

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 16th JULY 2013**

<b>PUBLIC BUSINESS .....</b>	<b>4</b>
<b>1. Committee of Inquiry into Historical Abuse: appointment of Chairman (P.76/2013) ..</b>	<b>4</b>
1.1 Senator I.J. Gorst (The Chief Minister): .....	4
1.1.1 Deputy J.M. Maçon: .....	5
1.1.2 Deputy J.H. Young of St. Brelade: .....	5
1.1.3 Deputy M. Tadier of St. Brelade: .....	5
1.1.4 Deputy T.M. Pitman: .....	6
1.1.5 Senator I.J. Gorst: .....	7
<b>2. Draft States of Jersey (Amendment No. 7) Law 201- (P.64/2013) .....</b>	<b>11</b>
2.1 Connétable A.S. Crowcroft of St. Helier (Chairman, Privileges and Procedures Committee): .....	11
2.1.1 Deputy M. Tadier: .....	15
2.1.2 Deputy G.C.L. Baudains of St. Clements: .....	18
2.1.3 Deputy P.J.D. Ryan of St. John: .....	20
2.1.4 Senator B.I. Le Marquand: .....	21
2.1.5 Deputy S.G. Luce of St. Martin: .....	23
2.1.6 Deputy A.E. Pryke of Trinity: .....	23
2.1.7 Connétable M.P.S. Le Troquer of St. Martin: .....	24
2.1.8 Deputy J.M. Le Bailly of St. Mary: .....	26
2.1.9 Deputy J.A. Martin of St. Helier: .....	26
2.1.10 Connétable L. Norman of St. Clement: .....	28
2.1.11 Senator S.C. Ferguson: .....	29
2.1.12 Senator P.M. Bailhache: .....	30
2.1.13 Deputy S. Power of St. Brelade: .....	32
2.1.14 Deputy M.R. Higgins of St. Helier: .....	33
2.1.15 Deputy T.M. Pitman: .....	33
2.1.16 Deputy G.P. Southern: .....	35
2.1.17 Deputy J.M. Maçon: .....	37
<b>LUNCHEON ADJOURNMENT PROPOSED .....</b>	<b>39</b>
<b>LUNCHEON ADJOURNMENT .....</b>	<b>39</b>
2.1.18 Deputy J.P.G. Baker of St. Helier: .....	39
2.1.19 Senator A. Breckon: .....	40
2.1.20 Deputy S. Pinel of St. Clement: .....	41
2.1.21 Senator F. du H. Le Gresley: .....	42
2.1.22 Connétable J. Gallichan of St. Mary: .....	43
2.1.23 Senator L.J. Farnham: .....	44

2.1.24	Deputy E.J. Noel of St. Lawrence:	46
2.1.25	Deputy J.H. Young:	47
2.1.26	Deputy K.L. Moore:	49
2.1.27	Senator I.J. Gorst:	50
2.1.28	Connétable J.M. Refault of St. Peter:	51
2.1.29	Deputy C.F. Labey of Grouville:	51
2.1.30	The Connétable of St. Helier:	52
<b>3.</b>	<b>Referendum on States reform: outcome (P.74/2013)</b>	<b>56</b>
3.1	Senator B.I. Le Marquand:	56
3.1.1	The Connétable of St. Peter:	56
3.1.2	Deputy G.C.L. Baudains:	56
3.1.3	Senator P.F. Routier:	57
3.1.4	Deputy J.H. Young:	57
3.1.5	Deputy J.A. Martin:	57
3.1.6	Deputy S. Power:	58
3.1.7	Deputy G.P. Southern:	58
3.1.8	Deputy M. Tadier:	58
3.1.9	The Connétable of St. Mary:	59
3.1.10	Deputy J.A.N. Le Fondré of St. Lawrence:	60
3.1.11	The Deputy of St. John:	60
3.1.12	Senator L.J. Farnham:	60
3.1.13	Senator P.F.C. Ozouf:	61
3.1.14	Connétable P.J. Rondel of St. John:	61
3.1.15	Senator F. du H. Le Gresley:	63
3.1.16	Deputy M.R. Higgins:	64
3.1.17	The Connétable of St. Clement:	64
3.1.18	Deputy T.M. Pitman:	64
3.1.19	Deputy J.M. Maçon:	65
3.1.20	Senator I.J. Gorst:	66
3.1.21	Senator B.I. Le Marquand:	66
	The Connétable of St. Helier:	69
	Senator I.J. Gorst:	69
<b>4.</b>	<b>Draft Succession to the Crown (Jersey) Law 201- (P.57/2013)</b>	<b>69</b>
4.1	Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):	70
4.1.1	The Connétable of St. John:	70
4.1.2	Senator P.M. Bailhache:	70
	Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):	71
4.2	Senator P.M. Bailhache:	71
	The Connétable of St. Helier:	72
<b>5.</b>	<b>Chairman, Privileges and Procedures Committee – appointment at this or next meeting</b>	<b>72</b>
	The Bailiff:	72
<b>6.</b>	<b>Draft Security Interests (Amendment of Law) (Jersey) Regulations 201- (P.61/2013)</b>	<b>73</b>
6.1	Senator A.J.H. Maclean (The Minister for Economic Development):	73
	The Deputy of St. Martin (Chairman, Economic Affairs Scrutiny Panel):	74
6.2	Senator A.J.H. Maclean:	74

<b>7. Draft Trusts (Amendment No. 6) (Jersey) Law 201- (P.62/2013)</b> .....	<b>75</b>
7.1 Senator A.J.H. Maclean (The Minister for Economic Development):.....	75
7.1.1 Senator S.C. Ferguson: .....	76
7.1.2 Senator A.J.H. Maclean: .....	76
<b>8. Draft Social Housing (Transfer) (Jersey) Law 201- (P.63/2013)</b> .....	<b>77</b>
8.1 Deputy A.K.F. Green (The Minister for Housing):.....	77
8.1.1 Deputy J.H. Young: .....	78
8.1.2 Senator A. Breckon: .....	78
8.1.3 Senator S.C. Ferguson: .....	78
8.1.4 Deputy G.P. Southern:.....	78
8.1.5 Deputy J.G. Reed of St. Ouen:.....	79
8.1.6 Deputy J.A. Martin: .....	79
<b>9. Chairman, Privileges and Procedures Committee – appointment at this or next meeting (additional comments)</b> .....	<b>80</b>
9.1 Deputy J.A. Martin: .....	80
9.2 Deputy M. Tadier: .....	80
9.3 The Greffier of the States (in the Chair): .....	81
<b>ADJOURNMENT</b> .....	<b>81</b>

[9:30]

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

**PUBLIC BUSINESS**

**The Bailiff:**

So we come next to Public Business and the first matter on the Order Paper is the Committee of Inquiry into Historical Abuse: appointment of Chairman, Projet 76, lodged by the Chief Minister. The Deputy and I have not presided on any matter relating to this, so I am going to ask the Deputy Greffier to take over to preside and I will return for the next matter.

**Senator S.C. Ferguson:**

Can we lift the défaut on Senator Ozouf, please?

**Deputy J.M. Maçon of St. Saviour:**

Deputies Hilton and S. Pitman, please.

**The Deputy Greffier of the States (in the Chair):**

Sorry, would you repeat that?

**Deputy J.M. Maçon:**

I beg your pardon: Deputies Hilton and S. Pitman, please, Ma'am.

**1. Committee of Inquiry into Historical Abuse: appointment of Chairman (P.76/2013)**

**The Deputy Greffier of the States (in the Chair):**

Those défauts are raised. The next item is the Committee of Inquiry into Historical Abuse: appointment of Chairman, that is P.76 lodged by the Chief Minister and I ask the Greffier to read the proposition.

**The Assistant Greffier of the States:**

The States are asked to decide whether they are of the opinion to refer to their Act dated 6th March 2013, in which they agreed that a Committee of Inquiry should be established in accordance with Standing Order 146 to inquire into a definite matter of public importance, namely historical child abuse in Jersey, and that the committee should be chaired by a senior, legally-qualified person from outside Jersey and to appoint Mrs. Sally Bradley Q.C. (Queen's Counsel) as Chairman of the Committee of Inquiry.

**1.1 Senator I.J. Gorst (The Chief Minister):**

It gives me great pleasure to be able finally to propose Mrs. Sally Bradley Q.C. as Chairman of the forthcoming Committee of Inquiry. Members I hope would expect me, as is the case, not to have met Mrs. Bradley and have no part in her appointment, as was agreed by this Assembly when they approved the terms of reference and the process of going forward to appoint not only the Chair but the other members of the committee. However, I hope that Members will also agree with me, while that was appropriate, having reviewed the C.V. (curriculum vitae) and the experience that Mrs. Bradley will bring to this post, that she is an eminently suitable and qualified individual to be able to undertake this work on our behalf and I am grateful that she put her name forward and that she has now been selected. I hope that Members will today give their wholeheartedly and unanimous approval to her appointment. Could I also at this juncture thank those Members who sat on the selection panel? Their work, I think we can agree, was not easy, but I believe that they have come up with an excellent choice, so if I could thank Mr. Marsden and Mrs. Smith for what I think the Greffier would agree was invaluable input into that process and into selecting the candidate that we

have before us today. However, I believe that I should this morning make special mention of the Greffier and his role and his work in helping to ensure that a suitable candidate has been selected and I know that other Members will be grateful for his input, and I would like to put on my record this morning my thanks for his dedication and the time that he has put into this process. Perhaps I could for just a couple of moments, assuming - and that is never a good thing for a politician to do, but I hope I can do it in good faith - that with the approval of this Chairman today, the process of selecting the 2 members to sit on the committee with Mrs. Bradley is already underway. I believe 17 people were shortlisted and as I speak now, although I have not had an update from the Greffier, I understand they will all have been met in the first round of conversations and the full selection panel with the Chairman will meet on Friday, 26th July and therefore they hope to be in a position to allow me to lodge the membership of the committee on 10th September. That happening will mean that the committee itself will be able to start work proper at the beginning of October. I hope that Members appreciate having that brief update, which has been provided appropriately by the Greffier. Once again, I must reiterate that I have had no involvement whatsoever in that regard. I hope that Members draw comfort from reading the letter which is attached to the proposition from the Greffier that has fully outlined the process they went through in the selection of the proposed Chairman. As I said right at the start of my few words, I have pleasure in proposing Mrs. Sally Bradley to act as Chairman of the Committee of Inquiry and ask that Members give her their full support. **[Approbation]**

**The Deputy Greffier of the States (in the Chair):**

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

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

May I raise the défaut on Deputy Southern and Deputy Higgins?

**The Deputy Greffier of the States (in the Chair):**

Yes, indeed. Does any other Member wish to speak on this proposition?

**1.1.1 Deputy J.M. Maçon:**

Just very quickly. I wonder if the Chief Minister could just advise that we still will be waiting for the committee, once constituted, to revise the terms of reference, or I believe they were to look at the terms of reference with the Chairman and then come back to us before they are appointed. If that is the case, can the Minister just outline the timeframe they will be working to to come back to the States, and if not, can the Chief Minister please put me right?

**1.1.2 Deputy J.H. Young of St. Brelade:**

Fully supportive, but the Chief Minister is obviously very advanced in thinking with the new Chairman of the arrangements. Has he yet decided on the place of this inquiry? I ask, because I think it is critically important that the atmosphere of the premises and so on are not, as it were, a court of law, though it has formalities. I wonder if he could, perhaps in his closing comments, give any indication on his thoughts of the venue for such an inquiry, as it will be quite long-running, up to a year from October.

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

It is obviously with no small amount of personal satisfaction that I find the States in this position today. This was essentially the reason I came into politics, or one of the main reasons, was to campaign for a Committee of Inquiry for historic child abuse, and similarly, in 2011, at a time when the then Council of Ministers perhaps were not in agreement that it was the correct course, the position was not as hopeful as it is today. It is important also to know that the care leavers or representatives of the care leavers have met with the Chairman, Mrs. Sally Bradley Q.C., and it is

important to say that they were impressed with her, which I think puts us in good stead going forward. If the Committee of Inquiry, its Chair, has the confidence of the key stakeholders, then that puts us in a strong position going forward.

[9:45]

I think it is important to remember perhaps former Members of this Assembly, without whom we would not be in this position without their diligence and their persistence, I think it is important to name these as the former Deputy of St. Martin, Bob Hill, and the former Deputy of St. Mary, who even after they left the Assembly carried on lobbying and working hard with research to make sure we got a Committee of Inquiry, along with existing States Members and those outside the Chamber in a non-political capacity. I think it is also important at this stage to say we should let the Committee of Inquiry do its job. Quite understandably, in the last 5 years, from the point at which allegations came out, there were lots of comments flying around; there were recriminations, and quite understandably, because in a vacuum, when the light of the end of the tunnel could not be seen, where we were not sure whether we were going to have a fully independent Committee of Inquiry or any inquiry at all. In the absence of the ability of the court to produce absolute justice, because we know that there are tests that need to be applied, quite clearly many individuals, some individuals, felt aggrieved at this, but now we do have a Committee of Inquiry. We have somebody who, on the face of it, seems to have the full confidence of those involved and I would also like to add my sincere congratulations and thanks to the Greffier staff, because they presided over it in a way which has been pleasing to all involved. So it is important that we do let the Committee of Inquiry do its job. We do believe that it will not leave all stones unturned. We know that it is not a court of law. Many of the processes remain to be seen, but I think this is a good point to say let them deal with all the evidence; let those individuals who have stories to tell come and tell them in full confidence that they will be heard, whether that be confidentially or, where appropriately, hopefully it will be in public. So I have got nothing else to say: very pleased, as far as you can be for this kind of occasion. Thank you.

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

Sorry, Ma'am, can the défaut on the Deputy of Grouville be lifted?

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

Could I ask for the défauts to be raised on both Pitmans?

**The Deputy Greffier of the States (in the Chair):**

If no other Member wishes to speak, I will ask the Chief Minister to reply.

**Deputy T.M. Pitman of St. Helier:**

I had my light on, Ma'am.

**The Deputy Greffier of the States (in the Chair):**

I cannot see you, Deputy.

**Deputy T.M. Pitman:**

They have just raised the défaut.

**The Deputy Greffier of the States (in the Chair):**

Just raised the défaut. Deputy Trevor Pitman.

**1.1.4 Deputy T.M. Pitman:**

I was hoping I was getting slimmer there for a moment, but obviously not. I just echo what Deputy Tadier said, to a large degree. It is good that we have got this far, sad in another way that this had to happen. However, I have just been out in the Royal Square just a few moments ago with a member of the public having to throw himself on his knees in front of the Royal Court and beg for help for someone to listen to the corruption which he has suffered in our courts, utter, disgusting corruption. Of course, he is just the tip of the iceberg, a growing number of people ...

**The Deputy Greffier of the States (in the Chair):**

Deputy ...

**Deputy T.M. Pitman:**

This is completely relevant, Ma'am.

**The Deputy Greffier of the States (in the Chair):**

Just a moment, Deputy. We are only dealing with the appointment of the Chair of the Committee of Inquiry.

**Deputy T.M. Pitman:**

This is why I am talking about why it is so important to have a good Chair who is fully independent, Ma'am, so I would like to finish the speech, if I may. We have to have people from outside the Island and this is an excellent appointment, I think, because there is certainly no one in this Island who could do it themselves and be trusted to do so. This Chair is going to have to be so strong and determined to get behind the decades and decades of cover-ups and the covering of people's backs. I certainly will be giving evidence to this committee. I appeal to that Chairman to show an absolute commitment of a good police officer uncovering, as Deputy Tadier said, and overturning every stone to see what has been done to some people. I would just say in congratulating and celebrating this appointment - I hope it is going to be confirmed - that there is a huge burden of responsibility on the Chairman of this committee. It has been a long time coming, years of a very small number of people, certainly only a small number in this Assembly and past Assembly, who have had the resolve and the care, I have to say, to fight to get to this point. I congratulate Deputy Tadier; I congratulate Senator Le Gresley, who also had a big hand in this. He may have come to the problem somewhat late, but he has played a big part in getting us to where we are today and I think what we should be doing here is thinking about people like the care leavers, who have been treated appallingly by a number of Assemblies; they have been treated appallingly by the justice system in this Island, and that is who we should be thinking about as we contemplate this appointment. It has been a long time coming and I just hope that finally this is the beginning of some closure for people utterly betrayed by the Jersey justice system and what should be called, in my opinion, the Jersey Lawless Office.

**The Deputy Greffier of the States (in the Chair):**

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

**1.1.5 Senator I.J. Gorst:**

Perhaps I could respond to the speakers in order of which they spoke. If I could answer Deputy Maçon first, he is quite right. When we approved the terms of reference on the appointment of chairman, and within, as I understand it, Standing Orders, there is the possibility and there was the possibility for the Chairman to amend the terms of reference, should they have thought that that was necessary. However, it is my understanding that Mrs. Bradley, having considered the amount of work that went into getting the terms of reference into the state that they were when they were approved by this Assembly, felt that a very thorough process had been undertaken, as we remember including Verita, including Andrew Williamson, including a lot of input from Members of this

Assembly. As I said, on that particular occasion I was grateful for the work of Senator Le Gresley and Deputy Tadier. The Chairman has considered all that input and decided that the most appropriate thing to do was to retain the terms of reference that were agreed by this Assembly at that point. Whether they will be reconsidered when the 2 other members of the committee are selected, I could not possibly say, but as we stand at this point, the Chairman's view is, as I understand it, that those terms of reference should stand, as were agreed by this Assembly. We had robust debate and we ended up in a unanimous position and I think that I support the Chairman's view in that regard. Deputy Young asked about premises. He is quite right, that is an important part of the ambience, the set-up of the room that the inquiry will take place in, anterooms for private conversations, should it be required for counselling, for meeting with counsel and other lawyers required and privacy as well; some people who wish to give evidence to the committee will want privacy and appropriate waiting facilities. They must all be considered. I understand from the Greffier that rooms have been selected in Seaton Place and that they will be used for the inquiry. I cannot say definitively whether that is now agreed and a contract has been signed or not, because, as the Deputy knows, I am not involved in this process other than being informed from time to time of the progress, and that is absolutely the way that it should be. If I could then pick up on the comments of Deputy Tadier, and I am very grateful that he made them in the way that he did, because I think they were extremely well-made. I have accepted and apologised for the length of time that it has taken to get us to this point, but I believe that the length of time, the conversations that we have had, the refinement of the terms of reference have got us to a far-improved terms of reference than we would have been or had if we had of rushed unnecessarily. Notwithstanding that, it has taken too long to get where we are today. Deputy Tadier rightly said that with the appointment of the Chairman and the ability for the committee to start its work, the committee should then be allowed to get on with its work without any interference from this Assembly or without a running commentary from politicians about particular pieces of evidence. **[Approbation]** Our job has been to come forward with terms of reference to ensure that appointments processes to the Committee of Inquiry, and today the Chairman, is done in an independent fashion of us and we must therefore to some extent sit on our hands going forward, to close our mouths and allow the committee to do its work and to follow those terms of reference without hindrance or interference, and that is exactly the right way that it should be. We will, I have little doubt, as I have said before, in some instances be surprised and perhaps be shocked by some of the evidence that we are going to hear and some of the stories that will be told before the Committee of Inquiry and we will equally, I believe, in due course have to deal with the recommendations of the inquiry. That is the role that we, as politicians and Government, should then be involved in, but we should let this inquiry do its work, come to its conclusions and produce its recommendations. Therefore, that is why I cannot support the comments of Deputy Pitman. He has made, once again, allegations in this Assembly. Each Member is free, with parliamentary privilege, to make allegations across the floor of the Assembly, but the right place for individuals who feel that they have a story to tell and wish to talk about what has happened to them is before the Committee of Inquiry and that is exactly why we are setting up this Committee of Inquiry and it is exactly why we are arriving at the place that we are at today. I will simply close by asking Members to support the appointment of Mrs. Sally Bradley Q.C. and to support it unanimously, because I believe that that sends a continuing strong message that this Assembly understands its role, knows the work that it has to do and is supporting the selection of this Chairman in the way that she has been put forward, the process that has been undertaken to bring her forward and the support for the work that the Committee of Inquiry will now have to undertake. Thank you.

**Deputy T.M. Pitman:**

On a point of order, I would just like to point out that the Chief Minister has again misled the Assembly. I have not had to use parliamentary privilege to say anything. I have not named anyone



and I do realise the Chief Minister knows very little and cares very little about this, but if he could just get matters right instead of throwing this mud around.

**The Deputy Greffier of the States (in the Chair):**

The appel is called for. If all Members are in their seats, I will invite the Greffier to open the vote.

**POUR: 48**

**CONTRE: 0**

**ABSTAIN: 0**

Senator B.I. Le Marquand

Connétable of St. Clement

Connétable of St. Martin

Connétable of St. John

Connétable of St. Peter

Deputy S. Pitman (H)

Deputy of St. Martin

Deputy R.G. Bryans (H)

Deputy A.K.F. Green (H)

Deputy J.M. Maçon (S)

Senator F.du H. Le Gresley

Senator L.J. Farnham

Senator S.C. Ferguson

Senator A.J.H. Maclean

Connétable of Trinity

Connétable of St. Mary

Connétable of St. Ouen

Connétable of St. Saviour

Deputy of St. John

Deputy E.J. Noel (L)

Deputy J.A. Martin (H)

Deputy T.M. Pitman (H)  
Deputy R.J. Rondel (H)  
Deputy M.R. Higgins (H)  
Deputy T.A. Vallois (S)  
Deputy K.C. Lewis (S)  
Deputy of St. Ouen  
Deputy of Trinity  
Deputy J.A. Hilton (H)  
Senator A. Breckon  
Senator P.M. Bailhache  
Senator I.J. Gorst  
Senator P.F. Routier  
Connétable of St. Helier  
Connétable of St. Lawrence  
Connétable of St. Brelade  
Deputy of St. Mary  
Deputy J.P.G. Baker (H)  
Deputy G.C.L. Baudains (C)  
Deputy S.S.P.A. Power (B)  
Deputy R.C. Duhamel (S)  
Deputy M. Tadier (B)  
Deputy J.H. Young (B)  
Deputy of St. Peter  
Deputy S.J. Pinel (C)  
Deputy J.A.N. Le Fondré (L)  
Deputy of Grouville  
Deputy R.G. Le Hérissier (S)

**Senator I.J. Gorst:**

I am sorry, could I just give a little bit of extra information which has come to light with regard to the place it is intended the inquiry will take place in? I understand that the Standing Order 15-day notification is due to go out today as well, so Members will have further detail of that later this morning.

**2. Draft States of Jersey (Amendment No. 7) Law 201- (P.64/2013)**

**The Deputy Greffier of the States (in the Chair):**

Thank you, Chief Minister. If Members turn now to the Draft States of Jersey (Amendment No. 7) Law, that is P.64.

[10:00]

I think Members will realise that they have been sent a copy of the running order. I hope those Members have it to hand and ask the Greffier to read the citation.

**The Assistant Greffier of the States:**

Draft States of Jersey (Amendment No. 7) Law 201-, a law to amend further the States of Jersey Law 2005, and for connected purposes, the Public Elections (Jersey) Law 2002, the States of Jersey (Miscellaneous Provisions) Law 2011 and other enactments. The States, subject to the sanction of Her Most Excellent Majesty in Council have adopted the following Law.

**The Bailiff:**

Yes, Chairman, I invite you to propose the principles.

**2.1 Connétable A.S. Crowcroft of St. Helier (Chairman, Privileges and Procedures Committee):**

When the results of the referendum held on 24th April this year were announced, I, like every other supporter of option A, was extremely disappointed. After all, like many other campaigners, I could not see how in the 21st century electoral reforms could be brought in which reduced voter equity. I did not share the views of those who maintained we had to choose between voter equity and the Parish system, for the latter would, I argued, survive the removal of the automatic right of the Constables to sit in the States Assembly. When one particular supporter of option B had argued: "It is all right, because the Constables will be more likely to face elections" I pointed out that elections do not stop this from being gerrymandering. I did not work as hard as some of the campaigners who had canvassed from door to door, held road shows, demonstrations and even written songs in Jèrriaise, but I had participated, and I had grown in understanding from the position I had been in when the position of Constables had been a live election issue several years before and I had argued for their, or our, retention in the Assembly. There was also some consolation in the fact that in my own constituency, twice as many people support A as B, and the margin of defeat was much narrower than I had expected. After all, the last time a proposition was debated to remove the Constables, it got just 4 votes in the Assembly. There was consolation too in the words of one of the main campaigners for option A, who told me they were disappointed too, but urged me to look at the reforms that had been agreed: a smaller States Assembly and super-constituencies, both of which would pave the way for further reforms that we both wish to see. If option A fared surprising well in the referendum, option C, especially in respect of the abolition of the Island-wide vote, fared surprisingly badly. But surely this was as good an indication we were going to get from the public that they were ready for large districts in order to improve the way in which Deputies are voted for, and that, perhaps more than anything else, they wanted fewer politicians. That is in itself

not surprising, given the prevailing negative views of our chosen metier. There was, however, no question for the majority of option A supporters that I spoke to, no question at all, that we had lost in a fair fight and now it was the job of the Privileges and Procedures Committee to set in train the implementation of the proposals for super-constituencies, a smaller States Assembly, but one in which each of the Parishes would still be represented by a Constable. As for my personal position, wearing both the Constable of St. Helier's and the Chair of P.P.C. (Privileges and Procedures Committee) hats, if I was initially uncertain of how to proceed, that did not last long. Indeed, I have explained my position to my parishioners in the current copy of the *Town Crier*, which has gone to every home and business in the Parish. Indeed, if I was initially uncertain of how to proceed, that did not last long. The public have voted for reform and it is the job of P.P.C. to bring forward those reforms, to act as midwife, to repeat a phrase I have used when asked about the subject on occasion in the past few months. It is not P.P.C.'s job or, I would argue, the States' job to tinker with the reforms put to the public in the referendum, however tempting it may be to think that we know better. It is not our job, and it is frankly unseemly to cast aspersions on the process that led up to the referendum, in particular to denigrate the hard work of the Electoral Commission. That smacks of being a bad loser. I began by taking Members back to referendum night for a good reason, because while the long-term future of States reform does not hang in the balance today, past experience teaches it will be back on our agenda within a year or so if the amendments proposed in P.64 are rejected this week. What hangs in the balance is our credibility; the future of referendums in Jersey hangs in the balance; public engagement in the electoral process, already at a critically low level, hangs in the balance. If we choose to ignore the public over this, there will be a collective sigh, a collective shaking of heads such as has not been seen or witnessed in Jersey since the debate on the petition against G.S.T. (Goods and Services Tax) in every café, every pub, every hairdressing salon, every taxi queue and around every kitchen table in Jersey: "There you go, told you so. They do not listen. They did not want to reduce their numbers. Tell you what, I am not going to bother going out to vote again because it is a total waste of time." So I am pleased to be able to propose the principles of this important law today. Members will recognise that it is a very significant day for the Assembly and I hope Members will have the courage to set aside any personal hobbyhorses and other views and agree to listen to the will of the people of Jersey and to reform this Assembly. It is probably worthwhile at the outset to recall how we have got into this position we are in today. There have been calls to reform the composition of the Assembly ever since the Clothier Panel presented its report at the end of year 2000. There was an initial aborted attempt by the Policy and Resources Committee to implement the Clothier recommendations on the composition of the Assembly and a special committee was established to move forward this issue. That committee reported just before the 2002 elections, but its recommendations were never debated and a new special committee established after the elections presented very significantly different recommendations in 2004. Those recommendations entailed what has now become known as an option A structure, namely a system of large electoral districts with no Connétables or Senators. It is fair to say that the proposals were not met with significant enthusiasm during the debate in November 2004, with only 2 Members of the Assembly voting in favour of the paragraph concerning the large districts. Successive P.P.C. Committees have attempted to bring forward reform ever since 2004 and there have been innumerable private Members' propositions and amendments that have been debated. Nevertheless, despite the many hours of debate, by 2010 the only reforms agreed were the move to a single election day and the reduction in the number of Senators, which proved extremely controversial, with several attempts in the Assembly to overturn that decision before the 2011 elections. In view of the continuing inability of the Assembly to achieve a reform, Members sensibly took the decision following a proposal by the then Deputy of St. Mary to establish an Electoral Commission to review the issue and make recommendations to be put to the public in a referendum. Although some are quick to criticise the work of the Commission and suggest that it was inappropriate for States Members to participate, I would like

today to recognise publicly the tremendous work undertaken by the Commission over a period of some 8 months during 2012. I would in particular like to pay tribute to the very significant contribution made by the Vice Chairman, Colin Storm, and the other 2 lay members, Professor Edwards Sallis and Dr. Jonathan Renouf. Anyone who attended any of the Commission's hearings or public meetings will have seen the very significant input made by the lay members and I believe it is a significant slur on the integrity of all members of the Commission to suggest that they were in any way railroaded into a conclusion by the Chairman. All members considered the issues very carefully and made significant input into what was a unanimous agreement to put forward the 2 reform options in the referendum. The Commission undoubtedly undertook the most significant public consultation exercise on this issue that has ever been attempted, certainly in living memory: 3 leaflets were sent to every household throughout the process and the Commission received more than 340 written submissions. In addition, it held a large number of public hearings and heard in detail from some 35 people during the hearings. The Commission appointed expert advisers, and following the presentation of its interim recommendations, it held a public meeting in every single one of the Island's 12 Parishes to hear the views of the public. The Commission reviewed in detail every submission made to it and considered extremely carefully a whole variety of options for reform. The Commission's core recommendation was that 6 large electoral districts should be established and that the present system of electing Senators on an Island-wide basis and Deputies on a purely Parish basis should be abolished. A second part of the recommendation was that the number of Members should be reduced to 42 and the Commission set out in detail in its final report how it believed that this would be an adequate number of Members for the Assembly to operate efficiently. The Electoral Commission found that the submissions made to it were almost equally divided for and against the retention of the Connétables in the Assembly. This appeared to be in line with any earlier attempts to gauge public opinion, which had shown that the issue of the Connétables was clearly an extremely divisive one, with people holding strong views on both sides of the argument. The Commission never tried to hide the fact that the retention of the Connétables would lead to greater voter inequity than at present. For example, in section 6.11 of its final report it wrote, and I quote: "If the Constables remain in the States under a system of large electoral districts, the inequality of representation would become even worse than it is now." The Commission nevertheless recognised that the views of the public were paramount in deciding this issue. It recommended that because the issue was so finely balanced, it must be decided by the electorate in a referendum. In section 6.16 of its report, it wrote, and I quote: "The Commission hopes that a lively and well-informed debate will take place in the lead-up to the referendum so that Islanders will be able to indicate whether or not they consider the historic nature of the automatic right of the Connétables to sit in the States to be of greater importance than achieving equal representation for every voter." I fear that many Members may want today to criticise and attempt to ignore the referendum that was held on 24th April, as I have already referred to. I believe it will be extremely unwise and unacceptable for us to do so. Every registered elector was free to vote in the referendum and the number of registered voters was at a record level. What message would be sent out to the electorate if we decided as an Assembly that we know better than those who chose to vote in the referendum? Under the alternative vote system used for the referendum, option B was a clear winner, and even on the traditional first past the post system we have always accepted for elections, option B won on the first count. I accept that the result between option A and option B was a close one, but in our system of democracy, a candidate can be elected by a margin of only one vote and we have never suggested that the close elections invalidate the winner. The turnout was clearly disappointing, but Jersey unfortunately has a tradition of low election turnout, particularly in by-elections held outside the normal electoral cycle. I would point out, for example, that over 1,200 more people voted in the referendum than had voted in the last Island-wide election outside the normal cycle, which was the 2010 senatorial by-election. It would have been quite ridiculous to suggest that the Senator who won that election, with 37 per cent of the total votes cast

on a 26 per cent turnout, was not validly elected. Of course, no one has ever suggested that was the case. It is my view that those who took the trouble to vote and to express their views must be listened to. I repeat, what message do we send to the public if we totally ignore the result of the referendum? What would the future of referendums be in Jersey if the Assembly simply decides that it will ignore the result? Although the result between option A and B was close, Members must not lose sight of the fact that almost exactly 80 per cent of those who voted in the referendum supported the Electoral Commission's recommendations for large areas or super-constituencies and for a reduction in the number of Members to 42. There are some Members who doubt the ability of our Government to function with a smaller number of representatives, but I suspect they will get no support from the majority of the public. I refer such Members to P.P.C.'s appendix to our report to P.64, beginning on page 7, key questions asked and I believe answered by the commission: "Will a 42 Member Assembly cause Members' workloads to become excessive? Is the Troy Rule still necessary? Will there be enough Members for Scrutiny? Will there be enough Members for the Planning Applications Panel and other bodies?" All of those questions are dealt with in our appendix and we conclude, and I quote: "Given, however, that the States exist to serve the public of the Island and that the firm balance of opinion is in favour of a smaller Assembly, the Commission's view is that a compelling argument would be needed to justify maintaining the status quo. Such an argument is difficult to maintain, given the experience in other comparable jurisdictions. On balance, therefore, the Commission believes that the States would be well-advised to accept the verdict of the electorate and implement an Assembly of 42 Members and then turn their attention to the matter of making a smaller Assembly work." Option C, which the Island will be left with today if we reject reform, was only supported by some 19.5 per cent of those voting. What message will we send out today if we reject reform and allow C to continue for 2014, when so few of the electorate were in favour of it?

[10:15]

I believe Members have a duty to listen to the public today and implement the reform approved in the referendum. It is not right that Members should tinker with the reform supported in a referendum or claim that they somehow know better than the public. My own personal position as Constable of St. Helier I hope illustrates the way I believe other Members can approach the issue. As I have said, I supported option A in the referendum, in the campaign, but it was not an Island-wide result, and as a democrat I am happy to put aside my initial personal preferences and support what the public have chosen. Some have pointed out to me, as I said, that St. Helier supported option A over option B, but the fact is that 85.6 per cent of those who voted in St. Helier supported the 2 reform options and I think I would be letting down my parishioners by failing to vote for this reform today and leaving them with option C for the next election, which received just 14.4 per cent of the votes in this Parish. The referendum was an Island-wide one, and we must accept that the Island-wide support went for option B. I personally take comfort from the knowledge that implementation of these reforms today will simply be a staging post to achieve further reforms in the future. In conclusion, I would urge all Members to think very carefully about the consequences of rejecting the draft law today. The Island will be heading for a serious situation in the 2014 elections if no reform is implemented. Electors, those who have not been completely put off voting for good by our failure to listen to the referendum, will have to choose between 8 Senators, 12 Connétables and 29 Deputies on a single election day. It is extremely unlikely that many Deputies will wish to run for Senator. Who would the candidates be for the 8 senatorial posts and what percentage of votes would a person elected in eighth place receive? I would urge Members further not to be seduced by calls for further reform. There is simply no other option on the table and to suggest, as Senator Le Marquand has done in P.74, that P.P.C. should somehow simply seek alternatives is, I fear, totally unrealistic. Does the Senator and those who support him expect P.P.C. to come up with some magic solution that will be acceptable to the Assembly and to the public, and

how will it be possible for the committee to do so in a matter of weeks, when the Electoral Commission spent some 8 months on the work and came up with 2 options that some Members are now saying are not acceptable? Members must be realistic and accept that reform will only happen for the 2014 elections if this draft law is supported today. Members should not pretend that we can reject this draft law and somehow magically find an alternative solution in time for the next elections. The Electoral Commission worked for many months to design a suitable system for the Island and that has now been supported in a properly organised democratic referendum. I urge all Members to support the principles of the draft law. I propose the principles of the draft.

**The Bailiff:**

Are the principles seconded? [**Seconded**] Deputy Tadier.

**2.1.1 Deputy M. Tadier:**

I would hate the Assembly and the public to think that P.P.C. are unanimous in supporting this proposition. Indeed, I do not even think the Chairman himself is unanimous in himself in the various parts of his brain in supporting this proposition, because essentially the Chairman himself is an intelligent man with integrity and that is why he campaigned and called this, quite rightly, gerrymandering. Just because a minority of a minority voted for this does not mean that it is any less gerrymandering. There were a few red herrings or straw men that needed to be dealt with initially and they will be dealt with again by somebody with the statistics, but the point is we all know in our heart of hearts that the referendum, a lot of hard work went into it from the Greffe staff, from the Electoral Commission and that has to be acknowledged. Why was it then that in election time normally in Jersey, even though we have low voter turnouts, even though we do not have full registration, we can normally expect, depending on your district, between 30 to 50 to 60 per cent turnout, which is usually around the 45 per cent, that is what it was in St. Brelade when we had the full senatorial election. When you are choosing a whole raft of candidates from possibly the 3 different roles with all those complexities, why was it with all the effort and advertising that went into the reform when the question was a lot simpler, although not as simple as it should have been, of course, for it to be a legitimate referendum in the classical sense of it, why was it that many of those faces that we would normally see and greet at the polling station decided that they did not want to come out? Why was it instead of having a 45 per cent turnout Island-wide, we had a 26 per cent turnout? It is because those people who have always voted ever since they were able to, ever since they moved into their homes and had their families and go every 3 years to the polls simply were put off by this referendum. Why is that? We do not know, because nobody ever decided to do the research to find that question out. We know anecdotally, because we have all come across people. I know a couple that I spoke to who exactly fit into that category. They take their duty of voting very importantly, because they are of that generation where they know it was a hard-fought privilege that they could vote and they said: "I cannot vote for any of these options, because they are flawed. I certainly cannot come out and vote for option C, because we know that the system needs to be changed." They could not vote for a system which was so fundamentally and provenly ... even in the words of the Electoral Commission and its Chairman and the Chairman of P.P.C. and anyone who recognised the fact that it had made voter equity and fairness even worse than it currently is, and perhaps they simply were not willing to vote for the other option, because it did not encapsulate the Jersey solution to reform that they envisaged. So there was a failure there. We had a 26 per cent turnout. Of those who bothered to turn out, it is important that we listen to them. It is important that we also ask the question, why did those C voters not all use their second votes? I think roughly half did not bother, and of the overall turnout, why was there not an overall majority for one particular option? When we take change in the States, it has to be done by an absolute majority. That is why today and in the previous weeks some people in this Assembly have been very busy doing calculations, because they know that it is not the vote against or the

abstentions that count, it is the votes for. Some people are laughing, and that is because they will have got phone calls last night, the people who were unsure would have got the regular phone call from the red phone. It would have flashed up from wherever the bat central is and they would have been asked: "How are you voting tomorrow?" The reason that this is not like G.S.T. is because this was not a petition, there was not an absolute majority for one particular option. In fact, there was slightly over 50 per cent who voted against option B, so we have got to listen to the majority, we have got to listen to the majority of those who bothered to vote who did not want option B. I completely admit it got more than any of the other options, but it does not give us a clear sense of direction. The other point is that the test for a Legislature which is passing new legislation on the cusp of a fundamental constitutional change is much higher than the one we put to the public and the limited options that we put to the public, the limited options that 74 per cent did not think they could endorse. We have to make sure that, first of all, what we are passing is fair, equitable, human rights compliant even. It is interesting to note that the Isle of Man, which is a jurisdiction with which we try to work closely, along with Guernsey, because they have a similar set-up - they are the oldest continuous Parliament in the world, I believe - they have undergone a system of reform themselves very recently, in June this year, and they decided to set up a Boundary Commission. Quite sensible, that is what you do. If you want to engage on reform, you set up a Boundary Commission, preferably an independent one. They have 24 seats. The current problem that they have in their bicameral system, but in their main lower House, is that the constituencies range from 3, 2, 1 different seats, so they have the same problem that we have had about the number of votes that individuals have, so what they do is that they have set up the Boundary Commission and they have divided the Island equally up - or that is what they will do - into 12 constituencies voting 2 seats each. Simple, clear, fair. One of the criterion for them is that all of the seats should fit within the 15 per cent boundaries. Why on earth would they pluck this 15 per cent out of the air? Of course they do not, and that is the upper limit which is set by the Venice Commission. With the risk of some Members switching off at that, and I would urge us not to do that, the Venice Commission, although not binding and although not binding to Jersey, sets out best practice for how one sets about electoral reform and it does that. So why on earth would we not want to adhere to that? The current system does not do that. The Electoral Commission did put a lot of hard work in, and what did they suggest, the very first suggestions? What were the findings, first of all? "Voter turnout is low, suggesting apathy and disillusionment." Cannot disagree with that. "Too many Members are returned without having to contest an election." That is an interesting finding. I think we all think that is a problem, even though those who are returned are not any more or less legitimate, but it is a problem for democracy. "Some electors have more votes than others." Okay, constituency sizes vary considerably. Yes, that is a problem, absolutely. "A system involving 3 types of States Member is unnecessarily confusing" although 2 is not, it would seem. "Following the change to ministerial government the States could operate efficiently with fewer Members." I will leave the numbers to somebody else. So that leads to the recommendations of the Electoral Commission, which we should also take very seriously: "The Electoral Commission is minded to recommend changes based upon the following principles." The principles are key because if the principles are correct and if everything relates to the principles, a bit like the terms of reference for a Scrutiny Panel or for an inquiry, as long as you are always bearing in mind the terms of reference and following those principles, you cannot go far wrong. "All electors should have the same number of votes." We do that. Constituencies should, as far as possible, be broadly of equal size. I am afraid what we are proposing today immediately departs from the basic principles of the Electoral Commission. They will not be of equal size. In fact, even the districts themselves, the 6 districts which are supposed to be of equal size, vary greatly between St. Helier and the northern proposed constituency, which encompasses 4 districts. The sizes vary greatly and the overall representation, which includes the 9 Members who will be elected in that district, although not by the district, it is a nuance which we will hear from later, is also a problem. "A candidate should



generally require a significant number of votes in order to be elected to the Assembly.” Can we all agree with that? I am not sure. The Electoral Commission said that was one of the basic principles: “A candidate should generally require a significant number of votes in order to be elected to the Assembly” apart from Constables. Sorry, apart from 12 Members in the Assembly, although one of whom will receive twice as much as an entire district, so we have one person who is elected by a total population of roughly 33,000. We have others who are elected in a much smaller district where there may only be 1,500 electors on the register. That does not seem to make sense. Why on earth would we be doing that? More fundamentally, it does not agree with the Electoral Commission’s principles: “The electoral system should be simple, fair and easy to understand.” Is it simple? It is not as simple as it could be. Is this proposition fair? It is clearly not fair. It has been proven not to be fair. Is it easy to understand? I just remember the Greffier at Christmas giving us that very funny rendition about trying to explain our system, and it might make it slightly more easy to understand by only electing 2 Members. So the point is this does not do what it says on the tin, that is the problem. We have not had the Boundary Commission. I am not going to go back and rehash old arguments about we should have had an independent commission, because that is water under the bridge. So what happens to the public if we do not pass this? I would turn it around and say what would happen if we get this wrong, the murmurings at the taxi stand from the 76 per cent who did not turn out, from the 50 per cent who did not endorse this unfair system? I remember somebody on the night of the referendum, before the results were finalised, phoning in and saying: “Oh well, the referendum is simply advisory. It is a glorified opinion poll.” That was the Chairman of the Electoral Commission who said that. I would not have chosen those words, but clearly legally it is advisory. We are not bound by anything on it, and we go to the public to test what their mood is.

[10:30]

They come back. We realise that first of all there is not much appetite for what we are proposing. Of what we are proposing it is very divided. In spite of the weeks of campaigning there is not a clear group that got more than 50 per cent of the vote. So, we have to go back and say: “Well, look, this clearly is not satisfactory. We cannot base such historic and fundamental changes on uncertain grounds.” The murmurings will get worse if we get this wrong. That is the point. When it came to G.S.T., of course, there was a lot of despondence, but every Member who is in the Assembly does not base it on the populous, on the opinion, they do it on the basis of what they think is right and wrong. That can be a political risk. More importantly, I think, history and the international community will judge us critically if we as legislators put through deficient legislation. But, I do agree with the Chairman of P.P.C. and those who have throughout their whole political careers campaigned for change. We do not want to vote for the status quo. Clearly the public do not want more of the same either. But, we keep going. We say: “We have not got it right this time.” We put change to the public in a simple manageable and meaningful way. For example, do you want to retain the Island-wide mandate? The basic question which I brought to the Assembly, I think, in 2009: do you want to retain the Constables? Simple question. You do it without the other baggage of large electoral districts. You find exactly what the public wants and then when we know independently we form a Boundary Commission, we find out where people in Jersey live and we make sure that they have an equality of votes. But, the point is this is not a sustainable model. There is a slight contradiction if we say: “Let us vote for this [to quote] as a staging post to reform.” But, which reform? I mean, most people presumably who vote for this will do it for various reasons, because they think this is the optimum change. If there is some future reform, which the Constable of St. Helier is telling us that is out there, why do we not just go straight to that? It seems strange in that there is no inevitability about reform. I think we have to think very carefully of it. I am willing to keep the status quo for now, as somebody who has campaigned, as painful as it is, to make sure that in the next 3 years, reform stays on the table. It

will have to remain on the table. If we vote for this today there will be no change for at least another 10 years, before it is even talked about again. So, I would ask States Members to forget about the campaigns. This is not about sour grapes at all, because it is important that what we put through both works, is functioning, is sustainable and that also it is fundamentally fair. We cannot disenfranchise vast swathes of our population who happen to be the urban population, but would include St. Saviour and to a lesser extent St. Brelade and St. Clement, and tell them that their vote is not worth the same as those who live in the country. Those are the fundamental arguments. I really beseech Members not to be swayed by personalities in this debate, but really to look inside and see if they can vote for something which they believe ... Well, in summing up, do they think that this is a mandate for change, such a fundamental change? Do they think that the turn out of the election, the result of the election, the options that were put to the public, do they think that was correct irrespective of decisions that have gone on in the past? If Members can vote for this in all conscience by all means do it. But I will keep on fighting for reform. I have acknowledged the fact that there is a lot of support out there for the role of Constables in the States. But, we can have a system which is both fair, maintains the Constables, maintains smaller Parish districts, for example, which are all equal and by which one man, one woman, gets one vote in Jersey of equal worth, that cannot be beyond the wit of a Jersey man and a Jersey woman.

### **2.1.2 Deputy G.C.L. Baudains of St. Clements:**

I am somewhat disappointed by this proposition. I do not know about other Members, I had expected P.P.C. to start by asking Members to endorse the referendum before doing all this work in bringing a proposition to put it into effect. Whereas it does seem that they have already assumed that that hurdle has passed and gone ahead with, as I said, a tremendous amount of work to put it all into action. As I believe, Deputy Tadier intimated a few moments ago, this was supposed to be advisory not a *fait accompli*, but things have changed as we have gone along, which, to me, smacks of a certain amount of arrogance, of affliction, of how the whole process has been handled from day one. Now, this proposition seeks to do several things, namely keep the Constables, reduce the number of Members to 42, abolish the position of Senator and create cheaper constituencies to replace the Island-wide and parochial elections. Well, with the possible exception of the Constables - and I have no strong feelings either way, but at best would probably agree to keep them - I have to say I disagree with practically everything P.P.C. says or is proposing. First of all, the abolition of Senators, I have always believed and I believe the majority of the public do as well, that positions of power should be held by people with Island-wide mandate. Because there have been positions in the past when major positions have been held by Deputies, who have been elected by a tiny majority in perhaps a ward of a Parish and it has not been well received. In the absence of party politics, I do not believe either that it is terribly democratic. I believe all Ministers should have an Island-wide mandate, which of course would mean you would need a bigger pool of Senators from which to choose, perhaps around 15. I would rather that changed. I mean, do not get me wrong, I am not opposed to change. In fact, my reason for standing for election last time was for change. Unfortunately, as I believe most people have come to the conclusion the changes that we have before us, the changes on offer, are not the ones I want. They are not the ones, as Deputy Tadier said, that the public want. That is why they did not turn out in massive numbers for the election. I must admit that despite always going to elections I had intended not electing, not voting on this particular issue because I could not agree with A or B and I voted for C, I am saying I want no change when I do want change. So, where is the option D? I did not have one. About 20 minutes before the poll closed I decided to vote. But I think a number of the members of the public found themselves in the same position. So, P.P.C. want to abolish the office of Senator and replace them with a fudge that we call super-constituencies or something like that, which is neither Island-wide nor parochial. Well, I do not support that move for several reasons. First of all, in the past they have proved not to be terribly popular. As a previous member of the Privileges and

Procedures Committee myself I brought such a proposition to this Assembly personally. The committee of the day wanted to give the Assembly several options, but Standing Orders did not allow it, so as a member of the committee I brought the option for super-constituencies, which was roundly defeated. They will not work. Presuming that the title definitely will remain, just for ease of argument, how would a future Deputy serve his or her larger constituency? For a start, which Parish Assembly do you attend? All of them? What happens if they are on the same night? Just suppose I have been elected to one of these new constituencies, which now serve St. Clement, Grouville and St. Martin, will members of the public know their representatives as they do now? What if say a resident of St. Martin contacted me with a problem, maybe there is a traffic issue somewhere or other? I would have to tell him I have no idea where the road is and I probably cannot help them. Well, that is a huge step forward. How will the 5 or 6 super-constituencies representatives share out the constituency work? Because I dare say we will find one or 2 will become the preferred option to contact and are overwhelmed trying serve 3 Parishes. It does appear to me that the proposers of this do not seem to understand that we are not part of the U.K. (United Kingdom) and we do not have, not only political parties, but all the different layers of government that they have. As States Members we carry out many more types of work that would be normally covered by, for example, a Member of Parliament in the United Kingdom. So, if P.P.C. no longer wants politicians to do constituency work, they should tell us who they think will. What of our representation? We could find all 5 or 6 Deputies representing one of the new constituencies come from one Parish. In the eastern area they might all come from St. Clement. They might all come from Grouville. They might all come from St. Martin. That would not be ideal. With the proposed north-western Parish amalgamation it is almost certain some Parishes will be without a local representative, that is apart from the Constables. Then there is the problem of electing candidates for these new constituencies. The best way, in my view, for the electorate to get another candidate is by the traditional means of meeting them on the doorstep, when you go out canvassing. Well, at present it takes me about 3 weeks to cover the St. Clement area. If I am now expected to canvass St. Clement, Grouville and St. Martin I shall not bother leaving my property. There is no point. It is a mission impossible. So, how will the electorate get to know the candidates at the hustings? Well, again, no chance. Again, taking St. Clement as an example, there is usually around 5 candidates for the 2 positions of Deputy. That gives a reasonable, though not great, opportunity to pose questions and get to find out something about those candidates. Now, if we take the super-constituencies, 5 or 6 positions will probably generate 15 or 20 candidates. With 20 on the platform the chance of finding out anything about them will be very close to zero. It will be similar to a senatorial election, except at those most candidates are either existing Senators or Deputies looking to move up and so most of the candidates are already known. That will not be the case for the new constituencies. So, my concern is that under the new large constituency scenario the chance of less able people slipping in will be greater, just when, because of a reduced number of Members, we need a higher standard of Members. Really you could not make it up. During the debate on the referendum I opposed the proposed questions, because the way they were packaged meant, as I said a moment ago, those like myself who wanted change but not the package on offer had no option but to vote C, which was quite unsatisfactory. Later on when I heard the way the referendum was headed, my first thought was: "Well, that is what you have asked for. I will give it to you. When you see it is worse than what we have now, well it will serve you right." That did not last long. I am elected to represent the public. I am not a delegate. It is my duty, regardless of what is asked of me, to do what is best for the Island. That is why I have no hesitation rejecting the results of the referendum. It is not the public's fault, I hasten to add. They have a right to believe the options put to them were workable, when in reality they are not. Which brings me to numbers, probably the most worrying aspect of all. How can the public possibly know the most appropriate number of politicians to serve the Island well and efficiently? The analogy I have drawn in the past is with the private sector. The example I have often used is that if somebody asks me how many

staff should work in a certain company or something, I would have no idea. I might suggest 20. If that is too few, the company will lose sales because there are not enough people to run the business. If it is too many, the company will be inefficient and lose money. The point is I am not informed sufficiently to make that judgment. It is the same when it comes to this Assembly. Only we know the appropriate number of people to get the work done without being inefficient. But, no, it must be 42, without any analysis as to whether or how it is going to work. Of course, the public want less politicians. They do not like us. So, as far as they are concerned, the fewer the better. That a reduced number might make matters worse and make them even more disillusioned with government is not something they could be expected to know. They can only guess. The fact in my mind that P.P.C. is prepared to let government be controlled by guesswork is something I find very disturbing. And where do they propose this reduction will come from?

[10:45]

We cannot reduce the number of Ministers. In fact, there is a case being made for increasing the number of Ministers. It will be difficult to reduce the number of Assistant Ministers, especially with an increase in Minister's positions. So, the only area that can be reduced is Scrutiny. Perhaps that has been the plan all along, because this proposition is all about consolidating power. It started, I believe, when we moved from a committee to a ministerial system. The public did not call for it. In fact, most people that I speak to still do not understand how it works. It was the U.K., supported by local business, who really wanted it. Because, after all, if you want your government to do something so much easier to phone up the Chief Minister and say: "Hello, old boy, this would be a good idea, do you not think?" rather than to contact the majority of 53 Members and persuade them individually. Now, I realise some members of the public think we sit around drinking gin and tonic - I cannot stand the stuff, but I know that is the view - and that we just pop into this Assembly once a fortnight to log in and then go home again. The reality is at the present time we cannot cope, which is why we have had to delegate so much decision making to unelected civil servants. Reducing numbers further will require even more delegation and even greater move away from democracy. Nothing in today's proposition solved any of our deficiencies. In fact, it would make matters worse. I believe the public will be even more disillusioned with government than we are now if we introduce these particular changes. In my view, the only way out of this mess is to embrace Senator Le Marquand's solution. I thank him for giving us a way out of this mess. I shall not be supporting this attempt to bamboozle the public into thinking it will improve matters, when in fact I am convinced it will do the exact opposite. Thank you.

### **2.1.3 Deputy P.J.D. Ryan of St. John:**

Probably 75 per cent of my speech has just been made by Deputy Baudains, so I do not intend to bore Members by repeating much of it. So, excuse me if I just pick a few extra points rather than repeat what Deputy Baudains has very well said over the last 10 minutes or so. I am, like many Members, in a rather finely balanced dilemma. I do depart from Deputy Baudains in that I do agree that the size of this Assembly is too large and we can manage with 42 Members or very often I believe, in my frustration, sometimes less Members even than 42. I do also agree that Constables should stay in this Assembly. I believe that the office of Connétable will grow in importance if they stay in a reduced Assembly with the increased likelihood of contested elections. I think that can only be healthy. Why is it finely balanced? Because, of course, there are no Senators to be in a new Assembly as proposed by P.P.C. Okay, super-constituencies have the potential to widen the mandate for Deputies and, okay, the Chief Minister will be chosen by those Deputies in a new Assembly and they will in turn have a wider mandate, so it is arguable that that gives a de facto Island-wide mandate to a Chief Minister. Some people point out that that is similar to the U.K. system. Of course, as Deputy Baudains says, we will not have party politics or will this new system drive a move towards party politics? I do not like party politics. That is a personal view.

Okay, there can be more clarity of policy, but there also goes with it a degree of short-termism in terms of politics and political decision making. That in turn, I believe, leads to a reduction in political stability. Jersey's successful economy is built, to a very significant degree at least, on political stability and longer term decision making. We only need to look at things like stabilisation funds, rainy day funds and the States Assembly's wish to bring those in. Would that have happened in a party political system, over a long term? I suspect not. So, here is my dilemma, quite simply: is the loss of Senators more important than achieving the reduced size of the Assembly coupled with the retention and enhanced role of the Constables? It is a dilemma. I think I am very disappointed in P.P.C. They could have won this debate hands down. It is a huge lost opportunity for P.P.C. All they needed to do was to include Senators and I think the debate would have been a foregone conclusion. Thank you.

#### **2.1.4 Senator B.I. Le Marquand:**

This debate must be decided on the merits of the proposed new system. The people of Jersey elected us to take the major decisions on their behalf. That is what parliamentary democracy means. Furthermore, the referendum was publicly stated and agreed in this Assembly as being advisory only. How can it now be argued that in some way it is binding? The line of argument that the public have provided a mandate for option B, which is amendment 7, is complete and utter arithmetical nonsense. This is not a P.74 debate, but I need to deploy the P.74 arguments in order to show this. Those Members who have read the report to P.74 will have seen the analogy which I drew there with the semi-finals of Wimbledon. When I wrote that I was of course seeking to poke fun at the referendum process, but I was also seeking to make a very serious point. Why did we get such a poor turnout of 26 per cent? Where were so many of the people who normally always vote but did not this time? Who was the key player who was disqualified from the semi-finals? Was it Andy Murray or was it Novak Djokovic? No, although it was a player as important as one of the 2 top seeds at Wimbledon it was neither Murray nor Djokovic. It was option D, none of the above. How many people did not vote because they did not like either option A or option B, but wanted to see change? **[Approbation]** The very option C campaign found itself in a ridiculous position, we were almost all of us option D supporters. We did not like option A and we did not like option B and we knew if we did nothing that one or other of those might appear to win. So, that is why option D supporters had to run an option C campaign. It was grossly unfair that so many people were disenfranchised from this process. I said so during the States debate, I said so during the campaign, I am saying it now and I will still be saying it for the rest of my life. The referendum was deeply flawed and we are now in a mess as a result of that. **[Approbation]** I would ask Members to kindly turn, if they have the papers in front of them, to P.74 to the analysis of figures which is on page 6 of that. What does this alleged mandate for option B consist of? On the first round it consisted of 10.64 per cent. That is 2 people out of every 19 of the registered electors. That is not a public mandate for anything. If I translate that into this Assembly with 51 Members, that is less than 5.5 of us. Even if I transfer half of the transferrable votes, those who were option C initially and who then went in the second round for option B. Frankly, my own personal view is the vast majority of those who did that, did not do so because they like option B, but they did so in order to protect the Connétables, as I also sought to. I was tempted to go down that road, but could see the trap at the end of it. I then I arrive at a figure which is approximately 2 out of every 17. Now, let us translate that magnificent figure into the size of this Assembly, 2 times 51 divided by 17 equals 6. Magnificent figure, is it not? Even if we were hypothetically to give all the transfer votes across we then get a magnificent 12.81 per cent of the registered voters, which translates in this Assembly to approximately 6.5 out of 51. At the end of the day, with all the missing voters and with all the transfer voters from option C, option B still could not get more than 12.81 per cent of the electorate and still could not get half of those who turned out on the day despite the fact that so many were disenfranchised. So there simply is no mandate. Although option B has, in my view,

won something, it has won the right to go first today. That is why in P.74 I did not seek to block this debate or have a preliminary debate before, let option B have its run today. That right it has won, but nothing more. There are in my view 2 fundamental flaws in relation to option B. The first, and in my view the most fundamental flaw, is that it is totally unfair in a distribution of seats between the 6 different areas of the Island. That unfairness is inherent in the process by which it was achieved. The Commission, in my view, set out to allocate seats approximately, proportionately to population. That was the whole basis of the 6 electoral districts. But then the majority decided to add in the 12 Connétables and reduce the super-constituency Members from 7 to 5. What was the effect of that? The effect was that the area with the smallest population will return a total of 9 Members, 5 Deputies and 4 Connétables, because there happened to be 4 Parishes there. The area with the largest population will return 5.5 Members, 5 Deputies and, of course, they are half of the electoral area which would vote for the Connétable of St. Helier. If Members would care to look at page 5 of Deputy Trevor Pitman's amendment they will see the ratio between the number of registered voters per seat which is returned. If they look at No. 1 District they will see that there would have to be 3,189 registered voters per person returned. If they look at No. 5 they will see it is less than half of that. How can that possibly be right, less than half?

[11:00]

In other words, in terms of the electorate the voting power is 2 to one in favour of 5, as opposed to one. Now, I have also done some other figures, which I am not going to hand out, Members will be very glad to hear. But, I have also done other figures, instead of on population, based on registered voters. These also are quite interesting, because although the unfairness to St. Helier is reduced, the differential between the numbers returned by District 5 and other Parishes remains absolutely massive. The differential for St. Helier then moves from a situation in which you need twice as many people per seat return to a situation where you only need one and a half. But then there are other curious effects, because in St. Brelade and St. Peter the votes of registered voters in terms of numbers returned are only worth 70 per cent of that in District 5; in St. Clement, Grouville and St. Martin, 72 per cent; in St. Saviour and Trinity, 73 per cent. Now, I can understand that some Members may view St. Helier registered voters, which of course includes me, my wife, my 2 daughters, my 2 son-in-laws and all our neighbours, as less worthy of democratic representation. But, why are the good people of Trinity less worthy than those of St. John? Why are the people of St. Martin so much worthy than those of St. Mary? Why are these all so less worthy of representation? I am utterly baffled by that. I move on. The second major flaw is the number 18. You may well ask where does the number 18 come from. It is in the proposition. It is the number to which the number of Ministers and Assistant Ministers has to be reduced if the size of the States reduces to 42. The calculation is 45 per cent of whatever the number here is. That is 18.9, rounded down it is 18. If the Troy Rule is to be kept intact then we will only have 18 Ministers and Assistant Ministers. I have looked at the figures with an Assistant Minister who is a Foreign Minister with the need for justice oversight. I must not break confidences as what the plans are there, but there are plans. With numerous double-hatted Assistant Ministers I cannot get the figure below 20. A figure of 20 requires a State size of 45. I challenge the entire ranks of the option B supporters to show me how our present system or our anticipated system in relation to Ministers and Assistant Ministers is going to function properly with only 18 Ministers and Assistant Ministers. What about 42? With 12 of the 42 already having another and very important role, how are all the roles to be filled with any kind of capacity being left for individual representational work? The problem here is that the general public do not know the amount of work which some of our Members do now, with 51. We do. With us remains the responsibility to ensure that we retain a system which will work properly, which will retain proper government accountability and to which members of the public can bring their problems. In conclusion, there is no mandate for option B and option B unamended is deeply flawed, because the distribution of seats is

fundamentally unfair and because the numbers 18 and 42 are unworkable without serious damage being done to our system of government. However, here I have to refer to P.74 very rapidly. Why did I lodge P.74? I lodged P.74 to provide Members with an alternative. An alternative which basically says let us accept that there is not a public mandate for this. Let us be realistic about the arithmetic, 10.64 per cent, 2 out of 19, less than 5.5 Members out of 51. Who is trying to kid who here? With respect. But, I have listened. I note that the public do want a reduction. I personally pledge myself to work with P.P.C., if they fail to get the 26 today, and with others to rapidly achieve another package, a reduced States, but one which has a fairer system, a fairer representation for all the Parishes, in particular for St. Helier, and a sufficient number of Members and of Ministers and Assistant Ministers to make it workable. For those reasons I very strongly oppose.

### **2.1.5 Deputy S.G. Luce of St. Martin:**

This debate, in theory, should be one of the shorter one of this our last session before the summer recess. It should be short, because we are all being asked to rubber stamp the decision taken by the general public of the Island in the recent referendum. It is quite simple really. We asked them to vote on some questions. They voted. Now, all we have to do is carry out their wishes. However, we all know that true to form we are probably not going to pass up the opportunity to talk about ourselves for another day or so. For myself, I only intend to speak once during this debate on amendments, because, as I have already stated, this should really be straightforward, short and simple. Members will be relieved to know, especially after the last speech, that I have no intention of quoting any numbers in the Assembly this morning. This is because if there is one thing I have learned over the years and one thing that deep down we all know it is that we can, when we want to, get numbers to do and say just about anything we want them to. Today we are without doubt going to get many speeches quoting statistics in an attempt to back up the case, an attempt to get us to move away from agreeing what the public have asked us to do. We all know it is going to happen. Indeed it already has started. The cherry picking of one or 2 specific percentages, the comparison of a couple of specific ratios, the addition of a few totals here and there, the alternative interpretations of the result of the referendum, all in the hope of distorting the evidence that we gained when the public voted. We set the rules, we asked the question, we have a result and a subsequent proposition. I for one will not be moving away from the wishes of the public.

### **2.1.6 Deputy A.E. Pryke of Trinity:**

As quite a few Members have said, this is one of the most difficult propositions as we continue these number debates, especially while I have been a Member of this Assembly, looking at reform of it. But, be under no illusion, we are being asked here to make a radical change in reforming this Assembly. The Electoral Commission has done a great deal of research, reviewed into proposed changes, result of which was a referendum, option A, B and C, but as has been mentioned before, no option D, none of the above. But, only 26 per cent of the electorate turned out, 16,624 out of a total electorate which is 63,945. I think that is a poor turnout for any election, let alone one that has such high importance. On that 26 per cent turnout Members are being asked to abolish the Island-wide mandate, for example, and reduce the number of Members to 42. I am not against reducing those numbers, but 42. The senatorial role is an important one and I would hope, as that has been the case since ministerial government, the Island-wide vote has been a chance to question and hear from a prospective Chief Minister. But, if option B is approved this will go once and for all. Looking at the bigger constituencies and the makeup of the 5 districts, it looks all good, all having 5 Deputies. But, if you add the Constables into that mix then it changes. For example, and I do quote, as Senator Le Marquand did, on Trinity, with the total electorate of District 4 being 12,960, with representation of 7 Members, but if you look at District 5 the total there is 11,100 with a representation of 9. We know it is not right now, but is it still right now in the proposition? The changes I do not think are right. It just rearranges the crockery around the table. It does not solve

the issue. While retaining the Constable in each Parish is right, and we do away with their role at our peril, Parishes are the bedrock of our community. So, why 42 Members? The Chair of the P.P.C.'s report, he did mention, and if I can find the page, that is it, page 10, about the 42 Members and that was very helpful. But, then he goes on, at page 10: "Is there enough Members for the Planning Application and other bodies?" Further down that paragraph the Chair mentions that it is necessary for the panel to revisit the rationale for such withdrawals and reflect on the whole composition of the panel. Being one of the Members that set up the original Planning Applications Panel, it took us a long time I think to get to a number that is right. So, already, before we even start, we know that there is going to be a knock-on effect. I will be brief in summing up. There has been a referendum and I voted for C. But, I also want to say if the decision has been made and the public has spoken we should stick to it. But this is a very important and radical change, which has been in place, at the moment, since 1947, with the Constables even longer. So, before I make up my mind, I will be listening to the debate and to the summing up. There are 2 questions: is the mandate of 20 per cent of the electorate sufficient to have the radical change that we are being asked to do? Secondly, 42 Members, is that enough to govern this Island? Thank you.

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

I thank the Chairman of P.P.C. for his opening speech this morning, which was very clear. But, I think all the speeches that we have had so far this morning have been very helpful. I have not spoken with Deputy Luce and compared notes, but I think I am probably very similar in some of the things he said. What else can be said today that has not already been said, not just during this debate but in the many debates that have taken place in this Assembly so many, many times on the issue of the reform of the States? I believe there are likely to be more debates to come on this issue. I suspect that unless a decision is made today we will have a lot more to come. I was not sure there was a need for a long debate today. Although I am sure most Members will want to speak to allow the public, their electorate, to know why they have reached their decision, their individual decision, when it comes down to the final vote. As a new Member of the Assembly I have tried to be involved in the whole review process, like many other new Members ... in fact, one of the new Members being a Commission member of the group and another one who was a previous Member and who has got so much knowledge we all know about, involved at a time when I was a new Member, coming to terms with the important role of this Assembly and undertaking every ... that we all undertake every day of our term.

[11:15]

I think the past 20 months have probably been the biggest learning curve of my life. So much has happened. I continue to learn something every day. I voted in this Assembly for an independent Commission, as had been agreed and passed by the previous States Assembly. That was defeated by this Assembly. We, therefore, ended up - and I should not say the word "ended up", because it sounds like a last resort - with a Commission with States Members. I engaged in the process as soon as I could. I attended the launch of the Commission with some other States Members. I made a written submission in my own way from the onset. Maybe with hindsight, looking back, with more experience now, I could have done it in a different way, but I did put a submission in early on. I attended the poorly attended road shows that were touring the Parish Halls, Public Hall and Town Hall. After allowing those to speak at St. Martin's Public Hall I was allowed to speak and to give my views to the Commission that evening. I attended the outcome and recommendations presentations that I was able to attend. I made another written submission to the Commission after the proposals that were put forward by the Commission and publicised. The revised final report was published with recommendations. That is what we had. I was then taken aback when presented with information from the Greffier and others regarding the various groups and how we could campaign. That was a total shock to me, because I did not think we would be involved in any



sort of campaigning as current Members. We were told how we could campaign and the type of hustings - if you want to call them hustings - meetings, that were to be held. Again, this was totally new to me. I did not think there was a need for that, but it happened. The Commission had put forward their options. The referendum was to take place and the public were to vote. The options were then debated in this Assembly. I voted against the amendments. I now maybe think, in hindsight, that that was the time that we maybe should have made some of the amendments. Although the Commission had been given their role to undertake and they had undertaken it and come back with the proposals. I trust in the work that the Commission had prepared there. My view then was let us just get on with it and let the public decide without being influenced by any of us. The Commission had done their work. I was concerned that the commissioners themselves could not agree between themselves and even more concerned that they made their views public before the referendum. So, we had different views being given to the media by the commissioners themselves. Some of the media wanted to know how I was going to vote, in particular how the Connétables were going to vote. Really that was very difficult, especially the way it was reported, I think, from some branches of the media. My views were, and I said to them that I clearly believed that the Connétables should be in the Assembly, but went on to state, and it is covered in emails to the media, that we were holding a referendum, I would await the outcome and would vote as to what option the parishioners in my Parish and the electorate on the Island were going to vote for. The referendum took place. I did not stand outside the Public Hall all day wearing a badge for any of the groups. I stood outside the Public Hall all day thanking parishioners who had turned up to vote. No more, no less and unfortunately suffered sunburn as a result of it. In the 2011 election for Deputies, St. Martin topped the poll with a 63 per cent turnout. I was hoping for a similar turnout for the referendum. I was to be disappointed. However, apart from Trinity, which was one per cent higher turnout than ourselves, we still had the second highest turnout of the day with a 39 per cent turnout. Option B was a resounding winner, if you can call it a winner. I do not think it was. It was a choice. That was the choice that was made that day. I can accept that those supporting other options might now argue that the very system we have in place today shows how a smaller Parish might be able to influence the vote that affects the larger Parishes. I cannot argue that point, especially as the final votes Island-wide of the first round were very close between A and B. However, 39 per cent of the electorate of our Parish turned out to vote. We have to remember that only 16 per cent of the largest Parish bothered to vote. Districts that now want greater representation. There will be an argument that 61 per cent did not vote in St. Martin because they were either confused, they could not be bothered or thought that the options were wrong. Island-wide I think it is 74 per cent. I cannot second guess what the views were of those people who did not vote. I have to go on those people who voted on the day. I suspected that there would be many spoiled papers with people attending the polling stations specifically to register their disapproval. I was wrong again. We only had 11 spoiled papers in the Parish. That was higher than some of the other Parishes who were down to single figures and similar to any other normal election. I believe I now owe it to those who did vote and who indicated to me their preferred option was for option B. Option B won the first round in St. Martin by nearly 2 to one. Option B won the second round by an even greater margin. However, had option A topped the referendum result I would be voting, as I said to the media before the referendum, reluctantly for option A, like the Chairman of P.P.C. is doing today for the option B, and he explained it earlier this morning. Turning towards the beginning of my speech I spoke that becoming a States Member and Connétable had been probably the biggest learning curve in my life. It has indeed. I had a preconceived idea about the role and Members themselves, mainly as a result of media reports. Twenty months later I now know that all Members, albeit in different ways, have a role like no other. The work undertaken by the Members of this Assembly, be they Senators, Deputies or Connétables is unknown to probably the majority of the public, to the electorate, the early starts, not occasionally, but every day; the late finishes, not occasionally, but every day, the more often than not criticism from the public, the pressure from

media for more, so they can carry out their role of reporting and possibly making a story from a story that is not as big as it turns out to be. I think some of the original ideas were to remove the Constables as a financial saving. But I think that was always going to fail. Then we saw this change in view that then became proportional representation. On the night of the referendum I did not celebrate. I did not go and celebrate with the option B group or option A or option C. In my view, there was nothing to celebrate. Only 26 per cent of the electorate voted. The result was close, I do not dispute that. I worry for the Connétables who might be in this Assembly in November 2014. I do not know how they will cater, how they will manage the roles, if the proposition goes through today. I know the Chairman of P.P.C. said earlier this morning that 42 could cope with it. I cannot do any more than I am doing now. I might not be the sharpest, but I cannot do any more work. To take on extra work, I can understand the difficulties that some people ... there will be better candidates to do. I do not particularly welcome the super-constituencies. Deputy Baudains spoke very clearly on that this morning. It is not that I do not want Deputy Baudains to be representing the Parish of St. Martin. I am sure that the Deputy of St. Martin is the same. The difficulty would be in joining up and what Assembly do you go to and how do you represent each Member. Only this morning we heard a Deputy say: "Let the Commission of Inquiry do its job." That was said on the very first proposition we had this morning. Well, the Electoral Commission did their job. They came out with propositions. They were passed in this Assembly. An option was approved by the electorate. That being the case, we have to support that proposition. Finally, I do not believe for one minute that I vote in this Assembly, push one of the 2 buttons, because I will not push the middle one, merely for the parishioners of St. Martin, even they cannot agree between each other. I feel part of a team of 51 who work consciously for the public whatever Parish they live in. I shall be supporting the proposition. Thank you.

#### **2.1.8 Deputy J.M. Le Bailly of St. Mary:**

I always try to base my judgment and decisions on the voice of the people. It is the reason for which I was elected. I encourage response to controversial issues, which will be discussed by the Assembly in this Chamber. Within the Parish I distribute a quarterly communiqué inviting feedback. I certainly get it. The opinion received from the small minority of those who voted has been: "I did not like the options, but felt that I had to vote for change." The opinion of those who did vote is: "I thought that the 2 options for change were rubbish, so did not bother to vote." That sentiment is stated not only in the Parish that I represent, but echoed throughout the Island. People feel that the options have been imposed on them. They have been denied the choice of an Island mandate, regardless of whether Senators are retained or not. The idea of super-constituencies is certainly not a popular subject. The range of questions should have been asked of the public before coming to a like it or lump it choice. With that in mind the old adage: "Two wrongs do not make a right" still ring true. I shall stay with those wise words until a better solution is put forward. Thank you.

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

I am very sorry that the Deputy of St. Martin is just leaving, because I just want to quote to him, which I do not think we could be accused of saying figures that are made up. It says: "Reform option B creates great voter inequity than we have at the moment." The Electoral Commission has made no secret of that. In its final report, and it is a fact, and this is on Deputy Pitman's last amendment, so the Deputy is right. But, he produces a solution to the problem that is distorted and biased against reform option B. He does this because the amendment confuses 2 separate issues: voter equity on one hand and the link to the Parish on the other. They are apples and pears. You cannot have voter equity if the Constables remain in the States. The Commission has conceded that, but equally you cannot have a constitutional link with the Parishes if you have an Assembly composed only of Deputies. Now, if the Deputy of St. Martin or anyone else disbelieves me, they

are the words of the Electoral Commissioner, Senator Bailhache on 20th February this year. There is no - and I echo Senator Le Marquand - option B is absolutely totally unfair. I go on to quote ... and I think the Senator and some of the Constables here, just listening to the Constable of St. Martin, may have 2 different opinions. I believe probably the Senator thinks he is right, but it does not work like that. He goes on to say: "If an elector living in St. Ouen were to telephone the Constable of St. Lawrence [it is probably not this Constable, but just a name] assuming the reform options came into effect about a political problem, I shall be very surprised if the Constable did not say, 'Get in touch with your own Constable'." This is the pertinent quote. The Constables are Parish representatives. It is only the Deputies who are who will be district representatives." The final nail in the coffin is: "Constables [and this is the Commissioner] do not represent electors in any other Parish other than their own." So, why would the Constable of St. Martin or anybody else need to fit in this neat number of 42? Why would he need to take on any extra work? It is all neatly written down here. We are going to have 10 Ministers, 12 Assistant Ministers, allow 4 for the Public Accounts Committee, 15 for Scrutiny, one Chair and we have 42, presuming everyone takes on extra work.

[11:30]

It comes down to what Deputy Baudains said: "Where does the Deputy of Grouville go? Where does the Deputy of St. Clement go?" It is all very neat that they were ... and quite convincing that lots of Deputies who are elected, as in the Commissioner's words, to represent the district will be running around like headless chickens to every different Parish Hall. Well, quite rightly so, the Constable is there to represent a small electoral district called a Parish. Now, I have never ever ... I do not think I have ever voted against the Constables being in the Assembly. This was presented to me. I said in February it was rubbish. I could not support it then. I have only supported one amendment and that was Deputy Southern's because it was a yes or no answer to the electorate and a yes or no answer should have been ... we should have cleared it up: "Do you want the Constables in or out?" and then divide up. Quite an easy, easy referendum for everybody to turn out and then I think people here, and like the Constable of St. Martin, would have thought it would have been a good turnout. I really cannot top the speech of Senator Le Marquand and I know he did quote figures and, you know, we have had a few people say: "Well, you can make figures illustrate anything you really want" and I have said that before. It has been interesting to hear, and I have been told face to face, obviously I could not mention any, some civil servants are rubbing their hands if we reduce this down because they say: "You will absolutely increase our number because you will not have enough people. You are struggling now to keep us to account and you" ... and these are honest ones who will speak to us or others in confidence so if you want more civil servants and actual less representation of the public, vote this through today. The Deputy of St. John said he was in a bit of a dilemma. Well, he should be in a dilemma because he was one of the thinking 12 like myself and Deputy Green, Senator Ferguson, Ian Le Marquand, Deputy Southern, the 2 Deputies Pitman, Deputy Higgins, Deputy Maçon and Deputy Baudains who all, when it came to ... when every amendment fell, we voted not to put this ... as I said, rubbish in, rubbish out. You only get that when you put ... whatever you put in a computer or any statistics, if you do not put in the right, in this case, questions, you are left with what you had. So where are we today? I am a representative of this Assembly and I am elected in St. Helier. I am quite clear where I am voting. I am not on any fence. I am not supporting this. I cannot support it and I have no problem next October going to every door, whether it ... if this goes through it does not matter which district, does not matter how the cake is cut, and standing there and saying in all honesty: "I could not ... I voted for C or B or A" and they: "You voted against everything?" I will say: "Yes, because I am here for the good of the Island." **[Approbation]** I do not only, and I will emphasise this again, and I do not believe it, but this is what the Commission work. The Constables do not represent electors in any Parish other than their own. So when they are sitting there today and they

tell me that this is for the Island, there is only one way to go. I am not saying they should not be in the Assembly and I am not saying we have even got a clear mandate that they should not be in the Assembly or they should be in the Assembly. What I am saying is we need to stop this now. We need to vote against the principles. We need to throw it out. We do not need to know the running order because I have respected Deputy Pitman and Deputy Green. I understand what they are trying to do for St. Helier but it does not make it even for the other Parishes. It does not make it even for where ... Deputy Baudains started all this. Where are you going to in the bigger districts to be representing and you are going to be running around Parish Halls. I am not clear that it makes any sense. I am clear as I was in February. We have asked the public to make an impossible position possible and we have also asked them to vote on something that the usual voters ... but even only half of them or even a third of them turned out, felt it compulsory to vote. I was an A voter and I made no problem in saying that because I thought B was unworkable with the Constables. It would not have been unworkable if you had worked the Constables out first and then gone back and said: "Well, how do we make this representative of ... and fair?" But we did not do that and so we are where we are. Yes, the Commission did do a lot of work. So did myself and Deputy Tadier on the minority report and I do not even want to go back there, but we should not have been in the position where we had politicians on the Commission. It should have been totally independent and you can go on and on and on. But I would not be doing this Island or any of the people that I represent and it is ... or Island-wide or in St. Helier any good if I could support this today. I know people feel that voting against the principles may not be the way to go but really, do you want to get into 3 or 4 different debates on amendments and know at the end that, you know deep down, this is totally going to make the Island, as the Commission says, option B is totally unfair and it was unfair in February and it is still unfair and it only just scraped past the post.

#### **2.1.10 Connétable L. Norman of St. Clement:**

I am rather nervous and sad about the vote coming up at the end of these principles because we have had the referendum result but, in all consciousness, my conscience tells me that I find it impossible to support this proposition. Now, I can see some of the fingers pointing already: "But you supported option B during the referendum" and yes, I did. But I supported it not because option B was a good option, nor was it a rubbish option, but it was the least worst option on offer and that is not a good basis for supporting the proposition. **[Approbation]** What we are being offered today is not, in my view, sustainable, no more sustainable than the current system that we have which is in desperate need of reform but for the right reform. If we do go with this proposition, within 4 or 8 years we will need to change again and I suspect that, at that time, option A will be implemented because it will be the easiest thing to do. Now, I am a strong believer that we should have, as most modern democracies have, an Assembly elected by a general election. Now, by general election, I mean all Members elected on the same day for the same term and on the same basis. This proposition only gives us 2 of those 3 and that is not good enough when we are looking at reform for the next 40, 50 or 60 years. Now others will argue that option A gave us all 3 but let us be honest, that option did not find favour with the electorate and I asked myself why. I suspect that, like me, the electorate believe in Parish representation, not specifically the Constables, but in good strong Parish representation. This is because so much of our cultural life, our social life and our political life has been and is based on our Parish system, our excellent and strong Parish system. To adopt this proposition, which will include the inevitable eventual removal of the Constables, now that in itself is not necessarily a bad thing but the removal of all Parish representation is, in my view, a very bad thing. So how do I, as a confirmed and permanent reformer ever since the year 2000, reconcile my position with not supporting this proposition? Well, I think I can do that quite easily. I really believe and I want to see the reforms proposed by the Clothier panel so, what, 11 or 12 years ago, to be put to the public in a referendum. The system that Clothier proposed was valid in the year 2000 and is just as valid as it is today but year after

year, we have refused to put those most sensible proposals to the public and instead we come up with the hybrids that we did a few months ago. You see, I want the Clothier proposals because their recommendations give us everything that we need and I believe that the public appear to want. They do give us a general election, all Members elected on the same day for the same term and on the same basis. All Members would be elected on a Parish or district within a Parish basis so relatively small constituencies returning a small number of Deputies, one, 2 or 3, removing the lottery element of large super-constituencies or even, indeed, the senatorial elections where we are going to have ... if we do not change, we are going to have 8 at a time. That is going to be an absolute lottery. Members will be reduced to what the public want, round about 42, 44 Members. We know the public wants that, greater voter equity which, to some Members, is extremely important. Not greatly important to me but it will be there and it would be an improvement and the divisive and thorny question of Constables would be resolved by the Clothier proposals because under them, a Constable would not be forced to be in the States. They could if they wished and if they did stand for election to the States, it would be up to the voters of their Parish to decide if they wanted their Constable to do both jobs, not forced to do both jobs, or not imposed upon the electorate for them to do both jobs, you see, because I know, and I think many of us know, there are people who could make very good Constables but will not stand because they do not want to be in the States. On the other hand, I also know of candidates for Constable who stood because they want to be in the States and have little interest in their Parish and that is just as bad. I am not saying any of them have been elected **[Laughter]** but they have stood. I want to support reform but the reform has to be better than what is on offer today. The Clothier reforms, which give the Island everything that is good in democracy, have never been put to the public and I say it is time they were. **[Approbation]**

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

I do not know what other Members have found but I have had quite a lot of stick about the referendum. I did not vote for it but I am still, as a States Member, classed with everyone who did and the reaction that I am getting is that the electorate are not happy. That includes not only those in the electorate who voted but also those who did not and what I found interesting is that those who did not vote are quite open about it in their reasons why they did not vote. Most of them are saying, you know, à la President Clinton: “It is the economy, stupid.” It is that sort of approach and, you know, there were a lot of them, some 74 per cent of the electorate, and Senator Le Marquand’s arcane and elegant exposition on the statistics underlines the fact that the turnout was too low. We have no mandate in this. I have always been bothered by the number 42, you know. **[Aside] [Laughter]** Sadly, it is not my age anymore but that is life but Clothier seems to have backed into it. He decided we needed 7 ministries which would take some 20 Members so we would need 22 to 24 to form the check and balance of scrutiny. Note, Clothier said 42 to 44 Members. He gave a range. He did not tie it down to one figure. On Clothier’s reckoning, with 10 ministries, and doing a bit of careful mathematics, I think, we appear to need 28 in the Executive which would mean 30 to 32 in the non-Executive and, frankly, I think that is a non-runner. It is food for thought but it is even outside Professor Renwick’s limits.

[11:45]

I would remind Members about Clothier’s comments about minority government. He said: “The existence of party is not necessary to the concept of audit or scrutiny. What is absolutely necessary is that there should exist in any Assembly a sufficient number of Members not in Executive office and therefore free to observe with a critical eye those who are.” He went on to say: “This is what is meant by the commonly used but ill-defined expressions ‘checks and balances’. It is clear enough what is meant: the prevention of the uncontrolled exercise of power by a few powerful people. These considerations all point to an Assembly in which a clear majority of Members are not holders

of Executive office but are numerous enough to constitute a number of bodies sufficiently detached from the business of government to provide an independent scrutiny.” That is why we have the Troy Rule, the amendment to Article 25(3) of the States of Jersey Law which ensures that the number of non-Executive Members should exceed the Executive by 10 per cent. This ensures that in a non-party legislature, the Executive rules by consensus rather than by dictat and we avoid, as Clothier put it: “The uncontrolled exercise of power by a few powerful people.” Now, I am sure this would not apply in this Assembly but, you know, would there be politicians or civil servants, as other speakers have said, and we have got to look to the future. We have got to have a system which is stable and balanced which is where Clothier was absolutely correct, but the Electoral Commission is inclined to repeal the Troy Rule even though option B is, as the Chairman of the Electoral Commission has said, not the ideal solution. Yes, many of us do want to include the Connétables in any reform but the problem with option B is that not all the Connétables, as people have said, have a great deal of time to devote completely to Scrutiny and not including the Connétables in the Assembly has a detrimental effect on the Parish connection. Guernsey have removed the Connétables from their States and their Parish system has dwindled away virtually to nothing. I agree with the Connétable of St. Clement. Does anyone seriously think that with 42 Members, a minimal number for Scrutiny, and not all the Connétables having the time for Scrutiny work, that it will be long before the Connétables are voted out of the States? If we have large constituencies and a Boundary Commission, how long before the Parish boundaries disappear for official purposes? It is no shame to admit a mistake and say: “Let us have another go” and this is the opportunity Senator Le Marquand’s proposal offers us. Effectively, we will still have the reforms that the Connétable of St. Mary guided through the Assembly so skilfully and that will be 49 States Members, a general election day, and a change eventually to spring elections. Surely, as with any reform, it is better to put one series of changes through before embarking on the next set. But P.74, which is next on the Order Paper, enables us to send reform back to P.P.C. and say: “Have another go.” That famous parliamentarian, Edmund Burke, said: “Your representative owes you not his industry only but his judgment and he betrays instead of serving you if he sacrifices it to your opinion.” Do not let us sacrifice our judgment today.

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

As Senator Le Marquand is fond of telling us, no political solution is perfect and this reform to the composition of the Assembly is not perfect either but it does represent the fruits of 9 months’ intensive work by the Electoral Commission and the most extensive process of public consultation that has ever been undertaken. To suggest, as an editorial has recently suggested, that we are just debating our favourite subject, that is to say ourselves, is simply wrong. I am not in the slightest bit interested in my own political future but I do care passionately about the future of our Island and most Members, I think, would say the same thing. The creation of a smaller and more efficient Legislature is one of the simple objects of this Bill. It is worth reflecting how we have arrived at where we are and the Chairman of the Privileges and Procedures Committee sketched this in, and I must say that I am very grateful to him for the way in which he has presented this proposition to the Assembly. He was not a supporter of the option B solution but he has recognised the democratic will of the people and he has behaved, if I may say so, extremely honourably. For 10 years or more, this Assembly has been wrestling with the problem of how to reform the composition of the States following the report of the Clothier panel in 2000. There have been interminable debates, as Members will recall, and in 2011, the States resolved to solve the problem once and for all by appointing an Electoral Commission which would examine the matter dispassionately, make recommendations and the Assembly agreed that those recommendations would be put to the public in a referendum and implicitly the Assembly was saying if the people expressed themselves clearly in that referendum, then we will give effect to the will of the people. The Electoral Commission worked hard and worked quickly and I was honoured by the Assembly to be appointed as Chairman

of that Commission and I would like to pay tribute ... I am sorry that you have now taken the Chair because I am now paying tribute to you, Sir, **[Laughter]** but I would like to pay tribute to the Greffier and to his staff whose advice during the period of work of the Commission was absolutely invaluable.

**The Greffier of the States (in the Chair):**

As long as you do not blame us for the outcomes. **[Laughter]**

**Senator P.M. Bailhache:**

I am sure I will not do that, Sir. There were 340 written submissions to the Commission and some of them were extremely lengthy and extremely carefully expressed and 35 people came to give evidence at a public hearing. The Commission took expert advice. Then the Commission did something which has never been done before. It produced an interim report with provisional conclusions so as to allow the public the opportunity to see which way the mind of the Commission was working and to have the opportunity to comment upon those provisional conclusions. The Commission went round to each Parish Hall and spoke to the people about the provisional recommendations. Following that, there was a second period of consultation. There were another 97 written submissions. Then the Electoral Commission issued its final report and again, a summary of the recommendations of that report was sent to every household in the Island and the full report was placed on the internet and in Parish Halls and other public places. I do not think it would have been possible to have involved the public to any greater extent in this process than was done by the Electoral Commission. To suggest, as Senator Le Marquand has suggested, that if these reforms are rejected he will work earnestly with the Privileges and Procedures Committee to come up with some other solution is frankly to live in “cloud cuckoo land”. The Senator and others who espouse that point of view have never put forward an alternative solution. They have talked about alternatives but they have never said what they are and I challenge any Member on the basis of the evidence that the Electoral Commission has assembled to put forward an alternative solution which would be likely to find approval, both in this Assembly and among the public. When the Electoral Commission’s report was lodged, there was a very full debate here in the Assembly and eventually the Assembly accepted the recommendations of the Electoral Commission and agreed to put them to the public in a referendum. There was a campaign, a little lacklustre perhaps, but this was the first campaign around a referendum and the supporters of the 3 options advanced their different points of view. Then there was a vote and the vast majority of electors, the vast majority of people who turned out to vote, wanted reform in one or other of the reform options that were put before them in the referendum. Those who rejected the reform options, either because they wanted something different or because they preferred to retain the status quo, were soundly defeated. Senator Le Marquand has played with a number of statistics and it is, I am afraid, quite easy to do that. He says, and here I do agree with him, that 26 per cent was a low turnout and that is true but that is, if I may say so, where we are in the Island today. If we look at the figures for the 2011 elections or even the 2008 elections, the turnouts were not impressive. If I may say so, referring to my own performance, I topped the poll in the senatorial elections but only 28 per cent of the voters voted for me and in the town constituencies and many others around the Island, the number of people voting for individual candidates was far lower than 20 per cent, sometimes as low as 15 per cent or 14 per cent. So a turnout of 26 per cent in the referendum is disappointing but it is where democracy in the Island is at the moment. It is a serious matter and it is something with which we should all be concerned. The Electoral Commission gave a number of reasons as to why they thought it should be so but I am afraid that if Members reject this reform in the way that some Members have urged, the public will be even more disaffected than they are at present.

[12:00]

Senator Le Marquand and Senator Ferguson just now have said that there is no mandate for change but if they are right and we are to take account in future of the views of those who, for one reason or another, choose not to vote, there will never be a mandate for change. Democracy is to give effect to the will of the people as expressed in elections. This proposition is very simply about implementing the will of the people in the referendum clearly expressed in that 80 per cent of the voters wanted reform. The people were divided, 55 per cent to 45 per cent, as to what type of reform it should be and 55 per cent supported option B, which is what the Privileges and Procedures Committee is now putting before the Assembly. Members can duck and dive as much as they wish but to reject this Bill and to give effect to the wishes of less than 20 per cent of the voters instead of the 80 per cent who supported reform, would be a most extraordinary exercise in democracy. I urge Members to support the principles of the Bill.

### **2.1.13 Deputy S. Power of St. Brelade:**

I would like to join with others this morning in congratulating the Constable of St. Helier in the way he presented this important proposition. It was an excellent exercise in statesmanship and I think it needs to be acknowledged by me at least. **[Approbation]** I have nailed my colours to the mast some time ago. I was one of the 345 people who wrote to the Electoral Commission and I was one of the 35 that made an oral submission and I did not get what I wanted. My submission was not adopted and in the political cut and thrust of Jersey politics, I accept that. I accept that in this Chamber and on this Island, none of us will ever get what we want 100 per cent so I have decided that I will support option B in all its implications and with some of its, what other Members would say are, imperfections. I cannot get away from the statistics that have been quoted by the Constable of St. Helier and by Senator Bailhache and by others this morning that the public want change and of the 3 options, 82 per cent or 83 per cent voted for A or B with a small majority for B. Nonetheless, the vast majority of people who bothered to go out and vote, who took the opportunity to go out and vote, voted for change and I note some of the comments and some of the figures that were read out by different Members this morning, some excellent ones by the Constable of St. Helier and now by Senator Bailhache. In Senator Le Gresley's by-election, 1,200 more people voted in this referendum than did vote in the election that elected Senator Le Gresley. I think that is an important statistic. Senator Bailhache has just referred to his figures and the statistics relating to his election in the 2011 election and to me, irrespective of how we analyse what to all of us is a poor turnout by the public, those are the members of the public that voted. They took the time and trouble to go to their polling station and vote and it is significant that in St. Helier, 85.6 per cent of those that bothered to vote voted for change. That is not a disputable figure; 4 times more people made submissions on the Electoral Commission's fact-finding than in the Clothier report: 4 times. I live in the same Parish as Senator Ferguson, as Deputy Tadier, as Deputy Young and my Constable and of the phone calls and letters and emails and text messages that I have had, the vast majority were for change. They want to change. I have to say that of the letters, phone calls, emails and text messages that I got, there were not an awful lot of them but I did get them. It was not the burning issue of the day in our electoral district. They are more concerned with mortgages, repossessions, hanging on to their jobs, and I am sure that there are a lot of people out there listening today hoping that we get on and make a decision today sooner rather than later so we can steer this economy in the direction it needs to be steered in. There are bigger issues out there facing the public. The public are sick and tired of listening to us navel-gazing in this Chamber and I think the pathway that the Electoral Commission set out is a step in the right direction. It is an important series of recommendations and I think we inch our way in this Assembly towards reform of the Assembly and change of the electoral system and it is like that. We inch our way. So I say to Members this morning, given the results of what the Electoral Commission has achieved, what right have we in this Chamber to disenfranchise those members of the public that have voted? What right have we got to disenfranchise and to reinterpret what was the mandate of the Electoral



Commission or to decide: “I do not like this report and proposition so I am going to amend it?” What right have we got to do that? That is not what the public are asked, and I will say to Members there is no ideal template, there is no template that can sit in this Chamber that everyone in this Chamber or everyone out there listening will find acceptable. There is no nirvana. There is no political parody. There is no miracle in how we fix the representation in this Assembly. So my view, and I am sure Members are clear, is I am going to support these principles today and I urge Members to not disenfranchise the electorate and to accept these principles today.

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

When I stood for election in 2008, I wanted to see greater accountability in the States and that I said I would vote according to the evidence and/or my conscience. Since entering this House, I have also been guided by 2 other considerations: the need for justice and fairness, especially after being exposed to and being made aware of a whole raft of unfair acts and injustices that have been perpetrated on ordinary people in this Island by the Government and our other institutions which control or influence much of their lives. When I vote against these reform proposals today, I stand ready to be held to account by the electorate in my district for this action and my other actions and votes in this Assembly rightly so because, as a democrat, I will accept their judgment with good grace. If they feel I am wrong on this issue, and decide to vote me out, then so be it. There is life outside this Assembly and there are many other things I want to do in what I hope are the remaining years of my life and I would leave with a clear conscience. I shall be voting against the reforms put forward by P.P.C. because I believe that what started as a good idea, an independent Electoral Commission, with no politicians [**Approbation**] was hijacked and changed into a beast which, in my opinion, had only one possible outcome. I believe these proposals, if they go ahead, that Jersey will become even less democratic than it is at the present time and the injustices that I have seen and been made aware of will become even greater. Why do I believe this? Well, because we will end up with less accountability and power concentrated in the hands of fewer and fewer people. Now, the electorate may be surprised to hear that while the Council of Ministers is made up of 10 Members, the main decisions are being made by 3 Members, an inner or “kitchen cabinet” made up of Senators Bailhache, Gorst and Ozouf, something which other Ministers will confirm in private. If the Troy Rule goes out, as I believe it would do, if this proposition comes forward, then this Assembly will become even more of a rubberstamp than it is at the present time and it is not something that I want to be part of. It is also a fact that many of the decisions attributed to the States or States departments are being made by unelected senior civil servants who, because of the failures of this Assembly and previous Assemblies, are never held to account for their actions and failures. We already have enough trouble trying to hold these people to account with 51 Members and what will it be like if we only have 42, 20 of whom would be part of the Government? Impossible, in my view, and I certainly do not believe that Scrutiny’s ranks are going to be filled by the Constables with their heavy Parish workloads. I will not go through all the other flaws for these proposals. I will leave it to others who will have their say but I can say in good conscience that I cannot support the P.P.C.’s proposals and I shall be voting against it.

#### **2.1.15 Deputy T.M. Pitman:**

Fairly briefly, I think there have been some good points made if, albeit, for different motivations. Obviously, people have got different concerns in joining together to say that this is not good enough. Now, I would just like to start by saying I agree with something the proposer, the Constable of St. Helier, Chairman of P.P.C., said when he said we have to listen to the people and what they want and I think he is absolutely right. We have to listen to those 74 per cent, the vast majority, who, for whatever reason, did not bother to vote and I am like Senator Ferguson and other people who have mentioned it. They did not vote mainly because nothing on the table appealed to them. They did not think it could work. I ended up being a supporter of option A but I still had

huge reservations about 42 and the reason is there is no logic to 42. It does not matter which way you stretch, cut or slice it, there is no logic behind 42 and I must admit I was quite alarmed to hear it said today that we should just go ahead, I think it was the proposer who said it, that we should go ahead, vote for this, implement it, and then try and make it work. Well, that is an absolutely crazy way to do anything in life, I would suggest. Now, it might surprise some people but I am not hung up on removing the Constables from the States, not in the least. I have said before that I do think a one type of Member Assembly would be the most effective, be the most democratic, and it would be the best for the development of democracy in the Island. Yet, I hear today, I think it was Senator Bailhache said that ... I think he criticised Senator Le Marquand, I do not think he was saying about all people, that no one had come up with a solution. Well, people have tried. It upsets me to hear this impression being given to the listening public that it is an either/or situation here, that we can either have fairness or we can have the Constables. No, it is not, and I know that is true because I have come up with a system myself. I put it to the States, was it back in February, and it did just about everything that we apparently wanted within reform. It reduced the numbers to 46. It protected the Troy Rule, which a number of Members have rightly highlighted will be finished if we have 42. Let us be quite honest about that. It kept the Constables. It enabled a speaker, if he wanted, to be selected from within the Chamber but most important of all, it ensured comparative fairness. Now, reform is meant to be about improving things, making things better. This option before us today makes things worse. It will put more people off voting. I think it will create greater apathy and Deputy Higgins is quite right. It will concentrate power even more in fewer hands and that is not a good thing for democracy, whichever side of the fence one comes from.

[12:15]

What I would like to hear the proposer say is to justify to people, including his own electors, why he is willing to put something forward ... and I understand the bit of the dynamics, the problems here, he is Chairman of P.P.C., but how he can recommend something that will disenfranchise a third of the Island's population simply because of where they live and I would appeal to the Constables, how can that be right? I am no genius. Deputy Green would not claim to be a genius but we have come up with a system that could make things a bit better but do we want to make something that is appalling better? Is that good enough? Probably I would have to say not. When we are talking about these turnouts and arguing and trying to make the statistics mean whatever we particularly personally want them to, you have to consider that the reason that the 74 per cent ... 74 per cent, that is three-quarters of the people, did not vote for any of these. That is because it was such a mess. It was so badly thought out and it probably does go back to what happened after the former Deputy of St. Mary had come up with an independent Electoral Commission and people in this Assembly ... or the last Assembly, was it this Assembly, it has been so long now, people allowed it to be overtaken by political interests and it is very telling that the decision, the split, was almost neck and neck as we knew it would be between those who want the Constables in and those who wanted them out. Once we got to this completely flawed second vote, well, of course, we saw the people who did not perhaps want the Constables in, they had nowhere to go. That is why most of the C option voters did not vote at all. To try and say we are betraying people if we reject this I think is wrong; it is misleading, because we are talking about 26 per cent. I am thinking about the people who I knock on their doors, the 74 per cent, the vast majority, who did not want, for a variety of reasons, any part of what was on offer. I am afraid that is where I have got to go with my heart and my responsibility to those people who elected me. I cannot and I do not see how any St. Helier representative can vote for something that says: "Sorry, Mrs Bloggs, your vote is now worth half of what a person in a smaller Parish is simply because of where you live. There is no justification for it. You are still going to have to pay the same Island-wide rates. You are still going to have to pay the same tax but you can only have 50 per cent's worth of say in how your government runs." Again, I would appeal to the Constables here because I think their votes are

going to be important. This is not an either/or. Fight to keep the Constables. It is a sustainable argument, it is a tenable argument, but do not say: “We have got to disenfranchise a huge swathe of the Island’s people” because that is what is being sold to us by P.P.C. and it is wrong. What should inform all democracy and all reform is fairness and equality, best practice and as Deputy Martin highlighted, it is in the Electoral Commission’s own report. Equality is meant to inform all of this and we are being misled. We are being sold a pup and I think if we pass this today, it is a negative step. Will it mean we do not debate any more politics about any more reform? Well, I think there will still be people coming back to the Assembly again and again because people do care about it. People do care about equality. I cannot believe or agree with those Members who think it is not important. Of course unemployment, the economy, et cetera, et cetera, but to achieve the best results you can in all of those areas, you have got to have the right format of government and this is a step backwards. I am not saying I do not support reform. I have campaigned for reform even since before I was in the election but it is not reform at any cost. This is a bad option on the table. It is misleading. It disenfranchises, I repeat and end with, it disenfranchises a third of the Island’s population for no justifiable reason other than where they have to live. That has got to be wrong and I hope all Members would agree with that. We can come up with a system where the Constables can stay, a system that also allows fairness, and that is what we should be trying to work towards and if it takes another 5 years, it is better that we get that in the end so I would reject this proposal and I would ask all other Members who believe in fairness to do the same.

**The Greffier of the States (in the Chair):**

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

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

Sir.

**The Greffier of the States (in the Chair):**

Well, Deputy, you do know the rules.

**Deputy G.P. Southern:**

Yes, Sir.

**The Greffier of the States (in the Chair):**

Your light came on just now. I will let you speak but Members should not play games. Deputy Southern.

**2.1.16 Deputy G.P. Southern:**

Of course Members are playing games, Sir. That is what we do in this Chamber very often as some Members have said and others deny. How did we arrive at today’s vote? Well, we started out with the best possible intentions, each and every one of us, when we examine the formula under which we purport to represent the population. Those best possible intentions were produced by a Deputy who was only with us for one term and who is often referred to as somewhat naïve. Nonetheless, genuinely heartfelt, genuinely caring, the ex-Deputy of St. Mary who produced the suggestion to do away with all the argy-bargy across the Chamber and the various solutions being proposed by individuals and how to set up an independent Electoral Commission to organise how we should represent ourselves, represent our people, over the next decades and the key word there was “independent”. This pure spirit said we can do this in an altruistic and honest way. What happened? What went wrong? Well, first of all, that independence was sacrificed. We put politicians on that Electoral Commission, politicians incidentally who all on one critical issue were supporters of the position of the Constables in the States, all 3 of them known to be supporters of the position of the Constables as is. Not only that, but we made the Chairman someone who had

just been recently elected and who believed he had a mandate. He already had the answers that he had put before the electorate and been voted in, topped the poll, as he said. "I have a mandate." That mandate was to retain the Constables and to reduce the number of Members to 42. In proposing 42 as the magic number, I, and I do not think anybody else, has seen any serious argument and development as to how we then work the system with only 42 Members and that was one of the fundamental objections that I had to the proposals when we debated them last time, that 42 quite frankly, and several people have said so, is probably unworkable. Certainly, the Troy Rule goes and minority Government goes and in the absence of party politics, how does that mean we function? The answer is, in my book, I do not believe we can, certainly not with the structure we have but nonetheless, without any basis of evidence, 42 became the magic number. In terms of perception of what was going on, never mind the reality of what is going on behind the scenes or anything ... and the process itself which was very well and efficiently done, the perception would be that the fix has been put in and many people believe that to be the case. What else went wrong, and I said so at the time, it was my amendment. How do you construct a referendum? All the principles say you have a single question. That question must be simple and must be capable or should be capable of being answered by a yes or no. That is the reality. That is how you make referenda. Did we do that? No, we did not. We decided, for the first time in our history, to have a transferable vote, 3 options and for some people a viable second vote. Now, in the previous debate when we decided to put this to the Island, I pointed out that simply, numerically, arithmetically, unless you have got a balance in those options, inevitably you will get one result because those who supported option A, even with 42, could vote for option A, one vote. Where are they going to go next? Very difficult. Hold your nose and vote A; leave the Chamber. Whereas those who support no change or as little change as possible, options B and C, had their alternative there and what has happened? Option A, 10 per cent; option B, 10 per cent, a little bit more option C, 5 per cent. Transfer those option Cs, some of which where are they going to go? They voted for no change. Are they going to go for the most change? Of course they are not. They went to option B. The end result was option A, 10 per cent, option B, 12 per cent. Simple numbers, inevitable as night follows day, that was the result that would be produced, a vote for no change but more likely a vote for as little change as possible and that is the reality that happened. Again, people look at that and say that looks like, the perception is, that has been rigged. The referendum was there to produce an end result, the result we thought of at the very beginning. This is the answer we want. This is the answer we achieved. Now, I have got several words on my notes here to describe that process. You might call it flawed if you were being generous. You might call it bogus if you were being less generous. You might call it a sham. You might say it was a contrived result. My favourite, however, is it was the engineered result. We engineered a referendum which would produce the result exactly that it did. Then you look at the turnout and say that the turnout was only one in 4 voted. Does that matter? Well, yes it does because we have a referendum system that is not binding. We are not compelled to obey an instruction that we are supposed to get as a result of a referendum. However, we have heard several times already this morning an implicit binding that we have got a vote, albeit a poor one, an instruction, and we must see it through, making a referendum binding which is not part of our constitution. We do not have a binding referendum. We can if we choose not to allow through what many have seen already this morning as the worst possible way forward, the least worst in the wording of the Constable of St. Clement who, yet again, finds himself as a lifelong reformer, unable to support something in this Assembly.

[12:30]

So we started with the best possible intentions and what we have is probably the least awful result. There will be many Members who will be able to adopt the ex-Deputy of St. Martin's attitude, who has often said this is a hold-your-nose vote. You hold your nose and vote for it, despite your reservations. I urge Members not to adopt that approach. This proposition is seriously flawed. In

the long term it provides no solution whatsoever. It has been suggested that within 3, 4, 5, 6 years we will have to dismantle this and start again anyway. I think that is a reality. This is a solution which will damage democracy on this Island, and we have heard many times this morning the arguments as to why that is so, and it is about fairness. It is about getting it right. Do not consign democracy on this Island to festering, as I believe it will, over the next decade, 2 decades until we have managed somehow to rest and get right where we should be going. Please vote against this proposition.

#### **2.1.17 Deputy J.M. Maçon:**

I will try to finish my speech before we adjourn for lunch. Many things have been said, and I do not want to rehash those arguments. There are some that I do want to challenge immediately though, and when Senator Bailhache spoke, he slipped in, and throughout the option B campaign and the A campaign it was there, and it went totally unchallenged, which is, if we reduce the number to 42 Members or 30 and 12 Constables, the Assembly will, and the work that we do, will automatically be more efficient. Well, excuse me? Beg your pardon? Absolutely not. The Constable of St. Martin is quite right to point out and say as States Members, for those of us who do work and work very hard - and I believe that is most, to all, Members - we are all struggling to keep up with all the work that we have to do with all the constituency cases that we have to do, with all the reading we have to do, with everything else that we have to deliver. I would ask States Members to think about the work they would like to do, lodging their own propositions and all the other stuff that many States Members entered the States to do, but simply do not have the time, because they have all the other duties and responsibilities they have to do. So I totally reject, first of all, this notion that if we reduce numbers suddenly we are going to be more efficient. If anything, all the other work is going to build up and we are going to get more of a backlog than where we already are. We already have all these different bits of work which we know need to be done, that we are having to put on the backburner, because we do not have enough Members to oversee it and get it done. So I want to challenge that immediately because I was not taken in by it, and it needs to be challenged. The Deputy of St. Martin, when he spoke, talked about how we should not look at the numbers, and how we should just carry on with how the result works, and of course Members will know my opinion, because I brought my proposition about a 40 per cent turnout and how it is important, but I do think the 74 per cent of those who did not engage, and it is not the case they did not bother to vote, it was the case of they did not engage in the process, and we have to understand why. You cannot ignore the fact that on the radio almost every day the broadcaster was saying: "All choose option D, if you do not like any of it, and do not bother voting." Of course, that is important. Of course that is something we have to consider. What we can take from the result, as far as I am concerned, is that none of the options got an endorsement by the public at all, any of them. Never mind what we think, and none of the campaign groups motivated enough of the public to turn out and support anything, as far as I am concerned, looking at the numbers, so that is where we are, and that, for me, already aligns me to where we should be going. I do want to pick up on this point about the Parish system, and there is a symbiotic relationship between the role of the Constables in the States, and the role of the Parish Deputies within the States, and I do think that if we move away, and this is something else in the reform, I know when I was going around talking to my constituents about it, they said: "Well, I think I am going for option B, because I keep my Deputy and I keep my Constable." I said: "Oh, no, no, you do not keep your Deputy. You keep something that has a title of Deputy, but it is a mini-Senator; it is not a Parish Deputy, and you lose that" for which they then said: "Oh, I do not think I like that. What else can I do?" Because that is something to remember as well. So if you lose the relationship between the Parish Deputy and the Parish Connétable, as other Members have already said, if you lose one, what is going to keep the other one surviving, and especially if you move into the super-constituencies, and Deputy Baudains explained why that is a nightmare for a candidate,

let alone someone in the district to go to. A lot of people struggle. When I go around, they say: "We find it very difficult because we do not feel we are engaged enough by the politicians." How is that going to get any better when you move more politicians into a larger area? I spent a lot of time in my constituency and I can do that, because of its size. If you move that to a much larger constituency are people going to see me as much, or the other politicians as much, and you have to ask yourself: "How does that affect representation? How does that affect democracy?" Because, in order to do our jobs, I believe, we need to have that role of being out there in our constituencies talking to our parishioners about the issues that affect them. I do a lot of that anyway, but if you move to the super-constituencies what happens then? Some will say, in the absence of a political party system, because you might say: "Well, they manage to do it in other jurisdictions" but they have the political party machinery underneath in order to facilitate that, so again we are measuring apples and pears against each other. Also, something else we have to talk about, there is a difference between an election to office into the States to do a specific function within this Assembly and a different law, and the law-judging referendums, the function and the purpose of a referendum, to then start comparing: "Well, this number of votes go for this particular thing, and that number of votes go for that" they are different things. You are comparing apples and pears, and, of course, yes, some of the process is similar in the fact that, yes, you go and vote, but the way that you interpret the data, the way that you judge mandates, the credibility, are different, because they have different functions and different purposes. So in order to say that: "Well, because such-and-such Deputy only got this, and such-and-such turnout means that, well, how can they overrule a referendum that has this?" Because they are totally different things. We do not pre-select the candidates that are going to go towards the election, which were endorsed by States Members, and then get those candidates to stand in front of those States Members, and then get them to come back to be endorsed by this Assembly to carry on their role as States Members, but that is what we do with a referendum. I am trying to illustrate that they are totally different things, and then to compare them against each other is totally flawed because they are completely different things. They have a different function and they have a different purpose. Members have talked about the Clothier Report, and Senator Ferguson outlined the issues of numbers there, and I am very worried about the number of Members, and how we are going to survive, and produce good governance if we go down to the number of 30 Members and 12 Constables, because, again, it is about providing a way in order to deliver good governance for this Island, and we are all working incredibly hard, and especially when Senator Ferguson outlined, not only did we have to increase the number of ministries from the Clothier proposals, because there was too much work to be done, and, as already said, there are other ministries in the pipeline that we are hoping to achieve. Again how does that ... without totally changing the whole system? The former Deputy of St. Mary is well aware of this, which is why when he brought his original proposal, P.15 of 2011, he brought an amendment to that proposal to say: "Not only do you have to look at the composition of the States alongside of it you have to look at the machinery of government because they go hand in hand." Within that report, he also said, which was endorsed by the States that any referendum result, in order to not be questioned, should also have an endorsement of 60 per cent of the final result, whatever it was going to be, which we did not get, and which the States did not stand up for at the time, but never mind it was there, but the point being that when P.P.C. got their hands on it they gutted all that work, and now we are left where we are, because I do not think it is sensible to go forward when we do not know what the structure of the government is going to be, because as Members have illustrated we cannot do it on the numbers proposed. That is the issue. That is why the former Deputy of St. Mary brought it together, and that is why the States endorsed it and supported it. We had a debate about it. There were some Members who did not want to do that, but there was a States vote to include that into the terms of reference for the Electoral Commission because it was so important to put it together as a package. But we know the history, and that was gutted. There is another point which I really want to stress, and what happened in the previous

reforms brought by the then Chairman of P.P.C., the Constable of St. Mary. By moving the Senators all to having to stand at the same time, or the single day election, what it started to do, it forced candidates in the senatorial election to start to declare to the public that they wanted to be Chief Minister, and now if we move to this particular system it means ... the role of Chief Minister is very important, and I think the public should have more of a say than they do at the moment anyway, but if you are moving to a system where you have 6 electoral districts with 30 Members and 12 Constables, because we know that many Constables are reluctant to take on some of the more senior roles, a Minister or Scrutiny Panel Chairman ... I totally understand why because they have a lot of important work that they need to do in their Parishes, totally right. There is nothing stopping them, absolutely nothing stopping them, but we know that many Constables are reluctant to stand. Take the former Constable of St. Brelade, now a lot of the feedback was that he was giving too much time and devotion to his ministry and not enough time to his Parish work, and that is how that was played in his last election. So we know that we have a problem with the numbers. We know that the referendum result was absolutely flawed, and I thank Deputy Southern for his contribution because that outlined that so incredibly well. We have to ask ourselves: "Are these proposals going to enhance democracy? Are they going to enhance accountability? Are they going to enhance representation for the public?" That is what I am concerned about. I am concerned about the people in my area. Do they get a better form of representation by this move? I do not believe they do. I do not believe it is going to be better for the Government of the Island. I think that we have to be responsible in what we leave for the next Assembly, or for generations, or however you want to call it, and I, therefore, find myself unable to support this proposition; and I shall call for the adjournment while I am standing.

## **LUNCHEON ADJOURNMENT PROPOSED**

### **The Bailiff:**

Very well, the adjournment is proposed, and therefore the Assembly will reconvene at 2.15 p.m. In case any Members are interested, I am about to go down to the Royal Square, where I understand there is going to be a prize-giving in relation to the Super Shop challenge which was won by a States of Jersey team. That is going to take place in the Royal Square.

[12:43]

## **LUNCHEON ADJOURNMENT**

[14:15]

### **The Bailiff:**

Does any other Member wish to speak on the principles? Deputy Baker?

### **2.1.18 Deputy J.P.G. Baker of St. Helier:**

After decades of review and introspection, the States have finally seemed to have done what it said it would do, and here we are with an opportunity to make history. We can accept the findings of the Electoral Commission, which were presented after 9 months of public consultation, and vitally restored some confidence in the Assembly by adhering to the outcome of the referendum. To me, as others have said, it could, and it should, be that simple. Today's debate has in part been rather unglamorous. We have heard accusations of excessive influence throughout the process of reform. Sadly, it is evident that most of the negative aspects of the debate centre around some misrepresentation, and that perhaps is part of a typical States debate, but what is less acceptable is the pursuit of self-interest for some Members, and I say to those that do not support the significant reduction in States Members, they should think about why they stood. Remember that the pursuit of re-election is not a virtue that politicians should pursue. It is a fact that with 30 Deputies and 12 Constables competition at the next election will be stiffer, and the chance of getting elected will be

less, and this must be a good thing, and I welcome it. There are various aspects of option B that I support, and perhaps the most beneficial to the Island is that it will be almost impossible to be elected with less than 1,000 votes. It will make oppositions fairer and more representative of Islanders' views. It is not a reflection on any particular current Minister, but holding a ministerial position, having been elected by a subset of one Parish is not representative of sufficient people's views, and option B goes a long way to address this. On the matter of Constables, I can state that I saw little logic in having 12 sub-administrations as well as one Central Government, and I made my views known to the media before, during and after the Electoral Commission. However, the process of the Commission made me realise that the overwhelming view of the respondents and witnesses were very much in favour of retaining Constables and keeping much strength in the Parish system, and it is wrong to suggest the evidence collected suggests otherwise. To then come to some of the nonsense regarding chopping Constables into sections is something that, to me, is more fitting for a primary school debate. To those that are struggling with the maths, what option B offers is every eligible voter the opportunity to vote for 5 Deputies and one Constable. It could not be more straightforward. Of course, it would be totally wrong to suggest that any option for reform could ever generate a uniform or homogenous response, but the Island has engaged and commented widely on this matter, and I think the Commission received, as Deputy Power said earlier, something like 4 times the responses of Clothier, and the findings were put to the electorate in the form of a referendum. I suggest that it is insulting, improper, and casts any future referendum into doubt if the results are not adhered to. We have an opportunity, as I said out the outset, to make positive and selfless history, and that restores equality and fairness across all of the voting public, and it would be a perilous insult to the thousands of Islanders that voted to suggest that, on reflection, we are going to change our minds and ignore them.

#### **2.1.19 Senator A. Breckon:**

In the last couple weeks there have been a number of trade union ballots on various things related to their employment, and I heard someone say: "Well, how relevant is that because 49 per cent turned out of those eligible to vote?" I just wonder, having said that, how much notice we will take of those union ballots and how much the States Employment Board will take of it, and how much weight they will give the views of the ordinary rank and file, as it were. I must say that this whole referendum process I did get a feel that it would not be too successful, and I say that because I did not feel the public had the appetite for it. It was generally seen about us talking about ourselves again and that is really how it unfortunately came across. Also, in Scotland where they have a very important issue that is going out to referendum, they trialled it on the student population across Scotland, and again, simple question "Yes" or "No", and the turnout was pretty poor, and that was before we held the referendum here, and I remember looking at that at the time and thinking: "Well, maybe we will get some low turnouts in places" and that, unfortunately, turned out to be the case. That was not because of the efforts of the Commission because they did mail shots on a number of occasions to every household, the information was there, and they had a great deal of public response, so it was not that, and also various campaign groups did get energised and do their best to engage the public. Unfortunately, as we see by the results, that did not happen. I also witnessed when we had the last referendum on changing to European time, some people who were in polling stations declined to take a ballot paper. "Referendum? "No, I do not think so." That was generally the attitude and maybe they took a view about the issue as well, and obviously, from our point of view and the Island's future's point of view, this was a much more serious topic, in my opinion, for a referendum. But, again, that is why the result is disappointing. But what is the actual evidence about the turnout, not what somebody is saying about that, and I think we all agree it is a low turnout and it is disappointing, but if we look at some of the statistics. For example, I will just look at the first votes, in St. Brelade, it was virtually a draw: 956 for A and 957 for B. In St. Clement, it was 728 for A and 695 for B. In St. Helier, it was 1,760 for A and 932 for B. In St. Lawrence, it



was only 40; there was 396 for A and 434 for B. St. Saviour again voted for A: 857 against 749 for B. When that is broken down, in every St. Helier District they voted in favour of A. In No. 1, it was about a ratio of 2 to one. It was about 190 in favour of A in No. 2. Again, it was about just under 2 to one in No. 3, and it was about 100 more in No. 4. Also, in the districts of St. Saviour, A came out top in districts No. 1 and 2, and only in No. 3 did B succeed. In St. Brelade, again, it was very close as I mentioned there, in the final vote. When we came to the second transferable vote, or whatever you want to call it, again the evidence shows that there was no great public attitude for this. They just thought: "Well, why the second vote?" The reason I say that, I have seen an example years ago where a group of building workers were working in Germany, and they were living on the site in this cabin and they decided they would paint it, and there were 6 of them, so they thought: "Well, what is the best way to decide what colour to paint it?" So they had a ballot, and they each chose a colour and, unfortunately, they all chose different colours, but they had a second choice and, as a joke, they all put pink as a second choice, and the result of that their cabin got painted pink, and nobody wanted it. They all wanted different colours, but they got a lovely pink cabin, and that is why I have some suspicions about the second vote. We have lived for years, as with the U.K. system, as first past the post, so why has that second vote been built in it? For me it is sort of skews the argument, because you have a bit of tactical voting there and, again, some people did not use it at all. In fact, the majority did not use it. I think this Assembly is generally agreed that there is a need for some sort of reform, and I remember for my sins over the years I got asked to look at Sunday trading. When I brought the proposal to this Assembly, everybody said: "Sunday trading, the law does not work. It is outdated. It needs to change." When I proposed the changes, everybody said "Do not do that" and that is, I think, where this Assembly has been with reform. Everybody has an idea but, collectively, we have never been able to move that on, but we need to. We need to. That is why I think Senator Le Marquand's proposition does give us an avenue to do that but, having said that, if this is not accepted today, then we need to do it. We need to go back to the numbers and we have to have some discussion about where we see the effective government, and I say that, because a couple of years ago, with the former Chief Minister, Senator Le Sueur, and Deputy Vallois and others, we worked on something to bring to this Assembly, and indeed did that, and there was a strange alliance of Minister, Assistant Ministers, and some Scrutiny Members that said: "Well, the whole thing is going to tumble here." Scrutiny will go. I suggested it was subject based and different process for inclusivity of groups, or whatever you want to call them, to take on some of the very large portfolio responsibilities the Ministers have got. Unfortunately that did not find favour, but I think that needs to be revisited. I know a group have been working on that, and I think that needs to surface and, for one, we cannot put this off for ever, we do need to make decisions in this Assembly, but we need to be sort of man and woman enough to do that and not think about positions, and our own positions or the future. We need to think about what is good and effective, and I do not think with this referendum, at this time, that we have it quite right. For those reasons I will not be supporting it.

#### **2.1.20 Deputy S. Pinel of St. Clement:**

Speaking at this stage in the debate risks some repetition. Hence, I will confine myself to 2 paragraphs, the remainder having been said. We have heard the statistics and the mathematics already, but, in the 6 weeks of walking the streets of St. Clement during the election campaign, it was quite clear that the electorate wanted both change and a smaller Assembly. They also wanted to retain the Constables. Everyone recognises the extraordinary hard work of the Electoral Commission and the extent of public consultation that took place. Their recommendations were not plucked out of thin air but carefully and mathematically considered. Perhaps the proposals in option B are not ideal, but they do reflect the wish for reform, a smaller Assembly and the retaining of the Constables. It would make a mockery of this Government if we were to ignore the wishes of

the public that took the trouble to vote in the referendum. I will be supporting the principles of this proposition.

**2.1.21 Senator F. du H. Le Gresley:**

I have delayed speaking in this debate because I wanted to hear what other Members had to say, because I, like a number of Members, am unsure of whether we should really proceed with the outcome of the referendum or whether we should draw breath, and consider the implications of running the States of Jersey with a 42 membership.

[14:30]

My concern is that, and really I was going to save this speech for Article 5 of the changes to the law, which refers to the Troy Rule and 18 members of the Executive. My concern is that this is only an interim step. The implications in the report, which accompanies the proposition, is that this will be looked at once the wider changes to the machinery of government are considered and there is, as we know, a sub-committee of P.P.C. looking at this, so I believe, and I may be wrong and I may be proved wrong, that this is not the end of change. We may think and we may like to think that for the next 10 years, which I think somebody suggested, that we will have a system of government composed of 42 States Members and a Troy Rule. But I am firmly of the opinion that only perhaps a year from now, or maybe sooner, we will have a proposition from P.P.C. to abandon the Troy Rule and move to minority government. Minority government essentially means that the Executive will be at 20 and the rest of the Assembly will count to 22. So we will be very finely balanced as to the power of the Executive and that is really what I wanted to talk about. As Members know, I am a member of the Executive and I am aware that it is much easier to get things through the States if we have collective responsibility. For those of you who are not too sure what collective responsibility means, it means essentially that when you join the Council of Ministers, you sign up to the fact that you will support fellow Ministers in bringing propositions and that you can only disagree on a point of principle that perhaps you have always maintained through your political life and therefore you can lodge your disagreement. But collective responsibility in other jurisdictions, and I am looking in particular to the Isle of Man, where they have collective responsibility in their Executive, and if you do not agree with the proposals being put forward by fellow Ministers, you will have to resign. That is your only option. You cannot opt out of collective responsibility. So moving on to an Executive as proposed of 18 Members, we know that we will shortly in the autumn debating a proposition for a Minister for External Affairs. That will have the support of the Council of Ministers, and I believe this Assembly will probably accept that recommendation. That is my belief. Bearing in mind we recently agreed to retain the Minister for Housing, the Council of Ministers will therefore consist of 12 Ministers, including the Chief Minister, 18, that leaves room for 6 Assistant Ministers. Now, I would suggest to you, Members, that in the last few weeks you have been hearing about the concentration of power in the Chief Minister's office. I am not saying that that is a wrong thing but that is where the direction of Executive Government is going. The office of Chief Minister has now responsibility for the development of promotion of the finance industry. We also have to deal with Senator Farnham's proposition regarding the Minister for Justice. So there is another issue that still has to be discussed. The growth in the powers of the Chief Minister's office and the responsibilities, perhaps is a better word, means that that Chief Minister, whoever it may be, will require at least 2 Assistant Ministers; at least 2 and possibly 3. Now we only have 6 available out of our 18 if we have Ministers totalling 12. So where do we put the other 4? I would suggest that Health and Social Services definitely would need an Assistant Minister. Treasury and Resources always has. It recently had 2 and is down to one. Economic Development is probably another one and possibly Social Security, one. The rest of the Ministers will not have an Assistant Minister, I suspect, in an 18 Executive. Therefore, what will happen, fellow Members, is the pressure will be on to do away

with the Troy Rule and to open up the possibility of 20 people being in the Executive. That really concerns me and why does it concern me? Because, as Deputy Baudains said, and a number of other Members alluded to this, this will be consolidating power in the Executive. It will only require the Executive to win 2 votes from non-Members of the Executive, if we have collective responsibility, which extends possibly to all Assistant Ministers in the Executive. They only require 2 votes to get something through the Assembly and that is on an occasion when everybody is attending the sitting. If we have absentees, it may be much easier than that for the Executive to get things through. You might say: “Why is a Member of the Council of Ministers saying this is a problem?” Well, it is not a problem if I am trying to deliver my policies, **[Laughter]** but it is a problem if I am a Back-Bencher. I may be a Back-Bencher sooner than later, who knows? **[Laughter]** I am very worried about the Executive having that much power. I am worried about that for democracy in Jersey and, for that reason, I am not suggesting that the outcome of the referendum should be ignored. I do believe that the electorate has given us a strong steer that they want districts and they want to see the Constables retained. I think most Members will respect that that is what the electorate wanted us to do. But I do feel that the public were not aware of the implications of reducing the Assembly down to 42 States Members. We are aware and we should be aware because we are running the company, if you like. I think somebody alluded before to the importance of, if you are running a company, deciding how many staff need to do all the jobs that have to be done and I do believe that we will not be able to effectively run this Government of Jersey with 42 Members and particularly, if we do away with the Troy Rule and move to minority government, we will do damage to democracy in Jersey. **[Approbation]**

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

Just really very briefly, because as Deputy Pinel said, most things have been said. I am astounded today. I have been through a great many reform debates. I have led a few of them. There is nothing new under the sun. Everybody has their own version of events. Everybody has their own preferred option. Everybody seems to find it hard to understand they their preferred option is not preferred by everybody else. Today I have been astounded by how many Members of this Assembly seem to be clairvoyant or at least telepathic. They seem to know why people did not vote. More intriguingly, they seem to know how people would have voted had they voted. They say they know what they really wanted but did not get. I have just heard Senator Le Gresley, in a good speech, also give the blueprint for the Machinery of Government Reform, which the Machinery of Government Review Team have been working on for months and have not got nearly half as “down pat”, if that is the right expression. Members of this Assembly seem to know exactly what everyone else is thinking: but what really happened? Well, the Electoral Commission went out of its way to engage with the public in as many diverse ways as possible. We had all the accumulated wisdom of every report, every opinion poll, every consultation that had gone before at our disposal and it was all scrupulously scrutinised. Surely, once you have heard what people are thinking, and given them a chance to look at your interim results, and then said: “We have a dichotomy. We do not know quite what to do” and giving them the chance to express their opinions. Once you have ensured that everybody who wants to have a voice and is eligible to have a voice has had the opportunity to register to vote, once you have engaged by publicity with all the findings and all the outcomes of the report, surely you have to, at some stage, trust the public to vote, to express the view that we are asking for. But most importantly, surely you cannot allow those who have participated to be overruled by those who would not. There was no option D. That was debated in this Assembly before and, as I said at that stage, the Assembly had to go towards the next elections with a definite view of how the elections were going to be held and who was going to be elected. To say that we do not like the options and we do not like what we have got now would have left the Island in a state of incredible uncertainty, which would have been absolutely damaging beyond belief. The public made a choice. I was speaking to parliamentarians recently

when I was on A.P.F. (Assemblée Parlementaire de la Francophonie) business in a jurisdiction where referendums are the norm, rather than a rarity, and the concept of not doing what the public had requested was total anathema. They were incredulous when I said that this was a possibility that could happen. There has been much talk about the statement that was in the Electoral Commission's report saying that option B is less fair than we have at present. I think we have to say that obviously the statement is true in one particular element, in that the number of electors represented by each Member will be outside of the norm. But in many other ways it is better. Every elector, for the first time, will have the same number of votes. There has been talk again today of Clothier. Clothier is almost like the foetal position that States Members take up when they feel uncomfortable; they go back to basics. When they are uncomfortable about the proposition on the table before them, the greatest refuge is to go back to Clothier. Clothier contained a great deal of good work, which was taken on board by the Electoral Commission. But Clothier also perpetuates some elements of inequality. The Parishes can never be the same size, not if we keep the boundaries that we have, and under Clothier some electors would have continued to have more votes than other electors, which was one inequality that the public felt strongly about. There is no simple solution to reform. At the end of a long process, the Commission came up with recommendations. The recommendations have been scrutinised by the electors and voted upon. How will we ever engage with the electorate again if we do not do what they have asked us to do? In many ways, I would have been happier with a different proposition or a different outcome but I nailed my colours to the mast on option B, not because I felt that I wanted to be in the States myself as a Constable but that I was absolutely certain that the Parish needed representation. I am more certain of that than ever and I think that is what resonated with the public. For us to make different assumptions now would be wrong. For that reason, and I hope I do not have to speak again, I will be supporting the outcome to reflect option B as the public were allowed to consider it and I will not be supporting any other amendments. Thank you.

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

I wish there had have been a bigger turnout in the referendum and I wish there had been a clear winner with a ringing endorsement, but there was not. Following the referendum, it has become increasingly clear to me that this was an opportunity to go to the heart of the issue and that important issue is a clear disconnect between the electorate and the States. One of the key indicators is a turnout at election time but there are other aspects which illustrate the disconnect. These can be initiatives involving public consultation on important matters in addition to generally poor responses for more routine fact-finding exercises. The work of the Commission and the lead up to the referendum should have at least attempted to unlock the views of those who simply are not engaged in the political process.

[14:45]

This would then have given indications as to where there is dissatisfaction, either in representation or in policies or lack of perceived opposition. Put simply, what is it that causes people to be uninterested in their government and in finding the answer to that, we have failed. The Electoral Commission focused on States reform without giving sufficient weight to those who are currently not engaged. This rather assumed that the composition of the States is and was the one single and most important issue which causes people not to engage in the political process. The Commission therefore sought to consult the public on the question of reform and invited submissions. The strong probability is that those who made submissions of over 300, I think it was 340 that was alluded to earlier, and which is still very few when you consider the size of the total electorate, and those who attended public meetings were drawn from the already engaged group. But when, looking at these submissions, and I admit I have not read all of them, but I have been through a very good sample, I have found it very difficult to find any that either suggests or endorses the

proposals being put before us today with the exception of one. I will read that to you briefly: “I do not support the removal of Constable from the States. The Constables represent an important link with the Parishes and would diminish the office of Constable. I believe there should be 12 Constables with 30 other seats.” That is an extract from the election manifesto for Senator Bailhache, the Chairman of the Electoral Commission and I have a great deal of respect for the Senator. I do not like being on opposite sides of the political argument but I cannot help it on this occasion. It is clearly a good exercise in the Senator persuading the Electoral Commission to go along with those particular views. Furthermore, very little effort, as far as I am aware, was made to discover why almost half, or on some occasions more than half, of people simply do not vote. It is therefore quite impossible to determine whether any of the reform proposals will have any positive effect in engaging those currently disengaged. Any such conclusion is purely guesswork and not based on legitimate research. I would say, without hesitation, that option B, if adopted, will not bridge the gap between the electorate and the States. So it is fair to say, the entire process was truly a missed opportunity. So we already have a problem with a disengaged electorate but also our Island public is not accustomed to referenda, so to present anything other than requiring a yes or no option was likely to fail, or at best to yield a poor response, which it did. I spoke to a number of people who always vote and they simply said they were confused or disappointed or who found themselves in a juxtaposition because they could not vote against any of the options other than abstaining, which for many was completely against their political and democratic principles. This response is hardly surprising, because by excluding those who did not favour any of the options for expressing their disapproval, we have further disengaged from even those who would normally vote and who wanted to vote and who wanted to be engaged in the process. We were successful in disengaging with them even further. In effect, the referendum process and the result have now put the States in an almost impossible position. Those who were denied the “None of the above” option, and quite legitimately, felt they could not vote for any of the options put forward are likely to feel cheated, as their voices are not being heard, not least because the silent majority are being disregarded by the proponents of the winning option. There are those who voted for their preferred choice out of the 3 options but would have preferred something else. The Constable of St. Clement alluded to that earlier today and I had a message from a voter shortly after the referendum that said pretty much the same thing. She said: “I voted for option B because I did not really want option A and I felt we needed a change, but I am horrified to think that option B might be put into place but I did not have another option and I always vote and I was going to vote ...”, and there we are. There are those who voted for options A, B or C who wanted options A or B or C, who will feel let down if the winning option is not adopted, regardless of the turnout. Of course, the fact that that the referendum was sold to us all as an advisory exercise but is now being cashed in, in great haste, as a compulsory, must-do piece of work for the States. Once again, we have managed to snatch defeat from the jaws of potential victory. Not our finest hour. No glory and absolutely no evidence here that will demonstrate anything to re-engage the people of Jersey with their Government or with their Assembly. Now, I feel I must pass brief comment on the rather casual expulsion of the Senators, which was started in the last Assembly. A move, if adopted, is likely to be regretted. Since its inception, the office of Senator has provided a continual supply of generally high calibre politicians. The Senator crosses Parish boundaries and provides a representative who can approach matters with balance and complete impartiality; Members like myself. **[Laughter]** Senator Ozouf has just reminded me it is best not to talk about ourselves. The irony. **[Laughter]** Infamy. The majority of the electorate recognise the fairness and importance of an Island-wide mandate and believe that the number of Senators should not have been reduced by the States in the arbitrary fashion of which it was in 2011, which I believe was a part catalyst for the proposal to remove them completely in these current reforms. It might also be worth remembering that in future at least five-sixths of the electorate will have no influence in electing a person who will become the next Chief Minister because under the super-constituency law, if a candidate achieved 100 per cent of the vote

in their district, they would still only have received about 17 per cent of the total vote. I do not think that is acceptable and I think a lot of the electorate do not realise things like that will be a result of these moves. During the referendum process, many people wanted to know why the role of Senator was to be abolished without any opportunity for the Island's electorate to vote on the matter as the Electoral Commission did not produce a new reform model that included the Island-wide mandate for no other reason, it appears, other than an acceptable method of electing them could not be contemplated. Well, that is pathetic. I mean, are we really not capable of selecting a method of electing a candidate in an island our size? I think that is a ridiculous excuse. Moving on to the second part of the double whammy, which is the simultaneous dismantling of the Parish link to the States Assembly by the removal of the Parish Deputy. Protecting the Parish link to the Assembly is also of great importance to many people, the majority of whom believe that super-constituencies will undermine Parish identity. Deputy Baudains, Deputy Maçon and a number of other Members, have alluded to it very well in earlier speeches. Not only will it undermine Parish identity but also their representation and influence. In fact, the majority of the people that I spoke to, and I believe the majority of the electorate if an appropriate sample was questioned, believe that super-constituencies are not very super at all, other than they are larger areas than the individual Parishes, which were conceived as a compromise between the Island-wide vote and the parochial elections with the result of eradicating the best features of both. In contrast, the division of Jersey into Parishes is time honoured and the boundaries between them are established and extremely stable. There was a great deal of logic to the reforms of 1947-1948, which I think have been largely overlooked. The constituencies were represented in this Assembly by Deputies, local government was represented by the Constable and the national interest was represented by the Island-wide mandate and that is why we have one Assembly and thank goodness we do. If over the years we can disengage so much with our electorate with having one Assembly, imagine what we would do with 2? Let us hope that does not follow on although I have a feeling it might, which is another good reason we must reject these principles today. A successful electoral system must fulfil a number of functions. It must attract people of a high calibre. It must be representative of the people and our society and therefore be accessible to people from all works of life. It must not seek to consolidate power into the hands of fewer people. The current Assembly, like it or not, is quite representative of our society and I would go as far as to say it is more representative of an Assembly than an Assembly would be formed under the proposals before us today. Even the Constable of St. Martin, who always makes good and very considered speeches, said he was voting for it simply because it won the referendum. He did not know if it was going to work. He did not know how it was going to work but he was determined to support it. Now, I respect that position but if I were to do that I would feel that I was doing the public a great disservice. I would rather delay the introduction of electoral reform than feel pressured into introducing reform that is simply not good enough. We can do better than what is before us today and we should be ashamed of ourselves if we think we cannot. Senator Bailhache said, when he spoke, that the Electoral Commission have worked for 9 or 8 months, so let us work for another 8 months, and another 8 months if necessary. The Island will not come to a standstill. In fact, 90 per cent of people will not even realise we are doing this work. **[Laughter]** Life will go on as normal. That percentage applies to this Assembly as well. **[Laughter]** The sun will still rise in the morning and it will still set in the evening, it is not going to be the calamity for the Island that the Constable of St. Mary suggested it might be in the speech before mine. So let us get it right. It is our duty to get this right. Thank you.

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

This debate reminds me of the former Deputy of St. Martin, Bob Hill. The former Deputy often used to support propositions, holding his nose and pressing the "pour" button, which although not ideal, it was better than the alternative. What I mean is that the approval of option B, unamended,

as per the referendum, should be the outcome of today's debate. No, it is not perfect but we will never achieve perfection. Change has been supported by in excess of 80 per cent of those who voted in the referendum. A significant vote; a vote for equal number of votes per Islander, a vote for fewer States members and for super-constituencies. Approving option B today gives us all of these and still keeps the door open for an evolution of our Parliament in the years to come. It would still allow option A supporters for one day of having one type of States Member. If not approved today, it would be a strange and quite perverse outcome, ignoring 80 per cent of those who voted. By default giving the winner's prize, effectively, to option C. So today I am going to copy the former Deputy of St. Martin and hold my nose and vote "pour" and hope that we achieve some meaningful, positive reform by the 2014 elections. No, it is not perfect, but it is progress. It does respect those who participated and it is the right thing to do.

#### **2.1.25 Deputy J.H. Young:**

Since my election some 18 months ago, I have been trying to fulfil an objective of helping us improve our Government and helping to have arrangements where the public have more influence over policy, access to the information and good governance and I am very proud of the way our Government has successfully, independently looked after our community, certainly since the time I have been on the Island for over 30 years. I want to see that maintained and improved and enhanced. Now, in a former life as a civil servant, I know the committee system pretty well and knew what worked well and its weaknesses. But, as a Member, I have been surprised and indeed on occasions, really shocked, by how much more remote from the public our ministerial government has become and how less than optimally effective it is, and those are the polite words I think, in achieving our goals and I have concluded that governance and accountability are not to the standard we require.

[15:00]

Of course, all that is very disappointing and none of it was as hoped for in the Clothier Report but of course it is hardly surprising that we transplanted a ministerial system that was supported by party politics and an opposition with disciplines, a selection of people, clarity of policy and access to information resources. Of course all those elements are not present in Jersey. I say it does make it extremely difficult, to put it mildly, to produce a structure of representative Government which enables a positive strong link between policies produced by the Government and the people elected to fulfil them or the people's choices in those people. Of course that failure over some time does contribute to disappointment and disillusionment which the public tell us and is reflected in low turnout. So I fully acknowledge the really difficult task that the Electoral Commission had and I am sure that they really did their best with the resources they had, and I want to acknowledge that work. But from the launch of that process, I have been very unhappy with the P.P.C.'s (Privileges and Procedures Committee) fragmented approach to managing this change of Government because I have believed all along it is impossible to separate the machinery of government issues from the electoral system choices of how we elect our representatives and how we construct this Assembly. In my view, a logical process is first to decide on the way you want machinery of government to work and you then devise the electoral system to put in place the people to do that. Unfortunately, we have done it the wrong way around and, as a Member of this Assembly, I feel partly responsible for that and I have to take the public criticism but it is the reality. It is the long way around. It is the cart before the horse and I said that in the debate on the referendum. I supported the amendments at the time because I wanted clarity on the process and of course I would dearly have liked to have seen a single question: "Yes", "No" which could have been potentially a binding referendum and avoided the situation we now face, which is the worst possible state of affairs. Of course I am guilty of this. I was persuaded to go along with a multi choice question because it was said it was advisory and we could interpret the results. I was persuaded to go along with a choice

of 3 options, each of the 3 being a mix of different elements. The loss of Senators in the Island-wide vote and potentially the mandate for senior Ministers and the Chief Minister, which is important, and will be absent of course under this new arrangement. Super-constituencies. I do not have a problem conceptually with that but when I looked at the options and the way they were mixed up around the Island, I did see quite a few discrepancies between those super-constituencies but, as a principle, I was okay. For me, I was absolutely personally neutral on the issue of Constables or not but of course that was rolled in and the point about fewer Members, and fewer Members, for me, was a significant issue and it is not about me seeking to protect my position. I am not a career politician. I came into politics in order to try and do my best for the Island and I stand or fall on the record. But I was persuaded to support the 3 options and did so that we would have to interpret the result as best we could because it was known to be imperfect at the time. But of course what I did not expect is the debates then became absolutely dominated by the Constables or not on the A and B campaign which consumed everything else and blasted all the other issues out of sight. Personally, my view of that is it was wrong to become involved in that particular A and B campaign and I felt very impotent on the sidelines because the wrong issues were not being identified. Of course, since then, people have said to me constantly: "Why was this not raised? Why was this not dealt with? How come we had to choose things? We did not realise", et cetera. Now what do we do now? I have agonised over this ever since the publication of the draft law and I absolutely totally respect a democrat but what do we do with a defective proposal and what clues have we got to help make that choice? Well, the turnout was extraordinarily low. In my district, the turnout was just 30 per cent compared with nearly 50 per cent at the elections that I stood in, and it seems to me that that is an indication that it is unacceptably low. There was no margin over A and B and, for me, the only one that has got any credibility of that B over A choice was the first preference votes. The second preferences I think were almost equivalent to - using sporting analogies - having a tiebreaker like in tennis or a penalty shootout or a sudden death and I think there was that inbuilt problem. I had personally hoped that that would not be the case but it is the reality that that was necessary to be invoked. Now the appendix to the P.P.C. report assures us that a ministerial government can work with 42 Members but, as a Member of the Machinery of Government Sub-Committee, we know from our researches and interviews there is major doubt whether this will work or not. Now these things were pointed out early on in the day but of course P.P.C. ran these 2 topics in parallel, the machinery of government and the Electoral Commission. Of course the evidence that we have since gained has reinforced our view about the difficulty of working with 42 Members because we have seen since that more demands for more Ministers and there seems to be a strong case for that for these additional Members. Clothier said 7 and now 10 and probably we will finish with 13 and 14. We have the demand from the Executive for more Assistant Ministers and I absolutely see that is necessary to help the Ministers do their job but it is also the overriding the importance of Scrutiny being independent and maintaining minority Government. As if we needed any evidence to emphasise how important that was, when the Guernsey delegation came to see us, they made it plain that our Scrutiny model was working better than theirs and they did not really like our ministerial system. So I think what that shows is that we risk our progress with our Scrutiny function and risk entering into - as Senator Le Gresley spoke of - a loss of a minority Executive situation where they are virtually in balance and probably even a majority. That is a real massive risk and I think these 2 pushes just cannot be reconciled. They just cannot be under a 42-House Assembly. I want to see change. I certainly do not want to see status quo but it has got to be soundly based. The test for me, for example, is I ask myself the question if the draft law on the table now, the P.P.C. proposals, were put to a binding referendum now with a single question: "Yes", "No", what would be the conclusion? I do not think the conclusion will be too different from the debate that we have reflected in the Assembly today and so what do you do if the proposal is not right? I did not get personally elected to rubberstamp proposals which have significant defects. I have heard it argued: "Never mind all that. I agree with you but go with this



change because it will not work and we can change it as we go and there will be a better option coming.” Well, over the years, I just see no evidence that that sort of thing works because that is just not real because the only body that will be able to change the Assembly is itself. So I thought of abstaining but I think that is just a cop-out. I have to be absolutely honest, stand up for what you believe in which is why I stood for election and stand ready to accept the electorate judgment on my decision at the election, and that is my personal decision so I shall not be supporting it.

**The Bailiff:**

Does any other Member wish to speak? Very well, then I call upon the Connétable to reply. Deputy of St. Peter, did you have your light on before I said that? I do apologise.

**Deputy K.L. Moore of St. Peter:**

I did, Sir.

**The Bailiff:**

The Deputy of St. Peter. I think I was so transfixed by the Connétable of St. John’s finger hovering over his button.

**2.1.26 Deputy K.L. Moore:**

Following on from Deputy Young, it reminded me of the frustration I sensed as a journalist often listening to these debates and in an essay that looked at the electoral registration and turnout in Jersey by Danielle Schenk which was published in 2001, there is a table which lists all 53 of the propositions that have been brought to the States regarding reform since 1999 and up until 2011. It is not surprising why the public had little appetite for this referendum and with the track record why would the public want to give up their time and go out to vote when they know that Members of the Assembly would tinker with the result, and this is just what they are trying to do today. It is one of those reasons why I am here today because I wanted to see a States Assembly that would move forward. We do have to understand why we have this tradition of low voter turnout, which is one of the key questions being asked in the Schenk essay. One of the reasons that Schenk points out as a danger of a low turnout is the lack of legitimacy that it places over the whole of the Assembly. Deputy Tadier talked about non-compliance of the Venice Commission. The Deputies who would be elected would comply with the Venice Commission under the principles that we will hopefully vote for today and that is because the Venice Commission allows for smaller jurisdictions with traditional roles, such as the Connétable, and the public have shown their support for those Connétables by voting for option B and so should we. Other nations continue with traditional roles so if we can just look to the U.S.A. (United States of America), they elect 2 Senators per state no matter the size of the state. So in California, with 37 million people, they have 2 Senators as does Wyoming where they have 563,000 people in their population. We do not of course have a bicameral system here. We are too small but we do have tradition and there will be 2 types of politician in the Assembly and they will represent people in different ways. The Schenk essay also looks at the proportionality of urban and country Parishes. One of the benefits that these principles will offer will be the bringing together of urban and country Parishes, for example, St. Peter with St. Brelade and St. Saviour with Trinity. The Deputies who are elected by the 4 non St. Helier districts will cross those bridges between urban and country and strengthen the boundaries. Much criticism has been levelled at P.P.C. Let us not forget that we are bringing an option that has been put forward following a proper process of consultation and deliberation and we have also actioned a team to look at the machinery of government and they are conducting a review which, quite rightly, is holding fire until the debates are concluded this week. If we work together, and we all work effectively, we can find a solution but this horse has to come before the cart. Do not fiddle with the figures please, my colleagues. Be credible, listen and move forward so that we can focus on tackling the real issues that bother our public. Let us find them jobs, homes and a secure future

where we can move forward with greater legitimacy that will enhance democracy by building a Government that Jersey can be proud of.

**2.1.27 Senator I.J. Gorst:**

We might be forgiven for thinking that everything that could be said about this particular proposition has already been said but I am going to add to it and perhaps say some of those things again, but I shall try not to as I am sure you are enjoying your day listening once again to the arguments. I want to pick up, to start with, with something that Deputy Southern said.

[15:15]

He said he believed that we all started out on this road with the very best of intentions and I think he was absolutely right and I think it is a good point for us this afternoon to return to. We all want to see the public re-engaged with the process of government and with the way that this legislature operates. I think the majority - although not all - therefore wish to see some change to the way Members of this Assembly are elected. They also wish to see some change to the way the machinery of government works and a number of Members have touched on that this afternoon. In fact, a number of contributions today - and we have a proposition from my good friend coming after this - which could be characterised as: "I want change but just not this change." I suppose I have some sympathy with that view but I do not necessarily wish to speak or address my comments to those who hold that view this afternoon because without a doubt, some Members of the Assembly set off, while with the best of intentions, very much having preconceived fixed points in what they were prepared to accept. For some, we have heard the unacceptable face of change would be the removal of Parish Deputies and Parish representation by the Deputies. For others, it would be the removal of the Connétables and the strength or the undermining thereof of the parochial system and for others, the removal of the Senators because of the value that the Island wide mandate provides. I do not necessarily want to speak to those individuals either. What I would like to comment upon is those who have said they are not quite sure yet today which way they are going to vote and I wish to reiterate some comments that other speakers have made. We will ultimately have to decide whether we want change or not. Is there such a thing as a perfect Legislative Assembly and a perfect Government? Being part of both, much as I would like to wish that such a thing existed, I am not naïve enough to believe that it does. Why? Because each of us comes with our own thought processes, our own belief systems and our own way of expressing those and how some of us perhaps are not satisfied unless our point of view is the one being followed rather than being prepared to build consensus and sometimes to compromise. That is why, setting out with the best of intentions, the Electoral Commission was set up. That is why, with the best of intentions, we put the proposals of the Electoral Commission out to a referendum out for the public to make a decision. When one asks the opinion of another, sometimes one gets the response that perhaps one was not expecting or one does not like but one still has to accept that that was the other's opinion, that was the other's decision and then work with it. I believe that some of those who perhaps are struggling today are struggling with that very issue. Whatever other speakers have said about statistics and percentages and proportions - and speakers, it would appear, to come after me are going to make similar comments about past MORI polls and percentages - those that voted, we now have a result from that referendum. We must very carefully consider what that result is saying to us and I believe, for some of us, it might mean putting aside what we consider to be perfect and listening to what that referendum said to us, not continually looking for this idea of a pot of gold at the end of the rainbow. Much as I am a positive person and I like to think the best of individuals, even I am not so naïve to believe the nursery rhymes and nursery stories that I read to my daughter. I think if we really consider the options before us today, then I think we have to give due weight and due regard to what the referendum has said, and I therefore carefully have to myself come to the conclusion that it is right that we approve what P.P.C. is

asking us to approve today. A number of Members have spoken about the machinery of government and the practicality of working with 42 Members and Senator Le Gresley rightly raised some of those issues about minority Government, about the power of the Executive, the Troy Rule. A number of Members who I have been able to speak with will know that the Machinery of Government Sub-Committee has worked and provided some interim recommendations. A member of my staff has also been doing some work and I am optimistic that we can combine those 2 pieces of work and move forward but there will be that decision to be made. Do we want to develop and look at trying to have a more inclusive machinery of government or do we want very clearly to have the separation and the Executive with collective responsibility in the minority? Both systems can work with 42 but they will require change and, yes, it will require the Connétables to perhaps play a larger role in this Assembly than they have historically done. That is no bad thing and that is also important for government in our community. So I believe that it can work. I do not believe that we should think that 42 is unworkable. It is workable but it will be different. We do not, in many walks of life, I would suggest, say that these are the jobs that we have got to undertake. This, therefore, means we need so many people. In fact, it is the reverse. You generally say you have got so many people to do a job and allocate the work according to that but we will - and Senator Le Gresley is absolutely right - have to be mindful of that decision that we will have to make in the future about keeping a minority Government or changing the way that Members are included in the future of Government decision-making. That will be, I would suggest, a decision we are going to have to make whether we accept the result of the referendum today or not because that is another issue which needs to be addressed. Some Members, as Deputy Young suggested and I think perhaps Deputy Baudains suggested, feel that that is a decision that should have been made in advance of the decision that we are being asked to make today. We will have to make that decision. We also have to make this decision. They can both be made, I believe, independently of each other. I would ask those Members, as I said, who are still uncertain about which way they are going to vote this afternoon - I hope there will be a vote this afternoon - to just step back and consider how their vote will be a response to the decision that the public has made with regard to the referendum because I think that response is an important one. Thank you.

#### **2.1.28 Connétable J.M. Refault of St. Peter:**

The debate today has really taken me back to the referendum itself and the process running up to the actual day and certainly a lot of people that I spoke to both in the Parish and across the whole of society were sort of saying they were not entirely comfortable with any of the options put forward in the referendum itself. On the night of the actual counter-referendum, I was fully expecting to see option C sweep the board with the number of people taking comfort from keeping things exactly as they are rather than going for a change. They did not pass the sniff test and needed to hold their nose and press their button, as the former Deputy Hill used to do. But option C did not come out very well at all. The public did not vote to keep things as they are. They voted for change and if we just quickly look at the numbers that voted, over 13,000 of the A and B voters voted for change and only 3,300 of the ones that did not want change voted so, for me, that is 4 to 1 of the general public telling me they want change. I shall be supporting this proposition. Thank you.

#### **2.1.29 Deputy C.F. Labey of Grouville:**

I, like other Members, am still quite embarrassed to be debating this proposition today in the middle of a recession when I feel that we really ought to be focusing our time, money and energies on jobs, economy and homes. I have been in this Assembly now for 11 years and we seem to have spent an awful long time having these kind of debates but that having been said, I am not going to be forced into this boat just for the sake that it happens to be the next one and here we are 11 years on so you must vote for it. I want to get this right and I want to get it right for our Island in the years to come. In many respects, I agree with Senator Farnham when he said that this referendum

failed utterly in focusing on engaging the disengaged. Why are there so many of the electorate that are so utterly disengaged with their Government? The Deputy of St. Peter alluded to an essay about this matter and I think this would have been a very good opportunity for the Commission to focus some of their efforts but instead they focused everything only on changing the composition. So I would agree, truly a missed opportunity which, in actual fact, presented the public with a couple of flawed options based on no evidence or wishes from the people other than they wanted to reduce the number of States Members with the assumption that the wage bill might decrease. There was no other steer other than past MORI polls and what have you which seem to have been laid to one side because past MORI polls that I have come across most certainly wanted to retain, above all, the Island-wide mandate which is why I fought for it in the previous Assembly. No one perhaps pointed out to the public in having this reduced number of States Members that the work, as the Constable of St. Martin stated in his very eloquent speech, would still be there so it has got to be done by somebody.

[15:30]

So if it is not the States Members, it is going to be the unelected and, in a lot of cases, more expensive civil servants. Constable Crowcroft stated that referendums hang in the balance and, presumably P.P.C. realised that we would be in this position when they set about organising the referendum in so making it come back to the Assembly for an endorsement or approval. So why did not P.P.C. have the courage in which to make it binding if we were not to be put in this position today. But had they done that, the result to change our constitution and making a referendum vote binding would surely have needed debate on what kind of majority we would need in order to carry that out. In most civilised communities, they require a two-thirds majority to change a Constitution. This is not the same as voting somebody in at one election and out at the next. This is changing our historic Constitution that has served this Island very well over time. A lot of, excuse me, I am beginning to lose my voice, some would be happy to hear. So I am going to quickly summarise. Most of what I would have liked to have said was said by the Constable of St. Clement and, indeed, Deputy Baudains. They summarised my views very well. So in summary, I will now, with this proposition, vote according to my conscience. I will not vote to destroy the Island-wide mandate. I will not vote for super-constituencies, and in so doing diluting the Parishes. I will not vote for an un-evidenced number of 42. I will not vote to reduce and diminish democracy. I will not vote to give our Island the least worst option. Surely we deserve better than that? So needless to say, I will not be voting for this proposition. **[Laughter]**

#### **The Bailiff:**

Does any other Member wish to speak? Then I call upon the rapporteur, the Connétable, to reply.

#### **2.1.30 The Connétable of St. Helier:**

I have gotten up to my feet a couple of times and had to sit down again. That is why I was a bit slow. I am grateful to all Members who have spoken, especially to the St. Helier Deputies who have spared me the mauling some of them gave me for supporting the purchase of Plémont, another debate where the outcome was on a knife edge. It is interesting to note the closeness of this vote, perhaps only requiring one Member to change their mind and I ask the question, is this a bad thing as far as P.P.C. is concerned? Should electoral reform have a larger majority in the Assembly? I suggest not. Opinion, convictions even, are deeply felt and deeply held. Most, if not all, Members of this ancient government care about its future. One of its most ancient institutions, indeed, is of course deeply divisive; the automatic right of Constables to sit in the States. The only one of the 3 estates left from the original *état* of the States. I note in passing that those who today have argued the Constable question should have been a single referendum matter or, equally, that Clothier should have been put in a referendum, these people surely recognise, as the Electoral Commission

did, that this question simply divides the Island. The closeness, therefore, of options A and B in the referendum should not be of any surprise to us. Members will be relieved to know that while most of them have felt compelled to speak, I feel no such compulsion in my summing up and will not refer to individual contributions. **[Approbation]** However, several recurrent themes in the speeches do require comment. First of all, low turnout. Several Members appear to believe that a 26 per cent turnout is simply too low to justify such major changes to our electoral system. Deputy Maçon argued that turnout in general elections is not comparable to that in a referendum and while he is entitled to his view, I do not think it will cut the mustard when it comes to explaining to the electorate, the referendum one, that is, why we chose to ignore the outcome of their vote. Deputy Tadier also objected to the low turnout but I could not help wondering, if option A had won by a similarly narrow margin whether he would have shot out of his seat to second P.P.C.'s reforms based as they would have been on a narrow victory for our campaign. As the chairman of the Electoral Commission explained very succinctly, low turnout is where we are in Jersey; it is what we have. Even as a poll-topping Senator, he was modest enough to admit he did so with just 28 per cent of those entitled to vote for him. "No mandate" was Senator Le Marquand's war cry. Perhaps aware of my poor grasp of mental arithmetic, he attempted to dazzle us with calculations as if his true vocation is neither magistrate nor Senator but mathematical genius. The question for Senator Le Marquand and others who rally to the low turnout flag is whether a vote against P.64 will drive turnout further down. Now, the referendum is not binding. The law does not allow for that but if we assume for a moment that those members of the electorate sufficiently interested in politics to vote in a referendum voted in good faith and knew what they were doing, at the end of an unprecedentedly comprehensive consultation exercise, we have to accept that there is a very real risk that in refusing to implement these reforms, we will increase scepticism, disaffection, disengagement among those who do vote. Senator Farnham tweeted last night, or it may have been this morning; it was 3.00 a.m. I am not sure whether he is an owl or a lark. I am just going to read his tweet: "Today the States will debate proposals for electoral form which will abolish Island-wide mandate and introduce super-constituencies. We should reject the proposal and re-engage with the electorate by bringing forward reform that is an improvement on existing systems." This, of course, was another war cry, which I will come back to although I suppose you could call it a "subset", to use a mathematical analogy for Senator Le Marquand, of the low turnout theme. These are the 74 per cent. Several Members took it upon themselves to act as spokespersons for the silent majority. We have the Deputy of St. Mary's version of it; Senator Ferguson's, elected by just 15.5 per cent of the electorate, I should say, 10 per cent fewer voters than voted in the referendum. But I thought the Constable of St. Martin hit the nail on the head when he described this tendency as seeking: "To second guess the views of those who did not vote." The Constable of St. Mary took up this theme questioning Members' ability to be clairvoyants and it was good to hear from the third political member of the Electoral Commission who has been in my seat and has the scars to show for it. We cannot, she says, and I quote: "Allow those who participated to rule over those who did not." She said it would be total anathema, which is probably a tautology but we will let it pass, a total anathema to ignore the referendum. She made the essential point that what this offers us is better representation in many ways because every elector will vote for the same number of Members. Democratic institutions are based on the will of the people who do vote, as Senator Bailhache reminds us, not on ignoring their wishes as several Members appear to believe is their duty. Senator Ferguson quoted Edmund Burke to justify that and Deputy Trevor Pitman asserted: "We have to listen to those who did not vote." I ask the question: how? Next we have the flawed process objectors. These Members have a problem with the process of electoral reform because it did not include their particular hobby-horse. Deputy Tadier said we should have had a Boundary Commission. Deputy Higgins said the Electoral Commission was hijacked. Deputy Baudains said the Electoral Commission tried to bamboozle the public while Deputy Southern said it was: "Engineering to produce the required result." Fellow travellers with the flawed process objectors

are the better idea contributors. These Members whom Senator Bailhache described perhaps unkindly as living in cloud cuckoo land have a better scheme that could and should be implemented. The range ... sorry, I cannot read my own writing. Yes, this was a comment about the Deputy of St. John. His baffling intervention, it was so baffling I cannot read my own comments about it **[Laughter]** but he did say he would like to keep the Senators and then he sat down, just like that, and I wondered where has he been for the past year? Senator Le Marquand who has offered to work with P.P.C.: “To rapidly achieve a better solution.” To rapidly achieve a better solution? He may be good a maths but he splits his infinitives. **[Laughter]** Indeed, several Members have an attachment to the office of Senator, which suggests to me that not only are they not prepared to listen to the electorate now but they have not been listening at all as the Electoral Commission has carried out its work. Deputy Baudains declared, and I quote: “A majority of the public believe that the positions of power should be held by those with an Island-wide mandate.” Where is the evidence of this in the referendum? Senator Farnham says: “We know best. Option C did very badly indeed because, I submit, the electorate was and is perfectly capable of following the reasoning of the Commission in both its interim and final reports and of learning from experience in recent senatorial elections. There is no way a Deputy in a safe seat will take the Senator when there is no extra length of term as there used to be, nor any link between the class of Member and the level of responsibility that he or she is given by the States. A surprising grouping of Members emerged during the debate; that is, Members who I must describe as the “overworked brigade”. Their call to arms today has been: “We cannot work any harder.” Senator Le Marquand said: “The general public do not know the amount of work we do.” Deputy Higgins and a few others think that the reduction in numbers will lead to a “Yes, Minister” world although in his version of it, the civil servants will not be Sir Humphries but Darth Vaders. Deputy Maçon went a step further asserting in spite of his evident youth and vitality that: “We do not have enough numbers now. Give us more” he is saying to an electorate who have told us by a huge majority: “We want less Government.” Perhaps not the 15 that Gibraltar are run with but certainly fewer than we have at the moment. Was not the Island governed for several centuries by a States of 36? Senator Le Gresley told us after lunch that these reforms will lead to minority government but I would argue with that, only if we let that happen. Finally, we have the largest group of objectors described, I suggest very simply, as “the democrats”. An option A supporter tweeted this morning: “Is this the day democracy dies in Jersey?” I would suggest possibly if we decide to ignore the electorate. But wait a moment. Was not the whole idea of setting up an Electoral Commission a democratic decision by this Assembly? The composition and terms of reference, were they not agreed democratically? The referendum process, the second vote, this was called the “pink vote” according to Senator Breckon, these were all agreed democratically and I suggest that this is a key factor in our decision making. Deputy Power made, for my money, the most telling speech of the debate. He reminded us that most people are more worried about their jobs, their mortgages, their health, their pensions, their children’s education and so on than they are in the States navel-gazing. He said: “This is not the burning issue of the day” and how refreshing that is to be reminded that we need to get on with implementing the clear wishes of the electorate so that we can then refocus on economic recovery. Deputy Young, who is going to object, I think, the referendum based on a turnout of double his own, is unhappy the referendum was run on lines that he was unable to alter during the democratic process. He referred to the machinery of government review which was, indeed, supposed to come up with proposals before now. Deputy Young is on the subcommittee and he knows better than I do why it is taking so long. Their first proposal involved the creation of ministerial boards, or more government.

[15:45]

I was also asked specifically by Deputy Pitman about my position as Constable and I think I covered it in my proposing remarks this morning, but I would just remind him that despite his dire

predictions about what my job has involved today, I have not been contacted by lots of St. Helier's parishioners in respect of moving P.64 as chairman of P.P.C., possibly because I did explain my position in a letter to parishioners. But it is probably also worth pointing out that in spite of the lack of equity from the point of view of the electorate, St. Helier, and I say this particularly for St. Helier Deputies, will have a louder voice in the reformed States Assembly. It will have 11 out of 42 votes instead of 11 out of 51. Now, the Senators may be elected by St. Helier under the current system but how often has the Deputy and, indeed, myself, found them voting for St. Helier on key issues affecting the largest Parish with, I would say, the honourable exception of Senator Breckon, not very often. Apologies to the Senators on my right who started their political careers in St. Helier. Reform in Jersey is an evolutionary process, not a revolutionary one. The Chief Minister reminded us yesterday in one of several excellent contributions he made at question time, which showed him at the top of his game, that political stability is extremely important in this Island. So we have, I suggest today, the chance to take a step in the right direction in reform. A big step. It is a significant reform and it is certainly better than none at all. It will deliver a smaller States Assembly, which we know was preferred by a vast majority of voters in the referendum. It will deliver larger constituencies, which will have a fairer allocation of Deputy seats and will increase the chance for new blood to come into the Chamber especially in what have been formerly regarded as safe Parish seats. The unfairness of the Constables' right to sit in the States is not going to go away and it will be dealt with. So I would ask Members to listen to the voice of the people as expressed in the referendum and I maintain the principle.

#### **The Bailiff:**

The appel is called for, then, in relation to the principles of Projet 64. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 21</b>	<b>CONTRE: 28</b>	<b>ABSTAIN: 1</b>
Senator P.F. Routier	Senator A. Breckon	Connétable of St. Clement
Senator P.F.C. Ozouf	Senator S.C. Ferguson	
Senator A.J.H. Maclean	Senator B.I. Le Marquand	
Senator I.J. Gorst	Senator F.du H. Le Gresley	
Senator P.M. Bailhache	Senator L.J. Farnham	
Connétable of St. Helier	Connétable of St. John	
Connétable of Trinity	Deputy R.C. Duhamel (S)	
Connétable of St. Peter	Deputy R.G. Le Hérisssier (S)	
Connétable of St. Lawrence	Deputy J.A. Martin (H)	
Connétable of St. Mary	Deputy G.P. Southern (H)	
Connétable of St. Ouen	Deputy of St. Ouen	
Connétable of St. Brelade	Deputy of Grouville	
Connétable of St. Martin	Deputy J.A. Hilton (H)	
Connétable of St. Saviour	Deputy J.A.N. Le Fondré (L)	
Deputy S.S.P.A. Power (B)	Deputy of Trinity	
Deputy E.J. Noel (L)	Deputy S. Pitman (H)	
Deputy J.P.G. Baker (H)	Deputy K.C. Lewis (S)	
Deputy S.J. Pinel (C)	Deputy M. Tadier (B)	
Deputy of St. Martin	Deputy T.M. Pitman (H)	
Deputy R.G. Bryans (H)	Deputy T.A. Vallois (S)	
Deputy of St. Peter	Deputy M.R. Higgins (H)	
	Deputy A.K.F. Green (H)	
	Deputy J.M. Maçon (S)	
	Deputy G.C.L. Baudains (C)	

		Deputy of St. John		
		Deputy J.H. Young (B)		
		Deputy of St. Mary		
		Deputy R.J. Rondel (H)		

### 3. Referendum on States reform: outcome (P.74/2013)

#### The Bailiff:

So that brings debate on Project 64 to an end. We then come next to Projet 74, referendum on States reform outcome lodged by Senator Le Marquand and I will ask the Greffier to read the proposition.

#### The Greffier of the States:

The States are asked to decide whether they are of opinion (a) to agree that the outcome of the Referendum on States Reform held on 24th April 2013 does not provide a sufficiently clear mandate for a change to option B (namely a revised structure of 12 Connétables and 30 Deputies elected in 6 new large electoral districts) and; (b) to request the Privileges and Procedures Committee to seek alternatives for reform of the Assembly.

#### 3.1 Senator B.I. Le Marquand:

Members will be very pleased that I do not intend to speak at any length and I do not intend to quote any statistics, figures, numbers at all. I do not want to rerun the previous debate. What I did want to do in lodging this proposition, if it had proved to be closer than it has been, and I did anticipate it was going to be closer than it has been, I did want to prevent the option B supporters from trying again at a later date when they thought they might have persuaded one or 2 more. That would have been a recipe for achieving nothing in this session. I still believe that we can achieve a fairer system in time for the next election. I have personally highlighted 2 major areas of weaknesses. If these were to be appropriately amended then I believe that a substantial majority could be achieved and I, therefore, call upon, through the chair, the P.P.C. Committee to now work co-operatively with Members. One of the problems with the referendum process is that it polarised us. We were forced to act in different camps, putting forward different views. I much prefer working co-operatively wherever that is possible and I think that this should now be possible. Finally, before I move the proposition, I want to give credit to the person whose idea this particular proposition was. Although I worked closely with Senator Farnham and with Deputy Le Fondré, I could not come up with a solution to that which I wanted to try to do, which was to have a go at the, in my view, complete myth that there was a sufficient mandate from the public by virtue of the referendum result but I did not want to prevent option B going first. The person who came up with the solution was my good friend Deputy Young of St. Brelade and I thank him for that. I recognise it was a good idea. I simply move the proposition.

#### The Bailiff:

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

#### 3.1.1 The Connétable of St. Peter:

I just stand to ask if the mover of the proposition could answer a question from me. Because looking at the proposition itself, item (a) I cannot support, but I can support (b), and to ask him would he be prepared to take the 2 separately. That is all.

#### 3.1.2 Deputy G.C.L. Baudains:

I was pleased when P.74/2013 arrived in the pigeonhole because in my view it is an excellent analysis outlining the faults of the process so far. It does so, I believe, most eloquently and I agree



with practically everything that is said there. As I said earlier today, I was one of those who voted for C not because I wanted no change; I desperately want change. In fact, it was the main reason for my standing for election. But it was because, as Senator Le Marquand has said, that the other options were unsatisfactory. I certainly would have voted D had there been such an option in the referendum. Indeed, in my view, the questions and the packaging of the referendum was so bad it was only in the half an hour before the polls closed that I decided to go and vote. I had intended not voting as I was so disillusioned with the whole affair.

**The Bailiff:**

One moment. Could we have quiet, please? It is very difficult to hear the speaker and it is courteous to listen to other Members.

**Deputy G.C.L. Baudains:**

Thank you. I believe Senator Le Marquand's proposition rescues the situation and it has my wholehearted support.

**3.1.3 Senator P.F. Routier:**

I would like to just develop the proposition which the Constable of St. Peter made. I am in the same position as the Connétable because I would be unable to support option (a). From the vote I just previously made it clear that I was happy with the referendum outcome, so I could not support option (a), but obviously I want to achieve some change so I would be prepared to support option (b).

**3.1.4 Deputy J.H. Young:**

I appreciated the remarks from Senator Le Marquand. I had not expected he would do that. When the prospect of such a proposition came to me, the point I made is that such a proposal to seek a decision that the States decide that there is no clear mandate has to be entirely subordinate to the question of option B and that, therefore, it has to be seen in that process and it was only to come into play if we ended up with a completely inconclusive situation as a result of the fall of option B. I certainly had not intended in that suggestion that part of the proposition (a) would rule out an option B, the division of the Constables. In fact, from my speech earlier I made it plain that my views about that are neutral. I certainly read the proposition in the full wording of it, which I must admit I had not looked at in every minutia in terms of the point made by the Constable of St. Peter. But I think that this proposition certainly does not rule out maintaining the Constables. I think what it seeks to do is to look at all alternatives as expediently as possible and work co-operatively to try to make sure that we get some new proposals back as soon as possible and that they do take account of all the matters that have been the reasons that Members have put forward for not approving the substantive proposals. I certainly shall be supportive on that basis.

**3.1.5 Deputy J.A. Martin:**

Having not supported the option to send option B to the electorate, and I think it was the Deputy of Grouville ... and I thought that this would automatically fall away because, to be quite honest, I really do not see that we can now for a little while ... because I have myself and Deputy Tadier, and I am only on the first page and we have 14 propositions between 2001 to 2005. 2006 onwards we have had so many propositions. Now, was the low turnout to do with what the Deputy of Grouville said? We have a lot more work to be getting on with and we need to get on with this because I do not think now that this does what it probably was meant to do. I would probably ask the proposer if he would even consider withdrawing it because it was, to me, a backstop. Privileges and Procedures cannot do in the time left before the election really any reforms. If we want to tinker at the edges and to go back where we have been for the last 11 years, ask Privileges and Procedures to do it or another States Member. If we want to really look at this after we have got past this, let the

dust settle out there and maybe it will be ... I have always said we will not see the changes that maybe I would want - and I am not saying that is not the Constables in the Assembly - in my political lifetime. I think it would be in my actual lifetime now, not just my political lifetime because that is up to the electorate. I do not want a long debate on this. I have difficulty supporting it and just go away and ask people to navel gaze again because I really do not know how we are going to do it, and I do not really want to support something that is not going to happen. Leave us where we are. Get through the next election and then if you are really serious about reform go where we wanted to go with an independent or a Boundary Commission. That is for another day. We have really serious matters out there that have already been stated and I will not over-emphasise that. I ask the proposer if he is willing to ... I will not push it, I would just ask him that maybe now is not the time and it is basically an impossibility.

**Senator B.I. Le Marquand:**

I do not think in all integrity I can do that, having committed myself in the previous debate to be willing to work together with P.P.C. to achieve amendments to option B. This was designed towards the States saying ...

**The Bailiff:**

We will come back. I think we just need a yes or no at the moment.

**Senator B.I. Le Marquand:**

The answer is no, I cannot.

**3.1.6 Deputy S. Power:**

Very briefly, on the Senator's report and proposition I will not be supporting (a) but I will listen to the Senator's summing up on (b) and I would be grateful if he could do the following in his summing up.

[16:00]

Is he going to take special responsibility himself to lead P.P.C. in this miraculous reform of the Assembly that he thinks can be achieved? Could he give the Assembly an indication as to whether he thinks this might happen this decade or the next decade? Could he give the Assembly a hint as to the future in terms of how reform of the Assembly might take place?

**3.1.7 Deputy G.P. Southern:**

I wondered when I saw P.74/2013 in the first place what it was doing, and as a result of today's vote, which has split P.P.C. right down the middle, I think - is it 4:3, 4 against, 3:4 - I do not see how P.P.C. in particular, with its present constitution, can work effectively, efficiently and rapidly to produce any better ideas than any of the 3,600 propositions we have had before over the past decade. While I can, I suppose, understand the Senator's wish to be helpful, I seriously wonder whether he is trying to take Granny across the road and she does not want to cross. **[Laughter]**

**3.1.8 Deputy M. Tadier:**

There is a slight problem with this because part (a) has just been decided. I am sorry if anyone has said that, but that is the way I look at it. We have already agreed that the outcome of the Referendum on States Reform did not provide a sufficiently clear mandate for option B to be implemented, or I presume that is what we have agreed implicitly somehow. So it seems to me that (a) does not need to be adopted or, if it does, it can be adopted taken as read based on the previous vote. I think the issue for me is that today one takes no pleasure. Although I voted on the side which ultimately won this particular vote, as somebody who has campaigned and will continue to campaign for electoral reform for our States Assembly - and for our electoral system to include

single transferable votes incidentally at the next election, which is something that we can do very tangibly and very easily and which was recommended by Dr. Alan Renwick as the single clear piece of advice that he could give us - I will be pushing for that, if not P.P.C., which I hope the Committee will be doing. The problem we have today is that, first of all, it has been said that the Committee was split down the middle. We found ourselves in a curious position where the proposition which was put to the Assembly by a committee did not have a majority of support by that committee. So 3 Members voted for and 4 Members did not vote for. That is a curious position and should we be now asking that very same Privileges and Procedures Committee to go away and do a piece of work which we have just failed to do and win the approval from the Assembly? That is questionable as to what that would entail. I think the sensible thing is to allow the current Privileges and Procedures Committee to assemble, to discuss the outcome, and then to decide whether or not, for example, they may and we may wish to bring back a very simple amended form which would include, for example, the amendment of Deputy Green, which due to a technical process today we could not vote on first. Had we been able to vote on the amended version of 7 super-constituencies with 12 Constables, it is quite likely that it would have got through because I certainly know I could have stomached that. I certainly know quite a few St. Helier Deputies who would have been willing to make the compromise because it adhered to the same principles of super-constituencies, keeping the 12 Constable votes but creating pretty much near voter equity, certainly taking away the greatest inequity in the system and only leaving one district all told outside of the 15 per cent of the Venice Commission. There are perhaps simple ways which we could do that, but I would echo the words of my colleague Deputy Martin on that, that I do not see the harm of leaving this a few weeks, let the dust settle. I do want to see reform. If at all possible I would still like to see it for 2014, even as I said, if that is only in the way that we elect individuals to this Assembly, to make it much fairer, to give the electorate much greater power and to at least introduce a single transferable vote. It also would allow time for amendments for all Members to engage in this process outside of this Assembly when clearly today feelings and passions are running high. That is not the kind of atmosphere, I would suggest, in which level-headed decisions can or should be made. I would also recommend Senator Le Marquand if he could consider withdrawing this. I am sure that Members on both sides who have been campaigning for reform will continue to do that and that we will all take on board the comments that have been made today, both as an Assembly and as a Privileges and Procedures Committee.

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

For me, this proposition is very simple, very simple indeed. I cannot support (a) because of the way I voted in the previous vote. I think that is quite clear for a number of Members. (b), in my humble opinion, is totally superfluous because Standing Order 128A charges the P.P.C. in its terms of reference: "To keep under review the composition, the practices and procedures of the States of Jersey legislature and to bring forward for approval by the States amendments to the law and Standing Orders as considered appropriate." They already have the power and the duty, in fact, to do what is requested in section (b) and I think we have to understand, as Deputy Martin has quite rightly said and as other Members have said, that Privileges and Procedures Committee, I know from good experience, will take time to assimilate everything that has been said as a matter of this debate. I have the utmost respect for Senator Le Marquand and I know he has got some ideas that have developed since the consultation on the referendum process closed, but we have had a referendum process, the public have been consulted and I think it is too soon to consult them again. But it is certainly, I think, arrogant to think that we should go ahead and do it without consultation simply because we have decided against what has already come forward. I think reflection is what is required. The P.P.C. have the tools in their arsenal to tackle reform; whether they have the time before the next election, I humbly and sincerely doubt for a multitude of reasons, but for me this proposition is unnecessary.

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

I think, as some speakers have said, we are all a bit shell-shocked after what has been a very long and hot day. I will be supporting both parts of the proposition because that was pretty well the line I would have taken if I had spoken in the previous debate, but my assessment was we had all had enough words at that point. I think what it does do is, firstly, he is effectively trying to say to P.P.C.: “Do not be disheartened” which is a very easy place to be right now, but it is also to allow Members to demonstrate whether they are in favour of reform or not. It is a case of a whole range of, obviously the majority, of Members in this Assembly has issues with the previous proposals. But if you do want P.P.C. to try and remarshal themselves at some point or other, then this seems to be a way forward. It is about allowing a time of reflection, as has been said, it is not prescriptive, it does not say how to do it, it does not give a timescale, but it is saying: “We do want you to keep on doing the work but you do need to take in certain considerations.” What I would have said in the previous debate, and I would just like to flag up my views for P.P.C. going forward, is the reason I have put a schedule on people’s tables showing pieces of work done by P.P.C. in about 2006 and 2007 is at that point there was a very strong will (a) for some form of Island-wide mandate, and bearing in mind I voted to reduce the Senators, but that is completely different to removal, and (b) that if you look down, P.P.C. then went away, came up with some ideas and then went back and surveyed people on those proposals again. So there are some iterations in there and we went straight to the referendum and straight to this Assembly. Those proposals, if one looks on that sheet, you will see that what we had just now seemed to be one of the least popular options that was identified then, and I think that was one of the problems we have had. Where it does assist is with the Machinery of Government review because at least now we know how many Members we are going to be dealing with for the foreseeable future, I think, and it means then there is no diversion of resources. We can focus our attention on the machinery of government rather than the distraction which there has been of what the Electoral Commission has been doing. Because having the 2 going parallel has been a horse and cart issue, which is which, how many numbers do you need and how many numbers are you going to have as to what will work. At the very least, now we can focus on that piece of work. I am going to vote for this. It does not matter whether people do or not, I think it does send a message to P.P.C. if we do vote for it.

### **3.1.11 The Deputy of St. John:**

The referendum established one thing clearly: the electorate wants to reduce numbers. It also produced one other thing much less clearly, keeping the Constables, but shall we say on balance the electorate wants to keep Constables, but it created confusion around another by failing to ask the question, that is the position of the Senators. However, every single person among the public that I spoke to and every poll taken, just about everyone and just about every Member of this Assembly supporting the C option, and many more A and B supporters as well, probably at least 20 Members in total, wanted to keep Senators. I repeat what I said this morning: if P.P.C. had included Senators in P.64 the result would have been a foregone conclusion and we would not now be debating P.74. So I would urge P.P.C. to take that on board. I see no reason why it should not come back in very short order to include Senators.

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

I am pleased to follow on from the Deputy of St. John because I would remind Members, although the Chairman of the P.P.C. could not bring himself to admit that option C was a reform option; the former Chairman of P.P.C. is on his committee and championed reform option C in her tenure as Chairman of the P.P.C. It does reduce numbers, albeit to 49, it retains the Island-wide mandate and retains, in my opinion, some of the best parts of our existing system. It is a good holding position while we get to grips and do this work properly. But I am also now concerned about the division on the Privileges and Procedures Committee; clearly, they are not just divided down the middle, but

there are a number of different views. I am reminded of the quote by Abraham Lincoln that a House divided against itself cannot stand. So at their next meeting they have to ask themselves seriously whether they are able to continue to deliver reform and do the job which we elected them to do. The previous Privileges and Procedures Committee, in my opinion, made a complete dog's dinner of the proposals, which is why we are here now. I am sorry to put it that way, I cannot think of anything else; they did not consult with or seek the proper views of the electorate and we have just made the same mistake again. This Assembly should, and the Privileges and Procedures Committee, have learnt an enormous lesson from what has just happened and I hope something good will come from it. I will be supporting Senator Le Marquand's proposition because I do believe we need to push on in seeking out good and better reform.

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

Perhaps my voice is indicating why I tried to hold back in the last debate. I think that the nearly 17,000 people who voted in the referendum will be really wondering whether or not in future referendums or future elections they would bother or should bother to turn out. I think that there is absolutely no doubt that reform must happen. In a year's time we will be effectively in the Last Chance Saloon for making any decisions for this period of 3 years of Government.

[16:15]

If we are in a position in 12 months' time, faced with an election which will be attempting to vote 8 Senators, 29 Deputies and 12 Constables in the manner of option C - and I find it extremely confusing that we are now effectively having a vote on part (a) of option C - which got 19.5 per cent of the vote, but we are where we are; it appears that there was, in fact, no referendum but a neverendum; it did not exit - what I have absolutely no doubt at all about is that we need to send a message very clearly to the people that we represent that we are going to try and find a compromise and a solution. We cannot be in a position in 12 months' time trying to elect the people that I have described. It is unworkable, it is unfair and it is undemocratic and while many Members in this Assembly who supported options A and B and the thousands of people that went out and expressed the vote for reform will be downhearted, we must now lift ourselves up, we must try and find a compromise that will work and that will be acceptable. I see a number of Members nodding their heads. I am going to also ask Senator Le Marquand if he will agree to split the vote. I cannot vote for part (a), to say that we would have a referendum that would set us aside; I am afraid that is simply something that I cannot do. I accept the democratic views of this Assembly and will work with whatever body. If I may say to the Constable of St. Mary, I think we owe it to the people that want reform for Members of this Assembly that are seeking reform to vote for part (b), to at least send a message today that we are going to try and do something; to send a message today that we are going to do nothing I think is the very, very worst situation. I think the message that we need to send out is that we are going to try and work together. I think that there may be some solutions, they are not easy, anybody that is trying to suggest that there is a silver bullet is mistaken, but we need to send a message that we are going to try and that we want P.P.C. to come forward with something. The timescale is limited, the options are few but we have to try.

### **3.1.14 Connétable P.J. Rondel of St. John:**

I would warn against knee-jerk reactions, and that is what we are getting to at the moment. Just after the result came out of the last vote I was looking, of course, at the senatorial benches; they may have voted one way but, in general, there were smiles across most of the faces of the Senators [Laughter] knowing that they were not going to lose their seats in the next round of elections. I think the Connétable of St. Mary was quite right to tell us exactly where we stood with P.P.C. and I have just heard what the Minister for Treasury and Resources has said. I could not go with option

(a) at this time, option (b) is already part and parcel of the Privileges and Procedures remit and, therefore, I am going to propose that we move on to the next item.

**The Bailiff:**

Very well. We are asked for Members to vote, something a Member has a right to do. Is it seconded? **[Seconded]** Very well, then we move straight to a vote on whether to move to the next item of business.

**POUR: 15**

**CONTRE: 31**

**ABSTAIN: 1**

Senator F. du H. Le Gresley

Senator P.F. Routier

Deputy M. Tadier (B)

Senator P.M. Bailhache

Senator P.F.C. Ozouf

Connétable of St. Peter

Senator A. Breckon

Connétable of St. Mary

Senator S.C. Ferguson

Connétable of St. John

Senator A.J.H. Maclean

Connétable of St. Ouen

Senator B.I. Le Marquand

Connétable of St. Saviour

Senator I.J. Gorst

Deputy R.C. Duhamel (S)

Senator L.J. Farnham

Deputy R.G. Le Hérissier  
(S)

Connétable of Trinity

Deputy J.A. Martin (H)

Connétable of St. Clement

Deputy S.S.P.A. Power (B)

Connétable of St. Brelade

Deputy S. Pitman (H)

Connétable of St. Martin

Deputy J.P.G. Baker (H)

Deputy G.P. Southern (H)

Deputy S.J. Pinel (C)

Deputy of St. Ouen

Deputy of St. Peter

Deputy of Grouville

Deputy J.A. Hilton (H)

Deputy J.A.N. Le Fondré  
(L)

Deputy of Trinity

Deputy K.C. Lewis (S)

Deputy T.M. Pitman (H)

Deputy E.J. Noel (L)

Deputy M.R. Higgins (H)

Deputy A.K.F. Green (H)

Deputy J.M. Maçon (S)

Deputy G.C.L. Baudains  
(C)

Deputy of St. John

Deputy J.H. Young (B)

Deputy of St. Mary

Deputy of St. Martin

Deputy R.G. Bryans (H)

Deputy R.J. Rondel (H)

**The Bailiff:**

Very well, then the debate continues. Senator Le Gresley? I am so sorry, just before you do, the Connétable of St. John, had you finished what you wished to say on the debate?

**The Connétable of St. John:**

Thank you, Sir, I am happy with the result. **[Laughter]**

**3.1.15 Senator F. du H. Le Gresley:**

Senator Farnham quoted Abraham Lincoln; my quote is nothing like as grand, it is merely a song which says: “Always look on the bright side of life” **[Laughter]** and I say that to the 21 people who are obviously feeling a bit down at the moment, and the bright side of life is that we do not need to worry about reform again until we meet in November or December with a new Assembly, if we are all here or want to be here. Firstly, we have already agreed changes for the next election, as Senator Farnham made clear, we are reducing the number of States Members to 49, reducing the number of Senators to 8, we are retaining the Constables and we still have the Parish mandate for the Deputies, so we have a lot of good things going for us. We will have a spring election. I am not so sure that we are in such dire straits that we need to spend the next year worrying about reform. I also cannot understand, and have not been able to ever since I have been a States Member, the obsession of States Members with reform. Why is it that we spend so much time worrying about how we run ourselves and how many numbers of Members we should have? I have never understood it, I will never understand it while I remain in this Assembly and I do not believe that the wider public could give a ... excuse me **[Laughter]** how many States Members are, what our titles are, as long as we get on with the job and run the government for the best of the people of the Island. **[Approbation]** I really think that this proposition that we are discussing here from Senator Le Marquand is superfluous. We do not need it, we ask the P.P.C. to be minded of the decision we took just now. I do not believe there is any need for us to debate reform of government

in the next 12 months. We already have changes coming and I would again appeal, as Deputy Martin did, for the Senator to withdraw this proposition.

### **3.1.16 Deputy M.R. Higgins:**

I would like to also echo what Senator Le Gresley has just said; I think it is superfluous now in that a decision has been made and I really cannot see anything new coming in before the next election. There will be new Members in this Assembly; let them make the decision. However, during today's debate, many Members stated they could not see the States operating efficiently or democratically with 42 Members. Many also stated that they felt the P.P.C. have put the cart before the horse. I personally believe that with the reforms that are coming that Senator Le Gresley has mentioned and with the report that we are going to be receiving from the sub-committee who are looking at how we run this Assembly and how we can best go forward, we are far better to wait for that report and then reflect on it and come forward. But I think it is going to be too short before the next election to bring anything massive and I think that we should leave it for the next Assembly and let them decide the way forward. The electorate will have their say on our performance, whether they agree or disagree with us, come the election time. Let them be the judge of this Assembly and what we have done and what we will be in the future.

### **3.1.17 The Connétable of St. Clement:**

Just briefly, the Privileges and Procedures Committee, of which I am very pleased to be a member, have been criticised in one or 2 speeches during this debate for apparently being divided. One thing I can say about the Privileges and Procedures Committee, unlike Senator Farnham and the Deputy of St. John, the vast majority - I think all but one possibly on that committee - do want reform and see the need for reform. What we were divided on during this debate was the particular type of reform that we want. I do believe that it is very important that we approve part (b) of this proposition. I am passionate about reform, as indeed are the majority of Members on the Privileges and Procedures Committee. Unlike Senator Le Gresley, I believe we desperately need it, because I do not believe that we are as efficient and effective as Senator Le Gresley seems to think, and that everything in the garden is rosy and we are absolutely fine and do not need any changes. The important thing is there are those of us who are passionate about reform and want the work to carry on and to move on. Yes, as the Constable of St. Mary says, Privileges and Procedures can carry on with this work without any suggestion or any help or any support from this Assembly but, quite honestly, I think Privileges and Procedures need the support of this Assembly to carry on this work to give us the impetus to do it and to let the public know that we do not believe we are totally efficient and effective, that there can be improvements and we want to carry on the work to do it. The vote today has given us some clarity; once the smoke clears there will be a lot more clarity, but there are changes that possibly cannot be made in time for the next election, but if we can start the work now, the States tell the Privileges and Procedures to start the work now, get on with it, that we do believe that some reform is needed, that will be a tremendous help to the Privileges and Procedures Committee, I have no doubt.

### **3.1.18 Deputy T.M. Pitman:**

I just want to start by disagreeing with the Deputy of St. John who said if Senators had been more central to all of this then it would have sailed through. I would say no, that is not the main issue; if this had had fairness in it, then it would have sailed through because I would have certainly been supporting what had gone through. As I said, I am not hung up on removing the Constables, they can stay, in my book, as long as St. Helier and anywhere else has fairness but, sadly, the Constables do not seem (well, the majority, there were a couple of exceptions) to think that fairness for people in St. Helier is important. So it is to me, but I think what has come out of all of this is that P.P.C. are completely not the body to be taking this forward because as soon as politicians - and we have



all got our ideas, and that is only right, we should not be in politics otherwise - take over, hijack an Electoral Commission ... I was nearly going to use a non-Parliamentary word, but it is basically ruined. We had voted, thanks to the proposition of the former Deputy of St. Mary, to have an independent Electoral Commission; that should have kept every one of us out of it. Yes, we could make submissions, just like any member of the public. That is the only way we will get proper, fair reform. I think it was Deputy Tadier who said we should go away, get that independent Electoral Commission, get a Boundary Commission and let us have someone outside with a fresh pair of eyes to tell us what we need, instead of some people all thinking about retaining their jobs, because that is what it comes down to. No one will ever convince me, I am afraid, that what has been put forward today was about fairness and about reform for democracy's sake. It was about condensing power, absolutely it was, and that is why 74 per cent, let us hang on to that, 74 per cent of the public could not be bothered to vote. Because they were even denied a chance to say "None of the above" which I did bring to the Assembly, and that is what I was trying to get across to the Constable of St. Helier when I was saying about: "Listen to those people." They did not get a chance to be heard. I think people have been too harsh on Senator Le Marquand in saying that he should have to withdraw this; maybe it is superfluous now, but he certainly brought it for the best of intentions. Do we need it? Possibly not. I have just been told I have still got to vote for (a) because that just cements the way I voted. Is it necessary? I am not sure. I think people are right to say that nothing really big is going to happen now before the next elections; people are probably sick of us going on about reform as Senator Le Gresley said, but the reason they are sick of it is because some politicians hijack things all the time and it ends up with some of us, who are the real reformers here, having to try and make those things better. That is all I am driven by: whatever people think is fairness, as are some of my colleagues. Why should someone who lives in St. Helier have a vote worth only 50 per cent of someone in another Parish? How can anyone argue against that? So is this necessary? I do not know, the Senator says he is not going to withdraw it, so I just suggest that we all keep our speeches short, as I am doing, and get on and vote on it and move on to the next issue and I am sure we will be back with another proposition on reform come September; will that not be exciting?

### **3.1.19 Deputy J.M. Maçon:**

In a sense I agree with Deputy Pitman in that when P.P.C. do go back and look at these things ... when the Chairman was summing up, he pointed out a lot of Members' objections to the procedural things that went wrong in this whole process, like States voting for an independent commission and then not getting one. So immediately, when you are not following the processes, you are already losing votes by the end result. So I hope when we go back and when we do it again, we will stick to proper processes, do things properly, if there is a referendum, do it properly, have a yes and no not multi-choice, because again that is another reason why you lost more votes.

[16:30]

Perhaps it should have been binding, perhaps there should have been thresholds to it, whatever, but for that to be done properly, because that is what Members objected to. Just to respond to Senator Le Gresley's speech where he said: "I do not understand why Members are so obsessed about States reform and who should sit in here." It is about power, it is about who is in here making the decisions to sign the policies. If you take the group of people from certain constituencies in the Island, that will put a perspective on this Assembly in deciding what policies get through, compared if you take them from other areas of the Island. That is why politicians get so passionate about it because it is about power, it is about how things are progressed in the Island, and that is why it is quite right that as politicians we should stand up and talk about this at great length because, of course, the balance of power and how that is distributed among the people that we represent, it is absolutely right that we talk about and understand those things. Sometimes that is lost in

translation in the details that we are talking about, but that is why these debates are so important, because it is about power and the balance of power and who sits and who makes the decisions. As for the result and as for this proposition itself, as Members know, I did lodge my proposition about the 40 per cent turnout, we did not get that, and therefore in my eyes none of it had any legitimacy, and therefore I am quite happy to support this proposal and I think that if anything were to go forward, it might be sensible, as in other jurisdictions, if we are to have another referendum to tie it to the next round of elections where you have got again that back-up when the voters turn out which, again, is another way in which you can do things. Whether that will happen, I do not know, but again these are the better and proper processes which should be followed, and so I will be supporting both parts of this proposition.

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

Inevitably, after big debates like we have just had, and the result is now known, there can be a feeling of wanting either to entrench and walk away from these issues or bury one's head in the sand because the result did not go in the way that one had either voted for or hoped for. I hope that this afternoon that will not be the result. While I am not a proponent of believing that there is a magic bullet or believing as I said that there is a pot of gold at the end of a rainbow, I am a great believer in building consensus and trying to find compromise and I think that is at the heart of what Senator Le Marquand is trying to propose with his proposition this afternoon. It is well known that he did not support option B from the start and campaigned against it and has held that line, but I think it is also well known that he felt that there could have been some perhaps agreement which would have made it, to use Deputy Pitman's word, fairer, that would have made it more acceptable to more Members in this Assembly, and therefore I do not think that we should leave this Assembly this afternoon without still having on the agenda an option to try to find reform which will get more support than the previous proposition had. It is easy, I suppose, for us to at this point to say: "Well, let us not do anything now until the new Assembly comes into force because our particular proposal was not approved" or for those option A campaigners, their proposal did not come out as the winner from the referendum. I do not think that would be right and I do not think that it is part of what we are mandated to do. We are mandated to find solutions. I would suggest that, while it may not be a pressing priority of the public and while it may not be the top priority of this Assembly or the Government, it is a priority in our Strategic Plan and therefore we should not just stop at the hurdle that we have found ourselves at this afternoon, we should continue to work towards a solution that more Members of the Assembly find acceptable, acknowledging that there is no easy solution because, I have got to say, it appears that we have tried most of the permutations and somehow we have found them wanting. I hope that perhaps with the result of the vote this afternoon, Members will leave and search their own consciences and their own political persuasions and recognise that perhaps, if they really are committed to reform, as Member after Member has suggested, then they will have to find a consensus approach and not be rigid in the solution that they find acceptable. I hope that if nothing else this afternoon it does allow for that self-reflection for Members to commit themselves to trying to find that consensus solution. Therefore, I likewise ask Senator Le Marquand perhaps if he could split his proposition so that those Members who cannot accept that the referendum did not produce a result, because it did, but equally do not want to allow that to stop a solution in the future being found. Thank you.

### **The Bailiff:**

Does any other Member wish to speak? Very well, then I call upon Senator Le Marquand to reply.

### **3.1.21 Senator B.I. Le Marquand:**

Sorry, I need direction from the Chair as to whether it is possible to split (a) and (b). I am perfectly willing to do so if you rule that that is possible.

**The Bailiff:**

I think it is, although originally, no doubt, the alternative was meant to be referring to paragraph (a). I think it is a sufficiently general word so if you simply request P.P.C. to seek alternatives for reform of the Assembly, that must, in context, mean alternatives other than those which have ...

**Senator B.I. Le Marquand:**

It means alternatives other than option B, Sir.

**The Bailiff:**

I think it can be taken separately.

**Senator B.I. Le Marquand:**

I am grateful for that, Sir, yes. I am a bit puzzled by some of the debate in relation to the first part of it because it is very simple indeed. What it is doing is basically asking the States to confirm what it has probably already decided, namely that the outcome of the referendum does not provide a sufficiently clear mandate. I suppose it is possible that there are some Members in this Assembly who are of the opinion that it did provide a sufficiently clear mandate but still voted against. That would be somewhat surprising. I suppose it is possible, in fact it is perfectly possible, that there are people who did not think it provided a sufficiently clear mandate but voted for. But broadly speaking, I would expect Members to split 28:21 in exactly the same lines in relation to this, although it is possible there might be some subtle variation I have missed. **[Laughter]** In relation to (b), my intention is quite clear from the section of the report, the way forward. I will read part of this out: "My concern is that if we are not careful the whole reform process within the life of the present Assembly may fail. It could fail in 2 different ways as follows:" I think the first one is now academic because of 28:21. "The second is another way would be if the Privileges and Procedures Committee were to become so discouraged that they simply gave up on electoral reform during the life of this Assembly. I accept that that possibility is less likely." I am not sure if that is right, now that I have heard some of the Members speak: "It is my view that if P.64 fails to achieve the absolute majority that that Committee should seek to consult with the Members of this Assembly in order to seek to achieve a compromise solution which is acceptable to an absolute majority. That approach is fully consistent with the kind of consensus politics which used to be a major feature of this Assembly and which I believe that the general public would prefer to see, particularly in relation to a matter such as this." My intention is quite clear in this matter. I thank my very good friend, the Chief Minister for him having explained what I was trying to do here. **[Laughter]** But my intention is quite clear and I may put it very simply. If Members think we should now give up on electoral reform for the term of this State then they should vote against me. But if they think that we should be continuing and trying to achieve something within the term of this State, then I think they should vote for me. I hope that makes it clear, although that may lead to my losing the vote. I move both parts of the proposition; ask for the vote in 2 parts.

**The Bailiff:**

Very well. Do you ask for the appel?

**Senator B.I. Le Marquand:**

I think that will be a good idea, Sir, yes.

**The Bailiff:**

The appel is called for then, in relation to the proposition of Senator Le Marquand. The vote will be in 2 parts. I invite Members to return to their seats and The Greffier will open the voting on paragraph (a).

<b>POUR: 22</b>		<b>CONTRE: 27</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Senator B.I. Le Marquand		Senator A.J.H. Maclean		
Senator L.J. Farnham		Senator F.du H. Le Gresley		
Deputy R.C. Duhamel (S)		Senator I.J. Gorst		
Deputy R.G. Le Hérisier (S)		Senator P.M. Bailhache		
Deputy J.A. Martin (H)		Connétable of Trinity		
Deputy of St. Ouen		Connétable of St. Clement		
Deputy of Grouville		Connétable of St. Peter		
Deputy J.A. Hilton (H)		Connétable of St. Lawrence		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Mary		
Deputy of Trinity		Connétable of St. John		
Deputy M. Tadier (B)		Connétable of St. Ouen		
Deputy T.M. Pitman (H)		Connétable of St. Brelade		
Deputy M.R. Higgins (H)		Connétable of St. Martin		
Deputy A.K.F. Green (H)		Connétable of St. Saviour		
Deputy J.M. Maçon (S)		Deputy G.P. Southern (H)		
Deputy G.C.L. Baudains (C)		Deputy S.S.P.A. Power (B)		
Deputy of St. John		Deputy S. Pitman (H)		
Deputy J.H. Young (B)		Deputy K.C. Lewis (S)		
Deputy of St. Mary		Deputy E.J. Noel (L)		
Deputy R.J. Rondel (H)		Deputy T.A. Vallois (S)		
		Deputy J.P.G. Baker (H)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		

**The Bailiff:**

Very well. The Greffier will reset the machine and when ready we will open the voting on paragraph (b).

<b>POUR: 37</b>		<b>CONTRE: 10</b>		<b>ABSTAIN: 2</b>
Senator P.F. Routier		Senator F.du H. Le Gresley		Deputy J.A. Martin (H)
Senator P.F.C. Ozouf		Senator P.M. Bailhache		Deputy M. Tadier (B)
Senator A. Breckon		Connétable of St. John		
Senator S.C. Ferguson		Deputy G.P. Southern (H)		
Senator A.J.H. Maclean		Deputy S.S.P.A. Power (B)		
Senator B.I. Le Marquand		Deputy S. Pitman (H)		
Senator I.J. Gorst		Deputy J.P.G. Baker (H)		
Senator L.J. Farnham		Deputy of St. Martin		
Connétable of Trinity		Deputy R.G. Bryans (H)		
Connétable of St. Clement		Deputy of St. Peter		
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				

Deputy R.G. Le Hérisier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.J. Rondel (H)				

**The Connétable of St. Helier:**

The abrupt termination of the last debate but one denied me the opportunity to thank members of the Electoral Commission who contributed so much of their time to the work. I would just like to say, P.P.C. as currently constituted does not enjoy the confidence of the Assembly and I feel the right course of action is for me to resign now in the hope that a new P.P.C. can be put in place before the summer recess, given the significant workload facing it. Thank you, Sir.

**The Bailiff:**

Very well, thank you, Connétable. You have notified your resignation in accordance with Standing Orders. Before we come to the next one I should inform Members that R.89 Land Transactions under Standing Order 1683 has been presented by the Minister for Treasury and Resources and will be in the pigeon holes.

**Senator I.J. Gorst:**

Could I just, in light of the Connétable’s announcement, place on record my thanks for the hard work that he has undertaken? As Chairman of the Privileges and Procedures Committee, I think we would all agree, certainly any Member of this Assembly that has served on that committee would recognise it is a completely thankless task, particularly with regard to bringing forward proposals for electoral reform. I am sure that the previous Chairman would concur with that and yet despite that he has put behind and put to one side his personal view with regard to electoral reform and shown himself this afternoon to be a statesman, that I know that we all in this Assembly aspire to, and I thank him for his hard work. **[Approbation]** I wish whoever the next Chairman is to be **[Laughter]** all the luck in the world.

**4. Draft Succession to the Crown (Jersey) Law 201- (P.57/2013)**

**The Bailiff:**

Very well. We come next to the Draft Succession to the Crown (Jersey) Law 201-, Projet 57, lodged by the Chief Minister. I will ask the Greffier to read the citation.

[16:45]

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

Draft Succession to the Crown (Jersey) Law, a law to make provision for succession to the Crown in right of the Bailiwick of Jersey. Whereas Her Majesty is Sovereign of the Bailiwick of Jersey, such Realm being anciently part of the Duchy of Normandy, in right of Her illustrious and royal Predecessor, William, Duke of Normandy and King of England; and whereas representatives of the other Realms of which Her Majesty is Sovereign agreed on 28th October 2011 to change the rules on succession to the throne and possession of it so as to make succession not depend on gender and to end the disqualification arising from marrying a Roman Catholic; The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

## **Senator I.J. Gorst (The Chief Minister):**

I would like to ask my Assistant Minister to act as rapporteur for this, please.

### **4.1 Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):**

This Bill has its genesis in an agreement reached at the Commonwealth Heads of Government meeting in Perth in October 2011 that the United Kingdom would change the rules of royal succession to end the system of male preference primogeniture and the bar on those who marry Roman Catholics from succeeding to the throne. The agreement between the Commonwealth Realms was that the necessary legislation would be passed by each of them and that at an agreed point in time the laws would come into force at the same time. The reason for that is, clearly, that the rules of succession to the Crown cannot be different in different Commonwealth Realms. It was agreed that the United Kingdom law would have precedence on this respect. The Succession to the Crown Bill in the House of Commons received its first reading at the end of last year and the parliamentary process has been completed and the Bill received Royal Assent on 25th April 2013. The Succession to the Crown (Jersey) Law is designed to embody in Jersey law the rules of succession to the Crown. The Bill will provide that in effect the law of the United Kingdom will govern the rules of succession. The preamble to the Bill sets out why and how the Queen is the Queen of Jersey in the right of succession to her royal predecessor, William, Duke of Normandy. I can perhaps deal with the other detailed parts of the Bill when the Articles are proposed. I propose the principles of the Bill.

## **The Bailiff:**

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

### **4.1.1 The Connétable of St. John:**

As a royalist, this is long overdue. I will not be saying a great more than that other than shortly, if it has not already happened, there will be a new member to the royal family but whether it is a little girl or a little boy will be in line to the throne ahead of his or her uncles or aunts. With that, I would like to congratulate the Chief Minister and the Assistant Chief Minister on bringing this forward at this very moment. Thank you.

## **The Bailiff:**

Does any other Member wish to speak on the principles? Do you wish to reply, Senator?

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

I thank the Constable of St. John for his remarks and I renew the principles of the Bill.

## **The Bailiff:**

All those in favour of adopting the principles, kindly show? Those against. The principles are adopted. Senator Ferguson, do you wish this matter referred to a Scrutiny Panel?

**Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):**

It is very tempting to make sure that with the undoing of the discrimination that has been inherent in the line of succession, there are no other areas in the Island that we need to deal with but, as it happens, Sir, no we will not.

**The Bailiff:**

Very well. I invite Senator Bailhache to propose all the Articles you wish to, Senator.

**4.2 Senator P.M. Bailhache:**

With your leave, I could perhaps propose all the Articles of the Bill *en bloc*. Article 1 is the interpretation Article. I should perhaps start with the preamble, which, as I indicated in my earlier speech, sets out the history of how the Queen is our Sovereign. Article 1 contains the interpretation clause and states that the Sovereign and the Crown are references to the Sovereign and the Crown in right of the Bailiwick of Jersey. Article 2 of the Bill is the substantive Article of the draft law and provides that: “The death of the Sovereign shall have the effect of transferring all the functions, duties, powers, authorities, rights, privileges and dignities belonging to the Crown to the Sovereign’s successor as determined in accordance with the Act of Settlement 1700 of the United Kingdom and any other law of the United Kingdom relating to succession to the Crown.” The Article therefore links the law of Jersey to the law of the United Kingdom so that there can be no difference between the Sovereign as Queen of Jersey and the Sovereign as Queen of the United Kingdom. Article 3 of the draft Bill provides that in relation to any form of oath or affirmation taken by any officer of the Crown, you, Sir, his Excellency, for example, and any other official in the Government of Jersey who is required to take an oath which includes a reference to the Sovereign, that that oath will include by definition a reference to the Sovereign’s successor. Article 4 of the draft Bill makes provisions for any Regency and provides that any Regent acting on behalf of the Sovereign shall *ipso facto* be a Regent in Jersey. Article 5 of the Bill is the usual Article of citation. I move the Articles.

**The Bailiff:**

Are Articles 1 to 5 seconded? **[Seconded]** Does any Member wish to speak on any of the individual Articles? All those in favour of adopting the Articles, kindly show. Those against. They are adopted. Do you propose the Bill in Third Reading? Seconded? **[Seconded]** Does any Member wish to speak in the Third Reading? The appel is called for in relation to the adoption of Projet 57 in Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 41</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Lawrence				

Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

**The Connétable of St. Helier:**

Before you call the next item I wondered if I could crave the indulgence of the Assembly that we do not start the debate on P.60, the Historic Buildings with only half an hour to go before we rise. We perhaps deal with some minor items if the Assembly is willing.

**The Bailiff:**

Does the Assembly agree to defer that until the earliest opportunity tomorrow, Connétable?

**The Connétable of St. Helier:**

Yes, please, Sir.

**The Bailiff:**

Does the Assembly agree that? Thank you.

**5. Chairman, Privileges and Procedures Committee – appointment at this or next meeting**

**The Bailiff:**

I am so sorry. Just before the Minister begins on this I meant to mention one other matter. It relates to the Connétable having resigned as Chairman of P.P.C. Under Standing Orders a new Chairman must be appointed either at this meeting or at the next meeting. Of course, the next meeting is not until September so I really just wanted to remind Members of that. If they wish to think about appointing a new Chairman prior to the recess then a proposition, a nomination ought to be brought during some time tomorrow probably. If, on the other hand, they are content to let the



Committee continue under the Vice-Chairman until September then no nomination need be brought. I thought I would just draw that to Members' attention so that they can think about it overnight.

**Senator S.C. Ferguson:**

I am sorry. Perhaps I am a little dumb but I thought that if the Chairman resigned, then the whole committee falls.

**The Bailiff:**

It will fall when a new one is appointed. A new one has to be appointed, as I say, either at this meeting of the States or the next one, which will be the first one in September.

**6. Draft Security Interests (Amendment of Law) (Jersey) Regulations 201- (P.61/2013)**

**The Bailiff:**

We come to the Draft Security Interests (Amendment of Law) (Jersey) Regulations - Projet 61 - lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Security Interests (Amendment of Law) (Jersey) Regulations: the States, in pursuance of Articles 93 and 95 of the Security Interests (Jersey) Law 2012, have made the following Regulations.

Very well. I invite The Minister to propose the principles.

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

A little bit ahead of schedule. Right. Members will be aware that the Security Interest (Jersey) Law 2012 replaced existing law governing security interests in intangible moveable property. It is intended that the law will come into force as amended by these proposed regulations made under Articles 93 and 95 of the law. Following extensive industry consultation and overseen by a world-leading expert on securities law, the draft regulations make amendments to individual parts of the law which are felt to improve it before it is brought into force. I should say to Members, there is an Appointed Day Act, P.77, that also appears on the Order Paper for this sitting and which, if approved will allow the law to be brought into force in a 2-stage process on 1st October 2013 and 2nd January 2014. Those details, of course, I will deal with when we get to that point. The aim of the new Security Interest law is to provide a modern framework for creating security under Jersey law. When brought into force the new law is limited to taking security over intangible moveable assets but it is planned to extend the law in the near future to tangible movables to include items such as cars, yachts, antiques and so on. The law follows the recommendations of one of the leading authorities in this field, Professor Sir Roy Goode Q.C. It is based largely on elements of security laws from jurisdictions worldwide which is seen as an improvement on the rather antiquated and outdated English law and also the previous 1983 Jersey law. The key aim of the law is to allow the creation of security interests with a minimum formality with the simple requirement that the debtor signs an agreement identifying the property or the security is in the possession of the secured party. Once created a security agreement is effective against the debtor. However, in order to be effective against third parties, a further step is required, known as perfection. This is achieved by either the lender taking possession of the security or registering a finance statement at a modern electronic registry which can be freely searched. This register has been constructed and is being housed by the Jersey Financial Services Commission. The principle is that a single filing will preserve a creditor's security and that the filing can be updated as and when necessary. The

regulations make a variety of amendments to the law which have been worked on by the department, by Professor Goode and an expert working group of local industry practitioners. The vast majority of the amendments made by the regulations provide clarification on the existing provisions in the law and were required in order to bring the law into force. They were identified during the process of lawyers drawing up precedents and coming to grips with how the practical workings of the law might operate. The key amendments involve provisions which further specify the type of security interests and assignment of receivables that the law will apply to. Amendments also introduce further priority rules to deal with situations where there are competing security interests. There are further provisions introduced to deal with security interests and assignments, which are already in force when the law comes into force and which will continue in force afterwards. Finally, the key aim of the law improved hopefully by these amendments is to enable people and businesses to borrow more easily if they chose to do so by allowing the lending or a lender to secure the loan against a wider number and type of security.

[17:00]

I believe that this is a positive step forwards, especially in the current economic climate. I propose the principles of the draft regulations.

**The Greffier of the States (in the Chair):**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show. Those against. The principles are adopted. Deputy of St. Martin, this falls in the remit of your panel. You do not wish to scrutinise it?

**The Deputy of St. Martin (Chairman, Economic Affairs Scrutiny Panel):**

No, thank you, Sir.

**The Greffier of the States (in the Chair):**

How do you wish to propose the regulations, Minister? *En bloc*?

**6.2 Senator A.J.H. Maclean:**

Yes, please, Sir, if I may. I would just like to make a couple of comments though as I go through for Members, if I may. I will pick out the key regulations that I feel would do with a little bit extra explanation. Regulation 2 is an amendment to the interpretation provisions of the principle law introducing, amending and specifying more detail on a number of important terms. It includes adding definitions of intellectual property when a security interest over an asset is perfected by control and specify in more detail in the meaning of the words “to register, registered, or registration”. Regulation 4 repeals Article 3(6) of the principle law which deals with a secured party’s control of a certification investment security held in a settlement system as this rule, on reflection, was no longer considered to be necessary. Regulation 5 replaces Article 4 of the principle law which is the provision that specifies the types of security interest and assignments of receivables that the Security Interest law is to apply to. The new provision specifies in greater detail the rights and interests that are to be security interest for the purposes of the law. Regulation 7 substitutes Article 6 of the principle law to clarify and puts beyond doubt that a reference to a deposit account is one that is held by a relevant depositor in a relevant bank. It also clarifies that a company may take a security interest from a shareholder over shares in the same company, a matter that could have been questioned otherwise. Regulation 11 amends Article 29 of the principle law to add a rule about priority between security interests that are perfected by attachment. In the case of such security interest, the order of attachment decides the priority. Regulation 11 also adds to Article 29 of the law a provision dealing with the timing of registration, possession or perfection in relation to proceeds of collateral under a security interest which was felt to be beneficial. Security Regulation 14 substitutes schedule 2 of the principle law to set out great clarity concerning the

different rules that apply to security interests and assignments that are already in place when the principle law comes into force and which continue afterwards. I propose the draft Regulations *en bloc* 1 to 15, thank you.

**The Greffier of the States (in the Chair):**

Regulations 1 to 15 and the schedule are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the regulations or the schedule? All those in favour of adopting the Regulations and schedule, kindly show. Against. They are adopted. Do you propose the Regulations in Third Reading? That is seconded? **[Seconded]** Does any Member wish to speak in the Third Reading? All those in favour of adopting the Regulations in Third Reading kindly show. Against. They are adopted in Third Reading.

**7. Draft Trusts (Amendment No. 6) (Jersey) Law 201- (P.62/2013)**

**The Greffier of the States (in the Chair):**

We come now to the Trusts (Amendment No. 6) (Jersey) Law also in the name of the Minister for Economic Development. I will ask the Greffier to read the citation.

**The Assistant Greffier of the States:**

Draft Trusts (Amendment No. 6) (Jersey) Law: a law to amend further the Trusts (Jersey) Law 1984. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

This Trusts amendment would insert into the Trust law a statutory version of what has become known as the Rule of Hastings-Bass and the Doctrine of Mistake. These 2 rules are currently the law of Jersey as established by the rulings of the Royal Court in the following cases: Firstly in respect of Mistake in the matter of S Trust, secondly, in respect of Hastings-Bass, that is Green GLG Trust. On the recommendations of industry I have chosen to present this proposition that seeks to enshrine the existing principles of Jersey law into statute. The intention of making the amendment at this time is twofold. This amendment will provide certainty for the Island's trust clients and protect the interests of beneficiaries of Jersey trusts. It is felt that these amendments will strengthen the offering Jersey has in the international private client marketplace and will assist in retaining our position as the leading offshore trust jurisdiction in the world. What indeed is the effect of the amendment? Trustees are commonly given certain powers in trust deeds. For example, powers in relation to the management and distribution of trust assets. The rule in Hastings-Bass enables the court to set aside a trustee's exercise of such a power if the trustee failed to take into account relevant considerations which he ought to have taken into account or took into account considerations which trust property. For those unfamiliar with the settler concept, these are individuals who settle assets upon trust. This rule, known as the Doctrine of Mistake operates on similar principles and allows a settler who settles assets into a trust to apply to the Royal Court to set aside or unwind his actions. In relation to both the provisions above, considerations that ought to have been taken into account or considerations that should properly have been disregarded are often advice provided by professional adviser, usually an accountant or a lawyer, which may transpire to have been incorrect. The ultimate benefit from the provisions is certainty for settlers and for beneficiaries. If a transaction is made that results in adverse consequences for the trust fund, an application can be made to the court to state that the transaction can be unwound. This avoids the alternative option, which would involve the uncertainty and cost of litigation against the professional adviser who provided the incorrect advice. The basis behind the policy decision to legislate on this matter has been a continuing aim behind both the Trusts (Jersey) Law 1984 and,

indeed, the Royal Court to protect the best interests of beneficiaries in all circumstances. This amendment is simply an extension of that principle by enshrining the previous case law of the Royal Court into statute. There has been significant consultation with industry on this development. The concept of the amendment was first considered in a meeting with the Trusts Law Working Group as far back as 2011. That group comprises leading members of industry, members of the Economic Development Department, and Jersey Finance Limited. On considering the amendment, the Working Group and the Society of Trust and Estate Practitioners decided to engage the services of a leading English barrister to provide an opinion on amending the law. On the basis of that opinion, my department provided drafting instructions to the law draftsmen, and drafts were reviewed by the working group and external counsel. Industry state that the additions of these provisions to the law will provide significant benefit for the trust industry in Jersey. At a time when the financial crisis has created a challenging time for the trust industry, it is thought that the additions of these provisions will encourage a number of existing trusts to alter the governing law of their trusts and establish themselves under the Jersey law, often with Jersey trustees and administration services being utilised within the Island. It is also felt that this will assist intermediaries in recommending Jersey to become the most prominent jurisdiction for new trusts to be established here. Since ministerial support was provided for the amendment in February 2013, Jersey Finance has carried out a targeted marketing campaign on intermediaries who advise clients on their jurisdiction to establish trust structures in. There had been a significant interest in the proposed amendment to the law from the large intermediaries in London, and it is thought that their advice to clients on where to establish a structure will be altered by this amendment, bringing more business to the Island. I propose the principles of this proposition.

**The Greffier of the States (in the Chair):**

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

**7.1.1 Senator S.C. Ferguson:**

I was just curious as to why it took so long to amend the law in regard to the Hastings-Bass case, which was 1975. I know Jersey works slowly but this is rather slower than usual. It has to be the significant number of cases because it does seem to me that possibly - I do not want to malign anybody - the interest due arising from the implementation of this is perhaps the fact that the amount of litigation arising due to making this mistake will be eliminated. Has there been a significant number of cases arising from mistakes?

**The Greffier of the States (in the Chair):**

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

**7.1.2 Senator A.J.H. Maclean:**

I thank Senator Ferguson for her question. She does not wish to malign anyone. By raising the question, she essentially does malign but I know it was meant in all good sense. In particular, in relation to the time it has taken to bring this particular change, clearly, this is setting the changes into statute. There have been cases through the Royal Court that have set the precedent. To give her the exact numbers, I am not sure. There have been a number of such cases, not large numbers, but there have been a number and I am happy to get back to her with the exact details in due course. I maintain the principles.

**The Greffier of the States (in the Chair):**

All those in favour of adopting the principles, kindly show. Those against. The principles are adopted. Once again, Deputy ... [**Aside**] You do not wish to scrutinise the draft. Do you wish to propose Articles 1 and 2, Minister?

**Senator A.J.H. Maclean:**

Yes, Sir. I would propose the Articles *en bloc* and seek to answer any questions that Members may have.

**The Greffier of the States (in the Chair):**

Are the Articles seconded? [**Seconded**] Does any Member wish to speak on either of the Articles? All those in favour of adopting Articles 1 and 2, kindly show. Those against. The Articles are adopted. Do you propose the Bill in Third Reading, Minister?

**Senator A.J.H. Maclean:**

Yes, Sir.

**The Greffier of the States (in the Chair):**

Is that seconded? [**Seconded**] Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading, kindly show. Those against. It is adopted in Third Reading. Minister for Housing, you are content to start the next 3 items?

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

I am content to start now. It is fairly straightforward.

## **8. Draft Social Housing (Transfer) (Jersey) Law 201- (P.63/2013)**

**The Greffier of the States (in the Chair):**

Very well, we shall see. I will ask the Greffier to read the citation of the Draft Social Housing (Transfer) (Jersey) Law.

**The Deputy Greffier of the States:**

Draft Social Housing (Transfer) (Jersey) Law: a law to transfer the States of Jersey housing stock and other assets to a company and related purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

### **8.1 Deputy A.K.F. Green (The Minister for Housing):**

I am delighted to be bringing the Draft Social Housing (Transfer) (Jersey) Law to this Assembly today. On 16th May 2013, Members supported me and my team and agreed to P.33, which among other things sought approval for the incorporation of a States-owned housing company limited by guarantee and wholly owned by the States of Jersey. In giving its approval to this proposition, the States directed that I take the necessary action to prepare for company status and bring forward for approval by this Assembly the necessary legislation to give effect to the proposals, with the target date for commencement of the company's operation of 1st July 2014. That is what we have done and that is what the draft law before us today achieves. Simply, it establishes the mechanisms that will permit the States through regulations, which will come to this Assembly in due course, to form the company, to establish the board, to transfer the assets and staff to establish the contractual arrangements between the company and the States. For the avoidance of doubt, it is a regulation which will contain all the detail and Members will be able to fully debate that or this later this year or the beginning of next. This draft enabling legislation is, therefore, a relatively straightforward matter, if I dare say that, and I hope that Members will find it so and I propose the principles of the law to the Assembly.

**The Greffier of the States (in the Chair):**

Are the principles seconded? [**Seconded**] Does any Member wish to speak upon the principles?

### **8.1.1 Deputy J.H. Young:**

This law, though it might be straightforward, we are, I think, approving a legal structure that allows us to transfer millions of pounds of States-owned public assets into a company.

[17:15]

I wondered if we can be told what safeguards there are in the company to ensure that those assets are required to be contained within that company in perpetuity, and that we are not consenting here to a law that allows onward sales and transfers for those public assets to exit in any way the States-owned business, which this law corrects. That is one thing, so I would like to hear more on that because I confess, not having gone through this law in great detail but on scanning it through, I cannot see that there are spelt in here any provisions for that other than that the regulations for the transfer of assets may put conditions in the regulations. But I would like to feel sure that this law has sufficient safeguards in it. Of course, that is also relevant in the case of the arrangements in here for transfer of staff and pensions, and so on, which obviously is understandable since this company is, in effect, a wholly States-owned operation. But in the future, again, if changes take place to the structure of the company, which we may not have direct control over, I would like to hear what safeguards there are there. Also, I see, very conveniently, we are excusing ourselves from paying stamp duty on property transfer. Between one States body and another, I think that is fine but I do ask myself if we do not allow such concessions to the private sector, who may wish to transfer all sorts of operational property from one company to another for all sorts of reasons, and that does trouble me a little bit, but I understand why it is there. So those are the points, briefly, that I would like to raise and I would like to hear from the Minister in his summing-up. Thank you.

### **8.1.2 Senator A. Breckon:**

There were some comments from the Scrutiny Panel and that raised a number of issues. I know time was tight there and I just wonder if the Minister could respond to that. Deputy Young has touched on the pension issue but it also mentions in the comments at 2.7 about the lack of clarity over whether the housing company would have charitable status, and some of us were at a meeting at lunch time. Perhaps the Minister could clarify that and also in the comments again at paragraph 2.7, a comment was also made about the requirement for sufficient comfort to cover increased pension contributions arising after the transfer. Again, I wonder if the Minister could touch on that. At 2.11, it mentions, in particular, the panel share the adviser's concerns about risks to the housing company's business case arising out of the transference of the pension deficit. That is another thing. I know that has been touched on and it talked at paragraph 2.13 about, finally, the panel strongly urges the Minister to bring forward more information about due diligence that has been carried out to identify and deal with any liabilities inherent with the transfer process. I wonder if the Minister could give the Assembly some comfort on that. Finally, a general point on the back on page 8, the bullet point talks about in the U.K., there would be a tenant ballot. I am certain that at some time in the not too distant past, Deputy Martin brought something to this Assembly and said there would be a tenant ballot before any transfer of any properties, so I wonder if the Minister is aware of that and if he could address that issue.

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

I do not recall having seen any memoranda or articles of association of this company. There is a certain amount of detail in this document but when are we going to get the full documentation?

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

I wonder if the Minister, in dealing with this issue, feels it is appropriate at this stage because this company will be responsible for collecting rental income of some £3 billion in the next 30 years, and will be bound and tied in to an arrangement whereby £1.5 billion of that will be returned to the

Treasury. I just want to seek his assurance that this return to the Treasury will allow the company to remain financially viable despite such large figures.

#### **8.1.5 Deputy J.G. Reed of St. Ouen:**

I would just like to pick up a couple of points that the Scrutiny adviser's comments highlighted in our comments, which is P.63. I would like Members, first of all, to turn to page 3, which basically thanks the Minister for his swift response to the adviser's comments. However, there are a number of issues that we raised. Item 2.10 says the Minister should know that there are certain outstanding areas highlighted by the adviser that the panel recommends should be given further consideration. Then, we go on in 2.11 to support the adviser's concerns about the risks for the housing company's business case arising out of the transfer of the pension deficit. We are told that further information would be provided but, equally, we are not clear about when that updated information will be provided and, indeed, whether or not it would not have been useful for that information to be provided to the Assembly before we start agreeing on the basics of this law. Also, we go on in 2.12 to support the adviser's view that it is important that the States have the proper protection and the right seat in the Board of Management and that it directs the involvement, so that we can deal proactively with issues and methods that the Housing Association may be faced with in the years to come, especially in the areas of finance. Finally, we focus on, what I call, the due diligence, a method that we have already heard and continue to hear being raised in this Assembly, not just regarding housing methods but generally regarding the department and the accounting practices and the need to ensure that clear information is provided to make the appropriate decisions. The Minister in his response says: "That will happen later. Do not worry. The regulations will deal with that." I think that I, certainly, personally hope the Assembly will look to the Minister for some really concrete guarantee that the regulations will properly and appropriately address the issues that the Scrutiny Panel has highlighted and, indeed, will reassure Members that this is the best way to proceed, and that the Housing Association will not be or will not find itself in a position to be overburdened with financial debt or other methods that may stop it from performing as we would all like it to be.

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

It is really a bit of a concern, the comments from the Scrutiny Panel, which are very helpful, and it is very helpful for Senator Breckon to remind me of my very early days as a young Deputy, not a young person, in this Assembly. I did bring in an amendment and I think it was either Deputy Shirley Baudains or Senator Le Main who was the Housing President. I do not know, because it was carried by the Assembly that all States tenants, if they were going to go over to a different landlord ... maybe this might be the time because I am going to ask the Housing Minister to absolutely clarify that he has read it. I know it is many years ago and the actual wording of the amendment ... the worrying part is, as no such change in overall ownership is proposed for Jersey, no ballot will be held. As my amendment just walked out the door, has it been forgotten, or when or if there is a complete overall ownership of housing stock, will tenants be consulted? It might not be now but it may well be, because I cannot see any reference to this amendment that, as I say, was clearly carried by the Assembly and accepted after a few speakers by the then Assembly and President. So I really do not know if the Minister can answer me or I ask for his guidance as to whether he has taken this into consideration and, if not, would he think it is a good time to adjourn and find out this information overnight? Because I do not want to stop the debate but I do not want this to have been overlooked, because it was very important at the time and I think it is still very important to all his tenants.

#### **The Greffier of the States (in the Chair):**

One other Member is waiting to speak at the moment. Do the Members wish to adjourn to address Deputy Martin's query?

**Deputy A.K.F. Green:**

I think it is a good time to adjourn but it is quite interesting. We had over a day's debate on the --

**The Greffier of the States (in the Chair):**

Let us not have a second speech if we have decided to adjourn.

**Deputy A.K.F. Green:**

No, what I am saying is that this is the first time I have heard about this ballot. We had over a day's debate and nobody mentioned it, and so I do need to take advice on it, although I would argue that the company is still owned by the States. Therefore, there is no change in ownership but I would like to seek advice on that, Sir.

**The Greffier of the States (in the Chair):**

Yes, very well. The Members agree. The adjournment is proposed.

## **9. Chairman, Privileges and Procedures Committee – appointment at this or next meeting (additional comments)**

**The Greffier of the States (in the Chair):**

Could I just add to the Bailiff's comments earlier about the chairmanship of P.P.C.? I will just remind any Members who are thinking of throwing their hat into the ring that Standing Order 118 provides that candidates can speak for up to 10 minutes and be questioned. So anyone who is thinking of standing, whether this is tomorrow or on Thursday, you may wish to have something prepared for that section in the process.

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

Sorry, Sir. Can I just ask you about the process of that? I was in the Assembly when, surprisingly, the Chairman probably would have gone that way but under 129(3), it says: "Where a Member of P.P.C. is given written notice of his or her resignation to the Bailiff, the Presiding Officer shall inform the States of the resignation at the next meeting of the States." This is a Chairman. I remember trying to do the same, Sir, and resign from a committee and I was told by the then Bailiff that I could not unless I put it in writing, then he would tell them at the next States meeting, which is 10th September. I just hope procedures are being followed.

**The Greffier of the States (in the Chair):**

I think, Deputy, that may have been under the previous Standing Order. I think Standing Order 129 is quite clear because there are 2 ways in which a Member, and I think in this context "Member" includes the Chairman, can resign, either during a meeting of the States by personally informing the States, and that is what the Chairman has done today, or by giving written notice to the Bailiff, and it is only in the second category that the Bailiff must give that notice at the next meeting. Standing Order 129(4) provides that the Member, in this case including the Chairman, vacates office when the States are informed. The Chairman himself has informed us this afternoon of his resignation so I think it has to take immediate effect. Very well, the adjournment is proposed. Acting Chairman of P.P.C.?

### **9.2 Deputy M. Tadier:**

Thank you, Sir. **[Laughter]** I will enjoy that while it lasts. I was going to ask whether the Assembly would be amenable. It seems that an election is likely, if I have read the situation, in the next couple of days and to give Members clarity about when that might take place, could I suggest



that if any Member is considering their candidature that it be done on Thursday morning, first thing, so that we have time, at least tomorrow, to consider and for people to write speeches if necessary and to canvass other Members for support, and so on?

**Deputy G.C.L. Baudains:**

Could I seek clarification? Taking up from the last speaker of course, we may in fact finish tomorrow.

[17:30]

I am not sure but I hope so. Is it the case that P.P.C. remains in office until a new committee is put forward or otherwise?

**9.3 The Greffier of the States (in the Chair):**

Yes, the Standing Order provides that in the event of a vacancy of a Chairman, the Vice-Chairman acts as the Chairman and the members remain in office, but that the members leave office when the new Chairman is appointed. So there may be a second part to the appointment, which would be the new Chairman having to suggest members to the Assembly, which may be a tight-schedule but, hopefully, that could be achieved.

**Deputy J.H. Young:**

Can I seek clarification further on that? If we elect a new Chairman, who is a different Chairman, when do we get the chance to appoint the remaining members of the committee? It could be done this week?

**The Greffier of the States (in the Chair):**

It could be done at the same meeting, although Members may wish to have some time to consider that, in which case we would have a Chairman throughout the summer but no committee.

[Laughter]

**The Connétable of St. Peter:**

On an entirely different matter, Sir, I would just like to advise Members that Beaumont Hill has been closed for the past 2 hours due to a serious accident, and it may still be closed if they are heading that way now.

**The Greffier of the States (in the Chair):**

Very well. Thank you for the traffic advice, Constable. The Assembly stands adjourned until tomorrow morning.

**ADJOURNMENT**

[17:31]