going to have another major reform debate, which will probably solve nothing, really dismays me. I am getting more and more despondent, I think, every time I have heard someone speak. I wish we would deal with this once and for all. But as far as where we are today, I cannot see at the moment supporting the proposition for the referendum at the moment but I really hope that people will see sense and not try and unpick everything that we determined 2 weeks ago. Yes, I will just leave it at that.

### **2.3.10 The Deputy of St. Mary:**

I shall be very brief. The suggestion has been made that the proposition now made by Senator Farnham is something of an afterthought. It is not. At the time of his original proposition there was a further one lodged to be debated, which was to have a referendum. Most Members, I think, thought that a vote on that would be taken immediately afterwards. It was not and we were, therefore, deprived of that opportunity. Many Members voted for his amendments on the strict understanding that the proposition to hold a referendum would be heard immediately afterwards. It was not and, therefore, today's proposition is simply rectify what should have happened at the time.

### **2.3.11 Senator P.F.C. Ozouf:**

I am getting slightly worried because I also agreed completely with Senator Bailhache and Deputy Mézec and that is putting me, obviously now, not a Minister, on the Back Benches - I do not know really where I am. I have a bit more time on my hands at the moment, so I have a bit more time for reading things and thinking about things. As the mover of one of the amendments in the last debate to keep Senators, which I said very clearly was my fall-back position because I was worried that Deputy Lewis's proposal would not get through and because of my serious concerns about democracy. Sir, you spoke about democracy when you welcomed His Excellency. You spoke about Jersey being a constitutional democracy. You also told His Excellency what his oath of office meant, which I was interested in, and I looked up his oath of office and I looked at our oath of office and I made sure that I was checking again to see whether or not I was complying with my oath of office and also the code of conduct of States Members. I am sure that Members do not need reminding or explaining of what their oath of office means and why we are here. When I say I have done a bit more reading, I have reread the oath of office and it says, of course: "The primary duty of elected Members is to act in the interests of the people of Jersey and the States and to act on all occasions in accordance with the public trust places on them." We have a general duty to do

whatever we believe to be best in the interest of Jersey. The interests of Jersey are best served by getting on and making a much needed reform of our constitution because there is no voter equity and there is no voter equality. I, perhaps like others, would prefer that we were not here. I was originally a Clothier opponent and I said that at the time. I was an Option B supporter. Politics, one realises, is sometimes one of a compromise and a compromise is what we have ended up with but it is a jolly sight better than doing nothing at all. Doing nothing at all would be, I remind Members again, in my view, extremely damaging to our international reputation, having a system that is so egregiously unfair. Those Members who are dissatisfied with the particular solution that we have come up with, I urge them to think of what is in the Island's overall best interests. You described also, Sir, in your remarks in the States, you described some ... I think you said: "Intellectually challenging times." There were some things in your speech I did not quite understand, so I did not know we had Her Majesty's Government in Jersey. I did not know quite the fact the United Kingdom was a possession of the Crown and I had never heard the analogy of a principality with 2 princes. Neither did I understand particularly what you meant when you said: "Domestic or national law is subservient to the other." But what I did agree with ... you said there was latitude in the debate. **[Laughter]** I thought I would take maximum use of it, Sir.

**The Bailiff:**

I can only invite you to come to my Chambers and I will explain all these things to you. **[Approbation]** **[Laughter]**

**Senator P.F.C. Ozouf:**

Sir, there is an expression, be careful what you pray for because I will come upon your Chambers and find out what you meant because I really did not understand that but obviously things can be subject to interpretation. What is not subject to interpretation, and I agree with you on this, is the fact that we are a constitutional democracy. At the heart of democracy is fairness and voter equity and voter equality. If we do not fix this and fix this fast then Jersey is going to, effectively, be cast into the ranks of undemocratic and unworthy of, I think, inward investment and economic growth, *et cetera*. I think it is so serious and that is perhaps why there is a bridge being built between the positions the ... I hope he does not mind the left-wing view of ... he says he is centre-left, so I do not know where left is. I suppose there are different centres of left and the, no doubt, liberal position of Senator Bailhache. I am seeing Deputy Mézec... good job the cameras are not on him. He is pointing some other way. But, anyway, look, there is a bridge and there is an absolute, I think, almost unanimous view across Members of this Assembly that there is such a massive urgency on dealing with almost would be a constitutional crisis. I do not think your words were quite a constitutional crisis in court the other day, Sir, but I will go to your Chamber to understand them. But I think there is a constitutional crisis on the way if we do not fix our democracy. It is a crisis. I will say it again, it is a crisis because there will be observers that will come and say that our system is so egregiously wrong that we will be cast into one of the lower rankings of any democratic state in the world.

[15:00]

In addition to that, the voter turnout, which we had a vote on the debate before, we are appalling with 40 per cent. It is shocking. There is an election in the Netherlands today and that will be, of course, massively more than 40 per cent, as it should be, as we should be looking forward to a vote in a general election next year on the 16th or 18th May with significantly higher voter turnout than 40 per cent, otherwise we are not a democratic state and that has got to be alongside fairness. Turning to the issue of whether or not to get there, we need and can have a referendum; I say to Senator Farnham, it is just not possible. It is just not possible to have a referendum, as I think Senator Bailhache said earlier, a few months before a general election. We have tried this before

where we have been tinkering with our electoral system a matter of months before a general election and it is just simply not on. I do not need a Venice Commission. I do not need anything to say that it is completely outrageous for a properly democratic elected Assembly to say to make changes in the months leading up to a general election. You just cannot do it. The alternative solution is just put it off then and have a referendum at the general election and let us leave the allocation of Deputies as it is and all the rest of it untouched. That situation is so terribly bad and we have been trying to work at it since 1999 and before that; it has got to be fixed and it has got to be fixed quickly because we will effect... We are on a rising tide because we heard and we keep on seeing now, we are on a rising tide economically. We are winning battles, economic battles and seeing inward investment and economic prosperity. But we are also going to go through some choppy waters with Brexit and we need to be focusing and stop talking about ourselves and we need to stop talking about the composition of the States. Get on and make a decision and prepare ourselves for this, what could be a really big opportunity for Brexit but could be a big threat. But I think one of the biggest threats is to send out that we are not democratic. This additional time I have on my hands allows me to do a bit of more reading than I perhaps used to. I have read recently a speech made in 1774 by Edmund Burke, he was a member of the Whig Party, which ought to please Deputy Mézec, not. No, no, nothing to do with hair length, it was Whig Party. **[Laughter]** It is conservatives. He said: "It ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondent and the most unreserved communication with his constituents." That is his or her constituency in the modern way: "Their wishes ought to have great weight with them, their opinion high respect, their business unremitting attention. It is his duty to sacrifice his repose, his pleasures, his satisfaction to theirs and, above all ..." he goes on to say: "Your representative owes you not his industry only but his judgment and he portrays, instead of serving you, if he sacrifices it to your opinion." That is one of the quotes of one of the most respected political individuals in, certainly, the last 4 or 5 centuries. What that basically says is, and it goes right back to the oath of office, it says that this Assembly is not just simply a chamber of ambassadors, a chamber of people who are representing by simply going out and asking people, their constituencies, what they think and then reflecting that vote in what they think. We are here to think for ourselves because we are the people that are fully engaged with the questions before us and, therefore, we have a job to do. Edmund Burke is saying: "I am sorry, constituents, I am not always going to vote in the way you want because you have put me here to make some decisions on your behalf." I do not think we need a referendum, which will be impossible to do because this is a few months before an election. We have already had referendums that have been discredited and set aside. I think that we do have sufficient enough democratic mandate to make changes to an egregiously bad political system and make them quickly and without a referendum before we make those changes because we have a mandate already to do that. We have whatever people's views of Option B and the way that that referendum happened. It had a result and it won and we have to implement it to the greatest extent possible. Some of us are thinking about what to do with the position of Senators, given the fact that there seems to be this emotional attachment to them and there needs to be further thought about that. There might be some solutions to that where there is always the Chief Minister's one, we can have win/wins, we can find solutions to that, have real problems with scrutiny of legislation and other things. There may be a solution to keep Senators but to keep them occupied in some other ways, but more of that on another occasion. I am sorry if I misquoted you, Sir, about the remarks that you said in court, that we have an oath of office and we have an oath of office that ought to be in the interests of the people of Jersey. What is in the interests of the people of Jersey is to make a decision that should have happened a long time ago and to get on with reform. I am sorry, Senator Farnham, a referendum simply will not work. It is not necessary and Edmund Burke said: "We are here in order to make decisions and to use our brains." Let us use our brains and be compliant with our oath of office and do what is in the interest of the people of Jersey.

### 2.3.12 Deputy A.D. Lewis:

I hope that was not an aside, Sir. I did write a speech here and it has been blown out of the water a little bit but I am going to try and follow some of it because I wanted to pick apart the proposition that is before us rather than have another reform debate. It is very easy for Members to be dragged into that reform debate and I quite understand why, those feelings are running high. But as the Constable of St. Helier said, perhaps that debate is for another day. What I am going to try and do is just go through Senator Farnham's well-intended proposition and explain why I think it is not necessary. I think Senator Ozouf has just articulated rather well the fact that we are representatives of our constituents and our parishioners, not delegates. But one of the first things I would like to say is that Senator Farnham said that: "We should never ignore the results of a referendum." It is in his proposition, unless, of course, it does not give you the result that you are looking for but that is what he said in his proposition. I have spoken to many people on this issue since we debated P.133 and the sentiment of the majority was very well articulated by a Mrs. Fort, who wrote to us all and then published the letter in the local newspaper. I will just take a quote from her letter and she said: "Nothing has changed since the last referendum to make me think that States Members value the opinion of the general public any more now than they did in 2013." We have all had that letter and it was published last week. I think it speaks volumes. If we have a referendum I am not so sure people are going to take it terribly seriously, turn out or vote terribly imaginatively because we have asked them these questions before and we ignored them. During the last debate about this P.133 Senator Farnham withdrew his proposition during the debate because the change in legislation to make the referendum binding would have taken too long to implement and that was the reason why he said he withdrew it. He is right on that front but before persuading Members that the amendment he proposed was correct, he should have known that before he presented that proposition in the first place. The Senator has also failed to tell Members that the time required to adequately consult with the public explaining why the much-consulted on Commission's recommendations had been tampered with and what the consequences are. He did not articulate that during his presentation of his amendment at all. There is a period of time that is fully required to consult with people to make them understand what it is that we are voting for in a referendum because at the moment I think some Members are confused as well. Certainly the public that I speak to are not quite sure what it is going to look like during the next election and Constables have quite rightly articulated their own concerns about how it is all going to work. They know what it is because we were here debating it, so that period of public consultation is absolutely vital because I am going to ask some very serious and difficult questions of the public, even if it is a yes/no question. In P.P.C.'s very good comments paper, it very clearly lays out a time schedule, both if we have a referendum and if we do not. That, I think, is the piece that Members should look at most closely. It is on page 4 and it clearly describes as to what would happen if there was a referendum. You can see that the timeline gets shorter and shorter before the actual next election. As Members have said, the Venice Convention is not a legally-binding issue at all but it is something we should be trying to meet, as a modern democracy and we would fail abysmally to come close to it on the point of making changes before an election, if we have a referendum. Members, I would implore you to make sure you have looked at page 4 of P.P.C.'s comments. Also, in Senator Farnham's proposition he contradicts himself because on page 4 it says that: "The Appointed Day Act to the amendments to the law may not come into effect until November." The elections are in May, therefore, giving only 6 months' notice of the law change. Yet, in later paragraphs, Senator Farnham states that: "The changes will be compliant with the Venice Convention." That is actually in his proposition. He has not only, unfortunately, during the P.133 debate perhaps led Members to believe that a referendum was possible, compliant and probable, which is why possibly some Members did vote for the amendments... In his proposition today he is saying the same thing again and the 2 contradict each other. I think Members should take a great deal of caution as to how they accept his proposition, as well intentioned as they may be, and I am

not suggesting they are not. For those that believe that observing things like the Venice Convention are important, and I happen to think it is important, making changes some 6 months before an election, which is what would happen if we had a referendum, simply makes us look like a banana republic and I do not want that. Senator Ozouf articulated that rather well in his speech about the same. If Members want real progress with reform then they really should have voted against Senator Farnham's amendment. That is my opinion; I was presenting something slightly different. But at least they can take some comfort from the significant changes that was agreed by this Assembly; 30 Members voted for it and that was to create larger districts. I do not want to have a debate now about the merits or not of those, those have been rehearsed before. The Constable of St. John has clear views on that and he stated in that last debate but you must remember that in the last referendum, which I take a lot of credence from, I think it was a very valuable piece of work, it is very clear when you look at the statistics just how people voted and it was very clear in St. John people voted overwhelmingly in favour of Option B. It is also wrong to say that people have not been asked about the Senators because there was an Option C; that not only included the Senators but included 8 Senators, which is what Senator Farnham's amendment included. The public have been asked about that and only 19 per cent said they liked the idea, so they have been consulted. Voter equity has been mentioned a number of times. The voter equity for the proposal that Senator Farnham is proposing, of course, is not as good as P.133 was and indeed the Commission's original proposal; 51 per cent versus 48 per cent. People might not think that is significant but we were so bad before that it is significant if we start reducing it again. But I think the most important thing that we have not asked the public - which is why if we had time I would perhaps support a referendum - is the one thing that we have changed from the Commission's report and the proposition that was laid before us, and then a referendum we had in 2013, was the boundaries. We did not have a Boundaries Commission as such but we had an Electoral Commission that considered boundaries very carefully and they were based on the historic Parish boundaries, albeit they were combined Parishes. The public were consulted widely on that but Senator Farnham, in his amendment, changed those boundaries and the public have not been asked about that, so that may be a good reason for having a referendum but that can wait, in my opinion.

[15:15]

That can wait until we have the debate about the substantive changes to the States of Jersey Law and I would urge Members to seriously consider that as a way forward because by not having a referendum, the only thing we have not asked the public ... we have asked them about the large constituencies, we have asked them about whether we want the Senators or not, we have asked them about the Constables or not, all those questions have been asked before, a huge consultation process happened to support it, we have not asked them about boundaries. An amendment - a Member may choose, it may be myself - could be brought when we debate the States of Jersey Law, negating the need, in my opinion, for a referendum. We are here mandated by the people of Jersey who elected us to make decisions and a number of Members have said this and articulated it very well. If we have a referendum on this subject, which you have already consulted the public on, there is a huge, I believe, inherent risk. If I was a bookie and I was putting bets on how the referendum result would be, the odds of a good turnout would be very low, the odds of success of this referendum has been referred to by many today by all sorts of names, none of them complimentary, is how can they encourage people to engage in that process of referendum? Are we going to have time to consult with them? Do they understand what they are voting for? I suspect not. I suspect that the referendum, the proposition we have before us to place on the referendum Bill, will be lost. If that is lost that significant gain that we achieved... I believe, although some will say it is a bit of a muddle, there was a significant gain and that was larger constituencies. Some can argue against the concept but the public said that they wanted it. In fact, even Members in the consultation process that we conducted in the coffee room downstairs over several weeks,

organised by P.P.C., have said the same. There was large support for that concept; that will be lost. That major move forward will be lost if we have a referendum that fails. We know what the public think about that already; we have asked them. We have had a referendum already. We do not need to ask them again. There may be some tweaks we need to do to the States of Jersey Law before we pass it, that can be done on another day. To have a referendum could almost be voting to maintain the *status quo*, if I am right with my predictions. I have never been great on the horses anyway. The Grand National might be the only one that I ever even wagered on but if I was betting on this one I would not be getting very good odds. There is a way to prevent this happening though and that is to reject this proposition. Agree perhaps an amendment to P.133 or the States of Jersey Law that has now been lodged. At a later date reinstate the Commission's boundaries that they came up with and, in doing so, there is nothing new to ask the public in a referendum. We are their representatives. We should make those difficult decisions on their behalf, based on the information we have already, which is a significant amount of information. We have all the figures. If anybody has lost them they are on the internet. If anybody wants them I have them here, this is what the public said last time. I do not think their opinion has changed very much but their opinion of us, as an Assembly, is going to go down even lower if we ask them the same question or a revised question again. It has been said to me on more than one occasion from constituents, members of the public, all sorts of people have spoken to me, on, offline, in the street have said: "You want a referendum, about a referendum, how many more times do you want to ask us until you get the answer that you want?" That is what they are saying. That brings this Assembly into disrepute and that saddens me because we have an opportunity here to change that and gain some more respect from the public and another referendum is not the way to do it. I would urge Members to vote against this proposition, as well intended as the Senator may believe it is. I think it is flawed in its approach on this occasion. There is another time for a referendum about other things; this is not one of them. I would implore Members to vote against it.

**The Bailiff:**

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

**Deputy J.A.N. Le Fondré:**

Thank you, Sir.

**The Bailiff:**

Too late.

**Deputy J.A.N. Le Fondré:**

I have waited ...

**The Bailiff:**

Very well. The Senator is willing to hear from his Deputies, so I will let you go, at the very last second.

**Deputy J.A.N. Fondré:**

Sir, I was actually flashing, I did not see him get up, through the right way of course.

**The Bailiff:**

Providing it is something new.

**2.3.13 Deputy J.A.N. Fondré:**

I cannot promise new, I can promise Senator Farnham I will be supporting the proposal, even though, I think, it is weakened by the lack of Deputy Maçon's changes. However, the arguments I

have been listening to most of today against this idea seem to be along the lines of, how dare we ask the public for their view? Do not put it to the public, put a different question to the public. It is too late. In some instances this is a temporary change. If we can get this in and then we can work on it, even if it is wrong. I am sorry, any Scrutiny member should know this one and, hopefully, any Member of the States should know this one: if it is in the legislation you have to treat it as a permanent change. Yes. In other words, people have to be happy that what is going forward works. For me, surely the public are intelligent enough to work out whether something that has been presented to them is appropriate or not and surely we should be offering them that chance. If it is, I think, rubbish is acceptable, I do not know. It has been referred to as a dog's breakfast. I do know in the past we had an old dog and, I have to say, she would eat anything. Even she would put her nose up at what is being put forward, in my view. Therefore, in my view, given that I know that view is shared by a number of Members, at the very least it should go to the public and at the very least they should have the ability to either endorse it and say: "No, we are happy, it is change and it represents it" or: "Throw it out." Because if it was thrown out, and I hope the comment from the previous speaker ... I am afraid this could be close to a vote for the *status quo*, at the very least the electorate have decided that and perhaps it might put electoral reform ... we, the next Assembly, might have 3 years or whatever the period is going to be of focusing on stuff that we can achieve. But my comment is on this, as I have said previously, this is a fundamental change. It is a fundamental change. It is not just playing around the borders of the constitutional set up we have. It basically removes the functions of Deputies to a Parish-based electorate to a much wider set up. The risks attached to that are the weakening of the Parish system, in my view, potentially, eventually, the weakening of the Senatorial system and all that goes with it. That, to me, makes it significant and on the basis it is significant it is worthy of a referendum. On that basis, although I think it could have been improved, I will be supporting Senator Farnham's proposition.

#### **2.3.14 Deputy K.C. Lewis:**

I will be brief. I cannot agree with anything that has been said in the last 10 minutes, with the exception of Deputy Le Fondré. To redraw the Parish boundaries, to redraw the political boundaries in Jersey without going to the people would be a gross insult. This has been described as a dog's dinner. The dog's breakfast was the last referendum, which linked Constables with super-constituencies, then people did not have a clear yes/no choice on that. This needs to go to the people and I will support the referendum.

#### **2.3.15 Senator I.J. Gorst:**

I am encouraged by the groans. **[Laughter]** I am encouraged because I want to say to Members, have courage; have courage. The change... it is fair to say, Member after Member has suggested that it is a dog's dinner, it is a dog's breakfast. But I am absolutely clear that our system, when reviewed by external monitors, will be found wanting. To me, it is as clear as day. It will be found wanting. As that system is found wanting, we too in this Assembly will be found wanting. I have heard conversations in the coffee room about the mistake that 30 Members made a month ago when they voted for change and we hear some approval to that view, that 30 Members made a mistake. Letters now go to the public to ask them if they think it was a mistake. We are very rapidly getting to the point where we face up to the fact that our system is one thing and we mount a robust defence of it or we accept that we must change. Members have said to me they may not know what the changes that they want but what they do know is that this is a change they do not want. But when challenged about the change that they do want and Members struggle to agree and reach consensus, it may not be the perfect change that is in front of us. But it does ensure that for a Deputorial seat there will always be an election. That is an important improvement to the current system. It also ensures there will always be a significant number of votes for those being elected; that is an important improvement.



**The Connétable of St. John:**

Point of order, please, Sir. Could the Chief Minister clarify on a point of order that there will be an election if only 4 candidates are nominated in a district?

**The Bailiff:**

Connétable, if it is a point of order it is not for the Chief Minister to clarify, it is for me to make a ruling. I am not quite sure what ruling I am being asked to make.

**The Connétable of St. John:**

Point of clarification then, Sir.

**The Bailiff:**

Then you should wait until the end of the Chief Minister's speech really and ask him then. Chief Minister.

**Senator I.J. Gorst:**

The Connétable is suggesting that in a larger electoral district it is just as likely that you will have the number of candidates as the number of seats, despite the evidence before us that in larger electoral districts of the Senatorial mandate of the constituencies in St. Helier and in St. Saviour, where they have elections, even though there are multi-Member seats, he is suggesting that that evidence should be put aside and it is not fair to say that there will be an uncontested election. The evidence in our own system shows that there will be elections for those seats. We have asked the public in a referendum what their views were and I am mindful that I do not want to use unparliamentary language.

**The Bailiff:**

No.

**Senator I.J. Gorst:**

But we did not give that election result the respect it was due. I follow my colleague sitting almost opposite me who did not support the result of that election for all sorts of - I know, in his arguments against it - legitimate reasons and yet today the point is being made that we must go back out in a referendum to ask the public. I do not see how supporting a referendum, with the track record that we in this Assembly have, can be an appropriate position. In fact, my good friend, Senator Farnham, I must say in his opening movement of this proposal, his heart did not seem to be in it.

[15:30]

He was powerful, he was persuasive when he brought forward his amendments a month ago. This morning he was neither of those things. If we want to see change because we must see change, we should have the courage of our conviction. Much as I enjoy having Edmund Burke recited to me, we do not need that. We need to have courage. We are here to make decisions. We are here to stand by those decisions because we believe those decisions are in the best interest of our community and then we account for those decisions; that is what being a politician is and should be. Let us this afternoon have courage. We have made an in-principle decision; 30 Members understood, accepted and positively voted for a change in principle. Those who are wavering this afternoon, I ask them to reconsider. Carry on that journey, have courage. Do not put a spanner in the works. Do not put it off. There is no need for a referendum on the change that Members have had courage to agree. I am in no doubt at all that when P.P.C. comes forward with legislative change we are going to rehash all the arguments that we have had for the last 16 years about whether it is a good change or a bad change or if only it was a different change, how Member after

Member would vote for it. Have courage, I ask. Reject Senator Farnham's request to go for a referendum. Continue on the path of change and agree the legislation when it is brought forward. We owe it to this community that we serve.

**The Bailiff:**

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

**2.3.16 Senator L.J. Farnham:**

I have heart and courage. I probably had too many pints of courage last night which is why I was a bit quiet this morning, but I am going to make up for it now. But how anybody can accuse me of not having heart about this subject, this is something that I have championed with other Members of this Assembly for a number of years now and I am going to continue to do this, not for my benefit, not necessarily for the Assembly's benefit but for the Island's benefit. We have an opportunity to put things right. We have an opportunity to put right what we did wrong after the last referendum. By the way - and I will be probably coming back to one or 2 of the things that Senator Bailhache said - I am in favour of change. I am a reformer. I did support Option C but, as the Option C supporters know, Option C was for change but not this change, not the disparate quick change and the disparate questions that were posed in the last referendum. I want to thank all Members that have spoken and contributed because despite the views being disparate and the speeches being varied, Members are engaged with this and that is good. This is a debate we need to have because what is wrong? Why are some Members so scared of asking the electorate? Deputy Andrew Lewis, he made a very good speech and, again, I commend his contribution to this subject. He asked the question - which really, I think, is where he showed his full hand - what if this is lost? What if we do ask the question and what we want is lost? That is not the reason we should be debating or we should be trying to persuade each other to vote against the referendum; trying to see the outcome and if the outcome might not be what we want then we cannot ask the question. It is not right. Deputy Mézec: we do not see eye to eye but I do applaud his engagement, his commitment to this. He did try to bamboozle us with the process. I have here P.4, which is the Draft Referendum (Jersey) Law, which is being lodged, which is excellent. The Solicitor General may wish to help, if necessary, if I am wrong but if this is approved, this proposition is approved, then quite simply this P.4 stays in the side lines until such time as the process for what is agreed today is complete. The Constable of St. Clement is pulling a funny face; it is either wind or he wants to say something. **[Laughter]**

**The Bailiff:**

I think by any standards, Deputy, that is not parliamentary. Would you please continue, Senator?

**Senator L.J. Farnham:**

What was agreed with P.133 was not complicated and I do hope, I really do hope that this Assembly does not try and unpick this and bring amendment after amendment and undo the work. Because if it does, if we do do that, then our stock will go down even further. I cannot find a parliamentary expression to describe what I want to say but I hope this Assembly will have a good debate when the law is brought back on 2nd May. I hope we have a good debate. I hope many of the issues raised today are raised again so we can challenge them at the right time or agree. But, simply, it is not complicated. What we agreed is not complicated; 8 Senators, 12 Constables, 6 super-constituencies, all based around the Parishes. It is straightforward and by having a referendum we will engage more people, we will engage more of the electorate, we will explain what we are doing to more of the electorate. More people will understand what is being planned and we will give them the opportunity to say yes or no. We all have to compromise. We all have to do some duty. We all know that when we put our name forward for election to sit in this Assembly we do so not to put our interests first but to put the Island's interests first. Many

Members, Senator Ozouf... many Members have said this, which really is making an argument for having a referendum, for asking the people, do they want this, yes or no? I am not a big fan of referenda, I have to say. There are few reasons to bring one and this is one. A change to the electoral system or the make-up, the people's Assembly is a very valid reason to get the endorsement of the electorate for what we want to do. I remember in the 2011 elections in the hustings the electorate were not impressed that this Assembly had removed 4 Senators without their permission and that came over loud and clear. Let us not make the same mistake. This is not about what we want, this is about what the public want. Many Members have been preoccupied or obsessed with their own views and preferences and that is not a bad thing in an issue such as this but we have to put those aside now and again. We have to work for a compromise. We have to deliver something that we can all agree with, a little bit of it, even if we do not agree with all of it. We have to compromise. We have to continue to compromise if we are going to carry on with this journey, if we want to put right the fact that we did not listen to the public after the last referendum, if we want to add more legitimacy to what we agree on on 2nd May, then we should have heart and we should have courage. We should have the courage to go to our people and ask them the question and ask them to endorse what this Assembly votes to do with the electoral system and the constitution of the States of Jersey. It is for those reasons that I brought this proposition. I would like to thank everybody who has spoken once again and I hope the Assembly will respect the public and give them an opportunity to have their say.

### The Bailiff:

The appel is called for and I invite Members to return to their seats. The vote is on the proposition of Senator Farnham for a referendum in relation to electoral reform and I ask the Greffier to open the voting.

<b>POUR: 15</b>		<b>CONTRE: 29</b>		<b>ABSTAIN: 0</b>
Senator L.J. Farnham		Senator P.F. Routier		
Connétable of St. Lawrence		Senator P.F.C. Ozouf		
Connétable of St. Mary		Senator A.J.H. Maclean		
Connétable of St. Ouen		Senator I.J. Gorst		
Connétable of St. Saviour		Senator P.M. Bailhache		
Connétable of Grouville		Senator A.K.F. Green		
Connétable of St. John		Connétable of St. Helier		
Connétable of Trinity		Connétable of St. Clement		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Peter		
Deputy K.C. Lewis (S)		Connétable of St. Brelade		
Deputy of St. John		Connétable of St. Martin		
Deputy R. Labey (H)		Deputy J.A. Martin (H)		
Deputy S.M. Wickenden (H)		Deputy G.P. Southern (H)		
Deputy T.A. McDonald (S)		Deputy of Grouville		
Deputy of St. Mary		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy M. Tadier (B)		
		Deputy E.J. Noel (L)		
		Deputy M.R. Higgins (H)		
		Deputy J.M. Maçon (S)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy S.Y. Mézec (H)		
		Deputy A.D. Lewis (H)		

		Deputy of St. Ouen		
		Deputy M.J. Norton (B)		
		Deputy G.J. Truscott (B)		

**The Bailiff:**

I can announce to Members that there has been lodged the Jersey Financial Services Commission; re-appointment of Commissioner, P.19, lodged by the Chief Minister.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**3. The Connétable of St. Clement (Chairman, Privileges and Procedures Committee):**

Arrangement of Public Business is as per the Consolidated Order Paper with the additions of on 28th March - the next sitting - projet 117 in the name of Deputy Tadier regarding TV licences, which was deferred from today's sitting; on 19th April the addition of the projet you just mentioned, Sir, projet 19 in the name of the Chief Minister on the re-appointment of the Jersey Financial Services Commission Commissioner; and on 2nd May, the one I am really looking forward to, projet 18 in the name of P.P.C. States of Jersey Law Amendment. I propose that that is the future public business.

**The Bailiff:**

Thank you. Very well, the States now stand adjourned until 9.30 a.m. on 28th March.

**ADJOURNMENT**

[15:44]