

STATES OF JERSEY

OFFICIAL REPORT

THURSDAY, 2nd MAY 2019

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[9:30]

The Roll was called and the Greffier of the States led the Assembly in Prayer.

PUBLIC BUSINESS - resumption

1. Climate change emergency: actions to be taken by the Government of Jersey (P.27/2019) – amendment (P.27/2019 Amd.) - resumption

The Bailiff:

We finished last night on the amendment of P.27/2019, with the Minister about to sum up.

Deputy J.A. Martin of St. Helier:

Before we start, can I just inform you and the Assembly I need to be at a funeral at 10.30 a.m. and I will be back as soon as I can. Thank you.

The Bailiff:

Thank you, Deputy.

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

I would like to start by thanking all the 26 Members who have spoken in the debate. I think it was a very good one and, as far as I am concerned, the best for a very long time, having been a spectator previously of the States, because we were discussing matters of real importance to the public and our community. I think the first thing I would like to say, it is really good news - I know we were debating the amendments - from the comments made by Members, there is a clear consensus in this Assembly that we have to address the issue of climate change through moving to carbon neutrality on an accelerated timescale. The debate, obviously, we had yesterday, as far as I was concerned, was about the mechanics and the methods that we use, in order to give us the best chance of success of doing so. Of course, no matter whether the amendments are passed, or not, I want to be clear - and I have made it quite clear to everybody - I shall be supporting the principle, because there is no disagreeing that we are in an emergency situation. But, as all the reports say, what is required is a 12-year action plan. A plan that transcends this Assembly, elsewhere, other governments and that requires us to have real methodologies, structure in place to how we are going to go about it, step-by-step. I am a very analytical person and I tend to look at ways of achieving things. My work with the civil service advisers ... I think we have some really excellent people that have produced the amendments and we have drawn upon the views, despite what was said yesterday, of the Energy Forum, which I did in a bit more detail and we tried to look at the best practice and the best way we can make things work in Jersey. The debate yesterday, as a new Minister, has been a learning experience for me. As Deputy Martin said, I share the same situation - although Deputy Martin much longer than myself - a move from the backbenches into a ministerial position has made me realise that my communication skills are not what I thought they were, because there was so much misunderstanding of what this amendment is about and there has been some misrepresentation and that saddens me. It is a learning curve. So, many Members, I think, have the impression - I do not know how they got it, or even argued - that my purpose is to water down the importance of our tackling climate change seriously. I was astonished to hear it argued that my purpose is to delay and obfuscate this vital work towards carbon neutrality. My purpose is entirely the opposite; it is to make sure that the fine words in here and the declarations we make are matched by delivery and action, something which, I hope, becomes a fashion for this Assembly. Those Members, who really believe that my purpose is to delay, do they really think that I would have the gall - if I am allowed to say that - to stand in front and address the activists, the wonderful people who are putting themselves out there, the climate change activists in

the Square and then come in here and seek to undermine them? Do Members have so little faith and trust in me, in my sincerity? Is that really the case? If so, I wonder why I am in my job. One or 2 of those contributions sadly - and this is again new for me, because I do not do personal - I think did seek to personalise things, rather. I think there are a couple of contributions that were very highly politically motivated. But thankfully, I praise Members generally because the majority ...

The Bailiff:

Minister, would you sit down just a moment, please? Could I please ask those in the gallery to remove the banner? That is not permitted under Standing Orders. Thank you very much.

Deputy M. Tadier of St. Brelade:

While we have a natural break in the speech, it seems to me that the Minister is risking collectively breaching the Standing Order which imputes false motives on States Members, by saying that we said the purpose of his proposition, or amendment, is to some nefarious ends. I think that is not what I heard in the debate, I heard that we are saying the unintended consequences of the amendment may be negative, but that the intention of that was not. Would you be able to rule on that, Sir?

The Bailiff:

First of all, I would ask the Minister to clarify.

Deputy J.H. Young:

What I was reporting was impressions and later I am going to go to say there were one or 2 particular comments that were made, which I think attributed purpose to me, which is not there and I have never said. So, if Members see that as a general slur, I apologise, because I was going on to say that Members did recognise the sincerity of myself and Deputy Guida. Hopefully that is sufficient. May I continue, Sir?

The Bailiff:

Please continue.

Deputy J.H. Young:

Thank you. Of course, there was another theme where I think it was those who did not support my amendments drew a distinction between my role ... in fact, not just me, but individual Ministers in the Council of Ministers. I think we have seen an email this morning that suggests that having a Minister responsible for progressing action plans is somehow flawed. We have to put it to the Council of Ministers. It is a new experience for me. I have got news for people: 10 people around the table with the volume of work we have to do, the notion that we can only ever deal with the high responsibilities, the high-level tasks ... and Ministers have to be the engine of delivery. A 12-year plan is a real big vehicle to deliver. So, obviously, Ministers are accountable to the Chief Minister, they are accountable to you, to Members. If the Chief Minister thinks that a Minister does not perform, he has the power to dismiss. You have got it collectively as Members. If you are not satisfied with the performance of any Member, straightaway a vote of no confidence and that is it. The mechanisms are there. Real accountability there is. So, I think that is a false and nonsensical division. I think we have no option in tackling this task, but to address practical resources at our disposal, which means our outstanding civil servants ... and I want to pay tribute to them, as Members know I am very uncomfortable with the situation of changes that many feel undervalued; I certainly do not and do not believe Members do. We have to make sure their contributions, their advice and money are valued. We all know we have a structural deficit. We are *en route*, we are going to have to make decisions to how we fund our Government Plan as we speak in 2019. This is a financially bad year for us. So, therefore, working within our resources is part of the political leadership and the role of Ministers is to motivate those civil servants and provide political leadership. I am, of course,

a past civil servant. I sometimes think, perhaps, I am thinking as a civil servant, because I spent the majority of my working life as a senior executive and I know how systems work. I know if politicians want to get things done, they have to work with the available machinery, in the civil servants, in the resources and have that sort of integration. I think that is infinitely more likely to succeed than just having, perhaps, very general - some might say airy-fairy, I am not being pejorative in that term - aims with no focus on who is responsible, especially when there are no resources in place to get the task done and little prospect of getting them. Yesterday, during the debate, obviously, I realised things were going against my amendments, particularly on part (a) that talks about whether, or not, the timescales ... a valid issue, what is the timescale of this work, how are we going to start?

[9:45]

I have been exchanging emails with the Chief Minister and the Minister for Treasury and Resources and the civil servants overnight and this morning and I am told and I have to confess that I only got the full email about 5 minutes before the hearing, but I got the guts of the thing last evening, that it is going to require additional resources if my amendment of part (a) is not approved. Those resources, at the moment, are estimated at around about £300,000, but I am not sure that we are going to be ... I cannot be confident that it will not be more, because if we are going to get work done by consultants at the very time every consultant ... you know, there is every local authority and government in the world seeking to get those people and I suspect the price is going to go up. So, not only that ... and, of course, I ask: "Well, can we get this?" and the answer I have got is: "No, Minister, you will not be able to get those additional resources agreed in our current system before the end of 2019." That is the reaction I am getting. I think it is likely that one will be placed in an uncertain situation, if my amendment is not passed, where we have to scratch around using what resources we have, go into this bidding process, that we had a debate yesterday on, which I do not even understand, it is an investment thing and ... I do not even know where those decisions were, but the evidence is that they do not deliver and they take a long time. So, worryingly the work would have to be conducted ... also, the other aspect of it would have been conducted in a policy vacuum, out of context from our work in preparing the Government Plan. To deliver the C.S.P. (Common Strategic Policy) priorities which join up all those elements. The Constable of St. Saviour said she criticised - because of lacklustre performance at Environment Scrutiny, but, of course, we are not doing it - the Minister for Infrastructure and I; we have split responsibilities, waste, transport, I got policy and so on. The only way we can join that up is through the C.S.P. process, that is the only way and that is why it is imperative we do this work in that. My worry, also, is that we do have such a small team of leading civil servants on this - I would like to name them, but I think it is probably not protocol in the States, but the people know who they are. They will be diverted away from their vital role in co-ordinating and supporting that work of the C.S.P. for the Environment to do this. When, in reality, I believe they are absolutely the same thing. I do not think I overstate that. I think it was the Constable of Grouville spoke about water, absolutely spot on. Water pollution issues - or the Constable of St. Saviour - there is a whole suite of activities in the strategic plan about that. I do not want to put any of those policy issues at risk. Then, I think, it was suggested somehow that the Energy Plan, which is the focus of the amendment, is somehow a minor part of the exchanges. I have to remind Members: the Energy Plan is the States, it was agreed by the States. It has been in place for a number of years and all our work has been in accordance with that plan. Of course, what does that strategy do? It charges the Minister for the Environment with that role. If the progress is not good enough - and I have set out a brief summary of where the progress is - get rid of me. Get somebody else. I do not think there is any evidence the Energy Plan has not worked so far; on the contrary, but what has happened is aiming at a moving target. Aiming at a moving target that the world's requirements have changed and we have to be much more ambitious and that is why we need to change that Ocean Plan. Of course, much was made of what was called the focus of fiscal measures as the part (b) of the proposition, because it is too specific. Also, I read in an email this morning from the main

proposition, focusing on fiscal measures is likely to frighten people off and, therefore, we are not going to be able to achieve it. Dead right. We have to address those measures. How else are we going to deal with traffic and pollution issues, unless we address fiscal measures? Where are those resources coming from? I make no apology for that focus. It is not an exclusive focus, it says ... and, of course, this word was omitted in the speech, it says to include it. It does not say “only fiscal measures” it says “include”, it is part of a suite of work that has to be done. I do not want to see anybody arguing for maintaining the Olympic track record of signing up and not doing anything. The Energy Executive advice, I believe it was quoted in their report. Members have all seen the full one, I hope every Member has read it. If so, you will know it was quoted selectively. It says, as I have spoken already, it requires a concerted effort over 12 years. They also say that the Energy Forum argued that the 2019 Energy Plan Review will provide a good framework for agreeing a new target for carbon emissions. That is what they are saying. I think there is nothing in our proposition that is inconsistent with that, that is what we looked at. Then, of course, Members have spoken about carbon sequestration and carbon offsetting is somehow ... I do not quite know what Members were saying about it, they clearly did not like it, but the Energy Forum says that they are valid and part of our plan. Of course, part (b), their comments on the original proposition of part (b) says: “The Energy Forum does not believe it will be practical to provide a detailed climate assessment of the proposals set out in the Government Plan, as proposed in the original proposition.” That is why the amendment seeks to include an assessment, but not just a theoretical climate change assessment, but going further on policies and how we do that. So, what my amendment seeks to do is integrate the Government Plan into the energy policy. Now, for me personally, this has been a new experience for me and I think I have failed to communicate clearly; my purpose has been misunderstood. I referred earlier to a word that Deputy Tadier challenged, I will not repeat it, but it was said in a *J.E.P. (Jersey Evening Post)* headline that the targets were too ambitious. Now, I have never given an interview to the *J.E.P.*, I have never said that. The only comments I made are what is in the amendment. A couple of personal comments, nicely dressed up and thank you, but I think, in the end, we really ... I am going to leave that. Then we have political issues. Plainly, I have to be robust and I really admired Deputy Ward’s passion yesterday. Wow, political rhetoric in full flow. It was scary. I saw a new side of Deputy Ward’s presentation. I thought: “Crikey, what is happening here, we both agree with the same thing, but we disagree on how we are going to get there.” I do believe that some of the things that Deputy Ward said in his major speech yesterday did not fairly represent what I tried to explain in the propositions. Now, I wonder if I can turn to a few specific responses. I particularly want to thank Deputy Huelin who, I think, summed up my purpose in a very few words. He summed up why I brought the proposition and put my head on the block to deliver it. That does not work, I am accountable, you have a mechanism. Where is your mechanism in the Council of Ministers? Are you going to bring all the Ministers down, are you going to mess up the whole thing? Are you going to wreck the Government Plan? No. I empathise with Deputy Martin, obviously I have seen the situation that she has been faced with in her new ministerial role and Deputy Martin is leaps ahead of me with her passion and fire and her ability to see things through, and I have seen the way that some of the things have been more ... and it is surprisingly while having to deal with many negative comments. That is a shame. I think some of these issues, I put them down to dysfunctional elements caused by our ministerial system. They would not happen before and I think Members know that we have not quite got this right yet, where we set Members against each other when we are all agreeing the same things and we all become divided. I hope very much we can have an agenda of change there in the future. It is frustrating being a Minister. You have little resources, but what the Ministers provide is leadership and passion and they have to work with the existing resources. I also want to thank the former Minister for the Environment, who absolutely understands what I have said here, because he had a number of well thought-out, hard-work policies that did not survive this Assembly. We are now having to deal with the consequences of that. A whole set of sound policies about urban planning, infrastructure levy and so on, all of which I believe were sound and would have put us in a

better position. I do not want us to be in this position on climate change. I think, in conclusion, a very good debate yesterday and I appreciate Members' efforts, because 26 Members is a massive contribution. I want to say, whatever happens on the amendments, I shall be supporting the main proposition. Whatever the outcome. I truly do believe that the amendments that I have put forward, with the support of civil servants and advice and a good number of Members recognised at the time, provides the best way of getting there. As I said yesterday, I do believe that there were different arguments coming forward about propositions (a) and (b). Proposition (a) deals with the timescale of the work, proposition (b) deals with the specific focus, that is included by the work we need to do and I think these do stand separately and, therefore, I would ask if I could propose part (a) of my amendment and part (b) separately. I believe it is best in doing so if both part (a) and part (b) are separate. But, if I was forced to make a choice, part (b) is absolutely critical. Would I be allowed to propose those votes separately?

The Bailiff:

It means, I think, Minister, that the penultimate may need to be adjusted, because it refers to the review of the Energy Plan, which does not appear in the main proposition and only appears in part (a). So, Members can proceed to vote for it separately on the assumption that the last and penultimate lines are perhaps not there, because the review will not take place, according to this proposition at any rate.

Deputy J.H. Young:

Thank you, Sir. On that basis - I am happy to go along with that if no other Member stands up and makes an objection - can I therefore propose part (a) of the proposition and ask for the *appel* on part (a).

The Bailiff:

The *appel* is called for. I invite Members to return to their seats.

Deputy M. Tadier:

Before the vote could I raise the *défaut* on Deputy Southern, please.

The Bailiff:

Propose the *défaut* be raised on Deputy Southern. The *défaut* is raised. So, the vote is on part (a) of the amendment, which would substitute paragraph (a) for paragraph (a) of the main proposition and I ask the Greffier to open the voting.

POUR: 22		CONTRE: 25		ABSTAIN: 0
Senator L.J. Farnham		Senator K.L. Moore		
Senator S.C. Ferguson		Senator S.W. Pallett		
Senator J.A.N. Le Fondré		Senator S.Y. Mézec		
Senator T.A. Vallois		Connétable of St. Helier		
Connétable of St. Clement		Connétable of St. Lawrence		
Connétable of St. Brelade		Connétable of St. Saviour		
Connétable of Grouville		Connétable of Trinity		
Connétable of St. John		Connétable of St. Peter		
Connétable of St. Mary		Connétable of St. Martin		
Connétable of St. Ouen		Deputy G.P. Southern (H)		
Deputy J.A. Martin (H)		Deputy of Grouville		
Deputy K.C. Lewis (S)		Deputy M. Tadier (B)		
Deputy S.J. Pinel (C)		Deputy M.R. Higgins (H)		
Deputy of St. Martin		Deputy L.M.C. Doublet (S)		
Deputy of St. Ouen		Deputy R. Labey (H)		

Deputy of St. Mary		Deputy S.M. Wickenden (H)		
Deputy G.J. Truscott (B)		Deputy K.F. Morel (L)		
Deputy J.H. Young (B)		Deputy of St. John		
Deputy L.B. Ash (C)		Deputy M.R. Le Hegarat (H)		
Deputy G.C.U. Guida (L)		Deputy S.M. Ahier (H)		
Deputy of St. Peter		Deputy J.H. Perchard (S)		
Deputy of Trinity		Deputy R.J. Ward (H)		
		Deputy C.S. Alves (H)		
		Deputy K.G. Pamplin (S)		
		Deputy I. Gardiner (H)		

The Bailiff:

I now ask the Greffier to reset the system and we turn to paragraph (b) which substitutes (b) for paragraph (b) of the main proposition. I ask the Greffier to open the voting.

[10:00]

POUR: 24		CONTRE: 23		ABSTAIN: 0
Senator L.J. Farnham		Senator K.L. Moore		
Senator S.C. Ferguson		Senator S.W. Pallett		
Senator J.A.N. Le Fondré		Senator S.Y. Mézec		
Senator T.A. Vallois		Connétable of St. Helier		
Connétable of St. Clement		Connétable of St. Lawrence		
Connétable of St. Brelade		Connétable of St. Saviour		
Connétable of Grouville		Connétable of Trinity		
Connétable of St. John		Connétable of St. Peter		
Connétable of St. Mary		Connétable of St. Martin		
Connétable of St. Ouen		Deputy G.P. Southern (H)		
Deputy J.A. Martin (H)		Deputy M. Tadier (B)		
Deputy of Grouville		Deputy M.R. Higgins (H)		
Deputy K.C. Lewis (S)		Deputy L.M.C. Doublet (S)		
Deputy S.J. Pinel (C)		Deputy R. Labey (H)		
Deputy of St. Martin		Deputy S.M. Wickenden (H)		
Deputy of St. Ouen		Deputy K.F. Morel (L)		
Deputy of St. Mary		Deputy of St. John		
Deputy G.J. Truscott (B)		Deputy M.R. Le Hegarat (H)		
Deputy J.H. Young (B)		Deputy S.M. Ahier (H)		
Deputy L.B. Ash (C)		Deputy J.H. Perchard (S)		
Deputy G.C.U. Guida (L)		Deputy R.J. Ward (H)		
Deputy of St. Peter		Deputy C.S. Alves (H)		
Deputy of Trinity		Deputy I. Gardiner (H)		
Deputy K.G. Pamplin (S)				

Deputy M. Tadier:

I would like to raise a point of order. I did not want to do it during the speech, perhaps for tactical reasons, but there is a convention that in summing up whoever is moving the amendment, or the proposition, tries not to introduce new information, because it cannot be responded to, obviously, by anyone else. I know the Minister will say that he only received the cost implications of £300,000 at the very end, conveniently, this morning, but the proposition by Deputy Ward had been lodged for a very long time and it is completely unsatisfactory for these kind of figures to be brought to us at the last minute when Members cannot respond to them.

The Bailiff:

Deputy, you are right that the proposer of any proposition ought not to introduce new material in a reply and that is a point of general approach. I have to say, it would not be the first time that it has happened in this Assembly and, Minister, is there anything you wish to add to that?

Deputy J.H. Young:

If I helps, I apologise for that. I am very new to this role and I thought this was a material matter, because, yesterday, I did speak about the resources issue generally, although I did not have a figure on it. But, of course, that had to ... so I apologise for that.

Deputy M. Tadier:

I thank the Minister. He is new to the role, but the civil servants are not, they have played this game a long time.

The Bailiff:

The question of resources did come up during the main debate and, indeed, Deputy Guida addressed the question of cost at some length. Indeed, the figures he used put the £300,000 rather in the shade but still.

1.2 Climate change emergency: actions to be taken by the Government of Jersey (P.27/2019) – as amended

The Bailiff:

Very well, we now return to the main proposition, as amended, paragraph (b) has been amended, it is now open for debate. Deputy Labey.

1.2.1 Deputy R. Labey of St. Helier:

I listened with interest to the debate yesterday. I am going to support Deputy Ward's proposition, it is an important proposition, it is an important debate and the speeches and contributions yesterday were excellent. You gave the Members generous leeway, because a lot of what was referred to was in the substantive proposition. I do not want to undermine, or denigrate, or say that this debate is not important, it is vital. We have a very heavy schedule today and there is absolutely no need for Members - we listened intently to everything that Members said - to repeat what they said yesterday in the substantive debate, or to repeat what other Members have said in the debate, or are about to say in the debate. We must discipline ourselves in that regard, if you do not mind me saying so. We do have a heavy schedule, it is important, but no repetition and a conciseness and economy would be appreciated.

The Bailiff:

A heavy schedule accompanied by a heavy hand. Excellent.

1.2.2 Deputy K.G. Pamplin of St. Saviour:

Wow, note taken. Yes, just sit down. No, hang on. I did not take part in the debate yesterday, to speak about climate change, because, as Deputy Labey pointed out, it was on the amendments and I thought others did that well. But, I want to bring the subject back into what we were talking about and that is, of course, the proposition brought by Deputy Ward. There appears to be no single definition of a climate emergency, but it is generally agreed among those calling for the notion that climate change represents the greater threat to all walks of life, including national security; interestingly, the economy, social well-being, which is a big passion of mine and the natural environment. While symbolic, such a declaration by an authority, or government, which is looking

like it is coming, would recognise the life-threatening risk that would come with an inactivity over climate change. The statements about carbon emissions are true. The global carbon project, a study released last December, revealed that the presence of CO₂ in the atmosphere is higher than it has been in millions of years. At the end of 2018, the United Nations Secretary General said: "Climate change is the defining issue of our time" and said that the planet faces a direct existential threat. "If we do not change course by 2020, we risk missing the point where we can avoid runaway climate change with disastrous consequences for people and the natural system that sustain us" he warned. His predecessor Ban Ki-moon warned a decade earlier - a decade earlier - this is an emergency and for an emergency situation we need an emergency action and probably new ways of thinking. According to the U.N.'s (United Nations) annual intergovernmental panel on climate change report, that I have not heard mentioned yet, humans have 12 years to make unprecedented changes to all aspects of society before climate change and its effects - environmental disasters and famine - are irreversible. Therefore, no challenge - no challenge - poses a greater threat to future generations than climate change. 2014 was the planet's warmest year on record. Now, one year does not make a trend, but this point does, I believe. Fourteen of the 15 warmest years on record have all fallen in the first 15 years of this century. Fact. To hit the point home even more locally, I urge everybody to do a search for the warmest day on record on local media websites, like Channel 103, the *Jersey Evening Post*, *et cetera*, you will find many stories repeated that confirm, including just this past February when Jersey had its warmest February day on record, beating the previous one and smashing it back in 1948. I have heard some folks try to dodge the evidence by saying things like: "These people, they are not scientists, they do not know what they are talking about. They do not have the right information. This is not a political argument, I do not believe. I am not a scientist, surprisingly, and I am not defined by my politics, or faith, or the roots I came from. But, you know what, I know what makes a lot of really good scientists around the world, or respected experts and professors at major universities and people on the television that have been quoted many times in this debate. They are telling us what we already know. In fact, our children are starting to tell us what we already know. That was a conversation I had with Beatrice this morning: "Sweetheart, what is the most important thing to you apart from me and the Coco Pops that somehow you are eating without me telling you you could?" She said: "Daddy, I am worried about my pets. I am worried about the future, I am worried about we are not acting quickly." That is my daughter, she is 10 years old. She is going to be 11. She gets it. She is coming into a world where she is looking up at us to act quickly. How many times, in our short political careers, for some of us, or longer for others, have you been asked: "Things are so slow. Things do not happen." You have said in interviews, or on the doorstep, or to your parishioners: "You are right, is it not slow? Do things not take time?" This is one of those moments where we can look everybody in the eye now and say: "Actually, yes, this is one of those times where we can act quickly, we can do something", because, soon, in 12 years' time and in years at a time, we will have missed that opportunity. So, I congratulate the Deputy for bringing what I think is a proposition for our time. I hope, in years to come, that we can all look back and say we did some good here, we did try to move urgently and we did try and make a difference. This is for our children. This is for our children's children and that is why I wanted to stand up today. I commend everybody for getting involved. Let us keep it on the issues, let us not make things personal. Let us leave that for others to do. Let us just make a difference.

1.2.3 Senator J.A.N. Le Fondré:

I just want to address 2 points. One might sound a little bit administratory - if that is the right word - but in other words part (c) of this is to place the actions to tackle climate change in Jersey to be included as a standing item on the agenda of the Council of Ministers. I would say, although it is probably not going to be a world-shattering end if that is approved, I am not supporting that particular part. Principally, obviously, I will be supporting the amended part (a) and part (b) as amended. Essentially, the structures that are in place already is the delivery of the Energy Plan is overseen by

the Jersey Energy Partnership and it is their role to monitor and review it and the partnership has 2 parts: it has a ministerial energy executive and a multi-stakeholder energy forum. The executive is responsible for the ongoing monitoring of actions, as outlined in the Energy Plan, to review the delivery and development and commission of new policy areas, or actions, accordingly. It is made up of the following Ministers, which is obviously the Minister for the Environment, who I would hope everybody endorses his passion, particularly for this area, but for environmental matters generally; the Minister for Economic Development, Tourism, Sport and Culture; the Minister for Infrastructure and the Minister for Social Security. Therefore, it is considered that there is sufficient ministerial oversight for delivery of the plan. Obviously, what then happens is the Energy Executive brings the matter to the attention of the Council of Ministers as and when needed. That has worked successfully to date. The only risk one will have alternatively is that we will have a standing item on the agenda and essentially, very often, there will just be “no matter to report” recorded. I am trying to be relatively practical, from that point of view. It is not going to be the end of the word if the Assembly do go for it, I just want to explain why I will not be supporting that part. To go back to the main parts, obviously, I do not think any of us need serious persuading that climate change is a serious challenge, I did vote for the Energy Plan in 2014, which is the Island’s most ambitious carbon reduction plan, obviously, to date and, as Chief Minister, I did support and put in the environment and climate change as one of the key 5 strategic objectives in the C.S.P. That states: “We must demonstrate to global partners that we take our global environmental responsibilities seriously and global climate change is a direct threat to Jersey.” Again, if we are putting children first, oddly enough protecting the environment is going to be pretty high up there. I just wanted to end with a slight comment, as well, obviously, the Minister has referred to the extra resource requirements and it is with an element of possibly irony that a number of Members, who are critical of using external consultants, have just asked the Minister to take on extra consultants at an extra cost. Bear in mind the work was going to be scheduled to take place in 2020, anyway. The reason I say that because, hopefully, it is a recognition that there are times when external expertise is required, that an extra cost is required to be paid. I just put that point out there in the general context. I am very happy and delighted to be supporting parts (a) and (b), I wanted to explain my reason I will not be supporting part (c). I will leave it as a matter for the Assembly, but in practical terms it is just an administration matter.

1.2.4 Deputy M. Tadier:

I will just say to Deputy Labey that just because some Members could not stick to the point of the amendment yesterday; for those of us who did speak to the amendment, we are not going to be penalised from a second speech on the main proposition to focus on the very critical issue of climate change. If we cannot spend 5 or 10 minutes more talking about the future of the whole of humanity and all of the diversity, biodiversity, that exists on the planet, because we have to go on and talk about who chairs this Assembly, then I am afraid we have our priorities wrong. Both are very important issues, for different reasons. Listening to these kinds of debates, I am reminded of the old gospel song, which says: “Everybody wants to go to heaven, but nobody wants to die.” I will use that example to develop into a couple of different areas, but the first point, I think it is quite clear what is meant by that, but just in case it is not, is that we all aspire, apparently, to what Deputy Ward wants to achieve. We want to save the planet, we want to become carbon neutral and we want to at least try and slow down, as far as possible, the human impacts that we are having in terms of carbon on the planet. Of course, when we talk about carbon, that is a portmanteau word, not just for carbon dioxide, but for all the greenhouse gases which are emitted and which we contribute to. It shows that there is an element of doublethink within that, because we know that climate change is real, we know that, because we are told by the best experts around from a whole host of different areas and of all different kinds of political persuasions, but scientists need to try and remain objective and they look at the evidence. All the evidence does tell us that we are going in that one direction, where there are

dire consequences if we do not act. Yet, we still get people standing up: “But we cannot act too quickly, because I am a realist.” This is where we get the concept of doublethink coming in, where the doublethink, as we know, the Orwellian concept, suggests that you can hold 2 competing and mutually contradictory beliefs at the same time, but still believe that they are both true. The facts are that something needs to give, because our reality that we live in is completely subjective and we only need to go back a few centuries to realise that pre-Galileo, in around about the 1600s, it was the norm to believe that the earth was flat. That was reality.

[10:15]

People would stand up: “But I am a realist, I am not going to go and travel on that boat for too far, because, eventually, I will fall off the end of the world, so I am not going to do that.” They had to listen to the crazy people, who at that time were the scientists, who studied the stars. They were tantamount to astrologists, because astronomers did not exist in that sense. They were the real scientists of the time; and it turned out that the crazy people were the right ones. Later on, as we get on, we realise that there are similar parallels to be made. Today, we also live in a world whereby the consequences of that reality and that knowledge - if the penny truly drops, and I think it is starting to drop for many people - we know that we cannot go on living as we do. We live in a world where we are consuming resources far quicker than we could ever hope to replenish them and the consequences of that are dire. In the Jersey context what does that mean? Well, Jersey is very good at tax neutrality, but we need to learn to be excellent at carbon neutrality. What I also mean by that is the fact that there are consequences for the neoliberal model that is being pursued by the world because, as others have said in the past, while we all consume to excess, it is the wealthy who consume the most. We also have a model - not just in Jersey, but Jersey is an excellent microcosm of that - where we promote tax breaks for the richest people. The consequences of that and the paradox if you like is that we get people standing up yesterday - and I am glad Senator Ferguson is just putting her light on, because she is one of the people I am talking about - saying: “We have got to be careful about what we do, because it is going to have an impact on poor people. So, if you introduce a tax on travel, whether that is airplane travel, or cars, all the things that we have to do and we have to get to grips with, if we are going to solve the problem, then it is going to have a negative impact on the poor.” Well, it will only have a negative impact on the poor, if you do ecology under the current system and do not reform your economic system. What we need - and she is partly right - is that capitalism is the problem. If not to destroy capitalism, we certainly need to fundamentally reform capitalism. I am not sure if that is possible. You need ecological socialism if we are going to have any hope in the world. What do I mean by that? It means if you are going to impose a high tax on carbon and on petrol and on diesel, which we inevitably will need to do ... and Greta and others talk about politicians needing to be truthful. At some point, the Minister for Infrastructure, the Minister for the Environment and all of us are going to have to be honest with the public and say: “You will have to pay for the damage and what we are going to do for you, as part of that social contract, is we are going to put on much improved transport.” So, in Jersey, that means we are going to have many more businesses. Is it not an irony that when Deputy Ward asks a written question saying: “Would it not be good to have free buses in Jersey?” One of the reasons for which is not just because we are socialists and we want nobody to pay for anything at the point of use, it is because we want people to use public transport, get cars off the road and then reduce emissions, all of those good things and free buses is a possible way of doing it. “Yes, but the problem with that is that will increase the number of people who use the buses and we might need more buses.” That is not a Monty Python or a *Private Eye* response that has been fabricated; that is a real response, which you can find on the internet in Jersey to a question about climate change. So, while we can all aspire to that, we cannot even give sensible answers to questions that are being asked today. More globally, what it means is that we have to change the way we think and we are all culpable here. So, when it comes to the

ability to just jump on a plane and travel halfway, or a quarter of the way, across the world, because there is such a thing as a cheap flight and I am one of those who have ‘benefited’, if you like, from the cheap flight revolution. It is quite remarkable. Previous generations could not; I vaguely remember the times when it cost quite a lot even just to get the U.K. by plane. Now, we pay a lot to get to the U.K. by boat, even though the boats are the least polluting. In the U.K., they were talking on Radio 2 the other week when they focused specifically on climate issues. They were saying that, in terms of carbon, to travel from London to Edinburgh, it is clearly much worse to travel by plane. The other thing is that it takes longer to travel from London to Edinburgh by plane, because by the time you have waited at the airport, cleared security, waited on the runway, taken off, landed, taxied and then got out the other side, possibly with luggage, it takes longer to travel from London to Edinburgh by plane than by train and it is much worse for the environment. So, why on earth would people do that? It is because it is cheaper and it is because the whole economic model in the U.K. is completely skewed. The same can be applied to Jersey on a smaller scale, although we have a very good bus service, I would say, on the southern route. We need to completely turn that on its head. We need to make sure that it is expensive for people to travel around the world by plane. But, there are consequences for that because, going back to the original quote about gospel, everybody wants to get to heaven, everybody wants to get to climate and carbon neutrality, but nobody wants to die, but nobody wants to change the way that they live. So, when there is an announcement the other day that there is a new airline setting up between Bournemouth and Jersey, how should we react to that? So, if I ask Senator Farnham, or the Chief Minister, or anyone else, that is good news, right? The announcement that was put out in the media that there is a new flight, an airline coming from Bournemouth to Jersey, that is good news. But, of course, it is not good news for the environment. The first thing we have to do is point that out and at least question it, so you send out a tweet saying: “So, this week we are debating climate change. There has been an announcement of a new airline opening to Jersey; is that good news?” Of course, you get responses saying: “Are you not in favour of tourism? Do you not want tourists to come to the Island?” Of course, I think most of us say we do want an element of tourism, we do want Jersey to survive, but we need a model that is sustainable. Is it not the right time, at the moment, for example and why are we not already doing it, thinking about having a second operator for the ferry service? Goodness knows that there are many good reasons for it other than just the environment. I think the public are crying out for a second ferry company to operate in Jersey. There is probably the market for it, but there are certainly the emerging climate control arguments that can be used in that respect. The point I am making is that we fundamentally have to challenge everything that we do and the realism that we think we live under at the moment is completely an illusion, when we start looking at it through the eyes of climate change. But, there is clearly not much appetite for this kind of talk at the moment; we have seen that a lot of the Assembly has now vacated, so I apologise for that. But I do not apologise, because I know that there are many people, who have campaigned very hard, not just in recent days and weeks giving up their time and putting themselves in the Royal Square, but right throughout the world and also for many years, when it was not popular. So, it is to those individuals, in particular, that I would like to pay tribute, whether they are based in Jersey ... I know I have got some very committed constituents and I think they are upstairs, so I pay tribute to them as well, but to all the individuals around the world, who are taking stances when it is unpopular and often against their own individual interests because, ultimately, they have seen the reality. When you have glanced at the truth and you have understood it, you cannot un-know that truth.

1.2.5 Deputy L.B.E. Ash of St. Clement:

I shall obey the edict of Deputy Labey. I would say, though, I did find Deputy Tadier’s assertion that we should debate this subject and have a 10-minute speech, I agree, before moving on to perhaps less important issues. But, he was the man who gave us the 3½ hour debate on whether Jërriais should be the third language in the Chamber, so I find that slightly rich.

Deputy M. Tadier:

I am sorry, could I challenge? I would not normally. I did not decide whether the debate would be 3½ hours. I am sure my contribution in the Jèrriais debate was relatively short and it shows that it was clearly an issue which the Assembly wanted to debate.

The Bailiff:

Deputy, you have got to take the slings and arrows of outrageous debate.

Deputy L.B.E. Ash:

One thing that did occur to me and it occurred to me the other evening, when I was talking to Jersey Telecom, there are major things we can do, as an entity, here and people have to pick the baton up and run with it. We are the only place in the world with 100 per cent 4G coverage, the only place in the world. Tomorrow, if we can find the political will, they could put a G.P. (general practitioner) facility into every single house, so people would not have to visit the G.P., it could just be there in their front room. They can do that tomorrow. Talking to their chairman, we have a 5-year window to put some fantastic things in. We could be one of the centres of marine environment technology here. We can be massive; it is there. We have a 5-year window when we are going to be ahead of the rest of the world. But it is up to every single member in this Chamber to go and see them. I can get Phil Male, the Chairman of Jersey Telecom, to come and see you, Deputy Ward, and we can really drive this forward. But, there is no point all talking about it, let us go and see them, let us say: "What can you do to make us a greener place, to reduce our carbon, using the technology that we have at our disposal, where we are the only place in the world that has it at our disposal?" So, let us look towards doing that. I am fully supportive of this proposition, but we have to use what we have at our disposal and we have got some pretty powerful tools. We are not as small on the global stage as we might think. I would just end with saying one more thing; when the Minister for the Environment brings in - and it is no good fudging the issue - some very unpopular decisions that will take place in the Budget and when the Treasurer and the Minister for the Environment brings that Budget with some things that will not go down particularly well with the public, but are necessary, if we are going to drive this forward, this Chamber cannot be found wanting. All the people who stood up and said yesterday: "I am fully behind this, let us drive it forward" when those measures are here and they get someone going: "Well, I do not want to pay this extra amount on petrol" or whatever it may be, you have got to be found to be strong. Not, as has happened in the past in here, where people back down.

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

Can I start by saying how much I appreciated that previous speech, surprisingly? It is absolutely the right tenor of mood that we should be taking today and to be repeated when it comes to Budget decisions, *et cetera*. But, I just wanted briefly, in order to ensure my vote - and I am minded to vote for this proposition as amended - I would just like to hear from the proposer how he sees this amended proposition being delivered.

1.2.7 Senator S.C. Ferguson:

I think I probably should start by saying I am an absolutely firm capitalist and I believe in equality of opportunity. I think I probably owe the States and the farming community a slight apology. I was informed yesterday evening by the agricultural Members of this Assembly that the farmers are doing rather more to improve the carbon content of their soil than I, perhaps, understood. Therefore, I apologise to them and to this Assembly. I do not know whether people noticed in the paper yesterday, or one day this week, British Steel have had to take out a £100 million loan to pay carbon credits.

One of the questions that has come up over the last couple of days is what is carbon neutral. Carbon sequestration that they talk about includes putting the carbon back into the soil, so that all the measures the farmers are taking are positive. The garbage guzzler, which is up at the airport - they have not got the home models available yet - is changing food waste into something which will put carbon back into the soil. So, that is carbon sequestration and it is an important thing, but it is an environmental thing. That is the important part about it. It is not just buying a few trees. The proposals put forward by Deputy Ward are really talking about de-industrialisation. There is a power station in the north of England, Drax, which was a very efficient power station and it has been converted from coal to wood pellets.

[10:30]

The wood pellets are being made in the United States from ancient forests, which are being logged and cut up into pellets and sent to the U.K. to go into a power station and burnt. I have never heard anything so regressive and stupid in my life. We are going to have to drive electric cars, but if firms like British Steel have to buy carbon credits, the price of the raw materials is going up. Will we be able to afford the cars? It is an end to air conditioning - ask the people in South Australia what they think about it - and many of the conveniences of modern living and definitely an end to the prospect of affordable energy for third world countries and a significant increase in the cost of electricity. There will also be a substantial increase in unemployment as industries fold. So, here we are; Deputy Tadier has already mentioned the fact that pensioners and lower income families will revert to a similar position to medieval serfs, unable to travel, because of the costs. They are talking of thermostats pegged at 19 degrees centigrade. It makes me think of *Brave New World*, 1984, call it what you will, it is a dictatorship. Do not forget, Christiana Figueres, the Executive Secretary of the United Nations, wants to use this opportunity to get rid of capitalism and convert everything to socialism. That is what she said, in public. My generation have lived through the tail end of World War 2, the Korean War, Suez, Vietnam, the Cold War, nuclear winter forecast, global cooling, the Millennium Bug, forecasts of starvation, reduced life expectancy - 42, I think they said it was, I think you and I must have beaten that, Sir - peak oil, the population will exceed food supply, excessive air pollution, childbearing will be a crime. We are dealing with all these matters that have arisen, but as H.L. Mencken said - he was a columnist with the *New York Times* - "The whole aim of practical politics is to keep the population alarmed - and hence clamorous to be led to safety - by an endless series of hobgoblins, most of them imaginary." If he had met computer models, he would have damned them too. I prefer the philosophy of Julian Simon, the economist, who had the utmost faith in the power and ingenuity of the human mind. I follow the Julian Simon approach. I am not prepared to sacrifice our children's and grandchildren's future on the basis of political correctness, computer models, or hobgoblins. To paraphrase Bill Clinton, it is the environment, stupid. That I support; this proposition I cannot.

1.2.8 Connétable C.H. Taylor of St. John:

I would urge that Members take this as an opportunity to think outside the box. I do not want this to be a negative approach. I say this, because the last thing I want to see is people lying in the middle of the road trying to stop cars, because all that will do is increase the carbon footprint with the cars being stationary. It will slow the economy. It will reduce taxation and increase the burden on society as a whole. Let us embrace it and use what we really can. I was delighted with the speech from the Assistant Minister for Treasury and Resources, Deputy Ash, about Jersey Telecom and what they can do. It reminds me of a sketch - and if I can just humour you shortly - many years ago between the *'Two Ronnies'*. They were both dressed up as cavemen and Ronnie Corbett was sat next to the fire in the cave and Ronnie Barker wheeled in a great big round stone and Ronnie Corbett said: "What is that?" He said: "It is a wheel." "What is it for?" "I do not know, I just thought I would go down

in history as being the first person to invent the wheel.” I say this, because we have got 100 per cent fibre in all our homes. Let us use that as a way of preventing journeys, so that you do not get in your car, so you do not have to run over the people who lie in the road. A very interesting point too, we need to act sensibly and not a kneejerk reaction. My last car I traded in when it was 16 years old. I intend to keep my current car, which is a diesel, for at least 15 years. I do not want to trade that in, in 2 or 3-years’ time, for an electric car, because the footprint of doing so is worse than continuing the way I am. We need common sense with this approach. I urge that Members understand this and that in the thinking that we are going to have to adopt it is going to be different, but it needs to contain those degrees of common sense. I will support this, because I think it is right that we should make a statement and move forward. But, I do have this serious hesitation about setting ourselves up to fail. In a speech made yesterday: “It is better to set a target and fail than to set no target.” I fundamentally disagree with that, because if I set a target I expect to achieve it and I sack people if they do not.

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

At the outset of this debate, when we discussed the amendments, I said I was in a dilemma and that was a dilemma as to whether to support the amendment, or the original proposition. That dilemma was because I do not like being hypocritical. I do not like to say one thing and then do another and I certainly do not like to vote in favour of the principles of something and then vote against the detail later on when it comes down the line. I was disappointed that, in highlighting the challenges and the costs and the difficulty in achieving carbon neutrality, that I was accused of somehow supporting the cause, because nothing could be further from the truth. However, I am clear in my mind that I am one Member of this Assembly who does know the subject well and I understand completely the whole list of issues that will be before us, their difficulty and how painful they will be to make. On electric vehicles, we know we are going to have to accelerate the take-up, there are charging points, reducing and subsidising parking charges. We have got to find ways of increasing bike use, getting people to walk more. We are going to have to adopt anti-diesel and petrol car policies. We are going to have to increase, massively, charging for parking. We are going to have to reduce, massively, the cost of using public transport. That is all going to cost, as is moving away from oil and gas to heat our houses. We are going to have to go to electric heat pumps. We are going to have to specify carbon neutral houses. That is going to cost. We are going to have to increase the bylaws, to make it even more difficult to convert. That is expensive too. On renewable energy, we are going to have to get used to wind farms on land and offshore. We are going to have to embrace turbine technology. That is going to cost, not only physically in pounds, but that is going to cost us visually in the way we interpret our countryside and the way we look at it when it is full of solar and, potentially, wind turbines. We are going to have to find ways to get our farmers to capture more carbon in their land. We are going to have to continue to embrace nuclear energy and, while it says lots of good things about carbon, the cost of the infrastructure will continue and we will continue to have to invest in it. We are going to have to change the way we feed ourselves, we are going to have to change our diets. Specifically, lamb, beef and dairy products and we will have to accept that the cost of some of these products will go up by 40 or 50 per cent and we will have to accept that and find ways of helping those that find that a difficult cost to cope with. The U.K. are going to have to plant 2.7 billion trees to achieve carbon neutrality. That is about a 20 per cent increase in the conversion of agricultural to forestry and we may have to do the same here. We will have to discuss with our farming community how we achieve that. When it comes to transport - mainly aviation, but also in boats - we are going to have to pay extra for our tickets, as the companies operating those services find ways to offset the costs of looking at the alternative energy that they will have to use in moving us around. All I wanted to do in supporting the amendment, was to do a proper job of looking to how we might achieve all these targets and so I am grateful that we have agreed that extra year. But, it is still going to be challenge, but it is work that we must take up and do. I am absolutely going to support this proposition, but I say this to all those Members, who are also going to push the *pour* button this

morning, saying yes today is the easy bit. It is the very easy bit and it can only get more difficult and more challenging from now on. But, I look forward to Members' support as we move ahead to tackle all these issues; the most important issues facing our globe today.

1.2.10 Deputy R.E. Huelin of St. Peter:

I think this is following on from a theme of the more recent speakers; that is all it is, so I am honouring Deputy Labey's request to keep it brief. Obviously, we must not only support this proposition, but I suggest every Member of this Assembly endeavours to find and support their own projects and initiatives to take us in that carbon neutral direction. We have spent the best part of half a day discussing process, timing, accountability, but this is something that we can do now today. From my part, I have been approached to help with a concept - I am using the loosest word as I can, because it is far too early and commercially sensitive to give any details, sorry to be capitalist about it - all I can say is that it ticks every box in our pursuit to be carbon neutral, however, it is only one. If we all champion an idea, with 14 ideas we can start today, to make a difference today. We do not then have to wait for the timings of 2020. It is the sum of the parts that will make the difference.

1.2.11 Deputy K.F. Morel of St. Lawrence:

I just wanted to say I was disappointed in the Minister's admonishments, because I feel they are wholly inappropriate. As I mentioned yesterday, my daughter - and we heard today Deputy Pamplin's daughter - are fearful and they are fed up. I believe, in the gallery, the people outside are also fed up. I ask why? Why 30, 40 years after this scientific evidence, which underpins our knowledge of climate change, why are we still doing so badly? The reason is because it is the failure of leadership. The people in the Square, Deputy Pamplin's daughter, my daughter, they want leadership. I stood and spoke to them a couple of times and both times I was saying: "It is not so much the Government that you need to be protesting against, what we need is practical advice to help Islanders move away from our own activities and the way that we pollute, whether it is in our cars, whether it is travelling around the world in airplanes." But, I have been listening and looking at more statistics and I think, no, you know what, I understand why you might protest Government, and our Government in particular. Again, I will say it, like I did yesterday, not specifically this Government, but all the governments over the past 30 years. The reason is because they have done so very little. That is the truth.

[10:45]

That is why, when I hear the Minister telling us off I think: "Why are you saying this? You are genuinely trying to water down a proposition and you are saying that it is our fault and I just do not get that." Let us look at the Pathway 2050 progress. Both the Chief Minister and the Minister for the Environment talked about: "We have got this pathway. It is fantastic." Well, if I read from there, I can tell you that emissions in the energy and transport sector ... so this is the most recent review, the 2017 review of our progress on that Pathway 2050. It states: "Emissions in the energy and transport sectors increased slightly in 2016, but all other sectors remain static, or marginally decreased." If that is a response to an emergency, to increase slightly, to remain static and at our very best to marginally decrease, then I say: where has the leadership been? Because it is clear we have not moved. We have rested on the laurels of the decarbonisation of our electricity supply for far too long. It is now time to move beyond it. You read anything our Government puts out about our progress on climate change and they all say 28 per cent decrease on 1990 levels, entirely due, basically, to the decarbonisation of our electricity supply, which happened years ago. We cannot keep looking there. We cannot keep thinking: "Wow, we have done that 28 per cent, 30 per cent decrease, that is fantastic, we are better than so many other jurisdictions." Yes, but now we need to move on and we need the leadership to push us forward to move on. So, when I hear the Constable

of St. John talking about, basically, abdicating the leadership position it really worries me, because we want leadership. Islanders want leadership and if this Government cannot give leadership, then the next Government will. I promise you that. It is disappointing. Let me just read some more, just to put through the facts. This is a list of actions, in response to our marginal decreases, so this is a list of actions that the Government has come up with in terms of commercial and government policy, so this is how the Government currently wants to help us respond to a climate emergency: “To continue to run a Lunch and Learn programme. To continue to encourage businesses to monitor energy use. A series of good practice case studies to be published. J.P.H. (Jersey Property Holdings) to continue to monitor and manage energy use. The States of Jersey Treasurer’s report will include the annual sustainability report.” Let us move to the annual sustainability report, let us see how well the Government, itself, is doing in combatting climate change in its own actions: “Total emissions from air travel, made by this Government” as in our States of Jersey, “2016, 1.4 tonnes of CO2 equivalent. 2017, 1.5; 2018, 1.8 tonnes of CO2 equivalent.” Is that progress in combatting climate change? We have done an almost 30 per cent increase in the amount of carbon dioxide this Government puts into the atmosphere through air travel in the last 2 years. If we look at total emissions, from all government operations, including vehicle fleet, *et cetera*, 2016, 19 kilotons of CO2 equivalent. In 2017, it did fall slightly to 18.6; 2018 though, we did not like the fall, so we put it back up to 19.9, so we are now, basically, about 5 per cent higher in 2018 than we were in 2016 in the amount of CO2 that this Government emits. That is what the leadership that we have had over the past 30 years has brought us. So, I am incredibly disappointed to see the watering down of Deputy Ward’s proposition and I do wonder, because financial levers, fiscal levers, yes, they are important, they do play a role, they do need to be balanced, but fiscal levers ... it is just so strange that that amendment to this proposition focused so heavily on fiscal levers. I just wonder - and I do apologise in advance to impute motives - but it is a cash-strapped department, fiscal levers would probably bring in a bit of money to boost that budget, which, while being a good thing, does make me think: “Do not just focus on the fiscal levers, because it is not just about a department’s budget.” So, definitely, no question, I urge everyone, this should be unanimous, adopt the proposition. But, we now need a stronger, better proposition, to be honest with you, to come later. Soon, but later, because as I have shown you, government after government in Jersey has failed to get to grips with climate change; it has rested on its laurels, it has not helped Islanders move away from the habit of driving. The Sustainable Transport Plan has not succeeded. We cannot keep pointing at, as the Minister did: “We have got a Sustainable Transport Plan.” Yes, we have got an energy pathway, they are all failing. They are not working. We cannot just keep pointing at plans and keep monitoring and keep saying: “We have got to assess, we have got to monitor.” It does not work. I have studied environmental decision making, so I appreciate the need for a practical take on how you move forward. Deeply embedded in the way I think about the environment is it has to be practical but, at the same time, we as a Government, as a States Assembly, have to be inspirational and we are failing to be inspirational. The proposition is not as inspirational as it was. Like I say, hopefully we can re-amend it back into a more inspirational position. It is time that this Assembly and the Government that comes from it really did think about the future and about what they are leaving behind. We cannot think in a 1950s way anymore, we cannot think in the ways of the past. This is the 21st Century. We do need new economic thinking, we do need to build a sustainable economy and that does mean moving away from the way many of us have been taught for the whole of our lives: “This is just the way it is. It has to be like this.” No, it does not. So, please do vote for it, but please do know that we need more now, we need stronger and we need action, Minister and I expect to see action, whether it is with fiscal levers, or without fiscal levers, because we need inspiration. That has to come from here and we have to lead Islanders to a better future than the treading water that we have been doing for the past 3 or 4 decades.

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

I am pleased to follow one of my new Deputies and I have listened closely to what he said. At risk of incurring the wrath of our P.P.C. (Privileges and Procedures Committee), I will try to not repeat what has already been said. But, I want to reference what Deputy Morel has just brought to our attention; he has spoken about leadership and leadership over the past 30, 40 years, particularly in connection with matters of the environment. I would like to tell the Assembly that I was elected in 2005, with our current Chief Minister, we were both Deputies of St. Lawrence and I really like our Chief Minister. He is an affable chap. We can chat to him on any matter and he listens to us. If you get a sense of *déjà vu*, Members, this is what I said really yesterday about our Minister for the Environment. I like them both. But where is the leadership from our current Chief Minister? I cannot believe that he stood in the Assembly, this morning, to say that he is going to reject part (c) of this proposition. I will read it, so that Members can be reminded of it: "The Chief Minister is requested to ensure that consideration of action to tackle climate change in Jersey is included as a standing item on the agenda of the Council of Ministers." What a simple and straightforward request that is to our Chief Minister. Please include this as a standing item when your Council of Ministers meet. He tells us that he is not going to do that, because it is an administrative issue, because the environment is down to other Members, who are leading on it, the Minister for Infrastructure, the Minister for the Environment, he may have mentioned somebody else. But, surely, this is the first Government that has the environment as part of its Strategic Plan, or whatever we call it now - I am old school, to me it will always be Strategic Plan - it is the first Government, we have all agreed with that. It should be up there. It should be being supported by our Chief Minister and every other Member of this Assembly and yet, for administrative purposes, it is being rejected by our Chief Minister as a standing item on his agenda. I would urge him ... he is with us now in the Assembly, he is smiling, I think he recognises that what he said earlier is probably an error. It is a mistake. I would urge him, please, to not reject this part of the proposition, but to have it as a simple task, if there is something to report, then so be it. The entire Council of Ministers should be advised of what is happening. There is no doubt that the proposition is going to be approved, as amended, but let us just reinforce to our Chief Minister, to our Council of Ministers, that we are taking this seriously and it should be a standing item on the agenda. I think I have ticked him off enough there. If the proposition is voted on, in separate parts, I will be watching how our Chief Minister votes. Just a couple of other things that I would like to say and really it is based on what Deputy Morel has just said. We are all responsible for not putting the environment as a priority within recent Strategic Plans. We must all - all of us who were here before this current Assembly - we should all be holding our heads in shame, because we did not include it within the Strategic Plan. Coming back to the proposition, who has brought it? It is a backbencher. We are only debating this, because Deputy Ward has seen fit to bring this forward for debate. Where is the leadership? I come back to that. Where is the leadership? Why has it not been brought forward by the person who is championing the environment in this Assembly and on behalf of this Island, our Minister for the Environment? He has been silent on the matter. I never heard him reference it when he spoke earlier. I am trying to remember, Sir, can you advise me please, has the Minister for the Environment spoken in this debate?

The Bailiff:

On this debate he has not, but no doubt he spoke briefly earlier.

The Connétable of St. Lawrence:

But no doubt he will respond as to why he has relied on a backbencher to bring this forward for debate. So, Deputy Morel mentioned we have all failed over the past 30, 40, 50 years. The warnings were there in the 1970s and, in fact, I think it must be 35 years ago, at least, that I was at school debating these very issues when we were talking about the use of the motorcar. That is quite an

old-fashioned term. Talking about the use of the car and the impact on the environment, the damage it was doing. This was the 1970s when I was at school and debating these matters.

[11:00]

I am in a fortunate position today to be debating, in our Parliament, in our States Assembly and being able to influence the outcome of the vote. I will certainly be supporting the proposition, as amended, and I thank Deputy Ward for bringing it, to allow us to have the discussion, while at the same time acknowledging everything that has been said regarding the difficulty there is going to be for us all in achieving anywhere near carbon neutrality within the Island. I listened intently to what the Deputy of St. Martin spoke to when he said how hard-hitting this is likely to be. In fact, it will be and this is the easy part and our difficult choices are yet to come.

1.2.13 Deputy J.H. Young:

I have to respond to the last speaker, but I want to start, before I deal with that - because that is a secondary issue - is to support the whole principle of the proposition. I am not going to go into detail, but suffice to say I think I wholeheartedly support the views that the Deputy of St. Martin has set out and the views of Deputy Ash. These 2 are strongly related. To achieve all the actions that the Deputy of St. Martin outlined - which I would absolutely commit to achieving as many of those as is possible - that will require us, as an Assembly, to face up to the realities of the choices that are going to be coming forward to the Assembly. I think they will start to come pretty soon, in July, in the draft Government Plan, in the plans that we discuss through the autumn. I think it is imperative that if we are to convert those goals into action that we do so. Now, it is fair to say that it has got to be a whole Council of Ministers issue, this. As Minister for the Environment, whoever holds the seat of Minister for the Environment, under our government structures at the moment ... which I think are, frankly, far from ideal and we are not that well-equipped and well-structured as a government to help us do that. Of course, I do have major concerns, as Members know, about the mismatch between the ministerial structure and the States of Jersey Law and our civil service structures that do things differently. There is a real issue there which can, if we do not sort it out - and it is urgent that we sort it out as a Council of Ministers - will lead to underachievement at best and at worst dysfunctionality, and I am concerned about that. So, all of us Ministers do have to ensure that we do our very best to work constructively together and the vehicle we have got to do that at the moment are the Common Strategic Policy work, which kind of underpins the whole Council of Ministers' work. So I, as one Minister with certain responsibilities, will do my best to do that. But, of course, I can see the case for co-ordination. I absolutely can see where the coming together in the end ... there is a purpose in reporting through to the Council of Ministers and ensuring there is a flow of information. That is rather mechanical. I do not know that I need ... I mean, I asked the Assembly to trust that I have the conviction and passion in the environment to see this through. I would not have put myself forward for this job, I am not a careerist and I think in the debate yesterday it all came out and I was absolutely delighted. I do not know that we need to go over that again. That is now our new goal. Now, I congratulate and I always have, Deputy Ward for bringing this forward. He was absolutely on the ball, because the first sign I think ... why did we not react earlier, well I think the first sign was in October last year, 2018, the I.P.C.C. (Intergovernmental Panel on Climate Change) international report provided ... well, like I said, and Deputy Morel has said 30 years ago, look, I certainly am aware of the general tendency of how important ... but when we started to see the clarity of the numbers and the increasing tone of those international reports, which I do not believe personally I have seen until that time, things started to change. What happened in Jersey is, I believe, that was pretty strongly instrumental in the adoption of environment as one of our common strategic policies. That is the work that took place in the autumn. Of course, then what happened is that certainly there was discussion with the Energy Forum locally, but internationally ... the theme was picked up

internationally and obviously with the young people spectacularly and David Attenborough and, suddenly, all of this has occurred in the beginning of this year. I congratulate Deputy Ward and I am very happy to have backbench Members lead. In my ideal States administration, I would not draw distinctions between Ministers, Assistant Ministers and Scrutiny and others. We should all work together [**Approbation**] I have never been a fan of this artificial structure that we have to work within. I suppose it does raise the issue ... I can remember when we had committees when all Members were in Government and we did work in teams and we were able to embrace initiatives, such as Deputy Morel's, as part of our structure as a Government and work together. That is now more difficult for us, but anyway that is a theme for another day.

The Bailiff:

I think it is, Minister.

Deputy J.H. Young:

But, nonetheless, I congratulate Deputy Ward and as a Minister I welcome input from other Members. I talk to other Members, I talk to Scrutiny as much as I can and I will carry on doing so, because only in that way, I think, can we advance and make up for the kind of procedural issues. So, I am 100 per cent behind this and I will be voting for it and personally I shall be voting for part (c) as well.

Senator J.A.N. Le Fondré:

Am I allowed to seek a point of clarification from the previous speaker?

The Bailiff:

Yes.

Senator J.A.N. Le Fondré:

It is a slight procedural device, because I meant to seek a point of clarification from the previous speaker and missed my opportunity, who is no longer here and if he could note that.

The Bailiff:

She is not here; that you cannot do.

Senator J.A.N. Le Fondré:

Could he just confirm that the principle around putting it on the agenda was not to make environment an administrative item, it is purely from the point of view of making sure we have focus when the Minister brought the matters back to the Council of Ministers. Could he also note that I concur with him and ...

The Bailiff:

This is a second speech, Chief Minister.

Senator J.A.N. Le Fondré:

... would he accept me in voting part (c) as well.

The Bailiff:

I am sorry, Chief Minister, that is a second speech. Can I say to Members that I have not heard, so far, anyone speak against this proposition and I really wonder about the usefulness of continuing to

debate something which it appears, with perhaps one or 2 exceptions, everybody agrees. I quite understand that there is spectrum of opinion on paragraph (b) and the voting on whether the amendment should be adopted shows that. But the real debate about paragraph (b) is going to come when the Minister carries out the process of producing the next plan, whether the policies are ambitious enough or not and Members, of course, are quite entitled to put their markers down now. But, the real debate on that is going to come when that comes out. I really wonder whether it is useful, given the agenda - and this is no derogation of the importance of the issue we have been discussing since yesterday afternoon - I wonder whether it is really useful to carry on this debate indefinitely when it is really expressing positions which are going to be taken up when the real debate comes back later on.

Connétable P.B. Le Sueur of Trinity:

I defer to your advice and I will not say anything.

Deputy M. Tadier:

Can we just clarify that the Chief Minister was the only person in the debate to speak partially against the current motion, in opposing part (c), so it is not quite true?

The Bailiff:

Well, I will not pass any judgment on which are the important parts of the proposition. Does any other Member wish to speak? Deputy Ward, would you like to sum up?

1.2.14 Deputy R.J. Ward of St. Helier:

I will be quick. I would like to thank Deputy Young for referring to political rhetoric because when I looked up the word 'rhetoric' it says: "The art of effective, or persuasive speaking, or writing, especially the exploitation of figures of speech and other compositional techniques." That is the sweetest thing you have ever said to me, thank you very much. [Laughter] Part 1 of this proposition is about setting the target for 2019. We must act now, we have 8 months to do something about this and I would invite the Minister along to the St. Helier group that is meeting - we met last night - and the positive nature of that meeting last night about coming up with solutions to make St. Helier carbon neutral, as quickly as we possibly can. We have a target, but that target we will reach as quickly as we possibly can and if we do not reach that target then we will be accountable to it. I have got to say, I come from a profession where we are accountable for absolutely everything, so we all need to be accountable for a lot more in this Chamber, so let us do it. I would like you to do that, please. You do not need to employ consultants in the way that you are saying, I object to the £300,000 figure, to be quite frank.

The Bailiff:

Through the Chair please.

Deputy R.J. Ward:

Sorry. I do not believe that we need to employ consultants; we have knowledge on this Island. Talk to the people who are outside, talk to the people on this Island who know about Jersey and know about its environment and are willing to take some action. We have people who are environmental planners, we have people who are ecologists, biologists, we have the lot there if you want to use them and they are specific to this Island and that is what we need to use. Now, in terms of part (b), I like a musical quote that will split the Assembly, I will quote Meatloaf: "2 out of 3 ain't bad." That is OK for me. I am disappointed in (b), but I will be holding you to account. I do not think fiscal

measures are enough; I think the whole of the Council of Ministers needs to take responsibility. Just as we are a corporate parent, we are a corporate parent to our climate and our environment and we all need to take that into account when we look at this. In part (c) I would like to, if I may, offer the Chief Minister a way out of this, which is to do something very simple. Invite young people to the Council of Ministers' chamber when you have that on your standing item and talk to them, because I heard some of the climate activists on a Friday out there speak eloquently, intelligently, with well-researched ideas and we need to be listening to them. If we are genuinely going to be a transparent Government and listen to children and put them first, let us listen to them, because it is their future and that would be such a positive thing for us to do. It would say to young people that politics is something you can be involved in and you will be listened to. So, there you go, that is what you do with part (c) of this proposition, a practical outcome to it. It has brought people together, it is remarkable. The Constable of St. Lawrence, accepting something from a Reform member; it is lovely to see and quite remarkable. The most remarkable thing is Deputy Southern agreeing with Deputy Ash. Well, I did not think we would ever see that, but there you go. I will say a couple of things that I must say, which is very important, the worry that Ministers do not have enough officer support to get this done, well, I am really sorry, but backbenchers have absolutely zero support for anything that we are doing. When we want to bring propositions, we do not even have the resources to sit anywhere and do them. So, something needs to be done if we are going to genuinely address a Government that is going to be thinking through and achieving the actions that we want. I make no apology for having passion in what I believe. I think it is very important that we have that passion and that will continue, because this is such an important topic. I would say to everybody here and everybody outside and everybody listening, yes, it is about what we do individually. Once you start to look at this and if there is genuine leadership from the Government about climate change, we do start to consider our own actions. We start to think about whether we need to have that car, whether we need to eat in the way that we do, or whether other options are available and we start to change. Once you make that change, it is a steamroller effect and we all start to improve our lives. I would say you do not have to be frightened of change. It is 2019, embrace it, enjoy it, it is much better to be on the right side of history than on the wrong side. In all of the economic worries that we have, the biggest economic worry we have in this Assembly is uncontrolled climate change, because that will change everything and you will not be able to buy your way out of that. We will not be able to economically adjust, or fiscally lever, your way out of that, so we need to act now and we need to take genuine, positive action in order to make the changes that are there. I would say we can prove to the people of Jersey that we can lead and we desperately need to do that. I am fed up with the phrase 'politician' being a bad word. I do not want that to happen.

[11:15]

If we lead the way on this topic, we can lead the way on others, we can make the change that is needed, we can change the lives of young people and we can change the lives for the future of this Island. So, I urge you to accept and I would like to take the whole proposition together, accept all 3 parts as amended and I call for the *appel*.

The Bailiff:

The *appel* is called for. The vote is on P.27/2019, Climate change emergency: actions to be taken by the Government of Jersey, as amended. It is one vote on paragraphs (a), (b) and (c) and I ask the Greffier to open the voting.

POUR: 40	CONTRE: 1	ABSTAIN: 0
Senator L.J. Farnham	Senator S.C. Ferguson	
Senator J.A.N. Le Fondré		

Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Bailiff:

Before we come to the next item on the agenda, I was asked yesterday afternoon, in the course of this debate and I left it over, because I did not want to interrupt the debate, for a formal ruling and a point of order. This was raised by Deputy Doublet. Do you still wish me to deal with that? [**Aside**] The point of order that Deputy Doublet raised, arises out of the exchange, which Members may recall, between her and the Assistant Minister for Treasury and Resources over whether Beaulieu discriminated against non-Catholics and Deputy Doublet asked me to rule, as a point of order, that the Assistant Minister for Treasury and Resources was inadvertently misleading the Assembly as the school's publicly available admissions criteria lists baptised Catholic children in priority to children of other faiths, or of no faith. Deputy Doublet was anxious to emphasise that, in requesting the point of order, that she is not asserting it was unlawful discrimination, but she did believe that it fits the

definition of lawful discrimination and, therefore, the Assistant Minister has misled the Assembly. It is true that ... I listened to the Hansard ... not the Hansard to the, whatever it is called, last night and it is true that the Assistant Minister did say that Beaulieu did not discriminate against non-Catholics. When Deputy Doublet raised the objection, he then said straightaway that the school may take Catholic families first but it does have - and he emphasised "does" - a substantial number of non-Catholic families and it would be wrong to make this a faith issue. In my judgment, this was not a matter which was central to the debate itself, although having said that, I can well see that the admissions criteria are a matter on which some people might think that was discriminatory and others not, given the statement which the Assistant Minister for Treasury and Resources has made. The question for me is a narrow one as to whether he was seeking to mislead the Assembly. I do not believe he was and, therefore, I do not make any order in that connection. I think this is a matter of people's judgment as to whether it amounts to lawful discrimination, or not and I understand the context in which the Assistant Minister for Treasury and Resources said what he did, which was that he did not think that the debate gave rise to a faith issue. That was a matter on which people may have different views but he was entitled to say that.

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

Can I just make it clear; I did say I thought the Minister was inadvertently misleading? I know that he would never seek to mislead this House.

The Bailiff:

Yes. I am sorry if I did not emphasise that, yes.

Deputy M. Tadier:

Could I ask just for the record - I think it is relevant - would the Deputy state whether she felt misled and whether she would have voted differently had that comment not been made? That seems to be the most ...

The Bailiff:

Whether?

Deputy M. Tadier:

Would the Deputy have voted differently had that not been said? That seems a test, because it seems to me that, in the future, there are all sorts of things that get said in the Assembly inadvertently, which might be factually incorrect and we would not want you reporting on those every time, so it might seem that in cases where somebody feels misled and would have voted differently that is perhaps the right type of bar to use in future.

The Bailiff:

I think that is a subjective approach, Deputy, which I do not think would be right, because it would give rise to all sorts of difficulties in the future, if that were to be the test which is to be applied. It is an objective assessment which has to be made.

2. Draft Amendment (No. 39) of the Standing Orders of the States of Jersey (P.29/2019)

The Bailiff:

We now come to P.29/2019, which is Draft Amendment (No. 39) to the Standing Orders of the States of Jersey, lodged by Senator Farnham. I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Amendment (No. 39) of the Standing Orders of the States of Jersey, the States under Article 48 of the States of Jersey Law 2005, make the following amendment to the Standing Orders of the States of Jersey.

2.1 Senator L.J. Farnham:

For the avoidance of doubt, this proposition is being tabled to encourage change. It has been tabled to enable reform, to force Members to work together collectively and thoughtfully, to blend their views together with the interests of all Islanders into properly considered sustainable reform of our political system and the constitution of the States of Jersey. In my report, I make reference to the practices of a number of other countries and jurisdictions in relation to what is required to change their own constitutional arrangements and that terminology should not be confused with our own constitution of the States Assembly, as set out in Part 2 of the States of Jersey Law. Notwithstanding that many countries and jurisdictions, large and small, have super majorities built into their criteria for approval, for democratic reform and amendments to the makeup of their legislatures and many have a threshold consistent with the two-thirds that I am proposing today. What I am asking for is by no means extraordinary or undemocratic and is common practice in many other places. To leave such important changes to be approved by, potentially, just one vote of a simple majority, 25 to 24, in our case in this Assembly, which directly impacts upon the fundamentals of how Islanders are represented, how their interests are protected, or how they can vote would, in my opinion, completely undermine the importance of this subject. To be absolutely clear, this amendment to the Standing Orders of the States of Jersey changes the number of votes that are required under Standing Order 89A for a proposition to be adopted that (a) alters in any way the membership of the States, (b) lengthens, or shortens, the term of office of any class of elected Member, or (c) alters, adds, or extinguishes, the constituencies of any class of elected Member, so that any such proposition shall not be adopted unless at least 32 Members of the States vote in favour of it. As a new, modern and more representative Assembly - which I believe we are - it is likely that we will soon be called upon to deliberate over propositions brought by States committees and Members on important issues that will impact upon the make-up and constitution of the States Assembly and our electoral system. Since writing that short paragraph, we have had no fewer than 3 such propositions with amendments and the prospects of more to come. I know that some Members will think, or say, that this proposition is an attempt to prevent reform, when in fact it is just the opposite. I say that, because having endured - yes, we have endured - over 50 attempts, since the publication of Clothier, on such matters with the only notable outcome being that we have managed to reduce the number of Members elected by Island-wide mandate - arguably the most democratically elected office in this Assembly - from 12 to 8. That is pretty much what we have achieved with a simple majority. It is probably worth reminding Members that that was done, without the knowledge, or the permission, of the electorate and was, if my memory served me correctly, largely to facilitate the move to a single election day, because it was deemed that the electorate were not capable of voting for 12 Senators on one ballot paper. Guernsey might disagree, as they will shortly be electing all of their 38 members on an Island-wide vote on a single ballot at their next elections and that will be an exercise worth observing. It is clear the efforts to reform have simply failed under the current system, because with a simple majority there is always a slim chance of scraping something through. This means that there is no collective thinking required by which I mean 'collective' as in the whole, or at least most, of the Assembly being involved with working up such ideas. There is no incentive to work together, to find a consensus. There is no necessity to work together and this has led to a myriad of disparate

propositions that we have seen in the past and we are likely to see in the future and the bringing back, time after time, of the same ones, or very similar ones. Any change to the democratic rights of the individual is significant and will be of relevance to all Islanders and this is confirmed by the MORI Poll, outlined in my report, conducted by the former Corporate Services Scrutiny Panel in 2017. It would, therefore, not be satisfactory for a proposition to be passed, perhaps just after 4 weeks' notice, on a simple majority, or by perhaps a single vote, as such an outcome would surely deepen the low regard in which this Assembly is held when it comes to matters of reform, because, with a simple majority on such matters it is highly likely that the result would not be representative, or reflective, of the electorate view. I refer to the Privileges and Procedures Committee's forthcoming proposition, which seeks to remove Constables from the Assembly, among other changes. Their membership is there by automatic right, notwithstanding the strong desire to retain the Constables, as reflected in the 2014 referendum result. I am also tempted to refer to the process followed by the U.K. in relation to Brexit, which was won by a wafer-thin majority and reflect upon the impact that such a process can have on such a monumental decision. One thing that must also be made very clear is that these are matters of substance and of great importance for current and, importantly, future generations. The decisions we make today in this Assembly will alter the democratic rights of all individuals and will dictate how Islanders are democratically represented and governed, long after the current membership has moved on and I, therefore, believe that a far more considered and consensual approach is essential, to ensure that we introduce the change that is in the very best long-term interests of our Island. This proposition, if approved, will force Members to work harder, in a more considered and collaborative manner. It will force Members to work together, to search for solutions for the reform necessary to ensure that we maintain a modern, well-respected, secure and stable democracy. Look what happens when we do work together to find common ground and there are some good examples of that. Most recently, I will use the example of P.18/2019, the draft Commissioner for Children and Young People (Jersey) Law, debated on Tuesday. It seems such a long time ago now, already.

[11:30]

That was a great example of this Assembly working together, when there was a difference of opinions between the Minister, the Government, the Assembly and Scrutiny and what happened? Everybody got together and they came up with a compromise. It was not perfect, but it was a good compromise and it allowed progress and when that does happen, we normally get those propositions through unanimously. Would that not be good, for us all to work together, collectively, on a proposition to reform our Assembly and none of us might think it is perfect but, as they say, the enemy of a good plan is to dream of a perfect plan and some of us, most of us, would have to give ground on certain aspects, but we would move forward. Would that not be an achievement, because reform is something that will be evolutionary? It is not something we can do year by year and chop and change on the whim of a Member, or group of Members, who think they have got a chance of scraping something through, depending on the make-up of this Assembly at the time. These things have to be based on maintaining our stability. Jersey is renowned for its secure and stable political system. Our past success was and our future is dependent on that. At this time of significant external threats and uncertainty, it is more important than ever to maintain that stability. Simply put, it is time to put the interests of all Islanders and future generations before our own personal interests and our own political agendas and, to that end, I respectfully ask Members to support this proposition.

The Bailiff:

Is the proposition seconded? **[Seconded]** It is seconded. Very well, I call on Deputy Labey, Chairman of P.P.C.

Deputy K.F. Morel:

Sorry, if I may just pause. I was wondering if I could ask for clarification of the Solicitor General, just because it is fundamental about the argument that the Senator is trying to make.

The Bailiff:

What, do you object, Chairman?

Deputy R. Labey:

No, that is OK.

Deputy K.F. Morel:

The proposition asks us to amend Standing Orders, effectively, where aspects, which are the make-up of the States and people, who come together in a States Chamber, so in that sense it is asking us to change the constitution of the States Assembly. In his report and in the argument that is presented by the Senator, he likens his points to the national constitutions of Albania, the U.S.A. (United States of America), Estonia and various others. I just wanted to understand, because in my head I am vexed by this. I have been for a while. There is a fundamental difference between a constitution of the States Assembly and the constitution of a state and a nation and I am trying to understand and to have the clarification of whether there is a difference and if so ... I am grateful for that.

Mr. M.H. Temple Q.C., H.M. Solicitor General:

It is correct that Jersey is not a nation state, but, nevertheless, it has its own democratically elected Assembly and it has its own law, which has been approved by Her Majesty in Council, which governs the constitution of that Assembly. Like the U.K., and not those other jurisdictions that are mentioned in the Senator's proposition, Jersey does not have a written constitution, but that does not mean, in my view, that a change to the Standing Orders, which deal with constitutional matters, is not a constitutional issue. In my view it is. In my view, if one looks at the States of Jersey Law, that is perhaps not all of it, but pretty much most of it. It is a constitutional statute. While the U.K. does not have a written constitution, I am aware of case law - which I am not sure that it is necessary to go into for the present purposes, but I am aware of case law - where the court has found that a particular statute in the U.K., despite it not having a written constitution, but a particular statute is a constitutional statute and applying the reasoning of the court from those English cases and looking at the States of Jersey Law and if one looks at, for example, to the preamble and the long title to the States of Jersey Law, I think that it is pretty clear that it is a constitutional statute applying the reasoning of the courts from England and Wales. So, the long title of the States of Jersey Law ... it says: "That it is a law regarding the constitution and proceedings of the States to declare and define the powers, privileges and immunities of the States and to establish a ministerial system of government." Then the preamble goes on and says: "Whereas it is recognised that Jersey has autonomous capacity in domestic affairs, it is further recognised that there is an increasing need for Jersey to participate in matters of international affairs. Whereas Jersey wishes to enhance and promote democratic accountable and responsive governance in the Island and implement fair, effective and efficient policies in accordance with international principles of human rights." If one goes on to look at the remainder of the law, which I am not sure it is necessary to do so for present purposes, but certainly applying the reasoning of courts from England and Wales, looking at the States of Jersey Law, in my view, it is a constitutional statute. So, in terms of amending the procedures of the State Assembly, which are, after all, established pursuant to the States of Jersey Law, it is entirely open for the Assembly to amend its constitution. This is a constitutional issue.

Deputy S.M. Wickenden of St. Helier:

Could I ask a follow up question from what the Solicitor General has just told us?

The Bailiff:

Yes.

Deputy S.M. Wickenden:

If the States of Jersey Law is considered our constitution would, by passing this amendment, mean that any future changes to the States of Jersey Law need a super majority?

The Solicitor General:

I did not say that it was our constitution. I said it was a constitutional statute and it follows from that that not every change to the States of Jersey Law is necessarily a constitutional issue, because, for example, there are ... say, take the offences in the States of Jersey Law. There is an offence, I think, for publishing false material, which has a statutory tariff of up to 3 years' term of imprisonment and if, for example, the States wanted to amend that to 5 years, it does not seem to me as though that is a constitutional issue. But what, as I understand, the proposition is doing, is limiting the effect of this amendment, so that one reads ... it changes Article 89(1)(a) of Standing Orders and leaves 89(1)(2) in place, so that it is saying that only changes, which alter in any way the membership of the States, lengthens, or shortens, the term of office of any class of elected Member, or alters, adds or extinguishes the constituencies of any elected Member. So, it is only saying that it applies to those. Well, in other words that the existing 89A(2) of Standing Orders remains in place.

2.1.1 Deputy R. Labey:

I am sure we are all grateful to the Solicitor General for that and of course the words “constitutional” and “unconstitutional” are bandied about in this Chamber very often, without a full understanding because a constitution, how something is made up, how it is completed, how it is assembled, is something which the Solicitor General has described and something which the Assembly is at liberty to amend, as it chooses. A constitution, in the sense of the United States of America, for example, which begins with 3 very important words ... probably the 3 most important words on any statute in the United States and I wonder if the Senator, who is proposing this proposition, knows what those words are. “We, the people.” Because, the constitution in a United States context sets out the people’s rights and that is why any change to that constitution has to go back to the people, to be changed. We do not have that. We do not have anything approaching that and it is important that people recognise that distinction. The Senator’s proposition provokes timely reflection on the reckless abandonment, the dangerous, radical decisiveness that has characterised this Assembly’s decision-making over the last 50 years. He calls for a period of calm stagnation - perhaps appropriately - for a period where we can maintain and preserve, in political aspic, our idyllic *status quo*. If those scenarios chime with any Members of this Assembly, then they must vote with Senator Farnham. While they are doing so, they might, perhaps, explain to us all about the parallel universe that they have been living in over the last half century, because, as we know, that is not the picture. It would be a shame, would it not, if this debate was to turn into a debate on the latest set of electoral reform proposals that are before us and will be debated in the coming months, because that is not what this ... clearly they played a part in spurring the Senator to bring this proposition. I mean, I think that is nakedly obvious, but it is not right to debate that proposition now, is it? We are talking about whether we should have a two-thirds majority before changing anything. I think this comes at completely the wrong time and is completely misguided and, as Mr. Miller of Radio Jersey summed up so perfectly this morning on the radio: “There is a feeling in this Assembly that transcends political colours, that transcends whether one is in the Executive, or whether one is a backbencher.” That *zeitgeist*, if I might call it that, is about the assault coming from all sides on the sovereignty of this

Assembly. Sometimes, that assault comes from within, if the Executive does not enact a proposition this Assembly has passed. Sometimes, I think, Members are feeling that that assault is of our own making, in terms of the structures now in place with the administration of the Island and the effect that is having on both the Executive and decision-making and information in this Assembly and there is constant assault on the integrity of the sovereignty of this Assembly from all quarters. Members, I feel, are waking up to that and are flexing their muscles and allowing the Assembly to start to flex its muscles and this is coming at exactly the right time. This is really important for this Assembly. I believe principally important for this Assembly to grasp. Grasp its own sovereignty, the importance of what we do here and the democratic implications of what we do. Everything we do in this Assembly is a response to the people who put us here and it is time that the Assembly did wake up and did flex its muscles and assert its sovereignty, because we are on a rocky, dangerous road, in my opinion. So, this runs contrary to that, because what Senator Farnham is doing is diluting the power of Members, individual Members and it is an insult to ... unwittingly, it is an insult to Members and more importantly to the people, who put Members here, to say that a majority of Members is not enough.

[11:45]

A simple majority of Members is not enough for something to pass through this Assembly. It absolutely is. It absolutely must be. That is democracy. If we had a political constitution, a political system that was as near to perfect as we could get, there just might be some merit in Senator Farnham's proposition, but we do not have that. Whether Members agree with the proposals before them from P.P.C., that we will be debating in 2 or 3 months, or longer, whether they agree with that, or not I think there is a general agreement that our system does need some reform. Most of the important propositions on electoral reform have come to the Assembly as a direct response to learned advice that we have commissioned, either from important Q.C.s (Queens Counsels) like Sir Cecil Clothier ... no, he was not a Q.C. He was an important former civil servant, was he not and diplomat, but an important, learned, well-considered ... a commission that was set up in terms of the Clothier Commission with lay members of the Island on that commission too and the blueprint that that provided in 1999, or 2000, a shadow of that still hangs over the Assembly. That informed, of course, the electoral reform debates that immediately followed it. Similarly, with the P.P.C. proposals, they are a direct response to, again, experts that were invited here by the Assembly and paid for to come and look at our system and tell us where we were going wrong. The fact that we do not have a sensible voter equity and voter equality and that we have problems in terms of a low voter turnout and the fact that so many Members return to the Assembly without facing a contest; all of that they say undermines the principles that democracy in Jersey ... that elections in Jersey are fully genuine. So, that is not the time, is it - whether you agree with that, or not - that is not the time to suggest we put the brakes on any kind of reform? What this will do, obviously, it will prevent any progress in that respect. It will prevent that. It is very hard, as I am finding out, to reach a consensus. P.P.C. has been working hard to do that. I mean, I went as Chairman of P.P.C., I asked myself to be invited to the Council of Ministers, to discuss the latest reform proposals and it was a very rough ride for me. It was very heated at times. One particular Member there was forced to come and see me after and apologise and I said: "It is absolutely no problem. Emotions run high with this." I did say at the end of that meeting: "There is no point in telling me what you do not like about the reform proposals that I am bringing to you. What is important is that you tell me how you would respond to the latest set of advice from the electoral observers that we received. It is very easy to pick on the thing that you dislike most about a certain thing and say that destroys the whole concept. Do not tell me that. Tell me what you would do. Tell me what reform you would do." Senator Farnham will not mind me saying that ... in his summation he said: "Well, I like the Senators. I like the Deputies. I like the Constables." **[Aside]**

Senator L.J. Farnham:

Some of them.

Deputy R. Labey:

The categories. So ...

The Bailiff:

Chairman, come back to the proposition please.

Deputy R. Labey:

Sorry. I asked for that I am sure. This would be a dangerous and ludicrous thing to do at this time and Members must reject this proposition.

The Connétable of St. John:

Could I have a point of clarification? The Chairman started by saying: "We, the people" as part of the American constitution. Does this mean that he endorses that changes should be subject to a referendum?

Deputy R. Labey:

It depends what changes those are. **[Laughter]**

The Bailiff:

Senator, before you speak ... Chairman, can I just correct you? Sir Cecil Clothier was in fact a Q.C.

2.1.2 Senator S.C. Ferguson:

I think we ought to go back to the beginning. Why did the States, in 1948, not follow slavishly the Westminster model? Looking at the structure of the States as it was, or as it was decided, we ended up with Senators for 6 years. Half of them elected at each election and it is obvious from this ... well, it is apparent, anyway, that they used the United States model. Interestingly, as you will note from the report, the States require ... sorry, I will try and distinguish between the States and the United States. All right, the Americans require a two-thirds majority to change the constitution. Now, I know Clothier gets sort of held up for us, but Clothier was working to the Westminster model, as adapted by the E.U. (European Union) and was looking at the structure of a district assembly, a county assembly, which is very much the Westminster model and we are looking at something that was influenced by the American model. The House of Representatives, for instance, is re-elected every 2 years and the number of congressmen per state is proportional to the size of the population. So, you will get an equality of votes. However, the senators ... there are 2 senators per state and it does not matter if it is Rhode Island, California, Ohio, Idaho, you name it, there are 2 senators, a junior and a senior and one-third of all senators are re-elected every 2 years, which ensures continuity and this is what we used to have with the way we were dealing with our Senators. We had a very much more stable Government, because half the Senators had the experience, so we could hit the ground running. As an interesting sort of postscript, congressmen have to be 25 years, or older, so that will rule out some people and senators have to be 30 years, or older and that will rule out some other people. So, I wonder why Deputy Labey has not included that particular little stricture ... I am sorry that Deputy Labey is not in the Assembly but, perhaps, his Vice-Chairman would note it to add to his reform proposition. I mean, basically, what I am saying is that ...

The Bailiff:

Excuse me, Senator, we are about to go inquorate.

Senator S.C. Ferguson:

You mean I can have 2 speeches?

The Bailiff:

Well, you would not be the first but ... I think you may now continue.

Senator S.C. Ferguson:

So, I mean, basically, we have got to stop looking at this in the Westminster model. The Westminster model, as we have all seen for the last 3 or 4 months over the Brexit debacle ... it is a good word that Deputy Morel came up with. I am sorry he is not here to hear me pick it up, but anyway, I am not sure that Westminster is probably the best model in the world to follow. I happen to like the American approach and I would ask ... I agree with this particular proposition and I would ask the P.P.C. to go back and just look at this, the whole reform, in light of what our forefathers, in 1948, had in mind when they reformed the States after the war.

2.1.3 Connétable K. Shenton-Stone of St. Martin:

I will be supporting this amendment on the grounds that the need for a constitutional change to the Island must be delivered with the maximum competence of the Assembly. We should not and cannot sustain the idea that fundamentally and transformative policies should be passed by the narrowest of majorities. I would just like to say that Deputy Labey is a brilliant speaker. He is a very good raconteur and I would also like to say that we have listened to the people. We have had referendums where the public's wishes have been firm to keep the Constables and have the Bailiff remain in power and these public's wishes have been blatantly ignored. So, please do not tell me that voting for this amendment is going against the public. Deputy Labey says that we need to listen to the people, but if a referendum does not suit certain Members, we are then ignoring the people. Maybe others are living in a parallel universe, but I am firmly in this one. I listen to constituents and parishioners and a wide selection of ages and affiliations and they see merit in this proposition. They really do. So, again, I will be supporting this amendment and I will restate it on the grounds of the need for a constitutional change to the Island must be delivered with the maximum competence of the Assembly and we should not and cannot sustain the idea that fundamentally transformative policies should be passed by the narrowest of majorities. I am happy to support Senator Farnham's amendment and I urge others to do so.

2.1.4 Deputy S.M. Wickenden:

I thought I must. It was a very nice speech by the Senator on opening this up. It was great. This is here to enable change. We have had 50 propositions that have tried to change this Assembly in the current system, which is just a majority that have failed and that is not good enough. Let us make it harder. Let us make it a super majority, because they have not got through anyway. You know, it is already a very hard thing to do in this Assembly, which is to make an argument for change. It is not an Assembly of change here, or progression. OK, a super majority, let us all work together. Let us collaborate more, work together to get things done. Should we do this too, for the Government Plan, the Strategic Plan, things that tax our Islanders; should that not be a super majority as well? Would the Senator, in his summing up, say whether he would support a change to Standing Orders to make serious government ... proposition changes have to be a super majority, because we can all work together, better in that way. Would the Senator support that? Should it not, if we are going to change the taxes for the people of this Island, not be something that should be a super majority, as well? Should the Government Plan on how we are going to spend money and the Public Finances Law on

how we are going to spend that money; should that not be a super majority, as well? If we are going to go down a route of saying: "This is a good thing if we want to do a super majority in voting." Let us do it for the stuff that really matters to the people of this Island. Why not? I am sure that would not be supported by the Council of Ministers to put anything that they want to do as a ... make it more difficult, more inclusive, should I say, as the Senator's words? I think this is a wrecking motion to stop change. I think this is a Senator, who is scared that in this current Assembly it is more likely that change may happen and the Senator is scared that he has not got the power of conviction to make the argument strong enough to get his majority, just a majority. Therefore, let us make it harder for everyone else. There is fear in this proposition. There is not inspirational change. There is fear. It should be wrong. I am not voting for this and I do not ask other people to either.

2.1.5 Senator S.Y. Mézec:

I am loath to contribute in this debate, frankly, because I would hope that it would be a fairly quick rejection from this Assembly, because of what it is seeking to do. The Senator says in his report and in his speech that this is a proposition which somehow exists to enable and facilitate change, when it has got to be quite obvious that it will achieve the precise opposite.

[12:00]

I completely agreed with what the Constable of St. Martin said about taking the public with us and how change has got to reflect what they want, but what this will do - because this I think goes conversely against what the Constable was saying - what this will do is, it will give a veto to the minority. It will say that even when there are 31 Members of this Assembly supporting change, then a minority can veto it. That must, surely, be wrong, especially when that minority themselves may be completely divided upon what they think the solution is. That, I do not think, by any stretch of the English language, can be described as democratic and I think it comes from a place that misunderstands what a constitutional issue in Jersey is. The report lists several countries that have government systems, which are completely different to that which we have in Jersey. The American system is vastly different to what we are used to in Commonwealth jurisdictions. They have a constitution, where you have to go through a very convoluted process to change these rules, whereas Jersey has an unwritten constitution. I thought what the Solicitor General said before about the distinction between what is the constitution and what is a constitutional statute is something I think we would all do well from considering a bit more, to help understand these issues. It is not just the States of Jersey Law which could be called a constitutional statute. The Jersey Human Rights Law is a constitutional statute, a law that enshrines the E.C.H.R. (European Court of Human Rights) in Jersey and gives us rights; rights such as the right to life, the right to privacy, the right to take part in free and fair elections, the right to have an independent judiciary from which to get justice. I asked the Solicitor General for a bit of advice, just now, about where the definition of a constitutional statute would come from or, more specifically, when there is a statute, which has some issues in it which are constitutional and some which are not - because there are large swathes of the States of Jersey 2005 Law, which are not constitutional in nature - I asked him to provide me with an authority that would help explain what criteria you have to fulfil for something to be constitutional. The Authority comes from the case of *Thoburn v Sunderland City Council* from 2002 which has part A and part B, to help us get to what is a constitutional statute. Part A is: "Something that conditions the legal relationship between citizen and state in some general overarching manner." Part B: "Something that enlarges, or diminishes, the scope of what we would now regard as fundamental constitutional rights." Well, it is obvious that having the right to vote is a constitutional right. It is one that is enshrined in Jersey Law, European Human Rights Law, but what does your vote look like if we were to say, for example, talk about the Parish of St. Clement, which is currently underrepresented in the States. If you were doing it by population, it should have 3 Deputies, rather than 2. If we were to bring a proposition

that left everything else unchanged, but said St. Clement should have 3 Deputies, is that a constitutional issue? The answer is: no, it is not, because it does not do what is referred to in *Thoburn v Sunderland City Council*, which conditions the legal relationship between the citizen and state in some general overarching manner, because that relationship between a parishioner in St. Clement and the States of Jersey would remain identical. The only difference is that they would have 3 votes instead of 2. The difference between 2 votes and 3 votes is not the same as the difference between having no votes and one vote; that is the distinction. That is when it would become a constitutional issue, in my view. The fact is that we have had, as the Senator said, 50 attempts to change parts of the States of Jersey Law, which have failed and he says we need to come together and act collectively with some collective thinking, as if this is somehow a new idea. Has nobody thought of that before? Well, of course, they have. I served on the Privileges and Procedures Committee in the last Assembly, where we tried desperately to bring a proposition to reform the composition of this Assembly and that was very much an exercise of collective thinking. You had both myself and Senator Philip Ozouf on a Committee. You do not get more collective than that, frankly, and it reached a process where we simply could not agree, so nothing came forward. It was not that people did not approach it the right way, because we certainly did. We put our differences aside. We attempted to compromise. My views on issues of the composition of the States are well-known. I do not support - I am sorry to say - the Constables remaining in this Assembly, but I have voted for propositions, in the past, that have kept Constables in the Assembly, as my attempt to compromise and say: "Well, as long as there is progress in other areas I am happy to do that." But, even still, this Assembly could not, by simple majority in the end, bring a proposal forward to be enacted in time for the last election, even though the one that was on the table was about as modest an attempt at reform as it is possible to get in terms of how it sought to change the constituencies. So, it is my contention that Schedule 1 of the States of Jersey 2005 Law cannot be considered, in my view, a constitutional schedule, because it does not change the relationship between the citizen and a state; it simply alters the practicalities in that, whether somebody has 2 votes, because they live in this Parish, or whether they have 3 votes, because they live in this Parish, the relationship is fundamentally the same. You still take part in an election. You still have people represent you and the jobs that those representatives have when they sit in this Assembly remains completely unchanged. If we change Schedule 1 of the States of Jersey Law, the job of the States of Jersey is not changed at all. We are still the law-making body of the Island. We still appoint the Executive. Everything remains completely unchanged and that relationship between the public and our institutions is the same and so I do not think it can be considered a constitutional issue for that reason. Of course, there have been quite drastic changes that have been made to Jersey's constitution arguably over the years; the Human Rights Law being one of those. That did not require a two-thirds majority. That did not go to referendum. So, what I say to States Members is that I hope we can accept that this is an attempt to make it harder to achieve reform, whether it is coming from a good place, or not, when there is a desire for change out there and if that change is to be more modest than many people would like it to be, then we should at least try and get a majority of people on board and to say that 31 Members can support something, but a minority can oppose it ... in fact when this Assembly does not have full attendance, it could end up being a very small handful people that could prevent change. That cannot be described as democracy. So, since this would have, I think, a negative impact on us working together to try and achieve change and try and better represent the people who put us in this Assembly I would urge Members to reject this proposition.

2.1.6 Deputy G.C. Guida of St. Lawrence:

It is funny that with this proposition we have stopped talking about the referenda. One of the first large debates that we have had since we were all elected was about such a referendum and I had to go back home and read the Hansard, because of the things I heard about how they were very important, why would you ask the people, why would the people understand this and we ended up in

a very important question, which could have been solved with a referendum. I think no, we really do not want a referendum. We will just set this aside. How can we talk about representation when we can ask, physically ask, everybody in the Island ...we set it aside and say: "No, we are representative. We are going to vote and that is fine and we do not need to ask the people." If any question like this arises, do ask the people. If we are in doubt, if we are 25 to 24, do ask the people. You will get an answer. You will get a definitive answer. Why do we not use that? I do not understand it. Certainly, if we say it is expensive, it takes time, it is difficult; in that case, make sure that the decision taken in this Assembly is an absolute majority. If two-thirds of us agree on something, we can estimate that the people in general, all the people in the Island, will agree as well and if we are unsure, or if you are trying to push something and you feel that there is a blocking minority here, put it to the people. It should be easy to ask for referenda. They are going to be cheaper and cheaper and I think our communication with the rest of the Island should be improved. I will be voting for this proposition.

The Bailiff:

Before I call on the next speaker, can I say to Members, who are outside listening to the debate, that we are on absolute minimum for being quorate and it would be helpful if some Members would return to the Assembly, as there may be those present who might need to go out shortly?

Deputy R.J. Renouf of St. Ouen:

If I may, I would like to ask a question of the Solicitor General and it follows on ...

The Bailiff:

I am sorry, are you making a speech, or asking a question, or both?

The Deputy of St. Ouen:

No, I would like to ask a question first.

The Bailiff:

Yes, fine.

The Deputy of St. Ouen:

But I would like to explain my thoughts in the question. It is a question and it follows on from the advice given some minutes ago by the Solicitor General around the States of Jersey Law 2005, which I think he told us was a constitutional statute and which, I note, was approved by Her Majesty in Council, as it would have to be and I have just looked up the preamble to that law, which states that it is a law regarding the constitution and proceedings of the States to declare and define the powers, privileges and immunities of the States. Under that law, the States were given power to make Standing Orders. So, my question to the Solicitor General would be: what is the status of the Standing Orders made under the law? Do they have capacity to make an amendment of the nature requested by Senator Farnham, which would appear to me to make changes to the constitution and, if they can make that amendment, can or should such a change be made without reference to Her Majesty in Council? I note that Article 48 of the law relates to Standing Orders and Article 48(1) says: "The States shall make Standing Orders to give effect to this law [and I emphasise the words 'to give effect'] and to regulate their proceedings and businesses", and I think of the word "regulate". So, my question is: can Standing Orders go further than giving effect to what is already in the law and can they go further than regulating pure proceedings and business, because what follows in Article 48 is just a long list of requirements that the States establish committees such as P.P.C., a planning

committee and establishes a scrutiny process. There is nothing in that Article that suggests to me that Standing Orders can be used to make what would appear to be a constitutional amendment. Therefore, in summary, my question is: is this a proper procedural way of making the amendment sought by Senator Farnham, or are Standing Orders much more limited? I am grateful.

The Bailiff:

Deputy, can you make plain to the Solicitor General what you say is the constitutional amendment because, from the Chair, I can say that my construction of this proposition is that it changes the numbers, but it is no different, in principle, to what is in Standing Order 89A at the moment?

The Deputy of St. Ouen:

Yes, I had thought of that, but I would, perhaps, even begin to question the capacity to create that super majority within Standing Orders, because it does alter the powers of this Assembly. It does alter the voting rights of Members, so that a certain majority has to be achieved, so the proposer has set forth in his report to the proposition the constitutions of other countries in which it is written into their constitutions that certain super majorities must be established. Can we do that by Standing Orders?

[12:15]

The Solicitor General:

I entirely accept that is a valid question to ask. It may be that I could benefit from a bit more time to reflect on it, but my immediate reaction is that the States of Jersey Law was one that was approved by Her Majesty in Council and it expressly states in the preamble to the law that it is recognised that Jersey has autonomous capacity in domestic affairs and that it is one which Jersey wishes to enhance and promote democratic, accountable and responsive government in the Island and implement fair, effective and efficient policies in accordance with international principles of human rights. Now, this amendment is to Standing Orders. Standing Orders are a matter for this Assembly. Now, who better to decide what is in the interests of the people of this Island than this Assembly? So, I would say that this Assembly has power. It is in its own hands to decide what its arrangements are to be in relation to Standing Orders. I know the language that the Deputy cited but, in my view, overall there does not seem to be anything that is offensive, or would limit the power of this Assembly to decide how best to govern its arrangements as regards votes. Now, is it offensive from a human rights perspective to do that? That is an important consideration that we would need to bear in mind. But my immediate reaction is I do not think that there is anything offensive from a human rights perspective in the amendment that is proposed. So, I think, while I am very happy to reflect on the Deputy's question further, the fact is that it seems to me that the States of Jersey Law is one where it is expressly envisaged that the States Assembly has autonomous capacity in domestic affairs. Now, this is clearly one of domestic affairs. The only consideration, it seems to me, that might limit that is one of fundamental human rights and, as I say, I do not see anything in the amendment that is proposed that is objectionable from a human rights perspective. I think that is the best I can do in terms of my immediate reaction to the Deputy's question.

The Bailiff:

Deputy, do you now wish to speak?

The Deputy of St. Ouen:

Can I perhaps reserve my position, in case the Solicitor General chooses to come back having reflected as he said he may?

The Bailiff:

You do not wish to speak?

The Deputy of St. Ouen:

Perhaps not at this stage, Sir.

2.1.7 Connétable R. Vibert of St. Peter:

I may not be able to speak as eloquently as some of my colleagues; however, I will support this proposition, having spoken to a number of parishioners who have urged me to do so. We talk of the will of the people, but following a number of referendums over the years we have totally ignored the will of the people on occasions. I recently had the privilege of meeting the Swiss Ambassador to the U.K. and I was impressed with his understanding of our government and constitution, something that he felt we should not change. He explained to me the parallels with their own system of government, with the Cantons effectively being similar to our Parishes and although they have a number of different houses within their government, the Council of State, which is one of the main bodies, only has 2 representatives for each Canton, no matter how large the Canton is and how many voters they have. So, I could see how he saw the parallels with our own system. However, the Swiss also require a double majority for any constitutional change; and how do they achieve this? They do not achieve it by a three-quarter majority or two-third majority. They have to have a referendum of all Swiss voters and there has to be a majority and that is legally binding. Then that is followed by a vote from the Canton representatives and unless both agree, the constitutional change cannot be made. If we had this sort of protection, there would be no need for Senator Farnham's proposition. But, we have clearly shown, as I have said, in the past to totally ignore the will of the people and the outcome of referendums. So, once again, I say for those reasons I will support the proposition and urge others to do so.

2.1.8 Deputy M. Tadier:

There have been some remarkable things that have been said all, I would say, under the guise of protecting our constitution. The first question: if the constitution is so important to some Members, why do they not write a constitution, so that we can all see it and we can present it to the public of Jersey, so we all understand it and we can all refer to it, before we decide on what rules we have in order to change that constitution, which does not exist in written form? Perhaps that could be something that the Comité des Connétables could do. Secondly, I heard a remarkable statement from Deputy Guida. Remarkable, because I do not think it can possibly be true, certainly not categorically so. He said that if you can get a two-thirds majority for something in this Assembly, then that must mean if it went to a referendum it would also win a referendum. Is that true? Let us apply that to the House of Commons. You could probably get a two-thirds majority in the House of Commons in a free vote, certainly pre-referendum for Brexit, to remain in the E.U.; you would probably get more than two-thirds, you would probably get a three-quarters, or a four-fifths majority in the House of Commons to remain, but yet if you put that to the public, you would get a different result and that is because the public and the Parliament do not mirror each other. We like to think that we are the microcosm of wisdom in this House, in this Assembly, because we have all come here in some ways, through various different routes, some through whatever system. I do not cast any aspersions on that, because once we are all here, we are all equal even if the power that we have and the representation we have is not equal. There was a remarkable vote the other day where I noted it was an amendment - I cannot remember off-hand which one it was - and we had 10 Constables who voted one way and

we had 2 Constables who voted the other way. Who were those Constables? So, the 2 Constables that voted against, or for, were the Constables of St. Helier and St. Saviour and the other 10 voted against, let us say. But, yes, that is half the Island, because the Constable of St. Helier and the Constable of St. Saviour represent half of the Island and the other 10, who today are getting to their feet in order to support this proposition, saying: "We do not want any change." So, that is the basis that we have and this amendment, which I am sure has been lodged for the right reasons, has to be put into the current context. It was not lodged a year, or 2 ago, when we were not necessarily talking about electoral reform, it has been lodged clearly in reaction to something to make it even harder for the much-needed change that we have. If you put the question to the public which says: "Do you think that the States Assembly is constituted and composed in a democratic and fit-for-purpose sense for the 21st century?" You would not need to worry about a two-thirds majority, because you would probably get a 90 per cent resounding: "No, absolutely we do not." Do you think that the numbers stack up and that there is fair representation given the example I have said that 2 Constables, representing half of the Island, can be outvoted by the 10 who represent the other half? It simply does not stack up. The analogy here ... do not get involved in legal questions. I literally did not want to speak in this debate. I know that is a cliché which is given. I genuinely do not think that this debate has the legitimacy; I would not want to legitimise this debate, but I have been brought to my feet by some of the specious comments that I have heard from speakers saying that they want to protect democracy. In fact, what they want to do is inhibit the democratic process, so that we have a truly fit-for-purpose system by saying: "Let us have a two-thirds majority." It would be bad enough if we said you have to have an absolute majority, that is what some areas do. If there were 49 Members in the Assembly, you need 25 irrespective. That is what we do, we already do that, so there is an in-built mechanism, so in the case that there would only be 43 Members, some out of the Island on States business, you would still need that 25. So, the arguments surely should be won on their merit. If Members are so confident that they are right, why not just use the simple system which says you have to convince the majority of your peers, in order to effect change and if it is a constitutional issue, by all means put it to a referendum. But, that is a completely different area. Do not fabricate these new ways and mechanisms to obfuscate progress, which is exactly ... if it is not designed to do that, that is certainly the consequence of what happens. I think the analogy is that you have a football team who is already winning the league. So, they have been winning all of their games anyway, because they have the best team, if you like, they have the numbers, they have the best pick of the bunch. You have got one team, which can only have a limited scope for picking their candidates and their players. The other team gets access to all the best players and gets first pick. So, they are already winning and they say: "But we want to change the rules even further, so that in order to beat us at this game, you need to score 4 goals, but we only need to score 2 goals." That is exactly what we are talking about today. You need to get two-thirds of the goals; we only need to score one-third of the goals to succeed in maintaining the *status quo*. The public will be looking at this, thinking: "OK, there are lots of other issues that can be debated" and that is a completely weasel argument, which I have heard being used and put out there in the media saying: "Are there not other important issues to debate?" Let us face it, there are so many important issues, some are minor some are major, and we have to deal with all of those things in the Assembly. It is not valid to say that one thing is more important, because people, being diverse, will have their pet projects, *et cetera*. Everything we debate here is legitimate. We decide how much time we spend to it and, frankly, we should not be spending that much time debating a proposition which makes electoral reform and so-called constitutional reform so much harder to achieve. Let us stick to what are the basic democratic principles. We are here to make the decisions on behalf of people. If we can convince half of the people in the Assembly, who have been elected to represent, that change is necessary - it is already difficult enough under this new system we have - let us stick with that. Let us not make it any more difficult.

Deputy R.J. Ward:

Can I ask a point of clarification? I do want to speak and I am not sure if it is possible that I can speak if I ask for a point of clarification as well.

The Bailiff:

You can ask the previous speaker to clarify a point that was made.

Deputy R.J. Ward:

It sort of is the previous speaker, but it is more about the proposition before I speak. I just wanted to check that this super majority, if passed, would be needed for the electoral reform proposals. That is the sort of constitutional thing we are talking about. I think it is important that there is clarity on that before we proceed.

The Bailiff:

The electoral reform proposals, as I understood, have the impact of reducing the numbers of Members to the States, so that would be caught by the Standing Order.

2.1.9 The Deputy of St. Martin:

The timing of this proposition is not good. If it sat alone in the middle of a period of constitutional calm, where changes were not being proposed and discussions were not being held, then maybe, but I have to agree that I do not think the timing is good. I still have not really made up my mind on this one I am listening to avidly. Yesterday, somebody said something to me which caused me to stop and think. They said: "When we come to important decisions, we should not have approvals limping over the line." I thought that was an interesting way to put it, because when you come to important matters, you need decisiveness, you do not want things limping over the line but then, of course, you sit back and think: "How many have limped over the line" and the answer is not very many. In the same way that, dare I say it, the Prime Minister in the U.K. recently has struggled to find anything which commands a majority; anything at all. It seems to me that many of the votes that I have sat through and listened to have struggled to command any majority. So, when you do find one that gets over the line by a simple majority, it is usually the very rare thing.

[12:30]

How hypocritical it would be today if this proposition, itself, succeeded by one vote, when it is proposing the serious changes which it is talking about is a two-thirds majority. I cannot pretend to even begin to use colourful language, or culinary language, like Deputy Labey but I am going to agree with him. Unless somebody can persuade me otherwise between now and the vote, I am unlikely to be supporting this proposition.

2.1.10 The Deputy of St. Ouen:

I rise now, having decided to speak, not to repeat previous points, but just to reflect further on the question I asked. Because it seems to me, even though this may be a legitimate means for the proposer to proceed by seeking an amendment to subordinate legislation, I do not think it is at all appropriate, because we are talking here about serious changes, constitutional changes, if you like, which I consider should be brought forward in primary legislation, if we are to treat them seriously, if this is a genuine attempt to safeguard rights and privileges. In the primary legislation, in the way we make laws, that is subject to a scrutiny process and ultimately that is subject to Her Majesty in Council. We need to assure Her Majesty in Council that all appropriate checks and balances have

been followed and this is a proper legislative proposition. But, instead, we are seeking to make this change through an amendment to Standing Orders, which are there to give effect to something that has already been approved in primary legislation, not to make this sort of fundamental change. The Standing Orders is to regulate proceedings and business within the States. It seems to me this goes far further than just regulation of proceedings and business. I know it may be seen as just a measure to determine a vote and what must be successful for something to succeed, but it is something that other countries enshrine in their written constitutions and it is something that other countries submit to referendums when they wish to make such serious change. We are proposing to make it just by an amendment to our subordinate legislation and, to me, that does not seem at all an appropriate or dignified way, frankly, for a legislature to proceed. If only for that reason I cannot support the proposition.

2.1.11 Deputy R.J. Ward:

I was elected in a first past the post-election and I was elected. When I stood on the doorstep, trying to speak to everybody in the Parish, I did not say that when I was in the Assembly I would need a two-thirds majority for anything that really significantly affects their lives. It was a simple majority and I think Islanders know that. Now, 19 votes against any proposition here would end that proposition, because you would not have a two-thirds majority. There are 12 Constables and there are 8 Senators. We have to raise those numbers and so when we talk about change to the electoral system, we are immediately setting ourselves up to ask people to vote against themselves to have any chance of any change being made. It is clear, regardless of whether you like the numbers, or not, that we are not truly equally representative of the people of this Island when we are elected, because of the constitutional boundaries and the numbers being insufficient. It has been said to us so many times, it is so obvious anyone can work it out and we have to do something about that. But, if we adopt this proposition today, we will tie our hands and perhaps leave it so that we can never make a change to that democratic process, which is so necessary, which I also believe is a catalyst to why people do not vote because they do not believe they have a say, particularly in St. Helier and we need to change that. This is a very dangerous proposition that seeks, I believe and people outside this Assembly will see it, as one that is purely designed - and this concerns me, I hope it is not the case - to simply hold vested interest and to avoid change. That is a real concern, again, at a time when this Assembly needs to build its credibility to the people of Jersey. I really am concerned. I cannot support this proposition and I urge you not to support this proposition for exactly those reasons. I have got to say it is difficult enough to change minds in this Assembly. I do feel sometimes you can win the argument, but lose the vote very frequently because of all sorts of reasons, but if that is going to happen that you need to win the argument and you need to win the vote by a super majority, as well, it really does make you think, and looking in the eye of the electorate to say: "Yes, of course I can represent, of course I make change." I am not so sure that we are going to be able to do that and we need to avoid this. If the argument is good enough, it will get a large majority anyway. We do not need to write this into our statute, or whatever it is called. I think it is dangerous, I think it is counterproductive.

2.1.12 Deputy D. Johnson of St. Mary:

I do have difficulty with this proposition in the sense that, whatever the outcome, I do not think it is going to bring about an ideal result. I have sympathy with the argument put forward by Senator Farnham that if the proposition did limp over the line, to use someone's phraseology ... sorry, if any proposition limped over the line, that could result in a situation which was not in accordance with the wishes of the electorate at large. Senator Farnham has referred to the proposition of the reduction of the number of Senators that were not considered at that stage. I am beginning to believe that if they had been, they would not have approved that. As against that, we appear to be missing the fact that

constitutional matters should have the approval of the people as a whole. The Deputy of St. Ouen has quite rightly referred to the fact that, again, as mentioned in the report accompanying the proposition, other jurisdictions require that any such changes are the subject of a referendum. I think that has to be the way forward. My own ideal solution would be to leave matters as they are. If it did slip through, that is not a catastrophe in the sense that that approval would need to be ratified by the referendum as a whole and if they did not, it would not proceed and that, I think, is the result we should be aiming for. For the moment - and I wait to hear what anyone else might say and the Minister in his summing up - I am not inclined to support it, on the basis that if a proposition did come forward, a matter for constitutional change, I would maybe vote against it, unless I was convinced that it would be followed by a referendum.

2.1.13 Deputy G.J. Truscott of St. Brelade:

There are many countries around the world that protect their constitution with a super majority voting system: the U.S.A., Canada, Denmark, India, Japan, Estonia, Spain and the Canary Islands are just a few examples. Many countries demand a referendum if there is only a simple majority vote in place, for example, the consent of the Irish people is needed before their constitution can be amended. Up to the year 2018, 35 Irish constitutional referendums had been held, of which 29 resulted in amendments to their constitution. So, I ask why is this the case? Why should there be extra protection? Well, it is the thought that the super majorities in the legislature are often required for constitutional amendments, because of the belief that constitutions should not be amended without careful deliberation. Personally, I was amazed to see that we did not have in place, with our Standing Orders, such a mechanism. If the need for change is generally agreed, it should be easy to achieve a super majority. However, when a major change with a long-lasting effect is highly contentious, super majority requirements help ensure that such steps are taken only when it is clear that most Members really want to take that step. For me, this proposition is about providing quality assurance for the voting public of Jersey. I, for one, am happy to consider change; no organisation should stand still. However, something like constitutional change should not, in my opinion, just limp over the line - we have probably found out now who has been speaking to Deputy Luce - potentially by one vote. A well-presented, considered and deliberated upon proposal should sail pass the finish line, I totally agree and, ideally, achieve 35-plus votes. A resounding super majority result to any proposals regarding change to our constitution would demonstrate and affirm to the people of Jersey that the overwhelming consensus had been achieved in this Assembly. So, Members, for the right change - and I really emphasise the right change - I urge you to support this proposition. There are a couple of things I would like to pick up on and just as I was listening to my honourable Deputy in St. Brelade, Deputy Tadier and I do hope he is, whatever happens this morning, because he mentioned ask the people. Yes, we do need to ask the people whether it is by referendum, or not, because what is coming forward is changing ... we were elected on the basis of 29 Deputies, 8 Senators and 12 Constables. That is the contract that we have with the people. Now, some would argue we have been given the power, it is a great honour; have we been given the power to change that contract? They have put us in power. For me, it is all about principle, it is about honour, it is about if you are going to change something like this, then at least ask the people. They have given you the mandate, they have asked you to go and act on their behalf and make important decisions, but if you are going to change the rules for how we are elected, then at least you should ask them and seek their permission to do so. I think to do otherwise is elitist and wrong. I am a person of open and transparency and, just for the record, I did have a small input on this proposition and some of you may be aware of, but that is all it has been. The Senator has brought this proposition; it is in his name. No, as I say, we have got some major changes; 800 years of dedication and office serving Jersey and it has got to be by majority, as far as I am concerned. It just affirms that the right decision, in my opinion, has been made but I will leave it at that.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is proposed. Very well the States now stand adjourned until 2.15 this afternoon.

[12:44]

LUNCHEON ADJOURNMENT

[14:15]

Deputy R. Labey:

I wonder if, before the debate continues, we might talk procedure, because, very often, when we have this conversation, it is towards the end of the day and it is too late for people with children to make arrangements, childcare arrangements. What I am hoping to establish is: what is the latest time at which the Assembly would sit today if it needs to, so that Members with children can make the appropriate arrangements. I know it is tricky, because we do not know at what stage of the debate we are going to arrive at by 5.30, but if we were to decide on a time that we will not go later from now, I think that would help those Members with those difficulties. I would propose that if we need to we set the latest time that the Assembly will sit today at 7.00 p.m.

The Deputy of St. Peter:

Can I suggest that is if we are intending to close business today?

Deputy M. Tadier:

I do not think that is acceptable. I, for one, have got business that I need to attend to at 5.30, so I would suggest we set the time for today at 5.30. But, my personal circumstances are probably the least important. We have, as the Deputy has said, families in this Assembly and it has been a view that we should move to more family friendly working hours and when we are likely to have sittings these things need to be arranged in advance, so we can plan and prepare. So, I think we need to consider whether we come back tomorrow if we need to and what time we sit until tomorrow and what business we do. I know the Deputy has got the best intentions, but I think to give short notice is not satisfactory for many reasons.

Deputy G.J. Truscott:

While I agree with Deputy Tadier on this matter, I think, perhaps and I am not sure if I am in a position to barter a time, but 4.00 might be more appropriate, because then we can at least see where we are at and whether we have to consider tomorrow.

Connétable J. Le Bailly of St. Mary:

Likewise, I have a Parish Assembly this evening and there is no way that I can miss it.

Senator J.A.N. Le Fondré:

What I was going to say is my understanding is that we had agreed, unless it was just, we had indicated that tomorrow is going to be a further continuation day. I think we should stick with that plan personally and stick to the normal timing and address matters then.

The Greffier of the States (in the Chair):

Technically the Assembly has not agreed that tomorrow is a further continuation day, it has been advertised as a possibility, but the Assembly has not yet agreed anything on that front. Deputy Labey, did you want to speak?

Deputy R. Labey:

I am grateful to those Members for their contributions. I am quite happy to propose now that the Assembly will adjourn at 5.30 p.m., give or take sensible minutes. I am quite happy to make that proposal, I just want to ensure that those Members with children, who have to make arrangements know where they stand. I think the Assembly should take the decision now, no matter what stage of the debate we are at, so that those people with children can make the appropriate arrangements. So, I amend my proposition to say that the Assembly agrees to adjourn no later than 5.30 today at whatever stage the business is at.

The Greffier of the States (in the Chair):

Is that proposition seconded? [**Seconded**] Deputy Gardiner, did you wish to speak? Your light went on.

Deputy I. Gardiner of St. Helier:

Yes, I would like to speak, because it was my request from Deputy Labey following yesterday's sitting when I almost missed picking up my daughter from nursery by 6.00 p.m. If I would know by lunchtime, as a mother, that I need to make alternative arrangements for my daughter after 5.30 p.m., probably by lunchtime, I would be able to arrange to stay here later on.

The Greffier of the States (in the Chair):

In that case, the proposition is for the Assembly to agree now to adjourn at 5.30 p.m., or thereabouts. Those Members in favour, kindly show. Those against? I think that has been agreed to. Deputy Labey, would it be sensible, while we are in the mood, to deal with Friday as a continuation day?

Deputy R. Labey:

Yes, I think it would be, Sir. I think it is inevitable that there will be unfinished business by 5.30 p.m. today. I am also cognisant, because of asking Members a couple of weeks ago, that there are some Members who have very good reason - prior arrangements, out of the Island, or for whatever reason - that cannot be here on Friday and I think they might wish to say that in the discussions that will follow when I take my seat. The likelihood is, I think, that Senator Moore's proposition on the Ville du Manoir, we will not reach that today but we could reach it tomorrow. So, the question for Members is those who will be here and those who will not, whether they are prepared for that to go ahead without them, whether they want to take part, whether it should be held over until the 21st May sitting. Senator Moore might want to talk about that too.

The Greffier of the States (in the Chair):

Is the proposition that the Assembly sit on Friday, tomorrow?

Deputy R. Labey:

I will make that proposition, Sir, that we do have the continuation day.

The Greffier of the States (in the Chair):

Do you want to hear views first?

Deputy R. Labey:

I do.

The Greffier of the States (in the Chair):

OK, Senator Moore.

Senator K.L. Moore:

I think the Chairman of the Privileges and Procedures Committee had heard from Members, when he canvassed opinion, that there were many Members away on Friday, which calls into question (a) why it was not agreed earlier that we should have started this sitting on Monday, so that questions could have been dealt with on Monday, as they would have normally; and (b) perhaps we should be looking to Tuesday as a continuation day. Personally, I cannot move my proposition (a) because one of the important reasons I am bringing it is due to timing and (b) because I will be absent on States business on 21st May.

Deputy L.M.C. Doublet:

Regrettably, I will be out of the Island tomorrow. I would prefer to be here for any continuation day, so my preference would be to continue on Tuesday next week.

Connétable J.E. Le Maistre of Grouville:

I am the same as Deputy Doublet. I will be out of the Island tomorrow and would like to be here for the debate.

Senator J.A.N. Le Fondré:

If I could just make the point, firstly, I am out of the Island on Tuesday and Wednesday, but also bearing in mind it is the run-up to the Liberation Day celebrations. I do know there are groups that are arriving in the early part of that week. I cannot recall on Tuesday, but certainly we have visitors from both New Jersey and the U.K. House of Commons and so there may be individuals who cannot - and I am talking numbers of individuals - attend at various points on that Tuesday. That is a guess. It is definitely true for Wednesday; I think it applies for part of Tuesday as well.

Deputy J.A. Martin:

Briefly, each day is going to be awkward for everybody. Did Senator Moore say that she could bring the proposition tomorrow? If we sit tomorrow it is OK?

Senator K.L. Moore:

If we get to my proposition I could on Friday, but I know that there are many Members who cannot take part on Friday.

Deputy J.A. Martin:

I just want to throw another spanner in the works, because the Constable of Grouville has said he cannot be here tomorrow and we could well be on his amendment. I think we need to have a serious think on what is going on, because we have agreed we cannot sit late, but if we are halfway through that debate well, what do we do? I mean it is getting very messy. Not everybody is going to be here. I know somebody who is already going to be off the Island tomorrow and it has been arranged for ages. Not me, I have just come back. I do not know what to do for the best, I do not want to stifle

any debate, but I am now concerned about being halfway through a debate that is never going to finish.

Deputy K.G. Pamplin:

Would it be helpful, to speed this process up, that we have a quick moment now for everybody to put their lights on who is definitely here on Friday, who is definitely not, so we can get that done and so we can move on, because we are talking, ironically, about time, let us have that quickly.

Connétable L. Norman of St. Clement:

Just briefly, I am another one of those who cannot be here tomorrow, because of prior travel commitments made and really it does bother me that we are going to go ahead with 2 major, critical, important debates with at least half a dozen Members not here. I really think it is wrong that 2 important debates and particularly the one of Senator Mézec, could take place on a date when the States were not intending to sit. Really, if anything is going to be delayed - I do not like to say this - but it should be that debate on the role of the Bailiff, which should be held on a date when the States were planned to sit. Therefore, that is the debate that should be deferred to 21st May and Senator Moore's can go ahead, if she so wishes, or the States wish, with fewer numbers there. But, I think because we know so many Members are going to be away, it would be wrong to have the debate on a constitutional matter when so many Members, we know, are going to be absent.

Deputy M. Tadier:

I am not sure if that is true, because we knew it was going to be a heavy agenda and nobody stood up at the beginning of the week and said: "Hang on a minute, some of these things are more important than others, so let us decide which order we want to take them in" which we could have done; that is within our power. So, the first point, although it is not immediately helpful to resolving this situation, is that P.P.C. needs to give serious consideration to the management of business, especially when we have a scenario where Government business - I do not like to say - is competing with the very laudable and necessary propositions that also come from backbenchers and whether they need to start looking at windows for and prescribing times when the votes are going to be taken, because it is ultimately the votes which are the most important parts. I know there were political sensitivities around that and certainly in the past I have perhaps also resisted that, because there is a balance between freedom of speech ...

The Greffier of the States (in the Chair):

Deputy, I hate to interrupt, but we are now debating a completely different topic to whether the Assembly should sit tomorrow, or not and we are taking up a lot of time from the debates you are talking about, if you see what I mean.

Deputy M. Tadier:

That is fine and I am hoping I will not need to say these in the future. As for tomorrow, I think the reason we should sit tomorrow is because we are talking about reasons why, in a different world, this is not the correct way to do things, but we have a way to do business, which is you stay until the Order Paper has been finished, or until we decide to adjourn. Tomorrow has been indicated as a continuation day, we already knew that. This remains on the paper and we can effectively decide whether to take this, or not, today by despatching with any amendments quickly, or not, and giving them the length of time. But the way this Assembly works, which is perhaps a reason why we should reject the super majority argument, is that we work on the basis of who is here at any given time and you work on the basis of getting a majority for those votes. That is what we have done up until now. We cannot simply change it, because there is a particular vote coming up that we think is more

important than many of the other hundreds and thousands of votes that have proceeded in this historic Assembly over the century.

The Greffier of the States (in the Chair):

Deputy Labey, do you want to maintain a proposition, do you want us to have a roll call of who is potentially present Friday, or next Tuesday; how do you want to proceed?

Deputy R. Labey:

Firstly, I do not think it is appropriate to change the order of business. Senator Mézec has a claim to keep his proposition where it is on the order of business for very important timeline reasons, so that would be most unfair. We know we are going to adjourn at 5.30 p.m. today. I think we should continue, see where we are at 5.30 and address the situation as to the continuation day at that time.

The Greffier of the States (in the Chair):

Well, we can do that. We do not have to decide it now, but there is a risk that we will get to 5.30 p.m. and we will end up having a half hour debate at that point, just when we are supposed to have adjourned.

Deputy R. Labey:

Let us test the mood, I am so sorry to cut you off, Sir.

The Greffier of the States (in the Chair):

No. I asked a very straightforward question I got an answer to a different question and I am just trying to bring you back to **[Laughter]** ... I think the Assembly is ready to express some sort of view about whether to sit on Friday, or next week.

Deputy R. Labey:

I am grateful to you, Sir, and I propose that Friday is a continuation day and that we do sit on Friday. I make that proposition now.

The Greffier of the States (in the Chair):

Is that proposition seconded? **[Seconded]** All those Members in favour, kindly show. Those against?

2. Draft Amendment (No. 39) of the Standing Orders of the States of Jersey (P.29/2019) - resumption

The Greffier of the States (in the Chair):

The Assembly will, therefore, sit on Friday as a continuation day. So, if we can resume the debate on the Draft Amendment (No. 39) in Standing Orders. The last speaker was Deputy Truscott. Does anybody else wish to speak on the Standing Order?

2.1.14 Deputy J.A. Martin:

I listened to Senator Farnham's speech when I was coming back in the car from the funeral I had to attend and I was listening and thinking: "Now, does he make a point?" The only point I could see him making, being one of those Members in here since Clothier, on the amount of debates we have

had on reform, one way or the other. Look, we might not have any more. Now, was that a good thing? I do not think so.

[14:30]

We did not get there; we did not do Clothier. We took our eye off the ball. We ended up with no electoral reform and ministerial government and I do not want us to get there again. But, also, I did not want to speak just before lunch, because I wanted to look something up, because we remember the last electoral reform was P.133/2016 by Deputy Andrew Lewis of St. Helier. It was the constituencies and they were all going to be called Senators, but there were no Senators, as such, Island-wide. So, there was an amendment by Senator Ozouf, to bring 6 Senators back, which was amended by Senator Farnham to make that 8. So, I had to look up the votes. The 6 got 25 votes and Senator Farnham's vote got 28 votes, so be very careful what you wish for, because you would not have amended that and Senator Farnham would not have been in this Assembly now, because we would have had big constituencies. It is there, I have printed them all off. They are all here. So, it was a good amendment. There was a last amendment again and it did reach just the 32, which was on whatever it is, bring a referendum. So, we have reached 32, but the actual what we decide in here ... and electoral reform, constitution, we have all got different opinions, we all come from it and I do not think we are ever going to get around that table. It has got to be debated in here, it has got to have a chance. I think 25 sometimes is pushing it, but I can live with that, it is constitutional. But moving it to two-thirds, 32, it would be a few less if we go. I just - a simple soul - think it is fair. We are where we are and it is not limping over the line, it is sometimes so passionate debates that go on and on with amendments and there will be a vote in it, but they are the things ... there were only 2 votes in a ministerial government at 7.00 p.m. on a Friday night and I was here. If it had gone on the Tuesday and that was the debate when we ... if it had gone on the Tuesday, we would never have gone to ministerial government. We would have Senator Vibert's amendment, which was small committees. So we are where we are. We limped into this and we are still limping.

2.1.15 The Deputy of St. Peter:

The words I have been consistently hearing are modernisation, change, reform, democracy, constitutional change, *et cetera*. In the main, the references to what influences our change have been external, for example, the electoral observers. If this is going to be our reference point for change, external influence, there is nothing wrong with that, but what is wrong is also taking influence from the long list of countries referred to by Deputy Truscott and adopt a super majority. So, what is wrong with taking influence elsewhere? Surely, it will be hypocritical for us to cherry-pick who we want to listen to and ignore the other half of the equation. I am not against change. I campaigned on it, as I am sure you will all recall, at the top of Beaumont Hill during the election time. But change is hard work. It should involve collaboration, teamwork, open dialogue and extensive listening and consultation with the people we are so often referring. It should involve being brave and modifying and finessing the propositions and lessons are learnt during the process. It should mean that any such changes to our Assembly are thought through with compromises, if necessary, so when it comes to the debate, the proposer is all but assured of success. We should not need to keep the scores as we sit here of tight votes after every speaker. The hard, consultative and collaboration work should already have been done. We are talking here about the Island we love, the voters who gave us the privilege to represent them and we should respect them all by being prepared to go that extra yard. A vote against this proposition is the vote of the lazy, the unconfident, or those hoping to limp over the line. I will most definitely be supporting this proposition.

2.1.16 Senator J.A.N. Le Fondré:

I think I am glad to be following the last speaker. Yes, I will not pick up on his last adjective, but anyway. I think, like other Members, I too have lost track of how many debates have taken place and how many speeches I have written on reform for the States Assembly. I think there have been at least 2 occasions I have followed Deputy Martin, much to her dismay. This probably is not one of those days where she is going to be dismayed - she will not agree - but we have been in here ... for those of us who have been here a longish - it feels like a longish time and there are people ahead of me who have been here longer - you do get to a point of electoral reform where sometimes you do hear things again and again. Well, I think I can make one claim, which very few Members can claim, that one of my propositions succeeded. It was adopted by the then Assembly by 47 votes *pour*, one abstention and 5 people absent. For those who cannot do the maths, that was when there were 53 Members in the Assembly. That proposition was to have all elections in any one year on the same day. It was not initially supported by the then P.P.C. but, however, their own suggestions at the time were rejected by 38 votes to 10. Now, in mentioning my suggestions were adopted and a general election day was put in place in time for the 2011 elections and, yes, I do always claim it is my fault, unfortunately. I also note that at a time before, that great block of politicians - and I do not agree with this next description, I emphasise - but that block of politicians who some claim are anti-reform, do not do anything, are an anti-democratic stain, possibly, upon this Assembly, i.e. the Comité des Connétables brought a similar proposition for reform, so they did do some things and they do do things is the point I am making. But, it was a single election day for Connétables, a 4-year term, and this was originally adopted by 35 votes. Unfortunately, at that time, it fell by the wayside for other reasons. So, to return to the proposition ... sorry, to return to my proposition that formed the basis of the present single election day, I believe it was also used to move everyone to a 4-year term and the one unconsidered consequence was that it was also to remove 4 Senators. What I have learnt from that? Firstly, electoral reform is possible, message one. Secondly, an evolutionary approach is probably better than revolutionary; and thirdly, if the idea is workable, it will get the support of the Assembly. The point here is that, in my view, there needs to be a clear result. The 3 examples I have just cited, 2 acceptances and one rejection, were 47 votes *pour*, 35 votes *pour* and 38 votes against. Now, that is all clearly above the threshold being proposed by Senator Farnham. So, fourthly, beware of unintended consequences. I did not set out to remove the 4 Senators, but that was what came out of the then final P.P.C. proposals. Now, I am almost certain that one of the reasons for that proposal would have been because Members were very much of the view that the public wanted fewer States Members. That has been the mantra all the time I think I have been in the States, too many politicians, waste of time, waste of money, *et cetera*. Yet, as Deputy Maçon often says, there is no one here who is not busy. I do not know how many people would disagree with that at the moment. I, personally, think at the moment everyone is busy. By the way, this is still the easy part of the term of office that we hold. But boy, did I get it in the neck from a huge number of parishioners for the decision to remove 4 Senators. To use the Deputy of St. Ouen, that was not a sort of defined position I think is what he was saying and kind of it slipped in. But the point is that this is about how the public vote us in and, for me, that is the fundamental foundation of democracy. What we are playing with is how the population, perhaps how we as individuals, not as States Members, vote for the politicians who are going to represent us. That is one of the critical rights everyone on this Island has. The lesson I learned was that you mess around with who people can vote for at one's peril. By that, I mean you have to ask them and to me it has to be a clear mandate from this Assembly. That is what I mean by a clear vote. I am just going to do that, because I am not sure if people can hear me or not, Sir. Interestingly enough, the votes for a single election day and a 4-year term were each supported by over 40 votes. The move to reduce Senators was 31. I put all that in the context of 32, as being suggested by Senator Farnham. Again, I repeat if it is sensible, this Assembly will back the change and that is why I agree with the sentiments of Senator Farnham, that his proposal would force Members to work together properly. I quote from his report: "To blend their views together with the interests of Islanders into properly considered sustainable reform of our political system." That is

being for democracy, that is about taking the public with us. Look at some of the countries identified in the Senator's report. France has a super majority. Germany: "Any such law which is about constitutional reform shall be carried by two-thirds of the members of the Bundestag and two-thirds of the vote of the Bundesrat." Ireland: "The constitution of Ireland can only be modified by referendum." Australia, referendum. Japan, which has disappeared for some reason ... Japan: "Amendment to this constitution shall be initiated by the Diet through a concurring vote of two-thirds, or more, of all the members." These are not small countries. It demonstrates to me the importance of this issue. For politicians to decide, without safeguards in place, who people can vote for is, in my view, an erosion of democracy. I was reminded of the work that the then Corporate Services Scrutiny Panel carried out the last time electoral reform took place. At the time, the whole thing had got very complicated: "Some good work had been done in terms of seeking to understand the views of Members [that was probably difficult, I suspect] but little progress has been made and Members were [and this is my recollection] starting to jump to scenarios, but there was no real sense of where everything was going, there was no real public engagement at that particular time, i.e. close to the vote." So we, as a panel, ran a MORI poll and I think it was first since 2006, 2007. I might be wrong. The point was it was an objective attempt to seek the views of the population. There are 2 conclusions in the report to Senator Farnham's proposition. One was that: "Proposals for reform should actively engage with the public in advance of any debate; 87 per cent of those polled desired further communication." That was a poll of around 1,000 Islanders. Number 2 was: "Any proposed constitutional changes should be put to a referendum in accordance with the public's wishes of a straightforward [sorry, that is the recommendation] yes or no answer." Sorry, I am just losing my place slightly, but that was the conclusion from that MORI poll. But, what I think was interesting, many years ago, the late Senator Mike Vibert proposed the present rule that we have, i.e. that any constitutional change has to have an absolute majority of the Assembly. Now, in his report, he stated that he believed: "Matters relating to constitutional issues need a greater safeguard than other issues coming before the States, as they allow Members to make changes to how and when the public have the opportunity to elect them." By the way, again for I think the Deputy of St. Ouen, it was done through Standing Orders, it was not done through primary legislation. That was the change. I assume that was the advice that was given. He did carry on to say that: "Many jurisdictions require a two-thirds majority in their Parliaments to approve such change." Now, at the time, he did not think that was necessary in Jersey, partially because those other jurisdictions were party political systems and the two-thirds majority rule was there to help constitutional changes, to ensure they could not simply be pushed through by the party in power at any one time. Now, at that point, party politics locally was not really an issue, and with due deference to the Senator on my left, it is a matter of debate the way that it is here now, it has definitely got a root, or is it to become a significant presence? But the point is, the Assembly has changed from the time of those comments. Sorry, I am just going to return to some of the comments that have been made. The timing is not right. What I will say is my understanding is that this proposition was lodged before anything that happened to come through. I think I would go back to the point, if the argument is good enough - I cannot remember who said this, but it might have been Deputy Tadier, it might have been the Deputy of St. Ouen, it was somebody over on that side of the Chamber - it will get a good level of support. That was what somebody was using as an argument for not supporting this. If the argument is good enough and if it is going to get a good level of support, you do not have to worry about this, this will not block that change, because that Member will have the support of the majority of this Assembly.

[14:45]

It will be a clear mandate and, therefore, there will be a very clear message going to the population that this has the full support or the significant support of this Assembly.

Deputy M. Tadier:

Would the Chief Minister give way? Because I was misquoted.

Senator J.A.N. Le Fondré:

No, Sir. But Deputy Ward, for example, said ... sorry, I am trying to read my own handwriting, which is not particularly good. But yes, Deputy Ward talked about, when he was speaking, a knocking on the door and talked about his role and things like that and how it might have been changed. What he missed the point was, I think, is that I suspect his parishioners would be far less happy if the role he is fulfilling, i.e. as a Deputy of St. Helier, had been taken away by a 24:25 vote split, with no recourse to the public and no recourse ... and just by a very small change in this Assembly, because that is what we are talking about for St. Mary potentially, or St. Lawrence, or St. Ouen even with super constituencies and things like that that come through. Where is that democratic buy-in? Because, if we take away the voting ability of that electorate, where does that leave them? To return to the theme of super majorities, for example, when one changes the memorandum and articles of association, which is the constitution of a company, it usually requires a special resolution of members. That is usually a 75 per cent majority, but that is also there to protect the rights of the minority. You get into this expression, in fact, if we think about it, it is why we have the Troy Rule. I think it is to avoid what is sometimes called the tyranny of the majority; it is to give minority protection. Bluntly, if it is good enough from the smallest company to the biggest company, from say to a plumber to an international conglomerate, if it is good enough for some of, I would say, the biggest democracies on the planet, why should it not be good enough for our Islanders? Why should we not put those safeguards in place, to ensure that not only good decisions are made, but to protect the underlying grass roots of the electorate? That is not an affront to democracy, that is about democracy. It is a difficult decision. I can see some people nodding, I can see some people shaking their heads in despair, but we often get accused of losing contact with the public outside, of living in a bubble in this Chamber. I will have to say, I have not had anyone beating on my door in the last month, 2 months, whatever, talking about electoral reform, or talking about removing the Bailiff, other than to say: "For goodness sake, do you not have better things to do?" **[Approbation]** It is around the hospital, it is around mental health, it is around population, it is around housing. So, if we talk about public engagement at that stage on both of those ... on the subject, whether it is the Bailiff, or whether it is the things that Deputy Labey wants to bring through, I do not think the public are that tuned into it at this stage. If you say: "What is the most important thing beginning with B?" I think it would have an X in it and sound like Brexit. It will not be the Bailiff. So, the more time we spend on this, the less time we have to address those other issues. I remind Members, I spent, I think, 12 to 14 hours working very constructively with Deputy Ward, with Senator Mézec, with the Commissioner for Children, with the Attorney General coming to a compromise on that Children's Commissioner Law. That is the proper work we should be doing. The more time we spend on effectively talking about ourselves, the less time we have in other areas, because the consequences that do come out of the Assembly, they trickle down everywhere within the organisation and they divert resources elsewhere. What this does, this forces Members to work together, to come to something that has a pretty good chance of going through and I remind Members, as I said at the very, very beginning - if I can find my spot - the original proposals that, for example, I put through were 47 votes *pour* and I think 35 votes *pour*. Oddly enough, the Senator's was less. So my view, I reiterate, it is when you are dealing with constitutional change, when you are dealing with the ability and the rights, the existing rights, of Islanders as to how they vote us into this Assembly, we have got to have proper safeguards in place before we start changing them and that includes making sure you can give a clear view here and that you engage with the public outside. For all of those reasons, I am supporting Senator Farnham.

2.1.17 Senator K.L. Moore:

I had not intended to speak, so I will be brief, but the irony of the previous speaker's comments with regards to referenda did not escape my attention. We, as an Assembly, I am afraid, due to a previous Assembly's vote in 2014, I believe, have a very poor record in terms of listening to the public and listening to a referendum that was publicly held and engaged with by our community, only to see the States Assembly of that time vote against it, so one has to practice what one preaches. We simply are in a sad state of affairs where we do not have public confidence. I do agree with the Senator in saying that they would much prefer we made a decision about the hospital than continued with a debate such as this one.

Senator J.A.N. Le Fondré:

A point of clarification, I made reference to a yes/no clear referendum.

2.1.18 Senator T.A. Vallois:

I was just going to stand to speak very briefly, but after the last few couple of speakers, I feel that I have to maybe go a little bit further than what I was intending to. It is not very often I get infuriated by some of the debates in this States Assembly, but there are only so many times you can go through the same arguments and hear the same answers and get sick and tired of it. I am merely expressing what I think many of the public feel. I have lost count of the amount of debates I have had on electoral reform and the Bailiff and the traditions that we have in the Island. The Deputy of St. Peter talks about an external influence with regards to the commissioners coming over. Well, the Clothier Report 19 years ago was not external influence. The majority of that panel were from here. That made recommendations for us to change. When we talk about compromises, I am all for compromises, but thinking having this will make us work better together ... and I respect the Deputy of St. Peter, but it is complete naivety. I have been in the States Assembly for 10 years and tried working with people time and time again, but if people are ingrained in a particular view and are not willing to open their eyes to the modern 21st century that we are living in, then we are never going to change. I have to make that point now, because I respect our traditions. I am a Jersey person, I was born here, my family were born here and it is not about staying in a particular way of doing things, it is about respecting those traditions, taking them with us and making something better and improved. Having a super majority, in my view ... and I was hoping to come to this with a kind of compromise to Senator Farnham, because I was going to say: "Senator Farnham, constitution: let us have a written constitution. Bring that constitution to the States Assembly, let us debate it, let us write it down, let us codify it as an Island of Jersey and then have the debate on a super majority." Let us do that before we decide that we have two-thirds of this Assembly deciding on the electoral reform. Does the constitution mean machinery of government? Does constitutional reform mean ministerial government? Because, if that is the case then I am sorry, but I think we need a serious conversation about how ministerial government works and the reflection to how the public expect us to work on their behalf. The references to all the other countries, they have party politics. The majority of this Assembly are independent Members. There is a reason why we have a simple majority. We have a right to say and represent the people that we have been elected by. I have been a Deputy of St. Saviour, I have been a Deputy of St. John and now I am a Senator. I listened to the people that I represented. I tried to work very hard on their behalf and I continue to do that on an Island-wide basis, but I did that as a Deputy as well. You have to listen to everybody. It is not just about the single area that you are in. I believe that the Constables do that too. They listen to their parishioners, they try to work with their parishioners, but the point is we are here for the same objective. For me, having ... and the references to the various different amounts of votes that have been had over electoral reform over the past so many years, the reason why there was so many votes for some of those amendments that were made for a general election day and all those areas was the

P.P.C. of the time referred to a MORI poll that was made in 2007, the public wanted a general election day, so this States Assembly listened to them. That is an example, we listened to them, but you see, the difference is that we are not like every other country, we are not like every other area. We do have independence in this Island in terms of politics. Some believe that is bad and some believe that we need a political party structure, but if you look at the way the rest of the world is going, I have to question that. I mean, I respect the fact that the Reform Party have put themselves together and worked together and tried to make a difference. I absolutely respect that, but I also look at the rest of the world and see the way that all they do is ego fighting in terms of political parties in other jurisdictions, rather than getting to the nub of the problem and trying to work together. But, I go back to the point, it is the naivety of believing just by having a super majority vote will get us to work together more closely and achieve an outcome. I am sorry, after my experience, I suggest that is not realistic, because there are certain areas that people will not go to, there are certain areas that people will not step over, no matter how factual, no matter how logical. That is the point. On that basis, my view is that I will not be supporting this amendment to Standing Orders and I would consider it more constructively if we were to consider it on the back of having a written constitution, agreed by the States Assembly, so that everyone knows where they stand, what the constitution means and it is not based on assumption.

Deputy R.J. Ward:

A point of order. I think I may have accidentally misled the Assembly, because when I spoke I said it would take 19 people to vote against constitutional change to stop it. The figure is 17 Members to stop it. I do apologise.

The Greffier of the States (in the Chair):

Thank you, Deputy.

2.1.19 Deputy L.B.E. Ash:

I agree with the Chief Minister that there are many important issues that we have to discuss, much more important than some of the issues we have discussed, but this is about the very root of democracy. This is about changing the amount of people we need to vote in here to carry something. In the past, it has always been the majority, 25, 24, that is good enough. So, we are changing the fundamental principles of a vote in here. I do not want to be too flippant about the issue, but there used to be a '*Blackadder*' sketch where they had a rotten borough, one voter and he got elected with 16,000 votes. That is not 100 per cent different from some of the stuff that goes on here. We need two-thirds of a majority is what we are looking for in here. I do not mean to knock the Constables, because I like them and I think they fulfil a great role. Some of them are - and you can look at it either way - elected with nought per cent of the vote, or 100 per cent of the vote. I do not know which way you want to cut that, but that is how it works. So, there are things we do need to look at. It is not as easy to say: "Well, if we are going to look at it, let us have two-thirds of a vote." Now, this is a big issue, I think. I do think it is a big issue, reforming our political system and making it more democratic. Others may disagree, but I think it is. Just because something is a big issue does not mean we have to change a voting rule. The abolition of slavery was a very big issue, votes for women was a very big issue, but I do not recall the House of Commons saying: "Well, we are going to change it, so we have a two-thirds majority on this one" so I will definitely be opposing this.

2.1.20 Deputy G.P. Southern:

Today is indeed a strange day. Yet again, I am going to agree with Deputy Ash. [Approbation]

[15:00]

This time I was even more impressed by the accuracy and focus of the points he made. He was absolutely right and his stance on this proposition is absolutely spot on. We should not be voting for this. I have been in this House for more years than I care to remember, in this Assembly. Apart from Constable Norman and Deputy Martin, I am the longest-serving, long in the tooth Deputy. I have to say that I have met this before. This is an old trick from Senator Farnham. He has tried it before; he has tried lots of ways to ensure that his branch of conservatism - with a small “c” - maintains sway in this House ... in this Assembly. I keep making that mistake. I object to the argument presented by our Chief Minister today, when he says and let us look at the words: “Any sensible proposition will command a majority.” Let us have a debate on what is sensible, shall we? Shall we try that? Let us see if we can get 49 different versions of what it is sensible to do. I think we probably could: 49 people in this room, 49 opinions, what is sensible. The use of the word “common sense”, it is common sense that will get through. No, it will not. I have been in this House 17 years. Sensible ... in this Assembly. **[Laughter]** See, I am a slow learner. Sensible will take 49 ways. What we are facing here is what used to be called, or can be called, a wrecking amendment. This is designed to block any change, whatsoever. That is why it is there. Now, you might have an opinion on what you think is sensible for the numbers in this House ... in this Assembly, in this Assembly. So what we are looking at, and it does not matter how you regard this particular Assembly **[Laughter]** **[Approbation]** ... if you think that it is so perfect that we should never amend the constitution, we would never change the representation, never change the numbers, if you think that this is heaven already on earth, then vote for this proposition, because with these sort of numbers, we will never get any change, whatever direction you want this Assembly to move in. We will never get any change. Look at the numbers. It only requires 17 Members to vote one way to block any change. That is not very many. Are we going to be stuck? Are we going to have stasis for ever, for the next 200 years or beyond, a perfect institution in this Assembly? I doubt it and I hope that most of the people in this Assembly would agree with me. The possibility of no change is not one that we should be contemplating. For example, we have talked about the way in which P.P.C. is about to attempt to make one particular change and its motivator is the principle of fairness and the principle of equality and it is suggesting a move towards equal votes of equal value, as reported back to us, would be the way to move if we were going to improve our democracy and improve our representation in this Assembly. Now, if you are saying: “We should not even be considering that and I want to make sure that it does not happen” then all you need is 16 of your mates and you can stop it. I ask you, is that a democracy? Is that a democratic way to behave? I do not believe it is. What is the magic number? Thirty-three votes to get any change whatsoever, 17 can knock it on the head. That is not fair, that is not right and that is not democracy. Whatever number that goes in there, what should it be? Should it be 40, 42, 44, a number that we need to achieve any change? I do not believe so. Perhaps most appropriately and personally for me, when I meet my constituents, what is the thing they most often say to me as to why they vote for me? Well, increasingly recently, it is because I am a party member and they know where my vote is going, but previous to that, they used to say things like: “I do not agree with the thing you stand for. I do not agree with one of your policies, but I will vote for you because you are a stirrer. You stir them up, you get them doing” and I love it when I hear that. I assure Members that with my reputation as a stirrer, I would not let my constituents down and rather than all gathering behind these 33 votes that we need to change anything, 17 votes to block it, and working together, compromise to get solutions in terms of constitution. I will not be sitting there doing nothing. If we vote for this today, I can guarantee that, on a regular basis, once every 6 months, I will bring some amendment about how we are organised, about what our numbers are, about who represents whom in this House and I will continue to do it *ad nauseam*. Why? Because I am doing it on behalf of constituents and not on behalf of the Members here. The people who vote for me deserve better than this over-respect that we have for where do we stand in this Chamber. We stand to represent our voters and that is enough. That is enough from me, 33 votes, 17 votes, blocking.

Deputy K.F. Morel:

I did not want to speak, except to ask how many people do you have down to speak? Because, I was going to suggest to guillotine this debate, because I think you know where we stand.

The Greffier of the States (in the Chair):

Until you stood up, none.

Deputy K.F. Morel:

In which case, I will sit down, Sir.

The Greffier of the States (in the Chair):

But I now have the Constable of St. John, Deputy Pamplin and Deputy Perchard.

Deputy K.F. Morel:

I move for a guillotine motion, Sir.

The Greffier of the States (in the Chair):

OK, that is accepted, so it is a half hour from now and then the question will be ...

2.1.21 The Connétable of St. John:

We, the people, as the Chair of P.P.C. said earlier, was - or is - the first 3 words of the American constitution, yet we have never listened to our people, have we? No referendum has ever been adopted by this Assembly and when we did agree to a referendum in the last sitting, it was thrown out last July: "Oh no, we know better than our people." We have just heard a speech from Deputy Southern about how he represents his constituency. If he has faith in that, then the referendum would be the correct and the right way forward. I see some Members shake their heads, but I will go back to the original question: why are we in this Assembly? We are here to represent our parishioners and, therefore, we should always be prepared to welcome a referendum, but for some reason that just does not work. So, we need to have another mechanism to ensure that when we want to change the constitution we do so with a degree of consistency, a degree of security, a degree of ... what? Certainty, that is it. We have had, in this Assembly, a motion carried due to a ring-binder. Imagine if that ring-binder was to change our constitution. Some people think it is funny. I do not. This is a serious matter. This is how we represent our constituencies, how we represent our Islanders and we should do so in a secure and consistent manner. Consistent does not mean not to change it, it means evolution, not revolution and that is what is so important. By having a two-thirds majority of 32, this requires evolution and it stamps out revolution. I urge Members to support this, because it is the correct way forward.

2.1.22 Deputy K.G. Pamplin:

I bow to the superior knowledge of time and experience in this Assembly by Deputy Southern, Deputy Martin and others, but what I will bring to this debate is a Member who is close to reaching his first year in this glorious role. The point here is very simple: we talk about fine lines and we talk about fine margins. The reality of everyday and real life is it is not straightforward. Sometimes, life comes down to those tiny decisions that cause great ripples. Let us talk about an analogy we could all understand: football. The current Premier League is coming down to the wire. It may end up by one point. If Manchester City win the league by one point, does that mean Liverpool should have won the league, they came that close? Let us do the whole league again. Sometimes, you have to

accept the fine margins. If that goal had gone in, if that referee decision had gone that way and we sit in the bars and pubs at home and we argue and argue, but ultimately we just come to a decision: "It was close, but we accept it." Now, we talk about referendums and I think we are missing something here, because in the reality of outside, the referendum that was recently held in Great Britain is not a great example of where we are talking about evolution of politics. That was close, that was fine margins. We can debate the numbers, we can debate how it was held, we could do that all day, but the point is a referendum was held. That is a complex, complicated decision. Facts were not properly aligned; people did not know which way they went about it. When you talk to people in everyday life, they get it. They understand that life is not straightforward sometimes and sometimes things just are that close. But if we are working together, and I believe we are - I have only been in this Assembly, as I say, nearly a year - I have seen this Assembly do great things already. I have seen political boundaries come across. I have worked with Deputy Ward very hard and the Children's Commissioner. I am not a member of Reform Jersey. I have had conversations with the Government, who sometimes I have disagreed with. I had a lovely lunch with the Constable of St. John. The point is, we do work together, because I believe ... and the Senator said it himself, this is a new Assembly. He is right, that is evolution. Look around us all.

[15:15]

We are different, we are changing, we are evolving. Every single one of us new Members, who stood for election and succeeded, we are different, we are changing, but we respect tradition, but we want to work together. We do not need to be forced to work together, we are doing that already and we will do, because we believe in why we are here. We will continue to do that. So, I believe this is the moment right now for all of us really to think about this moment as new Members. This is the time when we say: "Not now, trust each other, hold each other to account and trust the public." If we improve our engagement with the public, if we improve the way we go about our business, if we are more polite, but earnest, if we engage better with the public, try new things, do new things. The public are getting better, they are getting it, they see the change. We cannot let them down at this moment, so when we get to this next election, I promise you now there will be a change. It is in our hands, it is in this moment now, so new Members and all of us, let us say no to this proposition.

2.1.23 Deputy J.H. Perchard of St. Saviour:

I was pleased to hear the Chief Minister mention democratic buy-in and Constable Taylor state that we have to listen to our parishioners. One of the most valued aspects of our own system is the ability to do just that, to listen to our own parishioners and have our own independence of thought in response to their needs and their demands. Even the political party that we do have in our Assembly conducts itself in a unique and I would say better way than parties elsewhere, due to the fact that they allow its members independence of thought on votes, beyond their core manifesto. The vast majority of us are independent politicians, but all of us, including the members of Reform, maintain independence of thought. All of the jurisdictions presented in Senator Farnham's report have a system of party politics that functions very differently from our own system of mostly independence and from our own individual party. A super majority, therefore, is needed in those instances to prevent the dominant group just pushing through all of their legislation. Are we in this position? No. Do we, therefore, need this system of a super majority? No, we do not. I was not intending to speak at this debate and I am quite pleased that the Deputy behind me has brought the guillotine motion, because I really did think most Members would see this as quite an obvious fact. We do not have that kind of party politics. We do not have that kind of system, or structure around us, to require a super majority, therefore, we do not need to pass this amendment to Standing Orders. For me, it is purely a question of the structure we have and the proposition that is being posed not fitting together.

The Greffier of the States (in the Chair):

Does any other Member wish to speak in the debate? If not, I call Senator Farnham.

2.1.24 Senator L.J. Farnham:

Thank you to all who have spoken in this important debate. I think it has been a worthwhile debate. It is a conversation that I feel we had to have. I am also grateful to the Solicitor General for his advice and confirmations that were raised from questions by Deputy Morel and Deputy Wickenden. But I am going to start with Deputy Russell Labey, who did not disappoint again today with his contribution. Again, he started on the technical issues, but I just wanted to make that point clear - and I did in my opening speech - that a number of Members have talked about the constitution. Jersey does not have a written constitution. We have parts of our constitution that is written and parts of it are historic and whether, as Senator Vallois says, we decide to take on that task and do something about that in the future, that is a conversation for another day. But, I tried to be very specific to explain that, so that issue did not become a bit of a diversion in this debate. I cannot remember all of the colourful adjectives that the Deputy used and I cannot even ... “reckless abandonment” was one of the phrases, which was very good, but I still maintain that this proposition is the opposite of that, because there has been no action. We have tried, but there has been no action. When we work together, we succeed. When we do not, when we present a disparate view of disparate propositions, we fail, because we are all stubborn, we have all got our own views and some of us cannot change, or will not - there is no such word, cannot, will not - some of us will not change, but when we work together those very few of us that will not change fall into a small minority. It is not an insult to democracy. This is just the opposite. What is an insult to democracy is when this Assembly carries through propositions that are simply not reflective of the public’s views in relation to their democracy. That is the affront to democracy, that my proposition is attempting to address. I mean, when Deputy Labey - and we are good friends, I hope we will remain good friends throughout the next few States sittings - came to talk to the Council of Ministers on that fateful day, it was not a consultation. Deputy Labey came to present his proposition, to inform us of his proposition and say: “Well, maybe we could throw in half a dozen sentences just to get this over the line, or something like that” which is fine, but that is not the kind of collaboration we need to move forward. Senator Ferguson made some very valid points on the American constitution of their democracy and especially in relation to the Senate, but those, I think, are conversations that are going to come up when we talk about voter representation, but I thank her for that. I also thank the Constable of St. Martin for her support. She has clearly thought carefully about this and engaged with her parishioners and reminded us that it is not about us or our agendas, or our ambitions, it is about the people we represent. Now, Deputy Wickenden. Here I am quaking in my boots. He said that I was scared of reform, scared of change. Well, I think my record speaks against that, because I have tried to protect the Island against poor reform and I have brought amendments to propositions to introduce elements, for example, super constituencies, that I am uncomfortable with, but have supported that to find compromise. But, he is right insofar as I am scared of something and that is I am scared of poor reform. I am scared that this Assembly, in its haste to reform - because it will make us look modern and positive, which I believe we generally are - but in order to appease the public, we might rush through the wrong reform. That is what scares me. Senator Mézec, as always, gave a very eloquent speech and he talked about he was the first Member to introduce the veto of the minority in this Assembly. But, if you do research on why there are super majorities in some jurisdictions and some countries, it is not all countries, American states have super majorities to change the makeup of their state legislatures, for example. They do that to protect the democratic rights of the individual and within the democratic rights of the individuals there are a lot of minority groups. It is the protection of the rights of those people which is one of the reasons why super majorities exist. Senator Mézec also said that he did not think this was a constitutional issue and this may be a

discussion for another day, but as it stands at the moment, it is a constitutional issue in as far as we are referring to the constitution of the States of Jersey and the constitution of the States Assembly. I also thank Deputy Guida, because he also spoke of the importance of communication with the electorate, which we have spectacularly failed to do in the past, but we must not fail to do that in the future. Whatever path, or whatever journey, we are going on with our reform, we must bring the electorate with us. That is essential. We should have learnt - I will come on to that - we have had 2 referendums and there are lessons to be learnt. The Deputy of St. Ouen raised more technical issues. The Constable of St. Peter talked again about the will of the people and that is a theme that a lot of people talked about, but I was particularly interested to hear about his conversations with the Swiss ambassador. I am not suggesting we look at doing it how they do it, but it is certainly important that we do engage with other politicians around the world and discuss these issues to gain a better understanding. Deputy Tadier said that people were saying some extraordinary things and he went on to say some even more extraordinary things, but I do understand his sentiment. You see, I think that the bigger the States majority that we have, the more reflective that will be of the electorate. I think this Assembly is representative of the electorate. You see, it is made up as it is with Deputies, Constables and Senators for a very good reason. We go back to some ... I will come to that, but it was raised by a Member, our constitutional change of 1948 and we are constituted as we are because we are a single Assembly. There are no councils, no devolved assemblies, no super constituency assemblies, there is no upper house. There is the States Assembly; we are the sole legislature of the Island. That is why we have 3 tiers of States Member. We have Deputies to represent their constituencies. Deputy Southern made some valid points on that and I will come back to that in a minute. The Constables represent the parishes and the local government functions that the Parishes carry out and the Senators, to create balance, represent the small national interests. There are no boundaries on the Island-wide mandate, but, of course, as a number of Members have said, they work for their constituents in their districts, which is right, but we need the blend of the different Members to provide that balance and that fairness. I think it has worked pretty well. The Deputy of St. Mary raised the issues around the removal of the Senators. He is quite right to raise that, because that, as the Chief Minister referred to, did cause a lot of concern among Islanders. It seemed to be an arbitrary move at the time to do that. There was no consultation, we did not get the permission of the electorate and I do not think we have ever been forgiven for that. I also want to thank Deputy Truscott for his contribution. Deputy Truscott and other Members have worked closely and been supportive and helpful to me on putting this proposition together.

[15:30]

I just want to return to the Deputy of St. Martin, who always speaks wise words. His comments on a slim majority were well-made and that does work both ways and I think he said it would be ironic if we lost or won by a single vote. Of course, what this proposition is seeking to do is change the Standing Orders of the States, which relate to elected States Members, boundaries, number of States Members, *et cetera*. They do not relate to needing a super majority to change a Standing Order. He also spoke about the timing. The timing, when we were putting this together, I had no idea about Deputy Labey's proposition. I had a feeling that there was one coming on the Bailiff, but it was relatively quiet, but I could see storm clouds gathering, but it was not tabled because there were propositions coming. It is just a happy coincidence that it was, but I thank the Deputy of St. Martin for his helpful contribution. The Deputy of St. Peter completely understands the proposition and the Chief Minister reminded us that one piece of reform - many Members, I think most Members, will think it was a good piece of reform - we must have got that by accident, but it was to have the single true election day. Unfortunately, I think we put the cart before the horse, because we should have agreed on the make-up of the Assembly before we are agreeing on how we elect them, but we did it the other way around. We agreed that we are going to elect the whole Assembly on one day and then

we tried to turn it around to fit everybody into that, which is why we lost, I think, the 4 Senators at that time. Senator Moore talked about referenda and chastised, I think, some of us for not listening to the vote, the result of the referendum in I think it was 2012, or 2013, when Deputy Labey and many of us were teammates on the options A, B and C campaign and we had a referendum in between elections, which led to a very poor turnout, but we made the mistake of not listening to the result of that. I think we have learnt from that and we should never not listen to the result of a referendum by the people of Jersey again. We have learnt a lesson. But, then, I will be interested to hear or learn, or I shall be watching closely how Senator Moore is going to vote on retaining the Constables, given that we had a solid referendum vote to keep the Constables in 2014. So, while she chastises us for not listening to the referendum in 2013, I hope she will listen to the result of the referendum relating to the Constables. Senator Vallois, well, she thinks this proposition is naïve, but I do not take that in the wrong way. She is always passionate about her work and her views and I would just say to Senator Vallois that, while taking on board what she says, it is that the simple trying to reform this Assembly, with a simple majority, has just not worked. It just has not worked and if it does work, I am worried that we are going to get the wrong reform through, because once we change, it is going to be very difficult to go back. Once we lose some of the things we have - and you never really appreciate things until you lose them - then I think they are gone for good, because reform tends to stay in the same direction. It is difficult to reel it back in. Also Deputy Ash, a very good speaker. I enjoy his speeches. I did not enjoy that one. **[Laughter]** But, he spoke about democracy and what is democracy? Democracy is about protecting the democratic rights of the individuals and I have said it 3 or 4 times and I am going to keep saying it, because that is what must be at the forefront of our ambitions when it comes to reform. Deputy Southern said this was another old trick. I will accept being conservative with a small “c”, I take that as a compliment from Deputy Southern, but it is not designed to block change. It simply is not. Members will say that, because it is an easy rebuff, is it not? It is an easy argument to make that this is going to block change, but it is not. It will do the opposite. How many more examples do you need of the States of Jersey and Members in this Assembly, when they put their mind to it and have to work together with Scrutiny and with Ministers and with the Government and with other Members? It is achievable on all sorts of issues that many of us are miles and miles apart on, we find consensus and compromise all the time. You know what, if we support this, we will do the same with this. If we support this proposition, I will guarantee that this Assembly will be bringing reform much sooner than if we do not, but it will be bringing the right reform and it will be bringing a reform that is acceptable. Whether some of us like it, or not, we will be bringing reform that is acceptable to the majority of the people of this Island. The Constable of St. John spoke about the importance of the stability of our political system and the importance of evolution, not revolution. I referred to that in my opening remarks, that the stability of our Island over the recent decades has been the backbone, has been the platform which has developed our success. Deputy Pamplin, again, gave one of his very good ... another good speaker, but compared this to a football result. I am not being flippant, I know what you were trying to say, but this is really serious. This is really important. Reform, it is a big deal; it is not a done deal. It is a big deal. It is a big deal for a lot of people, because this is going to impact on future generations. Deputy Perchard, again, I am grateful for her contribution, but she spoke again about the importance of listening to our parishioners and that is a common thread that has been brought up by Members from both sides of this argument. Everybody is in agreement that we must listen to Islanders and to our constituents and to our parishioners and that is what I appeal to Members to do today, especially the minority groups in those communities. So, it is a struggle to reform the Assembly and it will continue to be a struggle, but the virtue, I say, lies in the struggle, not necessarily the prize. The virtue will lie in the struggle and the efforts that we take together to bring good reform. I do not know what the prize is going to look like and it is not going to be a simple prize, because reform has to evolve and it has to be evolutionary. Members have said it has proved impossible to reform and if we adopt this proposition, it is going to be impossible to bring any reform in the future. Well, the difference

between the impossible and the possible will lie in the determination of this Assembly. If this Assembly is determined to bring reform, then it will be determined to work together to deliver that reform in the way that the people of Jersey can accept and will want and it is our duty to work together and to listen to them. I thank all Members once again for participating. If there are no questions, I would like to ask for the *appel*.

The Greffier of the States (in the Chair):

The *appel* has been called for. Members are all in their seats, so I ask the Greffier to open the voting.

POUR: 22	CONTRE: 24	ABSTAIN: 1
Senator L.J. Farnham	Senator T.A. Vallois	Senator S.W. Pallett
Senator S.C. Ferguson	Senator K.L. Moore	
Senator J.A.N. Le Fondré	Senator S.Y. Mézec	
Connétable of St. Lawrence	Connétable of St. Helier	
Connétable of St. Saviour	Connétable of St. Clement	
Connétable of St. Brelade	Deputy J.A. Martin (H)	
Connétable of Grouville	Deputy G.P. Southern (H)	
Connétable of St. John	Deputy of Grouville	
Connétable of Trinity	Deputy M. Tadier (B)	
Connétable of St. Peter	Deputy M.R. Higgins (H)	
Connétable of St. Mary	Deputy of St. Ouen	
Connétable of St. Ouen	Deputy L.M.C. Doublet (S)	
Connétable of St. Martin	Deputy R. Labey (H)	
Deputy K.C. Lewis (S)	Deputy S.M. Wickenden (H)	
Deputy S.J. Pinel (C)	Deputy of St. Mary	
Deputy of St. Martin	Deputy J.H. Young (B)	
Deputy G.J. Truscott (B)	Deputy K.F. Morel (L)	
Deputy L.B. Ash (C)	Deputy of St. John	
Deputy G.C.U. Guida (L)	Deputy S.M. Ahier (H)	
Deputy of St. Peter	Deputy J.H. Perchard (S)	
Deputy of Trinity	Deputy R.J. Ward (H)	
Deputy M.R. Le Hegarat (H)	Deputy C.S. Alves (H)	
	Deputy K.G. Pamplin (S)	
	Deputy I. Gardiner (H)	

Deputy L.B.E. Ash:

Could I just say - and it was not a ring-binder - but I did press the wrong button.

Deputy M. Tadier:

So did the other 21, Sir. [Laughter]

3. Elected Speaker and Deputy Speaker of the States Assembly: selection and appointment (P.31/2019)

The Greffier of the States (in the Chair):

So we now move on to P.31/2019, Elected Speaker and Deputy Speaker of the States Assembly: selection and appointment, which has been lodged by Senator Mézec. I would normally ask the

Deputy Greffier to read the proposition, but it is quite long and I am sure you have all read it, so I think we will move straight on and ask Senator Mézec to introduce the proposition.

3.1 Senator S.Y. Mézec:

Now the real fun begins, of course. I can feel the room bursting with excitement and everyone gets up to leave, of course. But we ought to be excited, because today could be a historic day for Jersey. This could be the culmination of one of Jersey's greatest and oldest traditions in action, which is that longstanding Jersey tradition of agitating for democracy, because, for hundreds of years various groups of Islanders have come and gone, which have agitated for democratic reform. In the 1700s, hundreds of Islanders regularly took direct action, including storming the Royal Court building next door to demand reforms, which led to this States Assembly becoming the primary law-making body of the Island, which was a crucial step towards becoming a parliamentary democracy. In the 1800s, there were the great pamphleteers, who campaigned and petitioned for direct representation in the States, which led to Deputies being introduced. Eventually, it even led to secret ballots being introduced, decades after they were adopted elsewhere and before then elections were done by a show of hands and people were regularly kidnapped and dropped at the Écréhous if they were known to be voters for the less favourable candidate. Then, in the 1900s there was the campaign for women suffrage and after that the campaign for a salary for States Members, so working-class people could afford to serve the Island. These campaigns have been a key part of our history, without which our Island would look very different and I would contend look much worse. Throughout all of that time, some in the Island have pushed for a separation of powers and bit by bit some separation has been achieved. If Members accept this proposition unamended, we can complete that part of the journey and join the rest of the modern democratic world and claim the right to project our democracy to the outside world, in the same way we do our finance industry. We can be the democracy that we should all be aspiring for Jersey to be and become a sovereign Assembly, which determines its own future and processes. In pre-empting what will, no doubt, be said in this debate, let me clear about this point, that there is absolutely nothing anti-Jersey about this aspiration. The basic principles of the separation of powers, of human rights and of democracy are not incompatible with Jersey culture and heritage, just because we have had hundreds of years of history without these principles. In fact, these principles are essential if we want to preserve our autonomy and preserve what is special about Jersey, because if things are going to stay the same in Jersey, then things are going to have to change.

[15:45]

This is not any sort of slavish adherence to an obscure and extreme doctrine, this matters because it is more than just theory, it is about what practical effect it has on our rights as Jersey people, but even if it was just about theory, there is plenty of it to go by. We have the Bangalore Principles of Judicial Conduct, we have the Latimer House Principles, we have got the C.P.A. (Commonwealth Parliamentary Association) Benchmarks for Democratic Legislatures. There are absolutely no impartial authorities, which defend the current system; not one. But, forgetting the theory, this is why it matters practically. All of us in Jersey have to live with the consequences of the decisions which are made by the different branches of Government and we depend upon them to make good decisions. Democracy is fragile and it can be lost. Just look at countries like Brazil, Hungary and Turkey, which used to be democracies, but are losing it, because of the authoritarians who are taking power there. People can have their lives destroyed when things going wrong in the state. The systems we have have to abide by the rule of law and work to uphold our rights and it is essential that there are safeguards in place to ensure that there is accountability. The 3 branches of Government must be able to hold one another to account, not just from one branch going rogue, but because honest and decent people can sometimes make mistakes and these mistakes may have dire consequences on individuals. Those individuals have got to be able to rely on each branch of Government to defend

them from the other branches. If a court interprets a law badly, the Parliament must be able to pass legislation to fix it. If Parliament proposes something unconstitutional, or against human rights, the public must have recourse to an independent tribunal to uphold their rights. Right now, in Jersey, people do not have this ability, because the Parliament and the courts are led by the same person. This is not trivial. It might be trivial if you do not care about it, or if it is something that will never affect you, but it is fundamental if you want to live in a democratic society. This perspective has been examined and endorsed several times before, at the behest of the States. We have had the Clothier Report, we have had the Carswell Report and, most recently, in the Independent Jersey Care Inquiry, all of whom have said the exact same thing and every single future review that we may undertake will say the same again, because the findings are timeless. But, the one review that I want to focus on now is the report from the Constitutional Review Group, which was published in 2008, because that is the most interesting report and probably the one that has been read the least. The Constitutional Review Group was requested by the States to investigate the viability and the implications of Jersey becoming independent from the U.K. It was chaired by the then Bailiff, Philip Bailhache and the vice-chair was the then Attorney General, who is now the current Bailiff, William Bailhache. Their report said that: “In the event of Jersey becoming an independent country, the dual role of the Bailiff would be completely inappropriate and would have to change.” That was said by the then Bailiff and the current Bailiff. But they said the current system is OK, so long as we remain a Crown Dependency. Is that not interesting? You have to ask yourself why. Why would a separation of powers be essential for an independent Jersey, but not a Crown Dependency Jersey? I think I have figured out the answer to this. I think it is because, as things stand, Jersey residents currently have the option of going to the U.K. courts to have their rights upheld. How strange it is that Jersey, proud of its local identity, proud of its autonomy, is seemingly also proud to say that we are not good enough, in our local institutions, to uphold our rights, we have to rely on external courts, because Jersey justice is not good enough, we have to have English justice. That was a decade ago. What has happened since? If that position was strange in 2008, then it has got to be even stranger in 2019. Look at the backdrop we have today. There are forces in the U.K. which want to move away from the established position over generations, which is that the U.K. does not interfere in internal Jersey affairs without our consent. Their focus now is on beneficial ownership, but it could move elsewhere too and those calls will become louder if we show ourselves to be incapable of reforming ourselves. The risk now is greater than it has ever been. For evidence of this, we do not need to look far. In fact, you can see it on a clear day from St. Ouen; it is called Sark. Sark remains the last feudal jurisdiction in Europe. Its Parliament was packed with landowners and lords and justice was dished out at the whim of the unaccountable. It was forced to change, but even when they themselves produced options for reform that moved to an elected chamber, they opted to retain the dual role of the Seneschal, which is their equivalent of Bailiff, as both Speaker and Chief Justice. The reform legislation they produced was then challenged in the U.K. court by the Barclay brothers, who I will freely admit are not exactly the best mascots for this cause. In the Court of Appeal in the U.K., the case of *Barclay v the Secretary of State for Justice*, they ruled that the dual role was unacceptable. Here is what they said in that judgment: “The law must provide a structure in which those who do, or who may, come before the court can be confident in the independence and impartiality of the judge. Given the Seneschal’s position, provided by section 5 of the reform law, provision for the appointment of Deputies and Lieutenants, giving the Seneschal the power to recuse himself, though constructive and advantageous in itself, does not rectify the situation. The position of the Seneschal sitting alone, constituting the sole court of justice in Sark, in my view falls on the wrong side of what is Convention compliance.” That is a reference to the European Convention on Human Rights, and Sark now has an elected Speaker. I believe, one day, Jersey will have one too, but for our Island’s sake, I hope we get there ourselves, without external interference. I freely admit that I understand why some are not enthusiastic about this change, because with any change comes uncertainty and people who care about Jersey do not want to see anything get worse, but I have to say I think some

of the arguments against are spurious. One obvious red herring is what has been said about the role of the Bailiff as the civic head of the Island and how this would allegedly undermine that part of his role. I think there are 2 important things to say to that. The first is that the role of the Bailiff predates the existence of the States of Jersey and it predates the supremacy of the States Assembly by hundreds of years. The second is that nobody has ever chosen the Bailiff to be the civic head of the Island. He just has that title, because he just does. My proposition, for the first time in our history, asks our elected representatives to endorse that position. How can that do anything other than strengthen his role as the civic head of the Island, for it to be endorsed for the first time in history by this Assembly, as I hope all Members will choose to do? The second red herring is that this would somehow undermine his role as the guardian of the constitution. I think it is so important to correct this, because it is so wrong and betrays a complete lack of understanding of what the constitution is, or how this role is carried out. The simple fact of the matter is the role of guardian of the constitution arises out of the Bailiff's role of Chief Justice of the Island, not a Speaker of the Assembly. It is in a court of law that the constitution would be defended. I have got both the former Bailiff and the Attorney General to admit in this Assembly, that the practical actions of the guardian of the constitution, that they have to undertake, do not occur on the floor of this Chamber. From that seat, the Bailiff has no power whatsoever to defend our constitution. He defends it in court, when Government actions, which may be *ultra vires*, or a law is passed which contravenes the constitution, it is in a court that that redress would be sought, not on the floor of this Assembly. What this proposition does is it frees both the court and the Assembly to do our jobs more effectively. Now, I did not write this proposition. I am happy to admit it was a clear case of plagiarism from a previous proposition, brought by the previous Chief Minister, but what it does is it provides the framework for an elected Speaker to take office upon the retirement of the current Bailiff and to hit the ground running. The Speaker will be elected either from among States Members, or a member of the public, whichever we choose. The Speaker will be required to be impartial in the chair but, outside, they will be partisan in support of this institution, its privileges and its processes. They will undertake the work that the Bailiff cannot do now, because he is tied up with court work. They will be able to go out into wider society to facilitate engagement with our democracy, with civic society, with charities, with businesses, to help them understand how our system works and how society can get involved. My goodness, do we not need more of that? I think that when politics is held in such low regard, when there is, frankly, so much ignorance out there about how we work, to have a new institution, which will work tirelessly to change that must surely be invaluable. On top of that, it frees up the Bailiff to use his legal expertise in court, where it is best applied, without having to spend so much on English commissioners to preside in his absence. This proposition offers us the best of all worlds. We get a Parliament and a court system, which meets all the democratic standards to uphold and defend the rights of Jersey people, which we can boast around the world as a beacon of how democracy can work and preserve what is best about Jersey's culture and heritage. I hope Members seize that opportunity and I make the proposition.

The Greffier of the States (in the Chair):

Is the proposition seconded? [**Seconded**] Thank you.

3.2 Elected Speaker and Deputy Speaker of the States Assembly: selection and appointment (P.31/2019) - amendment (P.31/2019 Amd.)

The Greffier of the States (in the Chair):

We have 2 amendments to the proposition which will be taken in the order in which they were lodged. The first is from the Constable of Grouville and I ask the Greffier to read the amendment.

Deputy G.J. Truscott:

Sorry, Sir, before we do, I did indicate earlier - and I think it was just a miscommunication between us - before we start this debate I really do want to put on public record and just confirm, get affirmation that this is a constitutional issue and that it would require 25 votes to pass through this Assembly. I do not know if the Solicitor General could just confirm that, please.

The Greffier of the States (in the Chair):

It is a Standing Order matter and it does affect the membership of the Assembly, so last time it required 25 votes and this time it requires 25 votes too. Could you read the amendments?

The Deputy Greffier of the States:

1 Page 2, paragraph (1) – Before the words “to agree that –” insert the words “subject to paragraph (3)”. 2 Page 3, paragraph 3 (2) – For the full-stop at the end of paragraph (2), substitute a semi-colon. 3 Page 3, new paragraph (3) – After paragraph (2), insert the following new paragraph (3) – “(3) paragraphs (1) and (2) shall be void and of no effect unless the majority of the people voting in a referendum on the question of whether the Bailiff should remain the President of the States, held in accordance with the Referendum (Jersey) Law 2017, have voted against the Bailiff remaining the President of the States.”.

3.2.1 The Connétable of Grouville:

I do not intend to talk very long on this very simple amendment. I hope Members have read my report. For those of us who were in the last Assembly, we had exactly the same debate on the removal of the Bailiff in September 2017, as Senator Mézec has said. The same amendment as mine was put forward by former Senator Sir Philip Bailhache. I confess that I drew upon the former Senator’s report to that amendment, when writing my own report. I should, before I start, just say a little about the timing and P.P.C. comments, which we heard the other day. From their last paragraph, they acknowledge that if we debate and approve the necessary legislation, before the referendum, then there is no reason why the removal of the Bailiff - if that is the desire of the electorate - cannot take place before the next Bailiff takes office. In the report - which you may have been able to read - that came from the Referendum Commission yesterday, they think it is beneficial to have the legislation available before the actual referendum. I also asked, or I have had some feedback through the Greffe, from the Referendum Commission and the preparatory work for this referendum was done in 2017. That work will still be valid and they know the question that would be put, should this proposition be successful. Incidentally, having read that report very quickly, I think this proposition, or this amendment, ticks all the boxes at the end of the checklist. Nowhere in the report did it say that this would not be a proper question to put before the electorate.

[16:00]

The removal of the Bailiff as Speaker of the House is not a simple political issue; it is a major change to our constitution and that is why it is essential that such a move has the support of the people. States Members, in my view, are already thought of in poor light. If we make a dramatic change to our constitution without the electorate’s support, we will be thought of with even less esteem. The Bailiff’s role as President of the States is inextricably linked to his, or her, role as civic head of the Island. To suggest that a ceremonial visit on Liberation Day each year and from time to time when a new Speaker is to be elected would somehow maintain this link cannot be taken seriously. In the current situation, the Bailiff is in regular contact with all States Members, including, of course, the Ministers and Chief Minister. He is well-known to all of us. If the Bailiff is removed as the Presiding Officer, relationships with States Members will soon fall away. He will be the chief judge and have

no other role and certainly would not continue as civic head of the Island for the long term. The arguments for and against the retention of the Bailiff are easy to understand and there is no reason why the electorate cannot make an informed decision at the ballot box. One has to ask why any States Member would be against this proposition. Is it that they think that there is overwhelming support for the proposal, or are they afraid that the opposite is true. I think we all know the answer and the latter is true. In other words, there are some who want to introduce something totally against the wishes of the electorate, how undemocratic is that? I do not recall any of my parishioners approaching me to call for the removal of the Bailiff from the Assembly, but I have had many parishioners and other Islanders, over my time as Constable, who have told me that they want the Bailiff to remain as President of the States and civic head of the Island. I would be failing my voters if I did not bring this amendment forward. I suggest that, should Members vote against this amendment and vote for the proposition, they will be failing their voters too. We all received a letter from the former Greffier of the States and I will leave his opinions about whether, or not, the Bailiff should remain as President of the States to one side and deal with his opinion that this item should not go to a referendum. I simply disagree with his view. He contends that the Bailiff can remain as civic head of the Island. Nowhere in the world is the chief judge civic head of a jurisdiction. The former Bailiff, Sir Michael Birt, explains that in his submission that he made to the P.P.C. in 2011; it is included in my report. So, I contend that this is a major change to our constitution, in which case the former Greffier would conclude, if I am right, that this should go to a referendum. There was often talk in the room about unfairness and St. Mary is overrepresented and St. Helier is underrepresented. Well, of course, in a referendum everybody's vote is equal within the Island. St. Helier and St. Saviour, I think Deputy Tadier said that those 2 Constables represented half the electorate. They can swamp St. Mary's vote in a referendum, so if there really is a will for change, then let us give the people the opportunity to say so. If this amendment is accepted, I will be voting for the substantive proposition as is, or as amended by Deputy Perchard, not because I want the change, but because I believe a referendum will show that the majority of Islanders do not want this change and we can put the subject to bed for at least a little while. I urge Members to support this amendment.

The Greffier of the States (in the Chair):

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

3.2.2 Deputy M. Tadier:

We start off. I just have to correct a point, I think it is a point of fact, but it is certainly an opinion that has been expressed from the Constable that I do not agree with, which the former Greffier of the States does not agree with. If you do not want to believe me, because I am not an independent Member, I am a politician like the rest of us in here and none of us is impartial, we are all political, surprise, surprise, some of us are; some say that they are not political, go figure. But if you do not want to accept what I say, at least listen to the former Greffier of the States, who has chaired the Assembly, he has been the Presiding Officer, a clerk who I think is held in esteem by all who have had the pleasure of knowing him and know that he is a man of integrity. So, he has experience whereof he speaks. He says that this is not a constitutional matter. The reason he is right is because we are not debating getting rid of the Bailiff and this term 'getting rid of the Bailiff', which is commonly used and we hear it even in the media, but certainly on the doorsteps and when we talk to the public. Nobody is getting rid of the Bailiff. As far as I know, if we pass a decision in this Assembly to empower ourselves to choose our own Speaker, whether from the elected number, or from an outside source, we are simply doing that; we are choosing who our Speaker is; we are not changing the constitution, in terms of the civic headship of the Island and we are not changing the judiciary role that the Bailiff and the Deputy Bailiff will continue to hold. So, it is not true to say

that the presence of the Bailiff and the Deputy Bailiff in this Assembly are inextricably linked to his civic headship, rather his role in this Assembly is derived from the fact that, in the past, as we all know, the court was supreme in Jersey, so he was the Bailiff, he was the *de facto* head of the Island back in the day, he remains so now. Then, of course, when the Assembly divided from the Royal Court, following the very famous events of 1769 and a proper separation of powers was demanded by the people in a popular uprising - it was resisted locally, of course, by the local establishment because they said: "We like the system as it is," – but, luckily, they managed to get more than a two-thirds majority in the Royal Square for their demonstration and they filled the Royal Square and they went into the Royal Court and demanded change. That is where we get the States Assembly from. Unfortunately, they did not do the job properly, because the Bailiff then continued to preside in this part of the Assembly, as well as being the judge. So, it is really correcting an error, which should have been done at the time. When you separate your court from your legislature, for goodness sake do not put the same person in charge. It is just an error that they forgot to do and now we have it today and we are pretending that this is some kind of constitutional matter, that deserves a referendum. The Queen, I have noticed, does not preside in the House of Commons; this is a procedural matter, it is not to do with conduct, this is a statement of fact that no Monarch has the right to enter the House of Commons even. The Monarch will open the Houses of the new Parliaments and the Monarch will appear in the House of Lords, to give the Government's opening speech, to outline their manifesto, if you like, for the new Government and the Monarch will do that from the House of Lords. I found it strange when I went to the U.K. that the Monarch does not preside in the House of Commons; I thought that, clearly, your head of state, your civic head, is the one that you would expect to be ruling over the House of Commons but that is not the case. Then I went to France and I watched their Parliament from the T.V. (television); I have never been to the Assembly yet, but I have been to France and I was surprised to find out that the *Président de la République* is not the presiding officer in their Assembly either. In fact, most places I have been to, apart from Guernsey, or that I have researched, do not have this anomaly. So, let us not say that it is an issue, which is to do with the civic headship of the Bailiff, because it is not. The Bailiff will still be around to carry the mace, in fact he does not carry it himself, but he has someone to carry it for him, just as well and ushers do a very good job, but it is his mace. Effectively, he will be parading with it at the head of the cortège on Liberation Day and at such events and he will be followed by the dignitaries from the Royal Court and some distance behind you will find the States Members following in the footsteps. That is not going to change if we elect our own Speaker. The reason that is not going to change is because he is going to remain the civic head of the Island and the people recognise that. The Lord Chancellor in the U.K., I think I am correct in saying, used to be ...

Deputy G.J. Truscott:

Sorry, can I ask the speaker, I just want some clarification, it is just that he is ...

The Greffier of the States (in the Chair):

Normally you wait until the end of his speech.

Deputy G.J. Truscott:

I can do that. That is fine, sorry.

Deputy M. Tadier:

I do not mind giving way.

Deputy G.J. Truscott:

Thank you, Deputy Tadier, it is just that you are asserting the fact that the Bailiff could continue in his civic capacity. I think the incumbent Bailiff is at odds with that particular view and I am just wondering if one needs to ascertain as to exactly where we are with that view.

The Greffier of the States (in the Chair):

That is more of a point of argument that you might make in your own speech.

Deputy M. Tadier:

I do not mind giving way and sometimes it is nice to be able to do that, to answer the points; sometimes that is the restrictions of the nature of our debates that we cannot have the immediacy of a debate, in the truest sense of the word. I accept that point and Deputy Truscott, of course, will be able to speak. All I would say, with the greatest respect, is that is an opinion; that is the opinion of the Bailiff, who has a publicly-stated record on what he thinks should happen with the role of Bailiff and he is entitled to that. But I think that one of the key issues is that whoever the Bailiff is, and it might be, and try not to laugh, it might be a female in the future, we do not know and so they see themselves as guardians of the constitution and part of the constitution that they are trying to protect is the fact that the Bailiff should sit in this Assembly and that is one of the 3 roles. So, they tend to be small-c conservatives who want to protect Jersey's constitution. So, that opinion is not entirely surprising, but it is just an opinion and it is not one that is shared by other independent people, I would suggest, like the former Greffier, who has taken it upon himself to write to us. As I was about to say, the Lord Chancellor's role in the U.K. was changed, whereby he was the Speaker of the House of Lords and that was not seen to be the correct process. That was very much a change to the constitution in the sense it was a change to the membership of their composition and who presided in the Assembly. Of course, they put that to a referendum, as we know it was a very close referendum and the people decided that the Lord Chancellor should not sit in the House of Lords anymore. That part, of course, did not happen, because that is me just using the rhetorical device of irony, because there was never a referendum on the decision to remove the Chancellor's powers to preside, because it was an internal matter. When I have had emails on this issue, I have tried to remain respectful, but I have replied in some cases saying: "With due respect, this is not a matter for you, this is a matter for States Members, because we are deciding who should chair our Assembly, who should preside at any one time." In a similar way, if we decided that we did not want the Greffier to preside in the Assembly anymore - he is doing that now - we might decide among ourselves that we no longer want him to preside; that is not a matter for the public, that is a very simple matter that we can decide ourselves and it does not go to a referendum. But, there is another key point for putting it to a referendum that is that it obviously depends on the question. We know that we will be putting a question to the public, probably at the lowest point of esteem that this Assembly has ever been held in, if we are to judge by the election turnout as a result and, therefore, any question, especially the driest question of Ryvita proportions that we could put to the public on a matter, which should really be dealt with internally, would likely attract a low turnout, which would not be representative of public opinion on this very niche matter. So, I see it, again [whether it is the intention] as just another hurdle, which is unnecessary, to getting on with this fundamental change.

[16:15]

If it is the case that it is hoped that the public, who turn out, will be the motivated conservative majority to do so and I make no criticism of those individuals, of course, because you could argue that everybody has the right to turn out and you should not criticise those who do turn out, but we know the political reality in Jersey is that the people who understand the system and understand the nuances of the role that is performed by the Bailiff and what goes on in this Assembly, they are the ones who are most likely to vote, they are the ones who are most likely to be well connected and

more likely to secure the result that is wanted. But, that is not an inevitability, by any means, because it will be accompanied by an education programme, which will have to be delivered by the P.P.C. and they will have to just go out and state facts. The problem is, when you state facts about things like electoral reform or, in this case, the role of the Bailiff, you will be seen as being biased, because stating facts about such a ludicrous and archaic and undemocratic position in a factual, impartial, way in the Jersey context will necessarily sound biased. So, if you go into schools, for example, on a slightly different issue, and say: “The Constable of St. Helier represents 35,000 people and the Constable of St. Mary represents 1,800 people in his Parish, do you think that is fair, given the fact they have the same voting rights?” you will be told that you are not being impartial, because it is going to solicit a particular answer and the answer will be: “No, of course I do not think it is fair.” But that is just stating a fact and if you go into schools and say: “We currently have a system whereby States Members are not able to elect their Speaker, yet every other country in the world, bar Guernsey, can elect its own Speaker and all Commonwealth members, apart from Guernsey, have the autonomy to select their own Speakers and there are well-rehearsed arguments for this. Do you think that is the right thing to do?” Those facts will be seen as being biased, but it is necessary to put those facts to the public, in order to get them to make the decision. So, I do not see how this is going to work. Perhaps, the most practical argument is simply the fact that we do not have time for this. The public have put us here to make decisions on their behalf, this is an internal matter for us to decide among ourselves, whether we want a Speaker of our own, or whether we want to continue with the *status quo*, let us not waste the time of the public and the time and the energy that takes to put together, especially outside of an election period, to ask them a futile question, which we should be answering ourselves. Let us not abdicate that responsibility that we have been put here to make ourselves.

The Greffier of the States (in the Chair):

Before we go on, Deputy Truscott was quite right to ask about whether an absolute majority of Members is required for the main proposition, which it is; but, just to clarify re the amendments that rule Standing Order 89A does not apply, it is an ordinary vote, with an ordinary outcome.

3.2.3 Deputy R. Labey

Let us remember that this is an amendment; that we are debating whether it is right, or not, wise or not, to go to a referendum on this question. That is the question that the Deputy [sic] of Grouville is putting to us, so let us just remind ourselves of that, because we do not want 3 substantive debates in a row, do we? I would like to thank the Referendum Commission for putting together their very comprehensive report on how referenda should be carried out in the Island and I have had the good fortune to meet with the Chairman of the Referendum Commission a couple of times and I am hoping to arrange a meeting with the commission and the Assembly, because it is absolutely fascinating. There is a science to referenda and it is one that we have in Jersey ignored up until now, up until setting up the Referendum Commission, which, I think, was a really important step forward. The Constable of Grouville makes assumptions on the Referendum Commission’s report. The Referendum Commission would not come out and say, after the States have made a decision to ask the public a question in a referendum, the commission are not going to come out and say: “You should not do that”, because they would be accused of being political and so you cannot look to the referendum for that kind of decision. I do think the Constable of Grouville does make assumptions in terms of he thinks this referendum question would tick all the boxes. I do not think it does tick all the boxes, because it is a very complex question. The Referendum Commission did a lot of preparatory work, as the Constable says, because we have been here before. The Assembly made a decision on going to a referendum on the question of the Bailiff recently and then this Assembly made the decision not to go forward with that referendum. In the preparatory work that the commission did, it did quite a lot of very good market research in terms of quantitative, or qualitative,

research with focus groups, with representative samples and I have to say that the results, which we have asked the Referendum Commission to make available to Members, the results of that research with those focus groups, with members of the public, while the Referendum Commission were trying to decide on the best question, the headlines from that research was that: (1) people did not know what exactly the Bailiff did; (2) they did not understand the dual role and what was meant by that; (3) they did not have a grasp, or understanding, of what separations of powers issue means; (4) they thought that this is the sort of decision they pay politicians to make; and (5) they did not really care. Now, those were the 5 headlines, I hope I am right in saying; I think I have remembered that correctly. Those were the 5 headlines from the research that was carried out. The Constable of Grouville, as I say, is making an awful lot of assumptions in his proposition, we all do it. I will make this assumption: that the public of Jersey, whichever way you sit on this debate about the role of the Bailiff, we are talking about whether we should go to referendum and the public of Jersey will not thank us for going to a referendum at this time with this question. They do believe it is the sort of thing that we are paid here to make decisions on. Here is another piece of evidence, if the Connétable will not accept that, we have now e-petitions and people can propose an e-petition. It sits on the website for 6 months, gathering signatures and if it gets 5,000 we debate it in this Assembly. There was an e-petition for the States to bring a gay bar to Jersey and in the 6 months that petition was live it got 90 signatures. There was another petition that the States should refer to the public in a referendum, before making any decisions on the role of the Bailiff. That got 89 signatures, 89 signatures in 6 months and former Senator Perchard, who proposed it, was all over Twitter and Facebook: "This is my petition. Sign it, sign it, sign it." According to the public, a bigger priority for this Assembly is to bring a gay bar to Jersey, not to go to them on a question about the Bailiff. So, those are the 2 bits of evidence that I do have. As I say, it is not about whether we agree, or not, with the separation of powers and the dual role, it is about whether it is sensible to do this, to spend the money and, by the way, the Constable of Grouville cites the last referendum and it is probably quite sensible, in that it would cost £70,000 to £80,000 to do another one, but now we have a Referendum Commission, we have to do referenda properly and we cannot continue and we are going to have to change the law for this. We cannot continue having referendums, which do not have the lead campaigns, the verified authorised lead campaigns for each side, yes or no, we cannot continue not to publicly fund those campaigns. Otherwise, we are in the situation where we were with the Constables referendum in 2014, where we had a bunch of Constables with the time and money to mount their campaign, because they were not facing an election and it was at the same time as a general election and we had a citizen journalist on the 'No' side in an 18th century costume waving a flag as a one-man-band. That was the 'No' campaign and the Constables and their campaign was the 'Yes' campaign. Completely breaks all the rules, all the international standards, for how a referendum should take place. That is why I continue to say that the referendum on the Constables does not hold water, it is not valid, I am sorry to say that. But, the referendum itself did not meet international standards and we have to do that. So, the cost of it, Constable Le Maistre, will be more than £80,000 if we are going to achieve, not even maximum penetration, as is most desirable, but even a minimum adequate penetration, you are going to need to the same amount of money for each campaign, at least as a Senator would be allowed to spend on an all-Island-wide mandate campaign. So, you are talking about £10,000, or £15,000 for each side, so you are putting £30,000, at least, on to that debate. It is a very complex question, as we are going to find out later on, the idea of the guardian of the constitution, the civic head, the whole separation of powers issue, that is not an argument and not a sensible thing to put to the public. The Constable wants to use a referendum to back up his argument and he is honest about that and that is good of him to be honest about that. But, that is not a reason for going to the public with a referendum, it is not on the checklist; it absolutely is not. The Constable says that: "Removing the Bailiff from chairing these Assemblies, presiding over the Assembly day in and day out is going to be a dramatic change." To who? I mean, I would love to know how many people are watching this, or listening to this on the radio or television at the

moment, but I do not think it is over 1,000, or over 500. So, in fact, hardly anyone is going to notice if we make this change. But, I am not straying on to that territory; I do think the Island would not thank us at this time for spending £120,000, or £130,000, asking them this question. It is the wrong question to put to them at the wrong time and whatever you feel about the Bailiff, please I ask the Assembly, as they did 6 months ago, or whenever we last debated this, let us not have a referendum on this issue. Let us be able to make the decision ourselves, as we are paid to do, as we are elected to do.

3.2.4 Deputy G.C. Guida:

Here we go again; it is just like only 6 months ago. I find it extraordinary and I hope you are keeping count. I hope the Assembly is keeping count that it is the same people, who tend to complain the most about the lack of democracy in the Island, who stand up and scream every time somebody suggests a referendum. I would welcome referenda; I think we should have 3 or 4 every year. We complain that people think that they are forgotten and that we are doing business, without consulting them; why do we not we consult them? Yes, it is expensive and, yes, it means doing it properly and having campaigns, but I think we should do it reasonably often. Every time we are too close to decide, or we have a problem like this, which keeps coming back every 6 months, why do we not go out and ask? How can we say no if they have decided, even if it is by 50½ per cent, like for Brexit, they have decided? That is it, we cannot say anything else. I am also a little bit worried. I mean this is extraordinary, it is fantastic that this is all written down; that we have the Hansard to look at later on. We do not want this to go to referendum, because people do not understand; they are really not good enough to understand this very complex issue. A few, who do understand, they would vote wrong, so we cannot have the ones who understand and those few who are very *au fait* of this, we cannot have them to vote, because they would vote wrong. This has been said 5 or 6 times in July, once more here, sorry twice and I am sure that, before this debate is over, it will have been said 6 other times by the same people, who try to explain how bad democracy is in this Island. The referendum is always a good idea. If we have any doubts ask the public.

[16:30]

3.2.5 The Connétable of Trinity:

I only intended to speak once in this debate, so it is going to be now. I expect, like many other Members today, I am having a serious case of *déjà vu*; why, oh why, are we here again, 17 months on, again gazing at our navels and fiddling while Rome burns. Is it little wonder that there is voter apathy out there and the public are disillusioned with politicians when we carry on like this? There are so many other important issues that affect the daily lives of our citizens, yet we choose to debate reform and political niceties all the time. Not one of the parishioners that I have had any contact with in advance of this debate has voiced any opinion, other than the Bailiff should remain as President of our Assembly. I would go further to say most of them thought it was ridiculous that Senator Mézec and other political enthusiasts for change had the right to simply dismiss centuries of history and tradition. I, along with the vast majority of people that I represent, consider ourselves lucky to be here in the Bailiwick of Jersey and it is that word that does it for us. Bailiwick and Bailiff are inextricably linked. The Bailiff is a Crown appointment and is the guardian of our constitutional links with the United Kingdom. I do not understand how any Member, elected to this Assembly, can think they have the right to put at risk our quasi-independent constitutional status and all the benefits that brings with it. Our Bailiff and Deputy Bailiff are our senior judges and they are trained to be impartial and, if we cannot trust them, what hope is there for any of us? The Bailiff has offered a simple and pragmatic solution, to overcome the potential for conflict. Some perceive this arising out of the dual role. Where is the evidence that anyone has suffered, or been disenfranchised, simply because the Bailiff has a dual role? I put it to you that it is a concept born out of misunderstanding,

or misguided perception. It will come as no surprise that I will not be supporting the Senator's proposition and, as I have said previously, I would not support it if I was hanging by my thumbs in the Royal Square. I am inclined, however, to support the Constable of Grouville's amendment for a referendum, as I did when this came back last time, being the very minimum requirement for such a far-reaching constitutional change. This Assembly owe it to the people of Jersey to be fiercely protective of our quirky unique ways and traditions, because that is what makes it special to live here, in this wonderful Island. If they do not like it, tell them to send a gunboat. Our system has served us well for centuries and I see no reason why we should simply kowtow down to external pressure for change. We must do nothing that would diminish, or dilute, the position of the Bailiff as civic head of our Island and he must remain as President of this Assembly. This is Jersey, not some county council in the U.K. I appeal to Members to not let us be railroaded into giving up our independence and our heritage. Enough is enough. I urge Members to support this amendment and to reject the main proposition.

3.2.6 The Connétable of St. Martin:

I wanted to clarify a point in Deputy Labey's speech, but he is not in the Assembly at the moment, but it is quite important. I can put it on record then.

The Greffier of the States (in the Chair):

Do you wish to speak now, or do you wish to ask him?

The Connétable of St. Martin:

I will put it on record, because I just wanted to clarify a point. Could Deputy Labey, when he returns, he stated to me this morning that he would like to have a referendum on P.P.C.'s proposition for super constituencies. But then, he was on fire this afternoon telling us all that we cannot have a referendum for a Bailiff. I would just like to say that it seems to me the referendum on super constituencies would be just as complex as a referendum on the Bailiff, so could he clarify why we could have one, when we could not have the other. I would also like to echo what a previous speaker said and say that, by not having a referendum, is he saying that the public are too ignorant to understand the nuances of the role of the Bailiff?

3.2.7 Deputy K.F. Morel:

The danger posed to other Islanders by me not having had my lunch, or my breakfast, is now widely known and the Constable of St. Clement may remember once that he was harangued and heckled as he walked down Pier Road, the morning after the States of Jersey did what I think was an injustice to the people of Jersey, back in July 2013. I say this in response to Deputy Guida's question: how can you say no to a referendum? I will tell you and the Constable of St. Clement found out that morning why we should say no to a referendum. Here is the *B.B.C.* from 16th July 2013: "Politicians have rejected plans to reform Jersey's Parliament, voted for in an Island-wide referendum. Islanders supported a move to abolish the office of Senator, reduce the number of politicians and introduce large voting districts. Members voted 28 against, 21 in favour; Constable Len Norman abstained from the vote." Poor Constable Norman, I did not even realise he had abstained when I was heckling him that morning. That is the only time I have ever acted like that; I have never been so incensed, so angry, with the people in this Assembly that I felt I had to just go and tell them and I stood on the doorstep, after having spoken to the Constable of St. Clement, who did not respond once, he just looked at me like I was mad. Because I did not care whether it was option A, B or C that had come up in that referendum; I cared about the fact that 49 people in here had felt that they knew better than Islanders. So, from then, I thought why should we have a referendum, any referendum we have they are just going to come back here and, to be honest, be thrown out by the people in this place. So, we

should not have a referendum on this, we should have referendums on very few matters. Our job is to be here as part of a representative democracy. We are here to represent the views, to cogitate and to think about it and to listen, to bring that all into our heads and vote as we see best, as we have analysed and feel is right for this Island. That is our job. That is why we are here. So, I find it astounding that the people, many of whom are here, who went against the referendum in 2013 and you are here, many of you, you are now arguing for a referendum. It is ridiculous, in the same way that we have the Constable of St. Martin questioning whether Deputy Labey is for, or against, referendums, depending on the subject in question. So, no, just no for any subject pretty much, except should we abolish democracy in the Island, maybe that would be worthy of a referendum. But, other than that, no, we should not be having referendums. It is our job; we are going to have these arguments every time. You know what, it is childish politics; that is what it is: "Oh, I do not like this, I am scared about this, I am going to ask for a referendum, because I know it will go this particular way." It is childish, it is not necessary, Islanders do not want it. Islanders do not want to be burdened with this and what they certainly do not want and as I discovered - I was so angry that day and I had not had my breakfast, but I was furious, because I have never seen a time when people just turned around and laughed in the face of their constituents - why did we spend the £80,000, or the £70,000, on that referendum? Why did we ask people to give up time in their day to think about it, to read through the leaflets, to talk to their friends, to think about this and think that their decision would be the decision that was made, if plenty of us and many of them still here in this Assembly, were then just going to turn around and throw it out? So, for that reason, because of the actions of all those who were here in 2013, because you all voted against the referendum we had then, there is no way I am going to vote for a referendum now, because you cannot pick and choose when you have a referendum, when you respect a referendum, when you do not respect a referendum. No. We are here; we are paid to represent our constituents. We can make this decision by ourselves and, please, for that reason do not go down this route of a referendum, it is a diversion. It is being done for all the wrong reasons and it is not about democracy; it is just about getting the result you want. That is what it is aimed at and that is why the referendum was ignored last time, because people wanted a result and they did not get the result, they changed it, they did whatever. So, no, unfortunately, Deputy Guida, the reason we say no to this is because, when we have referendums, the States Assembly does not respect them.

3.2.8 The Connétable of St. Mary:

First, may I say that I take this as a very serious issue. When the main proposition came through my door, it conjured up great interest with my dog. **[Laughter]** Of all the propositions received, it is the only one that he decided to get his teeth into. He obviously found it most distasteful as he was unable to stomach more than a mouthful, like, it would appear, the majority of our population. I am proud of our Jersey institution, it is unique, it does not comply with the political correctness of many other jurisdictions. Why should it when it is what our people are content with and has never caused a problem? The Jersey people want the Bailiff to remain as President of the States. If that was to change, it should be a people's choice, not taken on the vote of politicians. As this is a change to our constitution, should we be making such a decision in this Assembly? This is a people's choice. It also ties in with future reform proposals, which change the makeup of the States Members and constituency boundaries in relation to equal votes. All of these issues should have the electorate's views, in order to have a democratic reason to change. This is an emotive and very important issue that should involve the people. Both issues should be decided by the Island electorate in a referendum; a referendum that is binding for the preferred public choice, not returned to this Chamber to be cherry-picked and then not acted upon. We have, in the past, witnessed the public disdain for not accepting their vote on previous reform proposals and this has been compounded by the U.K. Brexit referendum where politicians have overridden the public preference. On Friday evening, at the end of our community choir practice, I put the question of a Speaker replacing the Bailiff; it was

not a long debate, only one person in 25 thought that we should comply. Most were horrified that we are losing our heritage, or uniqueness, for the sake of complying with other jurisdictions, who do not operate in an exemplary manner. If that opinion is echoed across the Island, then it could be that only 4 per cent of our population agree with this proposal. That alone should not be enough to change our constitution. We have a unique government; we should not be making changes simply to appease others, who are dictated to by Brussels. Eighty years ago a little bloke in Germany tried to achieve domination by using guns and bombs. Have people sacrificed their lives to have our constitution altered by stealth and conformity to others, which is something that continues to spread from mainland Europe. I read with great interest that I could apply to be a Speaker. I must point out that I have no desire to do that, as I lack the vast knowledge required to be a candidate. If I did possess that ability and achieve the Speaker position, would I need to change my name, as, surely, the Speaker could not have the name Le Bailly, or Bailiff, as that could be controversial in itself and confusing with others who wish to exclude our Bailiff. Furthermore, if an elected Speaker was taken from within, one of our people's representatives, then that would leave a constituency imbalance. We were not elected to interfere with issues such as these. We have a system that works with a Bailiff presiding over the States. When the Bailiff is unable to attend, the Deputy Bailiff takes that position. When that is not possible, the role falls to the Greffier, or the Deputy. So, there is not a problem, apart from not complying with the wishes of others. The Bailiff's role is respected by the people of Jersey and it should only change if that is the wish of the people. Changing the role of our Bailiff to a Speaker will not improve the way in which this Chamber operates, or improve our electorates' lives, or encourage them to vote.

[16:45]

That is something we should be doing now, by listening to what the people want; the issues that they really care about, like our hospital, immigration, the housing crisis, *et cetera*. Changing the role of the Bailiff will not solve these problems. If, as at present, the Bailiff is occupied in the Royal Court, then the Deputy Bailiff presides. There is nothing wrong with that system. This is a system that has served the Island well and has proven to do so. Jersey was adopted by England in 1204; that choice being made by the Island population. Since then, we have remained loyal to the reigning king, or queen. This is a matter of values and respect for our constitution. How much do I value and respect our constitution, our Queen and our Bailiff? This is our culture, our heritage. If necessary, I would be prepared to defend that with my life. I would gladly stop a bullet to defend my wife, our Queen and our Bailiff. Would I be prepared to do that for the present Speaker in the House of Commons? **[Laughter]** Or a Senator, or anyone proposing this alteration to our system? Not on your life, and I mean no offence to the Senator. I, therefore, will support the proposition of the Constable of Grouville, which recommends a public referendum.

Senator S.Y. Mézec:

Can I ask a point of clarification from the previous speaker? Shortly after the revelation that those of us who want a separation of powers are secretly working for Brussels, he mentioned something about the Germans and bombs and fighting, could he just clarify what he meant by that and who, in that analogy, in this debate, represents the Germans?

The Connétable of St. Mary:

That was not a dig at present-day Germany in any way. It was a reference to the system that was in place 80 years ago and caused a lot of sacrifice among many lives across Europe and the rest of the world.

Senator S.Y. Mézec:

The second part of my clarification is who in this debate is comparable to that?

The Connétable of St. Mary:

I did not suggest that anybody was comparable to that, at all.

Deputy M.R. Higgins of St. Helier:

It is seeking clarification, again. I happen to love history; when I get free time, I go to the National Archives and research various things. I am not aware that, in 1204, the population of the Island were asked if they wanted to remain with Britain and I would like the Constable to tell us what referendum took place at that time. Equally, I would like to know what referendum was taken in 1948, when the Jurats and the Rectors were removed from the Assembly. They were not.

The Connétable of Grouville:

Point of order; that is not clarification.

The Greffier of the States (in the Chair):

You pre-empt me, Constable. I think those were rhetorical questions. [Aside] I think we know the answers to those; that is why they are rhetorical.

Deputy M. Tadier:

Sir, with respect ...

The Greffier of the States (in the Chair):

Sorry, I am just dealing with Deputy Higgins. That is not a clarification; that is a debate on points, it is a rhetorical question. You are making a point, which is fair enough in the course of debate, but not in terms of trying to ask for clarifications.

Deputy M. Tadier:

I was trying to be helpful. It is a point of order and the Deputy I do not think has spoken, has he, unless I missed his speech, so he can carry on as much as he wants in that line to expand on that point?

The Greffier of the States (in the Chair):

It is a perfectly valid debating point. Did you wish to speak now? I have Deputy Gardiner on the list otherwise.

3.2.9 Deputy I. Gardiner:

I follow Deputy Labey's suggestion and I probably will do one speech, kind of sum it up very swiftly, where I am standing. I do believe change is happening and needs to happen. At the same time, change should happen for the right reasons. I would like to share with you my personal journey for the last months when I went through different meetings, trying to bring together my views on the Bailiff's role. I remember, when I arrived to the Island 10 years ago, I found the role of the Bailiff is one of the things that makes Jersey unique. It is really unique, compared to most of the places that I lived and worked. In April, I held 2 surgeries in St. Helier, one at La Pouquelaye and one at the Town Hall and I have 20 participants, not thousands, 20, it is my first surgery. I had just been elected and 18 expressed very firm views to keep the role of Bailiff as it is and 2 said they do not have enough understanding. Saying this, I lived and worked in 3 different countries where it is strict separation

of the powers, so I did face a cognitive dissonance between what I believed that it should be: separation of the power, to the very special position of the Bailiff in Jersey. I have had meetings and conversations with lots of different people from different backgrounds, including lawyers, who studied English and Jersey constitutional law, because it was really important for me to understand where is the problem; is there a problem of separation of the powers specifically in Jersey? If it is not, what is the core problem, why do we need to do this change, because lots of parishioners said to me: "This change is not required, electoral reform is required, but Bailiff, what is happening with you?" The separation of the power, what at least I have got from the lawyers, is the principle does not mean to have them operate in a vacuum, it should be in balance. There is confusion between separation of the powers and balance of the powers. You need an extent to which one arm of the government is answerable to other, but you also must have procedures to eliminate potential for circumstances, creating a bias, which can happen with any person chosen to be a Chair. One of the reasons why the British constitution has been admired, historically, is the constitutional balance. I feel that, in particular, a lot of people refer to the Clothier Panel made a fundamental misunderstanding, from my perspective, of implication of the separation of powers principle to the matter of the Bailiff. The Bailiff does not vote as a Member of the States Assembly; he, therefore, is not a member of the legislature. Nor does he enforce public laws made by the States Assembly, while chairing the States Assembly, but he applies the rules made by the States Assembly to govern its own conduct. There is a second argument, that I do understand about the power of States not being able to dismiss a Bailiff as a Speaker and we might need to introduce a new law. I feel there is a public interest in where our Assembly is standing now, from my perspective, I would like to have an evolution of the process, I would like to see a change, but what is proposed today is a revolution and I do not feel that we need to stop everything, completely change everything, we need some way to develop to be there. I am not a big fan of referendum, lots of money, we did not follow the previous one, we do have a low level of civil engagement, the public does not believe in the referendum, unfortunately. Saying this, I would like to find a way to go forward and there were lots of discussions between the Members and through the emails, there were different options. Even now, at the tea room, I heard another option that I have not heard before from Deputy Higgins. I would love to see this option discussed. The options that are today on the table are not leaving me a choice to support the referendum, because I do think that the proposition, as it stands now, we do need to give it to the public to decide. It might well change in a couple of months, 3 months, 4 months, not sure, let us see how the process evolves going forward. Another thing, a referendum becomes a bad word in Jersey, but referendum as a tool, as a democratic tool, is a really strong one, is a really good one, so maybe this is the time that this Assembly will say: "Let us make a referendum and let us honour it and let us respect it and let us bring the trust back."

3.2.10 Deputy L.B.E. Ash:

I will be supporting the retention of the Bailiff as Speaker, but that is a debate for another day, possibly Saturday at about 5.30 p.m. at this rate; but I will not be supporting a referendum on this subject. The main reason is, if we were looking to get rid of the Bailiff, as some people say, to remove the Bailiff from office, then I would fully support a referendum on that subject. But that is not what this debate is about. This debate is about who is going to preside as Speaker of this Assembly, of this group of people. It is up to this Assembly to choose who they have as their Speaker.

3.2.11 Deputy R.J. Ward:

Just very briefly, a referendum means that, yet again, this Assembly passes the buck in decision making. It could not be a worse time for us to do that, given the image we have outside this Assembly. I was elected on a manifesto that clearly gave my views on the separation of roles within the Assembly. People knew what they were voting for, I spoke about it on the doorstep, it was clear.

We need to be able to decide, as an Assembly, over who presides over this Assembly. That is what we are talking about. This does not need to go to the wider public; it is a complete and utter waste of money. Debate after debate in this Assembly says: “What about the money you are spending?” We do not have the money for really key issues that we want to talk about. Over the last few days we have talked about that. Why are we wasting money on another referendum and, as was said, we are ignoring the research from the Referendum Commission that we have already spent money on and we are going to ignore that as well. We wonder why, when we go to the public, they have no faith in us, because they say we are wasting money on pointless activities in the Assembly, while we are not getting things right. Let us not do it again. There are much more important things that we should be debating in this Assembly, rather than having a referendum again. Housing, the hospital, mental health, poverty, the cost of living, education, I could go on. I cannot support this amendment. It is simply there as yet another distraction from making a simple decision and then this Assembly can move on and let us get on with the work that is necessary. I will not support this amendment.

The Connétable of Grouville:

Can I just ask a point of clarification? Did he say we were ignoring the electoral rule? Who were we ignoring?

Deputy R.J. Ward:

The commission.

The Connétable of Grouville:

The Electoral Commission, thank you.

Deputy R.J. Ward:

The Electoral Commission’s report, as referenced by Deputy Labey.

The Greffier of the States (in the Chair):

The Referendum Commission’s report, yes.

The Connétable of Grouville:

The Referendum Commission, we were ignoring their recommendations.

3.2.12 Deputy M.R. Higgins:

I am just going to be very brief, I am going to speak on the main proposition, but I do believe that, despite the earlier proposition from Senator Farnham, this use of a referendum is a wrecking motion, trying to sort of stop it happening. The other thing too I would say is that referendums, we think, solve problems; they do not. All we have to do is look at the United Kingdom, at the present time, on the Brexit referendum and we have a situation where those who wanted Brexit won and all those who were against it and wanted to stay have fought and tried to get a second referendum and unravel the whole lot. What do we have? We have a divided nation. If we do have another referendum in the United Kingdom and the remainers win, then the 17 million, or whatever it was, who voted to leave are going to feel so bitter and twisted about it. I do not believe that this is an issue for a referendum. I believe it is, as Deputy Ash said, a matter for this Assembly. What we are talking about is not removing the Bailiff and getting rid of him from the Island and his role, we are just saying that the Bailiff should continue being the civic head and I have no problem whatsoever with that and should sit in the court. I do object, very much so, to the waste of money that we have that

while the Bailiff and Deputy Bailiff are in here that we have to bring in judges from the United Kingdom to listen to the cases and there is a great cost.

[17:00]

So, I do believe that there is a role for the Bailiff: it is as the Chief Judge and as the civic head, not as the Speaker in this Assembly. At the same time, I will not be supporting the idea of a referendum because (1) I do believe it is a waste of money, (2) I also believe it could be very divisive and it will not do anything for the respect of this Assembly.

3.2.13 Senator S.Y. Mézec:

Needless to say, I oppose this amendment. I agree with what Deputy Higgins says: it is by definition a wrecking amendment and the Constable of Grouville did essentially admit that in his proposal, by saying he wants it to be a vehicle for stopping change, so that, by definition, makes it a wrecking amendment. I agree with pretty much everything that Deputy Morel said in that this is simply a case of trying to pass the buck, rather than making a decision on the merits or, more importantly, on the mandate that you have. Quite a few Members contributed thoughts into this debate that show that there is a real lack of understanding of what electoral-based democracy is, how it works and what are the principles underpinning it. There are a few quotes that made this clear, the Constable of Grouville asked the question: “What are they afraid of? Why are they afraid of holding a referendum?” The Constable of Trinity - and this was outstanding what he said here - he said that people were asking what right I, or for that matter anyone else, would have to bring this proposition? Well, I will tell you what rights I have to bring it, it is called a mandate from the fact that I won an election and my manifesto said I would do this. So, there, somebody who did not face an election is questioning the right of someone, who won a very tough election campaign, to try to fulfil their manifesto. Where is the democracy there? It is to suggest that when you get to this Chamber, you give up on all of those promises you made to the public, who put you in this position. What sort of perverse understanding of democracy is that, to say that: “Because I do not like what you stand for, because I have spoken to a handful of people who have an alternative point of view and will have expressed that point of view at the ballot box in their own way, you who are elected with a mandate, with a manifesto, do not have the right to pursue that.” It is absolutely absurd. The *Jersey Evening Post*, a few days ago did an article and they tried to collate what comments had been made on this subject by candidates at the last election and it was very interesting. Of the Senators, 5 out of 8 of them were down as supporting this change; that is a majority, including the 2 poll toppers and it had the largest group supporting this change. There are some, who would not give which way they were; in fact, as it happens, all of those were Members who were uncontested at that last election. Deputy Guida said in his speech and I have a degree of sympathy from where he is coming from, he has a position, he said he would like there to be 3 or 4 referendums a year. Fair enough, I do not agree with that, but that is a perfectly consistent position to have, if that is what you would like the democratic settlement with the public to look like. But then the question has to be asked: where do you draw the line on what does get put to the public, *versus* what does not get put to them? If an issue arises in the middle of a term that was completely unforeseen, or circumstances change, or there is a great question that could never be answered by a Parliament alone - I would put the issue of independence for the Island as being one of those issues in the way they had it in Scotland - I think that is a fair question to put to a referendum. But why would you put a question to a referendum when your manifesto was clear on it, anyway, when you already have the mandate to pursue that change? Why would you not put anything else to a referendum, a particular tax rise, how many of the tax rises that have happened in the Island over the last few years were very clearly stipulated in the manifestos of the candidates who proposed them? I remember one former Minister for Treasury and Resources saying: “Vote for me and I will not raise G.S.T. (Goods and Services Tax),” and then, within a year, had done exactly that.

If ever there were a case for a referendum, on a random political subject, that would have been it, because of the breaking of the democratic mandate, not the attempt to fulfil that mandate. But here is the most important thing and I have said this before in this Assembly, so I hope I can have Members' indulgence by quoting myself, but I have said that referendums give you results; they do not give you answers. The Brexit referendum is a great example of this. But this referendum would establish that particularly so. A referendum result, which probably would be achieved on a miniscule turnout, 10 per cent if we were lucky, which sought to legitimise that, by any objective democratic assessment is illegitimate, would not help take us forward. My concern with the lack of separation of powers is as what I said it was in my opening speech on this, which is that I am concerned that citizens of Jersey do not have recourse to an independent tribunal to uphold their rights. That will not change if there is a referendum that says it is OK that you do not have that fundamental right to recourse to an independent tribunal. I will be as concerned about that democratic shortcoming as I would be otherwise. It makes no odds to me. If a referendum happens and a miniscule proportion of the electorate come out and take part and say: "Yes, we are against the separation of powers", I am sorry, but it does not change my mind. I will still want a separation of powers; I will not consider the result of that referendum to be legitimate, not just because of the reasons the Chairman of P.P.C. outlined in that it does not fulfil the criteria of the Venice Commission, but of the subject itself. If there were a referendum and I have used this example before, asking to disenfranchise left-handed people from being able to vote and all the right-handed people came out and said: "Yes, we will disenfranchise left-handed people", I would not accept that result either, because it would be on an undemocratic question, attempting to legitimise the illegitimate. So, you cannot just use this as a tool to pass the buck and not make decisions and not try to uphold the objective democratic rights. It is a wrecking amendment. It is a wrecking amendment by admission and the report and the speech that has been produced alongside it are, I am sorry to say, of quite poor quality and make several points that contradict themselves. In the opening of the report, it talks about the A, B, C option referendum and then compares it to the 2014 Constable question referendum where it points out that, in 2014, St. Helier was the only Parish to vote in favour of removing the Constables, but this was only by 22 votes, it was very slim, quite surprising, is it not, especially when you compare it to the referendum a year before where the option to remove the Constables won in St. Helier by a massive landslide. Now, what does that show you? It shows you that you get whatever result you want, by asking whatever question you think will get you there better. If the question is: "Should the Bailiff be removed from the States Assembly?" then the answer will probably be no. If the question is: "Do you think Jersey should establish a democratic separation of powers?" I am pretty sure the answer to that would be, yes. You get whatever result you want, based on what question you ask. In that referendum, with such a low turnout, if the result were a yes and voted to end the role of Bailiff, those who did not like that would do exactly what they did in 2013, as Deputy Morel said. They would say: "Sorry, turnout is too low, it does not reflect my experience of speaking to my constituents and the people in Jersey, such low turnout, I cannot justify supporting it." Likewise, people on my side, who think the separation of powers is sacrosanct would say: "Sorry, 10 per cent turnout does not cut it for me either." In which case what have we done? We have wasted over £100,000. As Deputy Labey said, we will have not fulfilled the criteria in the Venice Commission at a time where we are seeking to become more and more Venice-compliant, what a laughing stock we would appear because of that and we will have irritated the public by wasting their time, we will have insulted their intelligence by putting a question that for most of them is completely meaningless when there are such greater issues to be getting on with. So, I say to Members, please cut the indignation to say these people are just not interested in democracy when what we are trying to do is to fill the democratic mandate that those, who speak loudest against this, themselves do not have. So, cut the indignation, we are trying to respect our voters and our constituents by doing what we told them we would do. So, do not hold that against us. If you want to argue for it on different grounds, fine; but drop that one, because it looks ridiculous, honestly and it shows a lack of understanding about how

democracy works. We will come to this probably more substantially in the main debate, but the phrases that have been used in this report and the speech from the Constable of Grouville about what a dramatic change to our constitution it would be, really overplay the situation significantly. The fact is that removing one part of the multifaceted role that the Bailiff has in Island life is not a significant constitutional change, it is a constitutional enhancement. Going back to the authority that I referred to in the previous debate from *Thoburn v Sunderland City Council* about what constitutes a constitutional piece of law, about the conditions of the legal relationship between citizen and state in some general overarching manner; that relationship with a Parliament being able to govern itself and pass its own laws, without outside interference and having the right to recourse in an independent tribunal, those rights of citizens are fundamental. Having a referendum to prevent that from happening is an act of democratic sabotage and I hope Members reject this amendment.

Deputy K.F. Morel:

I am aware of the hypocrisy, as someone who speaks a huge amount in this Chamber, I am aware of the hypocrisy, but I believe 10 people have spoken and I was going to ask for a guillotine motion again. I cannot? I see, I apologise.

Deputy L.M.C. Doublet:

Can I ask for it please?

The Greffier of the States (in the Chair):

More than 10 people have spoken, so we can accept that. It is slightly odd, because the Assembly has already agreed to adjourn at 5.30 p.m., but we can finish this debate. Someone can apply to finish the debate 30 minutes from now, so that would carry on into tomorrow if necessary.

3.2.14 The Connétable of St. John:

When bringing a proposition to this Assembly, I believe that one of the criteria you should put to yourself is will this proposition be in the best interests of the people of Jersey and would it be supported by the people of Jersey, the people we are elected to represent. The answer, of course, should be yes. Therefore, anybody who brings a proposition, but is not prepared to have it tested, should not bring the proposition. It is as simple as that. So, having heard Senator Mézec speak against having his proposition tested by the public, you came bottom of the Senatorial poll, through the Chair, you came bottom of the ...

The Greffier of the States (in the Chair):

Through the chair means not “you”. I did not stand in a Senatorial election.

The Connétable of St. John:

I know you did not. I do apologise. Senator Mézec came 8th and while it was on his manifesto, I readily accept that, but it does not mean that the majority of the Island supported that particular point on his manifesto. It was not the only item on it; there were many others. So, no, you have done the right thing in bringing it, but, in doing so, if the proposer had any confidence in his proposition, he would say: “Bring on the referendum; I know what I am doing is right. Bring it on and let us have a referendum.” But, of course, no, because he knows he would not win. I urge people to support the referendum, because there can be no objection to it.

[17:15]

Deputy M. Tadier:

It is a point of clarification from the last speaker, could he just clarify that the Senator, who came bottom of the poll in the Island-wide mandate, still got more votes in St. John than the previous speaker?

The Greffier of the States (in the Chair):

I feel that is rhetorical, as well, Deputy Tadier. Chief Minister.

3.2.15 Senator J.A.N. Le Fondré:

Yes, Senator Mézec and I do agree on a variety of matters, but it will not be news to him that I do not agree with him on this one. He has spoken passionately, but that is his opinion and not everyone in this Assembly will agree on those opinions and that is what we call democracy. One of the problems, slightly in the wider context that we have around reform generally, is a lot of the guidelines that keep getting referred to often - and do not forget that the Venice Commission is guidelines - and I quote from a paragraph in a wonderful Corporate Services Scrutiny Report of the day, which was from 2017 when this last came around and it does say: "The panel will conclude, regarding urgency, if any change is to be identified it cannot be very hurried, or based on an idea that the Island may be forced to introduce change. Changes should not be made in these solely to the guidelines laid down by the Venice Commission, given that these are merely guidelines." Then it talks around the disparity between the U.K. and Jersey in terms of historical and geographical boundaries in that particular instance. This is, obviously, about the Bailiff. The point is that those guidelines are often designed for large countries. We are an Island of 105,000 and then sometimes there will be bits where it does not quite work, or things get magnified, because any small discrepancy in a small area will get magnified. What I was going to say is that I do always find it difficult when we talk about democracy, but do not want to ask the people who voted us in, i.e. the Islanders. I also make the point that the issue around the civic head it is not removing the Bailiff, it does not matter. There was one opinion, I was only going to allude to it briefly now, of the past Bailiff and possibly the present, I am not too sure, that if one removes the Bailiff as President of the Assembly, or as Presiding Officer, depending on which terminology you wish to use, then the role of civic head will wither on the vine. Why would the Chief Judge be civic head of the Island in the future? So, let us not be seduced by those arguments; when one takes one of 3 legs of a stool away, it will eventually topple over. What I wanted to also refer to - and this I hope is objective, I have my strong views but I believe this is an objective measure - I go back to the fact that when we looked at this matter in the round and, obviously, I am looking at constitutional change, this was around the boundaries and things like that of the day, but I think it applies to this as well, we asked 2 questions, we asked a whole range of questions, of 1,000 people by MORI. It was done objectively, it was done across age ranges and it was done across the Parishes, that is how MORI work. So, it should be, in theory, a representative sample of Islanders, it was 1,030 people. Question: "Do you think there should be greater communication with the public on matters relating to significant changes to political representation, or governance, or not?" I think that last expression does cover this situation. Yes, 87 per cent. No, 8 per cent. Do not know, 5 per cent. That is a fairly unequivocal result, that suggests that we do need to be engaging far more with the public when we are doing these so-called minor changes. I will just add, which might be relevant, because it is about States Membership, but it might be relevant to Deputy Labey at some point of St. Helier: "Do you think a referendum should be held on these proposed changes to States membership, or not?" Yes, 71 per cent. No, 21 per cent. Do not know, 9 per cent. Again, in my view, that rests my case; that is an objective measure. It is not my opinion, they are about as balanced a question that can be done and there are very clearly significant majorities in favour of that. On that basis, that is precisely the reason I will be supporting this amendment.

3.2.16 Deputy G.J. Truscott:

I want to thank the Chief Minister there, because you alluded to the fact and the Bailiff has made the point, and I was going to reiterate the exact same thing, is that we are talking about the eventual demise of the office of Bailiff in Jersey and that is the most significant thing about this debate that we have in front of us today. I will be speaking later on in the debate, so I will just be very brief here; we all want to get home. I am a staunch supporter of the Bailiff presiding in the Chair; I made that very clear in my manifesto and I am just going to ask all Members that they made it very clear in their manifestos to the public their position on this matter. Because, if you are not prepared to go and ask the people on this issue, then they will certainly let you know how they feel in 3 years' time at the ballot box. I will put my position; I will be supporting this and rejecting all the other amendments and the main proposition, but I will talk later on in the debate.

The Greffier of the States (in the Chair):

If no other Member wishes to speak I call the Constable of Grouville.

3.2.17 The Connétable of Grouville:

That came around a little bit quicker than I thought it might. I hope I will not repeat the points I make, because some of the speakers made the same point, so, hopefully, I will address them as I go along. Deputy Tadier, once again, spoke about the opinion of the former Greffier. I have a great deal of respect for the former Greffier, I think anybody who was in this Chamber will as well. He reminded me, when I first got elected, that he was a year ahead of me at school, right back to kindergarten. I did not recognise him, because he had grown quite a lot since kindergarten. But another person who I have tremendous respect for is Sir Michael Birt and I mentioned him in my report. He is, obviously, a former Bailiff and he said that if the Bailiff was removed as President of the States, it will inevitably erode his position as civic head over time. It is an opinion, whether you agree with it, or not. Nobody is asking for this change; that was made by a number of people. Low turnout; that was mentioned by a couple of people. I do not know how they are sure of that. The 2013 referendum was not exactly a big turnout, but I do not really mind. I know there are some people, who are passionate in my Parish, who want to oppose this and if that only makes up 10 per cent of the Island and nobody else cares, I am worried about those 10 per cent; they take the trouble to turn up and vote, why should we not take their opinion into account and if nobody else minds one way or the other that is really up to them. There will be an education programme, so if anybody worries that the public do not understand the principles here, there will be an education programme from the commission, presumably from the vote.je, they will get the facts. My ex-friend Deputy Labey - he knows I am joking - we go back a long way as well, we have been friends for a very long time and will be friends very much into the future, even if we have our disagreements over political issues. He did imply I was put up to this by the Deputy of Grouville; we do work very closely together, but I contacted her to tell her that I was putting this motion forward. The former referendum proposal, exactly the same as this one, some 18 months or so ago was withdrawn, so I do not think the commission could not comment on that if they thought it was bad, because it was withdrawn in the end, so they could have commented, but they chose not to. I believe my parishioners do not want this and my electorate will vote that way and so why should they not be given an opportunity at the ballot box to speak their mind? A number of speakers have spoken about this civic head thing and it is opinion one way or the other. Deputy Labey plugged the price of £120,000 for the next referendum. He just plucked that out of thin air, to frighten people. The last one was £70,000; I have added on £10,000. He suggests that there will have to be some money put forward to either side, but in the Constables referendum, the Constables restricted themselves to the limits allowed for a Senator. I think that is less than £10,000, so if each side had £10,000 it would only be £100,000. I think that was a bit of a scare tactic. Deputy Guida, *merci bien*, that is the only time I will speak French in my

time here, I suspect. I have not known him very long, but he talks common sense and, of course, I agree with what he said. He basically made the point that those who do not want a referendum are the ones that are always talking about representation. Thank you to the Constable of Trinity for his input. Deputy Morel was incensed that the 2013 referendum was not followed. He was not the only one, but there are people like me who think that a 3-way referendum like that was flawed and, in my report, it does explain that more people who took part in that referendum did not vote for option B, as their first and second item. If this referendum goes ahead, I will follow the wishes of my electorate, so if they vote against the proposal, I will vote against it as well. If they vote to support the proposal to remove the Bailiff, then I will vote with them, as well. I agree with the Constable of St. Mary's dog and his choir. He assumes the result of the referendum will be against, but I do not know; I might be wrong and he might be wrong, but we should find out. Deputy Gardiner is somebody who came to the Island 10 years ago, but now very much a Jersey woman, she came with a perception from outside, but now she is in Jersey she sees things in a very different way. Deputy Ash was one of the people who thought we would be getting rid of the Bailiff; I mentioned that already, I just hope he pushes the wrong button again. **[Laughter]** One or 2 people mentioned it is a wrecking motion; I am not sure what that means really, but if that is what it is, that is what it is. But, I am not frightened of being told that is a wrecking motion, but it is really all about getting the view of the general public. Deputy Mézec said something about contradictions in my report, but then he did not appear to mention any. I do not, incidentally, have a problem, at all, with the Senator bringing this proposition, it was in his manifesto; I absolutely have no problem with that, whatsoever. He said the question would be very difficult to set. The question has already been set, if you like, by the Commission 18 months ago and they were quite happy that the question could be put in a completely unbiased way. We often get this thing that comes to us, elections. Well, I get re-elected every 4 years, like everybody else. I did face a contested election the first time I was elected. It was a by-election and it was a massive turnout, because people like the Parish elections. The turnout was just short of 50 per cent, so I am quite happy and I also know that if I am not doing a good job, somebody will stand against me in 3 years' time and succeed, as the Constable of St. Saviour did, the Constable of St. Mary did. We are not here, it is not a job for life and, if you are not doing a good job, you will get ousted. It is getting late, I am a minute late because it is 5.30 p.m., I cannot say anything more really but I do urge Members to ask the general public, before we make this very serious change.

The Greffier of the States (in the Chair):

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

POUR: 25		CONTRE: 22		ABSTAIN: 0
Senator L.J. Farnham		Senator T.A. Vallois		
Senator S.C. Ferguson		Senator K.L. Moore		
Senator J.A.N. Le Fondré		Senator S.W. Pallett		
Connétable of St. Clement		Senator S.Y. Mézec		
Connétable of St. Lawrence		Connétable of St. Helier		
Connétable of St. Saviour		Deputy G.P. Southern (H)		
Connétable of St. Brelade		Deputy M. Tadier (B)		
Connétable of Grouville		Deputy M.R. Higgins (H)		
Connétable of St. John		Deputy S.J. Pinel (C)		
Connétable of Trinity		Deputy of St. Ouen		
Connétable of St. Peter		Deputy L.M.C. Doublet (S)		
Connétable of St. Mary		Deputy R. Labey (H)		
Connétable of St. Ouen		Deputy S.M. Wickenden (H)		
Connétable of St. Martin		Deputy J.H. Young (B)		
Deputy J.A. Martin (H)		Deputy L.B. Ash (C)		
Deputy of Grouville		Deputy K.F. Morel (L)		

Deputy K.C. Lewis (S)		Deputy of St. John		
Deputy of St. Martin		Deputy S.M. Ahier (H)		
Deputy of St. Mary		Deputy J.H. Perchard (S)		
Deputy G.J. Truscott (B)		Deputy R.J. Ward (H)		
Deputy G.C.U. Guida (L)		Deputy C.S. Alves (H)		
Deputy of St. Peter		Deputy K.G. Pamplin (S)		
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy I. Gardiner (H)				

The Greffier of the States (in the Chair):

The Assembly will carry on with this debate on the second amendment tomorrow; it stands adjourned until 9.30 a.m.

ADJOURNMENT

[17:31]