

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 22nd JANUARY 2014

<b>PUBLIC BUSINESS – RESUMPTION .....</b>	<b>4</b>
<b>1. Composition and election of the States Assembly: reform - proposal 1 (P.93/2013) - amendment (P.93/2013 Amd.) - resumption.....</b>	<b>4</b>
1.1 Deputy P.J.D. Ryan of St. John:.....	4
1.1.1 Deputy G.P. Southern of St. Helier:.....	5
1.1.2 Deputy R.G. Le Hérisser of St. Saviour:.....	5
1.1.3 Senator L.J. Farnham:.....	6
<b>1.2 Composition and election of the States Assembly: reform - proposal 1 (P.93/2013) - second amendment (P.93/2013 Amd.(2)).....</b>	<b>9</b>
1.2.1 Connétable J. Gallichan of St. Mary:.....	10
1.2.2 Deputy J.M. Le Bailly of St. Mary:.....	10
1.2.3 Senator P.F.C. Ozouf:.....	11
1.2.4 Deputy G.P. Southern:.....	12
1.2.5 The Connétable of St. Mary:.....	13
<b>1.3 Composition and election of the States Assembly: reform - proposal 1 (P.93/2013) - resumption.....</b>	<b>15</b>
1.3.1 The Deputy of St. Mary:.....	15
1.3.2 Connétable A.S. Crowcroft of St. Helier:.....	16
1.3.3 Deputy M. Tadier:.....	17
1.3.4 Senator L.J. Farnham:.....	20
1.3.5 Deputy S. Pinel of St. Clement:.....	20
1.3.6 Senator B.I. Le Marquand:.....	20
Senator F. du H. Le Gresley:.....	22
1.3.7 The Deputy of St. John:.....	22
1.3.8 Connetable M.P.S. Le Troquer of St. Martin:.....	23
1.3.9 Senator P.F. Routier:.....	26
1.3.10 Senator P.M. Bailhache:.....	26
1.3.11 Deputy G.P. Southern:.....	28
1.3.12 Deputy S. Power of St. Brelade:.....	30
1.3.13 Deputy A.E. Pryke of Trinity:.....	30
1.3.14 Deputy C.F. Labey of Grouville:.....	31
1.3.15 Deputy J.A. Martin of St. Helier:.....	31
Senator F. du H. Le Gresley:.....	33
1.3.16 Deputy S.G. Luce of St. Martin:.....	36
1.3.17 Connétable L. Norman of St. Clement:.....	36
1.3.18 Deputy J.G. Reed of St. Ouen:.....	37

1.3.19	Deputy J.M. Maçon of St. Saviour: .....	39
<b>LUNCHEON ADJOURNMENT PROPOSED .....</b>		<b>39</b>
<b>LUNCHEON ADJOURNMENT .....</b>		<b>39</b>
1.3.20	Deputy J.H. Young of St. Brelade: .....	40
1.3.21	Deputy T.A. Vallois of St. Saviour: .....	41
1.3.22	Deputy R.G. Bryans of St. Helier: .....	45
1.3.23	Connétable S.W. Pallett of St. Brelade: .....	46
1.3.24	Deputy M.R. Higgins of St. Helier: .....	46
1.3.25	The Connétable of St. John: .....	47
1.3.26	Connétable D.W. Mezbourian of St. Lawrence: .....	48
1.3.27	Senator A.J.H. Maclean: .....	48
1.3.28	Senator I.J. Gorst: .....	50
1.3.29	Deputy J.A.N. Le Fondré: .....	52
1.3.30	Senator P.F.C. Ozouf: .....	53
<b>2.</b>	<b>Draft Public Finances (Amendment of Law No. 1) (Jersey) Regulations 201- (P.133/2013) .....</b>	<b>63</b>
2.1	Senator P.F.C. Ozouf (The Minister for Treasury and Resources): .....	63
2.1.1	Senator S.C. Ferguson: .....	64
2.1.2	Senator P.F.C. Ozouf: .....	65
<b>STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY .....</b>		<b>67</b>
<b>3.</b>	<b>The Chairman of the Education and Home Affairs Scrutiny Panel - statement regarding the CCTV report re camera surveillance in Jersey .....</b>	<b>67</b>
3.1	Deputy J.M. Maçon (Chairman, Education and Home Affairs Scrutiny Panel): .....	67
3.1.1	The Connétable of St. John: .....	68
3.1.2	Deputy R.G. Le Hérisier: .....	68
3.1.3	The Deputy of St. Martin: .....	68
	Deputy J.M. Maçon: .....	69
<b>4.</b>	<b>Ratification of the Agreement between the Government of Jersey and the Republic of Croatia with respect to the Taxation of Savings Income (P.147/2013) .....</b>	<b>69</b>
4.1	Senator P.M. Bailhache (The Minister for External Relations): .....	69
<b>5.</b>	<b>E.U. Taxation of Savings Income Agreements: replacement of the retention tax by automatic exchange of information (P.150/2013) .....</b>	<b>69</b>
5.1	Senator P.M. Bailhache (The Minister for External Relations): .....	70
5.1.1	Deputy J.H. Young: .....	71
5.1.2	Senator P.M. Bailhache: .....	71
<b>6.</b>	<b>Draft Taxation (Agreements with European Union Member States) (Amendment No. 2) (Jersey) Regulations 201- (P.151/2013) .....</b>	<b>72</b>
6.1	Senator P.M. Bailhache (The Minister for External Relations): .....	72
6.1.1	Senator P.F.C. Ozouf: .....	72
6.1.2	Senator P.M. Bailhache: .....	73
6.2	Senator P.M. Bailhache: .....	73
<b>7.</b>	<b>Referenda: revised procedures (P.153/2013) .....</b>	<b>73</b>
7.1	Deputy R.G. Le Hérisier: .....	73

7.1.1 The Deputy of St. Martin:.....	74
7.1.2 Senator P.M. Bailhache: .....	74
7.1.3 The Deputy of St. Ouen:.....	74
7.1.4 The Connétable of St. Mary:.....	75
7.1.5 Deputy J.H. Young:.....	75
7.1.6 Senator P.F.C. Ozouf:.....	75
7.1.7 Deputy G.P. Southern:.....	76
7.1.8 Deputy J.A.N. Le Fondré:.....	76
7.1.9 Deputy M. Tadier: .....	76
7.1.10 Deputy J.M. Maçon:.....	77
7.1.11 Deputy R.G. Le Hérissier:.....	78
Mr. T.J. Le Cocq, Q.C., H.M. Attorney General: .....	78

**ADJOURNMENT.....80**

[9:30]

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

**PUBLIC BUSINESS – RESUMPTION**

**1. Composition and election of the States Assembly: reform - proposal 1 (P.93/2013) - amendment (P.93/2013 Amd.) - resumption**

**The Deputy Bailiff:**

Very well, we now resume debate on Senator Farnham's proposition, P.93 amendment, and does any other Member wish to speak?

**1.1 Deputy P.J.D. Ryan of St. John:**

The reason that I am standing to speak is that this may well be the last opportunity to explain to Members what my thought processes have been regarding the office of Senator for the Island-wide mandate and not for any other reason other than there may be some elements in my thinking that might ring true with some Members and it may just change the odd Member's mind. I do not know. I would have supported, and did support, Deputy Noel's amendment to Lyndon Farnham's amendment because I would have preferred it marginally because I also need to explain, as a Deputy of St. John, why I am going to support Senator Farnham's amendment which effectively reinstates Senators but at the expense of one of the Deputies in the proposed super-constituency of St. John, St. Ouen, St. Mary and St. Lawrence which means that those Deputies, potentially, would number 3 in that District. Now, it could be construed, therefore, that I would be voting myself out of a job, potentially, but I think on balance the office of Senator is more important than perhaps my own wish to get re-elected possibly, potentially, at some time in the future or to inhibit my chances of being elected at some time in the future. A lot of people talk about Clothier. The fact is that Clothier was some time ago now and things have changed since Clothier. We now have a Department for External Relations and that was felt to be right by the Assembly. What does that say to us? It says to us that one of the elements that we have to manage in this Assembly, of the 2 elements in very general terms that we have to manage in the Assembly, in fact has grown and has become more important and that is the issue of us becoming more independent, taking more care of our own destiny outside of the Island. In other words I am talking about the wider external ... what would be termed in the United Kingdom system as the central government role, has become more important and expanded. I do not see that it is going to go in the other direction in the future at any time. I think it is only going to get more important. The Island-wide issue is going to become more and more important. The other side, of course, of what we are doing here could be termed in the U.K. (United Kingdom) system as local government. That is the reason why I do not see any particular problem with there being 2 offices that stand for election in this Assembly and I believe that one of them in the future should have an Island-wide mandate, should be more focused on Island-wide issues and including external issues potentially. That is why I think we are potentially making a mistake to abolish the Island-wide mandate and the office of Senator. In essence, that is simply why I have consistently spoken out that we need ... and this is my thinking processes, why it may well be a mistake to lose, at least for the time being until we see how it works out in the future anyway, the office of Senator. Now, some people will say that if we have super-constituencies then the mandate is big enough to cover that and I am not going to go over all the arguments that people have made in favour of keeping Senators, things like: "Would the Chief Minister come from that area?" and potentially a sixth of the Island would not have had a chance to vote for a new Chief Minister. All of those things have been well covered by other people so I am not going to go on about that at this point but I do need to explain to people what my thought processes are. I think it is really important that for the time being ... we will see how it works out in the future but I do not see any reason why there should not be 2 offices. If I had not have voted C in the recent

referendum I would verge more, I am afraid, towards A than B but I do think that A with Senators may be the right way to go. I do not see any problem with the Constables standing for election after a Parish election, shall we say, for a Constable. As long as he had made it clear to his parishioners when he was being elected as a Constable I do not see any reason why he would not be able to stand also for the States-wide elections as a Deputy or even, potentially, as a Senator for that matter. So there we have it. That, I hope, explains my thinking and why I am going to support Senator Farnham. If it fails then we move on to the next most important thing, which I believe the people of the Island and I want as well, and that is a reduction in States Members. So if Senator Farnham's amendment is not successful I will also be supporting Senator Ozouf.

### **The Deputy Bailiff:**

Does any other Member wish to speak?

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

Afraid so. A fresh day and a fresh task and here we have various versions of reform light; how little can we do and get away with? While I was listening to Senator Farnham's gentle meandering through his proposition yesterday I thought: "How wonderful it must be to live in his panglossian world where everything is for the best." His suggestion that by the mere retention of 8 Senators we solve the democratic deficit is very far from the truth. We have just had a speaker suggest that we have moved on from Clothier, now we have a 'Minister for Foreign Affairs' who has to deal with these things but the people out there do not vote for a 'Minister for Foreign Affairs.' They do not vote for any Minister. They do not vote for the Chief Minister. The Chief Minister prepares his Strategic Plan and his business plan after the elections. No one on the Senatorial hustings, which increasingly is the bland leading the bland, stands up and says: "This is my vision. Elect me. I will be your Chief Minister and I will enact this particular set of policies." Why? Because until they are elected they cannot say that so there is no solution, I do not believe, in the mere retention of 7 Senators as a solution to the way forward. Members should, I believe, reject this along with all of these reform light motions.

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

I wish to follow ... what a great pity that we were not able to follow on immediately from that rousing tub-thumping speech from Senator Ozouf. Never in the history of this Assembly have I heard such a fine speech. He is brilliant, as we know, on his feet and it was utterly contradictory to everything he said in this Assembly before that speech. I thought it was unbelievably well delivered and unbelievable in its inconsistency. The amazing thing is from a person who is so good at sometimes reading the political tealeaves he is utterly out of touch. He is utterly out of touch because he failed to get into the spirit, such as it was, and it was a pretty dull spirit, of the last round of debates when everything was put on the table and the States made its last, ultimately, forlorn attempt to reform itself having known that it was in a state of panic because of the mess that had occurred as a result of the rejection, which I voted for it has to be said, of the referendum and for the right reasons, even though I know Senator Bailhache to this day undoubtedly must feel quite bruised about that.

[9:45]

The point remains, if I may take a general point in dealing with Senator Farnham's proposition, we cannot reform ourselves. It does not mean there cannot be reform, quite the opposite, but we cannot reform ourselves because immediately we try to do that ... and Deputy Ryan, as he outlined his thought process, as he called it, made that clear, we take the interest of a particular group. We fragment instantly into the vested interests of this Assembly and we cannot rise above that and behave in a statesman-like or stateswoman-like fashion. The only way we could do that, as we said well over a year and a half ago, was setting up a truly - and I underline the word "truly" - a truly

independent commission. I know the Commission worked hard. It worked with the best of intentions but it was flawed from the beginning and that was why, when we were presented with its advisory recommendations ... sorry, both from it and from the referenda, the States ultimately turned back and they turned back, obviously, because of vested interest. They faced the dilemma which was why, despite that wonderful rousing speech from Senator Ozouf, he could not ultimately follow the logic of his speech. The logic was, if he believed in those democratic principles which he said were missing and which he allegedly has been fighting for the last 17 years of which he has been a Member of the Assembly ... and I challenge him to put his voting record forward at all the reform debates so we can assess the sincerity of that position because it is very dubious, quite frankly. He could not follow, ultimately, through on the logic of his position, and the Electoral Commission faced that same dilemma. If you are going to go and give people the right and same number of votes ultimately you cannot have the Constables in the States and if you want the Constables the only way to resolve it is to have a referendum where the public tells us very clearly: "This is what we want or do not want" and then we can work with that. At the moment, as Senator Ferguson said yesterday: "We are continually dealing and dancing around the elephant in the room." The words "dancing" and "elephant" perhaps do not go together but anyway it is worth trying. We are continually dancing around that issue and trying to make the illogical logical. Senator Ozouf was not prepared to push the logic of his argument because he knows where it would land him. He knows where it would land him, in a position he has never been prepared to properly articulate and that is why we are in this mess. I advise the House, as did Senator Ferguson yesterday, let us stop this charade, let us stop this waste of public money and let us put this to the new House and move on and stop wasting time. This has been, quite frankly, a cynical attempt to use the emotion of being in the Last Chance Saloon, a cynical attempt to say: "I have got the formula which has eluded you for so many years." Well, as much as I admired Senator Ozouf's speech, if not the content, sadly that is not the case. Sadly, that is not the case and let us have a moment of reflection, let us stop being put into the sense of panic because that is all that is being attempted at the moment.

### **The Deputy Bailiff:**

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

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

I just want to remind Members briefly while I meander my way through my next charming delivery. It would be so nice to hear Deputy Southern say something charming once in a while but maybe we can live in hope. I thank the Deputy anyway for his compliments. I just want to remind Members that under this amendment all voters can elect a similar amount of States Members. I just want to read an excerpt from Lewis Baston's report, the *Electoral Systems Research*. It says: "Absolute equality of numbers is not used anywhere as a sole criterion for determining the size of legislative districts, other criteria are taken into account. The most relevant to Jersey is respecting well established boundaries between local government units and the community identities they represent." It goes on to say: "That also relevant is that many Legislatures are bicameral and membership of the second chamber is often used to give small states and other tiers of government a voice in the Legislature." Jersey is unicameral and that is why any such representation has to be in the single Assembly. That is why retaining the office of Senator alongside the office of the constituency, the Deputy and the Constable is important. Failure to do so will undoubtedly lead, in the future, to a second chamber being established because where you have one type of States Member and a number of constituencies there has to be that check and balance in my opinion. All voters, under this amendment, will vote for more States Members so the voter influence will be increased. The minimum number of States Members that a voter will vote for will be 10 as opposed to 6 or 5 under Senator Ozouf's amendment and that is important. Deputy Noel brought

this important point up because... I refer him back to my previous comment, sole criteria. While it is desirable for everybody to have the same number of votes in our unique situation it is not essential. I think that increased voter influence by being able to vote for a much bigger part of your Assembly more than covers for the fact that some voters can vote for 10 and in St. Helier, where my amendment increases voter influence, voters can vote for 13 Members of a 45-Member Assembly. So not only is voter influence greatly improved but voter equity is also greatly improved. I bring this amendment ... we have used the word "compromise". Well, I have tried to compromise because when I worked with my colleagues on the option C campaign we did not like the idea of super-constituencies. The fact that they are made up around the Parish boundaries I think is a plus at this stage but in determining to find a solution I am prepared to compromise on that because my position on the Island-wide mandate, which I think with the super-constituencies is absolutely vital and we are kidding ourselves if we say it is not without vastly changing the structure of our unicameral system. Do not forget the option C campaign, and Senator Le Marquand knows, because this was his creative thinking that delivered our strapline change but not this change. We wanted change. We do want change. The 16,624 people that turned out and voted in the referendum, whatever we think of that as the size of the sample, voted for change, 16,000 people turned out and voted for change. The campaign, I thought, was an excellent and well run campaign by the 3 reform groups and it turned out the option A and B campaigns gave themselves a very close fight, but option A only losing very slightly to option B. Interestingly I think about 80 per cent of a second vote went to option B which produced option B as a clear winner after the second round of voting. Now, that tells me that although the option C option was misrepresented by being represented as a vote for no change it strikes me that the majority of option C supporters voted option B for their second choice and therefore would accept a solution which is, in the current circumstances, the best of what we have on offer, which is the retention of the Constables, the 6 super-constituencies, with a slight adjustment to make sure St. Helier have a representation, and the retention of the 6 Senators. So I would appeal to my colleagues that worked on the option C campaign to remember our slogan: "Change but not this change" so we can vote for change now and we can have something that is acceptable. We can also restore the public's confidence, or go some way to restoring the public confidence, by reinstating the large part of the referendum result. I would also appeal to those option B supporters and ask them because I believe if we work together we have a chance. This vote is on a knife edge. Maybe Senator Ozouf's proposition, if mine fails, will run closer but it is on a knife edge and the only way we can avoid leaving a legacy to the next States Assembly of indecisiveness and inaction is to work together to find the solution and that puts us in a better place. Do you all really want to be part of an Assembly that absolves itself from this responsibility? I have heard this a lot, it is the easy thing to say now and it sounds plausible especially when Deputy Le Hérisser boomed it across the Chamber just a minute ago, and that is: "Let us leave it to the next Assembly." Are they going to thank us for that? Are they going to miraculously do what we have not done or could not do or refused to do? I do not think they are. By doing that we are absolving ourselves of the responsibility and the opportunity to bring some reform. Now, when I led the option C campaign I did not like the super-constituencies but I can live with them and I think in time they will work but we have to give them the opportunity. I thank all the Members that have contributed and I just finally remind Members to think; the opportunity we have today and the legacy of inaction and indecisiveness we will pass on to the next Assembly if we do nothing. Thank you. I ask for the appel please.

**The Deputy Bailiff:**

The appel is called for. I invite all Members ...

**Senator P.F. Routier:**

Is it possible to take the paragraphs separately, particularly 5?

**Senator L.J. Farnham:**

I did ask at the ...

**The Deputy Bailiff:**

You did. The appel is called for and it is requested by the proposer that we take each paragraph separately. I am just wondering about that, Senator, when I look at parts 1, 2, 3 and 4 and put them together.

**Senator L.J. Farnham:**

Yes please.

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

May I ask a point of order, which is not specifically related to this, but do we now need 25 votes or 26 in order to carry any constitutional reform?

**The Deputy Bailiff:**

In respect of paragraphs 1 to 4 you need 26. In respect to paragraph 5 ...

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

With respect I am not sure that is right at this stage. This is an amendment. I totally agree with you in relation to the final vote.

**The Deputy Bailiff:**

I am sorry in relation to the final vote that will be the ... because it is just an amendment of course you are right. Thank you. When it comes to the final vote on a structural change you will need 26.

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

I hesitate to question your ruling but I do not understand how paragraph 5 can be voted on separately because it refers to the office of Senator and if we do not have 1 we do have no Senators.

**The Deputy Bailiff:**

We will not vote on 5.

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

Thank you.

[10:00]

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

Sir, can I just ask for clarification? You referred to the final vote requiring 26. By that, do you mean what we are voting on now, 1 to 4, requires 26 to be approved by the Assembly as an amendment to go to Senator Ozouf, because I ...

**The Deputy Bailiff:**

What we are looking at at the moment is an amendment to Senator Ozouf's proposition. These amendments will either pass or not pass. If they do not pass we go to Senator Ozouf's proposition, and that will require 26 in relation to the changes to the Assembly, the composition of the Assembly.

**Deputy J.A.N. Le Fondré:**



Sorry, Sir, I hate to challenge but my understanding from the advice direct from the Greffier in the past, all amendments when we went through this last time round had to achieve 26 before we even got to the final proposition. That was my understanding.

**The Deputy Bailiff:**

Well, these amendments will have no standing, as it were, until we vote on the amended proposition if it is amended. It has to be that way. Right, I will once again invite Members or the Member to return to his seat and ask the Greffier to open the voting. The first vote is on parts 1, 2, 3 and 4 of Senator Farnham’s amendment.

<b>POUR: 14</b>	<b>CONTRE: 32</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier	Senator A. Breckon	
Senator P.F.C. Ozouf	Senator S.C. Ferguson	
Senator A.J.H. Maclean	Senator F.du H. Le Gresley	
Senator B.I. Le Marquand	Senator P.M. Bailhache	
Senator I.J. Gorst	Connétable of St. Clement	
Senator L.J. Farnham	Connétable of St. Peter	
Connétable of Trinity	Connétable of St. Mary	
Connétable of St. Lawrence	Connétable of St. Ouen	
Connétable of St. John	Connétable of St. Brelade	
Connétable of St. Saviour	Connétable of St. Martin	
Deputy of St. Ouen	Connétable of Grouville	
Deputy of Trinity	Deputy R.C. Duhamel (S)	
Deputy T.A. Vallois (S)	Deputy R.G. Le Hérisssier (S)	
Deputy of St. John	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy of Grouville	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy S.S.P.A. Power (B)	
	Deputy K.C. Lewis (S)	
	Deputy M. Tadier (B)	
	Deputy E.J. Noel (L)	
	Deputy M.R. Higgins (H)	
	Deputy A.K.F. Green (H)	
	Deputy J.M. Maçon (S)	
	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 R.G. Bryans (H)	
	Deputy R.J. Rondel (H)	

**The Deputy Bailiff:**

In the circumstances part 5 of the proposition falls away because there may not be consensus.

**1.2 Composition and election of the States Assembly: reform - proposal 1 (P.93/2013) - second amendment (P.93/2013 Amd.(2))**

We now come to the amendment of the Connétable of St. Mary and I will ask the Greffier to read the proposition and simply refer to the table.

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

Page 2 paragraph (d). Delete paragraph (d) and replace it with a new paragraph (d) as follows: “(d) That the proposed new 4 large areas will replace the current schedule 1 to the States of Jersey Law as follows: each of the areas between 8 Deputies.”

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

I have got no pleasure at all in standing here today. I believe more than enough has already been said in this debate, more talk about a subject that really should have been done and dusted after the public expressed their views. However, I have heard it before, we are where we are. Senator Ozouf tries to adhere to the 4 key principles set up by the Electoral Commission but does not achieve an equal number of votes for each voter. The only reason that I have brought this amendment is to enable that principle also to be met. The idea behind this amendment is not my own but was expressed by a goodly number of respondents to the Electoral Commission’s interim report, who all proposed a different mechanism for defining the boundaries of the proposed larger electoral districts. In bringing this amendment, I fulfil a responsibility to allow their voices to at least be heard. Briefly, a few points from my reasonably brief report. Is it reasonable to elect Members? We have heard Senator Ozouf’s concerns about electing 8 Senators. We are not in fact talking about electing 8 Senators with this amendment, we are talking about electing 8 Deputies in districts. There is a very big difference; the size of the pool for candidates is smaller and so potentially the number of candidates standing smaller, but the other side of the coin which Senator Ozouf did not touch on and which is my real fear about Senatorial ... a wide Senatorial election is that it has long been seen that the Senatorial position is something that people aspire to after a, shall we say, training ground in another office. With a move to a single-day election and the fact that Senators only have the same term of office as other Members, where is that incentive, that motivation to step-up into the role? We run a real risk that the office of Senator would be devalued if it continues as at the present time. We must not forget when we are talking about electing 8 Deputies at a single time and that this is simply one more Deputy than was suggested by the commission under option A proposals. The views expressed by the public were to be able to directly elect as many States Members as possible. This amendment enables every elector to vote for 9 Members, one Connétable and 8 District representatives. The districts have been arranged to maintain the Commission’s preference not to amalgamate Parishes where electoral districts ... into electoral districts where there are not adjoining boundaries. Each district as proposed represents a quarter of the electorate. Each district includes either 3 or 4 Parishes, or parts of Parishes. The amendment crucially maintains the Commissioner’s principle of equality of votes. The question that Members need to ask themselves, it is a very simple question, no matter where you live, no matter who you represent. Surely equality of vote should be guaranteed for all and have no dependence at all on whether one lives in a country Parish or an urban Parish. Thank you, I make the amendment.

#### **The Deputy Bailiff:**

Does anyone second it? **[Seconded]** I call on the Deputy of St. Mary.

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

I am amazed that the Constable is presenting this proposition today with her having been part of the Commission which brought the original proposition for public referendum. A referendum that was not taken up by the majority of the electorate because they did not like the choices given, and after a long debate to decide if this Assembly should accept the pathetic turnout for the favoured vote, it was quite rightly rejected. The last time that we debated this, the Constable presented a proposition based on the Commission’s ideals, and again the proposition was rejected along with the other propositions that Members had brought. Surely that should have told these Members something; it

is not wanted, certainly not in the form that it has been presented so far. That is not just a decision for this Assembly. That is the message of the electorate, or it is if you listen to them. The people in St. Mary and indeed throughout the Island are dismayed that this proposition should be presented without any further form of public engagement, either Island-wide or at least within the Parishes. We in St. Mary wish to remain with our existing Parish boundary system, that is important to us as a community. I have listened to those people. That is my duty; after all, it was why I was elected. I therefore have no hesitation then to reject this proposition also. Any further drastic changes to our constitution should only be done with the approval of the electorate. Listen to what they are saying: no to constituencies, keep our Senators, keep our Island mandate, keep our Parish representation and boundaries. If you vote for this proposition you are ignoring the overall public opinion. Please do not do that. Reject this proposition. Thank you.

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

I am pleased to follow the Deputy of St. Mary because again, he has, with respect, in this debate, I think not wilfully, but I think that he has partially explained the democratic mandate that we have or do not have in relation to these matters. I am going to come to the Connétable of St. Mary's proposition because as frustrating as it is for Members we should be examining it and properly considering it to see whether or not it passes any of the tests that we have got. I say that because - and I will come back to this later on - there is the issue of mandate, whether or not we have a mandate to do anything at all. The guiding principle should be that we should, but we should not forget that rejecting anything in this debate today would ensure that the electorate have a system which has no mandate at all. There was no mandate to reduce Senators, there was no mandate to a single election day, there was no mandate for any of the changes. So, I am afraid, to talk about mandate is certainly partial. Let us examine what the Deputy of St. Mary has just said. He claims that his parishioners want a no-change situation. Well, I have looked overnight at the St. Mary result. I have looked at his own result of how he got his privileged seat in this Assembly. No disrespect but the facts are the facts. In terms of the mandate that he has, he has 291 votes. That is what he got to be the Deputy of St. Mary. There was a 57.1 per cent turnout, a legitimate mandate, he had the nearest ... he had 42 per cent of the votes cast in St. Mary. There were 696 people that turned out in that Deputorial election. He presumably thinks that he has a mandate. He does. He had a mandate to secure the position of the Deputy of St. Mary and nobody is criticising that but that is how it was achieved. He has a mandate but it was a mandate of 291 votes. The second candidate got 246 and the third candidate 159. Mandates are legally legitimate. The mandate that he says that there is not for reform, the St. Mary results for the referendum, was that there was a total of nearly 500 people who turned out to vote in the referendum. About 70 per cent of the people that voted in the Deputorial election voted in the referendum; 70 per cent, that is a much higher number of people than a lot of other areas of the Island. The people of St. Mary spoke in the following way: 124 of them said they wanted option A. The greatest number, 192, said that they wanted option B. Only 165 said that they wanted to continue with the current system. So I just ask the Deputy of St. Mary to reflect upon his remarks to say that his constituents wanted no change. I cannot see that. I cannot see that in one of the Parishes that has the greatest number of people turning out for elections for Senators, for Deputies and indeed in the referendum. Is it correct, I ask the Deputy, for him to stand in this Assembly and say that his constituents, when the full test was made, said that they did not want change? I do not think that the numbers reflect that, and when we look at the transfer of the option C votes of what they preferred as their least ... as their second choice, it was an overwhelming decision in St. Mary to keep the Constable and to have larger constituencies. That is what they said, they wanted to keep their Constable but they wanted to have larger constituencies. Now, to deal with the Connétable of St. Mary's proposition. In this debate, and Deputy Le Hérissier said and challenged people's sincerity of their convictions of reform. Now is not the time to repeat history but very briefly some of us have tried to have reform, to have

an Island-wide mandate. I worked with the Deputy of Grouville to maintain an Island-wide mandate right up to the wire in the shenanigans that were in the last ... the Deputy will, I think, agree, both Deputies will agree that there were certain political ... we are saying that this is the Last Chance Saloon. Well, in fact the Senatorial issue was done really, really, really right up to the wire and there were close votes with people known not to be here. This is a close vote, this is a difficult issue, so let us not over-exaggerate what has happened. People have changed their position. I have thought about whether or not my position should be changed, or Senator Farnham or the Deputy or the Constable of St. Mary's proposition. I have done so with sincerity and with some guiding principles but with an overwhelming view that we should be avoiding the worst possible situation which is an electoral system which has no mandate which everybody in this Assembly appears to say will not work, P.P.C. (Privileges and Procedures Committee).

[10:15]

Deputy Le Hérissier says that the current system is broken. I am trying to avoid a situation where that situation does not come to pass with no mandate. That will not work, and in that spirit I have looked at the Connétable of St. Mary's proposition. I supported Senator Farnham because it was the least ... it was better than doing nothing, and with respect to the Connétable of St. Mary, I think that the conclusion is that now faced and we are now in the funnel of reality, we are in a funnel of having only fewer and fewer options available to us. Some Members will say it is inappropriate to say that is the Last Chance Saloon but we are now whittling down the options. We now have very few options left and we effectively have 3, we either have do nothing; we either have the Connétable of St. Mary; or we have an amended referendum result. Those are the options. Now, for those who want change, let us examine the Constable of St. Mary's option. I will not be supporting it, I am afraid. I think the Connétable ... I have the greatest of respect, she is trying to find a solution and she should be commended for that. She has been trying to find a solution to the problem of electoral reform for some time. I do not think her solution works, unfortunately, for 2 reasons, and I think that she said it herself. I think that the 8-seat election will not work. The rules about mathematics are the same in a large district or a slightly larger district or a Senatorial. People will not choose and this is borne out by other elections in other places, in Guernsey. Yes, in the Cayman Islands, if I may say to Senator Ferguson. There are other elections where there are multi seats and you can see what the numbers of votes that are used in those elections, and in an 8-seat Senatorial, in an 8-seat large district, which the Connétable is proposing, it will not, I am afraid, deal with it. The first few will be fine but the next few will not be fine, and I think the other problem which is of concern perhaps to those that want to keep a Parish link with their elected representatives, there are some people that are purists that are saying it must be just simply the Deputy and a seat. There are others that are saying that they want to have a broad outline effectively of groupings of Parish with the guiding principles of the same number of votes. I think the problem, if I may say, with ... to the Connétable is that her proposal of doing some merging ... I look at my Constable, the Constable of St. Saviour and I think about her District which is now split effectively between a District 3 and 4. I do not think that works. If we believe in Parish life, if we believe in the Parish system, I think that we need super-districts that respect the Parish boundaries. St. Helier is split and I say that is not necessarily the right thing. There needs to be some groupings. Democracy can work. The basic rules of how democracy should work can still work with Parish boundaries. So having taken it seriously which this debate should be serious, it should not be flippant, it should not be about rotten cabbages, it should be about serious analysis and serious thought. That is what we are here for. I do not think that on that analysis, with the greatest of respect, I do not think the Connétable's work ... but I think she is right to have brought it, it is right to have a test, but I hope that ultimately she will support the underlying principles which she worked on in terms of the Electoral Commission.

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

Another veteran of these debates, we have now reached the point where I am reminded of that free insert that came with Viz, I think it was - Viz comic, some years ago - which was entitled “Crochet your own hang glider” [Laughter] where everybody comes up with a version of the truth as they see it. Senator Ozouf had the words when he was setting the Constable of St. Mary’s proposition, when he said: “Does it pass any of the tests that we set for it” and he said: “No” and I think that is true of this particular hang glider. It may well have very pretty patterns, it may well have very pretty colours, it may look beautiful, you may want to pin it on your wall and admire your handiwork. You may want to put it on the bed and keep warm because you cannot afford the electric any more, but whatever you do, do not go to the top of the hill and try and get airborne because it will not work, and I do not think this will work either.

**The Deputy Bailiff:**

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

**1.2.5 The Connétable of St. Mary:**

I thank the Members for their contributions, Deputy Southern’s particularly amusing, I think, and has a point to make. Like other speakers I have tried to keep my contribution to a minimum. I have not spoken before. I am going to ... I have very little to say in summing-up but as a member of the Electoral Commission and mindful of some of the things that I have heard in this debate on my amendment and also elsewhere, there are a couple of things ... remarks I would like to make in the whole debate and I think this is the time to do that. Firstly, I would just like to say a word about hijacking, about the Commission being hijacked because personally, and I know from a public point of view, I am rather tired of this cliché. Members should be careful how they express themselves in this Assembly. It is always possible to disagree with a decision taken democratically, it is always every Member’s right to do that, but it is wise to understand that this Assembly as a body has the right to revisit decisions and to either reverse them or adapt them, or in some cases to fully reinforce them. There are very few parliaments in the world where a single Member backed-up by only one seconder can seek to review a proposition brought, for example, by a Minister and passed by a majority of Members, and that is something that a good many in this Assembly hold dear and think is a valid boost to our democracy. In the case of the format of the Electoral Commission, the changes in its makeup were proposed not by an individual but by the Privileges and Procedures Committee and were adopted by a considerable majority of Members exercising their democratic rights and responsibilities. So no more talking of hijacking, it was a change of direction. Secondly, about the criticisms that the public had not had a chance to express their views, that they were being offered things they did not, by a majority expression, want. The Electoral Commission worked extremely hard to encourage the public to participate and the results of that encouragement can be seen on the website of the Commission. The number of submissions was formidable and the range of topics covered, likewise. The engagement at the public meetings and the response to the interim report bear further witness to this. It is completely disingenuous to infer that the views of the public were not received, and it is insulting to imply that they were not valued and taken account of. It is a sad truth that States Members are often considered fair game for insults. It goes with the territory, and we just deal with that. What I cannot accept, however, having seen at first hand the robust discussions held among Commission members and the fact that no one, and I mean absolutely no one on that Electoral Commission, got away without having their views challenged, and seriously challenged during the process. What I cannot accept is that the integrity of the non-elected members who cannot have a voice of reply is in any way challenged by Members of this Assembly just because the Commission’s recommendations did not tally with their own private views. This, to me, is quite unacceptable. There are some in this Assembly who still do not understand that the work of the Commission was, in a nutshell, to gather submissions, review them and then to bring forward recommendations. It was not simply to carry out yet

another opinion poll. The Commission had to go beyond that and had to distil the essence of the submissions, and then find and present a workable proposal to be put to the public. Enough about that. I am having the greatest difficulty with this debate, not least because so much of what has been said previously is based on a narrow selective reworking of past consultations, but also because I personally feel a responsibility, having gone to a referendum, to honour the views of the public; if we could not honour that referendum result to at least honour the principles. We went and took the views of the public, not just in a particular area of the Island but in the Island as a whole. Of course, in my case the decision was clear cut as the Parish and Island results were the same, but any Member who has spoken on the importance of the Island-wide vote ought to be considering why they felt able to reject the overall Island decision taken in the referendum. To me that has got a feeling of a double-standard about it. My real difficulty is this however: I have striven to adhere as closely as possible to the principles identified by the Electoral Commission and to the result chosen by the public. I can see the writing on the wall for this amendment, I could see it when I brought it but, as I said, it was a duty I felt that this view needed to be represented, and I am grateful to Senator Ozouf for saying that it deserved to be explored. I see the writing on the wall so I am drawing to a close. While the main proposition does not meet all of the principles, not to adopt it means that the system we take to the next poll is the one system that the public clearly expressed a view that it did not want to take forward. The level of contempt for the public is hard for me to accept. Thank you. **[Approbation]**

**The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats for voting on the amendment of the Connétable of St. Mary. I ask the Greffier to open the voting.

<b>POUR: 3</b>		<b>CONTRE: 41</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator P.F.C. Ozouf		
Senator I.J. Gorst		Senator A. Breckon		
Connétable of St. Mary		Senator S.C. Ferguson		
		Senator A.J.H. Maclean		
		Senator B.I. Le Marquand		
		Senator F.du H. Le Gresley		
		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. Ouen		
		Connétable of St. Martin		
		Connétable of St. Saviour		
		Connétable of Grouville		
		Deputy R.C. Duhamel (S)		
		Deputy R.G. Le Hérisssier (S)		
		Deputy J.A. Martin (H)		
		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 M. Tadier (B)		
	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 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 R.G. Bryans (H)		
	Deputy R.J. Rondel (H)		

### **1.3 Composition and election of the States Assembly: reform - proposal 1 (P.93/2013) - resumption**

#### **The Deputy Bailiff:**

We now return to the main proposition of Senator Ozouf. It was some time ago but I had down on my list to speak, Deputy of St. Mary if you still wish to speak. I should warn the others that the next 2 on my list carried forward from the start was the Connétable of St. Helier and Deputy Tadier.

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

This proposition which the public now consider to be a farce, just as the Senator's speech was yesterday, aided by his crystal balls; I assume he has 2. However, the one he consulted yesterday only portrayed his dreams. He needs to consult the reality ball which shows the wishes of the general public rather than ego trips. This did not start with the April referendum, this started before the October elections in 2011. In fact, having telephoned Sir Philip Bailhache prior to his hustings in the Parish of St. Mary, to warn him of the Parish ... St. Mary's parishioners' dislike to possibly becoming a constituency, and then at the hustings asking Sir Philip again if his idea of reform with constituencies was the only way to go, the Senator said it was not set in stone. On that statement he secured many votes, mine included. I even wore his colours during my election. We were however misled, for on being elected the Senator then headed the Reform Commission and constituencies were not just on the agenda but quite firmly set in stone. Subsequently there are a lot of disappointed people in the Island and I know that my parishioners in particular also feel that way. I, and I know the public, have a great respect for both Senator Ozouf and Senator Bailhache for the work that they do for the Island of Jersey. They are both ideally suited to their roles within our Government. However, messing with our constitution when it is not broken is not one of them. Once again we are dragging up an old issue, ironically due to the main proposer, Senator Ozouf, having played a tactical game at the last ... at the start of the last debate on this by withdrawing and deferring his proposition, then leaving the table having successfully allowed others to bring their propositions to be debated on and rejected.

[10:30]

But like a card sharp the Senator has slipped in through the back door and is once again back at the table ready to play his hand with little opposition. The card he holds is quite rightly the joker, a colourful character, it should no longer be in the game but back in the box. This Assembly quite rightly rejected the previous propositions which differed very little from this one, only to have this proposition bounce back for consideration in what is a very underhand way. The situation has not

changed, the public have still not been consulted. Their views have not been asked for or their previous comments listened to. The public still hold the ace card but they are still not being allowed to play. The Senator once again intends to bulldoze his proposal through regardless of public opinion; something he has done in the past on other issues, something that this Assembly has reprimanded him for previously. The Senator has to accept that sometimes he is not always right. This is one of those times. This proposition is now between the Senator and the people of the Island. The people need to have their chance to show their hand. The Senator is denying this once again. They are being duped. Once again they are being dictated to. This proposition has no more merit than the previous melee. It should be not presented like a card sharp with the attitude of a bulldozer. The Senator is wrong on this issue, the people of the Island say so and the Senator needs to listen to those views of the public and let them engage on the right way forward.

**The Deputy Bailiff:**

Deputy, forgive me, this is the second occasion in your speech when you have likened the approach of Senator Ozouf to that of a card sharp which is a suggestion of cheating, which is dishonourable. It is not appropriate parliamentary language and I would ask you to withdraw it.

**The Deputy of St. Mary:**

Sir, that was not my intention and I apologise for that.

**The Deputy Bailiff:**

I am grateful.

**The Deputy of St. Mary:**

I urge everyone in this Assembly to take note of your electorate's wishes. Allow the people of the Island to have their say and for us to listen to what they want before imposing yet more nonsense on them. Listen to what they are saying, they do not want the constituencies, they do want Senators and they do want an Island mandate. The Parish boundary system which we have is at present fundamental to maintaining our communities and interest in the Parish system. Let us use these requests to formulate a proposition for change. This Assembly should take heed of that before contemplating change at the eleventh hour just to concede to the Senator's wishes, change that the public do not think is the most important item on our agenda at the moment. The right cards have not been dealt to allow democratic change to happen; democratic change requires public consultation. Senator Ozouf's proposal does not allow that to happen. The public must be involved once again but this time the right questions have to be asked. Having a limited choice with part of the choice having an unacceptable compromise is not democratic, nor is it acceptable to accept the result when the result is less than 51 per cent of the votes cast by the public. Changing our constitution, our history, should not be executed by a few votes in this Assembly. Voting for this proposition today will result in a close split vote which is not the way to implement such a drastic change to our constitution. Split votes in this Assembly do not give public confidence. We only need to refer to the Plémont debate as an example of that. Let us learn from history. The important issue with the public is not equality of vote, it is the problems that we are evading while debating this; jobs for the unemployed, reducing the burden of the taxpayer at social security, limiting immigration, providing realistically affordable housing for our lower paid workers. All of these things are interlinked. Equality of vote will do nothing to solve those problems. I implore all Members of this Assembly to make a vote for the people of this Island. Reject this proposition. Thank you.

**1.3.2 Connétable A.S. Crowcroft of St. Helier:**

I said at the start I was only going to speak once but there have been a couple of interventions in these debates which really give me no choice but to rise. I thought that recent changes in the



composition of the Assembly meant that we would perhaps have less personal invective and speeches which lower the tone of the Assembly but unfortunately that does not seem to be the case, at least in terms of the last speech. I am frankly dismayed by the language used by the Deputy of St. Mary and I hope that he will, to quote himself, learn from history and he will take the trouble to look at Hansard and to examine what he has said in his speech, particularly in reference to Senator Ozouf. I think it is not an acceptable ... and you yourself, Sir, brought him up on one matter but I think his whole approach was to belittle and trivialise and personalise the remarks of Senator Ozouf. Indeed Senator Ferguson did that yesterday at the end of the session when after what I thought was a magnificent speech unscripted from the Senator, she stood up and made some throwaway remark about the Cayman Islands which turned out to be untrue anyway, as if to try to pull the rug from under the Senator's feet and deflate the success of his speech. This Assembly is no place for these kinds of speeches. We have had Members in the past who treated it as an after dinner slot and I think it is something which Members have to move on from. **[Approbation]** The Deputy said that the public have not been consulted. That, of course, is rubbish. If nothing else, the Electoral Commission and their work was a wide-ranging consultation exercise and it is completely untrue for the Deputy to say that the public have not been consulted, they have, and we have had a result. On St. Helier day last year, 16th July, P.64 was defeated by 28 votes to 21, which I thought was a very sad day for the Assembly because we ignored the express wishes of the public, and as the Constable of St. Mary said, and I thought a very telling point in another very fine speech today, the Constable of St. Mary said those who hang their hat on the Island-wide mandate which has just been lost as an amendment are disregarding the fact that we had an Island-wide vote last year on reform proposals and that Island-wide vote was that we should adopt option B. Members will remember that it was not my preferred option but it was the one that I felt I had a job to present to the Assembly. The public have been consulted, an Island-wide view has been expressed. Many Members have concerns about what that view was, and what Senator Ozouf, it appears to me, is trying to do is to give the Assembly another chance to go back to the 16th July, and particularly to those 28 Members who said they were not going to listen to the public's vote, to say well, here is your last chance to do that. As I say, I think there have been some very good speeches on this. The 28 Members who rejected the public's wishes presumably are planning to do it again so I am not that hopeful that this will be any different from what happened on 16th July, but certainly I think Members need to think very hard about what the Senator has also said which is that we do not really have a mandate for the proposals that we are running forward to in October. Thank you.

### **1.3.3 Deputy M. Tadier:**

It is a while since I put my light on and I should know that of course we had all those amendments to deal with. Nonetheless I do have some comments to make. The Constable of St. Mary is absolutely right that the blame for the Electoral Commission's curate egg should not be laid at the feet of the non-political members, in fact we should all be thankful that they were on there because it does not bear thinking about what the Electoral Commission would have come back if it were not for the corrective influence of those who were put on there specifically to be objective. I know for a fact that there were members on there who were fighting for sanity and logic to be used. But when it comes to politicians on the other hand, politicians have a reputation for making their living by pushing their own agendas, by being skilled in convincing people, neuro-linguistic programming perhaps, although it is not usually voiced like that, knowing about opinion management, knowing how the system works, who is likely to turn out. What was interesting, of course there were many submissions, much work was done and many of us would have appeared both before the Electoral Commission having made written submissions. The majority of those, and it can be counted, it can be verified by the Greffier... the majority of those who made submissions said that we cannot have the Constables in the States, it is not logical. How does that get translated into the final product that

the Electoral Commission came out with? We have 2 options which retain the Constables, therefore not allowing the ability to have equality of vote and equality of the number of votes, and we have one option which is cobbled together which has super-constituencies which we know are inherently unpopular. Therefore, the only one which met the principles that the Electoral Commission adopted of having the equality of vote and the same number of votes and electoral districts of roughly the same size was A but it was clearly unpalatable to those who supported reform along those principles and who did not want super-constituencies, who wanted some kind of Parish representation. Now, that has been recognised by the Privileges and Procedures Committee. Much work has been done in this. We recognise that those fundamental principles are sound. I believe that many of those who campaigned on both sides now realise that the super-constituencies are dead in the water but the principles remain the same, that there is a demand for Parish representation going forward, and that that can be achieved by making sure that all of those seats are based in Parish Districts so that each Parish is guaranteed a voice in this Assembly, whether that be via a Constable or a Deputy. I really do not think people out there are concerned about how that happens, they would be quite happy to elect a Constable to run the Parish and then if the Constable wants to put his or her name forward, that is fine, they will elect them. Or the Constables themselves may say: "I am quite happy just running the municipality, let somebody else be the political representative for the Parish." That seems to be the message that I have got out of it and I have had to change my position through that. It has taken humility, I think, for all of us. That is, I think, the position of P.P.C. and that is why collectively we have already made the decision as an Assembly to put this to the referendum. Now, these are the kind of arguments that I will be making when it comes towards the referendum, and the public will decide whether or not they want to elect Members with a reform ticket. It will be discussed at the next election, but importantly it will be discussed Island-wide because this will be, I believe, the last Senatorial election we have, and it is quite right now at the moment that we have that Island-wide discussion where whoever stands up to the plate to put themselves forward as Senators, and it may well be just for one term for purely reform purposes, that Island-wide debate will be happening. It will not be allowed to happen if we go for option B-plus which is being presented to us today. I do not think I need to make many more comments. It is clear that option B-plus is different to ... it already departs from the key objective of giving everybody the same number of votes. It is saying that St. Helier can have more votes, they can have 6 rather than 5. We have already heard that it is difficult even in 2008 and 2011, but particularly in 2008, there were 6 candidates for Senator, 21 candidates were attracted to that. All sorts of problems which we will discuss perhaps later when it comes to A, B in making sure that those who are elected, particularly lower down, were representative of public opinion. But we are proposing that now we have 2 of those types of Senatorial elections in St. Helier and we have a whole series of those essentially mini Senatorial elections throughout the rest of the Island. I do not think that works, and what is constantly forgotten is the value of the vote and also the fact that those districts outside will have more representatives no matter which way you wash it because those districts with 4 Constables and 5 Deputies will have 9 representatives in the Assembly even though they represent smaller population masses than the bigger areas. Quite frankly, how would Senator Ozouf or anyone else going to oversee an election try and explain this gerrymandered system to somebody and have credibility saying: "Well, yes, okay, let us not talk about separation of powers for a start" which is also going through. Apparently Senator Ozouf does not have any of those issues when he goes away, certainly the rest of us seem to have difficulty explaining that. But when we are going to explain: "Yes, we took an opportunity to design our system and we designed in inequality into that system. We had a tabula rasa, we were able to make sure a clean sweep, but we deliberately made sure that it was biased towards those voters who lived in the country to make sure that they had a better vote, more say, more influence, in our national Parliament than those who live in the urban areas who happen to vote as it happens slightly more Left Wing as is commonplace around the world.

[10:45]

Can we look those people in the eye and say that is what we designed and I am proud of that system, or do we say let us have something that is fit for purpose which is put to the public in a referendum coming up now when there is going to be an election so that people will turn out. We know that those who turn out to vote will always turn out to vote because it is the done thing, the idea that you cannot complain if you do not vote, which I find quite amusing because it shows how vehemently people want to complain. They may not care about democracy per se but they will certainly defend their right to be able to complain which is, I think, a very British thing even if nothing changes, but the time is right for that to happen. There will be a turnout and it is up to us as States Members and campaigners on the outside to decide whether we want fair types of reform or whether we want this gerrymandered mess, albeit B-plus which happens to give St. Helier a couple more seats and which I think frankly is a sticking plaster and does not give us international integrity and it does not give us integrity in the eyes of our own people. Now, of course, Senator Ozouf, in his summing-up, will say that it is an absolute disgrace that we ignore the result of the referendum. Let us be quite clear here. A lot of political interpretations have been put on the result of the referendum but no statistical or mathematical interpretations were given. When I was back on P.P.C. under its old manifestation, I was pushing for some kind of statistical analysis to be done because it is not so important on the actual turnout in one sense like when you do a survey you have a fixed group which is hopefully representative - of course, that is another issue - is that those who turned out in the referendum were self-selecting so we had a small amount of people and let us imagine there had been a 15 per cent turnout in the referendum rather than a 22 per cent turnout. This is a key argument and it will be my last one before sitting down because I think it scotches the idea that there has been some kind of mandate from the public. If there had been a 15 per cent turnout rather than a 22 per cent turnout but that turnout had said 70 per cent, 75 per cent in favour of one of the options, that would be more statistically significant than a turnout of 22 per cent where, in fact, only 49 per cent of those who turned out to vote after the second vote voted for one of the options and that is exactly what happened: 10 per cent of C supporters were so disgusted with the whole thing that they did not even use their second vote and obviously those C supporters who did not want change or wanted another change if we are to believe that, or, you know, entirely possible, voted for the one which is most like the current system, i.e. B, but 49 per cent of those who voted only chose B in the final analysis. So that is what we are talking about in reality. We have 49 per cent of a 21 per cent turnout which I do not think is a majority by any means. It is not even a majority of those who turned out to vote and we have a duty to this Island to make sure that whatever system we put in place is fit for purpose and is not going to continue to be acrimony and the continual wranglings and drive a wedge even further between town and country because it makes it worse than the current system that we have presently, and it certainly makes it worse than what we are putting to the public in terms of the referendum. So I would suggest and it is unfortunate this has been delayed so much because I have had to delay my S.T.V. (single transferable vote) and A.V. (alternative voting) and I would say to Senator Ozouf and the rest of the *soi-disant* reformers in this Assembly that if you are that committed about reform and we cannot agree on the constitution and composition of the States, please at least take the easy option and the right option of voting for the Electoral Commission's recommendation on S.T.V. and A.V. because we simply cannot go on having this kind of system. We cannot elect even 5 Members or certainly 6 or 8 in a Senatorial election unless we have a single transferable vote and an A.V. We may not be able to change the composition of this Assembly but we can at least now immediately change the way in which the vote is counted to make sure that every vote counts and that individuals like the Deputy of St. Mary, who I think was singled-out by Senator Ozouf, who got 41 per cent of the vote who would probably get in anyway under the alternative vote can have the assurance that no matter what the size of the constituencies and no matter what the number of seats, every vote is counted in

a way which is meaningful and which will engender more support and more enthusiasm for elections going forward.

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

Sadly I think the Assembly is so divided that any chance of a reform is slipping away. I am sorry to say that because I think some Members selfishly have got their own views and are refusing to compromise or find a solution. Of the 49 Members now in the Assembly, there are probably over 40 different ideals of what Members want and that is really, I think, completely wrong for Members not to try harder to find a compromise with the only answer now being to pass it on to the next Assembly and I am certainly not going to be proud of the legacy that this Assembly leaves, but I would acknowledge and give respect to the Members, including Senator Ozouf, and the other Members who have engaged, because far too many Members have kept their heads well below the parapet on this but there are those Members who have tried and tried and those Members that have sought compromise but have failed. I am finding it very difficult, having said that, to abandon my principles on the Island-wide mandate and I am unlikely to be able to support Senator Ozouf on that. I am grateful to the support from the Senator for my amendment which shows that he was prepared to compromise and to the other Members across the Assembly who supported that, and I would say though although I cannot abandon my principles at this stage on the Island-wide mandate and I think the Island-wide mandate is dead in the water because we all know that the majority of the public - and I am talking about the majority of the people of Jersey, not just the electors, but there are other people outside that do not vote regularly - feel assured that there is an Island-wide mandate. But I would say that if this Assembly were to support Senator Ozouf's proposition, then I would embrace that decision and move forward with it as I would embrace any decision of the Assembly, whether I agreed with it or not. So I just wanted to acknowledge and pay respect to those Members that throughout the last couple of years have engaged and fought for their principles. I would like to thank the Members that voted for my proposition. I want to wish Senator Ozouf well with his endeavour now. Sadly I do not think I can abandon my principles though.

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

To quote Edmund Burke: "A State without the means of some change is without the means of its conservation." Quite frankly, I was shocked and appalled that some Members of the States voted to ignore the wishes of those members of the public who took the time and trouble to vote in the referendum. Many constituents, friends and family have reacted in exactly the same way. I am a staunch supporter of Option B but I would have supported the referendum result had Options A or C been the choice of the public who voted. Government reform has been on the agenda for years before the Clothier Report of 2000. If we are to move forward at all with government reform and put an end to the publicly derided navel-gazing, a decision for change must be made. We are elected as States Members to make decisions and we should not shy away, however uncomfortable. A solution must be found. The proposition brought by Senator Ozouf is, in his own words, a compromise. However, it closely resembles Option B which the majority of those who voted supported. I shall be supporting this proposition on the basis that the public voted in the referendum for change. It is required and we as a political body cannot permit another 3 years or more deliberation on government reform.

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

Unbelievably, I think I have some new things to offer to the Assembly. Members may have wondered why I have not spoken thus far. I have been waiting for the appropriate moment. There were 2 major flaws in the referendum of which we are very well aware. The first was the multiple choices. A referendum on such matters should have one single question, yes or no. Anything else

is very, very confusing and difficult. But the second major flaw was the lack of what I have consistently called Option D, none of the above. Once the States made that decision, it condemned us to a confusing and contradictory result. The difficulty has been thus far proving what the size of Option D was. My own personal view, based on numbers in recent elections, was it was at least 15 per cent but, in fact, something new has happened which came to my aid in this respect and that was the Jersey Annual Survey because the Jersey Annual Survey asked a specific question to those who did not vote: "What were your reasons for not voting in a referendum?" The per cent of those respondents who did not vote in the referendum, they were able to tick more than one response. Now the percentage response of those who had not voted in the referendum who gave the option: "There were no options that I wanted to vote for or which reflected my views", which is precisely Option D, the percentage of that was 16 per cent. Now, in order to convert that from 16 per cent of those who responded to this question to the percentage of the electorate, you have to multiply by 74 per cent and you have to divide by 91 per cent. You multiply by 74 per cent because this is the 74 per cent of the electorate only who are responding and you divide by 91 per cent because 9 per cent of those who responded to this were not eligible to vote at all. The outcome of that in relation to this specific question: "There were no options I wanted to vote for or which reflected my views" is just over 13 per cent. I will come to some analysis on that in a moment but there is another question which I think is also relevant because 11 per cent of those responding to the survey said it was too complicated. Now, I am not going to pretend that all 11 per cent of those were in the option D camp but some of them, I think, certainly were. They may be those who voted, who expressed for that, but also expressed for the 16 per cent, but you have to add a certain percentage. If you add half of those, then, in fact, you come up, applying my calculations, with another 4.47 per cent and the total of the option D vote is just under 17.5 per cent. I think that is a bit too high. I think my original estimate of 15 per cent was right but this demonstrates it is certainly at least 13 per cent. Now, this is highly significant bearing in mind that option B only got 10.64 per cent on the first vote and even with the very strange transferred vote - my esteemed colleague who has now left the Chamber got his figures completely wrong on the transfers - it was less than half of the Cs who transferred to Bs and I think we all know that was in order to protect the Connétable. But even if you have got that, you have still got 12.81, less than the number for option D at the very, very lowest. Now, I offer this to Members as proof of that which I have always maintained, which was there was a substantial slice of people missing. I think it is about 15 per cent. My figures suggest it might be even higher. That is my first piece of statistical analysis. The second piece, which is somewhat briefer, is a response to the comments of the proposer, Senator Ozouf, in his opening remarks about the dangers, this terrible dark scenario, this Armageddon, literally Armageddon, which is going to overtake us where we are going to have people elected as Senators in seventh and eighth places with quite low figures. There are 2 fundamental flaws in relation to his argument in looking back at the past figures. The first fundamental flaw is of course that those were elections. This is an Island-wide thing. Anybody from within the Island can stand as a Senator so when you are looking at past Senatorial elections you are only looking at half, as it were, because there are 6 other Senators already sitting. That is a very, very important issue.

[11:00]

If we are reducing to 8 ... the point I am making here is when you had a Senatorial election in the more recent past such as the one I stood in where 6 people were elected, there were already 6 other people who were Senators and who clearly wanted to be Senators so you were choosing from a pool which had already excluded 6 very, very good candidates who had already been appointed. The second point in relation to that is, of course, we already have a situation where we have 10 Senators so we would be moving down from 10 to 8. Now, it is a well-known fact that at least one Senator will not be standing again next time, namely myself, and I am pretty certain there is another one, I will not indicate who that is in case he changes his mind [Laughter] which I am not going to

do - I do not think he is going to either - but there is then the potential for 8 sitting Senators to be competing in this. In addition, I am absolutely certain because I know of at least one who has told me he is going to - but I am not going to name this person either - get some of our more capable Deputies and maybe some of our Connétables even if they are fed-up with their Parishes - I doubt that - standing as a Senator and inevitably you are going to get new people coming straight in from outside, *a la* Le Marquand, *a la* Bailhache, *a la* ... I am not sure my French grammar is right, perhaps it should be *au* because we are masculine [**Aside**] ... *au* Le Marquand or *au* Bailhache, *au* Le Gresley, *au* Shenton, I could name other names. But the real issue in relation to this is what is the quality of the candidacy going to be? One of the favourite phrases of Deputy Martin in this context has been: "Rubbish in, rubbish out." I am afraid that it is the other way round in terms of elections. If the candidacy is poor, the electorate cannot vote for better people than who have stood. So I think there is no reason to believe this Armageddon picture. I think we will have a very, very good election with 8 candidates and we will probably find ourselves with 12 strong candidates from which it will be whittled down. But if we look at the other picture - and Senator Ozouf himself is now proposing that the larger super-constituencies, the 2 St. Helier ones, should have 6 - the risk of getting relatively weak people coming in in my opinion is far, far greater in a super-constituency election with 6 people than it is in an Island-wide candidate with all-in play for 8. My statistical analysis, Members will be pleased to know, is now finished.

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

May I ask a point of clarification of the previous speaker because he is, I think, being partial in what he has said? Could I ask him to answer the core question if he rejects the proposition, how many people were in favour of option C which was going ahead with the election without any changes? It is fine to say an alternative but how many were for option C?

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

I am much more interested in C plus D. Option C plus option D is more than 18 per cent. The fact is that because this Assembly condemned us to a situation where there was no option D, we had to run an option C campaign even though we favoured option D. It is C plus D and on my figures, that is more than 18 per cent and by far the largest, and I thank the Senator for the opportunity to clarify that. [**Laughter**]

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

I would like to exercise my right under Standing Order 84 to give notice to propose closure of this debate within half an hour. The Senator proposed the proposition at 3.20 p.m. yesterday. He spoke for 30 minutes. We have been over half an hour today on the main proposition and in total we have been debating this for nearly 4 hours.

**The Deputy Bailiff:**

We have not been debating this one for nearly 4 hours. Well, Senator you have given your notice which is in order. I shall make a decision as to whether I think it is an abuse of procedure of the States or an infringement of the rights of the minority if you come to make the proposition at a later stage. I call on the Deputy of St. John.

**1.3.7 The Deputy of St. John:**

Like the Constable of St. Helier, I have risen for the second time having said that I would not and I rise specifically to refer to the Constable of St. Helier's speech, the second one. It was so blatantly disingenuous in one particular aspect that I feel I have to speak and the disingenuity started, I am afraid, with the Constable of St. Mary and then was confirmed by the Constable of St. Helier when he said those that hang their hat on the Island-wide mandate should bear in mind that there was an Island-wide vote which rejected it through the referendum. I think those were virtually the words.

If not, that was the intention or the meaning. The Constable of St. Mary is shaking her head but nevertheless it is not worth arguing about the detail. That was the intent of what the Constable said. There was a referendum and the referendum, I think, proved 2 things: one that the public wanted to reduce the number of States Members and the second thing was that they wanted to retain the Constables. Those were the 2 things that the referendum established and I accept that, which is why I will be voting in favour of this proposition. What there has not been is an Island-wide vote through a referendum on the position of the Island-wide mandate. That is it; it is as simple as that. Until that happens, this question about whether the Island-wide mandate should be retained or not will always be, so to speak, in the ether, and that is a fundamental problem.

### **1.3.8 Connetable M.P.S. Le Troquer of St. Martin:**

I have not got the crystal ball that Senator Ozouf used yesterday. None of us have and Members of previous Assemblies did not seem to have them either because they would have seen the situation we find ourselves in today. But there have been 2 speeches during the last 2 days which have stood out, I think: by Deputy Le Hérisier this morning. He certainly took me back, he did not need a microphone and a very forceful speech, and the other one was the speech from the Constable of St. Helier yesterday, a speech which I think he put everything back into perspective and he said it was going to be his only speech but then we saw a change of mind and he did speak again today, but I think he did put things back. I prepared for this debate back in November of last year, and as we know the debate was deferred at the very last moment. There was criticism of that late decision but I accept that Senator Ozouf had every right to take that course of action and obviously the amendments to that proposition also went at the same time. The other alternative propositions to those of the initial doomed referendum proposition that was debated back in July were then debated. All were defeated convincingly and the records of those votes I have with me today. They were convincingly defeated. The 2 votes yesterday and again those this morning have been very much the same. I believe, if I recall correctly, that Members were told during the work undertaken by the Commission that the deadline for change to the electoral reform and composition of the States was to be July 2013 but that seemed to have changed and it was extended to November with a range of the alternative propositions that came from that July debate, yet they all failed too. Then the deadline seemed to be extended to December in order to cater for the Senator's proposition and now it is extended to the end of January. I would like to refer to the comment on page 7 of the proposition from the Senator from a proposition that the Senator lodged on 2nd August which states that: "A further window exists to agree reform before next year's election" and then it goes on to state that: "The States could agree before the end of the year [that is 2013] but after that it will be legislatively and practically impossible to achieve change." It seems now we can do that on both counts. Did the word "practically" then mean it could not be done practically or was the meaning of the Senator's comment meant to say "practically it is unlikely to be able to happen"? Nevertheless, it seems that now at the end of January, possible in both ways. I know that Senator Ozouf believes that this is the last chance to give the public the change that we are told they all want. We have heard the last chance comment many times in the last week, in particular in the last 2 days in this Assembly. The *J.E.P.* headline on Monday evening warned Members to get it right this time or else. I am not sure if that was the reporter licence or the comments that had been taken from the Senator. Is this the right direction of change? I am not convinced. It may be but I believe that if we approve this proposition today, then this is nothing more than a stopgap for the immediate future and that the composition of the States will continue to dominate the business of this Assembly and the next Assembly and more for many years to come. The Senator may think I have changed my mind because I originally voted in this Assembly for the result of the referendum option B and that I am now voting against it. My response to that is that this proposition is not the option that was before the electorate in the referendum, a referendum that only 26 per cent of the electorate turned out to vote in in April of last year, and even then that vote was quite finely

balanced. It was not a massive win for those that wanted option B. I spoke during the debate in July believing that the results of the referendum would be accepted, albeit I was not completely satisfied or comfortable in my own mind that it was the right way forward. However, my parishioners have voted 2 to one in favour of the option, now 39 per cent turnout, and I thank them for that direction. Indeed, I was one of those who voted to accept the result of the referendum. The then Chairman of P.P.C., the Constable of St. Helier, although having his own preference, a preference that differed from the result, led by example and also voted, as I believe it should have been, to support the result of the referendum. It was not to be and we ended up with a 21/28 split with the one abstention. I fail to see that this debate today and yesterday is an alternative way to implementing the result of the referendum as it has been suggested. The debate was held last July. Members decided to reject the results for reasons individually known to each and every Member who opposed it. The various proposals, basically amendments that came before this Assembly in November, all failed miserably and the only votes that were successful was a vote for a referendum question the next election day in October, and then amazingly we agreed to have a second referendum question on the same election day that counters the first question and I am sure P.P.C. are working hard to fathom out how they will be able to get their heads around the results of that one. I doubt there are many people in the Island who believe we, as an Assembly, rush things and many continually complain of the delays in moving things forward. However, here we are today being asked to make what is now, I believe, a rushed decision because the Senator has told us it is the last chance and therefore we have to make a quick decision that many of us are uncomfortable with as we were at the last sitting of the States before the summer recess when we then elected a new chairman of P.P.C. before the recess for reasons that I understand were considered necessary to do it and then with a great haste confirmed the new committee membership within an hour and without debate.

[11:15]

I hasten to add this is not a criticism of P.P.C. or the new chairman but that is what we did. Events proceeded in haste. The Chief Minister's Department and other departments under the direction of Ministers have the use of the Communications Unit, maybe better called the P.R. (Public Relations) Department who put together the press releases. I am not sure how they work but we receive so many media releases every day of the week, more often than not probably every single time at the end of the 10.00 a.m. news, a feel good story of the day. The referendum story was not a good feeling. It was not a good feeling story and maybe the Communications Unit - the P.R. Department - could have put out a news release: "We think we got it wrong this time." I suppose that could not be done because we have 51 individuals and between us a vote was democratically made. The P.R. team cannot collate a "maybe we got it wrong" story. Maybe we did not get it wrong and that there were other issues that affected the final decision so I use that word "maybe". Maybe we should have had an independent commission after all and we could have put that out as a release, albeit the panel were wide and varied and gave full commitment by one and every Member. Maybe we got it wrong with the recommendations. Maybe we got it wrong with the referendum questions. Maybe we should have stipulated that it would be binding if a certain specified percentage voted. It is all maybe. We are just 9 months away from the next elections and much of our time is still being taken up on the composition of the States, the machinery of government, public elections law, and alternative voting systems and so on. Do we have time for anything else? Voting for this proposition today will not satisfy those members of the public who want Senators to remain with their Island-wide mandate. It will not satisfy those who want to see the Constables removed. It will not satisfy those who want to see even fewer Members than the numbers being proposed today. It will not satisfy those who wish to retain their Parish representation from a Deputy or Deputies rather than a district representation and of course it results in even more work on those Members in the next Assembly which of course will include Constables. The Senator has



indicated a saving of £310,000 if 7 Members go. Obviously that is up to £310,000 if all 7 Members are taking their full remuneration package. It is then suggested that a small Assembly will operate more efficiently and that could lead to indirect savings of officer time across public administration. I am not sure how we can assume that comment. Albeit it is the view of the Commission and not the Senator, he does use it in his comments to the proposition. Do we have an excess number of Members and officers just filling up their time? I am sure we could save many, many thousands of pounds if we curtail question time and the work created for officers and other staff in researching answers to questions, many of which I believe could be dealt with by phone calls, emails and face-to-face meetings unless all were without notice, of course. I am not suggesting an end of question time but I hope some Members can see where I am coming from if we want to start saving money. The Senator makes a comment on page 7 of his proposition which states: "which respects the wishes of the vast majority of Island voters who wanted option B in 11 Parishes." I know we have discussed figures this morning and yesterday but we must remember this means 41 per cent. It sounds questionable to start with as it is not even a majority of 51 per cent who initially voted for option B and this was with a turnout of 26 per cent, just a quarter of the electorate. Then we must not forget the others, the nearly 40 per cent who wanted option A, a 41 versus 40 per cent of a 26 per cent electorate. Well, pretty convincing, yes, and I placed a question mark after my word "yes". How can any one of us today be comfortable with that as a mandate for such major change, a massive change to the composition of this historic Assembly? I am afraid I cannot, even if Senator Ozouf thinks, as he has said, that we can be the architects of the future. We have had to use a redistribution of second votes to achieve the 10 per cent difference but it is still just only 26 per cent of the electorate and just 16 per cent turnout in the Parish that wants and needs the most equal representation. I would be concerned at the closeness of such a vote at a Parish Assembly and certainly having a second count of hands and voting papers on so close a result and then still be extremely concerned at the low turnout as it was in relation to something so fundamental and have long-term consequences for the Parish. I would have, however, tried to have put something different to the parishioners that would have given them the position of not having to second-guess. The loss of the Senators was one that created much discussion. If it were not for the excellent work undertaken and results achieved by those Deputies in Ministerial posts in this Assembly, then I personally believe all Ministers should be Senators and on a different remuneration. The Assembly did not have a referendum to lower the number of Senators. What happened when our District Deputies and, of course, our Constables, as they have in the past, become Ministers? The actual representation they give their electorate would be even smaller, especially with even fewer Members. The Chief Minister has made the suggestion of a Royal Commission. At least it would be something else looking independently. I suppose it would be similar to the independent commission that was suggested for the electoral reform and we know what happened there. Back in 1854, the *garde de nuit* or the paid police were introduced after many, many years of 'should we, should we not' have a police force in the Island different to the honorary police and I think that started in 1846. I mention it because the matter was finally resolved after a Royal Commission which Thomas Bros and Thomas Ellis undertook and of course things have developed since then with independent reviews that were carried out by Maxwell and Tarry and led to the formation of the States of Jersey Police Force in 1952. If the proposition fails today, then the Chief Minister, P.P.C., and the Assembly might look at its being the only option left: the Royal Commission. Having read the proposition and all the amendments again, all have merit but none really offer the system that will be accepted by everyone and we have to accept that. My concern is that the electorate did not give us a clear steer as a full Assembly. They did in St. Martin but importantly they did not give us a clear steer Island-wide based on the options that they were given for their choice and no fourth option to say they favoured none. Many parishioners spoke to me after and indicated they would have liked an alternative. If we are to have 2 questions in the next election on the referendum, then they need to be able to either steer the Assembly or a Royal Commission

convincingly. I just cannot get myself to accept that if the proposition is successful today that the composition of the States has finally been resolved. I doubt it would last longer than one term. So in conclusion, although some Members may question my motives, I am not voting today with my own position in mind or even that of the Constables. This proposition retains them. However, even with my own Parish 2 to one in favour, and I put that to Senator Ozouf as a Member today, I am voting for a relatively small district. I understand that but I am going to try today to vote for the whole Island, my view for the whole Island, and tell the Senator now that I did not face an election. I think I am the only new Member of this Assembly that did not face an election. I am voting as a Member of this Assembly in the way I think is right, so I cannot support the proposition and I urge Members to think of the enormity of adopting this probable short-lived change.

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

I realise the clock is ticking on us so I will try and be as brief as I possibly can if the Senator's proposition is successful.

#### **The Deputy Bailiff:**

If it is allowed to be put.

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

Yes, quite. Several years ago, I was a supporter of Clothier which obviously is not what is being proposed today but since then I have become very comfortable with the Constables still being in our Assembly because I think they add value to our Assembly. So my thinking over the years has gradually shifted and shifted and changed and even during this debate we are having over yesterday and today, I supported retaining the Senators which is again different to what Clothier was, and the reason I supported Senator Farnham's amendment was because I thought it was a compromise which I hoped was going to help people get to a situation where they were able to accept the main proposition of Senator Ozouf because there might be a few votes going there, but that is not where we are. I am now in a position where I believe we have to support Senator Ozouf's proposition because if we do not we are totally ignoring the public. I know there have been forensic mathematical observations of the referendum and people can read figures one way or the other and have them suit their arguments but I think it is beyond the mathematical. We need to really think about what we are being asked to achieve. We are being asked to have an electoral system which gives us a good representation of our Island population and I think we have an opportunity, I believe, to repair the damage that has been caused by totally ignoring the outcome of the referendum. People are so disengaged now with the way this Assembly have ignored what they have been asked about quite openly and they responded to that. Deputy Tadier suggested that people would still come out to vote. Well, that is not what I am hearing at all. I think people have been so disengaged by the way we have reacted to ... well, this Assembly, I certainly did not ignore when we came to vote. I was one of the Members who voted to accept the referendum results. I think we have an opportunity to put that right today. The public have asked for change even from the days of Clothier when that was debated and we have failed them time and time again to come forward with something which is far better. I implore Members; it is our duty to respond and to have a change. We cannot continue with what we have. I ask Members to support this proposition.

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

I am very pleased to follow Senator Routier because I agree with him and I agree with Senator Ozouf, that this is the last opportunity to bring in reform before the October elections and I accept that many Members simply do not want change but I think the majority of Members accept that the current system is seriously flawed. The level of voter participation is, if not the lowest, very close to the bottom of the scale in terms of voter participation throughout the continent of Europe. Many people who have arrived in the Island relatively recently simply do not understand the system. It is

too complicated. The Electoral Commission received expert advice that where an electoral system is complicated, it deters people from turning out to vote. Others do not participate because there is no opportunity to participate. There are no elections in some constituencies. It is not easy to oppose a sitting Deputy or Constable who is well entrenched and there are no political parties setting out clear manifestos that people can accept or reject and there is no voter equity. We can anticipate if the proposition is not adopted that there will be an even lower turnout in October 2014 than there has ever been before. We can anticipate that because, on top of all the problems that I have enumerated, we have, as Senator Routier so eloquently said, turned our backs on the views expressed by the people in the referendum. We should not underestimate the anger caused by that refusal to implement the views expressed by 80 per cent of those voting that reform was necessary. I have been told by some Members who voted against the reform that they have not been told that voters are angry about it. I can only say that every person to whom I have spoken has expressed extreme disappointment at the lowest that the public's view was cast aside in that way.

[11:30]

The Deputy of St. Mary made an amusing speech at one level about cabbages but he was wrong: 80 per cent of those voting thought that large districts were the only way to create a more equitable system where the number of representatives in this Assembly bears some reasonable proportionality to the number of electors. The Deputy said that people did not have before them the option that they wanted but he was wrong there too. The Social Survey that was published very recently said that only 16 per cent of those who did not vote in the referendum did not do so because there was not the option that they wanted to see; 16 per cent one might say - although I am not going to join Senator Le Marquand on his contorted analysis of the figures - is curiously close to the 18 per cent that voted for Option C. It may be that those to whom the Deputy of St. Mary speaks share his view that Deputies can sensibly be elected by 200 or 300 or 400 voters but the Deputy of St. Mary ought to take into account the fact that most of his constituents take an opposite view: 316 people in St. Mary voted for option A or option B whereas only 165 people voted for option C, twice as many people in St. Mary, which is a very particular place, voted for reform than voted against it. Whatever individual Members want, I suggest that the public wants change. Should we ignore them therefore and sit on our hands? I think it would be an abdication of our responsibility to do that. We have many critics, both externally and internally, who say that this is not a democratic country and that it is run by an elite for the benefit of an elite. We know that that is not true but it is difficult to prove that we are a democratic and open society when, for various reasons, our people do not participate in democratic elections. So Senator Ozouf is right. There is a looming crisis of democracy in Jersey and the smug approach that we have heard from some speakers that we can put it off to another day rings very hollow to me. Collective responsibility has been in our minds in the last 2 weeks and in that context, perhaps I can remind Ministers in particular, of course other Members too, that we all signed-up to the Strategic Plan, one of the objectives of which was to endorse electoral reform and having regard to the recommendations of the Electoral Commission. This is an important vote. It is a controversial vote but, like Senator Ozouf, I hope that Members can set aside their personal interests and vote for a solution that is not perfect, that is not indeed my preferred result, but it is the best that we can do at present and is reasonably close to the option that was endorsed by more people in the referendum than any other solution. For representatives in this Assembly of St. Helier, the proposition will achieve much stronger representation of the town. At present, St. Helier has roughly one-fifth of the Members of this Assembly. Under the proposition, they will have more than one-quarter. It is a very substantial improvement for the town of St. Helier. If we leave it to the next Assembly, we will do a great disservice to the public because this issue is not going to go away. Having spent a year of my life discussing with the Electoral Commission and many others in depth and almost interminably the issues of reform, I have no doubt that the solution to the problem of inequity in our

electoral system lies in large constituencies, large constituencies with or without Constables. Deputy Tadier can sneer about the alleged partiality of the Electoral Commission, that is his democratic right, but I think that most members of the public would accept that the Commission acted independently and did its unbiased best to produce solutions for the people to consider. We can have 100 more commissions but all of them, in my view, will come up with a variation of either option A or option B. If we have a Royal Commission composed of Englishmen, they will recommend option A. If we have a Commission composed of local people who understand the importance of our parochial system, there will be a recommendation probably for option B. A failure to grasp the nettle today will be to my mind an abdication of our responsibility to the people whom we represent. I shall be supporting Senator Ozouf.

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

I realise we have been quite some time on this but I wish to deal with what we have been presented with and indeed the techniques we have been exposed to. First of all, I want to praise Senator Ozouf for the skill he has shown in presenting his proposition and my starting point is my notes have got 3 emoticons. For those of you who are aware, emoticons are smiley faces or otherwise. At the beginning of Senator Ozouf's speech yesterday, I have got a nice big smile on my face and I had literally a smile on my face and that is what my notes say, you are smiling. However, what I was smiling at was the technique that was being used. Here we have constant repetition of the words "fairness" and "fair": "I wish to promote fairness." "My system is a fair system." Use of the word "democracy" and "democratic". It promotes democracy, it enhances democracy, enhances the democratic process and that Senator Ozouf was a reformer with repetition again constantly of the word "reform", "reformer" and I was very impressed. Yes, this sounds like the sort of thing I have been promoting for the past 12 years and, all of a sudden, we are on the same side but as I went through the speech, by the end of the first speech, my face ... the emoticon had changed. It had gone from a smiley face to a straight line across there. I was already neutral. By the time of the second speech which said effectively: "I support Deputy Noel's amendment to my amendments as well", my face was definitely set in a serious vein because it seemed to me that it did not matter what reform it was. We will have any reform so I support that one. By the time I came to the third speech which occupied the time from 5.20 p.m. approximately to 5.30 p.m. yesterday and was reminiscent for me of some of the better efforts of Paul Le Claire who used to be a Member here and was an expert filibuster, I was worrying that what we had heard was a 10-minute speech in favour of a third option which was Senator Farnham's option, so now it definitely did not matter which option we chose because there were then 3 possibilities which were equally acceptable and they had the elements of again good excellent political technique, which often happens in this House which is get to the next session, get to the next morning and we will tidy up then. Often the email goes round in the evening and support is garnered and perhaps we have got a chance to refresh this debate in the morning and that is what I was feeling and my emoticon now was definitely turned down at the lips. So excellent technique, excellent political skills, no doubt about it, but I remained to be persuaded that suddenly the Senator had had a Damascene conversion on the way to reform and was now wholeheartedly for reform. The second thing and what we are left with is the feeling, the conviction, that these were not the words of a true genuine reformer. This was reformer-light, reform-light. As I said earlier, the least we can get away with. That is what we had and it did not matter which version of very little reform it was. We were then exposed to this technique of this was the Last Chance Saloon and from the mental question you had to ask is why are we debating this almost 3 months after we first issued this? Because the Senator had arranged things so that his debate was going to be the last debate. It was bound to be the Last Chance Saloon because that is what in order to arrange things the Senator wanted. Again, excellent political technique. I have seen it work in the past, hope it does not work this time, but we had all this emotive serious language about Last Chance Saloon. "I hesitate to use the word 'Armageddon',"

said the Senator, but he then used it, “Armageddon”, and we had this wonderful analogy, again, great speechmaking with no notes based around Friday 19th and what we would see after the next election and what we would be reading in our papers. It turned out that Friday 19th was Friday 17th and, if my notes are correct, just extend that a bit, it becomes Friday 13th. Now, I do not think the word “nightmare” was used but it sprang to my mind and it was Nightmare on Elm Street so we have got Last Chance Saloon, fight at the Last Chance Saloon, we have got Armageddon, we have got Friday 13th, we have got Nightmare on Elm Street. Where does that lead me? Apocalypse Now. It was not said but that is what my mind was doing. This is apocalypse. We have to vote for some change. Wonderful, wonderful technique. Absolutely: no, not the Chainsaw Massacre, I am not going there. **[Laughter]** You invent your own speech. Presented as the only way out and we had this phrase this morning from Senator Ozouf and again, wonderful phrase: “we are faced with the tunnel of reality, the absolute inevitability of we must vote for this reform light at the Last Chance Hotel, and I am very, very sceptical by now.

[11:45]

Because if you take those words: “I am a reformer, I am for reform, I am for fairness and I am for democracy. We need a proper democratic process”, just reverse those statements and see what sense they make. It is a lovely way when you are on the receiving end of rhetoric, just reverse them. I am an anti-democrat, I am against fairness and I do not want reform. None of those make the least bit of sense. We should not be standing and saying those things now. We did not say them; we say the opposite. What do they mean? Very little, I think. Why do I say that? I say that because as Deputy Le Hérissier mentioned yesterday, Senator Ozouf has been in this House for the last 15 years. I have been here for 12 of them. He has been here for 15 years; pre-Clothier - 1999 I presume it was. If at any stage in those 15 years Senator Ozouf with all his finely-tuned skills, political, all his persuasive abilities, all his rhetoric, all his speech making, all his deal making had at any stage put his full weight behind Clothier, we would have had it by now. We would have done with this reform because he has the skills to persuade at least half the House time and time again that their interests are his interests. But it has not happened. He has not put his weight behind it. For example, he presents this reform-light as the way forward in the face of the evidence that came about from the work after the referendum which assessed on fairness terms, all the possible options before us - all 9 of them, which we are discussing now. On top of that was my version of near as we like to Clothier which is single member and based on the Parishes. We could have kept the Parishes. What do we find there? We find that if you do that properly, fair distribution, equal representation or as near as you can get based on the Parishes, what you get is not an improvement from 11 representatives for St. Helier to 13 representatives from St. Helier, but the figure came out as 17 in St. Helier as a fair representation. Where is that? It has been buried. Nonetheless that is the reality of fairness and equal representation if we want to avoid going for the super-constituencies which apparently we do. The other phrase that was repeated throughout all 3 speeches and has just been repeated now by Senator Bailhache was: “Please, Members, put self-interest aside.” The assumption is that Senator Ozouf has put self-interest aside and is completely objective about his proposition and we should be similarly. Again from Senator Bailhache today I have heard the statement that the public want change and that we are abdicating our responsibility if we let this last chance go without promoting some change. We also got an appeal from Senator Bailhache again - very clever political techniques - to mention the words “collective responsibility” just in case any Ministers were thinking of jumping ship, and also a mention of St. Helier and how this was going to increase St. Helier’s representation. Not to what it should be if it was fair, but to some token representation, but it would be an improvement. I am saying today: “Members who represent St. Helier, do not get taken in, I believe like the Constable has, by the fact that we might get some increase in representation by accepting this proposition.” I am afraid my emoticon still says: “Uh, uh.” I shall be voting against this. I would urge Members equally to vote against this

because I think what has happened to us in this debate... extended as it has been and delayed time and time again from when it should have been because we have been led down the garden path.

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

I come to this debate today from a fairly simple premise and that is I believed passionately, I must say, in the legitimacy of the Electoral Commission. I believed in the work that they did. I believed it was fair and objective and I believed that the public, by and large, were happy with that, and I believed in the legitimacy of the result. However, I do believe that the day this Assembly last July rejected the work of the Electoral Commission and the report and proposition was the day that this Assembly lost its legitimacy in being able to reform this Assembly. I find it extraordinary that the combined results of option A and option B were for change and yet still this Assembly rejected that result. I am in a strange position today because I was an active participant in the option B campaign, even though the option B formula was not what I had written and suggested to the Electoral Commission. I accepted the compromise; I accepted what they had come up with and there was a loose - for want of a phrase - coalition of States Members, like Deputy Pinel that I have alluded to, and former States Members and members of the public who formed an option B action group. When the result of the report and proposition came out and was rejected, the reaction within the option B group was staggering. I know he will not mind me saying it, former Senator Shenton was utterly disillusioned and said he would have nothing more to do with it. He said, at the last wrap-up meeting we had, that this Assembly had lost its legitimacy to further work on reform of the Assembly. Many other members of that loose option B coalition said, because some of us had wanted to carry the campaign further on, current members, former members and members of the public said as far as they were concerned it was over, there was no point in dealing with anything further because this Assembly had made the decision it had made. I do believe that last July when this Assembly voted not to accept the results in the way it did, that we should not have dealt with electoral reform any further. Even though a large part of Senator Ozouf's proposal today is based on option B, it is not what was put to the public. Therefore, I will agree with a large part of the sentiments of the Constable of St. Martin and, indeed, the Constable of St. Helier, and I will disagree with Senator Bailhache and Senator Routier. It is, in my view, a bridge too far to be trying to do this in January 2014; I believe that we have to pass this to the next Assembly and I believe today that we have to accept, as Members of this Assembly between 2011 and 2014, that we have failed, we have simply failed. We do not have, in my opinion, a legitimate right to discuss this anymore and I do believe that this Last Chance Saloon that we are in today is not correct. I really did make my sentiments clear to those of us that were left in the option B campaign in the autumn of last year and I have made it clear to Senator Ozouf as late as last night and early this morning that I am not prepared to support this. I feel that we have missed the opportunity; the Assembly has rejected any attempt at reform so, therefore, it will now have to come back - if it comes back - to the next Assembly. That is all I have to say. I will be voting against this.

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

I think, first of all, I wish to congratulate Senator Ozouf for bringing this proposition. I have always been a firm supporter of option C of keeping the Island-wide mandate and I am sorry that Senator Farnham's proposition failed as I felt it was a compromise and it gave this Assembly a way forward for change. I fully realise that the public have voiced their way forward and it is one for change. Having listened to all these debates, I think the public is even more aware, and this Assembly should be aware, that change does need to happen, even with the elections this year, and that is even more important. At the end of the day, doing nothing is the easiest thing that anybody can do. I voted against the proposition B last year; the only thing it has shown is that change, however small, is one of the most difficult things to do. Is this the way forward? I am not convinced as I still feel the Island-wide vote needs to be included. But how am I going to go with

this debate? I think I will wait for the summing up as I realise change is important and when you look at the vote from Trinity, they did do change. Also, stepping back, what are we frightened of? For me, that is a good question, what are we frightened of? Taking that next step? Are we frightened that we might lose the Constables? If so, it is up to this Assembly to make sure that we do not if we feel that strongly about it. Are we frightened of big constituencies? Well, I know that St. Saviour might not want to be joined with Trinity. Deputy Maçon is nodding his head and I think that is a great shame because Trinity has something great to offer as well as the other way round. To me, it is down to the Island-wide mandate and I will wait for the summing up by the Senator before I obviously make my decision.

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

Having spent the day with Oxfam yesterday, seeing how our Jersey Overseas Aid emergency monies are being spent in the likes of Syria and the Philippines, coming back here to this Last Chance Saloon is something of a Groundhog Day. I, therefore, unfortunately missed Senator Ozouf's option B speech yesterday. Nearly option B, as it gives more Deputies in the St. Helier super-constituency with the purported logic to giving equal representation to the public. If Senator Ozouf was proposing option A, I could accept his argument. But option B does not give equal representation and I am struggling with how he is using this for his reasons, and I say that as a supporter of the Constables in this Assembly. My only regret in the past in the part that I have played in this reform debacle is voting to put the very flawed option served up by the Electoral Commission to the public. I wish then I had voted against it because at the time I realised I felt it was very wrong. However, not to put it to the public, I think, could have been equally wrong. I had hoped, I suppose, for a resounding victory from an engaged public and which gave the conclusive result.

[12:00]

Unfortunately, what we got was the complete opposite; about 12 per cent of the public voted for option B so the argument of not doing what the public want is also flawed. Having said that, I do respect the view that we should not be ruled by those who cannot be bothered to vote and cannot be bothered to engage in the system. But when it is 88 per cent of them not voting for option B, it does beg the question; option B may not be what the public want. To avoid this scenario of the results coming back to this Assembly and having Members vote, as we were all sworn in to do, to vote according to our conscience. If the Electoral Commission wanted to avoid that they should have had the courage to make the result of the referendum binding. However, we are required to vote according to our conscience. If we are going to try to go for equality of votes then, frankly, I would prefer Clothier in its pure sense. I like our Parishes. I do not like big areas slotted together that destroy the Parish boundaries. I also, as most people know by now, think that the Island-wide mandate is a very important one to hold. For those of you who believe the Constables will be the Parish link in this Assembly then, I am sorry, they will be on borrowed time with super-constituencies and I just find it incredible that some of them just cannot see that. This is our constitution; it has stood the test of time. We need to get it right and option B, I am afraid, is not right. It also takes courage not to go along with this, 88 per cent of the public, either through apathy, confusion or simply do not want option B, have voted against it.

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

It is good to follow on from the Deputy of Grouville. I would just like to correct what Senator Le Marquand said about me when I said: "Rubbish in, rubbish out." It was about the question that was put to the public and I voted ... it was never anybody in this House. I know that he did not mean it; it did come out like that and I have never said that and obviously never would. The options put to the public did not get my support, unlike the Deputy of Grouville with great hindsight, because they

were rubbish. Just let me analyse the people out there, what they were voting for: option A was 6 large constituencies ... no, 42 Members of the House, 6 large constituencies voting for 7 Deputies in each. Option B: there will be 42 Members of the House, 12 Constables, 6 large districts, voting for 5 Deputies in each. Option C, and this was a totally misleading question that we allowed to go to the States was: "The constitution will stay the same: there will be 49 Members [there are 51 now, so that was misleading] and there will be 8 Senators, 12 Constables and 20 Deputies elected on a Parish system," which is similar to what we have now but it is 2 less. But look at the numbers. What motivates the public out there? Has anyone ever heard a member of the public or a constituent say to you: "There are too many of you, you need less." Now, on analysing the numbers: we could never agree on the numbers that is why some people did not want to vote for 42, 44, because we have a parliamentary system where we have Scrutiny, we have Ministers, we have Assistant Ministers, *et cetera, et cetera*, and we have Back-Benchers. But look at the numbers that were out to the public, 42; 42 or stay the same, which was again misleading because if it was 2 less it would be 49. They are either going to get rid of 9 people or 2. Now, that is a motive for them to vote. Not the right motive because we all know the Electoral Commission received more support for Senatorial Island-wide representation than any other and the compromise was to go to big districts, super-constituencies, whatever you want to call them. Senator Bailhache has told us we are going to ignore 80 per cent who wanted change. Now, did they vote for that change on the premise that we would only be 42 Members because option C gave you the same with 49 Members? We do not know. I did not put this, as I said at the time, to the vote. Senator Ozouf astounds me as well because even before it was allowed to go to the vote the then Deputy Pitman brought amendments to say St. Helier was under-represented. The Electoral Commission and the party line or the Senatorial line was: "This is going to go exactly how it was brought to this House and there are going to be no amendments." There were no amendments allowed, there was no option D allowed, there was no change in option C to make it what it represented, so we put out a false question to the public. I hear also that there are thousands and thousands of disengaged voters out there because we did not pass the referendum question in the House on change, and they are very, very angry. Well, we have an election on 15th October and the very, very angry will not stay silent, they will come out and vote, they will put candidates up. Even according to Senator Bailhache's so outdated way we run things, they will find people to stand and they will come out and vote, and the majority of Constables are nodding. "The people are so angry they are not going to engage in voting anymore." Well, I am sorry, I do not believe that. You only have to get people angry to have engagement. I will turn this argument on the head: the doomsday is the day it is never going to be, Friday, 19th, because it is the day that will never be. I absolutely agree with Senator Le Marquand's statement about there will only be one election for Senators. There is nobody sitting in the back wings. Every candidate will have to fight for their place and, if we say where we are, it does not make 6, 7 and 8. What does it make? It does not make them without a mandate, as Senator Ozouf would say. I listened to him yesterday on the radio, he was being asked... according to him, 5 and 6 of the Senatorial elections they were a bit dubious. Well, why do we have 5 and 6 in? Why would we go to a super-constituency with 6 in? I mean, if I was a turkey voting for Christmas, bring it on. Give me 6 seats to contest and if I cannot come in 1 to 6, would I have less of a mandate from 1 to 6? You cannot invent a system that says yes or no. I know many Senators who have topped the poll. Have they ever got an important job in this House? Never, but the public voted them in. They topped the poll with thousands and thousands of votes and many have sat on the sidelines because us in here do not think their politics are okay. So do not tell me that you can get in with 10 votes on a nomination paper, a few hundred votes for the Deputy of St. Mary or super-constituencies or 8 Senators, the public do know. The public did not engage with this - 16,000 people. There is a hair between A and B when you look at A and B, 39.59 per cent and 40.93 per cent and that is because we offered the public less States Members and option C stated the same. They do not want big constituencies; we cannot get around it. The Deputy of



Grouville got it in one. The individuals signing up this today are missing the boundary lines or the Parish lines. When you start putting representatives in big districts and you think you can live in your cocoon in your Parish when you have got all these people coming to you, the lines are muddled. People in obviously smaller constituencies or one-Parish Deputies only have that. I know I get phone calls from Deputy Southern's constituents, 3 and 4 District, but I never say: "I do not represent you." I cannot say that. Because we have had it for years and years, you will find it is unworkable and, as the Deputy of Grouville said, a nail in the coffin for the Constables. Yes, Senator Ozouf did paint the gloomiest picture yesterday. We have heard today again, I repeat it, thousands of angry people and if they are that angry, and they probably are, the ones that voted we did ignore. I can say I have not had one call on which way I voted in the referendum. May be St. Helier is disinterested, I do not know. We do know if St. Helier had come out they could have carried either option, A, B or C, on its own. But that is where we are in St. Helier. I do not agree with Senator Bailhache. Again, in his speech he said it is outdated; people feel they do not have a right. Their Deputies are elected on a few votes and does that mean they are not ... we have had some fantastic people who have been voted in on a few votes and do sit in the Ministerial seats. I will finish on this, I listen to who has got their ear to the ground and he has been, a couple of times now, told but his constituents voted a different way; the Deputy of St. Mary. Now, I know St. Mary; it is a small Parish - the Constable of St. Mary has done her best as well on P.P.C. and today in her amendment. He does speak to his constituents and probably on a daily basis and he has still got the courage to stand up here and say: "This is not what they want." Maybe he has had time to drill down and to find out exactly: "Did you vote for that because it was 9 less people in the House?" If we had put option C, you have 42 Members, there will be an Island-wide, there will be Constables and there will be a distribution of Deputies. How many people would have voted for that? Again, we are told we cannot imagine what people would have voted for because we do not know what the other 80 per cent of people did not vote for because they did not vote. But it just begs the question, as I said, and I have been quoted by Senator Le Marquand, if you put rubbish out there and you do not put fair questions, a simple yes or no, you get this back. I mean, on the transferable vote, where did option A voters have to go? They had nowhere to go. Only 9 per cent used this that can vote and a lot of them did go for option B because it was the nearest; it kept their Constables, it kept the Parish. I am very sorry and I am sorry if the people out there are angry but I think that will make, if they are angry, for a very interesting election. I think everyone in this House should be able to stand up and decide why they voted, which they did, and be able to tell them and I hope ... I do not think it will. If they are as angry as everybody thinks, personally I think they have just about had enough of us talking about ourselves **[Approbation]**, and that is my total feeling and I really, really wish that Senator Ozouf either got this over when everyone else did it and not in the middle of January, but, as you say, we are where we are. I think I will finish on that. I cannot support this. It is not a last ditch attempt; we knew it was coming. It is a variation on a possible solution that did not get much public support on a totally, fundamentally flawed question put to the public, 42 - 42 or 49 - and you know as I started this speech, they think we can run with one and maybe that one will be the Senator who tops the poll, I do not know. It might even be Senator Ozouf, I do not know. But we do not know a lot. As I say, if you give them the option out there, if you want 30 people in here to run your Assembly and they think that would be enough and they would answer that question. We did not put fair questions and I cannot support this. I admire Senator Ozouf for his speech. Just to correct Deputy Southern, it was not yesterday that Deputy Le Hérisser made the speech about Senator Ozouf, it was this morning, but it just feels like yesterday.

[12:15]

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

On that note, may I now exercise under Standing Order 84 that the proposition be put to the vote? Since I gave 30 minutes' notice, in excess of an hour has passed. We have been debating this for 4 hours, 45 minutes and I think it is time we came to a halt.

**The Deputy Bailiff:**

We have not been debating this proposition for 4 hours and 45 minutes. Standing Order 84 provides that: "If more than an hour has elapsed since the Presiding Officer opened debate on the proposition and a Member of the States who has not spoken in the debate [and you qualify on that basis] may propose without notice the proposition be out to the vote and has got to give 30 minutes' notice of the intention to do so." Paragraph 3 says: "The Presiding Officer shall not allow the proposal if it appears to him or her that it is an abuse of the procedure of the States or an infringement of the rights of the minority." Of course, I well understand that Members will have had preliminary discussions about the propositions in advance of the debate in the Chamber, but the purpose of a debate in the Chamber is to ensure that Members listen, to both voice this and vote that, and listen to points of view which are advanced by others and that they are publicly accountable for their vote by saying what they believe the position ought to be and that the public know and that there is demonstrated a proper debate on a proposition. The very last thing that should happen is that there should be a debate behind closed doors which leads to a conclusion which the public later do not understand, or is explained by individuals standing for office at a later stage and they cannot be held to account when they make their election speeches for what they have said in this Chamber. When the Senator put forward his proposition, his notice some hour and 15 minutes ago, I can tell Members that I was firmly against it at that point, as being an abuse of the procedure of the States; that the composition of the States could not be a more important issue for Members to debate and the right place to have that debate is in the States Chamber. However, since then there have been a number of speeches and at this stage 16 out of 47 members who could speak, taking account of 2 who are ill, therefore cannot, have spoken on either this or the earlier amendments. Of course, I am aware that the debate on each amendment has gone rather wider than the strict terms of that amendment. While we are at that percentage of one third of Members having spoken, I am satisfied it would not be an abuse of the procedure of the States for this vote to be taken on the closure motion. The second thing I have to decide is whether or not it is an infringement of the rights of the minority; there are 3 Members who have not yet spoken at all in any of the debates and who have indicated they wish to speak in this debate. I have to decide whether that is significant enough. I think at that point it is a matter for the Members to decide whether that is sufficient. There is certainly an argument for saying that the rights of the minority are infringed and there is certainly a position that if Members approach the closure motion upon the basis that discussions have taken place so much that we have all had enough, that seems to me, if I may put it that way, to be the wrong basis upon which to vote. But the Standing Order is there for Members to make their own minds up and I am going to allow the motion. Therefore, I invite Members ...

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

May I just ask a point of clarification; is it possible just to establish how many more people want to speak? Is that possible?

**The Deputy Bailiff:**

Three people have given notice that they want to speak. They have not spoken in any of the debates.

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

About how many more? Is it possible to ask how many people, by a show of lights, want to speak?

**Deputy M. Tadier:**

I do not think it matters which Members wish to speak, does it? It should not be germane. We should not be deciding on the basis of which Members they might be.

**The Deputy Bailiff:**

I take it as a given that there will be other Members who have not yet indicated they wish to speak who might wish to speak. I am sure Members will approach it on that basis.

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

Can I say that I would have liked to hear from the President of P.P.C. before the debate takes a vote.

**The Deputy Bailiff:**

Then you will, no doubt, reflect that in the way you cast your vote in the closure motion. The appel is called for and I invite Members to return to their seats. The closure motion has been proposed. The vote is on whether or not to close the debate at this stage.

<b>POUR: 6</b>		<b>CONTRE: 41</b>		<b>ABSTAIN: 0</b>
Senator B.I. Le Marquand		Senator P.F. Routier		
Senator F.du H. Le Gresley		Senator P.F.C. Ozouf		
Connétable of St. Peter		Senator A. Breckon		
Connétable of St. Ouen		Senator S.C. Ferguson		
Deputy J.A.N. Le Fondré (L)		Senator A.J.H. Maclean		
Deputy J.M. Maçon (S)		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. Mary		
		Connétable of St. John		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. Saviour		
		Connétable of Grouville		
		Deputy R.C. Duhamel (S)		
		Deputy R.G. Le Hérisssier (S)		
		Deputy J.A. Martin (H)		
		Deputy G.P. Southern (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy M. Tadier (B)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		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 R.G. Bryans (H)		
		Deputy R.J. Rondel (H)		

**The Deputy Bailiff:**

We continue with the debate and I call on the Deputy of St. Martin.

**1.3.16 Deputy S.G. Luce of St. Martin:**

I think I will wait until Members have stopped talking. Thank you. It became apparent during yesterday afternoon and again in this morning's speeches that there are many in this Assembly that have already chosen to forget that the Island held a referendum last year. Some of us have conveniently forgotten that we went out and asked the public what they wished us to do about electoral reform. Of course, as we know, some of us also then chose not to take any notice of the result of that public vote. When it comes to trying to analyse the results of last year's referendum and applying those results to today's debate, more than anyone else here, there are 2 Members of this Assembly that were given a real clear direction by their constituents and parishioners. Those 2 Members are my Constable and myself, for St. Martin had the only electoral district that produced an overall majority vote in the first round. We are the only representatives in this Assembly who can really and rightly claim to know what their voters wish them to do. Some might think that this makes our decision today easier; our parishioners told us clearly they wanted option B but, as we know, that preference is not an alternative that is available to vote for today. Over 77 per cent of our Parish that voted wanted super-constituencies in one way or another. Over 72 per cent also wanted to retain their Constables in this Assembly, while only 21 per cent wanted to keep the current system as it stands today. In those 3 simple pieces of data lies the conundrum. What is to be done? Do I hold out for option B? I have been resolute in doing so until now but, of course, it is not available to vote for today. Or do I get as close as I can to the system that my parishioners have indicated they want in the future? The proposition in front of us today is not what I want; it is not what I would choose but it does produce super-constituencies, it does retain the Constables. I can continue to hold out for exactly what my parishioners voted for but this proposition, if it is not successful today, will retain a system that less than a quarter of my parishioners preferred. What I could or should be doing now is desperately looking around for a reason, any reason at all, to vote against reform and against Senator Ozouf's unamended proposition. Why would I jeopardise my best chances of re-election in the autumn? Surely I should just vote to retain the *status quo*. However, when I ran for election I told my parishioners that I would quite happily risk voting myself out of office if it was for the betterment of the Island and my Parish and that is a statement that I intend to make good on once again today. I have decided that I will vote in favour of this proposition, a proposition that allows my parishioners to retain their Constable, their Parish leader, as their representative in this Assembly while also giving them 5 additional votes for Deputies in their super-constituency. One thing they really told me when I stood for election was that they wanted less Members in this Assembly. I have concluded that more than anything else, the majority of the voters in the referendum wanted change; they wanted reform and at this last hurdle, whether you like it not, it is only P.93 that is not in a position to deliver that change. I would urge Members to think carefully. I would urge them to do as I am going to do and support this proposition.

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

Like the Deputy of St. Mary, who represents a small Parish, I, who represent the smallest Parish, do not want super or large constituencies. I do not like large constituencies. Like the Deputy of St. Mary, I do not think that equality of votes is a major issue out there among the population and the electorate. What I think is important to the people out there, to those we represent, is the Parish representation. The Parish is the basis of our cultural life; it is the basis of our social life and has been, for hundreds of years, the basis of our political life. The Clothier Panel recognised this and that is one of the reasons they came up with their recommendations. But, of course, the other bonus is that even though some of us still think it is terribly important, the Clothier proposals do give us an equality of votes. They also give us one class of Member. In fact, I think, Deputy Tadier pointed out this morning that is the only way we can get equality of votes. The Clothier proposals remove the Senators. Well, that is going to happen anyway. That started to happen when the States decided that Senators should have the same length of term as the Deputies. There is no one who is going to move from a relatively safe Deputy seat to a Senatorial seat with all the expense and risk that takes. The Senators will go, whatever happens. The conundrum, are the Constables resolved by the Clothier proposals because Constables will be able to remain in the States if they wish to stand, perhaps, for the Assembly and if their parishioners want them to be in the States. We will then have a true general election, same day, same term on same basis. What I am encouraged about is at last, after 13 years, the States have decided that the public will be able to express their views and decide on the Clothier proposals in a referendum next October. Even though I have always been and remain a firm supporter of the Clothier proposals, I will live with whatever that referendum decides. I would say to the Deputy of St. John, the Clothier proposals are as valid today as they were 13 years ago; the basic democratic principles have not changed. Now, because we are going to have a referendum and because I believe that the public will support the Clothier proposals or the Clothier model in October, I am able to support Senator Ozouf's proposition today. I am able to do that because it brings forward the removal of what is now an anomaly, the Senatorial position. It reduces the number of States Members, which is one thing I think most of us agree that the public want. In the belief that the public will support the Clothier model in the referendum, this model, proposed by Senator Ozouf, and indeed approved in the referendum, will last for one election only. I feel, in all conscience, that I can support the proposition.

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

I have been listening intently to the debate over the last couple of days and I am struggling to understand what real difference the public can expect from this particular reform proposal. How will it impact on their daily life? What benefit will they see in relation to this Assembly in the way we make decisions and deal with the issues that affect them? I am struggling to see what difference it will make.

[12:30]

In fact, I would like to pick up some of the issues Senator Bailhache raised and said it may address voter participation. We had a great example of that recently and it was spoken about at length in regard with the referendum. We hear that the public want change. Twenty-six per cent of the electorate chose to vote in that referendum. What does that tell you? If you take that as a base line of voter participation, that is a pretty poor place to start from. Did it engage the public? Obviously it did not. Was it through poor attempts at communication of the issues? No. I think all the parties did very well to try and engage the public in it. But it is not of interest to them. Then we look at lack of opportunity. I have not seen a lack of opportunity for the public to engage with States Members. We are all in the phonebook; we all get contacted. We all represent individuals at all sorts of different levels. No one has come to me and said: "Oh, it is difficult to get hold of you." They might be upset sometimes I do not get back quickly enough, but they never say: "It is difficult to get hold of you." Then we also tell them: "This will help. This will encourage and enable more

people to participate and vote.” When I look at the St. Ouen’s parishioners’ situation, obviously who I am here to represent, I go: “Well, right. At this coming election the parishioners are going to be able to vote for one Constable, one Deputy and 8 Senators - 10 States Members. This proposition will reduce that to 6.” Does that mean that they are better represented or less represented? On a number basis it is less. Is that of benefit to them? Real benefit to them? Then the other issue is that up to now, those who wish to stand for Chief Ministerial positions are able to declare that before the election, stand as a Senator and allow the Island to show their support for that particular candidate or candidates when there are more. Is this proposal going to allow that to happen? No. No, that is going to disappear entirely and only one-sixth of the Island or the individual that will gain one-sixth of the Island’s mandate will be able to stand legitimately for a Chief Minister. Is the public going to really want that? Does the public really think that that is an improvement? I do not really know, because the crazy thing is - and I pick up the point that the Deputy of Grouville made - the flaw with the referendum was it was advisory and there was no minimum level set of voter participation as in many other places that rely on referenda to determine appropriate outcomes. In an issue that we debated before the referendum, and I do not have who voted for what, I would suggest that some of those that stood up today and declared their public support for the referendum result did not support making it binding.

**Senator P.M. Bailhache:**

Would the Deputy give way? Both the Deputy and the Deputy of Grouville have said that the Electoral Commission made a mistake in making the referendum non-binding. I should just like to point out, and I hope the Deputy would accept, that the non-binding nature of the referendum is set out in the law. There is nothing the Electoral Commission could do about it.

**The Deputy of St. Ouen:**

If anyone believes that I was being critical of the Electoral Commission, I was not. In fact I do not think I mentioned their name. I was talking about this Assembly who made the decisions around the referendum and not changing the law to make it binding and setting the level. Forgive me if the Senator believes that I was making allegations of the sort that he suggested. But the truth is that we do not have that. We can. That is one thing that we can positively change. If we really want to ask the public’s opinion and I think it is in that form, and I think it is important, then let us make it binding. Let us set the bar high so that we or anybody can stand up and say: “The public have said.” But at the moment we cannot. The Senator mentioned about political parties. Will this reform deliver political parties? Will it help others to understand our actual system? I do not think so. I think political parties will come maybe from a frustration where both as sitting individuals promoting their manifestos and they struggle to see it being delivered because they understand they are an individual included in a group of - and I hasten to add, and I will repeat this - elected representatives. This suggestion that any one of these States Members that are sitting in this Assembly now do not have a mandate is ridiculous. Regardless of how many voters voted for them, we were all elected into this Assembly by the public, regardless of whether some may have been elected unopposed. I did face an election this time so I can stand here proudly saying that I achieved more votes in my fourth term than I did when I started. So there you go. **[Approbation]** I do have to pick up one last matter, because the Senator that is proposing this particular proposition, part of what he is asking the States is that the Deputies would, under the new structure, have a much more wide-ranging role than Deputies in the current Assembly. Well, maybe the Senator in his summing-up will just kindly explain to me how that is going to happen and what is going to change from now. Because I am well aware that Deputies are not restricted to a particular role and they can undertake any role in this Assembly including being involved in the Executive and the present example of the Deputy for Trinity that is head of the largest department within the States. So the idea that suddenly we are going to be able to take on wider-ranging roles is

ridiculous, I am sorry to say. I think with that I will just say to the Senator Bailhache that although he mentions the Strategic Plan and places his finger on one part, there are many strands to the Strategic Plan which I recognise the Council of Ministers have been dealing with and addressing over the last couple of years. But I would suggest that there here are far more important issues within that Strategic Plan that need our attention than changing this particular electoral system at this time.

### **1.3.19 Deputy J.M. Maçon of St. Saviour:**

I shall try to keep my comments to 5 minutes. Much has been said in this debate and Members will fully be aware of my particular views on the referendum, the process and the result, so I am not going to delve into that at all. What I do want to do, however, is to remind Members that this House has already agreed another path democratically. We have already agreed that another question should be put in it with a better and clearer process. That is being drafted and is indeed out for independent review at the moment. It does seem very absurd if we were to approve this and then also to go to the electorate with another question to change the composition of the States. It does seem in principle the States have agreed that a new referendum question should go forward. Therefore to change the system and then at the next election to ask for it to be changed again does seem to be a rather odd position to put the public in. It is not something where I want to go. We know from the independent review of this particular option that it does not rank highly when it comes to some of the principles set out that modern democratic systems should have, which again is a reason why I shall not be supporting this particular proposition. While we have been talking about how there is this atmosphere of vengeance against Members who may not have supported the option B premise, I have not received a single letter, phone call or conversation from any of my constituents criticising how I voted in the last debate. In fact, the opposite. I have had praise and congratulations from my constituents about how I voted, because it is my job in this Assembly to represent their views. If you look at the breakdown of Petite Longueville, to take one district, option B did not win in that particular district. So therefore I am doing my job I feel in representing those views. Therefore there has been a lot of discussion around this. I think this is not a very different model what goes ahead. What has not been discussed is while yes, it does add more representation to those constituencies in St. Helier, what has not been mentioned is the disproportionate effect it then gives to those districts who have St. Clement, St. Brelade and St. Saviour in them. It puts them out of kilter. So it does not particularly help the situation. While I understand the reasons why this is being put forward, I think the problem was we did not have the right process in the first place; we did not put the right question to the people in the form that it came forward. But the States have already asked my committee to come forward with another method which my committee has worked very hard to put together, which we are looking to bring forward and which is out to independent review at the moment so that we have an unbiased, non-leading question based on a Clothier model which is what the States asked my committee to do. Therefore I will not be supporting this proposition because the States have already asked us to go and proceed down another route. This particular model does not offer the fair democratic system that is desirable, and I will leave it there.

### **LUNCHEON ADJOURNMENT PROPOSED**

#### **The Deputy Bailiff:**

It is proposed that the States adjourns until 2.15 this afternoon

[12:43]

### **LUNCHEON ADJOURNMENT**

[14:15]

## **The Deputy Bailiff:**

Very well. The States resumes its debates on P.93/2013. I ask Deputy Young to speak.

### **1.3.20 Deputy J.H. Young of St. Brelade:**

I was not intending to speak, but of course before the recess we were reminded of the importance of constitutional change and the importance of today's debate in that. Also of course, the proposer of the proposition has clearly challenged those of us who voted against the option B proposal to, I think, state or restate why we have not changed our minds. I think the arguments I hear today are among the, I suppose, froth of the debate which is, well, this is the last chance today for us to change the constitution before the next elections. It's come very late, the eleventh hour, and therefore you have no choice. Therefore, a vote to maintain those of us who voted against before, it is argued that to maintain a vote against will be defeating the legitimate purpose of change, and voting for the status quo permanently. Therefore we should take what is on offer as a change on the basis that any change is better than no change. In there is part of the arguments: "Well, the change proposed will produce more legitimate candidates" and we have heard talk about certain candidates and saying legitimacy is being questioned. The proposals would result in a better class of States Member. I have never accepted that argument, right from the start, and I think as an Assembly, as elected Members, we reflect our community and it is absolutely certain that we will be no different than those in our community. It does not matter what roles we create or what positions, what rules we make for that. This Assembly will reflect our community. I certainly feel at the present it does, and I believe whatever changes we make, those positions will continue to reflect our community. It will certainly not be, I do not believe, any argument for having a better class of Members. I think there is also an implication. Maybe I am over-sensitive, but an implication is being put here that those who voted against this proposal, option B originally, did so for their own ends, self-interest. I categorically deny that. I do not personally see that tendency in other Members, but in my case I am certainly not a career politician. I try to do and make judgments, each case, each item, on its merits, and I do not personally become involved in allegiances or agendas in making that choice. The issue is whether or not the proposal on the table is in the best interest of the Island. Certainly in my case, I have an average size - if one looks at the average size of numbers of population per Member, I am pretty well on the average - a single constituency, and I was elected by a very small majority in that single seat from 4 candidates. So it is a highly marginal seat. I do think it is important that our voting systems reflect the situation so that every vote counts. Therefore, I shall be supporting the proposals for the alternative vote system and I think that stands separate in my view from this proposal. That is a change I think we can make. But I want to just highlight this question of I think what was said by the Constable of St. Clement. Somehow I think it was suggested that we could go with the proposal and that we would still have the opportunity to hold the referendum that the Assembly has already decided - believes - not just once, but twice; we have had 2 votes on that subject, on the principles of the Clothier investigation, the Clothier Report into the machinery of government. I personally firmly believe that the principles of the Clothier Report are absolutely as valid today as when they were written. Some adjustments perhaps needed into the number of Members and so on, but the principles were right. I really find I am struggling to hear that the notion can be created: "Let us go with this change. We can restructure a system of election based on Parishes which is an important principle and one which Clothier believed in. We could replace that with super-constituencies," which as far as I am concerned, I do not think many people in their representation to the Electoral Law Commission said: "We really must have super-constituencies." I do not think there were. I think what happened was that the development of the notion of super-constituencies came because of the removal of the all-Island mandate; the all-Island mandate which the public is wedded to. The impracticability of holding elections for a system that extends the all-Island mandate. So the notion of the super-constituencies was born. But as we have seen in all these debates, there are major



implications of that and I think during the referendum that was held at the beginning of this year, it was quite clear the public were very, very divided. I think that is another reason why I am certainly firmly behind the P.P.C. proposal which the Assembly has adopted that there will be a referendum on major change at the end of this year, and I think because the jury is out, I believe, on the result of the last referendum. We will never reach a finality about that. For me personally I did not regard the result as conclusive because certainly in my own constituency and not different for many, the vote was 50/50 on the A/B options and the turnout was not only low, but the number of those voting neither for A or B who abstained from making that choice for their second ballot the abstention rate was just phenomenally high. It indicates to people that people eschewed that; they did not like it. Therefore we ended up, even on the most magnanimous of figures that you take, less than 50 per cent of the people that went to the polls in that referendum and voted in favour of the constitutional change. For me therefore, this put the result largely in doubt. Of course I deeply regret that I had not voted against the referendum acts when we agreed them. I went along and I do not know whether it was trust or optimism or what, but I really believed that that was the right thing at the time. But it is clear now in hindsight that that referendum was flawed in my view, the debate will reign for ever about it. It will not be possible, no matter how many statistical analyses we do, and therefore the best thing we can do if there is that doubt, and I believed at the time when I voted against it, was to go forward and try and seek the change, the change that would permanently last this Island for good. To me the fact that we had adopted the Clothier Report in part and not held that referendum was a massive issue to put right. I believe it should be put right. I am struggling seriously with the belief that we could just go with this now and we would still have the referendum and we can still, if the public do vote for the Clothier principles, then re-change our constitutional set-up for the Assembly again within 12 months. I find that a real struggle. So for that reason I cannot see any arguments other than saying: "This is the absolute last chance. Some change is better than none." I do not believe that. I think constitutional change rarely happens in any public body and when it does it is really important that there is not any doubt about its constitutional credibility and its acceptability to our community. That is why I believe P.P.C.'s approach to this is in the right direction. So with that I am not convinced of the case for, in my case, changing my mind not to go with the proposition. I will of course, in the spirit of open-mindedness that I always try and do, listen to what the proposer says about this issue of permanent change or temporary change. I think that is really quite an important issue for me. Thank you.

#### **1.3.21 Deputy T.A. Vallois of St. Saviour:**

It might be a surprise for Members to know this is the first time I have spoken with regards to a constitutional reform debate in the 5 years I have been in the States Assembly. The reason I do so is because I find myself in an extremely difficult position. I listened to all the arguments that have been made, whether it be by the public or by States Members themselves, in regards to constitutional change. With regards to the last speaker who has spoken about the super-constituencies, if I remember rightly, in my last term it was something that was brought to this Assembly by the Privileges and Procedures Committee and was knocked back by this Assembly because they were not happy with having super-constituencies. The changes that were finally made in terms of the reduction of Senators was, I think, a compromise that was made by this Assembly, albeit it was a very slim compromise, and those were the changes that were made: to go forward and to move to a spring election. The discussion all centred around the problems that we had going back to 2000/2001 when we had the Clothier Report and whereby, as many people have said in the past, that has been cherry-picked and has brought us to the position that we are still in 14 years later discussing the same thing, the same problems and the same issues. By thinking that we could just vote for this and it would get rid of the navel-gazing and ignoring the public's wishes, I think we are living in a dreamland. Because any form of system or structure or framework that you have, you have to ensure that you look at it and keep it reviewed and ensure that it is working in the most

efficient way that people want it to work. I was one of the Members that voted against the referendum result which was in July last year and the reason for that was not because of personal interest, not because I wanted to stand again in my particular constituency and only get a few votes, because I am only a Deputy and I only represent so many people, because that is wrong to even think that I only represent a few people. When I stand in this States Assembly my vote counts for 100,000 people in this Island, or less depending on whether you want to assess the Census or not. But that is the reality of it: 51 Members in the States Assembly.

[14:30]

Whether I am called a Senator, a Deputy or a Constable my vote can change somebody's life out there in the public in Jersey, in the Island of Jersey, whoever moves here or whoever leaves here. That is the reality of being in politics. You have to take a balance of probabilities and look at the way that we discuss some of these things that we do in the Chamber. When assessing how to vote in July, although I had stated that I would go along with the wishes of the referendum to people outside of this Chamber, what concerned me the most was the way in which we were doing it as an Assembly. If anybody had looked back at the way we approached the machinery of government, the Clothier Report in the past, we have not been too good at being logical or using our common sense in approaching change to this Assembly or to the States in the 14 years, I am aware of. We brought in Clothier which was cherry-picked: "Bring in the bones and put the meat on later" and we are still discussing the meat. I have been on 2 reviews now on the machinery of government. It is not an easy thing to grapple with and people may think we are just navel-gazing but these are the fundamentals of how we run this Island, how we as an Assembly work for the people of the Island. So when we stand on that platform and promise people things, we have to make sure that we can follow through on those promises. We are all independents when we stand. We are not parties; we are all independents. The Electoral Commission's report referred to the issues of general election. General election was never asked of the public in a referendum but it was seen as the most appropriate way to move forward and a view of this Assembly that it was the right way to move forward. In 7.6 on page 33 of the Electoral Commission's report: "The decision of the States to move to a general election was made partly in response to concerns that 2 Chief Ministers had been appointed halfway through their 6-year term of office without having faced an election. Some of those who made submissions to us favoured a return to a system of staggered elections, even to the extent that there should be annual elections for a quarter of Members over a 4-year cycle. However, in most jurisdictions the principle prevails that there should be a general election at regular intervals to allow the public to express a view on the entire membership of the legislature. The Commission believes that this principle should be applied in Jersey." On that basis, I believe that was the reason for the previous P.P.C. coming forward with the super-constituencies, because it was difficult for the Island-wide mandate on the basis of general elections. That is of course my understanding. But what really bothered me about all of this was that we did not have to have the referendum debate in July. I was advised that the latest we could discuss and debate these issues was December last year in order to allow for the legislative changes and the necessary move forward for the elections of this year. What bothered me the most was if we are working as a team, if we are working together, if we are working collectively, then why did we forget the most fundamental and the foundations of the way in which we work and that of machinery of government? To me, that has always been the biggest issue of how this States Assembly works, hence the reason why I have been on 2 previous reviews. That was forgotten when it was decided to bring forward the debate in July of last year because machinery of government had not brought forward their proposals as of yet because there were difficulties and there were issues with machinery of government. I have said to many Members when discussing electoral change and discussing machinery of government changes is that we should not be doing bits and pieces here and there. We should have approached it in a way which would have been beneficial for all if we

were supportive of the Strategic Plan, which I was, and I am supportive of reform and I am supportive of change. But what we should have considered was that we should have taken everything as a whole; how it all interacts. When we talk about the electoral changes we have to look at how that affects in terms of the machinery of government and how the public get disenfranchised of how they can vote for an independent Member, whether they be a Constable, whether they be a Deputy or whether they be a Senator and they can be a Minister who have much more power than what happened in the Committee system. Yes, it is for the States Assembly to hold those Ministers to account and I believe we do the best which we can within the circumstances we are working in. But what happened was in July we debated the electoral changes without a view of this Assembly as to how the machinery of government should look going forward and to me that was wrong. Also, the other thing that really did concern me, and I hope that Senator Ozouf can answer these concerns, was page 32 of the Electoral Commission's report with regards to Constables remaining in the Assembly. I will just make it clear now I do not have issues with Constables in the Assembly because in my view it does not matter whether you are a Constable, a Senator or a Deputy; we all try to achieve the same aim and that is debating and deciding on things in the best interests of the public. We all have our different views and that is why we were all elected in different ways by the public of Jersey. But 6.17 states that: "If the Constables remain in the Assembly, then the commission is minded to recommend that the relevant legislation is amended to ensure that Constables are appointed on the same basis as the other class(es) of States Member. At the moment, Constables are elected in accordance with the Connétables (Jersey) Law 2008, which does not refer to membership of the States. Should the Constables remain in the Assembly, their election should be brought into the States of Jersey Law 2005 so that they are seen to be elected on an equal basis with other Members. Legal advice will need to be taken in respect of this recommendation as, given their role as head of the Parish Honorary Police, the Royal Court is currently able to remove a Constable from office should he or she be convicted of a serious offence or otherwise be guilty of serious misconduct. The Royal Court will, of course, also need to be consulted." So, when I refer to 6.17 I want some form of reassurance from Senator Ozouf if this P.93 was to be adopted that those concerns or those areas that are mentioned within the Electoral Commission report at 6.17 could in fact be dealt with before the next elections or given a timescale of some form in terms of dealing with those areas. So, as you can see, my vote did not happen because of personal reasons because I want to keep my seat and carry on in the States. The main message I get from the public when I saw the referendum was they just want to reduce States Members. People do not trust politicians any more, believe it or not. No matter how much we try, we really do try, but to a certain extent it is out of our control because it is the world over. It is not just Jersey. There is an issue the world over about politicians and the way that politicians work. But the way that we work, just because we may be a Deputy or we may be a Constable or we may be a Senator, the one thing that has really bothered me about all of this is the division that has been created between whether you are a Deputy or a Constable or a Senator. That really, really bothers me. The reason why I say that is because although I am a Deputy for St. Saviour District No. 2, I do not just deal with issues concerning people's lives within St. Saviour District No. 2. I am sure that goes for many people in the States Assembly. I deal with issues all over the Island. I think that is to be expected because when people know you are in the position that you are in and that you deal with the departments and you deal with the officers and the Ministers on a daily basis, as you do, that you can deal with those kinds of issues. We should all be open and able to help people with those issues. So I do not like this whole dividing us into different names and different reasons. We are all here for the same reason. So let us just forget that whole conundrum because it is too easy to jump on the bandwagon with that. I do find this debate very difficult because I would have preferred to see a situation where we would have the machinery of government changes, we would have the electoral changes and we would discuss them altogether on the same day and get that reform done and dusted so we can get on with what the public see as the real problems in their lives

because that is what they put us here for. The planning problems, the housing problems, the economic problems, those are the things that people put us here for. But in order to do those things we need to have the right system in place so we do need to have this discussion but I wish it was structured better. But we are in the position we are in today and the machinery of government “in Committee” debate we had last year gave some indication from States Members as to how we could possibly move forward with the changes to the machinery of government. There are still concerns surrounding, of course, after recent events with regards to executive changes concerning hire and fire collective responsibility. But I think we need to keep in mind, as do the electorate have to keep in mind, the kind of people that they elect to the States Assembly and what they expect of those people and the realistic expectations that everyone expects of each other. I am still struggling with this debate. I really am struggling with this debate. The Constable of St. Clement made a point about Clothier and I am very much in agreement with him because it is not a case that I do not want to see the Constables in the States. I think a parochial interest and issue coming to the States is important, however, times have changed, times have moved on. We have got to the point whereby we are a mixture of a national and local Assembly. Having the influence and the interest of those areas is very good because issues that happen with regards to individuals can change a whole policy and the whole way that we go about legislation in one particular area. My concerns lie purely with the fact that we have not been able to do the reform in a whole as I believe we should have done. I would have expected that of any P.P.C. chair to come forward and say: “Electoral reform and machinery of government reform should be discussed and debated no matter how adversarial or how difficult it is in this Assembly in one whole because they all interact.” Some people feel that they do not have a say when their vote is made at election time because of the ministerial government that we have in place and that is difficult for some people. That is why some people feel that Senators is the way that they have that vote because it is an Island-wide vote and you can understand that. You can see that because everyone has a say. I found it interesting when I went to a P.A.C. (Public Accounts Committee) conference last year where C.P.A. (Commonwealth Parliamentary Association) delegates were absolutely amazed at how a Parliament can run without political parties. Absolutely amazed.

[14:45]

I was shocked at how many people wanted to discuss it with me: how it worked, why it worked, what happens in a system without political parties and, of course, I had to try and explain that. It was not the easiest thing to explain, I have to admit. I think it is the culture, the heritage and the system that we have always worked in. I think there is a question mark of do we carry on going down that way but it is up to individuals as to whether they want to create parties. It is up to the public whether they want to create that kind of situation. Of course, the public have not got to that point or people have not got to that point of political parties in the Assemblies. But the ministerial government system does give way to more of a party system than what our current system does, unfortunately. That is after being on 2 machinery of government reviews and coming into the States not thinking political parties was appropriate for the States Assembly. In listening to the speeches I could quite easily sit here and say: “No, absolutely not. I am not going to vote for this because, believe it or not, I was an option A supporter.” I did believe that option A was the most appropriate way to go forward. I did not vote against the last vote in July because of self-interest or personal reasons because that is not why I am here. I voted against it because I think it is all over the place. It has not been joined-up, it has not been dealt with in a proper framework that we should expect, or the public should expect, of this States Assembly. I think it is wrong for us to divide each other in calling each other in terms of names of Constables or Deputies or Senators. It is an emotive subject and it is a difficult subject. But a large amount of the population that you speak to and ask them about how politics runs in Jersey or you even mention the word “politics” - mention the word “politics” - do they really want to know? Do they? But then if you start

speaking to them about how difficult it is to pay for housing or pay for food or deal with everyday life, unemployment, those are the issues. This has been overtaken by all of those really serious issues. I would love to be able to turn round and say that by voting for this would encourage more people to vote. I do not think it will. That is my own view because until we start working together and showing people that we are going to act - and I mean act not just say "act" - on the things that we say we are going to do as a collective, then people are going to continue not having trust in us no matter whether we are the Minister for Economic Development or the Minister for Treasury and Resources or a Back-Bencher. I think that is the realism of the system that we have. People are fluent within the Island. They move in and out of the Island and therefore this system, do they really understand? Is it easily understood? Even if we do change it, is it easily understood for them to be able to participate? Those are the kinds of questions that I ask myself. So until I hear other speeches that are going to come forward or whether Senator Ozouf can answer those particular questions I have surrounding the Connétables or surrounding the States of Jersey Law 2005 and how we can make the system better by voting for this, I am still not so sure. Thank you.

### **1.3.22 Deputy R.G. Bryans of St. Helier:**

I agree with at least 2 things that Deputy Vallois said there. One was the lack of differentials between Deputies, Constables and Senators and the other was the need to act. I firstly want to start with a rebuttal to what was suggested yesterday by Deputy Tadier that St. Helier No. 2 has a ghetto. As a Deputy that both represents and lives in the Parish, no such thing exists. Never has, never will. Admittedly there are areas of deprivation. But for someone who usually chooses his words carefully the notion of a ghetto and all the images that conjures up are far removed from the truth. I am proud to live there and proud to work on behalf of my constituents. His comments were misguided. I will try to be brief and clear because I think most of the arguments for and against have already been extremely well articulated. We have heard some excellent passionate speeches, but the House is divided so I will just focus on a couple of aspects. I came into this Assembly on a manifesto of change, not necessarily reform but redesign, and here is a clean opportunity. It is not perfect but it is the best we have, closest, I would say, available solution to what the electorate wanted. This is not revolution but evolution. Later down the line, as was suggested by Deputy Young, it possibly could be changed. Just as Deputy Vallois earlier described, our roles as Senators, Deputies or Constables are about choices, making decisions and duty of care. Nobody said these choices or decisions were going to be easy but at least they present us with something not mentioned so far: opportunity. Nobody can really forecast what will happen if we adopt the proposition but we all know what will happen if we do not. Let us take this opportunity and run with it. You cannot put your foot in the same river twice. I gave a short presentation to the I.o.D. (Institute of Directors) last year and I have had several people, mostly lawyers, strangely enough, saying the "Loved One" quote. Hannibal said: "Either find a way, or make one." It suggests there is no obstacle or barrier too difficult to overcome. Some people perceive this proposition as a barrier to progress. I do not. I see it as a catalyst for change, I see it as a platform for opportunity and it is all about perspective. Do super-constituencies offer such a great threat? Well I think Senator Ozouf will articulate his thoughts on that later but I do not think so. What if those Deputies of the new constituencies really start talking to each other and creating new alliances and new dynamics, where would that take us? I agree with the Constable of St. Helier when he says this is a serious matter. It is, but it equally demands fresh thinking. It opens up more opportunities than it closes down. It removes Senators and I understand and empathise with people who would wish to keep them. Having a foot in both camps I cannot see the difference between a Deputy holding the role of a Minister and a Senator that does not hold any role at all. It should be about skills and abilities, not titles. We are all working for the common aim of improving the lives of Islanders, making their lives better. I think this proposition takes us some way towards that. Once again,

Hannibal said: “Either find a way, or make one.” I think in this proposition I have found a way. I will support the proposition. Thank you.

### **1.3.23 Connétable S.W. Pallett of St. Brelade:**

I am going to be extremely brief because I have now a lot of sympathy with Senator Le Gresley’s proposition previously. **[Laughter]** I think everybody knows that I was a staunch option B supporter so I was particularly disappointed when it did not get through the House. But in regard to the 28 that voted against it, I have total respect for their choice to do that. Like Deputy Young, I do not think there was any degree of self-interest in that and I think they were working in the best interests for the Island. But I did think within that decision we did lose the trust of many, many Islanders. The Constable of St. Clement mentioned previously in his speech that he had not met too many people who were really that concerned about equality of voting. I may have read what he said wrong but that is not something I have found. I think people are worried about equality of voting. I certainly want to ensure that in future there is equality of voting. This proposition, I think within the bigger districts, which is something I supported all the way through, is something I think that does come to resolve that problem to some degree. It is not perfect and I do not think any of us agree it was and there are a lot of issues that have been brought all the way through ever since the Electoral Commission was put together that we have not been totally happy with but, I hate to say we are where we are, but we are where we are. Although we have bigger districts they do retain the Parish boundaries which I think is vitally important to Island life. This proposition retains the Constables. Now whether you agree with it or not I think they are vital to this Assembly. They do support the traditional Parish values of community and support those in need within those Parishes. Another issue I think that this proposition dealt with, and I think it has been dealt with by St. Helier Deputies in the past, is the under-representation in St. Helier way to helping that situation is something that I think the option B group all the way through were aware of, something that I think maybe should have been dealt with at an earlier stage. But, nevertheless, this does deal with that to some degree. As I have already said, I think not taking up the referendum result was disappointing. I think, importantly, 26 per cent did bother and we all keep going on about the 74 per cent that did not but what about the 26 per cent that did? Inasmuch as Deputy Young does not think that it was a conclusive result, nevertheless, it was a result and I think we should have listened to the public. I think from what the public have said to me that was a sorry day for this Assembly. This particular proposition is the closest to what it should be. It adds to Deputies to St. Helier, so I am going to support it. But I do not think by any means, even if we support this proposition today, that this is the last time we are going to debate reform because I think we will be back. The minute the next Assembly is done and dusted I think we will be back discussing it again. I am afraid we are going to be wasting even more time in years to come debating reform. But I do agree, a lot of people think we have got to get it right. This is a step towards getting it right. I think we do need some reform. I stood on a platform of wanting reform when I stood for election in 2011 and I will be letting people down if I do not support.

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

Like others it was not my intention to speak today but I am happy to state publicly where I stand on this proposition and electoral reform. Firstly, I support electoral reform as the existing system is broken, I think most of us are agreed on that fact. Secondly, I believe and I believe since I entered the Assembly some 5 and a half years ago that the previous States failed the Island by not adopting the Clothier proposals lock, stock and barrel. The cherry-picking has resulted in the mess that we are in at the present time. All we have done since is to use sticking plaster to try to hold together something that is falling apart and, as a result, we have wasted days and days in this Chamber trying to find a fix. Thirdly, I believe we had the opportunity to sort out this mess once and for all by setting up an Independent Electoral Commission without politicians. The reason was that the

strongly-held views of politicians and vested interests we, as a Chamber, were not capable of coming up with a solution to it. We set up an independent Electoral Commission and then what happened? The new House decided they would allow politicians to sit on it and those politicians had very, very strong views, long-held views, passionately-held views and the result was they were reflected in the decisions of the Electoral Commission. I believe that we made a fundamental mistake by reversing our position and allowing politicians to sit on the Independent Electoral Commission. It has also resulted in an unsatisfactory set of questions being put to the electorate in a referendum. When the referendum result was brought to this Chamber I voted against the proposition and I have no regrets for doing so. If I stand in October I will be happy to explain and defend my actions to the electorate. Because we have made a pig's ear of election reform in the past does not mean that we should jump at Senator Ozouf's proposals as the last one standing and continue making a pig's ear of electoral reform. I say this because his proposals do not go far enough. He is giving a sop to St. Helier by giving a few more but he is not dealing with the representative deficit for the people of St. Helier. I, unlike the Constable of St. Helier and Deputy Bryans, am not prepared to sell the people of St. Helier short by going for anything less than it should be.

[15:00]

I believe this House has blown the opportunity to bring effective reform and we should let the electorate judge us on our performance in October and allow the new House to start the process afresh. I hope, perhaps by adopting a truly independent Electoral Commission with politicians that we originally wanted and perhaps with a binding commitment to implement the reform proposals that have been put to the people. In conclusion, I shall not be supporting this proposition.

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

It is quite interesting that over the last couple of hundred years people have been calling for parties of one type or another, going right back to 1819 we had the Magots and the Charlot Party, which in 1920 became the Blues and Reds or the Laurels and the Roses. In 1948 we had Senators who entered the House. Then there was a democratic movement led by Cyril Le Marquand. In 1980 we had the Jersey Green Party. In 2004, obviously, we had the Clothier recommendations but in 2005 the J.D.M. (Jersey Democratic Movement) and the Centre Party came to the fore. In 2008 we had time for change. But really what is in a name? Because going back to the 1948 elections when Senator Le Marquand and others were brought in as Senators, as soon as they were elected they basically disbanded their party and became independents. Then we had, is it 51, 53, whatever the number was in 1948, Members in this Chamber all pulling generally in the right direction, which they have done in fact until 2005? In fact probably the most stable time in Government that this Island has ever had, when you had men of the calibre of Ralph Vibert, the 2 Le Marquand brothers or cousins or whatever they were, John and Cyril, John Riley, Clarrie Farley and many others. Yes, I have stood on the stage with them on an electoral platform, many of those back in the 1970s. Needless to say I came last, being the boy, although my own Parish of St. John did put in third place in the senatorial elections of that specific era in 1975. But we have the most prosperous time this Island has probably had in the last 100 years and since 2005, in part obviously not because it is the fault of Jersey but the fault of the way that things have gone in the world since 2008, things have gone downhill. It is no longer the Island that many of us knew. I remember well as a youngster going to the polls in the days of Cyril Le Marquand getting elected and the colours were blue and red, which was the Laurel Party colours and that is how it was. Since then things have changed. It is something that Deputy Vallois was mentioning about the Connétables or the Senators and the Deputies. What is in a name? The name means a lot: it is respect, it is the respect. A person stands for Senator they are highly respected across the Island, they get elected. They are the people who the Island look up to for an Island mandate. If I go to St. John, for instance, until

the last election we had 10 or 12 that could be elected and my 2 votes in St. John, so there were 12 people in this House that I could count on to represent me, not that I needed them but it was there. The respect of the Senators who we knew in general would take on senior positions in general in the House, not always but in some way or another they were highly respected. Then you had your Connétables, it is not because I am a Connétable but they have got where they have because of the respect of the people within their districts, their Parish and they have been elected. I hear the comments about many of them being elected unopposed. They are not elected unopposed, they are being elected by the people who put their name forward. Nobody else came forward to fight the corner because the person that was elected they thought was the right man for the job on that occasion. Then you get to the Deputies and in some cases the respect starts to fall away because of the behaviour of some of us in the past. Deputies in fact generally are not as highly respected for whatever reason and having been a Deputy myself for 14/15 years you do get the odd kicks and you become probably more vocal than other Members. I am not sure what it is, the respect is there but it is not there at the same level. I am thinking back, if only the Members back in 2004, when we debated Clothier, had listened to a Deputy of that time and done what was asked of them. I blame the President of P. and R. (Policy and Resources) of the day for not listening. He told this Chamber, from that seat over there, adopt this proposition of Clothier and we will put the meat on the bones later. I well recall standing up and asking for the meat of the bones to be put on Clothier before adopting it but, unfortunately, he won the day and we have now got ourselves where we are today, approximately 10 years later, with a carbuncle on a boil. Really, this does need to be sorted and it is not here doing something, a knee-jerk reaction on the back of a report and proposition by a Back-Bencher. No matter how well meaning it is, a knee-jerk reaction it is because we are being told it will do until the next election. No, that is not what it is all about. A few months ago in this Chamber we agreed that P.P.C. would go away and look at this and come back. We gave them a job to do, let them do that job. Let them do the job. Do not go down the road that is being proposed of having a half-baked system. Let us have something that is properly pulled together. Let P.P.C. go away and do their job and come back with their report and proposition that we can either adopt or otherwise. I cannot support what is on the table today because I think we will just be going backwards.

### **1.3.26 Connétable D.W. Mezbourian of St. Lawrence:**

I will be extremely brief. I think I have identified something upon which we would all agree and that is that whatever goes out from this Assembly for the next referendum must be thoroughly debated and agreed before we do that. It should, I think, be supported by a majority of Members so that we know that we do not find ourselves again in this terrible position. Looking ahead I urge everyone, all Members, to be aware of that and to make sure that we agree on what should be put to the public next time. To be honest, I do not know how many hours of debate has taken place over the past couple of days, I find myself in the position where I am depending upon Senator Ozouf's response to all speakers in order to help me finally decide upon which way I am going with this. I gave a commitment to my parishioners that I would support whatever was decided by way of the referendum and, therefore, in July last year I supported what was brought to the Assembly. However, as has been said, this is not what was put to the public. However, I am also very much aware that in 2010, I believe early 2011, we did make a decision to reduce the number of Senators without reference to the public. At the moment I am in 2 minds and Senator Ozouf, I am sure, will make his case as well as he normally does and I will finish there.

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

Picking up on the Connétable's comment, whether in business or in government it is the same principle when you face a threat or an opportunity you make a well-researched, well-thought through plan and you implement it. It sounds simple, does it not? Tried a few times, have we not?



Unfortunately, it has not been delivered upon. If we go back a number of years and we go back to Clothier that is exactly where we were. Clothier delivered a plan and for different reasons this Assembly, in their wisdom, decided to pull that apart, cherry pick different bits and we are left, frankly, with the mess that we are in at the moment. I have to say we have not covered ourselves in any glory at all since that time. Every time we have got to a point where something must be done, and that is always the key thing, pressure to do something, change for changes sake perhaps and what have we done? We have messed around. We have moved to a single election day. In principle not a bad idea but in isolation does it work? Is it going to work in this coming election in October if nothing changes today? The answer is it will cause, I suspect at the very least, a great deal of confusion. We have also, of course, reduced the number of Senators. Again, that was a pressure to do something and it just so happened at the time that pressure was on to do something, the category of Senator was somewhat low-hanging fruit of the day, easy to pick off and that is exactly what happened. We also should perhaps look back and say to ourselves, and I think the Connétable of St. John was alluding to this, exactly what the extent of the problem we had in the first place was, going back to 1948 or the election of that year that he referred to and everything that has occurred since. It may not have been perfect, how often have I heard that said since, by the way? It may not have been perfect what we have had in the intervening years but it served the Island pretty well. There was not an awful lot wrong in truth. I think when considering that fact we do need to be very, very careful about making last minute on the hoof decisions. A lot has been said about the referendum. I am a bit of a traditionalist. I believe with something like a referendum, in fact I believe this in most things in life, keep it simple. If you are going to have it as something that is going to be effective you simply pose an answer and you ask a question. Is it yes or is it no? That, without doubt, would have got a clearer answer. I do accept the difficult job that the Electoral Commission had in trying to deal with all the varying views that exist about exactly what the extent of the problem is. We have seen today in this debate and we have had it in many debates since prior to that, we have had flip-flopping around as to exactly where the problem lies. There are many who say that the numbers in this Assembly are too great. I think they probably think that by reducing numbers that is going to reduce cost. Is it surely about cost? You could drop out 7 or 8 Members of this Assembly and it is a few hundred thousand pounds. Is that really going to make a difference to the budget of the States of Jersey? Perhaps it is that the public think that by reducing numbers decision making will improve. That simply reflects the fact that in their perception decision-making is a problem and there are examples of poor decisions that are rolled out year in year out. Not necessarily, I might add, just as a result of decisions that come out of this Assembly but if we are looking to control costs there are other areas and, indeed, improve the way in which Government operates. There are other matters that should, in my view, be addressed before we deal with issues such as this and particularly at the last minute and particularly on the hoof.

[15:15]

Those are issues that I would describe, and indeed I think Deputy Vallois was talking about it earlier on, dealing with matters around machinery of government, how we operate. There are quite a number of failings in there. There has been some good work undertaken with machinery in government but we need to consolidate that and deliver on it to make those changes and make a difference to what the public of this Island see in terms of outcomes. Public sector reform is another area that, in my view, is a far higher priority in dealing with what we are seeking to deal with today. That is a matter and that is a point that Islanders are really going to see the difference on. I have mentioned numbers a moment ago and Islanders perhaps thinking by losing 2, 3, 5, 7 Members of this Assembly could improve decision making. Perhaps they think by reducing the numbers it is going to have a cost implication as I mentioned a moment ago. But quite frankly, as far as numbers are concerned, losing 7 in this Assembly is neither here nor there. What we should

be concentrating on is controlling the growth of public sector headcount. We are seeing those numbers grow year on year. There are mechanisms that could stop that happening. I am not talking about slashing. I am not talking about slashing budgets or any great dramatic changes, I am talking about a very simple change to turning the tap off so that we can control the headcount. That is something that will matter and make a difference to Islanders and their lives as we seek to balance our budgets as we move into the future. This has clearly been a long debate. I do not wish to speak for very much longer. I just wish to remind Members the position that I took when the results of the referendum came forward. I was not in the B camp, I was not in the A camp for that matter. I was in the C camp or, in truth, probably the D camp because in reality I did not like any of the options and many, many Islanders who I have spoken to have said exactly the same, they did not like the choices they were given and that made it difficult. But, having said that, we went to the public, we had a referendum, we got a result. It may well have been flawed and we can spend a long time arguing about the numbers. Senator Le Marquand was fairly eloquent with his calculations. They may be right, they may be wrong. **[Members: Oh!]** He is, without doubt, a far better mathematician than I am and I am sure we can rely upon them but, nevertheless, whether they are right or whether they are wrong is not the point at the end of the day. The fact of the matter is we had a referendum, we asked the people of this Island and we got a result. As a result of that I voted for B when we had the debate last year because that was the right thing to do. What we are seeing here with Senator Ozouf's well thought through and exceptionally hard working attempt to bring forward some change, I am afraid it does almost fall into the change for changes sake camp. I know that is not his intention at all but that will be perhaps the perception of some and we do have to be careful about that particular point. It is not, nevertheless, exactly what the Island voted for in the referendum. We do have a referendum coming up at the next election and, by the way, as Members will be well aware, it is only in October, so we have not got long to wait. The key point is, and I think the Connétable of St. Lawrence made the point, to make sure that the question or questions in that referendum are simple, short, to the point and are going to guide this Assembly in the future because it will be. Whatever happens today this matter is not going to go away. Let us not kid ourselves but we do have to start building up a proper plan, a proper case to make the changes that will make a difference that Islanders generally want. I am not really sure we are there at this point. I will leave the door ajar for Senator Ozouf when he makes his summing up. I know he is usually very persuasive. I will leave the door ajar to him to see if he can pull a rabbit out of the hat. I am not currently minded to support but I am always open minded until we get to the death, as it were, which I am sure will be, you will be glad to know, very soon. There is probably only a speaker or so to go. I will leave it at that and wait for the summing up.

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

Yes, I was not quite sure where the last speaker was going but we shall wait and see, will we not? I would just like to, if I could, it seems a terribly long time ago that Deputy Tadier started off not on this part but on one of the amendments with what I thought was a very good speech until it reached its conclusion. But he spoke about the need, particularly in this Assembly, and I think particularly with regard to this issue to build alliances and to develop consensus. He talked about whether A could have worked with B or A could have worked with C to achieve ultimately in the long term what it was that they wished to see developed. I think that that was an important speech because we have had this debate on and off for the best part of 15 years and longer. We, today, have heard that what the public really want is an Island-wide mandate and what they prize above all is Parish representation and that they would like to retain the Deputies and the Connétables are the cornerstone of the parochial system. Yet, at the same time, we are told that Members of the Assembly and the public want change. There lies the fundamental problem that we in this Assembly have not been able to get to grips with for that 20-year period. You cannot have all those things, whether we would like it or not. If we want change we cannot retain all those mandates in

the same way as they are currently made up and we cannot retain the representation, as is current in this Assembly. A number of speakers were, I think, unfairly critical of the mover of this main proposition and they tried to suggest that he was scaremongering, he was talking about a Last Chance Saloon, he was talking about the tunnel of decision time and that his opening speech was one of an Armageddon scenario. That is all good jolly political speech making. But what struck me about a number of speeches was that the speakers had no answer. They were, and I hesitate to touch on this particular area because the Dean is not here and it is more his field, somewhere around the corner over the rainbow there was going to be a miracle. All we are waiting for is this great miracle of revelation and there will be a perfect system that answers all the questions and the concerns that Members have and that members of the public have raised with them. There was a miracle reform. That is not the case. We have had Clothier, came up with a set of reform proposals and we have now had an Electoral Commission. None of those presented at this supposed nirvana at the end of a rainbow. Why is it important for us to consider the reality of the situation that we find ourselves in? It is because unless we are prepared, to go back to Deputy Tadier's words, build consensus and build alliances this argument will return and return and return. Therefore, we either have to face the reality that those of us who say we wish for change but cannot quite bring ourselves to vote for it can no longer say we want change because by our actions we will be showing that we do not want change. It is also important because the decisions of previous Assemblies mean that we are sleep walking into an electoral situation at the end of this year that virtually every speaker has accepted and said the current system is not acceptable and needs to change. We somehow, and I hope that we can today, need to bring those 2 elements together. We have a situation that I do not believe we can allow to continue. We are about to face an election that I do not believe is appropriate and is in the best interests of the people of Jersey and does not shower, to use a term, our democracy in glory. He said: "If we are to go to another referendum, if we are to have another review be it with members from our community sitting on it or Members from this Assembly sitting on it or members from the United Kingdom sitting on it or members from the Commonwealth sitting on it, what are those options that are going to be brought forward other than the ones that we have already debated *ad infinitum* or are before us today?" If we are really honest with ourselves they are either option A or a slight variant thereof, and I would put Clothier into that category, it is a variant of option A, or option B which recognises the need to change our democracy but at the same time respects the historic importance of our parochial system. If we have a review which is simply populated by non-Islanders they will come up with a variant of option A. If we have another review which is populated by Islanders they may come up with option B or option A. Therefore the options, I believe, have already been before us and one of those options and variants thereof is before us this afternoon. Those Members which say this is a last minute proposal or it is a request on the hoof are, I am afraid, not reflecting the reality of the change that needs to come. Another Member asked what are we afraid of? I think that that is a very good question and I do not think we need to be afraid of change. I think that change can be a positive thing. It shows that we have a healthy functioning democracy. I would like therefore to remind Members once again of what I thought was an excellent opening speech by Senator Ozouf and the 2 scenarios that he painted for us if we do not look to vote for change today. I know that it is not easy. I know that we have had the current structure in place for many years but if we are really concerned about our democracy and the representation of our community in this Assembly and that we are able to govern ourselves and make changes ourselves in this Assembly which is absolutely the right and proper place to be making changes then I ask that Members do consider do they want the change that respects our history or as I suggest from a number of speeches today they just want to move to option A, and that I respect as well. But let us not deceive ourselves that there is some other mystical, magical miracle reform option available to us. We have the options before us. We can go with what is before us today improving our democracy, respecting our history or let us be absolutely frank and say that the other change that we are looking for is a variant of Clothier.

**Deputy M. Tadier:**

May I raise what I think is a point of order? I did not want to interrupt the Chief Minister. I believe he may be misleading us when he says that option A is a variant of Clothier because option A dismantled the Parishes and made sure that the Parishes would not have any automatic representation in this Assembly.

[15:30]

Clothier on the other hand was keen to make sure that the Parishes would be enshrined at its heart, and although I accept that it is a political argument it is misleading I think. It is one step too far to say that Clothier has already been put to the Assembly when it has never been debated.

**The Deputy Bailiff:**

What is the point of order? It sounds to me very like a political speech so I should say you should not make it but you made it. Let us move on. Deputy Le Fondré.

**Senator I.J. Gorst:**

I am quite happy to answer the question. I think really it was a clarification.

**The Deputy Bailiff:**

A clarification.

**Senator I.J. Gorst:**

I do not think I said that Clothier had been put to the Assembly although I do remember Deputy Shona Pitman lodging a proposition which I think largely did that. The point I was making was that Clothier was respecting the Parish boundaries as option A does as well. It produces single constituencies based on the Parish boundaries but importantly it has a single class of States Member and I think that was the important factor of it.

**1.3.29 Deputy J.A.N. Le Fondré:**

I am not looking for a perfect system but I am not going to vote or support a system which I think is worse than what we have at the moment. When I say in a way I quite liked the analogy that Senator Ozouf produced fortunately on the day that did not exist, yesterday, which was his Armageddon solution as it were, or it was his slightly rose tinted glasses solution. In other words, his was the best way to go. I would like to give an alternative scenario. I would like Members to imagine a scenario where we had 53 States Members, more than we have at the moment and as soon as they were elected they were on a staggered election and they were elected 50 per cent of the time on a rolling basis every 3 years. All the focus was on the elections and those individuals at the time. Then about 6 weeks later this rag tag bundle of Deputies would come along, I speak as a Deputy, and they would all be elected. I can remember, I think, people were told on the door: "It is not again time for the elections again, is it? We have just voted you all in." That was the Senators. Then depending on the time of year and depending on the terms of obviously another class of Member which happened to be called the Connétable, you might get one or 2 elections in that year as a staggered election. That is what we used to have. It was horrendous in terms of turnout and things like that. We had all the focus on the Senators. As a Deputy you were up against a turnout that was already falling and I can remember what one of the former Constables, I cannot remember which one now, from St. Lawrence, I think we were counting electors on the hand by the hour when they came to the door in January and yet where we have got to in terms of the turnout it was so low on a contested election. In terms of the scenarios we have had, to me we have made some quite major steps during my time in this Assembly which unfortunately now is coming up to 9 years where we have people on to a single day. The first time we are going to fully experience that

is this coming election. The point I am trying to make is these kinds of examples that we can pluck out of the air I do look back and look at where we were compared to where we are going and I am pretty hopeful that where we are going will be an improvement on where we were when I first came into this Assembly. I hearkened long and hard yesterday on my views on super-constituencies so I will not repeat that other than to state in my view super-constituencies will seriously damage the Parish system, and in my view will very much weaken that culture. What we have not touched on particularly, this is not an insignificant change. This is a major change. This is not an incremental thing. This is super-constituencies, and probably equally as important this is get rid of the Senators. The amount of grief I had for a reduction in Senators I will not particularly go into but an actual removal in near enough February 2014 when we are voting in October to remove the Island wide mandate, I think Members had better think about that quite carefully and be prepared for the uproar that will take place. This is not a small change. Large chunks of the Island will be hopping. It is perhaps not quite the right expression but they will not be very happy. Change for changes sake, no way if the change is potentially worse than what we have at the moment. The general election, there are a couple of questions about that; I am sorry to hark on about this but it is about having slightly longer memories, and I am surprised that Senator Gorst should perhaps have forgotten as I keep referring to the work that was done in 2006 and 2007 by the then P.P.C. The whole point about polls and surveys, and they ran a couple, is that those are meant to be representative of the whole Island not just those who pitch up and vote. Those polls that they came up to they went through various options and then came back for which they surveyed, and then they came back with some specific recommendations and did a further survey. In that process they put 5 options in a poll to 1,000. Option 1, leave things as they are with 3 categories of Members, a possible minor improvement being the 12 Connétables being elected on the same day, no single general election, no reduction in numbers. That received a whopping 8 per cent of the MORI poll. Let us not worry about that too much. Interestingly enough option 3 which is the same number of States Members at 53, the same 3 categories and one general election day received 24 per cent, 3 times as much. The biggest support was for an option with fewer States Members I hasten to add but predominantly a senatorial vote. The thing I think that is worth pointing out is that option 2 which is basically the option that we are voting on today which is fewer States Members, a general election, large constituencies, no Senators but with the Constables in there received 11 per cent. In other words where we are going next October received more than double what we are voting on today when we went out and asked everybody on an objective, statistically accurate survey as opposed to a self-selecting survey. I just want to remind people of that because we have had so much stuff is to keep coming back to the fact that you have the super-constituencies' argument. We are today also voting under this option to remove the senatorial vote of a mandate, full stop. It is not a tweak. It is a major change and I certainly will not be supporting that. I will make one last comment which is I do still resist the argument that the majority of people voting chose option B in the referendum. From my recollection under 50 per cent of those voting chose option B. Option B won its heat, no question about that. It did not qualify for the final because it did not get past that threshold. It did not get 50 per cent of those voting. I am counting those voting as those people who took the trouble to go up to the parish hall and put a mark on the ballot paper. I am not counting those who then were discarded, the sort of net result after the second round. I am talking about those who took the trouble to go up. It is not a minor change. We have had all the impact, in my view, of the Parish side and Parish system, the culture of our Island. That is a real concern for me but do not forget this is removing the Senators as well. I certainly am not supporting it.

#### **The Deputy Bailiff:**

Anyone else wish to speak? No? If not, I will ask Senator Ozouf to reply.

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

I hope that Members are not going to leave the Assembly but they are going to come back to listen to this summing up. I feel a heavy sense of responsibility in this summing up. I do not think that I have ever summed up on a debate where so many Members, knowing that the vote is close, that the vote was close, so many Members are going to be potentially influenced by the reminding of the arguments that are made in this summing up, and I feel somewhat humbled that I have to be the one to make these arguments, to try and attempt to guide them in their decision making. I thank all Members for their contributions for and against and those in the middle. For those against I am still going to try and give them a reason why they should vote in favour of this proposition. It is not too late to listen and to reflect upon the arguments. The Connétable of St. Lawrence was one of those who wanted to hear my response and I am going to do my best to convince her. She was one of the 21 who voted in favour of the principles and of course we never did have a vote on the law. We only effectively had a vote on the principles. We never got into the detail and that is an important issue. This is an issue that is different this time. We have had some sort of debate on the options. The Connétable of St. Lawrence, I think, is a Member of this Assembly who has the respect of others. She is fair and she is consistent and I hope I am going to give her the arguments to be consistent and to continue with the vote that she made last time. I hope I am going to give her some new information too. I spoke in my opening remarks, and I really hope that if I speak loud enough that Deputy Le Hérissier may hear me and he may come back to the Assembly to listen to this summing up. He boomed in his own remarks. I will not boom. He said where was I in the previous debates on reform. Where was I? What is the legitimacy of me standing here to attempt to argue in favour of reform? I was here and I do not think this debate is about me and my track record but as he asked me my track record was that I have consistently in the last 15 years and before I stood tried to increase voter registration and voter turnout. I have tried to improve democracy in Jersey. I worked with the former Deputy Bridge and others to do that and we have made dramatic improvements in the amount of people that are on our electoral rolls. We should be proud of that. The thing that we have not fixed is the issue of voter turnout which must be something which every Member in their vote this afternoon must think about. Will the vote this afternoon lead to an improvement on the voter turnouts that we have? They are some of the lowest in the world. I will come to Deputy Vallois and explain why in a minute. I say to, I think he is Deputy Dr. Le Hérissier, I think he has a PhD in research, he has a PhD in politics, and he was a Member of this Assembly, there have been many people who have tried to sum up a debate on reform and he is one of them, and he today is going to turn himself against reform. Is he going to say that the arguments that he put forward in 2004 when he was President of P.P.C. have changed? I hope not. He does sometimes look both ways. He can look at both sides of an argument. That is good, but I hope that he does not look the other way on the need to reform, on the fundamental reasons why he and I have both been part of an Assembly for 15 years that have tried to get reform. It does matter to me. I will say one more thing about me and nothing else. Each of my manifestos have said that I wanted reform. I have changed my mind. I have had to because the facts have and we will come back to that. I was also, if I may say with respect to the former Deputy of St. Mary, the first person in this Assembly to speak about the setting up of an electoral commission. I had a proposition in the Greffe before the Deputy of St. Mary's but I did not finish it and he pipped me to the post. If I may say with respect to Deputy Le Hérissier, I have had a track record of fighting for democracy and asking for change, and I have done so consistently. A number of Members have been on C.P.A. trips. That is one of the big opportunities we have as States Members in going to learn about democracy in other places. I have been privileged to have been on 2 international election commissions and I have understood, I have been taught. I have been sat down and taught and sat in Westminster about what matters with democracy. No system is perfect and no system is ever at an end point. It is the point where you make a stage forward and you improve it. Deputy Le Hérissier, is he going to vote against something that is not an improvement? He is my Deputy. I am a resident of the District in which he sits. I know what the people of St. Saviour No. 3 wanted.

[15:45]

They want reform. They want change and they want something. They do not want nothing and he has represented them for 15 years and I hope that he will represent me and the others of St. Saviour No. 3 who want reform, who want change, and I will come to my good friend, Senator Maclean, change for changes sake. I say those things about democracy to the Deputy of Grouville who was not here to listen to my speech and others yesterday. She was no doubt working with countries that need to improve democracy and improve their standard of living. I am not going to repeat the speech that I made yesterday but I will say to her this: that today represents an opportunity to improve what we have. I understand that she wanted to keep Senators. So did I. We worked absolutely together right up to the wire, to June in order to deal with Senators. She sits in the seat of Deputy with a constituency of 4,866. She sits next to the Deputy of St. Lawrence, one of the Deputies of St. Lawrence with 10 per cent more votes that has 2 seats in this Assembly. Why is it that her District, her electors, have one vote and the people in St. Lawrence have 2 with broadly a similar population? Does she not see that that is wrong? I think that she does, and I think that that is the opportunity. If you know something is wrong you have to fix it or we have to improve it, and that is what this vote is about. An important player of reform who has contributed like Deputy Le Hérissier, and I am pleased he is back, he has contributed to reform and this is a reforming day, and he needs to listen to the arguments and he needs to remember what he said because I remember them in 2004 and the other debates. He must be consistent, and he must be consistent to democratic principles. To the Constable of St. Mary and to the Deputy of St. Mary, well, frankly we need to say to them that they represent the conundrum. They represent the conundrum of fairness. They have 1,752 people in St. Mary compared to over 30,000 in St. Helier. The Constable of St. Mary has set self-interest aside and she has fairly said that she will agree to a solution to the over-representation of St. Mary in the deputorial super-constituencies, and she has kept open the issue of Constables being in the States because she has agreed to have a referendum, to have a proper test. The Deputy of St. Mary spoke about retailing, perhaps in a bit of an inappropriate way, but to continue the analogy retailing works is when there is fair competition. I agree. The Islanders' views matter as well as his own parishioners views. These District representatives, the people of St. Mary said that they wanted change. I will say respectfully I do not think the Deputy of St. Mary is a selfish man but he certainly has to reflect the fact that there are 2 representatives elected only by St. Mary with the smallest Parish and that many people believe that that needs to be sorted out and resolved. They think that that is unfair, and I hope that he will reflect really carefully on the results of the referendum. He perhaps has said some things that he may in hindsight regard to be ill-judged, but I hope he will reflect in his seat fairness, equality and what the people that he represents want, but he will also take the wider Island interest into account because that is what this debate is about. I ask him to search his conscience. The Constable of St. Martin, he was absolutely clear with Members. He was unelected. He did not face an election. Is that wrong? I would say to the Constable of St. Martin that he is also a highly respected Member of this Assembly. He has the support of his Parish. He might not have faced an election but there is one difference between a single seat Deputy in a single Parish and a Constable. Democracy is about checks and balances, and one of the checks and balances that this group of Members have is that they have their Parish Assemblies. They do not have an executive decision making power. They have to go to their Parish Assemblies and they have to get decisions through them. We have said and the Island has spoken in a slight majority that they want to keep the Parish representatives in the Assembly. Many Members favour Clothier. Many Members of this Assembly want option A. Many Members think that any sort of reform is a stepping stone to the removal of the Constables. I want the Constables, if I may boldly say so, to make the case for their position in this Assembly. I want the Constables and many people want the Constables to modernise, to find a place in modern Jersey society and in modern Jersey democracy. They have to argue, they have to put their place, they have to show how they are going to improve the lives of

their parishioners and the people of Jersey as a whole. But I do not think the Constable of St. Martin is ineligible. I do not think he is unfair. He is fair but we need to work together with the Constables who have their seat in this Assembly. They are the longest serving people in this Assembly on a parochial basis and the referendum result on a margin said that they should continue. I will come to the fact that they should continue perhaps until there is a referendum on their future, and that is the opportunity for the reformers that want to go one stage forward. If we believe in democracy, if we believe in asking people a question then we will respect the result that will happen in the referendum this year on whether or not Clothier or the Constables should be put in place. I am going to say to Members that they can have their reform but they can have fairness and they can avoid a problem if they can. I would ask all of the Constables who voted previously to respect the outcome of the referendum to continue to support P.93. I know probably nothing will support the Constable of St. John who basically said that everything was bad and everything was wrong with our system but I will come to him in a second. **[Laughter]** To Deputy Tadier, he said there should have been an attempt for an alliance between those supporters of option A and option B. He revealed that there is potentially the rather uncomfortable alliance, the uncomfortable coalition between those who want absolute reform and those who want none. Coalitions work when you have common principles but I think it is an uncomfortable alliance to those people who will vote against P.93. I know Deputy Tadier wants to interrupt. I will give him an opportunity.

**Deputy M. Tadier:**

I think that is the key. It helps if you have principles to negotiate with.

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

I do not know whether that helped Deputy Tadier's arguments. I was being respectful of the fact that the principles that you needed to have was on a common basis. A coalition must be based on things that you have common ground. I would say to him that the election system that is on offer is an improvement to what we have faced in October. Is he going to face against reform? In his view he is going to surely say today that this is a stepping stone to what he wants. How can any Member of this Assembly not make one step forward? I will come to the step back because that is effectively what not doing anything is. To Senator Le Marquand, I know I am not going to convince him but I am certainly going to try and deal with his analysis **[Aside]** **[Interruption]** because it certainly may tempt Members into a false sense of security that somehow it will be fine to have 8 Senators elected in one day. There is a phrase, is there not, statistics, statistics, and something lies. Statistics can be manipulated but the numbers are clear. The mathematics are clear in terms of the legitimacy and I will explain it by just saying this. I have stood in elections for Senator twice. In the first round as difficult as it is for people to remember, I came number one. I know it is difficult to believe. **[Laughter]** In the second time, I came number 5. He was offering me an option today of standing in a senatorial election and still getting in in position 8 or 7.

**Male Speaker:**

I think the Senator is being overly optimistic. **[Laughter]**

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

Well, I say to the Deputy if I cannot get more than 4,000 votes for at least my politics then goodness me, I do not know how many other people are going to get 4,000 votes or 5,000 votes, because that is the reality. He stands up to make a point. He thinks it is funny but the reality is that that senatorial election will in position 7 and 8 not be legitimate. I do not want to be in a senatorial election that has positions 7 and 8 with such a small amount of people elected, and that is the point. I say "no" to Senator Le Marquand's analysis. It is true. I do not think the senatorial system and the election should be made easier. Elections should be difficult. They should be credible. So I say "no" to his opportunity of being elected in position 7 or 8 with 4,500 or 5,000 votes, if I could



get them. Perhaps I could or could not. To Senator Farnham on his remarks: I say with genuineness, we have been in this Assembly on and off for 15 years and I thought that we had had a constructive discussion. Decision-making is about moving forward, is about teamwork, is about compromise and give and take. We work together and we tried to get a system which did have a credible election of Senators, representing the views of the C supporters, which had been rejected at the referendum in huge numbers, and now he is saying that having lost the argument of option C in the referendum, having lost the debate in our democratic election Assembly, he is not going to go with some degree of reform at all. I ask him to examine his conscience. I ask him to examine his democratic principles. He said he got 3,000 people supporting his senatorial candidacy on Facebook. I am afraid that is not enough. We need a solution, I say, to Senator Farnham. We need legitimacy, we need fairness and we need to make progress. The front page of Clothier when it was published in 1999 had this at its preface. It said: "A State without the means of the some change is without the means of its own conservation." He needs to worry about his conservation in terms of the Senator's position. We need to move on and I ask him to stand by the discussions that we had that said we would try and find a solution but we would make a positive change. I ask him to support please P.93. It is a statement of modernisation and improvement. It also reflects discussions that we had. Deputy Power: he said he has changed his mind, and there are 2 Members, and the Constable of St. Martin, I will deal with both of those issues now. They both supported option B. I would say to them the first thing is, is to the Constable of St. Martin, yes, the previous view was is that you could not make changes because of the Privy Council time it would take to approve a law. Improvements have been made in the Privy Council, which means that we have got about 2 months longer than we thought. That was in the Select Committee report. We have done excellent work in improving the legislation. That is why this debate can happen now as opposed to happening in December. He is also a man that has spent all of his life in the criminal justice system. The criminal justice system is based upon making a case for something and going to a court, which makes a decision by a judge or by Jurats. Sometimes you think the result is flawed, perhaps the arguments have not well been elucidated or perhaps they have not been understood or explained. So you go to an appeal. This debate is the political equivalent of an appeal. An appeal should be based upon the same arguments. If the arguments were right then, I say to Deputy Power, if you voted in favour of option B, and he worked hard with option B, what has changed? The only thing that has changed is a reflection of the result of the Parish of St. Helier, which voted in favour of option A, and which we needed to deal with the unfairness that many people had in perception and in reality about St. Helier. We have made an improvement of St. Helier and that is what has changed. So I say to Deputy Power, yes, every vote matters in this debate and it is going to be a close vote. I would ask them to maintain their position that they argued for, that their electorate told them, and I would ask them to continue with supporting P.93, as they did so before.

[16:00]

Deputy Maçon is the latest President of P.P.C. and he is the Member of this Assembly charged with upholding good democracy, good debate and standards in this Assembly. He is charged with or he was charged - and this is the argument to the Constable of St. John, which is why we are here - with bringing an alternative. My proposition waited for the alternative and that proposal was rejected. I was concerned that Deputy Maçon as President of P.P.C. might not have even spoken in this debate but he did, and he said a number of confusing things. But I think that I will say one thing which is clear. His committee can have their referendums. They can have their referendums if P.93 is approved. We can have a referendum on the Constables, we can have a referendum on Clothier but we can do so upon the reformed electoral system. So he needs to explain, if he is a democrat and if he believes in fairness and equality and a better system, why he is going to reject a worse system. He needs to explain why that you could not have or think about, because he will not have another opportunity to speak, we can have the referendum on Clothier and Constables, and if necessary

Senators. But we can do so with the reformed system. To the Deputy of St. Ouen: he seems to be saying no to less Members. I do not think that, with respect, is consistent with his views on efficiency and savings. He is being very hard on that. He is very hard on me on savings. He wants savings. We need to lead and we need to lead from the top. We need less Members. We need an appropriate amount of Members. He said: "It is okay, we are elected by the public so that is okay." He did not ask the question that it matters how we are elected. Does he not think that it matters in terms of equality of votes and fairness of distribution of seats? Does he not worry about the fact that St. Ouen is unfairly distributed in terms of seats and the electors of St. Ouen have one vote but the accompanying Parish has 2 with similar numbers? Does he worry about his own members and his own parishioners in St. Ouen being able to influence a different number of people from people in St. Helier? He should and he should be voting for reform, he should be voting for a better system of representation. The Deputy of St. Martin has a strong mandate of 60 per cent of people voting for him in his Parish. He got slightly less than the top performing Senators that were in the senatorial election, but he has got a good mandate and I thank him for his consistency, setting personal interest aside. It may be said that he has a safe seat in St. Martin - I understand he is quite popular - but he has put self-interest aside and he has said that he will vote for a system which is fair, which is proportionate, which is equitable and which is defensible. The Constable of St. Clement started by interestingly saying: "I want" and I thought: "Oh no" he is going to give one of his Rum Baba persuasive speeches. Actually he did really well **[Laughter]** because he surprised everybody and he entered the issue for the first time, which I just mentioned, is that you can vote for P.93 and you can have what he wants, and what he has been consistently wanting, which is the vote on Clothier. We will debate whether or not Clothier is right or wrong. We will have a debate about it, but let us have that debate, and I thank him for his support. I ask all Members who want a vote on Clothier to vote in favour of an improvement and to make their argument, and I hope that is a decision game changer for Deputy Le Hérissier too because it is a stepping stone about what he wanted. The Constable of St. Helier also I think made an important contribution and I am grateful for him reconsidering from where he was yesterday. The fact is, and this is the message that I have to all of the St. Helier representatives, today there is unfairness for St. Helier. There is under-representation. P.93 represents an improvement. A fairness to the Deputies in St. Helier No. 3 and 4, who I think everybody would say face a good democratic test. They will face a large constituency but everybody in St. Helier will face a fair test with a similar number of votes. My proposition puts an extra 2 seats in the St. Helier constituencies representing the issue of fairness and the numbers of people that live in St. Helier. It is an improvement. Are all the Members of St. Helier who sit here in this Assembly going to turn their face away from an improvement, from an improvement of the democratic representation of St. Helier? I ask them to search their consciences. This is an improvement. This is not a step back. It is an improvement and they can also have their debate and referendum on the further structural reform. Deputy Southern spoke about ... he turned the arguments on his head. He said that my arguments were not valid to say that it was a better democracy and better fairness. He wants reform. This is his opportunity. The Deputies of Trinity and St. John are those Members who similarly have a real dilemma, who voted against the previous proposition, who voted against the principles. We never got to the law. Who appear to be having got a real dilemma about whether or not to now move to what their parishioners said, which is that they want reform. I hope that they will do what their parishioners said. I hope that they will. They have nothing, I do not think, to fear. Some Members may be voting today, I am sure that it is not the case for them, but they may be worried about what it feels like to be in a constituency of 12,000 people and having 5 seats. That should offer no fear for any Member of this Assembly who believes in good democracy and good debate and a proper test of Island issues, and a proper test of their own policies, and it will mean that they are reinforced if they are elected, with a proper mandate. Elected on an equal basis. I say to Deputy Vallois, who said something very telling. She said: "We are regarded as different classes of Member." She is right of course. That somehow a

Senator is regarded as being better than a Deputy. I do not think that because we are all equal. But the solution that is before the Assembly that has been part of the referendum and debated deals with that. It puts the Deputies on the same basis because there is a proper basis on which they are elected. Fairness. The same number of votes properly distributed. She said that we have made a mess of government reform, and I say to Deputy Le Fondré, behind her, that yes we have. We have made a right mess of reform. We have tinkered with it. We have changed it. We have been partial. We have not just made an incremental change to improve it. We have thrown out some aspects of it, and we have taken too long. Fifteen years is the period of time approaching since we have had Clothier and we have done nothing on the composition of the States. Members criticise me from saying it is a Last Chance Saloon. Members saying that this debate is an emergency. It is somehow being rushed. It is hectic. Fifteen years? Fifteen years to get an improvement in democracy on the basis in which we are elected on fairness and equality? I do not think so. She, I think, said that she is a supporter of A, which means that she wants a vote on Constables, and she will get that. She will also face in St. Helier a good constituency, joined with Trinity, which will deal with local issues. She said an important thing about people working together and being able to vote and being able to be a Member, to look after constituents and the Parish and the Island issue. That is a very powerful reason for supporting larger constituencies to show that you can do these issues, and you can do that job. I hope that she will agree. She believes that this Assembly needs to raise its standards. She believes that we need to improve the way we run government. The way we improve government is improving decision-making here and putting the people that will deliver proper decision-making. Those people need to have a proper test. She is well regarded in her representation of her constituents but she will be, if she stands, a representative potentially of a wider district, but she will be equal and she will have the same status and there will no longer be a them and an us. Yes, we can deal with the issue of 6.17 in the Electoral Commission and dealing with the issue of the Constables and their position. We can deal with that. That is a legislative issue, which can be done. So I say, yes, and if nobody else will do it I will do it. I do not want to be here to do these things but if nobody else will do it then I will. But I am sure that other people are more than capable of doing it from me. I know that she has struggled but I hope that she will realise and she will accept that the people of St. Saviour have said that they want change, that they want efficiency, that they want better government, and I hope that she will say that. On the final point of voter turnout, the evidence of voter turnout being improved with the bigger district is in Guernsey, where voter turnout improved when they did exactly the same move. That is the proof. There are other examples of other places that also moved when they moved to a simple system of election, which was better understood and people believed that their vote was equal, their vote mattered, the voter turnout went up. We have got to do something about our voter turnout. It must be improved. I am coming to a conclusion shortly. Deputy Bryans said to look forward. He is one of those Members that has a very useful contribution to make because he talks positively about things. He said that as a result of this implementation we would be having people working together. Deputies working together in their bigger districts to serve their parishioners, to service their electors better. Absolutely. Dealing with local and Island issues together. Not just parochial issues that sometimes only small Deputies will be elected on the basis of. They can do both. Deputy Bryans said that all Deputies will be equal and that is an important issue. Equal in terms of who they represent, equal in terms of their standing in this Assembly, and equal in terms of their mandate, and equal because they will have faced a similar test. Not an unfair test. A powerful reason; powerful positive reasons for improvement. Deputy Higgins said the system was wrong. We know that. He is right. The system is broken, he said. Is he turning his back on an improvement? Will he do nothing? Is he offering people only a referendum and no improvement to representation in St. Helier until 2018? I suggest that he votes in favour of this. That he increases the representation of the people that he serves in St. Helier No. 3. The value of every Member of this Assembly should be on a similar basis in these larger districts. Increasing equality

and fairness. I cannot understand why he would vote against it. Deputy Young wanted a hook. He wants the referendum and I have already mentioned this but as he has raised it I will say it: he will get his referendum on Clothier. There is nothing that should stop that. He will get his referendum on the Constables. We will have that and the Constables will have to have their say. We need to elect the States however and the next States that will implement those changes, that will deal with the real issues that will be facing the Island, we will need an Assembly elected credibly. We do not want an Assembly next time, which is dominated by endless reform debates, et cetera. It will be a relatively simple task to have the end result of the result implemented. He has got his wish. We can have the referendum and we can have reform. He too should face no difficulty in facing a constituency not of just a partial bit of St. Brelade but the whole of St. Brelade with St. Peter working together. That has no fear for him surely. So why would he not do that? Why would he not vote for an improvement, better democracy, better fairness and better decision-making?

**Deputy R.G. Le Hérissier:**

On a point of clarification, is the Minister arguing that we should adopt super-constituencies and then within a few months, if the referendum was to favour Clothier, we have then to move to the Clothier structure?

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

No, the system would be simply this, would it not, that in fact people are elected. You cannot cut short a term of election unless there is a disaster and a meltdown, and so it would be perfectly envisaged that there would be a term of office for the next Assembly of 3 and a half years and that the change would be made at that point.

[16:15]

That brings it forward. That makes it certain. That is an option that is available. I would say to Deputy Le Hérissier, who is a doctor of politics, does he want to take a step back? He has spent much of his life analysing the past but he knows the past is in the past and you cannot turn the clock back. I say to Senator Maclean, he said: “You need to vote ... that this was a vote change for changes sake.” “Change for changes sake.” “No”, I say to Senator Maclean. Change because it is needed. Change because the system is wrong. Change because the 8-seat senatorial system will not work. Change because there is unfairness and an unequal distribution of seats, and change because we have had a referendum with a result, and a referendum that had 70 per cent of the people voting that normally vote in elections. That is what I would say. I would ask him please to be consistent with his vote. He says he would respect the outcome of the referendum. Not change for changes sake but change because it is needed. He deals in his **[Interruption]** ... I do not think I am going to give way.

**The Deputy Bailiff:**

If I may say so, the Senator is dealing as often does not happen in this Assembly, by replying to speeches that have been made. If there are points of clarification it can be raised at the end.

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

To Senator Maclean, who is somebody who I work very closely with, he understands the world changes. He understands, I think, that when sometimes in life you make no decision, no decision is worse than making some decision. The decision we have before us is an improvement in our democracy. It is defensible because it is underpinned by a referendum. There is no mandate for the alternative. There is no mandate for the tinkered with solution that apparently we are now working towards unless we make a change. There is no mandate for that and that is probably one of the most clinching arguments in this debate. He said also we needed to reduce the numbers of people in the public sector. How does the public sector feel about that when we cannot even reduce

the numbers in here? When that is what the Island is crying out for? They say 53 or 51 was too many. Surely he should be voting in favour of that and we should be having tone from the top. I think that I have answered, and if there are any Members that have questions and wanted to give way, I will give way to Senator Farnham if he wishes.

**The Deputy Bailiff:**

Have you finished, Senator?

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

I have nearly finished but I wanted to deal with any questions before I give my final ...

**Senator L.J. Farnham:**

I am happy to wait.

**The Deputy Bailiff:**

You will be given an opportunity to answer any points of clarification that arise.

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

We then are rapidly approaching decision time. Many people have tried to sum up on a debate about reform and many times this issue has been put off. If we put it off today it will come back. We have a system which has no mandate. Most Members know that the system we have will not work properly. It will not work properly in the Senator's issue and it will not be fair in relation to the distribution of deputation seats. It is a system which is unfair. It is a system which is unequal. A decision is never a final destination. A decision is always or should be an improvement. I have learnt that when you reach the top of one mountain you realise that you need to simply continue to climb because there is another one. But the top of this mountain that I am offering Members is a better one, is a better defensible one than the one we have at the moment. The last vote was on the principles, the last real vote on this issue just was aborted because it never got past the principles. We can have a fairer system. We can have an improvement for the people of St. Helier. We can have a system that means that people will need to work together and many people have said that that should be a tenant. That is an important part of the way that we do things. We do and can have a system that is appropriate for reform. We can have a system which is appropriately changed. We can have a system which is defensible, a democratic system which is defensible. I stand here as the last in probably I think 15 debates on reform. I offer Members an improvement. I offer Members that Friday morning - I am sorry I got the date wrong, I think it is 17th October. I offer Members a better Friday, 17th October. A Friday, 17th October, that will have a system which is defensible, that will not be the subject of Privy Council. No threats please but no threats of unfairness and Royal Commissions. A system which is in a better place, which will not be the subject of external review, which can be the platform and the further stage of reform if an elected proper, fair, democratic Assembly chooses it to be so.

**The Deputy Bailiff:**

You had a point of clarification, Senator Farnham?

**Senator L.J. Farnham:**

Firstly the Senator said, just so he did not misunderstand, that I was prepared had my amendment been accepted to support his proposition as amended, and I wanted to be clear on that because he was casting aspersions and his understanding might have been different and I said I could not abandon my principles.

**The Deputy Bailiff:**

That is a second speech and you can very well tell the Senator that after the vote.

**Senator L.J. Farnham:**

The point of clarification I was going to make then: did I mishear, did the Senator suggest that if his proposition is accepted he would still support a referendum at the forthcoming election, which means depending on the outcome we would then change again?

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

There is something in life which is certain and that is that you have change. Nothing is static. Everything evolves. That is what Clothier said 15 years ago. A system that would not change, you cannot cast anything in aspic. Of course you can have a referendum on these issues. But we need to have elections based upon a fair, defensible and proper basis, and that is what this debate is about.

**Senator S.C. Ferguson:**

Can we just clarify this? If we pass this proposition, and then change for this election, does the Minister then say that we have a referendum and we pass the referendum, we then change the next election, so we keep changing?

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

That should not be a revelation to the Senator. Change is one of those things that happens all the time. Change is a journey. You make an improvement and what I am saying to the Senator, and to those people who have said, I am respecting the views of this Assembly in the referendum issue. There will be a referendum on the issue of Constables. We have said that they need argue their case. We have said that there will be a review on Clothier so of course it is a stepping stone. But it is a much better position on that mountaintop than what we have on offer at the moment, and that is why I am asking Members to vote in favour.

**The Deputy Bailiff:**

You have had your closing speech and clarification is fine but if we can keep the clarification short, Senator Maclean.

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

Just one point of clarification: I believe that Senator Ozouf suggested that I had said during my speech that we could not reduce the numbers of Members in this Assembly had we possibly, as I had suggested, reduced the number in the public sector. I did not talk about reducing numbers in the public sector, what I talked about was stopping the growth of public sector, the year on year growth, and I just want to make that absolutely clear.

**The Deputy Bailiff:**

The appel has been called for.

**Deputy M. Tadier:**

There is a point of misinformation given inadvertently which said that there would be a referendum on Constables. P.P.C. has given a statement that there will not be a referendum on the Connétables being brought forward by us because we do not think the 2 are viable, so I would not want the Assembly to labour and vote under that impression.

**The Deputy Bailiff:**

Thank you, Deputy. There could be then is the right position. The appel is called for; I invite Members to return to their seats. You will take all the paragraphs together, Senator? The vote is on P.93, paragraphs (a) to (g) and I ask the Greffier to open the voting.

<b>POUR: 20</b>		<b>CONTRE: 27</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Senator S.C. Ferguson		
Senator I.J. Gorst		Senator A.J.H. Maclean		
Senator P.M. Bailhache		Senator B.I. Le Marquand		
Connétable of St. Helier		Senator F.du H. Le Gresley		
Connétable of Trinity		Senator L.J. Farnham		
Connétable of St. Clement		Connétable of St. John		
Connétable of St. Peter		Connétable of St. Ouen		
Connétable of St. Lawrence		Connétable of St. Martin		
Connétable of St. Mary		Connétable of St. Saviour		
Connétable of St. Brelade		Connétable of Grouville		
Deputy J.A. Hilton (H)		Deputy R.C. Duhamel (S)		
Deputy of Trinity		Deputy R.G. Le Hérisssier (S)		
Deputy K.C. Lewis (S)		Deputy J.A. Martin (H)		
Deputy E.J. Noel (L)		Deputy G.P. Southern (H)		
Deputy of St. John		Deputy of St. Ouen		
Deputy J.P.G. Baker (H)		Deputy of Grouville		
Deputy S.J. Pinel (C)		Deputy J.A.N. Le Fondré (L)		
Deputy of St. Martin		Deputy S.S.P.A. Power (B)		
Deputy R.G. Bryans (H)		Deputy M. Tadier (B)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		
		Deputy J.H. Young (B)		
		Deputy of St. Mary		
		Deputy R.J. Rondel (H)		

## **2. Draft Public Finances (Amendment of Law No. 1) (Jersey) Regulations 201- (P.133/2013)**

### **The Deputy Bailiff:**

Very well. We now come to P.133, Draft Public Finances (Amendment of Law No. 1) (Jersey) Regulations 201-. The principles were adopted on 11th December 2013 and the matter was then referred to the Scrutiny Panel. Senator Ferguson, your panel has reported on this, I think.

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

Yes, we have, Sir. We have done our scrutiny and we have come back to the States within the time limit that we set.

### **The Deputy Bailiff:**

So there is nothing further you wish to contribute as far as that is concerned? Good, thank you. Right. Minister, the principles of the Draft Public Finances (Amendment of Law No. 1) (Jersey) Regulations having been adopted, you wish to move on the Second Reading?

### **2.1 Senator P.F.C. Ozouf (The Minister for Treasury and Resources):**

I would firstly like to thank my Assistant Minister, who led the debate on the principles in the last sitting. The Assembly adopted, as you have said, the principle that the maximum amount the States can lend to third parties should be increased from the equivalent of 60 per cent of income from the previous year. Can I record my thanks to the Scrutiny Panel for the way in which they have reviewed this matter and for allowing it to come forward to the States today? Members will have received a copy of their report and I hope that that report will deal with any of the concerns that Members have. I would like to reiterate that Members are only being asked to approve the increase in the amount that the States may lend. I am asking that the equivalent of the sum that we are able to lend is 60 per cent. This is entirely a consequential amendment on the Budget 2014, which allows borrowing up to £250 million for the purposes of housing. The issue is that currently the Public Finances Law does not allow us to lend any more than 15 per cent. I will not go through the numbers because I think they are clear. I understand that there has been a re-emergence of the debate of the validity of the purpose of delivering a bond issue and then onward lending it to the States. The borrowing that we are going to undertake is different from that borrowing that most other governments entertain and have to do; they borrow effectively for revenue expenditure. We are borrowing for the sole purpose of housing, housing infrastructure and housing investments. We are only borrowing and going to be lending this money on to housing trusts, associations or companies with the purposes of housing. I realise that there is a public debate that is needed in order to ensure that the public understand that we have not taken leave of our senses and that we have voted only a proposition to borrow for the purposes of housing. I have had extensive discussions with the panel and my Assistant Minister and the Treasurer and the Scrutiny Panel about the important safeguards that need to be put in place prior to any loans being made. The Treasury has a procedure in place for lending money and we are going to be issuing revised financial directions which particularly deal with the drawing down of loans to - the vast majority of this is expected to be Andium, the replacement Department for Housing, and we will consult with the Minister for Housing and the Council of Ministers on this issue. I hope that the report that has been provided gives Members some additional assurance of the fact that the Treasury has robust procedures in place to lend money and this very large £250 million will have increased robustness in relation to matters.

[16:30]

I think that the proposition and the regulations are relatively clear and I will answer any questions. We have done the principles and we are now dealing with the regulations. I simply will stand to answer any questions that Members may have.

#### **The Deputy Bailiff:**

Is the Regulation seconded? [**Seconded**] Does any Member wish to speak? Senator Ferguson?

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

I think it is appropriate, since we have completed our report and reported on it to the Assembly, the Minister has stated that he will be strengthening the checks and balances and we await these with interest. We have asked for formalisation of the consulting and reporting mechanisms so that there is clarity and transparency for everybody, that these important parts of the process have been fulfilled. Obviously the Minister will be working on this matter but there are some other developments, which we think would be helpful. The lending will be signed off by the Minister for Treasury and Resources in a formal, published Ministerial Decision. For Members who are interested, this is paragraph 33 of our comments. We would expect that those Ministerial Decisions would each refer to the consultation undertaken with the Minister for Housing and with the Council of Ministers explaining how and when it occurred. It may, for instance, be useful for the Minister for Housing to issue his own separate Ministerial Decision. We recommend that borrowing and



lending for the housing project is included in the quarterly finance reports, which the Council of Ministers already receives. Now, we are not recommending any of these measures with intent to impugn anyone's integrity. We are recommending them because they are best practice and in a situation like this where large sums of money are concerned and it is public money, it is as well if it is transparent for the public and handled by the Council of Ministers under their collective responsibility. That is really what we would wish to say about this.

**The Deputy Bailiff:**

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

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

We are pleased to consider and to, in all likelihood, find a way forward of accepting what Scrutiny is suggesting. There is going to be an important segregation of duties between the Treasury and the Minister for Housing. The Minister for Housing is going to be dealing with housing policy and I could see a situation whereby it would be appropriate that a drawdown for the borrowing would have the Minister for Housing's approval in the event, for example, of a different tenure of units being provided on one of the new company's sites but generally the purpose will be that there will be a good and strong relationship between the Minister for Housing and the Treasury in discharging its shareholding functions in relation to this. I am grateful for Senator Ferguson to say that she does not think that there is any impropriety because I think our controls are incredibly strong in relation to this and we will be putting in place some pretty appropriate and strong questions to the new entity in the drawdown arrangements. Members would expect that and Members would expect there to be policies to be put in place, an annual business plan approved and drawdowns to be made. This is an important entity. It is going to be one of the largest capitalised entities in Jersey and this is an incredibly significant sum of money and we are going to put the proper controls in place. I move the Regulations.

**The Deputy Bailiff:**

The appel is called for. The vote is on the Regulations 1 and 2 of the Draft Public Finances (Amendment of Law No. 1) (Jersey) Regulations. I invite Members to return to their seats. I ask the Greffier to open the voting.

<b>POUR: 27</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 1</b>
Senator P.F. Routier		Connétable of St. John		Senator A. Breckon
Senator P.F.C. Ozouf		Deputy J.A. Martin (H)		
Senator S.C. Ferguson				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.G. Le Hérissier (S)				
Deputy of St. Ouen				
Deputy of Trinity				

Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Deputy Bailiff:**

Do you move the Regulations in the Third Reading?

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

Yes, Sir.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak? Those Members in favour of adopting the Regulations in Third Reading, kindly show? The appel is called for. I will ask the Greffier to reset the vote.

<b>POUR: 27</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 1</b>
Senator P.F. Routier		Senator F. du H. Le Gresley		Senator A. Breckon
Senator P.F.C. Ozouf		Connétable of St. John		
Senator S.C. Ferguson		Deputy J.A. Martin (H)		
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.G. Le Hérisier (S)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Deputy Bailiff:**

Three cheers for collective responsibility. **[Laughter]**

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

Sir, I do apologise. I have been voting contre all day [Laughter] and yesterday.

## **STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY**

### **3. The Chairman of the Education and Home Affairs Scrutiny Panel - statement regarding the CCTV report re camera surveillance in Jersey**

#### **The Deputy Bailiff:**

I understand the Chairman of the Education and Home Affairs Scrutiny Panel wishes to make a statement.

#### **3.1 Deputy J.M. Maçon (Chairman, Education and Home Affairs Scrutiny Panel):**

Members would have, by now, received S.R.1/2014, examining the use of camera surveillance in Jersey. As one of my final acts as the Chairman of the Education and Home Affairs Scrutiny Panel, I would like to begin by thanking the panel's expert advisers, Professor Peter Fussey of the University of Essex and Professor William Webster of the University of Stirling. Their experience in this field was of great use to the panel, especially in the formation of our final report. I would also like to thank all those who took the time to write to the panel and those who participated in our survey. I would also like to thank the States Departments and private organisations that allowed the panel to observe their use of C.C.T.V. (Closed Circuit Television) and taking the time to explain how they used these systems. I would also like to thank the panel's Scrutiny Officer, Mr. Mike Haden, whose support was, as ever, invaluable. This report originated from a public submission to the Scrutiny Office, requesting that this topic be examined. What became clear while conducting this review is that digital technology is moving at a very rapid pace and that the regulatory safeguards will also need to be able to match these changes. While there are many strands contained within the report, I would like to concentrate on a few. One finding was that the Data Protection Office is receiving a greater number of calls from Islanders with concerns regarding the use of private, domestic C.C.T.V. systems. The Data Protection Office is unable to help, as domestic systems are exempt. In examining the evidence, this area is becoming a greater concern, in particular for the English regulator, who is due to issue new guidance and recommendations early this year. In the meantime, a part solution recommended for the Department for Planning and Environment, is to examine the Scottish model as demonstrated on page 73 of our report, re-examining C.C.T.V. cameras on domestic buildings as being exempt, allowing a mechanism for neighbours to object. One more finding was the intention of the States of Jersey Police to bring in an A.N.P.R. (Automatic Number Plate Recognition) system. This will provide the police with the capacity to monitor every traffic movement in and out of St. Helier. This potentially represents a major enhancement of the surveillance powers of the police over Islanders. If linked to other systems, the panel finds that new regulations will be needed to govern this and make sure that the purpose and transparency of use of this data is clear and in line with best practice and European law. Another finding is that the analogue States of Jersey Police C.C.T.V. system around the town is to be upgraded to a digital system. While this level of surveillance generally had public support, the possible enhancements that digital technology provides have yet to be considered. In time, we believe, given the other abilities that software can offer such as facial recognition, this will require greater public debate and recommend this should only be extended after States approval on the principle and not be stuck under the radar by way of approving a budget, for example. Finally, the 2005 Code of Practice for the Data Protection Office needs to be updated and definite deadlines on the retention of data needs to be adopted and enforced. We found that the suggested retention periods were not being adhered to. Given the significantly lower levels of crime and disorder in Jersey, it is hard to justify why the police and other operators require much longer periods of data

protection, sometimes triple, than say the London Metropolitan Police. We commend our report to the Assembly and encourage States Members and members of the public to read our report. Thank you.

**The Deputy Bailiff:**

Thank you, Chairman. There are 10 minutes for questions if Members have questions for the Chairman.

**3.1.1 The Connétable of St. John:**

I am pleased to see the statement made by the outgoing Chairman of this panel because it raises some big concerns that Big Brother is acting more like the Stasi that used to operate in Eastern Europe and yet that is happening here. I sincerely hope that the Attorney General will be watching this closely because I note you refer to data protection laws having to be upgraded, Chairman. Have you any idea when they will be updated? Did they give you any indication in your review when the data protection laws will be coming to the House?

**Deputy J.M. Maçon:**

It depends on what the political decisions in the future will be. At the moment, we are not aware of any amendments coming forward because at the moment there have not been decisions taken to go with the extra abilities that this new technology will, in future, be able to allow. What we have said is that if that is to go forward, in some cases regulations will need to be approved by this Assembly but also that some “in principle” decisions should be taken first by this Assembly so that there is a public record and a decision that the public are aware of as to why these systems should go forward.

**3.1.2 Deputy R.G. Le Hérisier:**

Is the Chairman prepared to say whether the committee is for or against Automatic Number Plate Recognition?

**Deputy J.M. Maçon:**

No, we did not evaluate the merits of it. We simply were made aware of the technology and the possibility of it. The panel has not got an official opinion one way or another.

**3.1.3 The Deputy of St. Martin:**

I would just like to counter the Constable of St. John in a small way, if I can, and ask the outgoing Chairman if he would agree with me that if you are doing nothing wrong, you have nothing to fear from C.C.T.V. [Approbation]

**Deputy J.M. Maçon:**

That was often a view expressed by members of the public. However, it is a naïve one in the sense that we do have to remain ever vigilant. This is data about people and the most important thing when it comes to handling every type of data is the purpose for which you are collecting it and why it is being used. In our report, we do examine the notion of how data is communicated between different servers and operators and how it is used and how that needs to be tightly regulated and controlled. It is a balance between one or the other and the public, provided these things are properly regulated, do accept these things but the simplistic arguments of simply saying that if you have done nothing wrong you have nothing to hide does not stack up.

**The Deputy Bailiff:**

Are there any further questions? Thank you, Chairman, for that statement. Now, I have received from you, Chairman, your indication of your wish to resign as Chairman of this panel.

**Deputy J.M. Maçon:**

Sir, if I may say a few words, yes, I can confirm that. But before I go, I would simply like to thank the support of Members, past and previous, of the panel. My resignation simply comes so that I can concentrate on the work of P.P.C. going forward and that at the next States sitting, there will be a nomination for a new Chair for this panel. I would like to thank all members of my panel for their support. Thank you.

**The Deputy Bailiff:**

In accordance with Standing Order 120, the Chair would normally invite nominations. It is clear the agenda has not been finished today. I propose to invite nominations at some convenient point tomorrow morning so that there can be discussions and if necessary, we can proceed with the election of a new Chairman to the panel tomorrow.

**4. Ratification of the Agreement between the Government of Jersey and the Republic of Croatia with respect to the Taxation of Savings Income (P.147/2013)**

**The Deputy Bailiff:**

We now come to P.147, the Ratification of the Agreement between the Government of Jersey and the Republic of Croatia with respect to the Taxation of Savings Income lodged by the Minister for External Relations. I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to ratify the agreement between the Government of Jersey and the Republic of Croatia on the Taxation of Savings Income as set out in the Appendix to the report of the Chief Minister dated 23rd October 2013.

[16:45]

**4.1 Senator P.M. Bailhache (The Minister for External Relations):**

This is a proposition relating to the agreement made by the Assembly in 2004 to agree to help E.U. (European Union) Member States in the application of the European Union's Directive on the taxation of savings income. This was achieved by entering into agreements with each of the then 25 member states. Each agreement mirrored the directive. When Bulgaria and Romania joined the European Union in 2007, matching agreements were entered into with those countries too. On 1st July 2013, Croatia joined the European Union and the Assembly is now being asked to ratify an agreement with the Republic of Croatia, which corresponds with the agreements previously entered into with the other 27 Member States. Following the ratification of the agreement, if the Assembly is minded to do that, the States will be asked to deal with the requisite change to the regulations. I move the proposition.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak? All Members in favour of adopting the proposition, kindly show? Those against? The proposition is adopted.

**5. E.U. Taxation of Savings Income Agreements: replacement of the retention tax by automatic exchange of information (P.150/2013)**

**The Deputy Bailiff:**

We next come to P.150/2013, the E.U. Taxation of Savings Income Agreements: replacement of the retention tax by automatic exchange of information, lodged by the Minister for External Relations. I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to agree, with regard to the E.U. Taxation of Savings Income Agreements, to replace the retention tax with automatic exchange of information, as set out in the report of the Minister for External Relations dated 4th November 2013.

**5.1 Senator P.M. Bailhache (The Minister for External Relations):**

This is the second decision in principle, which the Assembly is asked to make before we move to consider the relevant regulations. When, in 2004, Jersey entered into the agreement to assist Member States on the application of the European Union's Directive on the taxation of savings income, the decision was made in concert with the other Crown Dependencies to follow Austria, Belgium and Luxembourg as Member States and Switzerland as a non-E.U. state in adopting the retention or withholding tax option rather than the automatic exchange of information adopted by the other 22 Member States. Under the terms of the agreements entered into with the Member States, the retention tax option would no longer be available at the end of the transitional period, which was defined by the E.U. Directive. This required a unanimous decision of the European Council on an agreement with Switzerland and the other non-E.U. third countries, Andorra, Liechtenstein, Monaco and San Marino. This condition has not yet been met. Guernsey and the Isle of Man decided not to wait for the end of the transition period and adopted the automatic exchange of information in 2011. Given the slightly different mix of business in Jersey and the need to protect its competitive position, particularly so far as Switzerland was concerned, Jersey decided not to follow suit with the other Crown Dependencies at that time. So all countries, including Austria, Luxembourg and Switzerland are now having to respond to a number of international initiatives, which embrace automatic exchange of information. They include the United States F.A.T.C.A. (Foreign Account Tax Compliance Act), the setting of a new single standard based on F.A.T.C.A. that the O.E.C.D. (Organisation for Economic Co-operation and Development) is developing at the request of the G20 countries, and the obligations of the multi-lateral convention on mutual administrative assistance in tax matters that the G20 group is expecting all jurisdictions to join without delay. Jersey, as Members will know, has signed a F.A.T.C.A. inter-governmental agreement with the U.S.A. and a similar agreement with the United Kingdom. Jersey has also publicly committed to joining some 40 other countries in the early implementation of a new single standard and is also proposing to join the multi-lateral convention. In the light of the action expected of other jurisdictions and that already taken by Jersey in relation to these international initiatives, the Government considers that it is now the right time to move to automatic exchange of information in respect of the E.U. taxation of savings income. The finance industry has been consulted on the arrangements for making this change from the retention tax option. Some financial institutions with offices also in the Isle of Man and Guernsey would like to make the change as quickly as possible and have systems in place which can be readily applied to Jersey. Others have new systems to install and they have asked for time to make the changes required. These differences of approach have been reconciled in the regulations that the States will be asked to adopt if this report and proposition is approved. The regulations will provide for the replacement of retention tax by automatic exchange of information to be mandatory with effect from the 1st January 2015, but for those who want to make the change sooner, the regulations will give them the option of doing so. I move the proposition.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak? Deputy Young.

**5.1.1 Deputy J.H. Young:**

The last paragraph, paragraph 10, raised a number of questions for me. Clearly, I can see absolutely the purpose of this move and the case for its adoption. However, 2 things: I would like very much to know whether the Minister would make available to us, perhaps by later circulation because I would not expect him to have the information to hand at the moment, as to how much has been received by way of withholding tax since the agreements were in place in 2004. So that is nearly 10 years. If it is possible to provide a breakdown of what countries. As I understand it, under this arrangement, a proportion was paid to those member countries and we retained the rest. So I think that will be useful to have because it gives us a kind of profile of the business that falls within this category. I would hope that it is public information. Secondly, what is the strategy for making up for the loss of the £2 million per year, which, at the moment, we receive? Has that been discussed with the Minister for Treasury and Resources? What is the intention to cover that or in fact, one might ask as well if those monies are sitting in an account somewhere or were they just absorbed between general revenues. What is the strategy agreed with the Minister for Treasury and Resources on this?

**The Deputy Bailiff:**

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

**5.1.2 Senator P.M. Bailhache:**

As the Deputy will have seen from paragraph 10 of the report, which is before the Assembly, there is an arrangement in relation to the tax retention scheme, which allows a State retaining tax to keep 25 per cent of the tax, which has been deducted, and to remit the remainder to the countries concerned. As the report makes clear, the amount that the States are benefiting from is an income of some £2 million per annum and I cannot at the moment see any reason why the request of Deputy Young should not be met as to the amounts received by the States during the past 10 years. I shall certainly make that available to Members in due course. So far as the future is concerned, it is true that the new arrangement will involve a loss of revenue to the States coffers. The matter has been discussed with the Treasury, in particular with the Minister for Treasury and Resources and I have no doubt that appropriate arrangements are being made in the Treasury to cover that shortfall in some other way. I maintain the proposition.

**The Deputy Bailiff:**

All Members in favour of adopting the proposition. The appel is called for and I invite Members to return to their seats. The vote is on whether to adopt P.150 and I will ask the Greffier to open the voting.

<b>POUR: 29</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
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				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy of St. Ouen				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy M. Tadier (B)				
Deputy T.A. Vallois (S)				
Deputy J.M. Maçon (S)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

If all Members have voted I will ask the Greffier to close the voting and I can announce the proposition has been adopted: 29 votes in favour and no votes against. [INSERT VOTE TABLE]

**6. Draft Taxation (Agreements with European Union Member States) (Amendment No. 2) (Jersey) Regulations 201- (P.151/2013)**

**The Connétable of St. Clement (in the Chair):**

We now come to proposition P.151, the Draft Taxation (Agreements with European Union Member States) (Amendment No. 2) (Jersey) Regulations and I ask the Greffier to read the principles.

**The Deputy Greffier of the States:**

Draft Taxation (Agreements with European Union Member States) (Amendment No. 2) (Jersey) Regulations 201-, the States in pursuance of Article 2(1) of the Taxation (Implementation) (Jersey) Law 2004 and following the decisions of the States at 22nd January 2014 to adopt Projet 147 of 2013 and Projet 150 of 2013 have made the following regulations.

**6.1 Senator P.M. Bailhache (The Minister for External Relations):**

These Regulations are designed to achieve 2 things: first, they are designed to provide for the implementation of the bilateral agreement with Croatia, which the Assembly has just agreed to ratify. This is done by Regulations 2 and 9. Secondly, the Regulations will give effect to the proposition that the Assembly has just adopted to move to automatic exchange of information in place of the retention of tax in all the agreements with Member States of the European Union. I will attempt to answer any questions that Members may have and I move the principles of the Regulations.

**The Connétable of St. Clement (in the Chair):**

Are the principles now seconded? [**Seconded**] Does anyone wish to speak on the principles? Senator Ozouf.

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

May I just confirm an answer because it is relevant to the matter that Deputy Young raised earlier? Yes, we have got full projections of income and we have taken the income into account in our forward projections in the Medium Term Financial Plan.



**The Connétable of St. Clement (in the Chair):**

Does anyone else wish to speak on the principles? Is there anything to sum up, Senator?

**6.1.2 Senator P.M. Bailhache:**

I do not think I need to add anything to what the Minister for Treasury and Resources has said. I propose that the principles be put.

**The Connétable of St. Clement (in the Chair):**

All those in favour, please show. Those against. The principles are adopted. Chairman of the Scrutiny Panel, to ask if you wish the Regulations to ...

**Senator S.C. Ferguson:**

No, thank you, Sir.

**The Connétable of St. Clement (in the Chair):**

Minister, do you wish to propose the Regulations.

**6.2 Senator P.M. Bailhache:**

Yes, with your permission I would like to propose the Regulations *en bloc*, which, as I say, give effect of the 2 objectives that I outlined when moving the principles and I should be glad to answer any questions that Members may have.

**The Connétable of St. Clement (in the Chair):**

The Regulations are proposed, are they seconded? **[Seconded]** Does anyone wish to speak on the Regulations? If not, all those in favour, please show. Those against. The Regulations are adopted. Do you wish to propose the Regulations for Third Reading?

**Senator P.M. Bailhache:**

I move the Regulations in Third Reading. Seconded? **[Seconded]** Does anyone wish to speak in Third Reading? All those in favour, please show. Those against. The Regulations are adopted.

[17:00]

**7. Referenda: revised procedures (P.153/2013)**

**The Connétable of St. Clement (in the Chair):**

We have the next item, the proposition in the name of Deputy Le Hérissier, Referenda: revised procedures. I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to request the Privileges and Procedures Committee to review the current provisions of the Referendum (Jersey) Law 2002 and to bring forward proposals, with appropriate amendments to the law if necessary, to define more clearly the conditions that may be applied to the holding of any future referendum.

**7.1 Deputy R.G. Le Hérissier:**

In the light of the foregoing debates I hope this will be very brief and non-contentious. What it says obviously is that to avoid any doubts we will make it very clear as to the basis upon which a referendum is being held. The kind of issues that Members did raise in the debate on Government reform, namely the percentage required, be it a percentage of the actual electorate or be it a percentage of the voting electorate, for example, what would be the threshold strikes me as being one of the most important issues. But I am prepared to be guided by P.P.C. if they believe there are

other issues. We seem to be in this situation, although it may, given what Senator Ozouf was saying about speeded up Privy Council procedures, where anything to do with elections has to go to the Privy Council. We cannot even make the most minor of changes under regulations and put them through. That is obviously the caution that the P.P.C. has put forward. I wonder, and maybe the Attorney General at some point could answer this or indeed the Chairman of P.P.C., who has doubtless researched it, why we could not under 1(3)(a) of the current law, why under that provision one could not specify, for example, the threshold required for a successful referendum for the result to be binding. I wonder why that could not be cited under 1(3)(a) but that is the sort of issue that, no doubt, will be discussed. I have certainly felt bruised by the result and I am like other Members, I have had to justify my vote to quite a few people. I hope this will clarify things for the future and that we will never, ever walk into a referendum where it was not made clear from the start whether it was advisory or whether it was binding and what the threshold vote was. I move the proposition.

### **The Connétable of St. Clement (in the Chair):**

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

#### **7.1.1 The Deputy of St. Martin:**

I think it is interesting that we talk about thresholds because in a number of different circumstances I have discussed this with others in the last couple of months. The only thing I would say, of course, it is terribly difficult to set a threshold outside, for example, 30 per cent, 35 per cent or 40 per cent and then find that the electorate turnout is 0.5 per cent lower than that. No matter how one justifies when you get to a certain line that it is legitimate and when it is a fraction below that line it is not legitimate. I do not know, so I look forward to P.P.C.'s comments.

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

I am sorry to hear that Deputy Le Hérisier has had difficulties with some of his constituents as a result of his vote in failing to take account of public views following the referendum. But I am not sure that that in itself is sufficient reason to pass a proposition asking the Privileges and Procedures Committee to look at the issue of the Referendum Law. I must say I am not at all clear what it is that the P.P.C. is being asked to do. As the Deputy of St. Martin has already said, there are difficulties in fixing minimum rates of participation for the validity of a referendum. There are also considerable difficulties in making a referendum mandatory. In fact, I think those difficulties are overwhelming. I took an oath when I became a Senator, as I think the Deputy of Grouville referred to during the course of her speech during an earlier debate. We all take an oath to do the things that we oblige ourselves to do under that oath and we do not oblige ourselves to act as rubber stamps of the decision of the people in a referendum. If there were a matter of conscience that arose then people should be entitled to vote in accordance with their conscience. I find it very difficult to see how Members can be compelled to put their fingers on the pour button because a referendum has come out in a particular way. They should, of course, respect the views of the public in a referendum but that is a different matter. I am not opposed necessarily to the Privileges and Procedures Committee looking at the Referendum Law but I must say I would be happier to vote in favour of this if I was clearer as to what the intention of the review was.

#### **7.1.3 The Deputy of St. Ouen:**

There was obviously, as I said before, to second this particular proposition and I, unlike Senator Bailhache, am not particularly nervous about grappling with thresholds and the like because certainly we are not creating something new. Many other countries rely on referenda to a greater or lesser extent and there are some good examples that we can and have already, in part, looked at. I think it is important that with the interpretation of the recent referendum result and the fact that it was only advisory highlighted some of the issues. If we are going to take matters to the public then

it is not wrong that we should expect the public, the voters, to come out in force if they want to achieve a particular aim and this is why thresholds are normally set. There is nothing to be scared of. This is a good and pragmatic way forward and I hope that Privileges and Procedures will, in a relatively short period of time, come back to this Assembly with their proposals.

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

Just very briefly, if the P.P.C. is going to be charged with a review I am hoping that they will take a wide-ranging review, not focus simply on thresholds and other items but look at the whole procedure. In other jurisdictions, for example, there are official funds designated for publicity of referendum issues and there are definite pathways by which these can be accessed, et cetera. I know that the Commission, when we were looking at the last referendum, did look at these but they were not available this year in this jurisdiction. I think this is going to be something that the Island is going to look to. It needs to be addressed with regional branch and not simply in any aspects that individual Members may come up with at this particular time.

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

As an individual member of the P.P.C., speaking as an individual, the Referendum Law, I was struck when we discussed it last time, is very, very basic and it is perfectly all right, I think, for holding a referendum or such things as whether we go to Central European Time, I seem to remember that. But when it comes to a really constitutional measure I think having a law that just says set the date, set the form of the paper, text of the question and then such other provision for the conduct and that is it. I really wonder whether that is adequate and I do think it is worth making for P.P.C. to have a look at this. My reading of the proposition that Deputy Le Hérissier has brought, it is not saying make mandatory changes, it said have a look at it and bring a report and, if appropriate, bring forward changes. It does seem sensible that if we are ... now we are clear that there will be proposals coming forward to this Assembly with the referendum particulars, I think we should do this in parallel and not make a big issue of it. I think, frankly, we should just approve that. That is my view as a private member.

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

I thought that I was taking a trip into the future a few moments ago because I looked up to the Chair and I saw an elected Member in the Chair. **[Laughter]** Perhaps I am not aware that any statement has been made as to why, I did not know whether or not elected Members are just there for a comfort break or something but I certainly would welcome the opportunity perhaps of knowing and understanding. I have written to the Bailiffs about the fact that it used to be that elected Members were in the Chair and perhaps you would agree to comment on the reasons why the Connétable of St. Clement ... I did not know we had had a referendum on an elected speaker, perhaps we will, perhaps we will not. But certainly perhaps you would speak to that at some point, Sir. In relation to this referendum debate I find it extraordinary, we have had a day talking about a referendum and somehow this proposition may be solving people's consciences, is it? Is it the fact that we are going to be clear with people that we might listen to people, is the solution? This is a very complex issue. Senator Bailhache said, a referendum result that is binding, there needs to be all sorts of checks and balances on that. Minimum thresholds of people, percentage turnout. Ultimately I have to say that while I do not like the result that we have had today ultimately it is this Assembly that decides on legislation and that a review that would be brought forward to require an automatic result of a referendum being translated into law, I think that is an extraordinary step and I really do not know what is being suggested. Why is this being suggested? These are huge issues which will need to be consulted upon. In the proposer's summing up is he saying, because this would appear to be completely facing the opposite way, that we need to have a referendum which will translate into an automatic decision? He needs to explain what the problem is. Why do we want a

referendum on something that I think we are clear about? We have a referendum on a public matter of importance and it is for this Assembly to decide. I do not like the result, I have to accept it because it is this Assembly that decides. Perhaps he can make his case when he is summing up. Why do we need this?

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

Senator Ozouf was just asking the question: “Why do we need this?” I think the answer is in our recent history. Not only did we have a non-binding referendum, and our referenda are non-binding, but having achieved some sort of result on a low turnout we then turned it down. But we turned it down because the referendum, many argued, was badly phrased, too complicated and was not and did not produce a very clear result. All this proposition does is to instruct P.P.C. to go away and examine referenda, and our terms for referenda, and see if there are things that could be done in order to make sure, if we can, that we do not end up in the position we have just recently been in where nobody trusted the result of the referendum because of the fact that, for example, it did not give a single option and say yes or no, because that is the way most people do it. We chose to do it differently and what we got, I believe, was a mess, hence the debate we have just had trying to clear up possibly some of that mess. But I do not see any danger at all in examining, and if necessary advising, what we should do about referenda. I too happen to share the reservations I think that Senator Ozouf has about using referenda in general to make decisions. I think we have got to be very careful, this House makes decisions and not referenda elsewhere which, like it or not, can be captured, can go off on a wild one that nobody intended. I do not see a problem with this particular proposition. I think it should be supported because I think we need to examine the way in which we use referenda, if we use them at all.

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

I rather felt that the Minister for Treasury and Resources missed the point. In fact I was trying to make a comparison between P.158, which has been brought by the Chief Minister, which simplistically is a review into legal aid, which is a wide and complicated subject, it has established a panel. We obviously have P.P.C., which already exists, we do not need that part, and it has established some very particular terms of reference.

[17:15]

That seems a good idea. I think at the end of the day we are going to be looking into a subject which is of concern. I think what Deputy Le Hérisier is doing is something pretty similar, which is without being prescriptive to P.P.C. to say: “Could you have a look at something of concern. Any proposals come back to us.” I do not see the issue. I will support it.

#### **7.1.9 Deputy M. Tadier:**

Very much in keeping with that theme. P.P.C. have said we are quite happy to look at it if the Assembly want us to look at it, which is not always the default position for such bodies but we are quite happy to do that. But there are key considerations which need to be, I think, brought up here and then subsequently discussed. First of all, while we might be an ancient democracy in parliament in ourselves we are very new when it comes to the use of the referendum as a guide, if you like, to deciding things. The issue is: normally in essentially what is a sovereign parliament, that is we are the ones charged to make the decisions. It is difficult when you get into the area of a binding referendum and what that might mean. Other constitutions, obviously Switzerland use it completely differently in their Federal system, but we can look to the example of Scottish independence. They are having their own referendum. They do not need to make that binding because of their constitutional set up. There is a government there which is decided upon a course of action, which they want, that is the first criteria. The Constable of St. Lawrence, I think, alluded to this earlier about the clarity of a referendum. You make a decision as a government and say:

“This is the course of action we would like to take but because of its nature and the fact that it is significant, we will put it to the public for endorsement and when they endorse it presumably the same public would re-elect the same majority government and then they make good on the promise that they have made. We have a completely different system in Jersey. We do not have party politics. There may be different groupings, some say it is a one-party state. That is often a throwaway comment. But in reality we have individuals who are elected. If you like, we have 51 different parties, and so who is the Government, that is the first thing. Ultimately it is the Legislature which decides the decision, and there is a risk that it is very easy to pass a referendum and say, in this case it is: “Let us put Clothier to the public.” We need to make sure we know what is meant by that, what the public are saying yes or no to. It is very easy for us to decide: “Let the public have their say.” But first of all there is no guarantee that that is what we want to do as an Assembly and there is no guarantee that the future Assembly will be there to endorse the result of that referendum. There will be a link necessarily between the next referendum because it is happening at election time, and it will be very strange if the public voted for Clothier, let us say, but then they voted for candidates who were opposed to Clothier, but that can happen in a non-party system because there is no mechanism by which to take that through. I can understand why Deputy Le Hérissier is bringing this proposal. I do not know if it is the appropriate time to ask the Attorney General for an opinion because there are massive constitutional implications if we say: “Let us have a binding referendum”, whether or not we put a threshold, because what we are doing is devolving some of our power, we are abdicating some of the responsibilities of this Chamber to say that in certain circumstances the public can make direct decisions, and that might well work at a Parish level, because we have Parish Assemblies who can determine their own ... they can be self-determining in that respect, but that is not how we have traditionally run our central government, so there are implications for that. I think whatever the issue is I am very sceptical, it must be said, about having thresholds and having binding referendums because I do not think they can work constitutionally. We need to get our heads around if we are going to have a referendum on any subject in the future, how do we make sure that that works? We do that by having a government which makes a decision, thrashes out the best way forward that it thinks, putting it to the public and then following through on that decision. But we cannot do that essentially in a non-party context. That is the rub, if you like. So P.P.C. will look at that. Deputy Le Hérissier will be pleased to hear that. But do not expect an easy solution and it may well be that we are coming back with very similar comments to what you have heard just now.

**7.1.10 Deputy J.M. Maçon:**

May I thank my vice-chair for the very comprehensive comments there. I would just like to reassure Members that if this is adopted of course we would invite comments from Members if there is anything you would like us in particular to consider, and I hope that is of reassurance to the Constable of St. Mary, for example. One word of caution that is within our comments is the timeframe that we currently have to do this work and possibly come back with something, and for that to be in place for the next proposed referendum. Whether we would physically be able to do that or not we have made it clear we are doubtful whether that could be achieved. If it could be of course we would do that. But we just clarify that. Do we accept that some of these administrative arrangements around the referenda is proposed, and think about that as something which we understood to be what Deputy Le Hérissier was asking for in his proposition, but overall we are happy and content to proceed with this work with the caveats that we have made.

**The Connétable of St. Lawrence:**

Thank you, Sir, but I was going to ask a question which has now been answered.

**The Deputy Bailiff:**

Does any other Member wish to speak? Then I call on Deputy Le Hérissier to reply.

**7.1.11 Deputy R.G. Le Hérissier:**

I might ask the A.G. (Attorney General) to contribute later. I thank Members for their comments. I think they have been very useful. The Deputy of St. Martin, he is quite right but if you set a threshold you set a threshold. We set one here. We have just gone through it. We set one here for constitutional change because we believe it is so important it cannot be done on a weak vote, so to speak. Senator Bailhache: what am I asking to do? I am simply asking that they study it. Yes, on the basis that it has to be said that the public were very confused because I think there were a lot of the public, particularly when comments were made like this is just really a glorified opinion poll. What had started as an advisory or non-binding referendum all of a sudden, or maybe over a period of time, it morphed into a binding referendum, and that is where, of course, yes, Senator Ozouf is right. That is where the guilt was present. I was trying to explain to people ultimately it was advisory. But they thought by the time we came to the vote it was binding hence the need to be very clear about what we are doing. On the issue that Senator Bailhache: “Well, we are not yet a rubber stamp.” The point is, as has become very evident, and it would become evident, for example, if the independence debate gathered speed, and came to a head, there are certain issues where we are either too divided or where the issue is so critical that the whole of the general voting public has to be asked for its view. We are all going to see that next year in Scotland where I understand, after some rather quick research, that 40 per cent of the total electorate in Scotland has to vote in favour if the independence is to go through. 40 per cent of the total electorate, in other words the non-voting as well as the voting. So there you have an interesting example. Whether we could ever reach those figures in Jersey is another issue. I think there are special cases. As Deputy Tadier said with reference to Switzerland, there it is almost used on a regular basis with cantons saying: “Shall we have more immigrants, shall we not?” It starts to get a little bit stupid, quite frankly, I feel. But, no, where it is exceptional I think we have to allow for it. Deputy Reed made some very good points. I thank him for his support. I think the Constable of St. Mary was quite right, we have to look at the broader picture. I agree with Deputy Young. Senator Ozouf said it is a complex issue. That is the whole point. The issue that people wrestle with and that has come up time and time again in this last day is: how on earth could we make the question satisfactory so it was understandable to people and could be put, as Senator Le Marquand said, in a yes or no format? That came up time and time again, and I thank Deputies Southern and Le Fondré for their support. I was going to ask the Attorney General whether, for example, section 130, which seems to suggest the States can set the conditions for a referendum, it would allow us under the current law to set those conditions.

**The Deputy Bailiff:**

Mr. Attorney, do you wish to deal with that?

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

Yes, I think I can answer the Deputy’s point. Article 1(3)(a) seems to me to be entirely a process article. It is an article which enables the States to make comment on the procedure for the conduct but does not deal with the fundamental underpinnings, whether it can be binding or not or anything of that nature. It is juxtaposed in fact with the ability to adopt some of the articles that apply in the Public Elections Law. It is of that type. It does not enable the States to fundamentally alter the character of a referendum. It seems to me on questions of binding referenda those raise very substantial legal and potentially constitutional issues. It is not normal that a Legislative Assembly can bind itself to any future conduct. Normally it has autonomy to make any decision as things go along. Those are the kind of issues that will need to be considered, as indeed would the role of an Assembly. What would the role of an Assembly be in any legislation that flowed from a decision

articulated in a referendum? These are the kind of considerations that would need to be given if we were to consider how a referendum could be made binding and effective.

**Deputy R.G. Le Hérisssier:**

I thank the Attorney General. The last point I would make to the Chairman of P.P.C.; he is quite right. I take his caution on board. But if that committee persists in its wish or in the wish of the House to have a referendum at the beginning of the next or as part of the election, I hope if they have not made the legal changes, and that looks to be the case, they will make it very clear to the public the basis upon which that referendum is taking place. I hope they will do that. I would ask for the appel.

**The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on the proposition of Deputy Le Hérisssier, 153, regarding Referenda: revised procedures and I ask the Greffier to open the voting.

<b>POUR: 44</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 P.M. Bailhache		
Connétable of Trinity		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. John		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisssier (S)		
Deputy J.A. Martin (H)		
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 M. Tadier (B)		
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 of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Deputy Bailiff:**

Just in answer to Senator Ozouf, article 3, paragraph 2 of the States of Jersey Law says that: “If both the Bailiff and the Deputy Bailiff are unable to preside at a meeting the Bailiff shall choose an elected Member, the Greffier of the States or the Deputy Greffier, to preside at the meeting.” The Bailiff is in New Zealand, as is the Greffier. I was momentarily unable to preside and I asked the Connétable of St. Clement to help me out on that very contentious set of legislation, the Draft Taxation Agreement with European Union Member States (Amendment) Regulations. Whether an elected Member would have been quite so happy to preside over P.93 is of course a different issue. **[Laughter]** Is the adjournment proposed?

**Senator P.F. Routier:**

Yes, the adjournment, Sir. **[Laughter]**

**The Deputy Bailiff:**

The States stand adjourned until 9.30 a.m. tomorrow.

**ADJOURNMENT**

[17:28]