

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 2nd MAY 2007

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

PUBLIC BUSINESS (...resumed)

1. Composition and Election of the States Assembly: proposed reform (P.145/2006)

The Bailiff:

Now the debate continues upon the proposition of Senator Shenton, and yesterday evening I last saw Deputy Scott Warren if she wishes to address the Assembly.

1.1 Deputy Scott Warren

Thank you Sir. To be honest I haven't found the speech that I was going to say but I will just it's quite clear that this proposition is now unworkable, sadly, because I would like to see good reforms and good moving on the Machinery of Government to something where we have a picture before us and can make sensible improvements which will please the public in Jersey. Surely, in terms of office, it is not a realistic proposal in my opinion: somebody will protest and none of this could be implemented. The only part which seems to me possible under the circumstances - and obviously most of us would support - is the regulation of election expenses. I think it was a sad afternoon yesterday, we haven't thought these proposals through properly. It looks and it is half-baked. I think that's all I need to say Sir. Thank you.

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

Thank you Sir. I am pleased to disagree with the previous speaker and I want to take Members back to the opening speech by Senator Shenton which I think was one of the best speeches we heard yesterday. It was good on principle, good on history, good on humour and I think, most importantly, it sent out the message that we really cannot afford to leave this debate on the Composition on the States without agreeing to some change to some reform. Some Members will be saying: "Well he would say that wouldn't he" because yesterday the proposal to remove the Connétables from the States I think received 4 votes and so clearly I am backing Senator Shenton's view that now is not the time to be removing that part of the Trois Etats which has been here for longest and which provides - many would say - the back-bone of the Assembly. But I want to urge Members to look with fresh eyes this morning now that Members are hopefully relaxed from yesterday's trials and well-breakfasted. I want them to look with fresh eyes at this proposition because it does seem to me that on the broad level of principle it seems to deliver all the things that we want, perhaps bar one which I'll come on to. The detail: the devil is in the detail. The detail some Members yesterday tried to do with by amendments, and all those amendments failed and we are now back with the general principles. Trying to get the details right at this stage of the process clearly did not work yesterday. That does not mean we have to throw the whole thing out. There is broad support and Senator Shenton's report - very well argued and well-researched, unlike some of the amendments we looked at yesterday - sets out a clear case for a general election. Now there are of course details that have to be sorted out but if Members look at the report it is quite clear from the opinions of the public that that is what people want and if we ask ourselves... and if we talk to constituents and to Islanders in general about politics I think we tend to forget how important being a States Member is to us and how unimportant it is to our friends and relations. In fact, I am sometimes quite surprised. I remember after the last election - which in St. Helier was uncontested - and someone came up to me and said: "You know, I cannot wait to run against you as Constable of St. Helier." I said: "Well, I am sorry, it happened 2 weeks ago." That is how much that person knew about the position of Constable and the fact that the election was coming up. The Constables are coming forward in due course. If all of this falls away the Constables are determined that at least there will be a general election for Constables. We believe that is achievable and at least those elections will not go by unnoticed in future. But to return to my general point: most people out there are too busy earning a living; they are too busy managing their childcare; if they are businesses they are too busy worrying about the impact of G.S.T. (Goods and Services Tax), to be really that much concerned about the finer detail of what we are discussing today. What they are aware of, and what people are aware of in other countries, is the arrival of the

general election, because it arrives with a great deal of publicity; a great deal of public attention. I believe it is really important that we want to increase voter turnout, and I believe that as a matter of general principle a general election is surely the best way to achieve better voter turnout. So the first part of the Senator's proposition does seem to me to be absolutely right. Now, if this principle is approved, Privileges and Procedures at the bottom of the list of propositions have a job of work to do. Maybe some Members think they are going to struggle, given the amendment that they brought forward yesterday, but I think while they are doing the job we have to have confidence that if we give them agreement on that general principle of a general election, they will have to go away and come back with the mechanism, and they will not have long to do it. Indeed, the rest of paragraph 1 follows on from that first point about a general election. The reduction in the number of Senators: I think Senator Shenton is responding to a view which is widely held that we simply have too many States Members for a small jurisdiction. One often has a chance to talk to fellow elected members from other places, and by and large there are few people I have met who seem to think we have about the right number. By and large people are astonished that we have 53 Members for such a small island. I think this is a step in the right direction. Senator Shenton points in his report that this will lead to savings in the costs of running the States, and that is another box that is ticked, I believe, in terms of the public view. The 4-year term of office: again, one speaks to so many people who say: "How can you get anything done in 3 years?" I can see some Deputies nodding. You get in - particularly as a new Deputy - and the first year you are finding your feet and your third year you are thinking about whether you will still have feet to find after the election. So you really have one year in which to do your work. It is not long enough. Very few other jurisdictions that I am aware of have such a short term. It has to make sense. Indeed - and Senator Shenton addresses this in his report - Clothier says a minimum of 4 years is the correct term of office. So why are those who support Clothier not supporting this part of Senator Shenton's proposition? The next proposition that we only choose the Chief Minister from the Island-wide mandate: well, maybe that is more contentious, but Members have already expressed views on that yesterday. Election expenses, it seems to me, is uncontroversial. That hopefully will go through, if nothing else does. Then we get to the rather quaint notion that the Constables should not be paid directly. I am sorry, Sir, I see Members trying to come in...

The Bailiff:

I think they are just indicating that they would like to speak as soon as you have finished.

The Connétable of St. Helier:

Thank you very much, Sir. I thought perhaps I was addressing the wrong proposition. To pick up this rather quaint notion that the Constables should not receive monies by virtue of their States office but receive them from the Parish, I do not particularly have a problem with that. I am not sure quite how it fits in with the general points of principle that Senator Shenton is putting in here. I mentioned yesterday in my speech about the level of accountability that Connétables have, quite distinct from other Ministers, in the sense that their budget is dependent upon the whim - one might say - certainly it is dependent on the approval of a Parish Assembly. It seems to me that if Connétables had to have the level of their remuneration fixed at an Assembly, I do not think that would hold any terrors for any Constables, so I am minded to support that. Finally, as I said before, the ball is put firmly back in the court of the Privileges and Procedures Committee if these general principles are approved, and I think that is where it belongs. I think Privileges and Procedures should be given another chance to come up with a single package - a single set of measures - which achieves the broad principles that Senator Shenton believes and I believe are wanted by the public of Jersey. So, I would urge Members not to be dismayed by the difficulty we found ourselves in yesterday as we tried to cope with detailed amendments to these principles. I would urge Members to support the principles and to allow Privileges and Procedures to do their work and to come back with some reform proposals.

The Bailiff:

Before I call the next Member to speak, I think it might help Members if I said that I have had an exchange with the proposer of this motion as to how the voting on the proposition might be taken at the end of the day. The ruling which I give is that paragraphs (1), (2), (3) and (4) of the proposition are part of a whole; they all depend upon the proposal to establish a general election and therefore must be voted on together. But if the proposer wishes to have paragraphs (i) to (iv) and (v) and then (b) voted on separately, it would be in order for him to do so.

Senator B.E. Shenton:

On reflection I think we could vote on (a)(iv) separately as well - that the Chief Minister should only come from the Senatorial benches - because I do not think that is tied-in.

The Bailiff:

I am sorry, Senator, but I am afraid that I do not agree with that. Paragraph (iv) says: "From the 2008 general election" and paragraph (a)(i) defines what is meant by general election, so paragraph (iv), I am afraid, as phrased, hangs together with the other 3 preceding sub-paragraphs.

The Connétable of St. Helier:

Point of clarification, Sir. Would it be possible for the proposer to withdraw paragraph (a)(i)(4) if he wished to?

The Bailiff:

With the leave of the Assembly I suppose it would be possible, yes.

Senator B.E. Shenton:

I would like to withdraw it, if...

The Bailiff:

The matter is before the Assembly at the moment, and procedurally the proposition, or parts of the proposition can be withdrawn with the consent of the Assembly. Senator Shenton has indicated that he wishes to withdraw paragraph (a)(iv); does the Assembly agree to allow paragraph (a)(iv) to be withdrawn?

Senator P.F.C. Ozouf:

I think this is just a ridiculous situation. We are just trying to make something on the hoof acceptable and trying to hold on to the straws. I vehemently object to this. Senator Shenton voted in favour of different elements of a proposition yesterday, now we are clutching at straws to try and make something acceptable. It is no good and I vehemently reject and oppose the withdrawal of paragraph (iv). Either we do this properly or not at all. This is not proper.

Senator B.E. Shenton:

The only reason I am asking for (a)(iv) to be perhaps withdrawn at this stage is because the Attorney General made reference to the fact that it may not be human rights compliant. I would prefer to debate it when that is clear, that is all.

The Bailiff:

Senator Shenton, may we be clear which sub-paragraph (iv) you are talking about? I had assumed that it was (a) Roman (iv) - the one dealing with the Chief Minister - and not the preceding sub-paragraph. **[Members: Oh!]**

The Connétable of St. Helier:

I would like to speak. I vehemently disagree with Senator Ozouf. (a)(iv) - which is that a Chief Minister must be chosen from the Island-wide mandate, the Senators - seems to me to cripple the broad principles that I support in the earlier paragraphs. I think if that were to be withdrawn I would better support the idea of the 4-year term and the concept of a general election, so I think it is right that we do this.

The Bailiff:

We must not have a debate within a debate. I think perhaps it would be simpler if I put the matter to the vote and see whether Members are in agreement that paragraph (iv) may be withdrawn by Senator Shenton.

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

Could I just ask, on the one I had thought you read originally - the (a)(i)(4) - is that compliant to try and lessen Members' terms of office by 3 years or whatever?

The Bailiff:

Can we deal with that in due course, Deputy? I will ask the Greffier to open the voting, which is for or against the proposal of Senator Shenton that paragraph (iv) be withdrawn.

POUR: 29	CONTRE: 20	ABSTAIN: 0
Senator L. Norman	Senator P.F. Routier	
Senator F.H. Walker	Senator P.F.C. Ozouf	
Senator W. Kinnard	Senator T.J. Le Main	
Senator T.A. Le Sueur	Senator F.E. Cohen	
Senator B.E. Shenton	Connétable of St. Mary	
Senator J.L. Perchard	Connétable of St. Peter	
Connétable of St. Ouen	Connétable of St. Clement	
Connétable of St. Helier	Connétable of St. Lawrence	
Connétable of Trinity	Connétable of Grouville	
Connétable of St. Martin	Connétable of St. Brelade	
Deputy R.C. Duhamel (S)	Connétable of St. John	
Deputy A. Breckon (S)	Deputy J.J. Huet (H)	
Deputy P.N. Troy (B)	Deputy of St. Martin	
Deputy C.J. Scott Warren (S)	Deputy G.C.L. Baudains (C)	
Deputy R.G. Le Hérissier (S)	Deputy G.P. Southern (H)	
Deputy J.B. Fox (H)	Deputy S.C. Ferguson (B)	

Deputy J.A. Martin (H)		Deputy of Trinity		
Deputy of St. Ouen		Deputy A.J.D. Maclean (H)		
Deputy P.J.D. Ryan (H)		Deputy of St. John		
Deputy of Grouville		Deputy of St. Mary		
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				

The Bailiff:

The debate continues on the proposition, paragraph (iv) having been withdrawn. Deputy Power?

1.3 Deputy S. Power of St. Brelade:

Having spent a good deal of time last night thinking about what was said yesterday, it appears that there is very little willingness within this Assembly to change anything. One of the comments that was made was that there was very little public interest in what goes on here; that too few people vote; too many people feel that the States do not communicate properly; and a lot of people do not understand how we work. The 3 arguments that were set out by P.P.C. (Privileges and Procedures Committee) for chance were: that too few people vote; that there is not a general election; and that there is unbalanced representation in some Parishes, particularly Grouville and St. Peter. We have to sort that out. It is my feedback that the public want a general election. They want a change. When people say or Members say that the public have no interest, that is because we do not do a good job at communicating. Yesterday we heard many, many reasons as to why we cannot change anything, and we ended up in a curmudgeon of a debate. It was overcomplicated and various Members stood up and said: "This will not work and that will not work." We heard of the threat to the mandate of the Senators; that their term of office, by being reduced to 4 years, could threaten them and it might even extinguish their power. We heard of the loss of the Island-wide mandate; that this may not be good for Island politics. We heard that we cannot move the Budget or the Business Plan for various reasons. We heard that the whole States system is so organised that by necessity it has to be a winter election. We have heard that we have to allow Ministerial government to set-in. There was other negative stuff. We are getting nowhere with this debate, just as we got nowhere with the in committee debate. All of us in this Assembly - and I include myself in this - spend too much time talking about ourselves. The public do not want us to spend this amount of time talking about ourselves. All this constant navel gazing - talking about

ourselves and examining to the *n*th degree what we can do, what we cannot do, what we can change or what we cannot change - loses us credibility out there. Part of the problem is that the Assembly is unrepresentative, and I have referred previously to Grouville and St. Peter. I come back to something I have said recently; there are not enough women in the States and that is something that we need to address. Deputy de Faye alluded to the fact that there was a poor turnout in the public consultation process organised by P.P.C. in the discussion of reform in the States. I have to say to that, are we surprised? Look at the way we carry on. Look at those that care to vote. Any of us that have stood outside a polling booth at the elections in 2005, it was a cold day, but we all realise and understand the average age profile of the Jersey voter. Without wanting to generalise too much, the average age is somewhere between 40 and 95, according to what I have seen. That was in the Senatorial and the Constables and the Deputies. I say to those that have taken the effort to vote, more power to them. Senator Shenton said yesterday that the majority of those in the finance industry do not vote, and one of the reasons for that is they are not engaged. They have money in the bank, they do not really have big problems, they have a nice home, nice furniture, a nice wife or husband, a couple of nice cars, nice children, nice schools, and they go on a couple of nice holidays a year. We do not engage those for the simple reason that we do not make the work of this Assembly more interesting in a better communicative way, and we do not ask them to participate. We are not going to sort out electoral reform within the life of this Assembly. Once this proposition is put to bed today, let us please not drag it back until after the next election. What I would like to see - and it is part of a wish-list - is over the next 5 years that we have a far more integrated review or reform of the States. I would like, if possible, a general election on a spring Sunday or a summer Sunday. I would like the electorate to be able to vote without having to put thermal underwear on for a winter's day. I would like to see Members reconciled or Members changed to 2 types of States Members. My personal preference would be Constables and Deputies. I do not see any reason why a Deputy cannot have an Island-wide mandate. Somebody said that an overlong ballot paper would be extremely complicated, confusing, or whatever; I do not agree with that. I think with modern technology and modern printing and everything else, that that can be done. There were 56 candidates for Deputies elections in 2005, and 15 for Senators, so that was a combined list of 71. I do not think that within the resources of this Island... sorry, I should say that I think within the resources of this Island we can design a system where we vote at Parish level and vote on an Island-wide basis for one type of candidate. I give credit to Senator Shenton and to some of the others for trying to bring some change to the States, but it is obvious there is not a lot of willingness in this Assembly to do this. It is my strong opinion that if we overhaul the electoral process it is going to have to be done over a longer period of time, stage by stage. I pay credit to the Constables for conceding the fact that they are prepared to reduce the terms of those that have just been elected and go for a general election for Constables next year. So I will be supporting part of Senator Shenton's proposition. I am relieved to hear this morning that he has discussed with you, Sir, the ability to subdivide part of the proposition, and I look forward to giving P.P.C. some mandate in the future to bring it back again, but not before the next election.

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

I was beginning to despair about this debate, and then I finally found despair. The final nail in the coffin for me was the withdrawal of that paragraph (iv), which took away the only remaining motivation for wishing to stand for a Senator; that you might be later on picked to be Chief Minister. That in itself is not necessarily a good advertisement for somebody who wants to be Chief Minister - maybe we should not be picking that person - but it was the sole remaining motivation for standing as a Senator. What have you got now? You have a general election, equal terms; go and spend 3 times or 10 times as much money on your campaign getting elected Island-wide, and then not have the opportunity to get elected as a Deputy. All you get is chances. All you will be getting is chances. The position of Senator will be brought into total disrepute, if not sooner then certainly later. The only thing I might want to save from this is (a)(v), expenses, and so I will be voting for that if it is brought up separately. But even then, if that goes down... well, I hope it

does not, because the back-up is in the next proposition that I will be bringing, that is in there as well - in principle - that we should monitor and regulate expenses. But if you do not vote for that one in this one, I will have to withdraw mine from my proposition coming up later, so bear that in mind. Do not be tempted, Sir...

The Bailiff:

I think, Deputy, that you will have to withdraw that part of your proposition in any event.

Deputy G.P. Southern:

Yes, indeed, but I will be quite happy to withdraw it if it has been passed, [Laughter] unhappy if not. So I would urge Members, absolutely vital that we do not throw out the entire baby with the bathwater. Save part (v). If there is, I suppose, one crumb or one lesson to be learnt from this sorry debacle, it is that what Clothier said in December 2000 when presenting his report. He warned us: "Please do not cherry-pick this. It goes together as a whole." What has happened is that we have cherry-picked it. We have Ministerial government, we have Scrutiny, and that is about it. As soon as we start tinkering with the rest of it, we are brought time and time again to the central issues. If you are to have a general election, then you have to have a single status Member of the House, and that cannot be avoided. I believe, to make the system work properly, you also sooner or later have to adopt a party political system to make the whole thing work. It has been designed to work with that. The House nevertheless back in 2002 said it wanted to cherry-pick it - it did not want wholesale change - and rejected Clothier. It looks like today's debate is rejecting Clothier again. Who knows when we will be able to address the issue of the reform of our electoral system and the machinery of government again, if ever. Certainly I suspect we will not be doing it in my lifetime as a Member of the States. I find that a sad, sad thing to live with. Nonetheless, it looks like we are going to throw this out. I do not see that this is a way forward, apart from Article 5. Thank you.

1.5 Deputy S.C. Ferguson of St. Brelade:

If we go back to history, I seem to recall from my research that in 1948 the Jurats were evicted and replaced with Senators. I merely bring it to the House's attention. Deputy de Faye pointed out a problem with M.O.R.I. yesterday, that M.O.R.I. used a demographic sample. But how many of those polled were actually registered to vote, and voted? It is not clear. To assume the U.K., for example, only has a general election, is a fallacy; there are council elections, parliamentary elections, plus the non-elections for the Regional Assembly, which Clothier thought such a good idea for Jersey. The reports attached to yesterday's and today's propositions are full of the results of M.O.R.I. polls and opinions, but where is the evidence? If we get right back to the basics, do we have any evidence as to how many people are required to run our new system of government? On the Scrutiny side, Members are absolutely up to the eyeballs in work and any significant reduction would lead to retirements due to stress, I would imagine. But there is no basic information. The number of States Members people would like appears to be plucked out of the air. I am glad Deputy Southern mentions Clothier. Any work done by Clothier is nearly 10 years old, so whatever a certain ex-Channel T.V. presenter may say, it is out of date. There does not seem to be any realistic evidence-based work available. It seems to me that P.P.C. should be approaching the machinery of government review like a Scrutiny review; with plenty of hard evidence. I have had a discussion with the Chairman of the Corporate Services Panel as to whether this topic is suitable for scrutiny but, apart from the fact that they are up to the eyes with current reviews, it really should be done by P.P.C. I cannot subscribe to Senator Shenton's proposition because, again, I do not have the evidence: "Yes, we will cut 4 people from the States." Why? What is the rationale for it? What evidence has he that we need only 49 people to run the system of government that we have at the moment? I would like P.P.C. to come back to us with a properly-evidenced report. At this point in time I urge Members to reject this proposition, which does not appear to be based on any solid evidence.

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

I have listened with great interest to this debate over the past 2 days as a relative newcomer to the House. I have been both baffled and sometimes amazed at the claims and the counterclaims. The claim that amazes me most is the suggestion from some Members that there has been little or no change since 1947. Sorry, but - as I think Deputy de Faye mentioned yesterday - last year this Assembly went through major change with the advent of Ministerial government. So I would like to remind Members that the change was a result of a massive amount of consultation, over a long period of time. More importantly, the process also involved an independent review, of course chaired by Cecil Clothier. Yet this time we have a relatively newly-elected Senator who, perhaps as a result of his own frustrations with the process adopted by P.P.C., is proposing changes which have been conceived with a minimum of consultation and no independent review, no sharing views with bodies such as maybe C.P.A. (Commonwealth Parliamentary Association) or Office of Constitutional Affairs or other parliaments. In other words, no evidence, as Deputy Ferguson was suggesting. We need to do far more work on this, because any discussion can or should be had on this important issue. In fact, Sir, I am of the opinion that we should not be debating this at all because, sorry, but turkeys and Christmas do come to mind. I am firmly of the opinion that some form of independent review, i.e. an update of Clothier, should be carried out to complement the work already done by Clothier, particularly in the light that yesterday I learned that Clothier has never been properly debated by this Chamber; something that did amaze me. So I am afraid that in the absence of a debate on Clothier, and the lack of professional independent advice, then I think that Senator Shenton's proposal, although well-intended, is half-baked and not worthy of any further debate at this present time. I would therefore urge Members to reject it. Sir, I also have some grave concerns as to how this whole subject has been brought to this house by P.P.C. It is also half-baked, ill-conceived and lacking completely of any independent overview. If today we fail to reach any conclusion on this matter, I feel, Sir, that P.P.C. should seriously consider their position and Members should decide as to whether they believe that P.P.C. have the credibility and capability of seeing this project through to conclusion. Sir, I support the need for reform, but it must be done in a professional pragmatic manner, not rushed through so soon after the already major changes that occurred as a result of Ministerial government. Thank you, Sir.

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

As I walked home in the rain last night I mused upon the day's activities. Yes, I did feel frustrated, however, I was sure that whatever I was feeling must have paled into insignificance compared to what the Members of P.P.C. must have been feeling. In fact, I imagined them all doing a Reginald Perrin. However, I am delighted to see them here this morning. Sir, I will continue to support the majority of Senator Shenton's proposition, despite recognising that it has about as much chance of being approved as I have of finding a parishioner who thinks the 2002 Island Plan was a good thing. But let us be sure of what we were saying yesterday that, other than the Comité of Connétables' proposition, we will never agree upon electoral reform that involves changes to the composition of this House. Indeed, it seems to me that some Members were rather disingenuous yesterday, saying that they were all for change, just not this change. Let us consider that statement. We had and have before us small incremental changes which have not found favour with Members. In the past other far-reaching reforms have also been rejected. Some talked about their particular favourite reform, forgetting that any proposition to be approved must have a consensus. I ask what chance does any electoral reform have? We will, therefore, be here after the next election - well, actually, we might not be here - wringing our hands about voter apathy and low electoral turnout. I remain of the belief that we must change. But I am also a realist. We must look, therefore, at what might be achievable. Yesterday Deputy de Faye asked P.P.C. if they had addressed the question: "How do we improve voter turnout?" and I think that that is a good question with which to start to move this issue forward. In fact, I find myself asking if one way forward might be now to look at the Australian approach, where it is compulsory to register to vote and compulsory to attend the polling station on polling day, but not necessarily to vote. Sir, to that end I call upon both P.P.C. and the Council of Ministers to work together, if necessary setting up a working party to investigate

the feasibility of implementing a similar element of compulsion into the Jersey system along with any other measures that could improve voter turnout. While these measures might help stem the tide of voter apathy, I hold on to the hope that one day we will have a general election with 4-year terms of office, yes, with different categories of Member; a Chamber which is modern and fit for purpose but also the best of Jersey. I might have been mocked yesterday, but I repeat the statement to do nothing is not an option. Democracy is a precious thing and we must nurture it. That nurturing requires involvement. That is why voter participation is so important. We have a responsibility to encourage voter participation. Thank you, Sir.

1.8 Deputy J. Gallichan of St. Mary:

The House, Sir, will be relieved to know that most of the points I have wanted to raise during this debate have been expressed by others. I only wish to add a few words to address comments I have heard from some Members that they were going to support this proposition simply because if they did not support these changes then there would be no changes at all. When I was elected I was unsure of a great many things, but I was certain from day one that I wanted to be involved in the reform of the composition and election of the States; and that is why I wanted to be on the Privileges and Procedures Committee, the body which has been given that responsibility. I cannot speak for what went before but this Committee is certainly not “procrastinate and postpone”. Neither is it “personality and populist”. If the issue of reform was so easy it would have been dealt with long ago. If a job is worth doing then it must be worth doing well and I do not believe that Members do ourselves or the electorate justice with a projet which effectively just tweaks at the edges of the current system without following a full and varied research programme and, importantly, giving measured and informed consideration to the data gained from that process. This is what P.P.C. has been doing and it is what I remain committed to do in future. I do not believe that change for the sake of change is usually a good thing. Indeed, in this case it may be change for the worse. The practical difficulties which sections of this proposition would entail are detailed in the report attached to P.P.C.’s amendments, so I do not propose to repeat them here. I would just say, please listen, that there is a good deal of difference between change and reform. In deciding how to vote please consider whether this proposition would come close to giving the electorate what they are looking for or is this really just a quick way to get Members to agree to making some changes - perhaps any changes - which do not result in a dramatic swing on the futures market for sage and onion. It has been said that this could be a first step in incremental reform, but it could also be an excuse not to take reform any further. If this proposition is passed I fear that the public will ultimately feel that they have gone down to the showroom to pick up their shiny new sports car only to find that the shonky salesman has simply stuck wide wheels and a go faster stripe on an old Allegro. Thank you, Sir. **[Laughter]**

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

A very good analogy of what we have been through for the last 2 days. We are trying to do things that it seems impossible at this time for us to do and I will be quite frank with you, I am extremely disappointed and very downhearted that are we, in fact, actually going to achieve anything? I want to move this process forward and my temptation is just to accept this proposition in order that it will concentrate minds on making it workable and then, no doubt, will come back from P.P.C. as: “Well, we cannot do this because of all the things that have been said, but let us try this way round and see how it goes.” But I do not like that process because that is just as messy as this one is. I do go for the argument that Clothier is now 10 years old and one must recognise that and there is a whole population moved on and I very much doubt in the short time we have left in this session that we are going to make any constructive changes before 2008. Some of us may be here and some of us may not be there after that. But I think it is important that this House puts things in order that at least we will be going on a positive footing for something to come in the future. One accepts that it is very difficult for politicians looking at things other than affect them directly and there is an argument that there is proper research required. There are too many pitfalls in listening to clinical

research like M.O.R.I., *et cetera*. There were a lot of people that were indignant when rung up by M.O.R.I., told that they were too old and they had had enough responses from that *et cetera*, and I think there needs to be a better research. I think there also needs to be some independence attached to this because we are otherwise going to go round and round in circles and I would favour what the Deputy of St. John has suggested: that we revisit and update the Clothier recommendations in this part, but in a different way, in an updated and modernised way. Yes, the 4 years is very attractive. The public do consider - and rightly so - that we really must look at the numbers that sit in this House and, yes, they do not, I would think, appreciate the amount of work that is going on between the Ministries and the Scrutiny Panels. But that is our fault as well because, as I have said before, we have been very bad at educating, supporting and clearly identifying areas that the public need to know to be able to make broad, sound decisions on the information that we give them and our communication through the press and other media. We have got so much media but it concentrates, in the main, on starting off with a negative or who speaks loudest or who speaks longest instead of, maybe, taking some points from the silent majority and the ordinary folk of the Island. But we also need to educate our young people. We need to have positive information programmes that go into the detail. A general election is clearly an obvious winner to most members of the public. The difficulties come when you do not have one elected Member going throughout and the argument is we must have an Island-wide vote. Well, I am sorry, the Prime Minister of the U.K. (United Kingdom) does not have an 'island-wide' vote but he is still Prime Minister. So, there can be arguments for and against and I am not going to repeat a lot that has come in. I think the only thing that is realistically going to go through today is going to be, I hope, the curbing of election expenses because I think it is important that there is a democratic process. What I will remind Members today is that 3 of us had the privilege to go to Nigeria for the Commonwealth Parliamentary Conference, where 600 delegates from the 53 - it is an incidental number - Commonwealth countries attended. The most important thing that came out of that conference was democracy and there is a country that fights between democracy and dictatorship and fights very hard to retain its democracy. We here take democracy for granted. I do not think we should take it for granted. I think that we should say, yes, we have got to examine ourselves and maybe we need some help and we need someone to do the research and give us a proper co-ordinated report so that we can actually examine it and see if we cannot move this forward and that is what I would hope will happen as a result of this review that we have been going through, as messy as it has been. Thank you, Sir.

1.10 Senator F.E. Cohen:

“Not all doth he deem worthy of such reward.” That is the beginning of the inscription on the mace presented to the Island in 1663. This was our reward for our efforts to maintain an ancient system throughout one of the greatest attempts at constitutional change faced by the British Islands. This Island has an ancient system of government that has evolved over many centuries, largely through a slow process of minor changes and only occasionally through major changes. There was a major change in 1948 but this was set against the background of significant social unrest. This is often quoted as justification for considering constitutional change presently and I would like to set this into context by setting the tone of what led to the appointment of a Privy Council Committee chaired by the Home Secretary. In August 1945, just after liberation, British intelligence officers reported back to Whitehall in the following terms: “Colonel Cusson is aware of the rather active political rumblings which are making themselves felt in the Channel Islands and the Director of Public Prosecutions is in touch with the Home Secretary on the question of possible action for the reformation of the Island’s constitution. We all feel that something will certainly have to be done as otherwise, serious trouble may develop. So strong is this feeling that the Force Commander told me the other day that he is afraid armed disturbances may take place when he withdraws his forces.” We are not in that situation today. We are not in a situation of civil unrest and it is, I believe, misleading to look at the 1948 reforms as a reference. Let us slow down a bit. We have just implemented Ministerial government. I think I was probably the first to suggest a review of

Ministerial government after one year in my election manifesto of 2005. So let us complete the review of Ministerial government. Let us then consider what is needed and let us do it in an orderly fashion. If anyone thinks that any of the proposals being debated presently will improve voter turnout, I think they are seriously misguided. I will be voting against. Thank you.

1.11 Senator L. Norman:

I disagree totally with Deputy Scott Warren and the Deputy of St. John. This proposition is far from being half-baked. When I first saw it I thought it was a fudge and I told Senator Shenton so at the time. But now, particularly with the removal of paragraph (iv), I do not think it is very much of a fudge at all. I think it is quite an acceptable and sensible proposition, an acceptable and sensible way forward. What is the proposition offering us and offering the Island? It is offering almost a general election, something which I thought there was pretty much a consensus about. It is offering us a 4-year term for all Members, something I thought there was general consensus in the Island and in our in committee debate. It even protects the turkeys by maintaining our 3-tier structure. It keeps Deputies, it keeps Constables and it keeps Senators. None of us are going to lose our jobs so it does those 3 things, all of which are good, and I think a general election is important. A general election is a basic democratic principle. I think it is a basic democratic right. It does not quite meet my criteria of a true general election: which is all Members elected on the same date - yes, it does that; all Members elected for the same term - yes, it does that; and all Members elected on the same basis - no, it does not quite do that. But it is much better than what we have got now when Members are elected on different dates and for different terms and on different bases. It is at least a 70 per cent improvement on what we have got now. So, if you believe in that, if you believe in a 4-year term and you believe in a general election, then clearly the first part of the proposition has got to be acceptable. The date of the general election - that is fine. Therefore, the expiry of the terms of Deputies has to change and the expiry of the term of Constables has to change. That is inevitable if you are going to have a general election. Also the terms of office of Senators have to change if we are going to have everybody elected for 3, 4 or 5 years, whatever we might eventually decide. So, whether it is in 2008 or 2011, the terms of the Senators are going to have to change and 6, or whatever, are going to have to face a decision. Either their terms are reduced or they could have the option, I imagine, of finishing their term in 2011 recognising there will not be an election until 2012 so they will be out in the cold. But at some time if you are going to have everybody elected on the same term, that is going to have to happen. It simply cannot be avoided unless you are going to maintain the current system where Senators have a longer term. The part I had difficulty with originally - why I thought it was a fudge - was reducing the number of Senators and having only the Chief Minister elected from the Senators. Well, that has now gone so the only difficulty I have is asking the question - as we had to during the debate in the last couple of days and, indeed, during the in committee debate - who is going to stand for Senator? Clearly, no self-respecting Deputy is going to take the risk for no advantage, no additional tie by only having to stand half as often as his Deputies do. The additional costs, which those of us who stood for Senator know what that involves - some more than others - no safety net of being able to run back to the Parishes if we are not successful. So, it is going to be very rare for a sitting Deputy to run for Senatorial office. So, in the main, we will have new Members standing. But that does not matter now, that really does not matter because they are only in for 4 years, the same as the Deputies and the Constables, and it may be... well, one of 2 things will happen. It will be a great success, in which case fine, we will keep it, or it will be a great failure and the public will then start to say: "Well, we do not need the Senatorial business any more. Let us just have a few more Deputies and let us have a proper general election, and, as no longer do we have to select the Chief Minister from the Senatorial benches, it really does not matter if every elected Senator every 4 years is brand new." It matters no more. The election expenses, well, I thought we had already agreed this about 4 or 5 times over the last 10 years but that is an obvious one to go along with and (b) for the Constables' expenses and their remuneration should be treated differently is just an absolute nonsense and clearly must be rejected. Some Members seem to think the priority in all this is to

improve voter turnout. Well, that is important, but what surely is much more important is improving democratic accountability and you do that by creating an understandable election process, which Senator Shenton in his proposition almost does. If you create a process which people understand and people recognise is important, then voter turnout will inevitably improve. So, to me, this is now, with the removal of (iv), a perfectly acceptable, sensible way forward and will get now my 100 per cent support.

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

Quite frankly, we all knew that Privileges and Procedures had been charged with bringing forward proposals. Every single Member knew that it was under review by P.P.C. Why then does one Member decide that he is going to take on the function of P.P.C. all on his own? P.P.C. should have brought these proposals forward and the Deputy of St. John said Privileges and Procedures should be ashamed of themselves for the mess that has been created. It is not Privileges and Procedures that have made a mess; it is Senator Shenton who has made a mess today for this. P.P.C. are not to blame for this debate. Looking at Senator Shenton's proposition, yes, there is a great deal of support for a general election by the public. But I still do, like others, remain concerned about the logistics of it all. Under Senator Shenton's proposals there would be 49 vacant seats. So if we had just 2 candidates standing for every seat that would be 98 candidates. If we had 3 candidates for every seat that would be 147 candidates on the ballot sheets. In St. Brelade, in my district in La Moye - where Deputy Power and myself were elected - there were 7 candidates for the 2 positions; that is 3.5 per seat. If we go and look at all of the other election seats around the Island I am sure that we will be coming out at 2, 2.5, maybe 3 candidates. Then, of course, the Connétables on a general election, they would not be running the whole election process, so we would then have to bring in a new election process. So, where in Senator Shenton's proposition is his view of how the whole thing will be organised? Well, it is not here and it really needs some thought as to how the general election will be managed. That is why I strongly feel that P.P.C. should still be charged with bringing this forward and bringing with it the proposals under how the system would operate, because we would need to have maybe the Jurats in control solely, or Jurats plus an electoral officer and people appointed to run a general election. So, there is the logistical problem that needs to be addressed and this proposition does not address it at all. It just says: "Let us have a general election and I do not care how it happens but it is going to happen." That is why I feel that we must reject this and send it back so the P.P.C. can come forward with it. If the idea is to have a general election P.P.C. will clearly outline the proposals. I was also looking at the fact that the Senators elected in 2005 will have their terms of office cut. Their terms will be brought forward by 3 years. Well, obviously, if that happens any Senator who is not elected does have a compensation claim if that is the case, because to reduce the term of the 6 Senators you would have to bring legislation forward, we would all vote for it and those Senators would then be deprived of their office for a 3-year term. If they were unsuccessful in the general election I feel they would have a valid legal claim because they had been elected for 6 years and to summarily dismiss them after 3 does mean that they would have a legal claim, in my opinion. So, it would then be best to say that any changes would be better to come in in 2011 and you avoid compensation claims from any Senators not re-elected. So that is another failure of this proposition. Other Members have mentioned the fact that with everyone on a 4-year term Senator may become a worthless position. Why would you go and stand for Senator on an Island-wide basis, have to spend a much larger amount of money on a campaign to be elected for the same term as everybody else? We Deputies, if we have a safe seat, there is no real reason to switch to Senator at all. Deputy Southern mentioned the common Member. His proposition was defeated today and the basis of that was to get to the Clothier principle that we all have one common Member. I remember that when the Special Committee on the Composition of the States - of which I was a member, headed by Deputy Le Hérissier - brought forward proposals, we were soundly defeated on this and Deputy Le Hérissier and I have always believed in the fact that we really need, at some point, to get to having one common type of Member. But it looks - and I said this at the last debate several years ago -

like it is going to be 30 years, 40 years or any number of amount of years before that is contemplated again and we have seen it defeated today and I think it will not be coming back for some time, as Deputy Southern said. I feel that Members should reject this today and I would implore P.P.C. to come back with a proposition within the next 3 months or so, at the end of the summer, which brings forward their ideal proposals fully structured. Perhaps the Chairman of P.P.C. might even speak on whether he feels there is a role for his Committee to come back with a proposition that is structured and that brings forward the process in which they see a general election operating and all of those proposals. So, I think the Chairman of P.P.C. should give some view of his own today on how he feels it might operate if this is defeated. I strongly implore him to bring something back within the next 3 to 4 months.

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

The general comment after the period of elections in St. Brelade in 2005 was that the electorate was starting to enjoy elections; and after the third, in which 7 candidates stood for 2 places, they were really on a high. However, it became clear that when a candidate stood for the office of Connétable and Deputy at the same time there were glitches in the system. I have subsequently written to P.P.C. regarding this matter and I presume that they are addressing this in their deliberations. I have to say that the person in question has subsequently become a very useful member of the Honorary Police and for this I am grateful. Senator Ozouf mentioned the mathematical difficulties with a number of 8 Senators, suggesting that 6 is as many as the public can digest in one go. This leads to the question of the need for continuity in membership of the States. Do we need to preserve this element? If not, do we need more than 6 Senators? My impression in 2005 was that the Senatorial elections were somewhat of a farce. I am inclined to question the need for an all-Island mandate. We all have the Island's interests at heart. There is a very good telephone system in place these days; members of the public can easily communicate with all of us electronically, perhaps with the exception of Deputy Huet, I am sure. **[Laughter]** But generally communications are not a problem these days. So are we hanging to an old parochial issue from which we could easily move? Given that the Parishes tend to organise the elections, I would suggest that differentiating between the Constables' election and the rest, if I may say so, is something that we need to preserve in terms of practical operation. I would also like to comment on the varied election dates for Connétables which are laid out in the present projet and which are being addressed by the Comité des Connétables. Now, I wonder how these different dates have arrived. Clearly it is by evolution over the last 500 years and one wonders how they have come to those separate dates. I start to question whether, in fact, those different dates have been dictated by plain practicalities and experience gained over the past 500 years. With regard to item (b) I would ask Members to think back to the reasons why a few years ago Members elected to give themselves a salary. I do not think this is the time to explore this matter in detail, but I would suggest that it is a subject for an independent States remuneration board to look at in the future. I intend, Sir, to abstain from voting on this particular item. Finally, Sir, the whole world is having to embrace moves to a more modern system of voting. I would urge Members not to rush into change for the sake of it and for the sake of perceived short-term populism. Thank you, Sir.

1.14 Senator F.H. Walker:

I must admit, and I suspect I am not alone, that I have waxed and waned and I have ebbed and flowed over whether or not I could support parts of Senator Shenton's proposition, because there are parts of it which instinctively I am in favour of and support. At the time when the *Clothier Report* was published, I did fully support its findings. I argued and, indeed, I was one of those who put a submission to the Clothier Panel that we should dispense with the office of Senator and, effectively with it, the Island-wide mandate and I still believe that ultimately that is the right way to go. But I do not think that is on the cards to be achieved in the foreseeable future. I also argued against the Constables remaining in the States and that just goes to show how wrong you can be by jumping to, perhaps, premature conclusions. Because that would, I believe, have been a most

serious mistake and I was delighted that the amendment yesterday which sought the removal, in effect, of the Connétables from the States was so heavily defeated. I also supported the principle of a general election, and I still do; and I was in favour of a 4-year term of office and, in principle I still am. But there are very serious issues and problems with the structure proposed by Senator Shenton today. Although I am in favour of a general election in principle, I cannot see how a general election can possibly work effectively when you have 3 categories of politician or candidate standing for office. I believe that it is a logistical nightmare which would do exactly the reverse of what we are trying to achieve, which is to engage the public more effectively in the election process. The hustings just, in my view, do not bear thinking about. The Senatorial hustings are, as the Constable of St. Brelade said just now in his speech, a nightmare already. If you add the numbers and the different categories of office to a hustings series you will have absolute chaos and confusion, in my view, and you cannot introduce, I think, a general election without making other changes first. As I have said before, this is where Guernsey did get it right. Guernsey have introduced a general election but they removed Conseillers from the States first; then the general election was for Deputies. So everyone knew where they stood and it was on the basis of super-constituency structure, which has worked very well for Guernsey. Now, whether it would work well for Jersey is a debatable point, but I do not think, again, that is on the cards in the foreseeable future. Guernsey had a very high turnout in their last election, the highest turnout they have had in many, many years. I do not believe we would achieve that on the back of the structure that Senator Shenton is proposing. I just do not think it would work. That is the problem. I am in favour of general elections. I just do not think this structure with 3 categories of politicians would work at all and other changes are absolutely essential, in my view, before we go down that route. Another issue raised by Senator Norman and others is who would stand for Senator. Now why, in the structure proposed by Senator Shenton, would anyone want to stand for Senator? There is absolutely no advantage in doing so, none whatsoever. Particularly now the part of the proposition which said that the States would only appoint the Chief Minister from the Senatorial benches has gone, there is absolutely no reason whatsoever to stand as Senator. Why would anyone - sitting candidate or new candidate - want to take that risk? There is a much higher risk in standing for the office of Senator than there is in standing for the office of Deputy. Any good candidate can really work their constituency very much more effectively than they can, if you like, work the Island or certainly there is a risk that they will not be able to work the Island and appeal to the electorate Island-wide as effectively as they can locally. I just cannot imagine why anyone would want to take that risk. Far simpler to knock on every door in your electoral district, make yourself known, have, of course, the right policies, and you have got a much better chance of getting voted in. I think that the effect of Senator Shenton's proposition would be the death knell of Senators anyway for that very reason because I just do not think the candidates would be coming forward in the numbers we would require to form a Senatorial bench of 8 Members. I think it may not be in 2008 but I suspect that very soon thereafter you would no longer see people prepared to offer themselves for Senators. Now, I do not mind that because, as I said at the beginning, I have always argued in favour of removing Senators from the States anyway, but I do not think you should do it effectively by - and I do not use this word critically - by stealth. But I think that is what would happen. I think if we are going to do it, we should stand up and say that is what we intend to do, be loud and clear about it rather than going about achieving it as a result of the structure presented by Senator Shenton, and that is where I entirely disagree with Senator Norman. Sir, the perception - and I know this worries Members and it worries me - around the Island is that we are making no progress, that we are just not prepared to grasp change, and I know many Members feel: "For heaven's sake, we have got to do something because that is what the public wants." But, of course, as other speakers have said this morning, the reality is we have undergone a huge amount of change in the last couple of years - a huge amount of change - and I think the view is that we should allow a certain limited period to bed that in before we make other fundamental changes. I think that view is absolutely right and in any case, although the public are calling for reform, the public themselves are completely divided about how we should achieve that, what the reforms should be, when and

how we should go about it. So there is no pressure from the public to make a particular change. There is some pressure to change but nobody is very clear about what that change would be and I think - and certainly I think this is very relevant today - no change is far, far better than the wrong change and I honestly think that it is, with all the best of intentions, the wrong change that Senator Shenton is putting before us today. I do want to see a general election, I do want to see a 4-year period of office but, as I have said, essential changes are necessary first before we can go there, in my view. So, with some considerable sadness, I cannot support Senator Shenton's proposition today. It is not the right change and I repeat what I said just now, no change is far, far better than wrong change.

1.15 Connétable S.A. Yates of St. Martin:

I was very disappointed with yesterday's debate. I spoke to 2 or 3 parishioners last night and universally they said: "Well, that was a waste of time" and it was. I have listened very carefully and I do not think that I will be able to support Senator Shenton's proposition. There is lots of good stuff in it, but there are details that I am not very happy with. I am supportive of a general election day. I am not sure about reducing the number of Senators. There is a terrific workload that States Members undertake and when you are in Scrutiny and you are trying to arrange a meeting and you find all the members of your Panel are engaged in something else, I just wonder who is going to be doing the work if we reduce the number of States Members. I am in favour of a 4-year term of office. I am in favour of election expenses. I am not sure of the reasoning behind Senator Shenton's idea that the Parishes should pay the Constable from central funds for his States work. Does Senator Shenton think that the Constables do less work for the States than ordinary States Members or does Senator Shenton think that he does more work than me? So I am not going to be able to support this. I think that we have got too many choices. On the proposition there are 9 clauses referring to the order of debate when combined with the actual proposition; 9 clauses with Deputy Southern; 11 clauses P.P.C.; 12 clauses Deputy Le Fondré; and 11 clauses of Deputy Breckon's. It is far too much. There are far too many choices and absolutely no consensus - absolutely no consensus. I would like that P.P.C. were to take this up again and see if we can, perhaps, bring it back in bite-size chunks that we can handle; less choices. Let us do it bit by bit. I note that the Constables are bringing P.54 for debate in June and this concerns the composition of election to States Assembly, election dates for Constables. It has got 3 clauses; it is simple. I think that the more choice you have got the more lack of consensus you have and so I cannot support this proposition. Thank you, Sir.

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

I hope, Sir, Members will not mind me offering a few comments when I do not myself stand for election. But more importantly I want to stand as someone who does not have a vote. I do not mean vote in here, which I would never want. I mean I do not yet have a vote in any election we might call because it is still another 6 months until I have been here 2 years. We think we have still some way to go in coming up with modern democracy. It seems to me, Sir, we have not yet got past the American War of Independence, which was on the principles, I remember, of no taxation without representation. I do not think I have been given by the Treasury Minister a 2-year freedom from paying taxes, just a 2-year freedom from the responsibility of voting. That is not meant to be simply a flippant introduction; what I mean is that if you arrive in the Island you are not immediately engaged in the principles of government. You are not grabbed the minute you get off the boat and made to feel just the same degree of stake-holding as everyone else. If the issue is not that Members feel the Island is governed badly with the new balance of Ministerial system and Scrutiny, but rather the issue is how do we engage the voters more successfully, it seems to me that you engage people in 2 ways: you sell vision and you make them feel that they are important. I wonder if it is to those issues that we should be turning even greater attention. If one of my roles in this place is holding up something of a mirror to us as we debate and decide, I guess I can combine that today with another of my priestly roles which is that of granting absolution in that I think, Sir, I

want to offer absolution to any who feel we must vote for something because voting for nothing might make us slightly unpopular when we are discussing this in the Lamplighter or elsewhere with those who vote for us. It was striking the small number of people who turned up to those public meetings and I have great sympathy with the Chairman of Privileges and Procedures who went to all the trouble of putting those meetings on. It is not difficult if you are the Constable of St. Lawrence to get people to turn out if you mention planning in Goose Green. It is not difficult if you are the Constable of St. Helier to get people to pack the Magistrates Court if you mention the balance between first-time buyer homes and sheltered housing in a redeveloped field in the countryside. It is not difficult to get people engaged if you try and debate whether it is telegraph poles or whether it is lattices for mobile phones. It is not difficult to engage people on those incredibly difficult portfolios of crime and punishment. It is certainly not difficult to engage people in either the monetary or moral issues around the correct balance of direct and indirect taxation. It seems to me, Sir, that we have so many incredibly important and engaging and, dare I say, visionary issues with which to occupy ourselves. What is the right balance in housing? Of concern for those with qualifications, (j) cats. and those often doing low-paid jobs without any sort of qualifications. How do we make sure that those who are Jersey-born have a step on the housing ladder and how we concern ourselves with those who require sheltered housing towards the end of their lives? How will we monitor the move in welfare from parochial provision to a centralised structure, ensuring that people do not fall through the net and yet also that there is fairness without the wasting of money? The balance of agriculture and the finance sector and whatever is the next wave of economic growth; the change in tourism from 2 weeks buckets and spades to one of the best short-term short break destinations imaginable. All these are enormous issues which it seems to me, if I were to look statistically at the balance of debating time, are eclipsed by the number of hours spent looking at the composition of the States. Not that that is a bad thing but I just hold that mirror up and ask is that the best way of engaging with people who feel disaffected? Or is it that when we have this particular round of looking at these issues behind us then we need to engage in communicating the vision and building a community that includes both those who go back before the conqueror and those who came in on the last boat and assuring them that they are all stakeholders, upholders of the Island's past traditions and the guarantee of its prosperous future. I confess, Sir, that I have listened to many Members, both in the coffee rooms and in this debating Chamber, and although it may be that there are a number who theoretically feel the States may be too large, I have yet to hear anyone offer the comment that they themselves are superfluous. It may be, Sir, that when this particular debate is over - and I offer absolutely no guidance as to how Members might wish to vote on it - I do plead with us that we let ourselves off this hook of feeling that this is the most important thing, when governing well and building community is to me so much a greater advantage in our Island. Thank you, Sir.

1.17 Senator P.F.C. Ozouf:

Yesterday the Chief Minister made a statement on Jersey's constitutional position. In that statement he recognised and repeated the words of the importance of the U.K. recognising Jersey as a well-run, stable democracy. A function of economic success is a well-functioning democracy. I fully accept that there is an issue and a very, very serious issue about low voter turnout. But I think that we do have - and it is recognised that we do have - a form of well-functioning democracy. I have waxed and waned in my own views over the years in terms of the constituent parts of this Assembly but I think the constituent parts of this Assembly of Deputies, of Constables and of Senators mean that that is the right solution for a small self-governing nation state. My favourite magazine newspaper - the *Economist* by the way - published a very interesting report. It is not only about economics; it is about finance; it is about sociology; it is about democracy and politics. It published a very interesting report on democratic and political legitimacy. Political legitimacy is really important and it is something that we have a responsibility to ensure that whatever changes we make we ensure that our system remains democratically legitimate. There is a debate and the Dean referred to the issue of the numbers in this Assembly. There have been calls from some

people who do back-of-the-fag-packet calculations that we have got too many people in this Assembly, that one M.P. in the U.K. represents 54,000 people, I think it is, or 40,000 and on that basis that we should be a 2-person parliament. Well, we are a small self-governing nation state with a requirement of passing laws to the same level of degree, quality and standard as other nation states. That means that we need democratic institutions and parliamentary institutions which are capable of putting in place the checks and balances to achieve good decisions and I am afraid I am not at all persuaded by this argument of a general election. I think what a general election means in other places is one election for one type of member at one particular time. I am not aware of any form of general election which attempts to elect the whole of the democratic representatives in one go. I do not accept the arguments of the Constable of St. Helier, that a general election will jettison and increase our voter turnouts. I think there are other things that we have got to do, as the Dean and other people have mentioned. If a general election is what is the key to increasing voter turnout, then why is it that 2 weeks ago, despite declining numbers of voter turnout in French elections over the last couple of decades, suddenly we had a Presidential election - which is, by the way, just not one election but 2 because there are 2 rounds - why did it jettison up in terms of increasing voter turnout? They have not got a general election. They have not got calls for a general election electing their President with significant powers. I do not think we are ready for that yet. **[Laughter]** I do not think that there are calls for the democratic strengthening of democracy in France to have one election day for the President, Assemblée Nationale elections, regional and other constituent parts. There are not. It does not follow that one single general election is the right way of increasing voter turnout. Neither is there a solution for Jersey to have a one single-Member Assembly to deal with all of the responsibilities that our democracy requires. I think that we have found an appropriate way to deal with checks and balances in our Assembly by having constituent Members. Interestingly, the Dean offered some absolution to those Members that are, perhaps, wanting, being tempted to vote for this Assembly just to send the message out that somehow they support reform. Well, maybe some reform is required. I think reform is required. I think that there is a requirement to engage with the population to a much greater degree, to encourage people, to make them believe that their vote does matter and will make a difference, and P.P.C. have got a huge burden of responsibility to do that together with the Constables, I would suggest, in encouraging greater levels of voter turnout. I want to see polling cards. I want to see a card delivered to every single person that will be responding to the Constables' new voter registration systems that says: "You can vote at this appointed time for this election" and I would like to see the introduction of the Assembly supporting, for example, policy statements from all candidates and those being posted to everybody. We do need to engage. There are things that we can do. We can get better organised hustings meetings. Maybe we do need to think about reform of some of our institutions. Maybe reform of the constituencies of my friends on the Deputorial benches does need to be considered. There is an argument to be said. It has not been done for many years and there are some constituencies that do require some analysis. There are some people in this Island that could rightly claim that they have an unfair representation compared to other people. I make no comments of individual Deputies, but reform of the Deputorial system and the Deputorial constituencies is something that I think that P.P.C. should work on. The Chairman of P.P.C. yesterday made an interesting suggestion about a potential reform of the Senatorial election by putting that choice. It is always interesting to know, the person that tops the poll, is that everybody's 4th choice or is it everybody's 1st choice? Maybe it would be an evolution of the Senatorial system to have a ranking system. Maybe that is something that could be considered. I am not going to vote for Senator Shenton's part on election expenses either because I know that P.P.C. is looking into this and I know and I express the hope that they are going to do a proper job on this and what we are being asked to do here is just simply to vote for a principle with no detail. I am afraid it is not as simple as just having money and throwing money at an election. If you have a big name you have an advantage; you do not need to spend lots of money. If you are young and fit and are able to clamber up lamp posts at 5.00 a.m. in the morning and get your posters up yourself without having to pay anybody to do it, you have an advantage. If you hold political

position of a Minister or Chairman of a Scrutiny Panel or some other office, you have an advantage. It is not, I am afraid, as simple as just simply having money. You may be supported by a trade union who will issue letters to all Members saying: "This is our man and this is the person we want." You may have lots of friends who will be willing to go out and support you and deliver letters for free, where somebody else who does not have such a well-known network of friends has to pay for their postage. I am afraid it is not as simple as simply putting a monetary cap on. We do have to have fair elections. Certainly I support the principles of it but will not be voting for Senator Shenton's part but encourage P.P.C. to do a proper job. I am going to wrap-up and say that I accept the absolution offered by the Dean for voting against the proposition. I want some reform but not this reform. If we did agree this proposition today, then it would wreck the position of Senators. Electing Senators, 8 of them on one day, I am afraid, does not work. I congratulate Senator Shenton. He has tried to make some progress on this issue but he is, I am told, a financial analyst and I am sure that he has done the numbers. As Deputy Breckon tried, I think, to make a point scoring yesterday to say that because I said that 5 votes were made in a Senatorial election somehow the 6th person was not legitimate. I think the 6th person is legitimate but if you look at the numbers, the 7th and 8th may not be. That is something which I think would be a very, very dangerous situation to go into. I also have to say that it is completely impossible, as other speakers have said, to have an election where, in a single day, if you want to have a different Member Assembly, to have an election where you are electing 8 Senators in St. Helier No. 3 and 4 Deputies at the same time, choosing 12 people. It is simply not going to provide the necessary scrutiny and analysis that individual candidates should have, as Deputy Troy spoke in St. Brelade that there were 7 people. They had to fight for their seats, as many other people in this Assembly have done. It simply will not work to have 2 members elected on one day; and we vote in favour of that and we, I am afraid, take a chainsaw - potentially - to our democratic legitimacy of the future. I do not criticise Senator Shenton for bringing forward his proposition. I think he has tried but I am afraid this proposition will not work, cannot work, and I am afraid will be a hammer blow to our democratic traditions and to our democratic legitimacy.

1.18 Deputy J.J. Huet of St. Helier:

After yesterday's Assembly the decision was made democratically in this Assembly that we would not just have one member. It was soundly trounced that the Constables would stay. Fine, it went to election and that was it. So, as that was straightaway saying we will have more than one type of member, why are we wasting our time? Electoral reform is needed, we agree that, but I think it should go back to Privileges and Procedures. I think we should put this to bed; it was made very plain yesterday. It is quite interesting the different things one picks up from the Members on the floor of the House. Senator Ozouf has said that one Member to 54,000 so we would only have 2 Members in this House. The only thing I could think of, those 2 Members would never get one minute's sleep because I presume if they did not have email: "By the way, Sir, I cannot email you back. I can quite happily talk to you any time you like on the telephone", they would never be off the telephone or the email. I presume everybody knows how many phone calls they get and I know they are numerous, so I do not possibly see how 2 people could ever manage that. Again, it is something that is said; it has no sense to it whatsoever. I was quite fascinated with the Dean that no tax/no vote because I thought, yes, right, what if we turn that on its head? What if we say the Dean says it is not fair because he pays his tax but he does not have a vote? Are we going to say then in that case nobody that does not pay tax should have a vote, because what is good for one is good for the other? We know that does not work. I have to say, Sir, why are we wasting our time? We have gone through all this. We have gone over it. The decision was made yesterday. Let us put it to bed and go back to Privileges and Procedures. Thank you very much, Sir.

1.19 Connétable K.A. Le Brun of St. Mary:

I would rather you could not switch it off afterwards. I mean, I am in a very difficult position because I am a Connétable, as most of you are well aware. I am also on P.P.C., as most of you are

well aware. I am a parishioner of St. Mary and I also am one of the electorate. So I wear very many hats in that position. Having listened to the majority of the debate and even the last speaker said: "It is simple now. All you do is go back to P.P.C. and they will sort it all out." P.P.C. several months ago decided: "Yes, we knew what the electorate decided. We knew what you all required but we had to have proof, we had to have evidence, as in Scrutiny, as has been mentioned." We then went out to get evidence. We asked the electorate what they required, what they would wish, what they would want. "You are all electorate; what do you all want?" We have all heard a lot of different views and opinions yesterday and today. That is the same out there with the electorate as well. They have a lot of views and opinions and varying ones as well. We thought, well, we must get it down in writing and have it all and send it out to all the Members. We had an in committee decision and all of you came to the same conclusion as well. We wanted a general election. We would love to have it as a 4-year one. We are not quite sure of the responsibilities but leave that to be sorted out. That is no problem at all. Everything can be sorted out. The electorate wishes a general election? Yes, all agreed. Four years? Yes, all agreed. Connétables in? Yes, most - probably all - agreed as well. I do not say majority: all agreed. Reduction in numbers? Yes, we definitely have to knock it down. There are too many of them in the House. We have to have less Members. We will save a lot of money that way. Brilliant idea, said those people who wanted the Connétables out; all or nothing, so we can reduce by 12 Members then. That is great. We will knock out the Connétable, saving 12 Members, possibly 12 Members. I cannot speak for all the other colleagues of mine whether they are claiming that. But nevertheless, that will be one way of saving the money. We came back and we had all the evidence. We have all the evidence. This is what the electorate want; this is what has been coming forward. This is why there are the slight alterations to Senator Shenton's one. That was the general consensus. He got in quickly with his brilliant thoughts and ideas but that was the consensus and that was the majority of the thoughts of himself: who is an electorate, who is a voter, who is a parishioner? He knew his thoughts and that was the majority of their thoughts because we have had all the evidence which pointed to virtually exactly the same. But the problem is to do with the Senators now. Why have the difference between the Deputies and the Senators? This is where the problem does arise. Why have the difference between the 2? I put in my own small way as well, which was rejected by my P.P.C. Committee. I was on very, very similar terms to Senator Shenton. I still believe that you have to have an incentive to go as a Senator, a definite incentive which can be done. I had suggested that to become a Senator you had to be an existing States Member so that there would not be anybody new coming in. They would have to be an existing States Member to stand. Therefore, it would be all the existing Senators, all the Deputies, if they were continuing in that respect. But it was felt that that was unfair in that way. I think that can still be done: I think it can still be done. Other ones have been mentioning that we cannot have the 2 elections on the same day. I believe we can have 2 elections on the same day. I believe the electorate would know what they doing. We could have the election on the same day for the Deputies and Senators, making an incentive for Senators, that if it is the Senators first 6 past the post or first 8 past the post, they would be, as it were, guaranteeing to be Ministers or Assistant Ministers - not necessarily all Ministers but Assistant Ministers. Therefore it would be then still up to the Chief Minister to elect, if he so wishes; he would not have to elect all of those Ministers. He could be an Assistant, and he - or she, may I add - could still elect Ministers from the Deputies that were elected as well. But I am not quite sure of the suitability in that sense, whether that would be possible. This would bear out where one would say: "Well, hey, how would we go about it, having an election on the same day and who would put their names forward or who would like to go as a Senator?" I think the crux of the matter is that that would be down to the nomination meeting. Nobody has mentioned the nomination meetings themselves. This is an important point because we know what it is like at nomination meetings, especially for Senators. Right up to the last minute they were saying: "I have heard Mr. X is going. I think Mr. Y might be" and we have been at the meeting. Well, at the last minute somebody comes forward and where it was thought it was only for the 6 and 2, there was only going to be 7 or 8, it suddenly jumps up to 9 and 10 and more because other ones come out of the woodwork as such. I

think this would be one way or means of having that, have the nomination meetings within a couple of days of each other and have a nomination meeting for Senators on the one day. Then everybody can see. Even the last minute, that would be fun too, would it not? When you think about it, it would be an awful lot of fun not knowing who was going to be, but the last minute as in a countdown, suddenly somebody else says: "Yes, I will go for you." "I do not think I will bother now because there is 9 or 10 of them going and I do not think I have a chance at all." But I think that would make it interesting. That would create the interest, which is what we really started about, because we have said: "Is it for us to decide?" **[Aside] [Laughter]** I think it can happen. We can go forward. We have to have an incentive for Senators, otherwise there is no point at all. Although to a certain extent it is the balance to get it right, where I do agree is that it is quite possible that it should only be this House that possibly should have the last say on the matter, who should be the Chief Minister. If, as my suggestion is and we make it an incentive to be on the Senatorial one that it would be a guaranteed Minister and/or Assistant Ministers and also the Chief Minister would have to be... he had left it out of that. If you give the electorate the opportunity to have a certain say in the matter, they would not choose the person. They would not choose the Chief Minister but at least they would know that when you go as a Senator in the Senatorial elections one of those people would become the Chief Minister. Therefore, on the electioneering part of it beforehand, those who would subscribe to be a Senator and a Minister would have to have their mandates. They would then go around to the public with all the mandates so required and the public will then have to choose the possible one out of those that would become... You could have the same election on the same day. I am sure there would not be a problem at all because there would only be the election for 2. We would still have the Constables in but if you did change to a spring or a summer election for the Senators and Deputies I would still maintain to keep the momentum going and to keep the stability as well at the same time - the continuity and stability - you could still have your all-Island 12 Connétables elected at the same date that they are at the moment, either November or December. They would be there ready in preparation for the following year so as to be in control and in charge of the Parish Hall, although you still have your able staff and the Jurats. You do the majority of the elections. It is easy to say: "We will just throw back to P.P.C., they know what they are doing." We know what we are doing because we have been out to ask the electorate; which are you, which are all the people. But I think there has been too much listening over the last couple of days, too much "cannot, cannot, cannot" rather than "we can, we can, we can". Let us get on with it. I am all for change, to a certain extent, because life does change. There are changes; it is inevitable. You will not go backwards. You will either stay still or you have to change. So you have to have a certain amount of change, not throw everything out at once. But I think it can be done in an organised manner. The only alternative - complete alternative it is because the same old turkeys keep coming to the surface all the time - is not to have P.P.C. which is a part of the actual estates themselves and a Committee of P.P.C., not to have them to do this, because it is too easy; because, Mr. Constable, you would say that, would you not, because you are a Senator, because you are a Deputy. We know what it is like on the Committee. We have the Constables, the Senators and the Deputies and we do have a lot of in-fighting. We are not all the same on a Committee and we have our own ideas and I am sure I am the same as the other ones saying: "Well, yes, of course, deep down you would say that, would you not? But I do not agree with you." But you have to have a consensus at the end of it. It is not that simple just to say P.P.C: "Right; we have done all the homework. We have done the scrutiny. There is no more to be done. Throw it back to us, great." We will come forward most probably with the same suggestions and we will have the same old kick-about again. The only alternative is to say: "Right, we do not want the P.P.C. to be doing this any more. We will now have an outside body to review it altogether." Fine. There are ones who have shaken their heads in saying no. Okay. I see Deputy Southern waving the Clothier Report. I think the only thing that I have to say in thinking about it, Clothier is nearly 10 years old. Clothier really was a "suck it and see" situation because we here do have party politics and the majority of Clothier is based on party politics. I agree with you in one sense. Deputy Southern did say that the only way forward is for party politics. I agree with you. It

is the only way forward if you want to create that amount of interest, but the party politics did not prove too popular last time round and I would bet my last bottom euro that it is not going to be for the future either. So you cannot go and look at that in that they are... Clothier also, a brilliant idea; suggestions, we have had a part of it, cherry-picking. It is a good idea to cherry-pick. Clothier is nearly 10 years old. But Clothier did not know how it was going to work. They did not have a clue how it was going to work. None of us had an idea how it was going to work and we are all agreeing, even at this moment in time, that we are struggling to know how it is working. Some say we do not want Scrutiny to be looking into this. They have too much power or wanting too much power and so on. Yet, on the other hand, those who are in Scrutiny feel it is the other way about. We are still in a transitional period when it comes to Scrutiny. This I say with Clothier, you wave the big red book of Chairman Mao, or something like that; Chairman Southern, sorry. Yes, that is right. **[Laughter]**. In that respect it is nearly 10 years on. Things have changed. I think we should have a further review but let us not be inward looking all the time. We have to be outward looking. You keep saying - we keep saying as well - that it is what the electorate wants but we control; you cannot have it both ways. So as to have some way forward, I would certainly think, at this moment in time, unless there are any other speakers who have to come, I will be voting for Senator Shenton.

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

Thank you, Sir. Those immortal words: "I was not going to speak. I just wanted to thank you very much. You have spoken." I just wanted to say a few words, and I thank the Constable of St. Mary, albeit by a somewhat devious route, for bringing us back to life again. **[Laughter]** Whether we are up to it is another question, Sir. I think one of the interesting things, having with the bloody nose studied the history, is it is nothing to do with Sir Cecil Clothier; it is to do with the 19th century, I would tell Senator Cohen who reverted back to 1948. The 19th century proved very, very strongly that reform was always, always going to be very difficult in Jersey. It is very interesting to read what Kelleher wrote in his book. The words are slightly pompous, Sir, but he said: "The whole ethos of Jersey's political culture was populist and therefore suspicious of his rational ['his' being Pierre Le Sueur, the Constable of St. Helier] moderate policy with its consequently elitist Anglophile overtones. It is the old argument which has been trotted-out year after year, decade after decade. By the end of the 19th century rural control of the States and the overlap of legislative and judicial power evident at all levels of Jersey society remained more or less intact. The politics of the Parish prevailed." Indeed, Sir, we note - and it is a tradition that the Deputy of Grouville has maintained - when St. Helier pushed for greater representation prior to the introduction of Deputies in 1856 it was opposed by, among other Parishes, Grouville, for example. The battle went on and on and on and on. When Deputies were brought in, Sir, in 1856 it was noticed that one St. Saviour's Deputy was not behaving as a political animal and he was accused. "If he carries out his comité meetings with constituents, his general views will have a tendency to be narrowed into local ones and he himself to be reduced to a sort of second Constable." In other words, he would be drawn into the Parish system. So the power, the influence and the continuing influence of the Parish system I suppose is something obviously that was to hit me between the eyeballs as I tried to adopt what was called "Le Sueur rational, moderate approach to reform". Of course, what I discovered and what I am... I am not sure whether he is tilting at his usual windmills or whether he believes what Deputy de Faye, again, like me, need to be disillusioned about is that there is indeed a rational path to reform. Sadly there is not. I think P.P.C., Sir, has done a good job or started doing a very good job. I think they were right to pull back from radical reforms, seeing that the result that that had achieved. They were right to get public views along the way and they were right to believe, unlike, I am afraid, Deputy Ferguson and Deputy de Faye. While you can look at models - and you should look at models in other countries - they were right to believe that ultimately this was going to be driven as a political question at the end of the day, based on as good data as you could get from the population. I have to say, Sir, as a slight aside, I was appalled at the fallacy perpetuated by Deputy de Faye and then carried on by Deputy Ferguson, perhaps unintentionally, that by running a democratic survey you are not concentrating, it appeared, on the

traditional voters: the traditional voters. They had somehow come up with a skewed result. Surely the whole idea was if you want to find out why people do not vote, you go to everybody who is capable or should be eligible to vote and you get a broad-based answer to that question. Whether it is an uncomfortable answer and one that does not accord with the people who were doing most of the voting at the moment is neither here nor there. I have to say the Committee was quite right to do that and I was very worried about the inference in those particular comments, Sir. The other thing I would add: Senator Walker, when he expounded upon the new international relations situation, he put at the front that we have a democratically accountable electorate. Well, if he wants an I.M.F. (International Monetary Fund) -style audit applied to the election system, how is he going to explain 35 per cent maximum turnout for Deputies, 42.55, 43 per cent turnout alternatives, with not even factoring-in, particularly with Deputies and Constables, the numbers of non-elections? How is he going to factor those things in if he wants a proper democratic audit and he wants to suggest that we have a fully functioning democratic society? We have not at the moment. I believe that Senator Shenton is going in the right direction but what has confused me, and it was much more an issue yesterday, Sir, was what Senator Shenton goes wildly on his white charger and just coming out of the blue and upsetting P.P.C.'s considered, academic-driven, evidence-based approach... or was he working closely with P.P.C. to try and get some community of interest and present to us a fairly integrated package, albeit with some problems on the margins? That has not been at all clear to us and perhaps he could address that issue because if he did try and work with them then the whole thing is truly, as Deputy Troy said yesterday, Sir, "a total mess". The other point I would make, Sir, moving to the more general issue of Clothier, the Constable of St. Mary... it was January 2001 that Clothier hit the desks. It does feel like 10 years in fact but, as I have just demonstrated to you, we could be having this debate in the middle of the 19th century without too much difference. What was an important thing about Clothier, about cherry-picking; we adopted, Sir, half a system based on the possible emergence of parties but we adopted a system that very much needed the vibrant counterbalance of a good representational system. That was the system we adopted. You cannot, as they say, have one without the other. Obviously we have chosen not to have that because self-interest - the power of Jersey politics - has basically stymied that. So that is why it could not be cherry-picked. Maybe we could have played around with the size of constituencies as some of us, to our disastrous intent, attempted to do. But nevertheless that is what it was. The other issue, Sir, is about the evolution. I know Senator Shenton has tried to do that. I know Deputy Reed of St. Ouen feels that the key to the door... like, for example, with the general election. Part of the problem, Sir - and this is where that magic leap of faith was needed and quite clearly cannot be discovered - is Clothier is a highly integrated proposal. Other proposals have been highly integrated and unless they are operated as Senator Walker said when he deconstructed, for example, the issue of a general election and he said it could only run with a single type of Member... we have discovered in the last couple of days that if you try and run it with several types of Members it is a very, very... almost illogical, impossible, irrational thing to do. That just shows, Sir, how unless you can come with an integrated approach, present it and somehow do that incredible leap of faith or convert people to that leap of faith you will not do it. That, Sir, to sum up, would be my answer to the Dean. The Dean said essentially, why are we wasting our time? We have wasted so much time over this. He will give us absolution on this occasion but presumably he will not necessarily in the future. For absolution we have to seek repentance and I am not sure we are ready in that respect. But what I would say to the Dean, Sir, is it is because there are a significant number of people on this Island - rightly or wrongly - and what is the emerging issue which I think we ignore at our peril? It is not only the people who are now unrepresented, the recent incomers to the Island - and you can see the rationale why they may choose to be unrepresented or not represented - it is the people who have been our steady support, the traditional voters, who are themselves getting increasingly disillusioned. That is also the real issue. It is the conjunction of those 2 groups. That is a much more real issue. I think the Dean failed to estimate the seriousness of the developing situation. It is a ponderous process, it is a boring process, and it will go round and round, as the Constable did assert. But it is really, Sir, a

struggle I suppose for the heart of Jersey and sadly, because it is a struggle; it is rooted in history, this struggle. I think we have a long, long way to get there and my view is quite candidly, Sir, we can dance for ever on deck of the Titanic or move the deckchairs on that deck but until we get a crisis or until we get the kind of election... I thought Senator Ozouf was off-beam when he said that the French election was not relevant. The French election was relevant in the sense that... and I may even be converted to Deputy Duhamel's previous view in this regard, if there were a separate election for Chief Minister you would get a focus on that; you would get different people with different philosophies, different approaches and you would get that clean-cut, very interesting election going on in France at the moment. That is not the case at the moment, I am afraid. Maybe that will bring Jersey politics to life. At the moment, Sir, I think it will only be a crisis. Thank you.

1.21 Senator B.E. Shenton:

I cannot say that I have enjoyed this debate - especially yesterday - although today Senator Norman's speech did cheer me up and I believe that he made some very valid points. The sad thing is that next year we may elect a further 6 Senators for a 6-year term which will potentially put off election reform until 2014. For many of us this was the first chance that we have had to discuss electoral reform as new Members. We knew that it would be difficult to get a result but we had the optimism of new Members and we were keen to keep our election promises. We all knew that previous attempts have been sunk without trace and knew of the senseless and ignorant ridicule that Deputy Le Hérisier had to endure when he was head of Privileges and Procedures by those that did not want change. It is no wonder that the public are disillusioned with this Assembly. I did not speak very much in yesterday's debate on amendments because I was embarrassed by the lip-service paid by some Members. It was obvious from the very beginning that there are spoilers in this House who will do anything to prevent election reform. Deputy Le Claire, with his irrational ramblings, was first to lead the charge when he tried to move on to the next item. It was this very Deputy who was such a pain in the neck on the Special...

Greffier of the States (in the Chair):

Senator, I do not think "pain in the neck" is parliamentary language.

Senator B.E. Shenton:

On the Special Committee: on the Privileges and Procedures Committee previously they managed to achieve nothing. In my opinion, he seems to put his own personal circumstances above all else and offers no positive contributions to the debate or to the...

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

On a point, could I ask the Member...

The Greffier of the States (in the Chair):

Senator, the Deputy is raising a point of order.

Deputy P.V.F. Le Claire:

The reference that the Senator is making in my opposition to a body of the States of Jersey is correct, Sir. The body that he mentions as the P.P.C. is incorrect. It was a Special Committee of the States Assembly where I was proving to be quite a thorn in the side.

The Greffier of the States (in the Chair):

Thank you. I think that is a valid point of order.

Senator B.E. Shenton:

What was the point of order, please?

The Greffier of the States (in the Chair):

There were 2 committees at the time and the Senator, as he then was, remained on the Privileges and Procedures Committee but resigned from the Special Committee but it had a common membership or was a separate parliamentary committee.

Senator B.E. Shenton:

So he was a member of both Committees?

The Greffier of the States (in the Chair):

He was a member of both Committees.

Senator B.E. Shenton:

There was no point of order. Thank you.

The Greffier of the States (in the Chair):

There was, Senator, was there not? **[Laughter]**

Senator B.E. Shenton:

This proposition has been lodged for 6 months. Where were the e-mails from Deputy Le Claire, the telephone calls or the amendments? The Deputy will say one is correct. Despite what some Members may say, this Island, I believe, does want a general election. It is interesting to see that many of the detractors to the proposition are those in the more marginal seats. Deputy de Faye spoke of the lack of philosophical rigour and depth in the debate in the propositions. It is a pity that the Deputy could not suggest any solutions rather than being an ocean of negativity.

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

That is entirely inaccurate. I did suggest a number of solutions and I have many more. I just did not feel it was appropriate to bring them forward at the time during the debate. I wish the Senator will withdraw that remark.

Senator B.E. Shenton:

Okay. He even complains that at the moment he could not even afford the stamps to send out his election leaflets. If he wants to post leaflets to all of his supporters I will happily send him a fiver. **[Laughter]** As long as he gives me the change. **[Laughter]**

Senator W. Kinnard:

May I just raise an issue? I think that this kind of personal attack on individuals does us no credit whatsoever and I think... **[Members: Hear, hear!]**

Senator B.E. Shenton:

Senator Ozouf added his usual words of wisdom. On 2 occasions he said that Senators that came 7th or 8th out of 8 would have no mandate if you do the maths. He went on to say that under the current system the average is 5 out of 6. I do not think that his maths reflects particularly well on the Chief Minister. What are we to make of the Privilege and Procedures Committee, a Committee with a difficult job made even more difficult by being ridiculed by certain Members? But what I cannot understand is why put in amendments to a proposition and vote against them? It does not

make any sense. If they disagreed with my proposals then put in a comment to that effect. I had already moved the debate twice at their request. Do not support it and vote against it. It is just wasting everyone's time. We have the Constable of St. Clement taking the centre ground and supporting the proposition, then suddenly out of the blue we get Senator Vibert appearing to undermine their support. In rugby terms he would be called the flanker. Why on earth did he act in this way? Senator Vibert asked why I supported the amendments to my proposition. That was because I believe that it worked with or without the amendments and I had not anticipated his approach. What about this referendum idea? More money down the drain with the M.O.R.I. poll money. What is the one subject in this House that everyone knows something about? It is elections. What is the one subject we want to put to the electorate? Elections. That is only a few thousand quid down the drain, like the bird logo that was life enriching to the company that received the £240,000 cheque. **[Laughter]** If we tax the essential food shopping of 1,700 pensioners for one year with G.S.T., we can get this money banked. Do the maths, Senator Ozouf, do the maths. May I remind the House that we were looking for reform before the 2005 elections but did not receive it. Now it is doubtful the reform will take place before the 2008 elections. Strategic Plan Initiative 5.1.1 states that: "The Council of Ministers will work with the Privileges and Procedures Committee in reviewing the composition of the States, electoral reform and alternative methods of voting." Council of Ministers, where is your work? Their last-minute comments which arrived on our desk on the morning of the debate states that they are disappointed that the States are being asked to consider this matter at this time. If the changes are to be made for the 2008 election, we have to. Are these the same people that refuse to stand for election when Ministerial government came in 2 years ago? This is not an early-stage reform as they indicate; it is in fact a very late-stage reform. It seems to me that election promises do not mean anything to some Members, that they are happy to pay lip-service with no intention of delivering reform. I did not stand for Senator for the 6-year term. I stood because I wanted to represent my Island in the knowledge that I represented all of the people. I would like to thank Constable of St. Helier for his support. I also thank him for reading my proposition because, judging from some of the speeches, some Members did not. Deputy Ferguson asked for evidence. The evidence is in the low poll turnout. The Deputy of St. John argued that we need to spend more money on more consultants before we come to any conclusion. Here the Deputy shows that he has the mindset to one day become a Minister. **[Laughter]** Deputy Fox spoke numerous times during the debate. By all means listen to your own self-interest and forget what the public want.

The Bailiff:

Senator, I am sorry but I do not think you can make a remark of that kind. No Member must impute improper motives to another Member. Would you please withdraw the allegation of a Member acting in his self-interest?

Senator B.E. Shenton:

I did not say he acted; I said "listen".

The Bailiff:

Would you withdraw the allegation of listening to his own self-interest.

Senator B.E. Shenton:

I withdraw that if you so wish.

The Bailiff:

Thank you.

Senator B.E. Shenton:

What will you be voting against today? You will be voting against a general election; you will be voting against a reduction in the number of Members; and you will be voting against a limit on election expenses. Is that what you and the public really want? I put forward my proposition for the appel in the separate parts, please.

The Bailiff:

Paragraphs (i), (ii) and (iv) first of all, is it? I invite all Members who are in the precinct who wish to vote to return to their seats. The Greffier reminds me that sub-paragraph (iv) has been withdrawn so the voting is on (a)(i), (ii) and (iii). The Greffier will open the voting. (iv) has been withdrawn and I am now inviting Members to vote on paragraph (a)(i), (ii) and (iii).

POUR: 14	CONTRE: 37	ABSTAIN: 0
Senator L. Norman	Senator F.H. Walker	
Senator B.E. Shenton	Senator W. Kinnard	
Connétable of St. Mary	Senator T.A. Le Sueur	
Connétable of St. Helier	Senator P.F. Routier	
Deputy R.C. Duhamel (S)	Senator M.E. Vibert	
Deputy A. Breckon (S)	Senator P.F.C. Ozouf	
Deputy R.G. Le Hérissier (S)	Senator T.J. Le Main	
Deputy of St. Ouen	Senator F.E. Cohen	
Deputy J.A. Hilton (H)	Senator J.L. Perchard	
Deputy J.A.N. Le Fondré (L)	Connétable of St. Ouen	
Deputy D.W. Mezbourian (L)	Connétable of St. Peter	
Deputy S.S.P.A. Power (B)	Connétable of St. Clement	
Deputy K.C. Lewis (S)	Connétable of Trinity	
Deputy I.J. Gorst (C)	Connétable of St. Lawrence	
	Connétable of Grouville	
	Connétable of St. Brelade	
	Connétable of St. Martin	
	Connétable of St. John	
	Deputy J.J. Huet (H)	
	Deputy of St. Martin	

	Deputy G.C.L. Baudains (C)		
	Deputy P.N. Troy (B)		
	Deputy C.J. Scott Warren (S)		
	Deputy J.B. Fox (H)		
	Deputy J.A. Martin (H)		
	Deputy G.P. Southern (H)		
	Deputy S.C. Ferguson (B)		
	Deputy P.J.D. Ryan (H)		
	Deputy of Grouville		
	Deputy of St. Peter		
	Deputy G.W.J. de Faye (H)		
	Deputy P.V.F. Le Claire (H)		
	Deputy of Trinity		
	Deputy S. Pitman (H)		
	Deputy A.J.D. Maclean (H)		
	Deputy of St. John		
	Deputy of St. Mary		

The Bailiff:

We now come to vote upon paragraph (a)(v). I ask the Greffier to open the voting, election expenses by candidates.

POUR: 46	CONTRE: 5	ABSTAIN: 0
Senator L. Norman	Connétable of Trinity	
Senator F.H. Walker	Deputy J.J. Huet (H)	
Senator W. Kinnard	Deputy of St. Ouen	
Senator T.A. Le Sueur	Deputy of St. Peter	
Senator P.F. Routier	Deputy G.W.J. de Faye (H)	
Senator M.E. Vibert		
Senator P.F.C. Ozouf		

Senator T.J. Le Main			
Senator B.E. Shenton			
Senator F.E. Cohen			
Senator J.L. Perchard			
Connétable of St. Ouen			
Connétable of St. Mary			
Connétable of St. Peter			
Connétable of St. Clement			
Connétable of St. Helier			
Connétable of St. Lawrence			
Connétable of Grouville			
Connétable of St. Brelade			
Connétable of St. Martin			
Connétable of St. John			
Deputy R.C. Duhamel (S)			
Deputy A. Breckon (S)			
Deputy of St. Martin			
Deputy G.C.L. Baudains (C)			
Deputy P.N. Troy (B)			
Deputy C.J. Scott Warren (S)			
Deputy R.G. Le Hérissier (S)			
Deputy J.B. Fox (H)			
Deputy J.A. Martin (H)			
Deputy G.P. Southern (H)			
Deputy S.C. Ferguson (B)			
Deputy P.J.D. Ryan (H)			
Deputy of Grouville			

Deputy J.A. Hilton (H)			
Deputy P.V.F. Le Claire (H)			
Deputy J.A.N. Le Fondré (L)			
Deputy D.W. Mezbourian (L)			
Deputy of Trinity			
Deputy S.S.P.A. Power (B)			
Deputy S. Pitman (H)			
Deputy A.J.D. Maclean (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			
Deputy of St. Mary			

The Bailiff:

We now come to sub-paragraph (b). I ask the Greffier to open the voting.

POUR: 7	CONTRE: 43	ABSTAIN: 1
Senator B.E. Shenton	Senator L. Norman	Connétable of St. Brelade
Connétable of St. Helier	Senator F.H. Walker	
Deputy A. Breckon (S)	Senator W. Kinnard	
Deputy J.A. Martin (H)	Senator T.A. Le Sueur	
Deputy G.P. Southern (H)	Senator P.F. Routier	
Deputy J.A. Hilton (H)	Senator M.E. Vibert	
Deputy S. Pitman (H)	Senator P.F.C. Ozouf	
	Senator T.J. Le Main	
	Senator F.E. Cohen	
	Senator J.L. Perchard	
	Connétable of St. Ouen	
	Connétable of St. Mary	

	Connétable of St. Peter	
	Connétable of St. Clement	
	Connétable of Trinity	
	Connétable of St. Lawrence	
	Connétable of Grouville	
	Connétable of St. Martin	
	Connétable of St. John	
	Deputy R.C. Duhamel (S)	
	Deputy J.J. Huet (H)	
	Deputy of St. Martin	
	Deputy G.C.L. Baudains (C)	
	Deputy P.N. Troy (B)	
	Deputy C.J. Scott Warren (S)	
	Deputy R.G. Le Hérissier (S)	
	Deputy J.B. Fox (H)	
	Deputy S.C. Ferguson (B)	
	Deputy of St. Ouen	
	Deputy P.J.D. Ryan (H)	
	Deputy of Grouville	
	Deputy of St. Peter	
	Deputy G.W.J. de Faye (H)	
	Deputy P.V.F. Le Claire (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy D.W. Mezbourian (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy A.J.D. Maclean (H)	

	Deputy K.C. Lewis (S)		
	Deputy of St. John		
	Deputy I.J. Gorst (C)		
	Deputy of St. Mary		

The Bailiff:

Finally, therefore, we come to a vote on paragraph (c). I ask the Greffier to open the voting.

POUR: 42	CONTRE: 9	ABSTAIN: 0
Senator L. Norman	Senator P.F.C. Ozouf	
Senator F.H. Walker	Senator F.E. Cohen	
Senator W. Kinnard	Connétable of St. Brelade	
Senator T.A. Le Sueur	Connétable of St. John	
Senator P.F. Routier	Deputy J.J. Huet (H)	
Senator M.E. Vibert	Deputy G.C.L. Baudains (C)	
Senator T.J. Le Main	Deputy S.C. Ferguson (B)	
Senator B.E. Shenton	Deputy of St. Ouen	
Senator J.L. Perchard	Deputy G.W.J. de Faye (H)	
Connétable of St. Ouen		
Connétable of St. Mary		
Connétable of St. Peter		
Connétable of St. Clement		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Lawrence		
Connétable of Grouville		
Connétable of St. Martin		
Deputy R.C. Duhamel (S)		
Deputy A. Breckon (S)		

Deputy of St. Martin			
Deputy P.N. Troy (B)			
Deputy C.J. Scott Warren (S)			
Deputy R.G. Le Hérissier (S)			
Deputy J.B. Fox (H)			
Deputy J.A. Martin (H)			
Deputy G.P. Southern (H)			
Deputy P.J.D. Ryan (H)			
Deputy of Grouville			
Deputy of St. Peter			
Deputy J.A. Hilton (H)			
Deputy P.V.F. Le Claire (H)			
Deputy J.A.N. Le Fondré (L)			
Deputy D.W. Mezbourian (L)			
Deputy of Trinity			
Deputy S.S.P.A. Power (B)			
Deputy S. Pitman (H)			
Deputy A.J.D. Maclean (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			
Deputy of St. Mary			

2. Electoral Reform (P.4/2007)

The Bailiff:

The Assembly comes to Projet 4: Electoral Reform. May I have Members' attention, please. Deputy Southern, may I ask you formally to withdraw paragraph (iv) of your proposition on the basis that the Assembly has just voted on the matter?

Deputy G.P. Southern:

Yes, Sir, that pleases me no end.

The Bailiff:

Very well. I ask the Greffier to read paragraphs (a)(ii), (iii), (v) and paragraph (b).

The Greffier of the States:

The States are asked to decide whether they were of the opinion; (a) to agree that: (ii) eligibility to register to vote in public elections should no longer be linked to length of residence in Jersey but should be an automatic entitlement to every resident as soon as he or she is registered in the population register to be created under the migration policy as approved by the States; (iii) a system of registration of political parties be created; (v) details of the party affiliation of candidates of a registered political party and the party logo be permitted on ballot papers; (b) to charge the Privilege and Procedures Committee to bring forward for approval the necessary amendments to the Public Elections (Jersey) Law 2002 and to prepare for approval any other necessary legislation to give effect to the proposals in time for the 2008 elections.

2.1 Deputy G.P. Southern:

Members will be aware that in deciding to bring a proposition to the House backbenchers have to decide whether they wish to bring a specific amendment themselves or to bring an in-principle debate to get the steer of the House. The risk of bringing the first is that somebody turns around and says: "Yes, you are bringing an in-principle debate but you do not have the detail. Where is it? Let us throw it out." I have a copy of the Electoral Law 2002 sitting on my desk at home, often consulted: I know which bits to amend. I could have brought that, amended them appropriately to do most of what is in this proposition. However, when you do that on your own but you risk making little errors here and there and getting it thrown out because technically it does not work. We have seen that with a Back-Bench amendment for the last day and a half in process. I make no apology for bringing this as an in-principle to give a steer to Privileges and Procedures to get on with doing these, what I believe to be, fundamental amendments that we need to do. Having said that, it seems to me that the Privileges and Procedures Committee have taken an unusual stance in that (a)(iii) and (a)(v), and indeed (a)(iv) but now deleted because it is already through, they say: "We absolutely agree that this should happen and we are working on making sure it happens." Then they follow that up with a statement: "So there is no need to bring this and we cannot support it because we are already on to it." I received a note this morning on the registration of political parties, from the Greffier of the States, which says: "I was notified yesterday afternoon that a meeting of the full Court will consider this matter on 14th May. Initial informal indications from the Judicial Greffe are that they are happy to undertake the role proposed in the draft proposition to act as the registration body for political parties." So the fact is the system is in hand; it is developing. But I am told: "Why do you not withdraw your proposition then because we are getting on with it anyway?" I say: "Hang on, this is just bragging rights for P.P.C. to say: 'We brought this change' instead of Deputy Southern to say: 'I initiated this change'." It seems to me that it is a really trivial way to behave. I would ask that P.P.C. - because there are not complications involved in these 2 motions, they are very simple and straightforward - just get behind it and say: "We accept them. Thank you. We are doing it already so we do not have to have a great deal of debate on this because we agree with you. This is something that needs to be done and we are investigating it so we do not have to have a debate on this and please do not have an argument about 'please withdraw yours' because we are already doing it. Let us just get on with it." (a)(iii) a system of registration of political parties to be created. Very simple and straightforward; there are some rules around and I point in my proposition to some of the more obvious ones like what name you call yourself. You cannot call yourself the "Senator Shenton is the Devil Party" because that would be unfair, nor can you probably call yourself the "Jersey Democratic Assembly Party" because that could lead to confusion. J.D.A. is J.D.A. (Jersey Democratic Alliance). Somebody has to rule on those sorts of things. I am thinking in terms of

logo as well which takes the part of (v) again. There ought to be someone considering what is an appropriate logo for a party to campaign on. J.D.A. has one which consists of a family behind a shield. It did not cost us £24,000 to design; nonetheless I think it is quite an effective one. But nonetheless somebody ought to be ruling on that and what is appropriate. We have to set up those sorts of things if we are going to move towards political parties, which now brings me to the concept of moving towards a system if it is reliant on political parties. I happen to believe that that is the way forward and I choose that word “the” way forward, not “a” way forward; the way forward I believe for Jersey politics. My argument is that whether you think it is or not really does not matter because whether or not it is seen as the way forward is not dependent on us. It is not for us to say: “There shall be no political parties in Jersey.” I do not think that is an appropriate stance to take. What is appropriate is those who wish to set-up political parties should, of course, be allowed to do so and the success or failure of their setting-up political parties will depend on the electorate; and the electorate will have its say. But it is not for this body to say that should not happen; it is for this body to enable that possibility and for parties to sink or swim on what the electorate says. If the wish to set up political parties challenges what the electorate wants, they will succeed; if not then there is no danger, they will simply not succeed. I do not think there is a great deal of argument to be had on those particular issues. I hope that Members will see that and accept (a)(iii) and (a)(v) as a given. I hope that they will be supported by Privileges and Procedures Committee. I have agreed to withdraw (a)(iv) and previously (a)(i) over the age of voting, pending the arrival of a 16-plus voting proposition from the Deputy of Grouville. So I have withdrawn that as a courtesy to her so that she can have a good full run at 16-plus voting. The argument today revolves around (a)(ii). The argument there, I think, is; (a) one of principle; and (b) one of practicality. I have often spoken to the House about the inadequacies I perceive in the current electoral register, certainly in the town districts and in the built-up urban districts. I believe its inaccuracy is such in those particular areas that it renders it almost a useless document and that our turnout figures, certainly in town and in the urban areas, are seriously skewed by the fact that the electoral register is woefully inaccurate. That builds into a self-defeating argument that the turnout in town is low, nobody is interested, and therefore the turnout in town is low. We have had the debate in the last day and a half. We are told by Deputy de Faye, among others, that this is about motivating the populace - the electorate - to get out there and vote. We cannot have any idea of what is happening if we do not have a reliable, solid, accurate, up-to-date registration of voters. That is the motivation and the principle behind what I say. I want today to examine some of the practicalities of doing that. To do so I am going to turn to the background documentation behind the migration policy involving the monitoring and regulation of migration passed by this House. In the consultation over a migration and population register it says: “A population register. Do you support the concept of a resident registration, possibly with a legal requirement to register in order to provide comprehensive up-to-date information on population? If not, what alternative options would you propose?” It says here: “A comprehensive resident registration system was strongly supported and it was felt it would be valuable in monitoring and managing migration. There was general acceptance that this must be enforceable by law. It was recognised the system could built from the existing social security register.” Indeed, that is progressing I believe.

The Bailiff:

I do not want you to go too far down the line down which you are going at the moment. I think you are entitled to assume, for the purposes of your proposition, that there will be a population register, and your proposal to the States is that eligibility to register to vote in public elections should be related to that rather than to residence. That is the matter before the Assembly. I do not want to get into considerations of migration policy and so on.

Deputy G.P. Southern:

Absolutely not, Sir, and it is not my intention to go there. I was coming to the third line down from where I started, which says under (a) Single Office, Option 2: “Are there other functions which you

think a single office should carry out?" It says here: "Although not an immediate priority, it was suggested that additional functions of a single office could include [blah, blah, blah] electoral registration." So in the principle of the register it is accepted that it could be used - and possibly should be used, I would argue - for electoral registration.

Deputy P.V.F. Le Claire:

I am sorry to interrupt the Deputy, but on a point of order, Sir, I am just a bit confused by your ruling. Your ruling seems to have drawn up something that has made me a bit confused about part (ii), which I was minded to support, inasmuch as the eligibility to register to vote in public elections would no longer be linked to length of residence in Jersey, but one should then be automatically entitled after one has registered on the population register. But the plans are that people who are entitled in Jersey do not have to be required to put their names on the register. I am wondering if that has been public. Has that been...

Deputy G.P. Southern:

Everyone is required to register. Will be required.

Deputy P.V.F. Le Claire:

Is everybody required to register, Sir?

The Bailiff:

That is a matter for Deputy Southern, I think. All I was saying, Deputy, was that I think that Deputy Southern is entitled to assume, for the purposes of his proposition, that there will be a population register covering everybody that he says ought to be entitled to vote. The issue before the Assembly is whether the right to vote should be linked to residence or should be linked to the name being on the population register.

Deputy G.P. Southern:

It will be. The plans are that it will be compulsory for you to register. I go on to examine the practicalities of whether we can make this work. In the body setting out what the register will and can do and how in practice it will work, it says: "Legislation will be necessary to require people to register." Your point exactly. The basic concept would be for a once-only registration process with the individual information being amended as necessary, i.e. change of address. The link between the individual information and any evidence of registration would be a unique number. So you would get your unique number. That, it says a bit further on, could be linked to access to services. I am suggesting here that the first link should be - and it would be very simple - name, address, registration. You are either registered as entitled, licensed or registered only. That would be the basic information. That is what you need, with your unique number, to prove that you are who you are and that you have got the right to vote. It follows automatically in my thinking that that should be the first thing that is connected to this unique number. To maintain an accurate register, it would be necessary to require individuals to notify the States whenever they changed residential accommodation. Finally, it would be necessary to remove an individual's registration when there is good reason to believe they are no longer resident in Jersey. Experience elsewhere suggests that systems are able to ensure the register could be maintained with a reasonable, high level of accuracy. So regarding all the arguments around the register, there will be a body set up to do exactly what is required: to register people, to register changes and to register when they leave. If somebody is doing that, then why should we set up somebody else to do the same job for what is officially called the electoral register? There should be joined-up thinking. This is the way we should process. Now, in terms of practicalities, because I want this to be in place, if at all possible,

by the 2008 election, it is tight. But the schedule for drafting this legislation on the register and bringing it before the States is that it will be brought before the end of this year. It will be lodged in September-ish and will be debated before the end of the year. So the law will be - can be - through before the end of the year. That is the schedule that the Migration Advisory Group are working on. The only thing I am doing here is saying there is absolutely ample time to have an election, since we have just turned down a June election for the moment, in November 2008 or October 2008. All I am saying here is that the first item, and it is important that as this legislation comes before us that the uses to which it is put should be contained in that legislation or in the Regulations that immediately lie underneath it. I am saying now while we are law drafting, the Law and the Regulations, build this factor in. Do not come to it later and say: "Oh, we think we might use it for this", because that is not the way to use this sort of system and to put function-creep on it as you build it, but get it right now. I believe, while there might be other functions that we should be building into it, this is a simple and essential step. It can be done in time for 2008, I believe. If it is not, then the Migration Advisory Group themselves will be failing in their timetable, but I think if we get on that wagon now, we can make sure this happens and happens in good time for 2008. I believe it is practically sensible as well. The principle is, as I mentioned in my proposition, whether or not we require a length of residency in order to qualify for the vote. Now P.P.C. argue that people arriving on the Island will not be familiar with our political system, and therefore should not be allowed to vote. I do not believe that is a sound basis on which to discriminate those who can vote and those who cannot. If ignorance were a legitimate ground for barring people from voting, I think we would be on very, very dodgy ground indeed. I do not believe that argument holds water at all. What I think is a superior argument is that this register says you may live here in a certain type of accommodation because you are either entitled, registered or licensed. It then says you may work here because you are entitled, licensed or registered. With that, as you work you will from day one on this Island, under the I.T.I.S. (Income Tax Instalment Scheme), be paying tax. If you pay tax, and I believe this is fundamental - no taxation without representation - you should be entitled to vote. That is the argument, that is the principle, and that is the principle before you today. I think it will work practically. I think it deserves the support of P.P.C.. It may not get it, but certainly just quickly popping back, (a)(iii) and (a)(v) already have the support of P.P.C., and I hope the Constable of St. Clement will stand and at the start of his speech give his support to (a)(iii) and (a)(v), and we can have a debate about (a)(ii).

The Bailiff:

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

2.2 Deputy G.W.J. de Faye:

I hope this will not be construed as personality politics, but Deputy Southern is indeed an endearing person in many ways. Cloth cap by winter, the panama hat by summer, permanent dress down, and very much displaying what one might generally describe as the epitome of the common man; indeed, perhaps representing in broad terms some of the socialist utopian ideals of the 1960s and 1970s. That sort of socialist utopian theme does run through elements of this proposition, some of which I agree with and some of which I do not. I think if we look at the eligibility to register to vote in public elections, it is worth recalling the history of voting and eligibility, and clearly over the past hundreds of years things were wrong. It was obviously wrong to prevent women from having the vote. It was probably wrong to insist that perhaps only ratepayers should have the vote. But now we have got a pretty broad-based system, and we are looking at some of the elements of it. I am not at all convinced that there should be automatic entitlement in essence just because you happen to be somewhere. It does reflect, I think, upon Deputy Southern's personal politics and political ethos. It would be nice, would it not, if we did genuinely live in a world of universal human rights and the world was one place, we had global equality; that is the sort of broad philosophical themes one can attach to the idea that you arrive in a small island and you are automatically part of the same community because it is the same community everywhere else. But

while those are high aspirations, I do not think that anyone can say that that is the practical reality. I do think there is very significant merit in our current system, that basically says we consider that you need to spend a little bit of time with our community before we wish to give you, as it were, full community rights. That length of time, as I recall, is a period of roughly 2 years. It does seem to me entirely reasonable for any small community to adopt what rules they see fit for newcomers to take part in ultimately the full community life, and therefore I think it is not necessarily: "While it is a magnanimous gesture to say as soon as you arrive in this Island you have got some accommodation and so on, please consider yourself to be a full-on Jersey citizen." As I know from my own family history, my family was not really recognised as being Jersey for about 250 years. Fortunately, I think there was a bit of voting that went on in that time. But we are talking strong community values. That does take me back to explain, as it is conveniently on the same subject, I think, how people misunderstood what I was getting at when I talked about the demography of the M.O.R.I. poll *vis-à-vis* general elections. The point I was getting at was that here we saw something broken down roughly two-thirds, one-third, and the suggestion I was putting forward was that my personal analysis was that the one-third, as it were, represented those who believe in Jersey's traditions and culture and heritages, and were not that enthusiastic about seeing them change; and the two-thirds probably represented those people who have come from other cultural backgrounds and are quite familiar with party politics and general elections. That does not mean I necessarily want to disenfranchise everybody, but I do have very serious concern - and I have said this before and I will repeat it - about cultural erosion of our Island by incoming influences of one form and another. I do believe very sincerely that cultural erosion of Jersey's values and attitudes is a big, big problem that not many of us understand and see but we will have to tackle, otherwise Jersey as we have known it over centuries will simply fade away. On those grounds I do support the current way we do things in terms of allocating voting rights according to the length of time you have been resident in the Island. It seems to me entirely reasonable. I do not believe it is contravening people's human rights, quite frankly. As to a system of registration of political parties, well, in essence, why not? But what for? After all, it seems to me you can register a business or a company, a charity or club or society, so if it is just simply we are creating a new category of political party, there does not seem to be any major stumbling block to wanting a registration opportunity set up. However, what does concern me is that registration will, by its nature, enclose a level of credibility on some potentially entirely disparate and perhaps almost virtual reality organisations. Yes, there is probably merit; it would be wrong to get the names all confused. For instance, you should not allow the party that meets in a telephone box to call itself the Jersey Telecoms Party. That would be entirely improper, in my view. But other than this worry of mine that somehow new aspects and Regulations will creep in... we will start to see registered political parties getting the same benefits as charities or being exempt from G.S.T., and so on. I think there are risks in that direction, and there is, as I say, this I think quite serious problem of being able to simply register and thereby establish your credibility as a serious organisation when you might only have 1, 2 or 3 members. We have all seen the rise and fall of parties. One moment you are a party member; the next you are not; the next you are. Possibly registration of political parties and the list of members will clear that problem up, so there may be a positive advantage here. As I say, I think generally I am neutral on this one, and Members will make their own minds up. I am, though, against item 5, and I do not believe it will be right for details of party affiliation or party logos to be entered on the ballot papers, for one very specific reason and that is it will, by the force of what it is intended to do, distinguish certain candidates on the ballot paper from others, and therefore we run into various difficulties. Is the logo a black and white one? Are you obliged to print a coloured one? If they all have to be black and white, nevertheless some candidates' names will pop up and look different to the way other names of independent standing candidates will show up on the ballot paper. Now if that can be overcome that may be a way forward, but my initial response to this idea of having a list of names, some with party affiliations and others not, while it may be seen as helpful and informative, it simply, I think, is a potential distraction and also has a potential for building in a bias on to the ballot papers themselves. I think that should be an

issue of serious concern to Members. We already have enough concern as it is about people who have names at the beginning of the alphabet as opposed to those who come at the bottom end, and that is perceived as a potentially unfair advantage in terms of simply your order on the ballot paper in alphabetical order. Now if we start having the equivalent of logos of political parties added on as sort of little flags attached to certain names, I think we really are wandering into dangerous territory in an area where things are supposed to be squeaky clean. So I would in that particular respect urge Members to vote against item (v). As for asking Privileges and Procedures to bring forward the amendments, it is always a pleasure to award work to someone else, so I have to be able to support that.

2.3 Deputy P.V.F. Le Claire:

I must say my decision for part (ii) hangs in the balance after Deputy de Faye's speech on the erosion of our identity and the necessary safeguarding of that identity in regard to our culture. So I will be persuaded by more input, no doubt, by the summing-up of the proposer of the proposition to see if I can be minded to support it. But I must say at the moment I am having difficulty with that one. I believe a system of registration of political parties to be created is something that needs to be formally adopted by the States, because a formal measure of identifying political parties is better than an informal way of recognising political parties. If parties do exist in Jersey, as they do, then it is only right that they should be regulated in proper ways. It not only helps the States; it not only helps the individuals in the electorate; it also helps, in my view, the political parties themselves walk a defined line and not ramble into an area where they inadvertently may not want to stray. I think Deputy de Faye has won me over on the issue of logos. I was of the opinion that logos were a good idea but, having considered what he said just then, I think there is an issue about the balance. We have just spent an enormous amount of money on an Island logo. Why would we do such a thing? We recognise the power of a logo. We recognise the branding and the imaging of a logo, and that might give in certain circumstances, especially at the time where a decision has been made, an unfavourable advantage to those that chip-in on a common logo over those that have only their own logo, which may be new and not recognised. So I think that that needs to be considered. I cannot support that part, I am afraid. The Privileges and Procedures policy will have to bring forward the work. I would like to ask Deputy Southern while I am on my feet why it is that he withdrew part (i), in his words: "Out of courtesy to the Deputy of Grouville, I withdrew part (i) in order that she could have a good run at it", while he was unable to do so when I was bringing the exact same proposition. It does smack of a discourtesy to me. While there are Members who may have their views, perhaps uninformed, about my contributions in the Assembly, and while I am pretty much one to take it on the chin, in certain circumstances, I do have to ask what is that all about.

2.4 Connétable D.F. Gray of St. Clement:

I would like to say first of all that P.P.C. does support the registration of political parties, only to give anybody who wishes to form a political party the right to be properly registered and recorded on the ballot paper. That does not mean to say that political parties will be formed, but it does give everybody the opportunity to do so. The point that was made, I think by Deputy de Faye, regarding names of parties on the ballot paper. Well, that could easily be put in a level playing field by any candidate who is not in a political party being labelled as independent. So they would have equal registration on the ballot paper. The piece in contention, really, is the ability to register to vote. I know that Deputy Southern on many occasions has said that the registers in the urban areas are woefully inaccurate, but he has never brought any evidence to say how he comes to that conclusion. He has never said how that happens. Then he proposes that the register is based on the population register but that depends on the legislation that has been brought forward for the population register, and P.P.C. have been asked to guess that the population register will cover the electoral register as well. We do have a good system at the moment, albeit that Deputy Southern does disagree with it. He says that people arriving in the Island should have the opportunity, because

they are going to pay tax, to vote immediately, and as he has already said, P.P.C. have said that people need to be familiar with how the Island works and be familiar with the candidates, and hardly when they arrive in the Island are they going to be either. But more importantly than that, Jersey has already done more than any other democratic country in Europe - at least in Europe and certainly in North America - has achieved, and that is any resident of the Island is entitled to register after 2 years being in the Island and is able to vote. Nowhere else is that entitled. For instance in the United Kingdom, you have to be a citizen of the U.K. or Ireland and certain Commonwealth countries. Nobody else is entitled to vote in the parliamentary elections, and that also applies to all the European countries. You have to be a citizen of that country, and we do not require it. So we should be satisfied that at least we are in the forefront of allowing the residents of the Island to vote. Whether they register or not is another matter, and I do not think we should rely on the population register being the means of registration, so I ask the Assembly to reject (ii) entirely.

2.5 Deputy J.J. Huet of St. Helier:

I think I am very privileged that I live in Jersey. I think I am very lucky. It is my home, always has been, and I think I am extremely lucky. I think we live a fantastic life in Jersey, no matter how much we moan and groan. I get the impression a lot of other people feel the same way, because I am sure that there are always people wanting to come into Jersey, and so they obviously feel the same as I do, that it is an honour to live in Jersey. So that makes it an honour to be able to have a vote. Now, I really struggle with (a)(ii), and I did speak to the Deputy, and I understood what he was saying, Sir, which was if somebody is paying tax they should have the right to vote. I rang the Income Tax office up, because I was under the impression when I.T.I.S. came in that everybody would pay tax as they came into the Island. But they told me no, I had it wrong, you do not automatically pay tax as you come into the Island. You will only pay tax if you earn enough, not just because you have come to the Island. I was fearing numerous cases of people that had come to live in Jersey but were not paying tax, and I thought: "I have obviously got it wrong." They said: "Well, how can you tax somebody that does not earn enough?" I thought: "Well, okay, that's the logic." So I am thinking if you were saying somebody has a right to vote because they pay tax, if they do not pay tax - if you turn it on its head - they have no right to vote. It is a ridiculous situation. But the other day I spoke, through a translator, to a gentleman who has come from Eastern Europe. He had just come into the Island, and he has found a job. He will not be paying tax as he is in the lower income. He has found a room in a private house, which he is perfectly entitled to do. A private house can take up to 5 people, and that is perfectly legal. The company he is working for will eventually be a company that will not be paying tax. So we now have he is working for a company that does not pay tax; he will not pay tax; he does not speak any English; he tells me that next month his wife and 2 children are coming to live in Jersey, and they will live with him, which again, they are perfectly entitled to do. That means the children are very young, but he and his wife, if this is passed, would have the right to vote. I had to ask him why he was coming to Jersey, because I can remember taking the ex-Deputy Voisin to a lodging house once because he had never been to a lodging house, and he could not believe it when he saw a lodging house - dare I say, in some lodging houses - and the conditions people were living in. He kept saying to me: "This is the bedroom?" and I kept saying: "No, no, no, this is not just the bedroom. This is the whole room." I asked those people that question, the same as I asked this gentleman: "Why have you come to Jersey to live in one room?" I got identical answers from this person from Eastern Europe that I got from a lady in the lodging house. He said that in Jersey there is work; in his country there is no work. He told me that he thought the accommodation in the house he was living in was good; he thought it was excellent. It had hot and cold water; bathroom attached; certain cooking facilities; a place for the children that they could play outside; a garden. He thought it was excellent. He said that he had this work; he knows his children will be entitled to go to school and receive an education. He also knows that his children will be entitled and he and his wife will be entitled to go to a hospital and receive free medical. He thought that life was marvellous. I could

not argue with this; to him, it was. He also knew that after he had been here 5 years, he will also be eligible for financial assistance. I think it is an honour to have a vote here, and yet we are saying here that we would give this vote to people that do not speak our language, that hold no loyalty as of yet - I am not saying they will not do in the future - to the Island, because they have never lived here they have only heard about it; and that it is much better than the place they come from; and yet we are saying we are going to give these people the vote. At the moment, as the Connétable of St. Clement has said, we already now give the vote to all residents after 2 years. I am not really convinced that 2 years is long enough for somebody that has come from completely elsewhere. What will they have learnt in 2 years? Will they have learnt about our Island? Will they have learnt about our customs? Will they have enough English? Will they have learnt all that? I also know that they will not be paying tax. So where is the asset to my Island? This is why I struggle very much with this one, very much indeed.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

If Members agree, we will adjourn until 2.15 p.m.

LUNCHEON ADJOURNMENT

Electoral Reform (P.4/2007) (...continued)

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

I rise just to talk about part (ii) of the Deputy's proposition. I do not wish to comment on any of the other articles. I rise because I believe that here the Deputy has blurred 2 issues. One is the idea that as soon as someone arrives on the Island they ought to be entitled to vote.

The Bailiff:

Deputy, can I just gently remind you that I think people arrive in the Island and not on the Island.

Deputy I.J. Gorst:

My grammar must be due to where I hail from, Sir, for which I apologise. I stand corrected. The other is one, I believe, of methodology and it is the methodology which I wish to address. The Deputy quite rightly said that the legislation for a population register is currently timetabled for the later part of this year. I would remind Members that that is an extremely important policy development and one which after its consideration by Ministers will go out for public consultation. So important is this policy development that Scrutiny have set up a Migration Sub-Panel. That Sub-Panel will be looking not only at the population register but migration legislation as a whole. It is important to remember that the overriding purpose of a population register, as agreed in the Migration Strategy, is one of population control. Yes, within that Migration Strategy the possibility is alluded to that it might in time serve other purposes but I firmly believe that what the Deputy is putting before us today is without doubt mission-creep. Not only is it mission-creep but it does not allow for justice, due consideration, consultation, to take place on this important policy development of the population register. It is too early. This is not the time to be trying to add to that policy development, as I said, without proper public consultation. Within the initial policy possibilities at this stage, there will be opportunities for Members in due course to consider whether a population register could be put to other uses other than its primary use as I have just discussed. But I would absolutely urge Members not to accept this proposition without due consideration by this House, without due consideration by the Scrutiny Panel, and without due consideration by the public. In fact, Sir, I find it somewhat ironic that we should be asked to consider this over a

Wednesday lunchtime, after what has been a long and difficult debate. In fact, I would venture to say that had the Council of Ministers employed such a tactic with a very important piece of policy development, the Deputy would without doubt right now be jumping up and down and making a song and a dance about that issue. We must allow for due consideration of all policy, and therefore I urge Members not to accept point (ii) of the Deputy's proposition.

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

I have just recently made a submission to the Privileges and Procedures Committee, of which I happen to be a member, regarding the review of Ministerial government, Sir. Now, one of the disadvantages I identified was that whereas previously every Member was involved in executive government, on Committees and the like, and therefore knew how a Committee and its department functioned, now there are many Members in this Assembly who have never known that. I believe, Sir, that a misunderstanding of how P.P.C. works was evidenced both yesterday and again this morning, not only in speeches but in propositions and amendments. This proposition, Sir - P.4 this afternoon - I believe is little different. It presumes that P.P.C. or its predecessors have done little work, and all that is required is a simple proposition to move things forward. Sir, if nothing else, we have learnt in the last 24 hours what an erroneous assumption that can be. There are 2 reasons why I do not believe I can support this proposition. Part of it merely duplicates work already done by P.P.C. which is due to be brought forward in the near future, which is effectively asking them to do the work twice. The second, Sir, is the one that seems to have taken the attention of the Members who have spoken so far, and that is part (ii). I am not aware - but I could well be wrong - of other countries where people newly arrived are allowed to vote, thereby shaping future policy, when there is no certainty that they will remain to enjoy or otherwise the fruits of their actions. While under our present individual membership of this Assembly that may not be too much of a problem, if we ever move to political parties, as the proposer clearly intends, then it could become a major issue. I have to ask is it right that people who live here long term - the indigenous population - could be saddled with the wishes of transient people for decades to come. It seems to me, Sir, that this proposition is a fag packet idea, and I thought fag packets carried a health warning these days; perhaps his proposition should as well. But I would conclude by reiterating what I said to another proposition yesterday. I heard on the lunchtime radio today, Sir, that already people are making the suggestion that we are not embracing change because it is in our own personal interests not to, and I would not like that thought to proceed too far, because it is not true. We have, as I said yesterday, Sir, a responsibility to the entire Island to ensure good government. I believe we would be failing in our duty if we made change just for change's sake and created an Assembly not for the purpose in the process.

2.8 The Deputy of St. Mary:

No taxation without representation. That is a very neat phrase, but what we need to remember is at the time when that phrase was coined, those people affected by it had no prospect of representation. Here in the Island, they are given a prospect of representation after 2 years. I believe it is essential that there is a period whereby newcomers to the Island can assimilate the aspects of life that make Jersey the place that it is, and also that there should be a reasonable prospect that they will remain to participate in the fruits of their decision, if you like. We do not require them to take citizenship in Jersey; there is no naturalisation process before they must vote. In other countries where there are citizenship requirements attached to the right to vote, there are citizenship classes. They are required to demonstrate a knowledge of the history, the language, the culture, the social traditions of the area in which they decide to register and to take part in elections. We do not have anything like that in place here, and I believe that the 2-year period is a reasonable time to expect people who wish to participate in our electoral process to give themselves the basis and the grounding for doing so. Therefore I will be rejecting paragraph (ii). The question of paragraphs (iii) and (v) give me a different kind of concern. As we have already heard and as is noted in P.P.C.'s comments, P.P.C. is already on the verge of bringing forward work that will deal with these items. When

P.P.C. launches its proposition, it will have more detail as to the advantages, the disadvantages and the costs of these issues. My concern is that we are being asked today to vote in the absence of this detail. If you, therefore, do not support these items, it will effectively debar P.P.C. from bringing forward the proposals that it is literally weeks away from bringing forward, perhaps even less, until the next session of the House, which will effectively - to use the vernacular - scupper our ideas. I do not propose that it is a good idea to accept these things without the detailed analysis that is required. My only solution - the only thing I can suggest - is that the proposer withdraws those sections for the risk that he might in fact delay implementation of these proposals for a considerable time. I believe to move forward without detail is to move forward in a vacuum, and it is not the way a responsible government goes ahead.

2.9 Senator M.E. Vibert:

My fellow P.P.C. member, the Deputy of St. Mary, has covered some of the area I wish to cover, and the first thing I was going to do was to seek guidance from yourself, Sir, in that if the States voted against this proposition, whether P.P.C., as charged by the States to look at areas like this, would be able to bring back its own proposition, which may have very similar terms and may wish to propose a system of registration of political parties be created in particular and details of party affiliation of candidates. But I would really like to know the situation first, Sir.

The Bailiff:

The time limit for debating for a second time matter covering the same ground, Senator, is 3 months, so indeed the P.P.C.'s proposition cannot be debated within 3 months.

Senator M.E. Vibert:

I think that is important, because as I will go on to say, and I will be again urging Deputy Southern to withdraw the whole of this proposition, I believe that he will be defeating what he wants to achieve. If I can say that Deputy Southern, saying he could not understand why P.P.C. were not supporting his proposition, referred to it being a matter of bragging rights. Well, I am sorry, Deputy, it is not a matter of bragging rights; it is a matter of due process and behaving correctly. Now the Committee of which I am a Member, the Privileges and Procedures Committee, has been charged to bring forward proposals in these areas. We have been working on this. We are very close to producing proposals which will put in front of the States far more information than has been included in this one-and-a-quarter-page report and will also include mechanisms by which this could operate. So, not just the principle but the mechanisms as well, which I believe States Members may well wish to see before voting on the principle on its own. So I think it is very important that States Members see that, because it does have a lot of influence and could influence many Members whether to support or not. I hope to go on to explain why that is. For example, in part (a)(ii), which people have spoken about, it may well be that P.P.C. wishes to propose eligibility to vote in public elections should be linked with registration in the population register, but it may be that P.P.C. wants to propose that there still is a length of residence qualification on top of that, and this would preclude us coming forward within 3 months with this proposal. I think that would be disadvantageous to the States, because if we are to get things in place for the elections in 2008 we were going to be running very short of time and may not be able to do it if we have to wait another 3 months before the States can debate it. My own view is I could not possibly support (a)(ii) as it stands, for a number of reasons, in fact a whole host of them. It talks about the population register to be created under the migration policy as approved by the States. Well, that is correct, the States have approved a migration policy, and they have said there should be a population register under it. What the States have not done is decide what or how that population register should operate. What the States have not done is to say who that population register should cover. An example would be in the detail they have not, Deputy, and that is the whole point, because it will need a law to introduce it. The sort of thing is the States could decide, for example, that, well, as students are at university out of the Island for the majority of the year, they do not have to register. Would that mean they would not be eligible to vote? We are trying to encourage

our young people to vote. The point I am getting at is all these details have not yet been decided, and here we are, the States, saying we should agree that voter registration is linked to them. Surprisingly, the States have been known to change their mind. So what happens if they do change their mind on a population register and here we are saying the eligibility to vote is linked to a population register? Sir, I think that before one decides such detail, one should have the detail of the thing one is linking to first, because that may influence Members as to how they want to do it. The States can vary any decision they have made. They may have decided in some detail what they would like the population register to cover, but that is not to say they are not going to change their minds and say it should cover something else. The other issue has been covered by a number of people, but I would just like to touch on it, and that is whether it is desirable or not that every resident should get the right to go on the register and vote as soon as they arrive in the Island, as soon as they get on the population register. As other people have said, many other countries do not operate in this way. We have no information as to how comparative democracies operate in the report from Deputy Southern. We do know, and P.P.C. are looking into this, that many, many other areas require a qualifying period. Some require far more than a qualifying period; they require citizenship, which can be linked to undertaking a course and providing you know something about the area concerned. So there are a lot of questions there, and perhaps in case the Deputy thinks I am being too insular and concerned with stopping people voting, one of my concerns is about the possibility of manipulation of newcomers to the Island, particularly those without English as a first language, who could be told all sorts of things. They could be told: "It is compulsory to vote; you must vote, and this is what you should do; this is how you should vote." It would be very hard if you do not speak the language to know that. I think it is a very dangerous road to go down to think that somebody can come off the plane one day and there is an election the next day, and they should be allowed to vote in it without having any understanding of Jersey whatsoever. We had the long debate over the past 2 days about our very convoluted electoral system and very convoluted Assembly, and it may take some time, with the best will in the world, for people arriving in the Island to have some understanding of that, let alone none at all, by being immediately entitled to vote without any understanding of the Island system at all, and the danger that they could be manipulated by unscrupulous forces to vote in a certain way without that understanding. So I cannot support (ii) as it stands because it does say automatic entitlement as soon as he or she is registered. I do not know how the population register is going to work and I wish to bring forward much more information for the States as to how other democracies operate in qualifying periods for registering to vote. I agree with (iii): "A system of registration of political parties be created" but I do believe, as I have said before, that the Privileges and Procedures Committee were charged by the States to bring forward details on this system, which we are very close to doing, so that States Members could see how the system would work at the same time as agreeing to the principle. I would urge Deputy Southern, again, to withdraw this so the States can have that privilege which is what they want. In other words, they can see how it will work at the same time as they agree to the principle and we all know what is going to happen. The same with (v): "The details of party affiliation of candidates of a registered political party and the party logo can be permitted on ballot papers." We have gone into some detail on that. It may answer some of the concerns that Deputy de Faye was worried about, the cost of colour printing, *et cetera*, when the detail was put alongside this principle which is what we plan to do. It was said to me that this would be very helpful to voters, to have the party logo or the name next to the details. Somebody said to me it was not to help them to decide who to vote for but who not to vote for; that was their own opinion. I think we have got a situation yet again, an echo of the previous debate, where a Member in all good faith has brought forward something that the States has already asked a body, the P.P.C., to get on with and because of that it has caused all sorts of problems. I think that when Members think about this, if Deputy Southern insists on his bragging rights and pushing this through, that it is going to be very difficult because I am, and I hope the majority are, going to vote against (ii) because there is not enough detail. I am in a quandary about (iii) and (v) because I want to be able to bring proper proposals back to the States fully thought out and fully documented and not have to wait 3 months,

which I will have to if I vote against them. I believe once we have had the debate, people will have given their views and I urge Deputy Southern to act in a statesmanlike way, having had the debate, and to withdraw these propositions in the knowledge P.P.C. are coming back with the real thing.

2.10 Deputy C.J. Scott Warren:

Before I start, I am slightly confused in that I had understood from the Chairman of the Privileges and Procedures Committee that they were accepting - I thought he had inferred - parts (iii) and (v). So it seems that there is not a coherent unit here among the Committee. I would like to say that from all of the previous speeches it would appear that many Members believe that when you come to live in Jersey before you can be allowed to vote you should be able to make Jersey Wonders, catch a conga and kiss a crapaud; this is the argument, otherwise our traditions could be eroded. Frankly, I find that argument unrealistic and daft. For instance, if people who come to live here have no interest in Jersey politics they just will not bother to vote. If a person, as has been said by the Dean so ably this morning, wishes to exercise his or her vote they should most certainly be allowed to do so before a 2-year period. I believe, as I say, we are in the 21st century and 2 years is an unrealistic period. I might have been able to support a 6-month period but 2 years is just denying people, who are interested in politics and who can make decisions, that right. Regarding logos, obviously if you did have party politics you have got to have clarification at the polling booths as to which candidates belong to which party and, as the Chairman of the P.P.C. said this morning, a person who is an independent candidate, as most of us here I believe think we are, could have a logo to say that. People will then be able at the polling booths to make it quite clear whether they support the current non-party system of government or whether they prefer to vote for party candidates in a party system of government, were that to materialise. I would say it is extremely important if that situation does arise that people do know that somebody is within a certain party when they get to the polling booth. I do support this proposition. I would like to say regarding (ii) and the question with the population register that I presume in this day and age that the data on the register can be transferred quite easily to Parishes. I do know, although it may be much better now, that there were problems with elections in the past and having the correct data. I support this proposition and I do not know why there is concern from some members of the Privileges and Procedures Committee because it charges that Committee to bring forward the necessary amendments. As I say, I think the central issue here is whether in this day and age people consider it really is right to ask people to come here, many of them working and paying taxes, and wait 2 years. Will that really affect our traditions substantially? I think not.

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

I am glad to speak after Deputy Scott Warren because she has said a lot of what I think is sensible. We have heard from many members of the Privileges and Procedures Committee and other Members that I think are being very precious. I will start with the Constable of St. Clement and he is also the Chairman of the P.P.C. We are developing a population register and I want the people on that register to be able to vote. Now, why do we need 12 other individual registers? We are putting a lot of money into this population register and a lot of resources. I would like to turn around what everyone has been saying. Why should people be able to vote as soon as they get here? How many people have stood at Parish Halls on election day and people in their 80s who have lived here and never left the Island find out that they are not on the electoral roll? They do not have a right to vote under this system. Yesterday I got my reminder to register to vote. Yes, that entitles me to register to vote. Under the population register - under law - if I do not register I cannot work and I cannot live anywhere in Jersey. That is the basic premise whatever we change. If we are going to have a population register worth anything it has got to have everybody in Jersey, everybody living on the Island. If you are a parent you register your children and if they are away at college they will be on that register. Is it scaring some people that everybody will have the right to vote? I think Deputy Baudains has visions of parties flying in people from certain political parties from other countries to vote on the day, "Reds under the beds". I have never heard of such

silly reactions. We had comments from Deputy Huet about the right to vote. She was talking to a person who did not earn enough to pay tax, and even if you did agree that they are living here and they are paying tax, I would like to know where this person is living who is bringing over a family who can afford to be in such a low paid job that they are not paying tax. If you are single it is around £11,000 and if you are married it is around £18,000. Where are they living, and they are bringing children, and paying £200 a week minimum? Find me an unqualified place for less than £200. These people are few and far between. What do people do when they arrive here? They ask can they work and where can they live and: "What tax do I pay? What help will I get with this and that?" Do any of them ask you: "Are there any leaflets? Please point me to the first polling station?" No, they need to get to know what they are going to do. They may have the right but how many people are going to use it? As I say, turn it around and think of the people who do not fit into the population register. As we are today, we are refusing because everybody will be made to vote in the population register and if they change their mind an hour before the polling station closes, they can go down and vote. They are on it; they can go down and vote. Is that frightening somebody? We will have 90,000 - if that is the population - registered to vote in any election. We do not have elections every day so if you arrive and you have missed the election you have 3 years to wait anyway, unless we have a by-election. What is the big deal? I probably could not be in the States because I have never kissed a crapaud, caught a conga or made a Jersey Wonder. I have probably put them all in different orders, and I have probably kissed a few congas. **[Laughter]** I think people, especially Privileges and Procedures... as Deputy Scott Warren says, we are charging them. We have many things to debate. I do not think this is going to come back before or after summer recess anyway. We are talking 3 months. I have to put that one to rest. We want the people on the population register and it should be transferable to Parishes. As Deputy Scott Warren said, we are in the 21st century. We could even have voting online if it was run by one register. Final point, Deputy Gorst says: "This is not the way to make a register. We make it simple and we add-on." We have data protection in. We do not make a simple and add-on function. It is their word, not mine, and I do not normally use things like this, i.e. level playing fields. You cannot find many of them around. I will put that one to rest. I will just mention on the registration of political parties. What is the problem? I think there are about 3 of us who are in a party and the rest of you think we are stark raving bonkers that all of a sudden we cannot be registered. Well, they may not say that in the House. **[Laughter]** Even worse than stark raving, we are absolutely certifiable. That is fine. Part (v) asked us to state that we are certifiable on the ballot paper. **[Laughter]** I listened to Deputy de Faye who says he might give some credence to a loony lad who wants to join a party. Well, the parties are totally loony, are they not? Well, you cannot have it both ways. We are not giving credence to anybody. If you believe you want to belong to a party you can and if Deputy Le Claire thinks I might have my name in a logo, he can have "Independent" or what ever he wants to be called above it or under it or next to it and I will not have any more space than him. So we need this and we need it now. Why? Again, it is because a Back-Bencher has brought it. Yes, he has not done the detail that P.P.C. has but he has probably got more propositions through than the whole P.P.C. has in so many years. So I am going to put my faith in Deputy Southern's proposition. The P.P.C. are telling me that they have already started the work; it is very much progressing. As I say, please remember they are charged to bring it back, and then we will see the detail. If you do not like the detail you do not have to vote it through but we will see the detail. The main point is I think you seem to be saying we can vote against because we do not want people who are newly coming to the Island voting. What about the thousands of people who are not registered now who have lived here all their lives? Turn that around and it is an advantage to everybody in the Island that we do link these 2 and if this is the only way to do it then we vote for this.

2.12 Senator T.A. Le Sueur:

I had a modicum of sympathy for Deputy Southern in knowing whether to go for the principles or the detail of such arrangements. He has fallen on the side of gunning for the general principles. I

think it is important that we read this proposition properly and clearly and understand just what it is that we are voting on. We are not, for example, voting on whether it is 2 months' or 6 months' eligibility. We are voting about whether registration should be automatic, on going on to some register or other. I think more problematic is that the road to hell is paved with good intentions and I am sure there are a lot of good intentions behind this proposition. What I feel it does is to tie the hands of the P.P.C. in the future saying: "We agree this in principle. Now go and implement those principles in your draft legislation." I give as an example paragraph (a)(v) which seems an innocuous enough continuation of part (iii) which I think is totally innocuous. Part (v) says: "Details of party affiliation of candidates of a registered political party and the party logo can be permitted on ballot papers." As an independent, as I have been and hope I always shall be, I cannot put that logo on my ballot paper because I would not be a registered member of an independent party unless that party were established. Conversely, I may be independent or Senator Ozouf may be an independent but it does not necessarily mean we think the same way. We do not necessarily want to be linked in the same party and by the same logo. Think of the danger there, that what appears to be an innocent arrangement has ramifications which we do not want to accept. The alternative of saying that independent candidates would not have a logo - they would just be conspicuous by their absence - almost suggests a 2-tier class candidate for election: some can and some cannot have a logo. All these things could be thrashed out at the time of the legislation and should be thrashed out at the time of legislation. I just fear for the P.P.C.'s sake they will be told: "Oh, no, you agreed at the time of the in-principle debate we want to have this particular set of arrangements." So I have a great deal of sympathy with Senator Vibert who says the answer will be for Deputy Southern to withdraw this lot. I am a realist and I suspect that the answer from Deputy Southern will be "No". I hope I am wrong but I have been in the States a little while and understand the way his mind thinks. Sadly, I am going to have to vote against this lot and accept the fact that P.P.C. may not be able to bring this back until September. That is, I think, a sad consequence but it is an inevitable consequence because I cannot possibly support it in its present form.

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

I would merely add that if Deputy Southern were to withdraw this it would allow P.P.C. to get on speedily with the whole thing and bring it forward. I think that would be correct. If he withdraws it would that then mean the 3-month rule would apply in the fact that he had withdrawn it?

Deputy G.P. Southern:

Can I clarify, Sir?

The Bailiff:

No, if the Assembly gives Deputy Southern leave to withdraw his proposition then there is no inhibition on P.P.C. for bringing the proposition back next week.

Deputy P.N. Troy:

That would be a much better situation from the point of view that Members who are...

Deputy G.P. Southern:

May I ask this Member to give way? To make it absolutely clear before we get any more repetitions of, "Please withdraw", I have absolutely no intention of withdrawing this proposition so please stop repeating it.

Deputy P.N. Troy:

I think then that it will be defeated and it will cause a delay because, as many Members have said, there is a concern over (a)(ii) and also this issue of the logos needs to be addressed fully as well in the whole thing. One needs to come back with a more detailed response on how this will all work in practice.

2.14 Senator P.F.C. Ozouf:

I agree with some of the sentiments of what Deputy Southern is achieving but I think that he is testing the patience of the Assembly in the way in which he is trying to achieve it. I do not know whether or not you would accept, Sir, a motion to move to the next item. In view of Deputy Southern's intransigent position, there is, I think, a general mood of the Assembly that a majority of Members want to leave this issue in the hands of P.P.C. and bring it forward. I know that in Standing Orders you will have regard to the rights of minorities. I am beseeching you to have regard to the wishes of the majority and let us put this to a vote to see whether or not we do want to move on to the next item.

The Bailiff:

Is the proposition that the Assembly moves to the next item on the Order Paper seconded?
[Seconded]

The Deputy of St. Mary:

If we move on, Sir, if that wish is granted, can P.P.C. still bring its own proposition?

Senator P.F.C. Ozouf:

That was the purpose of the proposal.

The Bailiff:

Yes, as Members know, a proposition to move to the next item of the Order Paper may be disallowed if it is regarded by the Chair as an abuse of the procedure of the States or alternatively an abuse of the rights of a minority. There has been a full debate on the matter and I therefore allow the proposition and I am prepared to have it put to the vote. There is no provision for debate on the proposition to move to the next item on the Order Paper.

Deputy P.V.F. Le Claire:

Sir, could I inquire about your ruling in as much as yesterday when I made a similar proposition it was not allowed? [Laughter]

The Bailiff:

I wondered if you would ask me about that, Deputy, and the reason for that was that you moved the proposition immediately after the proposer of the motion had spoken and there had not been an opportunity for Members to express their views generally on the subject of the proposition.

Deputy P.V.F. Le Claire:

But surely, if you would not mind me saying so, as the Standing Orders read it does say that a Member can move that proposition at any time during the debate and it does not have a bearing as to what has been said.

The Bailiff:

I do not think I have anything further to say, Deputy. I have made my ruling. I think the proposition is in order. Do you wish to have an appel?

Senator P.F.C. Ozouf:

Yes, please.

The Bailiff:

The vote is for or against the proposition of Senator Ozouf that the Assembly moves to the next item on the Order Paper. I ask any Member who wishes to vote who is in the precinct to return to his or her seat.

POUR: 31	CONTRE: 15	ABSTAIN: 1
Senator L. Norman	Senator W. Kinnard	Deputy P.J.D. Ryan (H)
Senator F.H. Walker	Senator B.E. Shenton	
Senator T.A. Le Sueur	Connétable of St. Clement	
Senator P.F. Routier	Connétable of St. Helier	
Senator P.F.C. Ozouf	Deputy A. Breckon (S)	
Senator T.J. Le Main	Deputy of St. Martin	
Senator F.E. Cohen	Deputy C.J. Scott Warren (S)	
Senator J.L. Perchard	Deputy J.A. Martin (H)	
Connétable of St. Ouen	Deputy G.P. Southern (H)	
Connétable of St. Mary	Deputy of Grouville	
Connétable of Trinity	Deputy J.A. Hilton (H)	
Connétable of St. Lawrence	Deputy P.V.F. Le Claire (H)	
Connétable of Grouville	Deputy D.W. Mezbourian (L)	
Connétable of St. Brelade	Deputy S. Pitman (H)	
Connétable of St. Martin	Deputy of St. John	
Deputy R.C. Duhamel (S)		
Deputy J.J. Huet (H)		
Deputy G.C.L. Baudains (C)		
Deputy P.N. Troy (B)		
Deputy J.B. Fox (H)		
Deputy S.C. Ferguson (B)		
Deputy of St. Ouen		

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

Deputy S.C. Ferguson:

Before we go on to the next item on the agenda I wonder if I could ask the Attorney General for clarification which might be helpful also to P.P.C. when they are considering the projet that we have just gone on to the next item of business for?

The Bailiff:

Deputy, on the face of it, it does not seem to me to be the proper time to ask the Attorney General for his clarification.

Deputy S.C. Ferguson:

I know but you were not looking in my direction.

The Bailiff:

Well, the Assembly has now moved to the next item on the Order Paper and I am afraid that electoral reform has passed for another day.

3. Draft Prison (Amendment No. 6) (Jersey) Law 200- (P.18/2007)

The Bailiff:

The next item on the Order Paper is the Draft Prison (Amendment No. 6) (Jersey) Law 200-(P.18/2007) in the name of the Minister for Home Affairs and I ask the Greffier to read the principles of the draft.

The Greffier of the States:

Draft Prison (Amendment No. 6) (Jersey) Law 200-. In order to amend further the Prison (Jersey) Law 1957 the States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

3.1 Senator W. Kinnard:

This draft law has been initiated in response to the Prison Inspection Report 2005 recommendations. It amends the Prison (Jersey) Law 1957 to include provisions for mandatory

tests on prisoners for the presence of controlled drugs and/or alcohol and for employees within the prison who are authorised by the governor, in addition to Prison Officers, to conduct rubdown searches of prisoners and seize unauthorised property if found. There is not a prison in Britain which is drug free and prisoners come up with ever increasing ingenious ways of getting hold of drugs. We know, for instance, that a wrap of heroin can be hidden under a postage stamp; drugs can be thrown over the perimeter fence; drugs can be hidden in the mail, in felt tip pens, clothing, and even passed to a prisoner with a kiss. Looking across Europe, the lifetime prevalence of drug use among prisoners is reported in most E.U. (European Union) studies to be over 50 per cent. It varies widely, however, from 22 per cent to 86 per cent between prison populations in countries. The prevalence of regular drug use prior to imprisonment ranged from 8 per cent to 73 per cent with between 15 per cent and 50 per cent having injected hard drugs. This is across Europe. Prisoners bring those drug histories inside prison with them, again, across Europe between 0.2 per cent and 34 per cent of inmates reportedly having injected drugs while in prison. There are those, too, who are sadly introduced to drugs for the first time while in prison. The introduction of mandatory drug testing is one of several measures that are being introduced to help reduce the use of illicit drugs. Other measures to prevent drugs coming into prison include increased searching, the use of drug dogs, cameras in visit rooms and the use of intelligence, as well as an increase in access to drug counselling and other courses such as drug offending courses. A successful drug strategy should contain, of course, both elements of enforcement and harm reduction. Thus, in the area of harm reduction in Jersey's Performance Improvement Plan, another 3 drugs counsellors are due to be employed in 2007 and the equivalent of a further 1.5 full time equivalent in 2007 will be devoted to offending behaviour courses. Harm reduction and enforcement go hand in hand in the States overall strategy to reduce the availability of drugs and the harm resulting from drug use under, of course, the Building a Safer Society Strategy which was previously the States Substance Misuse Strategy. Mandatory drug testing can contribute to the overall objective of reducing drug misuse when used as part of a wider and more comprehensive drug strategy. The aim here, therefore, is to provide a balanced and consistent approach which includes much greater emphasis on the provision of treatment and support programmes. The introduction of mandatory drug testing will help the prison to fulfil several important objectives. First, it will increase significantly the detection of those misusing drugs and send a clear message to all prisoners that if they misuse drugs they have a greater risk of being caught and punished. Secondly, it will help prisoners to resist the peer pressure that is often placed on them to become involved in drug taking due to, of course, the increased possibility of detection with new tests. Thirdly, it will provide an additional method by which prisoners who may need assistance to combat their own drug problems will be able to identify them so that assistance can be offered to those who want it. Fourthly, it will provide, by means of the random testing programme, more accurate and objective information on the scale, trends and patterns of drug misuse, allowing the prison to manage and target more effectively their resources for tackling drug problems. Finally, in terms of objectives, it will enable the proportion of prisoners testing positive for different types of drugs on the random testing programme to be used as a performance indicator. I was asked during question time yesterday what information I have considered from other jurisdictions and I said that I would undertake to lay some of that out before Members during the debate. I will provide just a few examples, beginning with similar jurisdictions. Guernsey introduced mandatory testing for drugs and alcohol on 1st July 1999. Regular random tests were first introduced in the Isle of Man prison in 2004 and results released in February 2007 shows that illegal drug use by inmates in the Isle of Man fell from 29.9 per cent in 2004 to 7.62 per cent in 2006, a 63 per cent reduction over 3 years. The U.K. Prison Service has a target of 10 per cent, so the Isle of Man has improved on that. In the Isle of Man every month 10 per cent of prisoners are asked to provide urine samples which are tested for illegal substances and a positive sample or refusal to provide a sample will result in the loss of privileges, while a negative result in terms of not containing any drugs is rewarded. In the Isle of Man, 32 per cent of prisoners are inside the prison for dealing or using drugs and 56 per cent have a history of drug use. I use those figures because, as they have mandatory testing, their figures are more robust and

reliable. In Jersey, as of today, we estimate about 45 per cent of the total population has been convicted for a drugs offence and in terms of what percentage of prisoners have substance misuse issues, it is impossible to say with accuracy but the introduction of mandatory testing, as I have said, and a drugs team in the prison would enable us to hold that kind of information. Her Majesty's Prison Service of England and Wales research indicates that an impactful mandatory drug testing programme can act as a considerable deterrent to drug misuse, thereby reducing the supply of drugs. Their early experience in England and Wales is that, while mandatory drug testing has shown some success in deterring cannabis misusers, it had made less impact on the misuse of hard drugs. However, research by the National Addiction Centre suggests that repeated mandatory drug tests can have a significant deterrent effect on hard drug users. An examination of prisoners' mandatory test results and their histories revealed that there were significant reductions in the percentage of those testing positive for opiates with each successive test until by the seventh test there were no positive tests. The sample of prisoners in that study was quite a small sample but I think the potential importance of this finding is so great that we cannot ignore it, particularly when we couple it with the information I have just given you from the success of the Isle of Man. As our own Scrutiny Panel decided not to formally scrutinise this draft law, I turned to some information in the United Kingdom Parliament's Home Affairs Select Committee's report of 1999 on drugs in prison which scrutinised this issue, including mandatory drug tests in prison. If I may quote from that report: "Time spent by drug abusers in prison presents a key opportunity to address drug abusing behaviour. We agree that the culture of drug dealing, and thus the drug use that gives rise to it, is a major problem within prison life. It is quite right that great efforts are made to eradicate it. Obviously, no policy of this nature is going to receive universal support from all commentators but we think it is appropriate to record that the strategy as a whole set within the national anti-drug strategy has received warm support from a wide range of experts and observers. We endorse this general view." The Select Committee went on to say: "Random mandatory drug test results have provided much more information than was previously available." They called for an increase, in fact, in weekend testing commenting that: "We welcome the fact that the Prison Service has already issued instructions for the rate of weekend random testing to rise to 14 per cent of all random tests." The Select Committee recommended that: "We recommend that it should be mandatory to subject all prisoners on admission to dip tests for the more widely used hard drugs." That particular recommendation was not adopted in that form. The system that currently operates at Jersey prison is one of voluntary testing for the presence of controlled drugs. The Select Committee identified some of the problems with voluntary testing units. If drug use cannot be identified and dealt with and at the same time there are non-drug related incentives for going on to a voluntary testing unit, then there is a risk that the voluntary testing will attract drug users who will negate the benefit of a voluntary testing unit for those genuinely seeking to remain drug free. The introduction of mandatory testing would enable any prisoners, therefore, to be assessed and thus to be more effectively supported and for us to more effectively limit the circulation of alcohol or controlled drugs or their use on temporary release. In giving examples of the types of mandatory testing, again I would like to stress that this amendment was initiated in response to the Prison Inspection Report 2005 recommendations. There are 5 situations where mandatory drug testing may be applied. One is random testing, where a proportion of prisoners will be selected for this test on a strictly random basis. Secondly; reasonable suspicion. Prisoners will be tested where there is reason to believe that they have misused drugs and as part of a risk assessment prisoners will be selected for this test when they are being considered for a privilege such as release on a temporary licence or a job or where a high degree of trust is to be granted. Some prisoners may be selected for a frequent testing programme because of their previous history of drug misuse. Prisoners may be selected for testing on reception on a routine or occasional basis as they do not come entirely without information. Turning now to the ways in which the Convention on Human Rights is engaged by this draft Law, and indeed the question I answered yesterday related to this. Articles 13(a) and 13(b) will empower the Prison Officers to require prisoners to provide samples for the testing of blood for alcohol with authorisation from the governor and in accordance with the

procedures which are set down in prison rules. These articles would potentially engage Article 8 of the European Convention on Human Rights involving interference with a prisoner's right to respect for his private life. Proportionate use of such measures is justifiable on the grounds of protection of public safety and the prevention or detection of crime. Under Article 8.2 of the European Convention these would be regarded as reasonable means of dealing with discipline, crime prevention and health and safety issues within the prison. Failure of prisoners to comply with requests for the provision of samples will be treated only as a disciplinary, not a criminal, offence under the prison rules. Article 13(c), which is the article which empowers employees who are not Prison Officers to conduct a rubdown search on prisoners for unauthorised property, which might include things such as drugs and tools, *et cetera*, which could be secreted away, would allow persons such as the officer support grades, class tutors and drugs counsellors, although it is principally aimed at the officer support grades, to undertake these rubdown searches. Male officers and support grades will not rub down or search female prisoners. Male officers do not perform rubdown searches on prisoners due principally to a high incidence of physical and sexual abuse victimisation among female prisoners. This principle is compatible with the European Convention on Human Rights. It will, however, only be implemented by an Appointed Day Act. Some question has been raised by the Deputy of St. Martin with respect to female staff being permitted to conduct a rubdown search on male prisoners. To be clear about what a rubdown search is, it is like the sort of search that is done when you are going through airport security and I was recently rubbed down at Heathrow by a male. **[Laughter]** That is the kind of search we are talking about; not intimate searches in any way at all. We believe that providing neither the prisoner nor the member of staff objects we should be able to proceed in this way, particularly given the grounds of proportionality. We are a small prison catering to all categories of prisoner but mostly male in gender. In any case, I will be utilising the time - as I mentioned the Appointed Day Act - while the amendment to this Prison Law is away at Privy Council, to look very closely at how Article 13(c) is going to be implemented, taking into account the special operational considerations that apply at La Moye. These need to be balanced with the requirements of the Convention and, as I have said, the Appointed Day Act provides us with a necessary safeguard. I am aware, for instance, that Guernsey does things differently to the way in which things are done throughout the prisons of England and Wales. The Guernsey prison is resourced to a level to achieve this where they only have same gender rubdown searches but everyone will be aware here of the resource issues that have been facing La Moye. Even with some extra resource for education and the Prison Performance Improvement Plan, the base budget still remains under-funded and this is why we are seeking to take a pragmatic balanced view and the approach that is adopted by the prisons of England and Wales, where we send some of our prisoners, of course, for a variety of reasons. Should such a pragmatic view not prevail this would obviously have an impact on resources: more officers and overtime increases would result. This will become clear and Members will have a further opportunity to address any of these issues when I come back with the Appointed Day Act. As I say, Jersey is somewhat out of kilter with the prisons of England and Wales and there have been other occasions where we have taken a pragmatic view, like prison transportation and the use of the van in Jersey as well. We will see whether a pragmatic view prevails. The particular problems, if I can go back to those, arising from the misuse of drugs within prisons included disorder and crime, risks to health and the intimidation and undermining of the rights and freedoms of those prisoners, and sometimes their families, who wish to stay away from drugs. The Prison Service has a duty of care to those that are held in its custody. The mandatory drug testing programme is a proportionate response to the threat that is posed by drugs within prisons. The extent of mandatory drug testing undertaken within a prison must be maintained at a level that is proportionate to the problem that is experienced with drugs. In other words, the level of mandatory testing must be kept to a minimum; the minimum that is necessary to meet the objectives and to address or attempt to address the problems of drug taking within the prison. Prisoners must not be subjected, therefore, to needless drug tests. This applies particularly to the random forms of testing where prisoners who are innocent of drug misuse are required to provide a sample. There an upper

limit of 15 per cent is defined for the total volume of random mandatory testing. Testing on grounds of reasonable suspicion of drug misuse can always be more easily justified as a precautionary response. The effect of drugs in prison, of course, can be far more acute than in the community outside and can result in intimidation, bullying and criminality and as such cannot be in the interests of good order. A failure to tackle this issue head on risks repeating the cycle of drug use and crime. In summary, I cannot really improve upon the words of Lord Forsyth, a former Scottish Secretary, when he said: "People who go in without a drug problem can often come out with one." If you look at the causes of crime, drugs play a very important role causing much offending. Prisons are supposed to be about protecting the public. They are not doing that if they are discharging people with drug problems. Sir, this is an issue we want to meet head on so I propose the Bill.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles of the bill?

3.1.1 Deputy G.W.J. de Faye:

I would like to heartily congratulate the Minister for Home Affairs on a very extensive and comprehensive explanation of the proposals that she wishes to put forward which seem to me entirely sensible in all the circumstances. Contrary to certain speculation, I am unfamiliar with the internal workings of La Moye prison and I would like - because 2 issues do spring to mind - perhaps a little clarification on those matters. It does seem to me that, going on the figures from the Isle of Man, something like one-fifth of Senator Kinnard's customers are probably abusing drugs or alcohol in one way or another in round terms. Obviously these proposals will seek to address that balance but I wonder whether there is the possibility of driving those drug dependent clients into a legal drug, namely the highly addictive substance of tobacco/nicotine. I would be grateful for an outline as to what the rules and regulations relating to smoking, currently a legal activity, are in the prison, which is a workplace, and whether the Minister has any plans in hand to mitigate that potential outcome. The other issue that does spring to mind is that realistically one must assume that a considerable number of prisoners are at one time or another in what might be described as a "sedated" condition. If the opportunity of what is perceived by an individual as potentially some form of relaxation or escapism from their incarcerated environment is removed, does the Minister anticipate that the withdrawal of calming or sedative drugs, albeit illegal, could create any potential for unrest and, if so, are there plans in hand to mitigate such a circumstance should it arise?

3.1.2 Senator J.L. Perchard:

As the Minister has already pointed out, one should have no doubt about the extent to which drug taking occurs in prisons and Her Majesty's Prison, La Moye, is no exception. Although accurate figures are naturally not available as prisoners are undoubtedly reluctant to admit to contravening prison rules, it is commonly assumed in the U.K. that over half of the prisoners regularly consume some kind of drug, be it alcohol, cannabis, amphetamines or even heroin. The Minister informed us that in some prisons it is estimated - and again it has to be said it is only an estimation - that it is thought that 83 per cent of prisoners consume some type of illegal substance. However, it is not only the extent to which drugs are consumed in prison that is the problem. Drugs and alcohol are like tobacco in prison. They are an informal prison currency and supply and demand is strictly controlled by prisoners who will resort to intimidation and bullying to ensure the regular supply of profits. Prisoners who have accumulated large drug debts are regularly bullied and attacked and the culture in prison can be one of addiction, deceit and violence. Members will be aware that there is a considerable public concern about the availability and use of drugs in society, including the use of drugs in our prison. The public recognise the curse of drug addiction and the evil it causes. The supply of drugs in prison represents a variety of problems for our Prison Service. One thing is for sure, that we must get tough. We must get tough on the importation of drugs into the prison and their use inside. Prison often provides the first real opportunity to help people lead drug-free lives.

Prison literally provides a captive audience. We must embrace this opportunity and use the period when addicts are in detention to everyone's, their own and society's, benefit. Few prisoners will previously have had access to drug counselling and the chance for rehabilitation. Prison offers this opportunity for prisoners to tackle their drug use and the part it may have played in their offending. Our aim should be to encourage prisoners to identify themselves as having a drug problem so that adequate support can be provided. I am delighted to hear that the Minister has said that 4 and a half new members of staff are now dedicated as a result of the prison improvement plan to dealing with this. We must adopt a wide-ranging approach to tackling drugs in prison. We must include measures as being proposed by the Minister here today to reduce the supply and use of drugs. Thereafter, meaningful treatment and educational programmes must be implemented to reduce demand from inside the prison. In terms of an important principle, though, I ask the Minister to confirm the position with regards to the mandatory drug testing of remand prisoners. Is it her intention to include them in the programme of mandatory testing, as outlined in Article 13(a) and 13(b)? The courts and natural justice dictate that the legal position of someone on remand should, as far as possible, be identical to that of any normal citizen. I ask the Minister what is the position with regards to mandatory testing of one who has not yet been convicted of an offence yet is being held in prison awaiting trial? Does the Minister agree that there could be serious legal problems where a prisoner awaiting trial for a drug-related offence produced a positive result? Again, could the result form part of the evidence against the defendant and is the Prison Service prepared and capable to adhere to proper legal safeguards to ensure confidentiality in such cases? I hope the Minister can answer those little points I have raised with regards to remand prisoners. Can I conclude by congratulating the Minister on her excellent speech and, more significantly and importantly, can I congratulate the Minister who is now finally reacting so positively to the drug menace that exists in H.M. La Moye. I promise her my full support and I urge the House to support these draft amendments to the Prison Law and any future legislation or amendments that the Minister may bring to reduce the curse of drugs, not only in prison but in society.

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

I, too, would like to compliment the Minister on the way in which she has presented this before us today. To say it was comprehensive probably does not go far enough. However, I would like clarification on a couple of points that occurred to me when I read this report. The Minister referred to employees who were authorised by the governor as being able to carry out this pat-down searches. She also referred to them being mainly officer support grades and civilian instructors. I would like her to advise as to how far it extends within the staff employed at the prison. For instance, does it include such people as kitchen staff and if so, will they be given appropriate training to carry out these searches? Following on from that, if it does include such employees, are they in a position to refuse to carry out these random searches and, if so, what will the repercussions be if they do refuse? Other than that, I welcome everything that the Minister has said today and concur with Senator Perchard's imploring us to support the amendments to this Law.

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

I, too, support this proposition. However, there are certain aspects of it which I am disappointed in. I think it is important to have a little bit of a run over where we are with this particular proposition. Members might not be aware but on 16th January 2007 we approved the 65-page document without debate. It went through as an R and O - No. 3 - and it was lodged without debate. That contained a number of issues which I was a bit concerned about to do with human rights compliance, particularly as in this document there is no need for a Minister to show that there is human rights compliance. I am not a lawyer, but to my mind if we are going to bring through prison rules they should also be given rights compliance. That is one of the issues that I have been pursuing with the Minister. That went through and then 2 weeks later the States, or Home Affairs, lodged P.18/2007 which again gave powers regarding search. Again, I was concerned about the human rights angle there also. The Minister has quite rightly spent a lot of time talking about the concerns there are

with drugs and alcohol in the prison. What this particular amendment is going to do is go a long way to giving more power and authority to the officers in the prison. I do not have a problem with that. Deputy Mezbourian has tackled one or 2 questions and again the reason for that is because the Minister did come to speak with us as part of the normal course of our 6-monthly or 4-monthly meetings. We did raise the issue of P.18/2007 as part of the meeting and we did express a number of concerns which we had and Deputy Mezbourian has touched on some of them. One of the concerns I have is about the human rights angle and also the abuse of the search. We heard yesterday from the Minister that these searches would be considerably proportionate but we also know there can be abuse where certain officers could well be abusing their authority and picking on people because they just choose to pick on them. What I would like to know is if there will, in fact, be a record made of every search. I can certainly go back to my days as a police officer: you had to make a record of your search. It was done for 2 things; one was to protect the officer in cases of allegations made of picking on someone, and also it protected the prisoner or the suspect. I think it is quite right and it is very important that these records are kept every time someone is searched so if there is, in fact, a complaint it may well be justified or could be said: "No, there is no record to show you were being searched." I also really have the concern about Article 13(c). That has been my hang-up, so to speak. I was concerned because the way in which the Law was drafted does allow for a female to search a male. We talk about rubdown and I know the Minister talked about when you go to an airport it is just a rubdown. My concern is I do not think we are going far enough. I certainly would not want to see a woman searching a man anyway but I am talking about if someone is going to search someone in a prison or anywhere, I think they are going to be at risk unless they are allowed to carry out a full search. That is my beef about this particular proposition. It does render a person carrying out a search to a certain amount of risk because if you only take off the outer clothing you do not know what has been put in the pocket. It is the obvious thing. If people know they are not going to have their pockets searched, the first thing they are going to do is put what ever they want to hide in their pocket knowing full well that the person carrying out the search cannot do it. So what I would say is why are these authorised officers not given full powers of search, therefore they can carry out their job properly? Not only that, they might put themselves at risk because they cannot carry out a search properly. There may well be a knife in the pocket which you cannot get your hands to simply because you are not allowed to go that far. So that is a concern of mine. If we are going to do a job then do the job properly and give the officers that full right. While we are talking about these authorised officers, what I would like to know whether in fact they were thought part of the consultation. Were they in support of this particular role they are going to carry out? Also, I think Deputy Mezbourian touched upon it. If indeed an officer says: "Look, I do not really want to do that. I have not come to the prison to act as a Prison Officer", would they then be subject to any discipline action if they felt they did not want to carry out a search, particularly if it was a lady - a woman officer - who felt she did not want to rub down a male? Would she be liable to any prosecution or any disciplinary action? If we are going to do searches, I do believe that people should be trained to carry out a search. It is all very well saying there is no problem about searching someone. I can assure you - and probably Deputy Fox will concur with me - that there is an art in searching and you are not just keeping one eye on what you are looking for, you are keeping an eye on what the other person might be doing. If there is not going to be any training, I will certainly ask that training is given and ask if that has already been put in place and is there a cost? Finally, what I would ask, if we are going to extend powers of search to within the prison, has the Minister in mind extending these powers maybe to people working in police stations who are not necessarily police officers, and likewise Customs Officers? Contrary to what people may believe, I do support what is going on, what is before us, but I would like to see extra powers. I do have concerns that if these authorised officers are only allowed to do half a search they may be putting themselves at risk and also not doing justice to the search. Thank you, Sir.

3.1.5 The Connétable of St. Brelade:

While being fully supportive of this projet, which is clearly directed at those detained within the prison at La Moye, I would ask the Minister what the process is for screening those visitors who visit the prisoners there because quite clearly the drugs are coming in principally through that route? I would ask in her summing-up whether she could outline the sort of processes that are used for this purpose. Thank you.

3.1.6 Deputy C.J. Scott Warren:

I just want to speak to support the Minister in bringing forward this proposition. I have long been concerned about those people who go into prison and then, while serving a prison sentence, rather than having a drug-free existence, those that are drug-free when they enter prison come out with an addiction. We are not serving, as the Minister said, society well like that; we are not serving prisoners well in this situation. These measures are very necessary and are to be welcomed. Thank you, Sir.

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

Just very briefly. As one that likes to keep an eye on the pennies, I was interested to note that at the end of the report it speaks of no financial and manpower implications for the States arising from the enactment of this draft Law, and yet we have heard the Minister speak about mandatory testing and other manpower issues relating to this and costs. So I would ask how the costs involved in the extra testing and the costs of the testing are going to be met, if indeed there are no implications in relation to this?

3.1.8 Deputy J.B. Fox:

I can confirm with the Deputy of St. Martin that there is a technique for searching but there is also another rule that goes with it as well. If you intend to search somebody do it properly because if you do not it will not be long before, in this case, every prisoner knows that you are the one that does not do it properly so you will be the one that will be targeted for blind eyes, diverting attention and everything else. So, yes, it is important and the only reassurance that I want for the protection of both the Prison Officers and other people serving at the prison is that we do provide the proper training and we are not stinting on it. I support this proposition wholeheartedly. Thank you, Sir.

3.1.9 Deputy J.A. Hilton of St. Helier:

I, too, support this proposition but, like Deputy Hill, have concerns about how far it goes and I do not believe it goes far enough. If we are going to tackle the drug problem in prison I think the question of the number of prisoners who are on work release and temporary release coming in and out of the prison and not being searched thoroughly, there is always going to be a case of drugs coming into the prison. So I think if you are going to do this properly there should be thorough searching of every single prisoner who is entering and leaving the prison on work release and temporary release. The other thing that concerns me is I think the Senator mentioned that a search would be proportionate to the crime that the individual had committed. My concern there is that you may have an individual who is in for burglary, for instance, and it might be considered that it would be wrong to drug test that person or search that person. They may become a target for those prisoners within the prison to carry those drugs or whatever they wish to get into the prison, which is going to put them under an enormous amount of pressure. So I believe that if you are going to have random testing you should have random testing of all prisoners, regardless of the crime that they have committed that has put them into prison, because I think ultimately it will offer those prisoners who are in prison for non-drug-related offences some protection. Thank you.

3.1.10 Senator W. Kinnard:

I am very grateful for all those who have spoken and they have all really been in support of the proposal, which is quite novel. Deputy de Faye referred to the statistics that I used in relation to the Isle of Man, and indeed he made some assumptions about the amount of drug and alcohol use that therefore might be going on up at La Moye. I think, again, the point I need to make is that we

cannot be really absolutely sure. At the moment we are relying on voluntary reporting of drug use and also those instances where we catch it happening. One of the important objectives of introducing mandatory drug tests is that we will be able to have much more evidence and much more robust evidence about the actual levels that are going on in La Moye. I was asked about tobacco usage in the prison and what are we doing about that. It is true that La Moye Prison is outside the law in respect of smoking as a premises but we deal with that issue through the substance misuse work that is done generally in the prison. The issue of substance misuse does not just deal with the use of illegal drugs and alcohol, it also deals with tobacco, and we very much encourage those that are willing to give up that particular evil weed to do so as well. He also made quite a controversial comment about prisoners in a sedated condition wishing to be in that condition as a form of escapism and if we were to take away the ability to escape in that way, through the use of drugs or alcohol, whether that may have a knock-on effect for potential discipline and order in the prison and did we have any plans in hand to deal with that. I do not believe, Sir, that the problems that we are dealing with are problems that we should not take absolutely seriously but equally I do not believe that the problem that we are dealing with is such that it could lead to the sort of disorder that the Deputy was alluding to in the question that he asked. I know that this was quite a controversial view at the time in some prisons where it was alleged that there was a tendency in some prisons to turn a blind eye to some of the use of illegal drugs in order to keep a compliant prison population. I, Sir, do not think that that is any way to deal with a prison population and I think that really is rather a sad reflection on those prisons who clearly have failed to get grips with this issue in the way that they should have done. I am very grateful again for Senator Perchard's support, although I did not quite recognise the very dark picture that he painted of La Moye. A serious issue but not perhaps to the extent that he painted it. Again, he referred to tobacco as being a currency also and, yes, he is right, it does happen in prisons. There have been many studies to this effect that canteen items are often swapped or used as currency for drugs. So, again, it is in our interest to try and keep down the addiction to tobacco as much as any other substance that is misused. Prisoners are encouraged to report their own drug use, in answer to Senator Perchard, because that is one of the ways in which they can begin to really address their own problems but we will always have those who are not prepared to report their own drug use and do attempt to continue their habit while on the inside. I was also asked a question about mandatory testing for remand prisoners. We have a difficulty with La Moye Prison being a small prison that it is not always possible to segregate remand and sentenced prisoners in the way that one would ordinarily expect. I think the Members will be very aware of this problem, particularly in relation to the female wing where, if we were to attempt to segregate remand prisoners from sentenced prisoners, we would end up in a worse situation with perhaps a young female in, effectively, segregation because they happened to be the only person on remand. So what I would say to that is that we will be looking, when we come to make the rules at the time that we come back to the House with the Appointed Day Act, at this particular issue because I think there are pragmatic and issues of proportionality that are relevant to our own prison that perhaps are not relevant in bigger establishments elsewhere. So that, I say, is something that is going to be done in rules which we will be able to give more development of when I come back to the House in due course. Deputy Mezbourian asked about what level of employees will be authorised by the governor. Now clearly the officer support grades are those ones that we have employed which are not quite at the level of training of a Prison Officer but can carry out many of the tasks of a Prison Officer. They are clearly the ones that we have in mind in terms of being given the powers to search. We are also talking about other scenarios. For instance, if we are thinking about some of the crafts tutors, particularly in the workshops, in those scenarios there if a tool goes missing, a monkey wrench or something, it is imperative, if it is the craft tutor who is the one who suspects a prisoner of having pocketed the monkey wrench, that it is there and then that that particular tutor, so authorised, could conduct the rubdown search. It will be in large measure, of course, a matter of the requirements of the regime of the prison but the intention is to keep it very much at as high a level as possible. This is not a power that we want just to give to everyone who works in the prison in any way whatsoever

because it is an important and significant power which must be used wisely and we must make every attempt to ensure, as has already been said, is in no way abused. In terms of kitchen staff, I hesitate to go too much into detail in this because it does touch upon, as the Deputy will know, an individual case but I think I made this clear in my answer yesterday that those female staff, female O.S.G.s (Officer Support Grades) can refuse to rubdown search males. The prison rules will reflect this in relation to the O.S.G.s too. A rubdown search can only occur where both the member of staff and the prisoner agree when it is a female member of staff doing a rubdown search of a male prisoner. The Deputy of St. Martin supports it in principle - I am grateful for that - and he agrees that I have spent quite a long time addressing the issues that he has raised. Again, I am grateful for his support on that. He had some concerns about abuse of powers of search on the one hand, and then on the other hand he said they did not have enough powers to search. I cannot win, somehow. I would say very clearly that the power to search is a significant power that must be very carefully used and not abused. In terms of a risk, his concern was that O.S.G.s, for instance, might be at risk because they are not given the full powers of search. I would definitely not be in favour of allowing the full powers of search, which go to rather more intimate searching, to anyone other than Prison Officers. Again, I think it is very important that we are very aware of the intrusion that a power of search is but it does not prevent an officer with the proper training from effecting the search that is necessary with, if necessary, the appropriate force with which to do so. When we come to the articles I will be able to explain more clearly. Going back to the Deputy of St. Martin, he asked whether we should institute a record of searches. I will see whether this is practical in terms of the prison regime and will be guided by best practice. I will check that out. The Constable of St. Brelade asked me what I was doing to ensure that visitors were screened for bringing drugs into the prison. We do have the drugs dogs that are available at the visiting time; we have C.C.T.V. (closed circuit television) in the visits room; and we are also at this moment considering the purchase of a machine which would detect the presence of recent close contact with drugs; and, of course, we do use intelligence. Also, when we do have the mandatory drugs testing, again that will be a deterrent to those wishing to bring drugs into the prison because it may well be that their partner, their family member, may suffer in terms of a discipline charge as a result. So mandatory drugs testing is part and parcel of the enforcement and the rehabilitation regime. Deputy Scott Warren supports the proposal, which I am glad of. The Deputy of St. Ouen asked why does it say in the proposition that there is no manpower and resources implications and how are we going to deal with this mandatory drugs testing and this random testing? We are intending to absorb those within our existing resources but there is a problem which will come with the rubdown searching. If we cannot go with the pragmatic approach, there are implications in terms of staffing and overtime and if we were not able to implement the pragmatic solution in coming back to the House with an Appointed Day Act, I would obviously be in a position to make that clear. I am hoping that common sense will prevail.

The Deputy of St. Ouen:

Just a clarification. Could the Minister confirm that there are financial and manpower implications relating to this Law that should have been declared?

Senator W. Kinnard:

No, Sir. In the Law as drafted, there are no manpower implications, and I am not even really saying that we would necessarily not be absorbing them if there was a change in terms of the Appointed Day Act. I would say that as the Law is drafted it is absolutely correct in saying that there are no manpower and resource issues for us to declare. Deputy Fox was concerned that most searches should be carried out properly and that training should be given and, yes, of course, training will be provided. Deputy Hilton would like the proposals to go further and she was concerned about those that go out on temporary release or out to work. She was concerned that every prisoner should be searched on their return to the prison. This is an incredibly resource-

intensive approach and although in an ideal world it would be nice to have the resources to be able to do that, there are other ways in which sometimes we have to operate. Again, the risk of a mandatory drugs test will assist in our objectives of trying to keep drugs out of prison and certainly in terms of risk assessment, as I said, one of the objectives of drug testing will be those who are given the privilege of going out to work or on a temporary release visit. So we are obviously focusing on that particular area but not necessarily exactly in the resource intensive way that Deputy Hilton suggested. Random tests will also avoid the problem that Deputy Hilton fears in that she felt that some prisoners may not be screened because they have a crime that is not necessarily connected with drugs. That is the whole point of the random part of the tests, that number of tests that are conducted for random reasons. They are completely random. They are not screened for the type of crime at all and that, I think, is the key to it that there is no prisoner or no group of prisoners that is potentially at a greater threat of being targeted to bring drugs into the prison because of the random nature of the tests that we would be able to provide. With that, Sir, I think I have answered the questions and I maintain the Bill.

Deputy J.B. Fox:

Sorry, Sir, can I ask for a point of clarification. I was referring to the quality of training for the people that are going to be doing the searching and the reassurance that the financial restrictions that you have within the Ministry will not be curtailed for the sake of the quality of training.

Senator W. Kinnard:

I am happy to say that the individuals who will be carrying out this searching will be appropriately trained.

The Bailiff:

I put the principles. I ask all Members who wish to vote on the principles to return to their seats and I ask the Greffier to open the voting which is for or against the principles of the bill.

POUR: 47		CONTRE: 0		ABSTAIN: 0
Senator L. Norman				
Senator F.H. Walker				
Senator W. Kinnard				
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator M.E. Vibert				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Mary				

Connétable of St. Peter				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (B)				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				

Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

The Bailiff:

Now, Chairman of the Scrutiny Panel, do you wish to scrutinise the Bill?

The Deputy of St. Martin (Chairman of the Education and Home Affairs Scrutiny Panel):

No, Sir, we have already discussed it, thank you.

The Bailiff:

Do you wish to move the articles *en bloc*, Minister?

3.2 Senator W. Kinnard:

Yes, Sir, I could go through the articles one by one but I think I have given such a long speech I have explained them. So I will just propose them *en bloc*, Sir.

The Bailiff:

The articles are proposed. Seconded? [**Seconded**] Any Member wish to speak on the articles?

3.2.1 The Deputy of St. Martin:

Just that I did not get an answer to the question I posed; maybe I will get it second time round. I did ask would it become a disciplinary action if indeed an authorised person refused to carry out a search on the grounds that they did not wish to do, particularly from a female to a male?

Senator W. Kinnard:

I thought I made this absolutely clear yesterday and today. I do not know how often I have to say this but it says in the new Prison Rules of 2007 that in a search situation where it is a female who is asked to do a rubdown search on a male prisoner that only occurs where the female officer and the prisoner do not object.

The Bailiff:

I put the articles of the Bill. Those Members in favour of adopting them kindly show; those against? The Bill is adopted in Second Reading. Do you move the Bill in Third Reading, Minister?

Senator W. Kinnard:

I do, Sir.

The Bailiff:

Seconded? **[Seconded]** Any Member wish to speak on the Bill in Third Reading? I put the Bill. Those Members in favour of adopting it kindly show; those against? The Bill is adopted in Third Reading.

4. Tevielka, La Rue de la Haye du Puits, Grouville: proposed deed of arrangement (P.33/2007)

Deputy S. Power:

Could I interject very briefly for about 30 seconds before we move on to the next projet? Members will be aware that I am the Chairman of the Sub-Panel on the Review the Housing Property Plan. We have public consultations scheduled for tomorrow and Friday and we are working under the clock to finish the Scrutiny report for and behalf of the Assembly. Can I ask Members to bear this in mind and we try and finish business today. Thank you, Sir.

Deputy R.G. Le Hérissier:

Bearing in mind what the Deputy said, Sir, is there any chance - assuming none of the others, and I could be advised otherwise - we could move to P.49 now and thus have a sporting chance of finishing it today?

The Bailiff:

It is a matter for Members. I would have thought that the other matters intervening are probably not controversial and could be dealt with quite quickly.

Deputy R.G. Le Hérissier:

I suggest we move on as quickly as possible.

The Bailiff:

Minister for Treasury and Resources, may I ask the Greffier to read the proposition as amended by yourself.

The Greffier of the States:

The States are asked to decide whether they are of the opinion: (a) to agree that a deed of arrangement should be passed between the public as the owner of Tevielka, La Rue de la Haye du Puits, Grouville, and Mr. Michael Dottore and Mrs. Maxine Dottore, née Fagan, as the owners of Villa Parterre, formerly La Parterre, La Rue de la Haye du Puits, Grouville, to agree the boundary between the 2 properties as shown on drawing number 1413/07/103 with each party responsible for their own legal costs in respect to passing contract before Royal Court; and (b) to authorise the Attorney General and the Greffier of the States to pass the necessary contracts on behalf of the public.

Senator T.A. Le Sueur (The Minister for Treasury and Resources):

I ask the Assistant Minister to deal with this matter on our behalf, Sir, as quickly as possible.

4.1 Deputy J.A.N. Le Fondré of St. Lawrence (Assistant Minister for Treasury and Resources):

I was going to say maybe in the future, given the speed we want, could we take things as read if possible, Sir, if that is appropriate? This is a very minor matter which Standing Orders require to

be brought to the States. We previously agreed the northern boundary of the site and this regularises part of the western boundary. It is amended because the original information provided by the other party's lawyers was, I understand, incorrect and unfortunately we were only told this after the proposition had been lodged. I would like to move the proposition, Sir.

The Bailiff:

Proposition seconded? **[Seconded]** Any Member wish to speak on the proposition? I put the proposition. Those Members in favour of adopting it kindly show, those against? The proposition is adopted.

5. Draft Sea Fisheries (Les Minquiers) (Jersey) Regulations 200- (P.38/2007)

The Bailiff:

We come to Project 38: Draft Sea Fisheries (Les Minquiers) (Jersey) Regulations 200- and I ask the Greffier to read the principles of the Regulations.

The Greffier of the States:

Draft Sea Fisheries (Les Minquiers) (Jersey) Regulations 200-. The States, in pursuance of Articles 2, 5, 8 and 20 of the Sea Fisheries (Jersey) Law 1994 and having consulted with and obtained the concurrence of the Secretary of State, have made the following Regulations.

5.1 Senator P.F.C. Ozouf:

Les Minquiers are one of our most important fisheries grounds for lobsters within our 12-mile limit that Jersey has in terms of its fisheries. Les Minquiers and the matter before the Assembly covers an area of about 100 square miles. There are literally thousands of lobster pots in this area. In the early 1990s concern was raised about the introduction of something called parlour pots. Basically, these are pots designed to keep lobsters, I am told - I am a farmer's son not a fisherman's son - in a second or third chamber and not letting them escape. In 1997 this Assembly passed legislation to ban parlour pots. Since 1997 further new types of pots have been introduced which do not fall into the definition of parlour pots. I understand that over the last few years some 1,000 to 2,000 of these new types of pots have been installed in the waters around Les Minquiers. Discussions have been held with the relevant bodies, including the Bay of Granville under the Granville Agreement, and also our local Fisheries Advisory Panel, and a decision and a recommendation to me has been made to ban the use of this further type of pots. We control the use of these pots under licence conditions for Jersey fishermen but what these Regulations do is bring the full Regulations into force by also covering any French fishermen putting pots in the area. These Regulations replace those that this Assembly passed in 1997. They have been consulted on, as I say, and have the full support of the Marine Fisheries Panel. We are also, as Members will note, taking the opportunity of updating the G.P.S. (global positioning system) co-ordinates for Les Minquiers. I am told that does not make any difference to the definition of the area but it is the updated datum lines which are part of the G.P.S. So I move the Regulations.

The Bailiff:

Are the principles seconded? **[Seconded]** Any Member wish to speak on the principles of the Regulations?

5.1.1 Deputy K.C. Lewis of St. Saviour:

I will be brief, Sir. It makes mention here of Jersey fishermen and French fishermen. Are there any Guernsey fishermen licensed at the moment? While I am on my feet, may I congratulate Economic Development on the good news from the Privy Council. Hopefully this will pave the way to Jersey fishing boats returning to Guernsey waters. Thank you, Sir.

5.1.2 Deputy D.W. Mezbourian:

I am sure Members will share with me the fact that we must all welcome these Regulations. However, in the explanatory note it states that the Regulations exclude pots other than traditional pots from use by a person unless they were used by a person before 19th November 2005. I wonder if the Minister will explain to us how that will be identified, what evidence will be required to prove that they were indeed used before that date?

5.1.3 Senator P.F.C. Ozouf:

I thank Deputy Lewis for his remarks. It is not congratulations to Economic Development but to ... well, maybe part of Economic Development - the Fisheries Department - but to the Law Officers' advice and to the fishermen themselves who have had obviously a long and difficult issue. I would say to Deputy Lewis and the Assembly that this is not the end of the road for dealing with Guernsey's fishing issues. We have got to find an arrangement which is acceptable to Guernsey but to give Jersey fishermen rights in Guernsey waters. I will maybe discuss that properly at another time. We are still examining, by the way, the full implications of the judgment. I have to say, Deputy Lewis, that I am not sure about Guernsey fishermen in this particular area but in any event the Regulations are that no person shall be able to use these pots. In relation to the question of Deputy Mezbourian, all pots have tags and I am told that that is the way. There are logbooks and there are recording-keeping arrangements that mean that they will identify which pots have been established. The grandfather rights are really there. It could be argued that these pots should be taken away completely but that was not deemed fair because fishermen who effectively have made an investment in pots in good faith and lawfully should be allowed, for a period of time, to continue to farm those pots. Certainly they are limited but it is a large area and it is, I understand, between 5 and 7 Jersey fishermen that are affected by these grandfather rights, each with about between, I think, 50 and 200 pots. So there are good controls in place and the excellent work that Sea Fisheries do will, I am sure, give this Assembly confidence that there is not going to be problems in that area. So I move the principles.

The Bailiff:

Principles of the bill now proposed. Seconded? **[Seconded]** Any Member wish to speak? I put the principles. Those Members in favour of adopting them kindly show; those against? The principles are adopted. Chairman of the Scrutiny Panel, do you wish to scrutinise these Regulations?

Deputy G.P. Southern (Chairman of the Economic Affairs Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

Do you move the Regulations and the Schedule *en bloc*?

Senator P.F.C. Ozouf:

En bloc, Sir.

The Bailiff:

Seconded? **[Seconded]** Any Member wish to speak on any of the Regulations or Schedule? I put the Regulations and Schedule. Those Members in favour of adopting them kindly show; against? They are adopted. Do you move the Regulations in Third Reading?

Senator P.F.C. Ozouf:

Yes, please, Sir.

The Bailiff:

Seconded. **[Seconded]** Does any Member wish to speak on the Regulations in Third Reading? I put the Regulations. Those Members in favour of adopting them kindly show; those against? They are adopted in Third Reading.

6. Draft Sea Fisheries (Trawling, Netting and Dredging) (Amendment No. 2) (Jersey) Regulations 200- (P.39/2007)

The Bailiff:

We come next to Projet 39: Draft Sea Fisheries (Trawling, Netting and Dredging) (Amendment No. 2) (Jersey) Regulations 200- and I ask the Greffier to read the principles.

The Greffier of the States:

Draft Sea Fisheries (Trawling, Netting and Dredging) (Amendment No. 2) (Jersey) Regulations 200-. The States, in pursuance of Articles 2, 5,7, 8 and 29 of the Sea Fisheries (Jersey) Law 1994, having consulted with and obtained the concurrence of the Secretary of State, have made the following Regulations.

6.1 Senator P.F.C. Ozouf (The Minister for Economic Development):

These Regulations are a further part of a package of measures intended to restrict the activity of beam trawlers. Large beams towed by powerful trawlers are damaging to marine life. They cause substantial damage to the seabed and to the marine life that they trawl or pull over. The need to restrict beam trawlers has been discussed and agreed at meetings under the ambit of the Bay of Granville Agreement. The French Government has already passed legislation and Jersey restrictions restricting the use of beam trawlers have already been passed by this Assembly and are already in force as part of licence conditions for Jersey fishermen. What these Regulations do is to complete the circle to give full effect to certain banning of beam trawlers by also ensuring that French fishermen working in Jersey are covered by the bans. These Regulations will prohibit the use of a beam greater than 9 metres. I move the principles.

The Bailiff:

The principles are proposed. Seconded? **[Seconded]** Any Member wish to speak on them?

6.1.1 Deputy G.C.L. Baudains:

The only query I have is that it used to be the case that a number of English trawlers used to come down, usually in the autumn, and fish on the east of the Island, usually just overnight and then back again. Could the Minister advise us whether that still happens and if it does how one could regulate that or identify that fishing?

6.1.2 Deputy P.V.F. Le Claire:

I just wanted to ask why the Regulations had to come separately and why they could not all come at the same time when we considered this before? The issue was discussed at that time and I felt, for one, that we were talking about the cessation or the limitation of this harmful environmental practice.

6.1.3 Senator P.F.C. Ozouf:

In relation to that last question, the fact is that the drafting has taken time and there is an issue of needing to get the consent of the U.K. (United Kingdom) in terms of the pre-audit of these legislations and getting the assent of various different bodies for the final wording of them. I am afraid that just takes some time. If it could have happened earlier I am sure the department who used to have responsibilities for fishery matters, and Senator Cohen who brought the original Regulations to deal with licence conditions, would have done it earlier. To answer Deputy

Baudains' point, I think the answer to that is that they are covered but I will revert to the Fisheries Office to say that the full suite of these Regulations mean that that can no longer happen. I will need to take advice from the Fisheries. I certainly think that is what was the intent of the whole suite of Regulations. There are going to be, I think it is, 5 beam trawlers that are locally registered vessels that are going to be allowed to continue but it is a very occasional fishing effort that they are engaged in and it is incidental to them. The Fisheries Department are content that that continues to happen. So I move the principles.

The Bailiff:

I put the principles. Those Members in favour of adopting them kindly show; those against? They are adopted.

6.2 Senator P.F.C. Ozouf:

I move the Regulations *en bloc*. Basically, as I have said, Sir, the aim is to draw Members' attention to the detail which is basically the prohibition of a beam greater than 9 metres in a boat of more than 212 kilowatts. I am sure Deputy Baudains can tell me just how powerful that is but I assume it is pretty powerful. So I move the Regulations.

The Bailiff:

They are seconded? **[Seconded]** Any Member wish to speak on the Regulations. I put the Regulations in Second Reading. Those Members in favour of adopting them kindly show; those against? They are adopted. You move the Regulations in Third Reading, Minister? **[Seconded]** Any Member wish to speak on the Regulations in third Reading? I put the Regulations. Those Members in favour of adopting them kindly show; those against? They are adopted. I am sorry, Chairman of the Scrutiny Panel, I did not ask you on this occasion whether you wished to scrutinise. I gather not.

Deputy G.P. Southern (Chairman of the Economic Affairs Scrutiny Panel):

It is still no, Sir.

7. Draft Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 9) (Jersey) Regulations 200- (P.42/2007)

The Bailiff:

We come next to the Draft Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 9) (Jersey) Regulations 200-. I ask the Greffier to read the principles of the draft.

The Greffier of the States:

Draft Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 9) (Jersey) Regulations 200-. The States, in pursuance of Articles 2 and 4 of the Public Employees Retirement (Jersey) Law 1967, have made the following Regulations.

Senator F.H. Walker (The Chief Minister):

Could I ask that my Assistant Minister, Deputy Gorst, acts as rapporteur for this item?

The Bailiff:

Yes. Assistant Minister?

7.1 Deputy I.J. Gorst of St. Clement (Assistant Minister, Chief Minister's Department):

When employers are granted admitted body status within P.E.C.R.S. (Public Employees Contributory Retirement Scheme), a terms of admission document is issued, documenting employer obligations and their fiduciary responsibilities. Members may recall that they recently amended

Article 4 of the Public Employees Retirement (Jersey) Law 1967. That amendment was made upon the advice of the Attorney General to ensure the robustness of the terms of any admission document. The required amendment having been made to Article 4, this now allows for the amendments to General Regulation 9 of the P.E.C.R.S. to proceed. The amendments before us in P.42 ensure that the terms of an admission document do, in effect, contain statutory duties on the part of the Chief Minister, the Committee of Management of P.E.C.R.S., the actuary and the employer to whom the admission document applies. The amendments also ensure that admission arrangements can be terminated by the admitted body employer or the Chief Minister on 6 months notice. At the end of the notice period the Committee of Management, based on actuarial advice, arranges for the appropriate assets of the scheme to be set aside or ring-fenced and used for the benefit of those employees. Additional amendments to Regulation 9 increase the options for an employee if an admission arrangement is terminated. These options are detailed at the bottom of page 3 and 4 of this proposition and I will not repeat them now. Finally, if an admission arrangement is terminated on 6 months notice by the employer or the Chief Minister and the relevant admission documents say so, the employer will have to make up any relevant deficiency in P.E.C.R.S.'s assets before the employee's exit as a result of that termination, commonly referred to as a termination contribution. I would also like to confirm to Members that these amendments have been discussed and agreed with the P.E.C.R.S. Committee of Management and the Public Employees Pension Scheme Joint Negotiating Group. I maintain the proposition.

The Bailiff:

The principles are proposed. Seconded? **[Seconded]** Any Member wish to speak on the principles of the Regulations? I put the principles. Those Members in favour of adopting them kindly show; those against? They are adopted. In the absence of the Chairman of the Corporate Services Scrutiny Panel, is there any other member of that Panel who might be able to indicate no scrutiny? Very well. Do you wish to move the Regulations *en bloc*?

7.2 Deputy I.J. Gorst:

Yes, Sir, thank you.

The Bailiff:

The Regulations are proposed. Seconded? **[Seconded]** Any Member wish to speak on the Regulations in Second Reading? I put the Regulations. Those Members in favour of adopting them kindly show; those against? The Regulations are adopted in Second Reading. Do you move the Regulations in Third Reading?

Deputy I.J. Gorst:

Yes, Sir, thank you.

The Bailiff:

Seconded? **[Seconded]** Any Member wish to speak on the Regulations in Third Reading? I put the Regulations. Those Members in favour of adopting them kindly show; those against? They are adopted in Third Reading.

8. Draft Telecommunications (Public Pensions) (Jersey) Regulations 200- (P.27/2007)

The Bailiff:

We come next to the Draft Telecommunications (Public Pensions) (Jersey) Regulations 200- in the name of the Minister for Treasury and Resources and I ask the Greffier to read the principles of the draft.

The Greffier of the States:

Draft Telecommunications (Public Pensions) (Jersey) Regulations 200-. The States, in pursuance of Articles 46 and 65 of the Telecommunications (Jersey) Law 2002, have made the following Regulations.

8.1 Senator T.A. Le Sueur:

This small amendment is needed in order that the Jersey Telecommunications Group can compete commercially on a level playing field basis. I point out that these Regulations would be necessary whether J.T. (Jersey Telecom) is sold or remains in States ownership. I can also confirm that the existing arrangements for existing employees will remain in place and stay that way, so we are not putting any of the current staff at risk. We have the amendment and acceptance of P.E.C.R.S. that this is acceptable, and following the previous amendment to Regulations the legislative framework is beyond doubt. The amendment replicates what is already in existence for the Jersey Financial Services Commission and for Jersey Post and this simply puts Jersey Telecom on a similar basis. I make the proposition.

The Bailiff:

The principles are proposed. Seconded? **[Seconded]** Any Member wish to speak on the principles of the Regulations? I put the principles. Those Members in favour of adopting them kindly show; those against? They are adopted. Do you move Regulations 1 and 2, Minister?

8.2 Senator T.A. Le Sueur:

Yes, Sir.

The Bailiff:

Seconded? **[Seconded]** Any Member wish to speak on either of the Regulations? I put the Regulations. Those Members in favour of adopting them kindly show; those against? The Regulations are adopted in Second Reading. The acting Chairman of the Scrutiny Panel for Corporate Affairs, I should have asked whether you wish to scrutinise these Regulations? I ask the Minister to propose them in third reading. Seconded? **[Seconded]** Any Member wish to speak on the Regulations in Third Reading?

8.2.1 Deputy P.V.F. Le Claire:

Sir, normally before this stage there is some comfort from the Pension Committee of Management in respect of the proposals and, given that they are in respect of the membership and the amount of that membership, I am surprised that nothing has been said up to this point.

8.2.2 Senator T.A. Le Sueur:

I thought I had made it clear that these had been discussed with the Committee of Management at P.E.C.R.S. and, as with the previous one, they have been through the Technical Subcommittee as well and the legal advisors at P.E.C.R.S. and all those hurdles have been cleared, which is probably why it has taken so long to get to this House.

The Bailiff:

I put the Regulations in Third Reading. Those Members in favour of adopting them kindly show; those against? They are adopted in Third Reading.

9. Fields 848, 851 and 853, Bel Royal, St. Lawrence: Committee of Inquiry (P.49/2007)

Senator M.E. Vibert:

Before we get on, as I believe we are, to the Committee of Inquiry debate, I wonder if I could raise an issue and that may be that perhaps this debate has not got the urgency that it once previously had and I notice we are quite light on the next session. I notice the Attorney General is not in the House

because I was going to ask about previous Committees of Inquiry where there was concern about what immunities they had and the powers they had and this has been under review for some time. The Attorney General returns; I thank him for that. This has been under review for some time but is not yet finalised and I believe we are waiting to hear back from the Attorney General on advice on this. I am concerned that any Committee that the States might decide to set up would not work until there is clarity over what immunities and powers they have. My understanding is that even if we heard back from the Attorney General immediately it would take at least a couple of months before these could be put into place and before a Committee of Inquiry may wish to start work. With that in mind, Sir, and perhaps the Attorney General could advise the House of the situation, I wondered whether it would be possible to put the next debate off until 15th May which is a fairly light agenda. So really it is a query of the Attorney General if he could clarify the situation about the Regulations to give Committees of Inquiry these powers and immunities?

Deputy K.C. Lewis:

There are several Members who will be attending the C.P.A. conference in Belfast at the next sitting, so if we can do it...

The Bailiff:

It is a States meeting day and the States take precedence, I am afraid. I wonder, before the Attorney General considers the answer to that question, Connétable, whether, in the light of the report of the Minister for Planning and Environment, it is essential to deal with the matter today rather than dealing with it in 2 weeks time?

Connétable G.W. Fisher of St. Lawrence:

I wonder if I could seek the advice of the Attorney General. One of the questions that I think the Committee of Inquiry needs to look at is the actual date of determination of the application. I know the Minister has taken advice and has been advised that he could determine the application before the end of March. On 1st April the third party appeals came into effect and if that advice is investigated and found to be at fault I question whether in fact he did make that determination before 1st April. I am not sure with third party appeals how long neighbours would have to appeal but I think it is crucial that we get on with it if there is a possibility that they will be able to appeal if the determination is found to be after 1st April, Sir.

Mr. W.J. Bailhache Q.C., H.M. Attorney General:

As to the Regulations for establishing immunity which Senator Vibert raised, I wish to offer my apologies to the Assembly that I have not been able to deal with this in proper time. Some draft immunity rules were sent to me last August. I was kindly reminded by the Greffier at the end of March and I have started looking at them. I have some comments to make on those draft Regulations. They will go back to the P.P.C. (Privileges and Procedures Committee) in the next week or 10 days - maybe less - and they may result in some redrafting of the Regulations. I think that is probably likely. Assuming P.P.C. are then happy with those Regulations, they need to come back before the Assembly and obviously there will be a period before that happens. I should add, of course, that there is no guarantee that the Assembly will necessarily accept what P.P.C. recommend, although perhaps it will. The result is that at the moment there are no formalities in place under the States of Jersey Law governing the conduct of a Committee of Inquiry which the States may set up. There are 2 ways of dealing with that. The first is if the Assembly were to go on and consider the proposition now and resolve to approve that proposition, by the time the membership of the Committee of Inquiry came back to the Assembly for approval the rules for the conduct of the inquiry hopefully might be available at the same time. That is certainly a possibility. An alternative might be to build into the appointment of the particular members of the Committee of Inquiry some specific rules which govern that particular inquiry. So there are methodologies of

dealing with the problem which, as I say, is a problem of my making. I repeat my apologies for that. There are methodologies for dealing with the problem if the Assembly is minded to set up this Committee of Inquiry.

Deputy C.J. Scott Warren:

There was another question asked about 1st April and third party appeals.

The Attorney General:

The Solicitor General, who is here for this debate, is considering that particular matter. I am considering whether or not we ought to answer it, rather than whether she can answer it. **[Laughter]** It does appear to me that it may have a direct impact on any prospective litigation in the Royal Court. I am slightly reluctant to express views on legal points which might be taken in the Royal Court because I would be doing so in a public forum, and that reluctance goes to the Solicitor General as well. If you press us on it I am sure the Solicitor would do what she can to assist you.

The Connétable of St. Lawrence:

Would it be possible to go into camera to receive the advice?

The Bailiff:

Perhaps I can help in this sense in that I should certainly not be concerned with any appeal on this matter, Connétable. As a matter of general principle, the Regulations will not operate retrospectively and therefore if the Regulations introducing third party appeals came into effect on a certain date and a decision was in fact made before that date, then it seems to me unlikely that an appeal will lie. I say that obviously without prejudice to any arguments that might be put before a Court over which I would not be presiding.

The Connétable of St. Lawrence:

I accept that, Sir, but the point I was trying to make was that the Minister received some advice. Nobody has looked at that advice independently and separately from that advice given and, as in the good old phraseology of Scotland: "I hae me doots." I feel that there is quite a good case could be made by another lawyer - and I am not criticising anybody who has given any advice - the other way to say that the determination did not take place before 1st April.

The Bailiff:

That may well be so, Connétable, but perhaps I can come back to the question that I put to you a little while ago. That seems to me to be independent of the question of whether or not a Committee of Inquiry is established. Bearing in mind the hour and the fact that there seems to be much more time available on 15th May, I just wonder whether it would not be sensible to defer this until that date.

The Connétable of St. Lawrence:

I think certainly we have a choice: either we go ahead with the debate now, knowing that we still have to sort out the Regulations with regard to Committees of Inquiry, or we try and do that and then have the debate afterwards. It seems to me chicken and egg, in a sense, but really I do not see why anybody should be disadvantaged by the fact that we do not have Regulations in place at the moment. If the House is agreeable to a Committee of Inquiry then I think the next step is to make sure we can deliver it.

The Bailiff:

You wish to press on with the debate, Connétable?

The Connétable of St. Lawrence:

Yes, Sir, I think I do.

Senator W. Kinnard:

Could I have your guidance then. I have something of a conflict of interest. My husband is a tenant of the marsh - the adjoining land to the subject of this proposition - and therefore I would like your guidance on whether or not I should withdraw from the debate. I am rather hoping so. [Laughter]

The Bailiff:

Senator, I am sorry perhaps to disappoint you but I think that my position is even more acute than yours in the sense that I am the President, *ex officio*, of the tenants of this particular commune. I did consider the matter from my own perspective and reached the conclusion that there was no conflict which meant that I should not preside over the debate.

Senator W. Kinnard:

I am grateful for your guidance, Sir, [Laughter] I think.

The Bailiff:

Connétable, may we take the proposition as read or do you wish to have it read?

The Connétable of St. Lawrence:

Yes, Sir. No, that is fine. I will be as brief as I can because I realise there are time pressures here.

Connétable T.J. du Feu of St. Peter:

Can I interject, please? I am the Chairman of the tenants - the Marsh Committee on the St. Peter's boundary - and there is an overlapping involvement to a degree with part of this application as it was presented on that which is effective upon that side. The previous debate that took place in here last year, I withdrew and I propose to do the same today, Sir.

The Bailiff:

Very well. The Connétable of St. Peter declares an interest and withdraws.

Deputy G.W.J. de Faye:

A point of order, Sir. I do apologise to the Assembly for this interruption because it is possible I may have missed something and I apologise to the Connétable of St. Lawrence as well. I did understand though that Senator Vibert had put forward a proposition to defer this debate until the 15th and I do not believe we have voted on it one way or the other. Did the Senator withdraw it?

The Bailiff:

I did not realise he had made the proposition.

Senator M.E. Vibert:

I was inquiring about the Committee of Inquiry and wondering whether there was any urgency to have the debate today. I did not make a proposition, as far as I am aware, that it was not debated.

The Bailiff:

There is no proposition before the Assembly.

Deputy G.W.J. de Faye:

In which case I reiterate my apology for interrupting, Sir.

The Bailiff:

I call the Connétable to move the proposition as amended.

9.1 The Connétable of St. Lawrence:

A question may well have crossed your mind. The Minister states that he has been advised that he effectively determined the application in favour of the developer on 21st March and therefore is the holding of the inquiry still valid. I believe the answer to that question is emphatically yes. The purpose of the Committee of Inquiry is principally to examine the process by which the Minister found himself constrained to approve 102 units when he had gone on public record to say that 60 units or less was, in his opinion, more appropriate. This will hopefully help to ensure that lessons are learned and this sort of fiasco is not repeated. I am pleased, incidentally, to note that the Minister supports the setting-up of the Committee of Inquiry. First of all, the Minister did not sign-off the determination on 21st March as there were about 60 conditions and obligations to be drafted. As far as I am aware, those have still not been finalised and the determination signed-off to this day. Does that matter? Let me remind you that third-party appeals were allowed from 1st April and therefore the date of determination is crucial for any neighbour who wishes to appeal. It is therefore vital to categorically establish the date of the determination, whether before or after 1st April, in order to protect the rights of those residents. The Committee of Inquiry can do that. The reason I say that is that I have approached a qualified lawyer who is prepared to chair the Committee of Inquiry and therefore would be able to bring legal principles to that project. Secondly, should this site have been rezoned in the Island Plan in 2002 in the first place? We are aware that the Environment Scrutiny Panel's report on the planning process, SR2 of 2007, states, and I quote: "The Panel learned that on 31st July 2002, 20 days after the States had designated the site for Category A housing, the Department of Health and Social Services wrote to Planning and Building Services advising of its concerns regarding the potential for noise pollution at the site emanating from the neighbouring Jersey Steel Company premises." Even as late as 29th January this year, Health Protection wrote to Planning and Building Services and stated: "I understand the Minister is in a difficult position. This is not a suitable site for domestic dwellings." I repeat, they said: "This is not a suitable site for domestic dwellings." Thirdly, the Island Plan 2002, policy H5, states that: "A development brief will be prepared for each site to establish the important factors to be taken into account. Importantly, the development brief will establish the mix of sizes and types of homes, including the requirements for sheltered homes, thus allowing the implications to be fully assessed. The constraints of school capacity and physical infrastructure will also guide the mix of homes and other supporting uses on the sites." Policy H6 then states: "Development permission will not be granted for sites zoned for Category A housing by the States until a development brief has been approved by the Planning and Environment Committee." Obviously there was a Committee in those days. The Environment Scrutiny Panel report tells us that: "A draft development brief was published in March 2003 as a basis for consultation but a version incorporating several revisions was then only approved by the Planning Sub-Committee in May 2004 and not by the full Committee." As required in the policy laid down in the Island Plan, it needed to be approved by the full Committee. Going on from this, the development brief stated in Section 3(4): "In this particular instance the social rented element should include a small development of 15 to 20 sheltered housing units. The site lends itself to such provision and this

will contribute towards the identified requirements for some 200 to 250 such units over the next 5 years.” We heard in the States yesterday from the Housing Minister that the requirement is now double that. So the urgency for including the sheltered housing in the development is even more than it was then. The latest application did not comply with this requirement in that it only included 5 sheltered housing units and only then by way of amendment, which units the case officer then described in his report as substandard. This in a number of ways was therefore totally contrary to policies H5 and 6 of the Island Plan. Fourthly, the Environment Scrutiny Panel mentioned this proposed development in their review of the planning process as: “This is the largest of 11 sites rezoned in order to deliver approximately 97 new first time buyer and social housing, also known as Category A sites, within the first 5 years of the life of the Island Plan 2002.” They thought it was appropriate to review this particular site because of its size in relation to the total, and it is still appropriate to review it. That is one of the arguments towards the idea of holding a Committee of Inquiry because it is an extremely good example of what has come out of the Island Plan with all the attendant problems. The Council of Ministers has undertaken in their Strategic Plan 2006 to 2011, approved by the States, to carry out a review of the Island Plan during 2006-2007. So is it not extremely convenient to have a Committee of Inquiry at this time which will help the Council of Ministers to carry out their objective? Let me remind you that the Environment and Planning Minister went on record at the public hearing on the application by stating that he thought the site was more suitable for 60 units, or possibly 40 or 50 units, and yet has apparently found himself constrained by the process to approve 102 units. That is double what he thinks ought to be on the site. What better way to help review this part of the Island Plan than by having an independent Committee of Inquiry to review the whole sorry saga and at the same time help to achieve the Council of Ministers’ review? Sir, I do not wish to say any more. I think it is perfectly obvious the way we ought to move and I hope you will agree this proposition today. Sir, I move the proposition.

The Bailiff:

Is the proposition seconded? [**Seconded**] The proposition is open for debate.

9.2 Senator P.F.C. Ozouf:

The H2 sites that were passed in the 2002 Island Plan have been, without question, items that have commanded the attention of this Assembly probably more singly than any other issue and I have stood in this place and defended, and had to defend, many of those decisions. I have a few things in common with my neighbour to the right - not the political Right - in having to deal with difficult decisions, bindingly difficult decisions, made by this Assembly and by previous Committees. I considered this whole issue of the Bel Royal site numerous times. The Constable of St. Lawrence and the Deputies of St. Lawrence may well scold the Minister for his timing of the decision but in fact it was my own Committee who was also accused of dragging our feet in terms of the timing of the decision. We were put under huge pressure by the developer. I could say an awful lot and pick up quite a lot of, I think, inaccuracies that, with respect, the Constable of St. Lawrence has said about H2 developments, and indeed other criticisms that other Members have made. Over the last few days I took some time to go and visit some of those sites that were so controversially fought through this Assembly and almost took me and some of my Committee members to our political knees. In those sites I saw happy Jersey families with their children living in homes that they, in my opinion, had a legitimate dream to own, and that is other side of this. I do not happen to believe... and on this issue agree with my friend the Minister for Planning on his views on density. I think good design matters more than just simple density. This has been - and this site has been - hugely controversial and hugely difficult. I do not support the issue of putting off the decision because I am quite clear I think the Minister has made his decision. I think the decision should have been made a long time ago but I think he has made a decision, I think he has made a right decision, but I do agree with the Committee of Inquiry. I think the Committee of Inquiry can only do good to set some records straight, to learn some lessons for the future because there has to be a

future and a better future and a more accurate and clear future of delivering homes which we do need. This Assembly is going to have to consider in the next few months other rezoning propositions, rezoning propositions on sheltered housing. I am quite interested to know who the proposed Chairman is that the Constable meant because it is very, very important that we get somebody that is absolutely down the line and impartial. There are some Advocates who have particular views on certain architectural issues, which I do not agree with, and I think that we will have to be very, very, very careful in the selection of the individuals for the Committee of Inquiry. But I do support it. I do not think, frankly, there should be a lot of debate on it because it really is an open and shut case. It could be useful, it could be cathartic, and it could be of benefit to our future decision making but I would say in conclusion that I am quite clear a decision has been made and that cannot be stopped.

9.3 Deputy G.W.J. de Faye:

May I first of all commend the Connétable of St. Lawrence for his tenacious approach to this issue and his renowned determination to defend the interests of his parishioners, and I think that probably goes for his supporting Deputies as well. Nevertheless, I am not in favour of a Committee of Inquiry for a number of reasons. First, I would put it to the Connétable that perhaps one of the useful lines of inquiry he could be pursuing is to sit down with whichever persons were the Connétable and 2 Deputies for St. Lawrence who were in the States prior to and during the approval of the Island Plan 2002. Given that there is such strong feeling in the Parish, one has to, I think, pose the question as to why was this issue not more rigorously pursued at the time. If the state of feeling is so high, one has to really ask why was it ever approved at all? There, I think, does lie a useful line of inquiry. I have to tell Members that I really do not see a lot of difference between a Committee of Inquiry and bringing in a consultant. It all costs extra money. I wonder whose budget is funding this particular exercise. I see we have some notional costings before us but £15,000 seems to be very much an economy effort and I cannot help feeling that the actual funding amount is likely to stretch. The other issues I would put forward is why a Committee of Inquiry? Is this not something that can be scrutinised? If no Scrutiny Panel has indicated that this is an issue to be scrutinised, then perhaps it is one that need not be. I am not sure that we do need either Scrutiny or Committee of Inquiry to establish any facts because, as far as I can see, most of us know what all the facts are. We may not agree with some of the processes and we may not agree with some of the outcomes but it seems to me that how we have arrived at the position which we are in - notice the skilful avoidance of the familiar phrase - I understand to be well known by many Members. So I am struggling to see what a Committee of Inquiry will provide us with, other than probably some straws for the Connétable's parishioners to clutch at, ultimately, I suspect, to be frustrated because it seems entirely clear to me that the Minister of Planning has taken the final decision in this matter already. If we were as a body to now attempt to overturn the Minister's decision, based on whatever - a proposition from the Parish, results and recommendations of a Committee of Inquiry, sudden enthusiasm from Scrutiny to take this up - then all that remains to us is to face a lawsuit in the Royal Court by the developer for an extremely large amount of money. So I regret that, while I commend all the representatives of St. Lawrence for their attention to Parish matters, I really do not see that this can be money well spent in any way and I really question the value of the exercise.

9.4 Deputy K.C. Lewis:

I do have a degree of sympathy with the Minister for Planning and Environment as I believe he has inherited this problem. My concern with the development is as follows. The new estate as such will not have too many problems as the site, with my information, will be infilled so the houses will be on higher ground. The only problem these houses will have is noise coming from the nearby steelworks, and I make no criticism of the steelworks as they were there first. I hope for the residents' sake that a land swap can be arranged. As you look at the fields from the southern end, the new estates will be on the top right.

The Bailiff:

Deputy, you are going to come to deal with the matter of the proposition soon, are you?

Deputy K.C. Lewis:

Yes, I am coming to it now, Sir. My concern is with water displacement where torrents of water are coming down from Sandybrook and all points above. The developers never seem to take hints from history regarding water; Springfield, Sandybrook, Goose Green Marsh, the hints are all there. I think we have pushed nature too far and I will be supporting this amendment. Thank you, Sir.

9.5 Deputy P.V.F. Le Claire:

I think we could all get lost in talking about whether or not Jersey is overdeveloped or whether or not the Island Plan was correct or not and as to who was where at what time. Given the time, I think it would be better if we spent our time focusing on the actual proposition before us. That really does need to be succinctly examined in the following way. What would the States benefit from agreeing to a Committee of Inquiry? Why a Committee of Inquiry and not a Scrutiny Panel? What would the public benefit from such a process? In my view, given the information that has been put before us, the fact that the Island Plan's procedures allegedly have not been followed gives me great cause for concern. The suggestion that it need not occur or we would be sued or it should be done by Scrutiny does not satisfy either, because the Attorney General and the Solicitor General may be called to give evidence. We have had a battle on getting advice after it has been given and it is a losing battle as far as Scrutiny is concerned because we do not get it. In this instance, if the powers and immunities come before the States of Jersey for a Committee of Inquiry then they must be drawn in. Any such advice given to Ministers by the Crown officers must be provided in a Committee of Inquiry. They should be provided to a Scrutiny Panel, in my view. If you put it to Scrutiny and the Crown Officers turn up it is unlikely that they will divulge the actual content or the records or the emails or the letters or the personal advice that was given to the Ministers. So the Committee of Inquiry, in my view, seems to be the best way of getting to the advice which will hinge upon what happened in the terms of the process because the process was affected, we are told, by the advice, the timing of the advice and the timing of the decisions. One last point, Sir, and I want to just get that across before I sit down. What would the public benefit from such a process? I think the public would gain some faith in the future development of the Island and perhaps gain some understanding as to how a lot of their concerns, expressed throughout the last couple of years and extremely well defended and proposed by the Constable and his 2 Deputies over these last few years, would be met. Is that not why we are here?

9.6 Deputy C.J. Scott Warren:

I support a Committee of Inquiry for the reasons that have been given in the proposition by the Connétable. There are so many questions that remain unanswered. They have been spoken about this afternoon. One just has been mentioned; there is the strong advice from the Health Department; there is the 'bad neighbour' issue, because Jersey Steel was there a long, long time ago. There are so many questions, the traffic and the infrastructure questions, which did appear to matter to the Minister in his consideration of the earlier planning application. The questions just go on and on and I believe we, as States Members, need to know the answers and I believe the public need to know the answers, and that is why I personally do not think it would be right for States Members. We are all too involved in this as States Members. I feel it should be an independent Committee of Inquiry set up. Thank you, Sir.

9.7 Deputy G.C.L. Baudains:

I am minded to support this Committee of Inquiry, although I have to say it is only because it appears - and I hope it will turn out that way - that the cost will be low. I would oppose it were that not the case. I say that because I believe that the evidence that the Committee of Inquiry will gather is already in the public domain. It was looked at by the Environment Scrutiny Panel under the planning process review. The information is already in that document. The H2 sites that were

passed in the Island Plan, as Senator Ozouf alluded to, the fact that most of those in fact were controversial is well known and, as Deputy de Faye mentioned, in most cases it boils down to Members at that time in the House not realising what an important document that Island Plan was and perhaps not paying the attention to it that they should have done. Most of the problems that we have had have flowed from public dissatisfaction with those sites as a result. There should have been more public engagement and more Member engagement during the debate of which sites we were going to zone at the time. This is simply a fallout from that. As I say, all the bits of evidence that will be needed are in fact available. All the Committee of Inquiry will do is bring those pieces together into one place. It may assist the public in understanding the issues but I would not like to see a large amount of money spent on it. Thank you, Sir.

9.8 Deputy C.H. Egré of St. Peter:

I too will be supporting this proposition. I should not think that comes as any surprise. I would like within this review a very close look at the role of the developer in the various developments that have taken place recently. We have had various problems associated with Jambart Lane, Fields 181, 182, 183 at St. Peter, and finally this one in Bel Royal. We know that the developer takes their lead from the Island Plan and basically their interpretation of the Island Plan. I totally agree with the last speaker that perhaps we did not pay enough attention to the way we formulated that Island Plan in the first place because one of the questions I would like asked in this inquiry is how on earth was the site chosen at Bel Royal. In talking again about the various pressures... and we have heard the word “pressure” by developers used today; Senator Ozouf mentioned it and I will mention it again. As an example, as a result of a question that I asked 2 weeks ago in the States of the Minister of Environment and Public Services, I received a letter from a particular developer from their solicitors suggesting that my question was inappropriate and also inaccurate and that I had approached the media on the subject. These are the sort of pressures that we could all well do without but these are the sort of pressures put on the Minister and apparently on individual Members, which is totally unacceptable. I might add that I did offer to the legal representatives of the developer to show him the evidence that I had which absolutely, categorically backed up the suggestion I made with regard to conditions on a particular site. I have to say that that offer has still to be taken up which perhaps is a reflection, but it gives some idea of some of the sort of pressures that are laid on us and these are not acceptable. I would expect in that inquiry that this sort of thing should be looked at. Thank you, Sir.

9.9 Senator W. Kinnard:

I am not going to speak on the substantive proposition because I do feel still rather uncomfortable in my position with my husband owning property on the adjoining land. What I would say is that I will therefore be abstaining, so I stand to explain the reasons for my voting in that way. One point I would perhaps ask for the benefit of Members generally is that we do always hear, whenever anyone is proposing a Committee of Inquiry, that of course it will not take much time and it will not cost an awful lot because it is all in the public domain. If I had a pound for every time I have heard that I would be a very wealthy woman. **[Laughter]** What I would ask for the benefit of Members, on a serious point, is that there is a habit of these things running away in terms of costs and in terms of the time that these inquiries take, and I wonder whether the Greffier could provide Members with a list of the Committees of Inquiry that we have held in recent times and the length of time they took and also the costs that were attendant upon them, just for Members’ background information. Thank you, Sir.

9.10 Senator F.H. Walker:

I am not against the principle of a Committee of Inquiry in this instance but I share the concerns of Senator Kinnard and one or 2 other speakers. I have 2 other specific concerns. It is, of course, the convention that the proposer of a Committee of Inquiry proposes his or her own Chairperson and that of, course, is the right in this instance of the Constable of St. Lawrence but I am assuming that the Constable does accept the need for that person - that Chairperson - to be absolutely neutral in

this respect and to not have made any previous statements or to have given any indication whatsoever that they lean one way or the other. That, I guess, will come out when the Constable brings forward the proposition to appoint the Chairperson. The other concern I have is one of timing. Will this Committee of Inquiry get underway before the Regulations have been adopted? If not, my understanding is that we could be looking at a delay of something up to 2 months before it starts. Then, judging by the Constable's own amendment to his proposition, it could be 3 months before the Committee of Inquiry concludes its work. So we are looking possibly at something like 5 months between now and the conclusion of the Committee of Inquiry. Does that have any other legal implications for the States? Is that a reasonable delay? Part (b) of the proposition calls on the Minister for Planning and Environment not to make, effectively, any further decisions, thereby, I think, stifling any further movement on the development. Does that possibly open the States to any legal position, any legal claim from the developer? It is a question not a statement and perhaps it should be addressed to the Solicitor General but I am concerned that we may be looking at a significant, and I have said up to 5 months, delay before this Committee of Inquiry concludes its work. I would like to know if there are consequences to that.

Miss S.C. Nicolle Q.C., H.M. Solicitor General:

The question of delay is directed to that part of the proposition which asks the Minister for Planning and Environment not to make decisions. The position is that the decision has been made and therefore the question of not making a decision is almost, in a sense, otiose and there is not anything that he can delay upon.

The Connétable of St. Lawrence:

Excuse me, Sir, if I may just interrupt the Solicitor General. Part (b), I should have said earlier that I intend to withdraw that. I beg your pardon, Sir.

Senator F.H. Walker:

That answers my concern, Sir, or that part of it anyway.

9.11 Deputy J.A.N. Le Fondré:

I will keep reference to one or 2 Senators across the Chamber who will be timing me very shortly but do not start the clock yet because before I begin my speech I declare that my wider family own land in the vicinity of the development site. There is no direct financial interest and accordingly I will be speaking and voting on the matter. You may start the clock, Senator Norman. It will come as no surprise to Members I will be supporting the proposition for a Committee of Inquiry and I welcome the comments by the Minister for Planning and Environment who is also supportive. So why should we have one? Is not the whole sorry saga over and done with? Well, there are still a variety of outstanding issues and to be honest I think public trust is probably one of the key ones, as well as a basic review of the process - which is what Senator Ozouf has referred to - of how we have got here today; to see what can be learnt; to see what was done wrong; and to see what was done right; to incorporate this into the process of future developments as well. So let us touch on public trust. I think if we do not perform such a review by a body that is completely independent of the process - and that is important - it will fester on in people's minds. I am going to quote from a letter I received from a parishioner very recently on a different application but referring to the site in question as well. What he said is: "The proposed Goose Green development does not meet the original development brief on many points and in short I no longer trust the Planning Department as far as I could throw them and they seem unable to make a just decision." The reason I quote that is not to cast aspersions; it is because it is a comment from a family man of about my age and both he and his wife...

Senator F.E. Cohen:

I really think that a letter of this sort should not be submitted. I think it is grossly unfair to cast such aspersions on the Planning Department.

Deputy J.A.N. Le Fondré:

Can I agree with the Minister that I did not intend to cause any affront to the Department. What I am trying to say is to use this as an example of the depth of feeling that is still out there. It is the public trust element and I really do mean that. It is not just me wriggling on words. What I was going to carry on to say is this is a comment from a family man of about my age who is an informed professional. What I mean by that is to re-engage the public trust, which is still quite sceptical over what we are doing and how we are doing it, this is a good point to start, and that was the reason I was trying to use that as an example. It genuinely came through my letterbox about 3 days ago. To paraphrase the Minister for Planning and Environment, it will clear the air over what has been a very protracted matter. I do have all sorts of examples which I could use. I will not because I am going to keep this very short. I think to conclude I understand in full the position the Minister has been put into and I sympathise and understand his difficulties, and that is a genuine comment. Even he has said that if we were starting afresh he might go for something significantly different in terms of numbers. From the point of view of the residents of St. Peter or St. Lawrence, sympathy is not much use to them. They will be significantly impacted by the development. Sympathy is not going to be much good to the wider Island community as we deal with the results of that decision for years to come. In addition, we need to learn from the process. There is growing public concern over the general level of development within this Island and we need to be absolutely sure we have got the process right. From a public perspective and from a transparency perspective, we need to demonstrate either that everything was fine or, if it was not, that lessons will be learnt. From those perspectives alone I think it is incredibly important that we have this Committee of Inquiry and I hope Members will agree this is a matter of public interest and support the proposition. I hope that meets the time restraints that certain Senators place me under. Thank you, Sir.

9.12 Deputy D.W. Mezbourian:

At the end of 2 long drawn-out days I do hope Members will do me the courtesy of paying attention to my very brief speech but no doubt they were expecting me to speak on this matter. Sir, in July 2006 this House debated the proposition of the Connétable of St. Lawrence to request the Minister for Planning and the Environment to bring forward for approval by the Assembly an amendment that would effectively ensure that 97 was the maximum number of houses that could be built upon these fields at Bel Royal. The proposition was carried with Members voting 35 in favour, 6 against, and there were a number of abstentions. Sir, that was battle for Goose Green and that battle was won in this House. Regretfully, the Minister has chosen to not comply with the wishes of the Assembly to bring back a proposition to the House; rather, he has chosen to approve a development of 102 houses on this site. Today, though, we are debating only the process that led to his decision. The Connétable is calling for a Committee of Inquiry and he does so with very good reason. A number of concerns have been highlighted during the application and planning process but many have not yet been addressed. Such concerns will be recognised, Sir, not only by this Assembly but Island-wide because concerns about the planning process are shared Island-wide. By supporting this proposition we will be acknowledging the public's very real worries about the planning process and about how decisions are reached. It will enable us, I believe, to go some way to earning their confidence - confidence that they need to have in us - particularly after the recent debacle of the proposed government reforms. The Connétable has, in the written proposition before us and in his speech, drawn our attention to a number of matters that should be addressed by an independent Committee of Inquiry. He has reminded us that a well-researched and robust report, carried out by the Environment Scrutiny Panel, has identified that a draft development brief for this site, which was to include Category A homes, was not approved by the Planning Committee. Rather, approval was given finally by a Planning Sub-Committee. I suggest that such

a diversion from stated planning policy must surely be questioned. The Committee of Inquiry would need to consider why no comments were sent from the Health Department prior to the debate to rezone the land for housing purposes. Of course, we know now that comments did eventually arrive from the Health Department but this was shortly after the land was rezoned and their comments did not support its use for Category A housing. Again, we have heard from the Connétable that even in January of this year correspondence concerning the noise from Jersey Steel was sent from Health Protection to Planning stating that this is not a suitable site for domestic dwellings. Other Members have touched on it but, of course, an inquiry would surely need to consider the process that allowed the States to rezone land for housing purposes next door to a busy, noisy, working industrial plant and it would surely consider the possible future implications for the company and its 65 staff. An inquiry would need to question why a feasibility study, carried out before the land was rezoned for housing purposes, did not include the preparation of an environmental impact assessment. It would surely inquire as to why the last remaining wetland in the south of our Island could be so disregarded by our current planning process. An inquiry would ask why, given that the Island Plan gave an indicative figure of 97 homes for the site, the development brief itself gave no indication of the number of homes to be built. Questions would surely need to be asked as to why the application has provided only 5 sheltered housing units, and the Connétable has touched on this. The development brief stipulated that between 15 to 20 units should be provided as they would contribute towards the identified requirements over the next few years. An inquiry would no doubt give due consideration as to why the Minister has therefore seen fit to approve a development that does not provide, as specified, those now desperately needed dwellings. For him to not insist upon their inclusion will, without doubt, have far-reaching implications on the urgent need the Island has to provide such homes. They may come instead to a site near you. No doubt the Minister for Housing is already robustly asking the Planning Minister for explanations. He must surely have serious concerns, as will a Committee of Inquiry. It may be pertinent here for us to recall the words of the Attorney General during the debate on P.48, the Goose Green debate, held last year, and I quote: "The Minister will be hard put to depart from planning policies which are set out in the development brief which has been published in relation to a particular site. That is not to say he cannot ever depart from these things but he will be hard put to do it." We know that the Planning Minister has expressed his support for a Committee of Inquiry and no doubt he will be willing to explain to it his reasons for departing from the development brief. He should be given the chance, too, to explain why he has permitted the applicant to build outside the boundaries approved by the States, how the 60 conditions due to be attached to the planning consent will be enforced, and why, although he would personally prefer to see as few as 60 houses or less on the site, he was compelled to approve so many more. Sir, the value of an independent Committee of Inquiry in financial terms will be, as we understand it, relatively low cost but it will produce answers to questions that need to be asked. Although we cannot pre-empt the report, and indeed we may not like what we will read finally within it, it will nevertheless identify those areas of the process that need to be improved, that need to be changed. In considering its report, the Minister will ensure that where there were problems, be they for the Parish, the applicant or for the department, those problems will not happen again. I therefore urge Members to support the proposition. Thank you, Sir.

9.13 Senator F.E. Cohen:

I have thoroughly enjoyed my term so far as Planning and Environment Minister. **[Laughter]** However, there are 2 things I wish I had never heard of. The first is Goose Green and the second is telephone masts. Regrettably I am stuck with making decisions in relation to both and they are very similar in terms of the difficulty of those decisions. I would like to first clarify the current status of the application. I have approved the application; I have finally approved the wording of the conditions and I will be signing-off the conditions and sending them to the developer. I must at this stage say that I am most unhappy to have been criticised by those who I have sought to keep informed all the way along, albeit in confidence, and who know full well the difficult balance I

have had to find in relation to many of these matters. Some of the comments were cheap shots and nothing more. As far as third-party appeals are concerned, it is not crucial because the only basis on which a third-party appeal would likely succeed is if it could be shown that my decision was unreasonable. You may disagree with it, and many do, but I do not think that you could say it was unreasonable. This decision has probably had more officer time, more Committee time, more Sub-Committee time and more Minister time applied to it than any other decision. I wonder quite what is going on. I believe we seem to be developing a curious avoidant-personality syndrome. Legislators have an obligation to consider the effects of the legislation they approve. This site was approved by the States for an estimated 97 houses in the 2002 Island Plan, full stop; 97 houses estimated in the 2002 Island Plan. Precedents since then, set by other developments approved at the same time, have approved applications up to 30 per cent above the amounts estimated in the Island Plan, which would have taken this to 130-odd houses which is where I started. So I think it is grossly unfair to blame the chap who is charged with delivering the States' declared will, because that is what it was. I would prefer no houses at all; never mind 60, never mind 40, never mind 50. Goose Green is a wonderful green lung. It is a marshland. It would have been better left alone for future generations but we do need new homes and that presumably is why the States in the 2002 Island Plan decided to approve it for 97 homes. I must make it clear that any public department, whether it is the Planning Department or any other, has a duty not to unreasonably delay in its decision making, and this applies to planning as much as anything else. While I considered it, and I can assure you I had a number of sleepless nights and a number of exchanges of emails with Members who are sitting here today, I did consider delaying but delaying for political reasons was not an option. I could not be a coward and I did have to make a decision. Remember, I had refused 129 houses. I refused 129 houses against very clear officer advice and I consider that decision was challengeable. I have since set out to ensure improved design to the extent that I went around the Island with officers, took photographs of relevant properties and submitted them as a package to the developer, and they responded and I think they responded rather well. They responded with better layout and - while it is not perfect - more local relevance, which is what I required. You can argue with the increment, the 5 additional houses that I allowed - I have explained why I allowed them - but you cannot look at the application, based on traffic and education, simply on the basis of 102 houses; 97 was a given. It is only the 5 additional ones that were in question.

Deputy R.G. Le Hérisier:

I wonder, Sir, if I could interrupt, and I hate to do it to the Minister in full flow, but surely we are not here to hear his defence of this situation; we are here simply to hear his response to the call for a Committee of Inquiry.

Senator F.E. Cohen:

That may be the point but I think I have been under rather attack and many of the points that were raised by previous speakers may similarly have not been directed specifically at the proposition.

The Connétable of St. Lawrence:

Could I just ask the Minister if I may interrupt for a moment. I would like to draw Members' attention, and the Minister's as well, because it might sound like it but this is not meant to be a personal attack on the Minister. The first item in the report states: "It is with extreme reluctance that I bring this proposition to the Assembly and in no way should it be regarded as a criticism of the present Minister for Planning and Environment." That is still the fact and all we are trying to do is to say that he found himself in a very difficult position because of the process; we need to look at the process. That is what we are trying to say. If it has come across in another way it was not meant to, I can assure the Minister of that, Sir.

The Bailiff:

Minister, I think the intervention of Deputy Le Hérisier was well made and I think you must come back to the proposition, please, as to whether there should be a Committee of Inquiry.

Senator F.E. Cohen:

Fortunately I am at that point. **[Laughter]** I would ask who is going to pay for the Committee of Inquiry. I am not entirely sure. I do think that a Committee of Inquiry will be a positive move, providing it focuses on the right areas. One of the key areas it needs to focus on is the issue of why the Island Plan is considered to have failed in respect of this site. My current favoured option is that a standing group of invited politicians - everyone should be invited - should effectively be charged with steering the Island Plan and that that should be a living document that responds to changing patterns. Just to conclude, if you want to look at a date, do not look at 21st March as the date that Goose Green was lost. Look at the date the Island Plan 2002 was debated because that was when the marsh was lost to development.

The Bailiff:

Deputy, I will call you. I feel, however, that the Assembly indicated to Deputy Fox that they wanted the debate to come to an end and clearly the Assembly wished to hear from the Minister but perhaps I could ask Deputy Fox whether he still wishes to speak or not?

9.14 Deputy J.B. Fox:

Well, I considered that I was on the Committee at the time and I have background knowledge but, with a view of what has been done twice to me today, I shall abstain on this one. Thank you, Sir.

9.15 Deputy P.N. Troy:

It is obvious that the 2 speeches by the Deputies of St. Lawrence riled up the Minister to a degree. I think that sometimes Members come into the Assembly with a pre-prepared speech and then just trot it out, even while all around them feel that there was no need for them to go through the whole of that speech, because there was already, before they spoke, a sort of agreement around the Assembly that this was a very good idea. They, too, will have their rights to input into the Committee of Inquiry if they so wish. So I would like to let the 2 Deputies know that if they do have a pre-prepared speech in future and there is no need to trot it out, please refrain from doing so.

The Bailiff:

If no other Member wishes to speak, I will call on the Connétable to reply. Connétable, may I first of all invite you, please, to seek the agreement of the Assembly to withdrawing paragraph (b), because you did propose to do that.

9.16 The Connétable of St. Lawrence:

Yes, Sir, I was proposing to do that. I seek the leave of the Chamber to withdraw paragraph B of the proposition.

The Bailiff:

Very well. Do Members agree to allow the Connétable to withdraw paragraph B? Agreement is given.

The Connétable of St. Lawrence:

I would like to thank all those who have contributed. As I say, I want to reassure the Minister that there was no intention of a personal attack on him, and I am sure that goes for the 2 Deputies of St. Lawrence as well. The objective of this debate today is purely to look at the process which we believe has let us down in this particular instance. Senator Ozouf: thank you very much. He contributed and he agreed that a Committee of Inquiry can only do good. He was wondering about

the Chairman. As I understand it, the Chairman has to be approved by the States and will be in due course. I am not going to mention any names at the moment but the person concerned is well respected and well able to carry out the role. The problem of the indemnity which the Attorney General referred to earlier obviously needs to be resolved and we will press on with that as quickly as possible if the Chamber is in agreement that a Committee of Inquiry should be set up. Deputy de Faye, just for your information, in fact I have discussed the proposed budget - which is the last item in the report - with the proposed Chairman and the individual concerned sees no difficulty in living within that budget. The source of the funds has yet to be discussed with one or 2 people. Deputy de Faye also said we know the facts. Well, that is the whole point. We think we know the facts but until somebody looks at it in detail, do we know the facts? I am sure that we do not actually know the facts. We know in general what happened and what did not happen, but I would not like to say we actually know the facts. The decision I believe has already been taken. I am not challenging that. It is a question of when it was taken and, of course, that may have some bearing on third party appeals but I certainly would not want to be in a position where we are denying anybody who thinks they have a case from making an appeal because this House has already made the decision. The only difference was obviously the date from which they would be effective. I thank Deputy Kevin Lewis for his support and Deputy Le Claire also for pointing out the main benefit of this will be the faith of the public in future development proposals. Deputy Scott Warren, thank you for your support of the Committee of Inquiry and it certainly should be independent and will be so but, again, as I say, it is up to the Chamber to agree the composition of the Committee if we go ahead. Deputy Baudains, I think I have answered his concerns about the cost by referring to the final paragraph on page 4 of the report and proposition. As I say, the Chairman has confirmed there should not be a problem in living within those figures. Deputy Egré, thank you for your support. Senator Kinnard, I understand you are abstaining. I think I have answered the point you raised about costs.

The Bailiff:

Through the Chair, please, Connétable.

The Connétable of St. Lawrence:

I beg your pardon, Sir. Senator Walker referred to costs and I have addressed that point. I think he was concerned about the neutrality of the chairperson. I am very well aware of the need to have somebody who is neutral and the chairperson concerned has no conflicts, that I am aware of. I have raised that point with the person concerned. The timing before Regulations; obviously with (b) being withdrawn does help the timing. The fact that we have not got Regulations for Committee of Inquiry yet is a difficulty which we did not anticipate. We only became aware of that this week. So if the States make the decision today to go ahead, then it is up to everybody to pull out the stops and make sure it happens. I thank Deputy Le Fondré and Deputy Mezbourian for their support and their speeches. Senator Cohen, I also thank him for his support of the Committee of Inquiry. I think I have made it perfectly clear that there is nothing personal about this at all, far from it, but as I have said on a previous occasion, he has his job to do and I have mine and the Deputies have theirs. We have a lot of very unhappy people in St. Lawrence as a result of what has happened here and we all know that it is not only in St. Lawrence but in many other Parishes where there have been similar problems in the past. We just want to try to improve the whole process. So with that, Sir, I make the proposition.

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

Could I ask for clarification, please? I am somewhat confused. The Minister asked the question as to who was going to pay for the inquiry and I was just wondering if the Constable could confirm whether or not it is the Parish of St. Lawrence that will be paying or where indeed the funds are coming from for the Committee of Inquiry?

The Connétable of St. Lawrence:

No, Sir, I do not think it is the Parish of St. Lawrence but, judging by the Minister’s comments about the usefulness of the Committee of Inquiry, I would have thought the Planning and Environment Committee. [Laughter]

The Bailiff:

Perhaps I can remind Members of the provisions of Standing Order 150 which provides: “The Minister for Treasury and Resources may give directions as to (a) the remuneration, if any, of a member of a Committee of Inquiry; (b) the expenses that a Committee of Inquiry may incur; and (c) how such remuneration and expenses are to be funded.” So the matter rests with the Minister for Treasury and Resources. [Laughter] An appel, Connétable, or a standing vote?

The Connétable of St. Lawrence:

Yes, please, Sir.

The Bailiff:

An appel? Very well. I ask any Member who wishes to vote to return to his or her seat. I ask the Greffier to open the voting which is for or against the proposition of the Constable of St. Lawrence.

POUR: 38	CONTRE: 5	ABSTAIN: 4
Senator L. Norman	Senator P.F. Routier	Senator W. Kinnard
Senator F.H. Walker	Senator M.E. Vibert	Deputy P.N. Troy (B)
Senator T.A. Le Sueur	Senator J.L. Perchard	Deputy J.B. Fox (H)
Senator P.F.C. Ozouf	Deputy J.A. Martin (H)	Deputy A.J.D. Maclean (H)
Senator T.J. Le Main	Deputy G.W.J. de Faye (H)	
Senator B.E. Shenton		
Senator F.E. Cohen		
Connétable of St. Ouen		
Connétable of St. Mary		
Connétable of St. Clement		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Lawrence		
Connétable of Grouville		
Connétable of St. Brelade		

Deputy R.C. Duhamel (S)			
Deputy A. Breckon (S)			
Deputy of St. Martin			
Deputy G.C.L. Baudains (C)			
Deputy C.J. Scott Warren (S)			
Deputy R.G. Le Hérissier (S)			
Deputy G.P. Southern (H)			
Deputy S.C. Ferguson (B)			
Deputy of St. Ouen			
Deputy P.J.D. Ryan (H)			
Deputy of Grouville			
Deputy of St. Peter			
Deputy J.A. Hilton (H)			
Deputy P.V.F. Le Claire (H)			
Deputy J.A.N. Le Fondré (L)			
Deputy D.W. Mezbourian (L)			
Deputy of Trinity			
Deputy S.S.P.A. Power (B)			
Deputy S. Pitman (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			
Deputy of St. Mary			

The Bailiff:

That concludes matters on the Order Paper.

Senator P.F.C. Ozouf:

I told Deputy Baudains earlier in relation to fishing matters that I would tell the Assembly about the issue of U.K. fishermen. I am pleased to advise the Assembly that all U.K. vessels are now covered

by these Regulations. Moreover, the department receives satellite monitoring hourly of the movement of vessels in Jersey territorial waters and I think that will give Deputy Baudains and Members confidence that we have now dealt with this important issue that was of such concern. Thank you, Sir.

Deputy S.C. Ferguson:

How will the satellites work at night, Sir?

Senator P.F.C. Ozouf:

They work at night.

The Bailiff:

Before Members adjourn, may I remind Members that we are sitting on Liberation Day at the usual time on 9th May. His Royal Highness the Duke of Kent, as Members will know, is attending and, with the agreement of Members, he will be seated on a chair in the middle of the Chamber. As a courtesy to his Royal Highness, may I respectfully request Members to be in their seats by 9.30 a.m. when the meeting begins. The Greffier will be providing Members with some colourful flower to wear in their lapels if they should wish, as usual, and we hope therefore that good weather will attend our celebrations on 9th May.

Deputy G.W.J. de Faye:

Just on a point of information, Sir. Which way will his Royal Highness be facing? **[Laughter]**

The Bailiff:

His Royal Highness will be seated right in the middle of the Chamber, facing the Chair, and will be escorted into the Chamber with the Lieutenant Governor behind the mace.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Bailiff:

The arrangements of public business, Mr. President.

10 The Connétable of St. Clement:

It is just to propose the items on the pink sheet under M with the addition of P.58 on 15th May. That is the Jersey Financial Services Commission reappointment of Commissioners and Chairman. That is additional to the items listed.

10.1 Deputy G.P. Southern:

If I may could I request that my proposition P.45 be moved to a later date. It is not a matter of urgency and I need to spend some time further preparing for that debate.

The Bailiff:

Which date would you like it moved to, Deputy?

Deputy G.P. Southern:

That would do. The Minister for Social Security is throwing his voice. **[Laughter]** Yes, Sir, that would do.

The Bailiff:

17th July for Projet 45.

10.2 Deputy P.V.F. Le Claire:

Sorry to take the time of the Assembly. I do not wish to but please bear with me. The Constables have lodged an admirable proposition, P.54, which is due for debate on 5th June. Given that the item within that proposition calls for a term of office of 4 years, I wonder if the Chairman of the Comité des Connétables would give us some kind of a steer as to whether or not that would be continued to be asked for or whether or not there would be a need for an amendment, possibly?

Connétable K.P. Vibert of St. Ouen:

Can I maybe advise on that. I will certainly be discussing with my fellow Connétables the prospect of bringing in an amendment to bring it to 3 years.

Deputy P.V.F. Le Claire:

Could I press for the Comité des Connétables' Chairman to communicate to States Members as to whether or not they will be so that that opportunity may be possible if they do not choose to do so.

The Bailiff:

I am sure the Connétable will keep you informed. Were Members happy with the arrangement of public business as modified this afternoon?

10.3 The Deputy of St. Ouen:

Two things. First of all, is it possible that in light of P.45 being deferred that P.26, the Draft Water Resources (Jersey) Law 200-, might be advanced to 15th May?

The Bailiff:

Not favoured by the Minister, I am afraid.

ADJOURNMENT

The Bailiff:

The States stand adjourned until 9th May 2007.