

STATES OF JERSEY

OFFICIAL REPORT

THURSDAY, 5th NOVEMBER 2009

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

PUBLIC BUSINESS – resumption

1. Committee of Inquiry into the Management of the Health and Social Services Department (P.145/2009) (re-issue) - resumption

The Greffier of the States (in the Chair):

Very well. We now must return to the Committee of Inquiry into the management of the Health and Social Services Department. Does any other Member wish to speak during the debate?

1.1 Deputy S. Pitman of St. Helier:

I heard yesterday former Ministers for Health and Social Services and other Members saying that this proposition was all about the spurious allegations made by Senator Syvret; that this proposition was all about him and there was no evidence to back these allegations. I think it is very sad and grossly unprofessional of Members when they put their distaste for a colleague before the protection and justice of people who are possibly abused by trusted employees of the States of Jersey. I ask Members, have any of you been abused? Have any of your children been abused? I think the answer is no because we are all lucky. If the answer was yes I know that Members would be doing everything that they could do to get justice and, to me, this is one of the main reasons why this inquiry is being called for. The Scrutiny Panel have done their work, they have listened to people who were taken into care by the States, they have taken the advice of professionals and have recommended further investigation; that is their role. What they recommend will not be covered, as I understand, by the review from the Scottish organisation that has been mentioned, it will go back years by addressing people who have been in the system and I think it important to say that we have to deal with the past if we are to find solutions for the future.

1.2 Connétable J. Gallichan of St. Mary:

I was not going to speak on this as so much has already been said but yesterday when I listened to the Constable of St. Lawrence speaking, I had a flashback to something that we worked on together in our time as Deputies on Scrutiny. When the Constable talked about being in a revolving door, I remembered our work on the Early Years Review when we wrote a section called Ending the Spiral. We had found that, in seeking to find a way to solve the inequalities and inequities of the provision of early years care, the Education Department had embarked upon endless rounds of consultation and review but had never come to terms with the real issues. So many times they had seemed to be within spitting distance of achieving their aims but each time they had spiralled off again and then resorted to more consultation. Our report urged the Minister to stop consulting and to take action. He did and now we have a situation where all our children can access a quality pre-school provision. The situation is very similar here: so far we have seen an external chair appointed to the J.C.P.C (Jersey Child Protection Committee), external scrutiny of serious case incidents, external inspection processes and an improved complaints process. We have reviewed and reviewed and now the time has come to act and decisively. The Minister is ready to act and has the funding in place; in fact, the Minister is rearing to go. She wants to develop a Children's Service which is inclusive of parents' organisations, of schools, of head teachers' comments, of G.P.s (General Practitioners), of health and children's professionals, *et cetera*. The Minister wants to end the spiral and to move forward. I urge Members to help her; we cannot allow the spiral just to go in reverse with yet more reviews, we must stop it dead and we must move forward in a new direction, straight towards a better service for all our children, vulnerable and otherwise. To those Members who have claimed they have evidence of bad practice but are not prepared to give the details to the Minister, I say this: how on earth do they believe that withholding evidence can be in the interests of anyone and especially of our children? How can the Minister act without evidence? More specifically, look to the Children's Law; if anyone, and surely especially if anyone in a position of responsibility such as a States Member, has evidence they have a duty to act on it

immediately. There should be - there will be - no hiding place for those who jeopardise the wellbeing of our children, we must not play political games with the safety of our children.

1.3 Deputy P.J. Rondel of St. John:

I was listening outside yesterday and I was taken aback to find that we have 3 Ministers for Health and Social Services who requested from their predecessor, who is now off-Island, information on this very subject and all 3 Ministers have not received anything whatsoever from their predecessor. To me, I think that is a terrible, terrible thing given the allegations we have heard time and time again in this Chamber. If that former Minister knows something it is for him to pass that information on and make sure something can happen. That being the case - and I still do not know which way I am going to vote on this at the moment because I believe there might be one or 2 other speakers - I believe the Minister needs the support that is going on at the moment because, unless we can draw a line in the sand under this, we will see this continue for another 2 or 3 years at least and still may not get to the answers, given that the former Minister I was talking about has not forwarded this information. It is an indictment on us all that we have to help our young people and people who are in trouble, not hold information back. I am thinking now - and I am just looking at my piece of paper - about the Verita inquiry and all that has happened within that particular sphere and people are still suspended. I hope that everyone can vote here with their conscience today because, at the end of the day, we have to move forward and allow the Minister to get on with the work in the Ministry. In the short time I have been back in the House, I have now seen 2 Ministers for Health and Social Services and I do not want to see a third.

1.4 Connétable J.M. Refault of St. Peter:

I was not going to speak but I think just as we appear to be approaching the end of the debate I think, from my point of view, now is the time not to procrastinate, not to be reactive but to be proactive. I know the Minister for Health and Social Services has been working very, very hard within the management structures within the hospital. I have spoken to her, I have spoken with other Ministers; there is a lot of good work going forward, we need to give her the support and her Assistant Ministers the support to bring forward the changes which are absolutely vital for the residents of Jersey. Only a few short weeks ago we voted extra money to help her with this work and we are now potentially voting some of that money back to be diverted to other things. I think this House needs to get behind the Minister. Let us look forward; we have seen the past, we must learn our lessons from the past and shape the future on the back of those lessons. I will not be supporting the proposition.

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

I have been waiting until virtually last hoping that we were going to move forward but we clearly are going through a stage where we are looking back and I just wanted to say that during the period that I was head of Community Policing and the subsequent years that I was an Assistant Minister for Education, Sport and Culture, we have been through masses of reviews, masses of changes running through committees and then subsequently Ministries and parents and guidance, *et cetera*. This has gone on far too long, absolutely far too long. I still have Kathy Bull reports in thick volumes in my office at home and the kindred inquiries that have been going on surrounding that and we seem to be going round in circles and circles. These circles have got to stop. If there is evidence out there that people know nobody is going to be able to resolve the problems unless those people come forward and give that information. If we stand here to report today and have not received that information then I am afraid I am very sceptical that an inquiry such as has been requested is going to be successful. We should have had already that information and we should be given not the detail but the circumstances around it to convince this Assembly that there is a need to invest in such an inquiry. I am sorry, I have not been given sufficient sureties and safeguards to be able to support such a proposition and therefore I will not be supporting it, but I hope and I pray that the people who have this knowledge will move forward and talk to people: talk to the Minister,

talk to the Assistant Ministers, talk to anybody that they trust in order to move this forward and find a resolution for the benefit of all our children but also to all the people that are involved in trying to make this Island and its population a better place to live.

The Greffier of the States (in the Chair):

If no other Member wishes to speak, I will call on Senator Breckon to reply.

1.6 Senator A. Breckon:

First of all, what I would like to ask Members to do before I just run over what was said yesterday and this morning is set personality aside. This is not about personalities; it is about some very, very real issues. First of all, I would like to ask Members to apply their minds to a complaints procedure. People have said: "Somebody should have said" this, that and the other, okay. If I want to complain about education - kids going to a school - the people who I would make the complaint to are mainly the people who made the decision and, with previous Ministers for Health and Social Services, 3, now 4 of them, take 5 if you want, we do not have a robust complaints procedure. Many people still come to me to complain: "What do I do?" and we had this with elderly care, Members will remember, where if people have an elderly relative in care, who do they complain to without any affect on their relative? People are really worried about complaining and that is a fault across the public sector and it exists here. It is something we must address. Clothier said it; the disciples of Clothier, where are you with a complaints procedure in the public sector? It has not arrived, I am afraid. That is something that Members should bear in mind if ordinary members of the public... and even as Members have demonstrated, where do we go to with a complaint? Not something that is on the back of an envelope but something that you have sat with, with somebody that is very personal and very difficult for them and then you say: "What can I do?" and sometimes, I am afraid to say, the answer is: "Not very much." I am not very proud to say that but that is the situation we have got so I would ask Members to bear that in mind. When we come to employees, I will give another example: about a year ago, a member of staff that works in a part of the public sector came to me about bullying and intimidation. I want Members to be aware of this from the latest whistle-blowing policy and what it says is: "Disclosure to outside agencies. The employee should only make a disclosure to an outside agency after internal procedures have been exhausted. Provided that the internal procedures have been followed, employees making a disclosure should feel able to do so without fear of disciplinary action or other sanctions being taken against them." Turn that the other way, so supposing they came to me or anybody else, Citizens Advice or J.A.C.S. (Jersey Advisory and Conciliation Services) then would that be seen as undermining the disciplinary procedures? That is the background where anybody who might have some evidence or information that wants to tell somebody else is in, and I am not sure that that is human rights compliant or others might argue that it is. But that is States of Jersey - what is it called - whistle-blowing, but they have got a fancy name for it: "Policy on Reporting Serious Concerns (Whistle-blowing Policy)" and this is the latest one. I would say that is not robust. People must not be able to fire allegations about this, that and the other without substance but they must, if there is an issue, feel that there is a degree of comfort where they themselves will not be exposed, and I can tell you it would not be a very good career move for anybody if you are reporting your superior to your superior; how does that work, then? The other thing, we have produced a report, so there is a paper there. What that does not show, and this debate has showed to an extent, is the emotion of this subject. I have done reviews, I have been involved with things for years, but these things you are going in where it hurts. We went to Greenfields, there were some girls in there at the time, they should have been playing with a skipping rope, they should not have been locked up; that is where we were, we were in La Moye, we were in La Preference, Heathfield. The Youth Action Team, when I went there on the Thursday, the guy said to me: "I have got a problem, I have got 6 young girls in court tomorrow, I do not know what is going to happen. Where do they go? If they are detained, we have not got room, if there are bails, remands, what exactly are we going to do?" That is the people at the sharp end that we are talking about so it is not about a few bob or about that, it

is about people already doing a difficult job under difficult circumstances and sometimes they may have a problem they want to share with somebody else; where do they go? In the past they have had nowhere to go, I can tell you that quite honestly and that is what some of this is about. The other thing that is important, and I do not think any Member has mentioned it, and if you read a lot of these reports, the children's reports, what they say is: "Put the children at the centre." What you do not do is create an institution of bureaucracy and say: "This is for the children" what you say is: "These are the children, what are their needs; how do we cope with that?" and nobody mentioned that at all. With some of the contributions from Members there is a mix-up here about what Williamson is; no one man, no one person, no report is going to cure everything and that is a mistake if anybody thinks it will. There are areas that I touched on yesterday where our experts said of Williamson: "The limitation is most surprising and also most explicit in the Williamson report. The author was specifically asked to look at child abuse and the procedures and policies surrounding it. Despite this, the report contains almost no discussion on field social work, child protection registers, child protection conferences, serious case reviews, the role of doctors, Accident and Emergency Department or health visitors, in responding to abuse or the adequacy or otherwise of services for the under 5s, e.g. child minding, day care or family children centres. All of these issues would be covered in a full treatment of what appeared to be Mr. Williamson's brief." Everybody said "Williamson." Another thing that was said by the Minister for Health and Social Services: "We have agreed the funding for Williamson." No, we have not; what happened was Deputy Le Claire brought forward a proposition where money was agreed from what would have been the funding proposal from the Minister for Treasury and Resources to meet the situation we had with family X. We have not agreed the funding for Williamson. I had a conversation with the Minister for Treasury and Resources because, again, the sub-panel were compromised; we were doing a review on something that the States were going to debate so I phoned her and said: "Yes, well, that is very nice, that is a nice review but we have agreed this" so the agreement was that if we identified areas in this report that needed funding then we would come back and visit it again through the Ministers, or through another debate, and that is something the we have not yet had so we are not there yet. The other thing that was touched on, and it was mentioned yesterday - this was an extract - some discussion again about something that was contained in Deputy Le Claire's report, P.62: "A serious case review has now been instituted in response to allegations of multi-agency failures by the States of Jersey" and then something that Deputy Hilton pointed out yesterday, well, the other one had not started. So the question is who is responsible for driving a serious case review? Is it the people who have been managing the case, how does anybody else get to know about it and I do not know the answers to this. That is the role of the Jersey Child Protection Committee. The question is - and I do not know the answers because we did not have time to go that far - how many serious case reviews have they done since they were set up in 1996? I do not know, but if matters are before the courts because there is concern about care, custody of children and other things, then should not somebody have done some serious case reviews? How many have been done? I do not know. That is one of the areas where the sub-panel in the time and resource available was not able to get in that detail. How were those cases managed? We do not know, and they could have been managed well; difficult situations could have been dealt with with different agencies, with Education with Health, social workers, agencies; I do not know. I do not know the answer and that is why the sub-panel believed and the panel believed that we must go into this or somebody must go into this in more detail to put forward a framework that was robust and when things did go wrong we were honest enough to say: "Well, let us look at this, yes, well perhaps we could have done better." Let us hope that we can do this and move on together; this is not a personal agenda or a personality agenda, it is about process and it is about process that will serve children and this is what it is about. I said in my foreword to the report: "I hope the content of this report will play a vital part in determining the future role and development of policies, services and support for families and children. It is, however, part of an ongoing process and not the end of it. Nothing I have heard, yesterday afternoon and this morning, suggests to me that we have got a clean end to the thing, we have got things hanging about. The sub-panel discovered

reports that we did not know existed about various things, about Children's Mental Health Services, for example. We found out things as you went along. Somebody mentioned something and, as States Members, I would suggest to you there are reports in existence that we do not even know about. Maybe we should, maybe we should not, but I know this was something that former Deputy Troy said: "If somebody gets a report then it should be listed, where it is, if it is available, how much it costs" *et cetera*. Everybody I think has made a valuable contribution and it is, believe you me, an emotive subject. You can do reviews, but when you go in here, I tell you this hurts because it leaves you with feelings. When you come out of La Moye, it is no holiday camp up there. There are young fellows locked in there. We spent some time talking to the youngsters. We did the same at Greenfields. This is what it is about. It is about turning these situations round and I am sure we are all in agreement about doing that. It is how we do it, and I believe we need to look back a bit. I thought when the Deputy of St. Ouen was speaking yesterday and he was talking about "we must not look back" a number of Members said that the first thing you have got to do, if you change direction, look in the mirror; mirror, signal, manoeuvre, anybody that has learned to drive you look back before you go anywhere. I would ask Members to bear that in mind as well. What it says in the proposition is "to look at actions and effectiveness" and I would ask Members to bear in mind what I have just said about serious case reviews and actions and effectiveness. Did it happen? When did it happen? Did it happen at all? I do not know. What we are asking is that somebody looks at that in more detail. There are 10 to 12 years of minutes of the Child Protection Committee. There are various sub-groups. Somebody could do that. A number of Members have mentioned cost. I will just put this to the House, what is the cost of suspension of employees within the Health Department? Who is monitoring that and who tells us regularly? Is that out of control? Would money not be better spent focusing on that, sort out the issues? Get people, who are entitled to, back to work and perhaps we will have some money to spend on this. For me money is not the issue. Senator Le Marquand mentioned the corporate parent. We found evidence to say that the corporate parent was not working. It did not meet. You had an executive body set up underneath it. You had the Minister for Home Affairs, the Minister for Health and Social Services, and the Minister for Education, Sport and Culture. The former Minister for Health and Social Services attended one meeting in 3 and half to 4 years, one meeting. The former Minister for Education, Sport and Culture took the chair when it was not his duty to and the officers underneath that were striving to do things without any political thrust. When Senator Perchard got involved his attendance was regular. He did move things on, some was probably as Assistant Minister and some then as Minister but it was evident that he was saying: "Well, what is going on here?" and he made connections with the Child Protection Committee and there is evidence of a lot of excellent work that he did in a short time. I will say this about Senator Perchard, he came to the sub-panel when he was in the process of resigning. It was in that sort of period but he did come and he was truthful and honest in the views he gave. Regarding the Williamson recommendations, there is obviously a lot of good work there and we would be foolish to ignore it but again, as I have said, it is about moving things on. There is a lot of excellent work and obviously there is experience there that we must not ignore. Something that other Members have referred to - and again I do not want to go into details of any particular circumstances - but obviously there are some very, very emotive issues there. I want to stress, and I did say it earlier, we have staff dealing with some very difficult situations and what we did try and do is trace this through. What happens if a youngster turns up at school this morning and there are some problems with their appearance or with bruising or whether they are upset about something, how is that dealt with? How is that traced through the system? In the main there was some communication because the people involved know each other and know who is doing what. Thankfully we did not find too many failures although there were some times where there were perhaps some misunderstandings about where the overlaps were or where they were not. In the main, what I said yesterday and it is worth repeating because this was evident, I wish to put on the record the care, compassion and professionalism I have witnessed which is demonstrated to me that much good work is going on supporting families and children within a variety of sometimes very difficult and emotive situations. That is where we are. It is not all bad.

It is not a blank sheet of paper. Not everything needs changing. We do not need to throw everything out and start again but we need to move on. What the sub-panel felt was in order to move on we needed to clear this particular air and get somebody afresh to look at it: is it cost, is it time, and there are a lot of emotions there. Let us really understand that, but then that is a way of dealing with it. I put it to Members, what was the sub-panel to do? If some of these things are brought to your attention and there are issues then if we ignore them and there is a very serious incident then you could rightly come back to me and say: "Well, hang on, I have an inkling there is something going on here" and you said nothing, you left it, you left it dormant and now something has happened. Why did you not do something? That is the position I am asking Members to put themselves in today because it is my responsibility when I have done this, but now what I am doing, through the sub-panel, through the panel, I am sharing it with you. I am sharing it with other Members. If you do not think that we should do that I do not have a problem but I have done my duty. What I do not want to do and never want to do is tell you I told you so. I do not want to go there. Let us move on. I do not have a problem with personalities with Ministers, Assistant Ministers, whatever, because that is not what it is about. People said there have been issues of personality. I got lambasted on some website or something. I am not bothered about that. I did not even look at it, somebody else told me that. I did not even look at it. It is not about personality. It is not about me. It is not about any of us. It is about a service that we need to provide for vulnerable people. I think it was the Constable of St. Lawrence said yesterday: "What is a vulnerable child?" This was a question that was asked of us and professionals ... there was some discussion around that because it is not an exact definition but if a child's grandmother dies then that child can be vulnerable for a period. We are all vulnerable, ourselves as well, at certain times because of certain things but obviously, from a child's point of view, it is not acceptable for them to go through their childhood in a vulnerable situation. The other thing that we did on the sub-panel we got some statistics - we have not included them because sometimes they can confuse - on how many children were on the Child Register, how do they come and go, but perhaps that is something that somebody should look at in more detail. Because, as I have demonstrated by a bereavement, there are times when children can be vulnerable and then through family support, school support and friends' support they can be helped through the difficult periods, but that is the sort of areas where we were going. That is why, in some of these areas, we felt somebody should have another look just to see that if there are issues then they are done properly. There is no textbook proper way because it is a matter of professional judgment and we rely on those professionals, in those situations, to do that. I am fully supporting them. This is not a wrecking motion designed to cause any disruption or confidence or whatever but it is something that the sub-panel and panel felt needed to be brought before this House and we said that in our recommendations, within 3 months and we are about there. Senator Le Main mentioned yesterday about inquiry after inquiry; this is not an inquiry for inquiry's sake. It is an inquiry that we believe is necessary for some of the reasons that I have touched on. The other thing is, okay, if we had a session here where we had to go in camera because some Member or whatever wanted to reveal something, then that is evidence that somebody should be investigating because there is a need to. With the panel we had the broad-brush approach in all of these areas. What we did not have, in the 16 to 18 weeks, was the time to get into the detail and investigate individual cases. We were not resourced to do that and if there had been an issue ... the same happened with Mr. Williamson's inquiry, if anything was brought to his attention that would have been life threatening or somebody was in imminent danger then we would have, obviously, reported that. Obviously this is an emotive area but it would be the same if you were doing an inquiry into housing. If you found a block of flats where people were occupying them illegally you would say to the Minister for Housing: "You had better have a look around there because there is a problem" and I know that is a less emotive area but, at the same time, anybody doing an investigation would do that but we were not at that level where somebody said to us: "Jimmy Jones was not treated properly because this, that and the other happened to him." Although individual cases were emerging we said: "Well, hang on. You need to use the agencies." Deputy Green will be aware of one and there are a number of other Members who are dealing with

people's concerns in different areas where there have been childcare issues. From the sub-panel's and panel's point of view this is where we could not go. We were not conducting a historic abuse inquiry. We were not looking into the past. We were trying to collate information and evidence to do the review and these were issues that would come to our attention as part of that. Yes, Senator Syvret said things. He said things about me. He said things about the case and we did ask and offer him to come to a hearing. We had other people who came and, as I say, I met over 100 people but that is not the issue. The other thing is if I or anybody else is going to make allegations the people involved must get the opportunity to respond because at the moment they do not and they say: "Yes, we are dealing with this. Did you know this, that and the other?" because sometimes if somebody tells you a story they do not tell you all of it, they tell you the bit they want you to know. From our point of view that is really where we are. What did we do? We could not leave it and, as they say, we are where we are. We are here today so what I am saying is, what I and the sub-panel became aware of, and the panel became aware of, we agreed that this should come to this House for this debate for some of the reasons that I have touched on. I think that covers most of what Members have said, not specifically but in general terms. There was something else that was mentioned as well about inquiries and they talked about it with Verita, with doing this, that and the other, a very thorough examination. Can I remind Members the scope of the Verita inquiry has only been extended because it came back to this House to do so. In the realm of the Health Department it was not going to be extended. It came back because of pressure from this House. The other thing in the proposition talks about actions and effectiveness. This is not the witch-hunt about any individual. Nobody has been named by title or by area or by anything else. What it is, it is to re-examine afresh some of these issues that are around this, and other Members have touched on, about effectiveness, for example. I can tell you - and Senator Le Marquand touched on it yesterday and the Minister for Education, Sport and Culture is fully aware - the corporate parent did not work. It did not work, so effectiveness that is a no-brainer. We can do that and, as I have said earlier, Senator Perchard was instrumental in pushing some of this on. The other thing that the panel have agreed to do is to recommend an adviser and to recommend to come back to this House, what we say is to bring forward for approval by the States each of the terms of reference of the Committee of Inquiry. Again, Members would have another opportunity to add to, to question, to subtract, whatever it may be and we also suggest we would identify an appropriately qualified individual or organisation be invited to undertake the investigation and bring forward, for approval by the States, the names of the proposed chairman and members. I can tell you and Members are well aware, from a Scrutiny point of view, the review we did, the vulnerable children's review, we had 2 advisers and I think the cost was about £17,000 or £18,000 but having said that that was achieved because the Members themselves - Deputy Pitman, Deputy Le Hérisier and Deputy Southern - we got our jackets off and we did some of the graft. I am not saying that would happen with these people but, at the same time, we are conscious of costs. If the House does ask us to do this we will seek advisers, not just on ability but also if people are charging fancy money and whatever else. The other thing that we have done with the Scrutiny process - and I can tell Members it is very effective - we would ask people, who were perhaps on a shortlist, to provide a 2 or 3 page brief on how they would tackle it. There are 2 aspects to that, you get to know the person, if they are up for it - we would give them, obviously, some background documents to look at - but you also can get some information for nothing. As they would say: "I would look at this, I would do that, I would tackle that, that is not a priority" and very many qualified individuals would do that and get involved. Although some big numbers have been involved the idea would be to set the terms of reference, to put in a timescale and look at the number of suitably qualified people who could do this in a caring and sympathetic manner. That is what we are looking for, and as I say the problem I had, I had brought to this House to share with Members. Whether you want to do that is up to you. I maintain the proposition, Sir, and I ask for the appel.

The Greffier of the States (in the Chair):

Very well, the vote is, therefore, for or against the proposition of the Scrutiny Panel and the Greffier will open the voting.

POUR: 20	CONTRE: 30	ABSTAIN: 1
Senator A. Breckon	Senator T.A. Le Sueur	Connétable of St. Lawrence
Senator S.C. Ferguson	Senator P.F. Routier	
Connétable of St. Helier	Senator P.F.C. Ozouf	
Connétable of St. Martin	Senator T.J. Le Main	
Deputy of St. Martin	Senator B.E. Shenton	
Deputy R.G. Le Hérisssier (S)	Senator F.E. Cohen	
Deputy G.P. Southern (H)	Senator J.L. Perchard	
Deputy of Grouville	Senator A.J.D. Maclean	
Deputy of St. Peter	Senator B.I. Le Marquand	
Deputy J.A. Hilton (H)	Connétable of St. Ouen	
Deputy P.V.F. Le Claire (H)	Connétable of Trinity	
Deputy S. Pitman (H)	Connétable of Grouville	
Deputy M. Tadier (B)	Connétable of St. Brelade	
Deputy A.E. Jeune (B)	Connétable of St. John	
Deputy T.M. Pitman (H)	Connétable of St. Saviour	
Deputy T.A. Vallois (S)	Connétable of St. Clement	
Deputy M.R. Higgins (H)	Connétable of St. Peter	
Deputy A.K.F. Green (H)	Connétable of St. Mary	
Deputy D. De Sousa (H)	Deputy R.C. Duhamel (S)	
Deputy J.M. Maçon (S)	Deputy J.B. Fox (H)	
	Deputy J.A. Martin (H)	
	Deputy of St. Ouen	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy K.C. Lewis (S)	
	Deputy I.J. Gorst (C)	
	Deputy of St. John	
	Deputy of St. Mary	
	Deputy E.J. Noel (L)	

2. Referendum: Position of the Connétables in the States (P.146/2009)

The Greffier of the States (in the Chair):

Very well, we come now to the proposition relating to the referendum in the name of Deputy Tadier, P.146. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion: (a) to agree that a referendum in accordance with the Referendum (Jersey) Law 2002 should be held as soon as practicable to seek the views of the electorate on the position of the Connétables as Members of the States and that the text of the question should be: “Do you think that the 12 Parish Connétables should have an automatic seat in the States Assembly by virtue of their office? Yes or No.” (b) To request the Privileges and Procedures Committee to take the necessary steps to implement the referendum.

2.1 Deputy M. Tadier of St. Brelade:

I would ask Members not to be put off by the introduction of the podium here. It is purely for my comfort and it does not necessarily signal a very lengthy speech from my part. Indeed, I will try to keep it as concise and as comprehensive as possible. First of all I want to draw attention to the fact that today we are not here to debate the role of the Connétables or the Constables. If you will

excuse me I will use the English phrase Constables just for consistency as we will also be speaking in English for the rest of the debate, I believe. We are not here to discuss the role of the Constables, *per se*, today. We know that there are arguments, and passionately held arguments, on both sides as to whether Constables should be in the States but really today we are simply focusing on the idea of a referendum and, in particular, the idea of a referendum to decide, as far as my proposition goes, whether it is a valid question to ask the public, whether the role of the Constables should continue to be an *ex officio*, that is to say an automatic seat when they get elected to the role of Constable in their Parish. Obviously there is a valid case to touch on and whether it is a right, whether it is a strong argument and whether there are arguments to be had for a referendum but, as such, I will certainly be sticking to the question in hand and I would hope that other Members would also do the same. The question really then is is there an argument to be had? Is this a valid question for a referendum? I believe it is and I believe this on a couple of different grounds. Why? Well, firstly we know that referendums or referenda - you can say either, I will be saying referendums today - can be used but normally are used for constitutional issues such as, for example, if we wanted to seek independence, other countries have done that but it is also to do with any kind of constitutional issues. Indeed it can be used for other matters but generally it is an issue of constitution which this is so it does fall into that category. Also, is it a valid question to ask the public? Is there a hunger out there? Is this a live issue? I believe it is because we have seen at every election time the argument of whether the Constables should be in the States is one of the first ones to rear its head. It does tend to polarise people and I would say with good reasons because there are strong arguments for and against. We also know that there is a historical precedent and a parallel, not for the referendum as such but for the removal of certain roles which may be seen as historic and traditional. We know that in 1948 there was constitutional reform and there was a valid debate to be had and at that time the Jurats and Rectors were removed, I believe, on a standing vote in this Assembly and that was when the office of Dean was introduced. I believe this is a valid subject for a referendum. It is a constitutional matter but there is another reason as well that we should be seeking the opinion of the public, perhaps 2 reasons. First, because we have shown ourselves incapable of making any real decisions when it comes to electoral and constitutional reform in the States. Indeed we have passed one small measure, that of unifying the election days so that Senators, Deputies and Constables, from now on, will all be elected on the same day. As I have mentioned in the past we should not pat ourselves on the back too much. There are still issues to be resolved such as the nomination days, which I know the election working group will be looking at because that is the ultimate problem, of course, when people should be nominated, to make sure people cannot stand for more than one office but that really does not deal with the underlying problem of representation and what is the best way to represent the public of the Island. We have categorically and repeatedly shown ourselves to be incapable of reform and we are constantly accused of navel-gazing by the public, and indeed by ourselves, and that is probably a valid accusation. Really, the referendum is to say: "Take the decision out of our hands." We admit that this is something which we cannot take ourselves because by nature there are people in the Assembly who hold different views. There are indeed people who stand to either benefit or potentially not to benefit and it is not really a decision for us to make. The other reason of course, as I have said in my proposition, and I will read from it because it is easier: "States Members are never ceasing to tell us what it is that 'the people' want. This was particularly apparent in the recent debates that we have had on States reform. Not only is this very presumptuous, it is usually completely unverifiable. Depending on whom you talk to - or rather who talks to us - the opinion will differ." This is quite normal. I am not trying to blame. We have all stood here and said: "So and so was talking to me the other day and they said the Council of Ministers are wonderful" and that they cannot do anything wrong but those type of people do not tend to talk to me. We are a little bit like magnets, **[Laughter]** in one sense because the type of person who may talk to the Constable of St. Mary, for example, in the Parish of St. Mary at the locally-run and owner-run corner shop, may not be the same person that talks to me at the Checkers or Spar, which is not family-run, in St. Brelade. That is quite normal and that is quite healthy. The

point is we really need to take a clear sounding from the public on this very difficult issue. Some Members will say: "Ah, but this has already been dealt with." We have had MORI polls in the past in 2005. We asked substantive questions. We asked lots of different questions in different areas. One of the questions, of course, was about the role of the Constable and it was said, I think at that time, from memory it was 54 per cent that were in favour or broadly in favour of the automatic role of the Constable continuing in the States. Again, although it is slightly in favour it is not overwhelming but, nonetheless, some Members are loathe to remind other Members that, in fact a year later, there was another poll taken and the support for Constables had decreased to 46 per cent. I do not say this again to have the argument today as to whether this position should continue or not, it is simply to say that public opinion does change with time. I am in no better position than anyone else to know, or should think that I can know, what the public - and we can treat them as a homogenous mass - actually wants. A referendum will do this. It will give a clear choice, a yes and no and then we can act accordingly if we see fit. I will not touch too much on the issue of whether the referendum will be binding or not. That will come in a moment with an amendment. Nonetheless, I would say that either way, whether it is binding or not, it is still a valid exercise to carry out because on the one hand we know that non-binding referendums are useful because they act as a tool for measuring public opinion and of course if it is binding then also that would give it meaning. What are the other advantages of having a referendum in general? I think we probably would all agree that it is good for democracy. It gets people involved in debates at grassroots democracy. It gets them asking questions in this particular case. It will get members of the public to ask questions: "Well, what is it that a Constable does?" If the other amendments are adopted: "What is it that a Senator and a Deputy does?" but more specifically: "What is it that my Deputy does? What is it that my Constable does? Is he or is she doing a good job? Is my Deputy doing a good job in representing me? What is the difference between the Constable and the Deputy? If I have got a parking issue in St. Brelade do I go to the Constable, do I go to the Deputy? If I go to the Deputy can the Deputy do anything without going to the Constable?" All these kinds of issues which I think the public are completely lost with. Indeed, I do not think I even really know, at that level, who does what, so certainly I think the public would welcome this opportunity for informed debate and of course a referendum does organically provide the opportunity for a yes and a no debate on both sides. I know that we have had that in the past. We have already had a referendum, perhaps on a different issue, and it was tied to an election. That is true but we know that a referendum can work already. What we have not had is a single-standing and a free-standing referendum. I think this, again, is a positive because there may be an occasion in the future where we need to organise a referendum on another constitutional issue. We may need to do that outside of election time and we may need to do this with a relative urgency. Therefore, it would be a good practice run, if you like, for that. The other issue which I have mentioned in my proposition in the report is that really this is to ... first of all it is a question of efficiency. It is to save both time and money. I know that in these kinds of debates, as we have seen in the last debate, that the money is always the reason not to do something. We heard earlier on in the week that the States traditionally have had a bad habit of finding excuses not to do something. We have heard it from the Constables themselves and I certainly agreed with them when I voted earlier on in the week to do with Sunday Trading, Boxing Day, Christmas Day and all these things. I would hope today that Members can unify, that we will not be divided and that we will find a reason to do something, that we can be a can-do government, not just on the issues that suit us but really on the issues that are important to the public as well. Really, this referendum I believe, certainly for my part, will put the issue to bed once and for all. Certainly, if we do not have a referendum and we reject this, this issue is just going to keep on rearing its head over and over again; constitutional reform, States reform, the role of the Constables will come back probably every 6 months maybe by different Members. You could have a referendum coming back every 6 months and 3 months later you will have a proposition to remove the Constables, to remove the Senators, to remove 6 Senators and this may happen. I certainly do not want that and I do not think any Member wants that. Really, what this will do ... and although it is not binding, certainly for my part, I am a democratic and I say that in

the proposition. I have said: "We are all democrats. We live in a democracy." It is right then that we should let the public decide rather than speculate on what their views may be. Later on I go and say that this referendum will give us a clear answer and before we waste more States time and public money on the subject we will have a clear decision. I, for one, will be happy to stick by that. If the public comes back and 80 per cent, 60 per cent are in favour of the role of the Constable being maintained that is fine, I am happy to live with that but I want certainty. I want to know if that really is the decision. As I have said, I will stick by that decision. Similarly, if there is a 60 or 70 per cent swing the other way then I will be moving for the relevant proposition to follow that up. The point is here is put up or shut up and that is really what I am doing. I know that Members do not like it, the new Members of a different persuasion, coming up and always criticising all the time. I am simply saying that once the referendum is taken I will be happy to change my views, or at least keep them silent if that is what the public wants, and I would hope that is what everyone in here would be willing to do. Really, I am asking for a gesture of goodwill in that respect. The obvious criticism that I will be open to on this is why only the role of the Constables and not the role of the Senators or even the Deputies? That is a valid question to ask but I would say that the position of Senator, and indeed Deputy, does not seem to polarise public opinion in the way that the role of the Constables does. There are reasons for this. There are reasons for it because the Senators and the Deputies are not policemen. I do not have a warrant card. I do not run the elections in my Parish and one of the ironies is, of course ... this is not a criticism. I am just trying to say whether there is a valid argument or not to have this debate. The Constables themselves are the ones who run the election, ironically, under the Referendum Law. It will be the Constables who have to run the referendum on whether or not ... it is true, I can read from the Referendum. Let me read from the Referendum. I have got the Referendum Law handy. Okay, let us read from the Referendum Law, shall we? Referendum (Jersey) Law 2002, Part 3, Article 8: "The Greffier of the States must ensure that an appropriate number of ballot papers for the referendum are delivered to the Connétables for voting in the polling stations." It then goes on to say: "Each Connétable must make available the appointed person at each polling station in an electoral district in the Constable's Parish, an appropriate number of ballot papers. Of course the ballot papers are delivered to the Constables. The Constables then give the ballot papers to the Jurats but the Constables, essentially ..." I am just reading from the ...

Connétable K.P. Vibert of St. Ouen:

Sir, if I can maybe clarify the position for the Deputy if he is prepared to stand down, the ballot papers are delivered to the Jurats, not to the Connétables. The Connétable never has the ballot papers.

Deputy M. Tadier:

If the Constable of Grouville wants to make a point of order then stand and make a point of order.

Connétable D.J. Murphy of Grouville:

Would you withdraw your comment that the ballot papers only are sent to the Constables, they are not?

The Greffier of the States (in the Chair):

Constable, the Deputy has read, I understand, from the Referendum Law which may be different from the Public Elections Law ...

Deputy M. Tadier:

I think the trouble here is that the Constables obviously do not understand what the Referendum Law is. I am simply reading ... in fact, so let me re-iterate, it says: "Each Connétable must make available to the appointed person at each polling station in an electoral district in the Constable's Parish." It is the Constable which makes available these papers. Whether or not they have touched them or not is irrelevant. This is what it says in the law. I believe that the Constable will have an

opportunity to make a speech. I am simply reading it from the law but let us get back to the point because I think it has already descended into some kind of defensiveness. I am simply making a point that there is a valid reason. I do not have to address Senator Shenton and say that he is responsible for organising an election or he is implicit in any kind of election because there is not that kind of controversy with the role of the Senator. I am simply pointing out that, rightly or wrongly, there is a controversial issue surrounding the role of the Constables. They are policemen. They have warrant cards. This is what the argument is. The argument on the other side is that the role of the Constable is traditional. The Constable understands the Parish, that they know their parishioners, that they can look after the welfare of their parishioners. Until recently they used to administer benefits. There is an argument on one side. There is an argument on the other side. What I am simply trying to say is that this is a good subject for a referendum and I think this altercation that we have been having, on the one side, is evidence of that fact. With regard to the amendments obviously I will reserve my right to speak on those and also to vote with my conscience but I do not have, in principle, any problem with these amendments. I think it is quite sensible that if we are going to ask the Island about the role of the Constables, why not also include the Senators? No one has come up with an inclusion of the Deputies. My colleague over here, Deputy Jeune, has also come up with an amendment. We should ask the public whether they want to reduce the number of States Members and we should have it as a binding referendum with a 50 per cent level. I have no problem with these amendments. I think it is more sensible to have several questions on the ballot paper and those will be argued later. There are precedents for that, the multiple referendums being held at the same time. Let us come back to this idea of costs. I am sure that really no one has a problem with referendums, *per se*, that we all think that in an appropriate context they are fine. I am quite certain, and I was very surprised to hear during a P.P.C. (Privileges and Procedures Committee) meeting that objections were being raised about the amount of cost. They are saying: "This is going to cost a lot more than the States [I think it is] £15,000 to £20,000." This is an old tactic, even though I have only been in the States a short while, it is a very old tactic to challenge the sum of money. I did not pull this out of thin air. This was provided to me. It was an informed amount which I was given by the Greffier because that is the cost that it takes to run a Senatorial election. There have been whisperings that in fact a referendum is going to cost more. I am not completely sure why. I think we will hear the arguments because apparently the goodwill of the people who organise elections apparently cannot be relied on to organise a referendum and that we may have to start paying people or people have to take time off work. I really do not know what the arguments are. All that I know is that in Jersey people are ...

The Greffier of the States (in the Chair):

Sorry, Deputy. The States are not quorate. I must ask to cease temporarily and ask Members to be summoned from the anterooms. I call again for Members to be summoned. Very well, Deputy, you may continue.

Deputy M. Tadier:

To their credit it is not the Constables who are responsible. I know that 10 of them are sitting here today at the moment. Really, the idea of costs I think will become a red herring. We know that in Jersey there are people who are willing to turn out and they do very good work, be it at election time and all through the year at Parish level. I think that is indeed one of the benefits of the Parish system, it does act as a hub. We know that really people do give up their time freely and I do not think that there is any reason that this needs to be more expensive than the estimate that has been given. I will just re-emphasise because I do not need to keep Members much longer but I think that there are good reasons to have a referendum. This is exactly the type of question you can have for a referendum. It is a polarising issue. It will heal the rift in the States. I believe this needs to be done now and, as I have said, I will certainly be willing to support and back the result of any referendum on this matter. We need to be a candid government, we heard that yesterday and I will really leave it there because I understand that Members are getting tired after 2 long days of debate.

The Greffier of the States (in the Chair):

Is the proposition seconded? **[Seconded]** Deputy, just before I call the amendments there was an altercation across the Chamber in relation to a document you were reading. You did inform the Assembly you were reading from the Referendum Law. I do have it in front of me and I cannot see the provision you were reading. Can you just clarify what it was you were reading? Was it the Act of the Central European Time you were perhaps reading, not the Law itself?

Deputy M. Tadier:

Yes, it is that one. I do not know if that makes a difference, Sir.

The Greffier of the States (in the Chair):

It was an example that it could be done but it would not be necessarily in that way in every case so I think there was a bit of misunderstanding.

Deputy M. Tadier:

The point I am making, and I was not trying to bring the Constables into disrepute, but I am saying, by very nature, the elections are organised at the Parish Hall and I am sure that they organise it with complete propriety but that they are there and present when they are being organised.

The Greffier of the States (in the Chair):

Thank you, Deputy.

The Connétable of St. Mary:

Sir, as a point of clarification, could I just ask the proposer is there a difference between an election and a referendum, for organisational purposes? Does he understand the difference?

Deputy M. Tadier:

I do have an opportunity to sum-up.

Connétable D.W. Mezbourian of St. Lawrence:

Sir, may I ask for what I think is a point of clarification ...

The Greffier of the States (in the Chair):

Is it from the Deputy or from ...?

The Connétable of St. Lawrence:

From the Deputy, Sir because he referred, during his speech, to an election working group, his words were: "We (the House) are incapable of deciding upon reform" and then referred to the election working group. Sir, I have no knowledge of an election working group. I do not know if other Members have knowledge of it and I think perhaps it would be helpful for a few words on ...

Deputy M. Tadier:

Yes, Sir. There is an election working group. I mean I slipped that in almost as an aside and perhaps I should not have but recently, and we met for the first time last week, it is chaired by Deputy Egré. It is a sub-committee of P.P.C. and we ...

The Greffier of the States (in the Chair):

As you reminded me last week, Deputy, on a point of order, it is the Deputy of St. Peter and not something else.

Deputy M. Tadier:

Sorry, correct, correct. It is very confusing with all these titles, is it not?

The Greffier of the States (in the Chair):

Well you did ask me, on a point of order, Deputy, you asked for other Members to get it right.

Deputy M. Tadier:

I agree and I always appreciate that, direction from the Chair. It is chaired by the Deputy of St. Peter, the Constable of St. Saviour and I am also on the panel. It has been set up to look at the whole area, the whole gambit of how elections are run. Hopefully that will enlighten the Constable of St. Lawrence and other Members.

The Connétable of St. Lawrence:

I thank the Deputy, Sir, as I had never heard of the group.

2.2 Referendum: Position of the Connétables in the States (P.146/2009) - Amendment (P.146/2009 Amd.)

The Greffier of the States (in the Chair):

Very well now, there are 2 amendments to the proposition, the first in the name of the Deputy of St. Martin. I will ask the Greffier to read the amendment.

The Deputy Greffier of the States:

On page 2, paragraph (a): After the words “the position of the Connétables” insert the words “and Senators” and for the word “question” substitute the word “questions” and after the existing question insert a second question as follows: “Do you think that the position of Senator with its Island-wide mandate should be maintained, yes or no.”

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

I just felt really that while I very much support it, what Deputy Tadier was proposing, I felt if we were going to go to the trouble of asking the public what they want we will just extend it to the Senators as well. No doubt Deputy Jeune will speak on her amendment but again I welcome hers because I think it would make sense, if we are going to go to the trouble of asking what do we think about the Connétables, we just will ask about what they think about the Senators and we just will ask what Deputy Jeune is asking, whether we should seek a reduced number of Members. I think it makes sense if we are going to be getting some idea. Could I remind Members that this is not the first time we have had this debate. In fact the House, I think, ought to be grateful to the man who is now the Connétable of St. Clement and that was the former Senator Norman who lodged a proposition, P.1/2005, that forward-thinking Senator and a Connétable now. The debate was on the 2nd February 2005 so we are almost 5 years on. Certainly I have been very much to the fore of looking for reform and one of the reasons we have always had this business, the impasse, is that we have always spoken from what the public say they want. Yet, if we think about it, we have never asked the public what they think about it. In fact, after Clothier was published 10 years ago there were moves for a referendum then and funnily enough I opposed it because I felt really that States Members should be making that decision because I thought that was what we were elected for. I know that I brought a number of propositions and amendments to propositions, as indeed I know Deputy Le Hérissier, another one, and we have been very much to the fore. Every time someone comes forward it is defeated simply because we are told: “Ah, this is not what the public want” but the only way we are going to find out what the public want is by asking them. My amendment really is to include, with a referendum, that of asking what the public want about Senators. I would like to remind Members how that vote went last time because it gets interesting that we should have an intervention from the Connétable of Grouville because 5 years ago we had a reference back from a Member who is no longer here today and we also had a successful appeal from the Connétable of Grouville for the question to be put. The debate was shortened because the House agreed that we had had enough to discuss it. In actual fact I do not think this needs a lengthy debate because, quite clearly, I think we should not really oppose what is being proposed simply because it makes sense.

There were 46 Members who voted last time, 7 were absent and of those absent there were 3 Connétables absent, 2 Senators and 2 Deputies and I should say, at the moment, 5 are no longer Members, 19 Members voted pour, 8 have gone, 26 voted contre. Interestingly, 16 have gone therefore we have 11 remaining. Quite interesting. Of the 10 Senators present 3 voted pour. Interestingly, all 3 remain. Of the 7 Senators who voted contre only 2 remain, Senator Le Sueur and Senator Syvret, who I do not think will be here today. Only one of the 9 Connétables present that day voted pour. We can now include 2 because Senator Norman voted pour when he was a Senator but only one Constable voted pour, and I hope he is going to be here, and that is the Connétable of St. Helier. Of the 9 Connétables present 8 voted contre, only 2 remain, the Constable of Grouville and the Constable of Trinity. Perhaps we may be able to get them to change their minds this time. Therefore, only 3 Senators and one Connétable of the 19 present voted for, so I ask quietly what was wrong? I think the Constable of St. Ouen wants to ask something.

The Connétable of St. Ouen:

Yes, I just wondered why I was not mentioned, Sir, because I was here? **[Laughter]**

The Greffier of the States (in the Chair):

Because you were absent.

The Deputy of St. Martin:

The reason being, Sir, is that both you and the Connétable of St. Mary were absent, although you were there you were not present for the vote. Sorry, the Constable of St. Ouen and the Constable of St. Mary were not present at the vote, maybe you had gone to a funeral but I am quoting the minutes. Although you were present you were not present at the voting.

The Greffier of the States (in the Chair):

Through the Chair please, Deputy.

The Deputy of St. Martin:

Okay. Anyway, what is interesting is that since 2005 we have now got 29 new Members, plus the 2 who were not present last time and we can include that one, the Connétable of St. Ouen. We have now got 31 people who were not present last time so we should really have an opportunity for those Members who have come to the House since that date who are looking for reform. They do not have to make a decision today. Members do not have to make a decision as to whether we want Constables in or Constables out, Senators or a reduction, what we are doing we are going to ask the public what they think. Do they think Constables roles should remain, should we keep Senators and once we have got that decision no doubt we can then move forward? What I would hope is that at least the 29 Members will add to the small number of people who voted pour last time to make sure this time that we can move forward. What I would ask Members to do is what have we got to fear? Nothing. Just ask the public what they think and let us see if we can then move forward. This is a move forward, a kick-start maybe to getting a decision, if indeed a decision is that we think that Senators should remain, that Constables remain, I think it will stay with the *status quo* but until we find out how can we move forward? Sir, I make the amendment.

The Greffier of the States (in the Chair):

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the amendment? Constable of St. Ouen.

2.2.2 The Connétable of St. Ouen:

I do ask the question why the Bailiff allowed this amendment to a proposition which clearly states that the referendum is to decide on the position of the Connétables in the States? Why I ask that question, Sir, is because last week I attended an A.P.F. (Assemblée parlementaire de la Francophonie) Presidents Conference in Switzerland and knowing that that country was one of the

ones which used referendum more than most, I decided to ask a few questions about it. The important thing about referendum, as far as my colleague in Switzerland told me, is to get the right question put because it is quite easy to have a question put which will produce the answer you want or, alternatively, the answer you do not want. I think that this is where we might fall foul. The other point that was made is that if you are going to ask questions they have to be simple and the public has to understand what the question is. The reason I asked my initial question was are we not trying to confuse the matter by adding the Senators to a proposition which clearly states the position of the Connétables? To ensure that they ask the right question in Switzerland they have a cross-party commission which takes up the original suggestion and discusses whether it is a question which needs to be put by referendum and also they decide on exactly how the question is worded. What I fear here - and I do not cast any aspersions on the 3 Members who are proposing the 2 amendments and the proposition - is that they are basically questions which they have decided to ask. I think that we need to consider that these questions should, if necessary, go to P.P.C. to be determined rather than allow individual Members - although they have every right to bring that proposition - to bring a question. As I said, the principle of the referendum in Switzerland is that the question needs to be the right question for a referendum and needs to be a question which does not lead to any ambiguity in what you get as a response.

2.2.3 Deputy M. Tadier:

I am glad to follow on from the Constable of St. Ouen because I have fortunately done a bit of research using that faithful old tool, the internet and I have got an example of Switzerland where, as he quite rightly stated, referendums are used quite frequently, certainly more than in our part of the world. I believe the evidence I have got would resolve some of the issues that he has. I will just quote. It says: "The votes on referendums [this is in Switzerland] are always held on a Sunday, typically 3 or 4 times a year and in most cases [this is the part I will stress] the votes concern several referendums at the same time, often at different political levels (federal, cantonal and municipal)." It goes on to say - I probably should not read this bit but it might provide some comfort for the Constables: "The decisions made in referendums tend to be conservative. Citizens' initiatives are not usually passed." The citizens' initiative is an interesting idea. It is something which can be initiated from the grassroots so that it is a bit like, I suppose, a petition in one sense. It is the nearest thing I suppose we have to that kind of citizens' initiative so they can set up a referendum of their own but it is not binding whereas the referendum can be binding. I think it is misleading to say that it is confusing to have lots of different questions and to say that this amendment should not have been allowed because I think it is quite right. It makes perfect sense and if you are going to ask a question, should the Constables be in the States, it is completely logical on so many different levels, a financial level and also just an organisational one to stick another question on the paper. Of course I think we were accused of trying to fix the questions in a certain way. Certainly, from my part, although I know we are talking about the amendment here, I was very careful to make the question as impartial as possible and the reason for that is because I knew that there was at least, I think, probably more or less a 2-month lodging period. I certainly gave enough time and I did stand up a month ago and say: "If anybody has got any amendments that they want, if they have got a problem with the question that is the implication, come back and tell me and I will be happy to change that." I did liaise with the Greffier and we did make some modifications as to what the question should be and I am sure I have complete confidence in the Greffier that if he thought the question was misleading he would have told me that and said: "Actually, you need to be asking this question" and I think that would also go for the Deputy of St. Martin and also for the amendments that were put in by Deputy Jeune. I think that is a completely false allegation. The questions are very straightforward and let us read certainly the one that I proposed: "Do you think that the 12 Parish Connétables should have an automatic seat in the States Assembly by virtue of their office?" I do not see that as being biased in any way. Personally, I think it is a yes or no and people will understand. They will go into the election. It will be an informed debate. The same will happen with the amendment of the Deputy of St. Martin. It will be

an informed debate and people are not going to say: “Well, that question is misleading me” so I do not think in this case. It certainly is an issue to be mindful of, that questions do need to be impartial because we know that they can be manipulative but I do not think that accusation stands here. It does not stand for the Deputy of St. Martin either. I think that is all I want to say but to emphasise the fact that there are precedents in other countries, not only for referendums but for multiple referendums to be held on various different subjects, it makes perfect sense. I would ask Members to throw out that particular argument.

The Connétable of St. Mary:

Can I ask the speaker please, on a point of clarification, Sir, what he said was: “And there are several referendums at the same time” and he made the economic point of that which is undoubtable, but is he saying that within those referendums they are addressing different aspects of the same issue or they are separate referenda brought together to group them for timing?

Deputy M. Tadier:

I believe that there are several referendums being held. I think that it is both. I think that they can have both and I think on the paper they would have different questions but I think the principle remains the same. I am simply reading and I think the Constable heard the words that I read and she can interpret them as she wishes to.

Deputy I.J. Gorst of St. Clement:

Sir, could I ask for a point of clarification from yourself. If a Member wished to perhaps refer this to Scrutiny, would the appropriate Scrutiny Panel be P.P.C. or would it have to go to one of the actual Scrutiny Panels being that P.P.C. is not a Scrutiny Panel as such and if said Member wished to propose that for all 3 of the propositions, that is the main proposition and the 2 amendments, at what point would one raise that proposition?

The Greffier of the States (in the Chair):

Clearly, as you have alluded to, P.P.C. is not a Scrutiny Panel and the reference to Scrutiny cannot be a reference to P.P.C. It must be to a Scrutiny Panel. I am not sure. We would look for guidance from the President of the Chairmen’s Committee, no doubt, on which panel this would be; presumably Corporate Services. I think the appropriate point to do that would be when the main debate resumed, would it not, Deputy, when we know which questions, if any, have been approved by the States?

2.2.4 Senator B.E. Shenton:

I am minded to support this proposition and the amendments because I think the resounding result of a referendum will be that the public will want the Constables in the States. I think the resounding result will be that they will also want the Senators to remain in the States and I think there is a good chance that they will ask for the removal of 6 Members. Given that they will have given a clear mandate to keep the Constables and the Senators, one would only have to assume that those 6 Members would have to come from the Deputies’ benches. **[Laughter]** I think, looking at the layout of the Chamber, there are 6 seats over there which could be vacated quite easily. So I will be supporting it.

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

I do admire the Deputy of St. Martin and his staying power and his resolve to address this matter but I was rather surprised when he stated that we have never asked the public what they think. Unless I have been in some parallel universe over the last 7 years, I think we have consulted this subject to death. In addition, a variety of polls have been conducted and, indeed, the one overriding matter that was underlined by the public in the largest majority was to retain the Constables. If the Deputy really wants ...

Deputy D.J.A. Wimberley of St. Mary:

Sir, may I raise a point of order? The point of order is whether the statement just made was factual or not; was true. I heard the Deputy to say that the biggest single vote or indication or whatever from these opinion polls was that the Constables should stay in the States. I would like you to substantiate that.

The Greffier of the States (in the Chair):

I think it is a matter of clarification for the Deputy rather than a point of order as such.

The Deputy of St. Ouen:

To my knowledge it is absolutely factual and you only need to look at the MORI polls and other polls and the period of consultation that took place over the last 3 or 4 years. I am not saying that it was 90 per cent. I am just saying that the largest single issue that received the majority of support was the Constables.

Senator B.E. Shenton:

If I may just clarify, it was an Island-wide mandate that received the most support and the Constables was quite a bit lower.

The Deputy of St. Ouen:

We are not discussing that debate at the moment. I would go on to say that if the Deputy really wants to know what the public think, I think it is this. It is basically for this Assembly to stop wasting time on minor issues and get on with dealing with some of the main issues that are faced by this Island at the moment. Thank you.

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

I will be very quick. Having listened to the last debate I think if we could not agree to spend £200,000-£300,000 on finding out why it has been okay to see little children stripped naked, made to stand in front of others, terrified, to wet their beds, humiliated ... if that is not something we can spend £300,000 on - which I am really ashamed of as a States Member because these are not allegations, these are things I know personally - I really cannot see how we are going to convince the House to spend the money now. Now, that is a great shame, I think. To touch on what Senator Shenton said, I think most people do want to keep an Island-wide mandate. I know what people say to me and it is certainly a fact; they are really desperate that we find some way to improve the quality of Senators and I do see that week in and week out. There are enough cheap shots in this House. As a Member I support anything that I feel is right. There are people I respect greatly in this House. There are people I really struggle with that respect. But I always vote if I think the argument is right. I would only wish that that could be said for every Member because I doubt that, I am afraid, generally. I think we do need to keep the Senators. Whether we need to ask the public I do not know. I think this would have been far better if we had just kept it to one question. Although I disagree with the statistics, which I think have proven not to be correct from the Deputy of St. Ouen, the fact is people are, in many ways, sick of this. They have heard it enough but I think that is our fault. I really want to support all these amendments but I honestly feel we should come up with a system to be put to the public, a well thought out system. I believe that most members of the public believe that they want one type of Member. Now, it may well be that is impossible. I do not know. But I think that is what the people want and there is the anomaly because they want to keep the Parish representation, they want to keep their Island-wide mandate, they want their Constables. If someone can work it out and I cannot ... perhaps we should all give up our Christmas holiday and do some work like we are going to try and make poor retail workers work on Boxing Day. Perhaps we could all give that up and we can thrash out a way forward. I am not sure that I can support this amendment because I think, if we are going to go forward with this

at all, we have just got to stick with the main proposition to give it any chance of success. But there we go; more questions than answers probably but that is where I stand.

2.2.7 Senator J.L. Perchard:

Yes, very briefly. I think if Members have got a problem with the substantive proposition now is not the time to air it. I would suggest we support the amendments and if you have a problem with holding a referendum, we vote out the referendum. Unlike I though; I will be supporting all amendments and the substantive proposition. I think it is prudent, if we are to ask the public for an opinion, to ask them for an opinion on the role of Senators as well as Constables and, as Senator Shenton said, I too share his confidence that the public want to retain the Constables in the States. They want to retain the Island-wide mandate and if they do want to reduce the numbers of States Members which I am unsure about, whether they do or do not, it is quite obvious as to where those Members will come thereafter.

2.2.8 The Connétable of Grouville:

I obviously am not terribly in favour of this substantive motion. However, I have got to say that, speaking on a mathematical basis, I am completely lost as to where the Deputy glibly said 60 to 80 per cent turnout. The only time you ever get 60 per cent turnout is in the Constables election. **[Interruption]** You did.

Deputy M. Tadier:

I do not think I said that. Certainly what I intended to say - and I was plucking figures of the air, speculating - was that if the result is either 60 to 80 per cent I would be happy to support the result either way. I do not think I said 60 to 80 per cent turnout, certainly not in Jersey.

The Connétable of Grouville:

If I can go on from there, what I was trying to say was that history has it that the highest election turnouts were for Constables election and that, to me, gives me the confidence that I am wanted in my Parish and I am wanted in the States. People do not come up to me. It is not a question of people demonstrating in the streets and holding placards up saying: "Constables out." I have not seen that. Perhaps you have in St. Brelade. The other point I would like to make is this. This turnout situation, in St. Helier you have got a 28 per cent turnout. Now, let us just assume, for the sake of argument, that half of them voted to keep the Constables and half of them did not want the Constables. Are you going to use that 14 per cent on either side, either as a yes or as a no? I would suggest to you that you would be very, very, very mistaken indeed to try and use a 14 per cent yes or no as any indication whatsoever. If you repeat that Island-wide in a referendum like this, you are not going anywhere. Before you ever want to call a referendum let us get the rules in to start with. What are the rules going to be? Do you expect a 50 per cent turnout in order to have any bearing whatsoever on the result or are you willing to accept the 14 per cent or 28 per cent turnout to tell you which way to go? It does not say here. You want a referendum. A referendum is a referendum. But what are the rules? There are no rules. I am going to oppose all of these amendments and I am going to oppose the substantive proposition. It is woolly. It certainly will not give me any satisfaction whatsoever to see a 25 or 35 per cent turnout Island-wide and the States listening to it and making a decision based on that. Thank you.

Deputy M. Tadier:

Can I make a point of order, Sir? Are we still talking about the amendment of the Deputy of St. Martin? Because that sounded like a general statement.

The Greffier of the States (in the Chair):

Deputy, that is a matter for the Chair to decide. I appreciate in these debates it is difficult because of the amendments. We have not had any substantive debate yet about the question of a referendum. It is difficult to restrain the speeches.

Deputy G.P. Southern of St. Helier:

I do not think it is a point of order; it is a question to the Chair. I have heard 2 people now already in this debate say: “Do we want the Constables in the States?” That is not what the main proposition says and people are already confusing the issue. It says: “Do you want them to maintain their automatic *ex officios*.”

The Greffier of the States (in the Chair):

It is a valid point, Deputy, thank you.

Deputy G.P. Southern:

No wonder we have doubts about what message we are giving over because we are ...

The Greffier of the States (in the Chair):

Deputy, it is a valid point. You can make the points in your speech.

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

On the basis of treading where angels fear to tread, I have to say I think Deputy Tadier of St. Brelade should be supported for the fact he is committed to change. We know what a rough road and indeed *cul-de-sac* that can be and I do commend him. But I do feel, by the same token - and I think the point has been made by a couple of people such as Senators Perchard and Shenton and indeed the Constable of Grouville - to produce a series of referendum questions other than the initial very clean question, to produce it like a committee producing a camel instead of a horse, is going to lead to disaster; because everyone who has tackled this issue of reform has hit the brick wall that unless you come up with a coherent approach to it, you will leave a lot of questions dangling. That is what Senator Perchard said. For example, the public will go in to the third amendment saying: “Where will the 6 be cut? I want more than 6, I want 12”, for example. There will be all these sorts of dangling open, uncontrolled questions.

The Deputy of St. Martin:

We are not talking about reduction, are we, Sir?

The Greffier of the States (in the Chair):

I think the Deputy is talking the general principle of amending and adding questions.

Deputy R.G. Le Hérissier:

For example, as one focuses on the highly well-motivated question of the highly esteemed Deputy of St. Martin - and I cannot make it higher than that - the question that will also arise with the amendment which we are now discussing is: should it have been posed as a question to do with single Members? If it was posed in that way, should the follow-up question then have been, for example, should the single Members be Island-wide mandated? Should they be Deputy mandated? Should it be a single Member, as was the last major P.P.C. proposition? Should it be a single Member composition with, paradoxically, the addition of the Constables? So the confusion will go on and on. That is why, like Deputy Trevor Pitman, I am very leery of moving beyond question number one, if that, because I think it will lead to total confusion. We will find ourselves drawn into debates which are not encompassed by the questions but somehow people will be given these imperfect questions, as in amendment 2 of the Deputy of St. Martin. They will be given these imperfect questions which will raise more questions than they answer. I think it is just going to confuse people no end. I have to say that despite the excellent efforts he has made over the years to promote them.

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

Sir, may I seek a point of clarification from yourself, because obviously it has been referred by a number of speakers? Are we talking as a whole to the proposition and the amendments?

The Greffier of the States (in the Chair):

No.

Deputy J.A.N. Le Fondré:

So it is just the amendment, Sir?

The Greffier of the States (in the Chair):

You interjected just as I was about to say from the Chair, that it is difficult for the Chair in these sort of debates because Members clearly need to stray slightly. But I would urge Members to try, as far as possible, to address the amendments in turn. This amendment is about Senators. If we can keep the debate to that. There will be ample opportunity when the debate resumes on the general principle of the referendum, *et cetera*. But I think Deputy Le Hérissier was making points about adding questions which did effectively relate to the amendment which adds a question.

2.2.10 The Deputy of St. Mary:

Thank you for that clarification. I think bringing this amendment about adding the Senators question and then the subsequent amendment - and we have to talk about this amendment only - of course, raises the question, like Deputy Le Hérissier said, about bringing any amendments at all. I draw a clear distinction between this amendment, which adds a question about a membership class... and the first question is about a membership class: "Should the Constables have the automatic right or should they stand separately for the States?" Now, that is a question about a membership class. I think on balance, although obviously we will come to that in the main debate, that is a legitimate question for a referendum. In the same token, I think that this amendment of the Deputy of St. Martin, should the Senators ... the Island-wide mandate, I forget the exact wording but: "Does the public agree with it," that also is a question about a membership class: "Do you want Senators in the States?" That is what they are called at the moment: "Do you want Senators in the States?" Those 2 questions are parallel. They are in the same part of the court and if you are happy with one then I think there is not really a problem with being happy with the other. Now, the other amendment, the amendment about reducing to 6, I believe - and I will obviously say so later but it has to be said now in very brief - has many unforeseen consequences. It is a different order of amendment. One can very well go with this amendment and say: "Fine, we will add a question about Senators," for very good reasons - which I will come to, why we should add a question - but not a question about reducing the number to 6. Sorry, not reducing the number to 6; reducing the States by 6, although one could easily go down to 6. One could go down to 6, although then we would not even have enough Ministers. **[Interruption]** Enough of the flippant comments. I am a tiny bit disturbed about the tactical element in some comments so far. We have heard the Constable of Grouville say it obviously will be going to the proposition. I am not quite sure why and hopefully he will explain why in the main debate. Senator Shenton referred to which 6 and so on. I think those are dangerous areas to go. What we are doing is we are asking the public what they think on particular questions that I think are legitimate. We just have to be very careful about getting where that result would lead or whether I personally would suffer or not from that. So I have made the point about I think this is a legitimate question to add. I do have to, however, comment on what the Deputy of St. Ouen said and he was allowed to say it in the context of this amendment. It does illustrate we need the referendum. We had somebody here in the States, a States Member, saying that the main message from the MORI consultation, was that the Constables are popular with the public and they want them in the States. That simply is not borne out by the facts. I am sorry; facts, what a terrible thing facts are. But if you look at P.72 which is why we did not do anything about P.72, we had a debate where we failed to do anything at all, and if you look at page 12: "Constituencies: All Members should be selected on an Island-wide basis", 46 per cent: "Some Members should continue to be elected for the whole Island and others on a Parish or District basis", 32 per cent; add that together, 78 per cent. Seventy-eight per cent was the biggest single expression of opinion by the public of the MORI poll for the Island-wide mandate, 72 per

cent was for a general election and 54 per cent for the Constables. I will not bore you by reading it out but those are the figures; 78 per cent, 72 per cent, 54 per cent. Now, by any stretch of the imagination, that means that the good Deputy was misinformed and that is putting it politely. But the problem is, you see, that we get into these tangles and people say that the statistics say one thing and they say another thing. That really brings us back to the merits of the original proposition which is to say: “Let us put this to bed. Let us finally stop arguing about whether we can read the MORI poll ourselves” which apparently some people cannot: “and just ask the public for that decision.” So if we support the main proposal, which I do, then I believe this amendment is a sensible addition. As I think the chairman of P.P.C. pointed out, it adds little to the cost. I mean, if you are going to one then it makes sense to do the other provided there is no good reason not to. It will add a lot to our state of knowledge and guidance to the House. In my belief it will confirm the desire for the Island-wide mandate but that is neither here nor there. What matters is that we have gone to the public and sought their opinion on this important matter and it will clarify things for a very modest cost. So, as I say, it is not about whether we can add things to the original proposition as Deputy Le Hérissier, who did a wonderful job of muddying the waters ... It is not about whether we can add one or the other. I believe that this one indeed is worth adding and we should accept this amendment.

2.2.11 The Connétable of St. Mary:

I think on a basis of logic what the Deputy of St. Mary has just said is probably very true. I would agree with him that the second amendment is the one which is difficult. But I would just like to say the person who has got to the heart of the issue, in my opinion, most concisely so far is Deputy Trevor Pitman. We already know what the public think. I am sorry; the Deputy of St. Martin said that we need to ask the people and we need to abide by the decision. We have already done that. We have done that numerous times. We have the research. Notwithstanding the differences in figures that the Deputy of St. Mary has just quite accurately adjusted, the outcomes were people wanted the Island-wide mandate, they wanted a general election and they wanted the Constables to remain in the States. The difficulty is how you balance those together, how you give the people what they want and how they come to a conclusion. That is where politics comes in. That is where we come in. We put together a package. We persuade. We debate. We eventually find the solution. Then we take that solution to the public and say: “This is what we have come up with. It addresses, to the best fit, your requirements and it is time now for you to finally put the seal of approval on what we have judged to be the result of your requirements or to say: ‘No, you have got it wrong. That is not what we want’.” Let me just say categorically, I have absolutely nothing to fear from this referendum. When the MORI polls were done I was a Deputy. I was not a Constable. I had no vested interest. I have absolutely no fear of a referendum. Not simply because I would say that I can prejudge the outcome, I cannot, but whatever the outcome I ...

The Greffier of the States (in the Chair):

Constable, you are coming to the amendment, are you not?

The Connétable of St. Mary:

I am coming to the amendment, Sir.

The Greffier of the States (in the Chair):

Because it sounded remarkably like a speech on the proposition itself.

The Connétable of St. Mary:

I am dealing with the amendment because what I am trying to say is that I do not believe the amendment gives us anything more than we already know. We have asked the public this and I say that without a vested interest because I have no fear of standing as a Constable and standing again as a Deputy, if that is required, or in any outcome. I believe we have asked the public time and time again. The public have told us they want, in this particular case, the Island-wide mandate.

The fact that we did not come to terms with that and the fact that perhaps that is not the result that certain Members wanted does not mean we should keep asking and asking again. We have the information. We have so far failed to find a solution. But having this referendum on the position of the Senators does not ask any questions that we have not already asked and had very, very conclusive answers to.

32.2.12 Deputy J.A.N. Le Fondré:

The reason I sought clarification before... because it depends how long everyone speaks for really. Personally I could not particularly separate the main proposition and the amendments; because what the amendments are doing is they are just adding to the main proposition. So they are not altering the wording of the first question. We are just adding a list of questions further down. So I have to say I do agree with those people who have said by introducing the Senatorial role into this proposition we are being consistent; because if you are going to ask people about the Constable, you should ask people about the Senators. So from that point of view - and I am going to be slightly illogical here - I may well come to support this and that is a change of view from about 10 minutes ago. However - and the reasons I shall deal with in the main debate - I think all of the questions are completely flawed. So, in other words, if you are going to go with a flawed question to the public on one part, you might as well go to the public with flawed questions on the rest of them. The consequences of where we are going are abysmal and I will deal with those in the main part of the debate because obviously that is your direction, Sir. I will say the Deputy of St. Martin has been very consistent with his stance and basically supporting Clothier: "Should the role of the Senators be in the States?" That has obviously been a theme from Clothier for years and he has always supported Clothier. But, as I keep going back to, I believe the position on the overall questions is flawed. There are unforeseen consequences in all of them. I have been going through how I am going to vote on this. I think I probably will support this one. I will support - and I am going to deviate for about 30 seconds - part (a) of Deputy Jeune's amendment but I will not support part (b) because I do not want to be bound by flawed questions at the end of this. Thank you.

Deputy M. Tadier:

Can I ask a point of clarification? It is a genuine point this time.

The Greffier of the States (in the Chair):

You seek clarification from the previous speaker?

Deputy M. Tadier:

Yes, from the previous speaker. Why are the questions flawed? I understand that he said he will not be supporting the (b) part of Deputy Jeune's but he seemed to group them all together in saying they were all flawed. It would be helpful for Members to know.

The Greffier of the States (in the Chair):

I did understand the Deputy to say that he would explain that in the main debate.

Deputy M. Tadier:

Okay, fair enough. I missed that.

The Greffier of the States (in the Chair):

He will take note of your point and, I am sure, respond to that point. Does any other Member wish to speak on the amendment of the Deputy of St. Martin?

2.2.13 Deputy G.P. Southern:

Again, I am wondering where to start in order to stay strictly on the amendment. It seems to me that Deputy Le Hérissier summed up the position; that we would not be starting from here if we were asking the right questions because we refer back to Clothier time and time again which we

cherry-picked and largely ignored. But central to the Clothier proposals 10 years ago was a single type of Member and that is the essential change that we should be talking about. However, having said that, we are not talking about that today. So the question has to be: "Does the proposition in its original form bring some clarity to that issue?" Yes, it addresses one of the types of Member which has this, I will call it "strange" for want of better, dual role of the Constable in his Parish running the Parish and in the States by virtue of that office; not "voted in" to be a Member of the States. Already, again, we have heard one Constable say: "I am wanted in my Parish and I am wanted in the States. It is clear to me." At the time I was looking at another Constable and he was raising an eyebrow and I was saying: "No, you are wanted in your Parish to run the Parish. That is what you get elected for." It is a different set of qualities for most people than representation in the States. It is a different set of qualities and a different type of Member and, often, of personality because of that dual role. So does the first part bring additional clarity? Yes, I think it does. Whether it is yea or nay, I think it does. You will then answer the second part: "What about that?" Well, we have been told in the course of this debate that we have a clear steer; 78 per cent Island-wide mandate, 72 per cent general election and 54 per cent for the Constables. The essential thing there is the general election. Where have we got to so far? We have not got a general election. We have got an election for 3 different types of representation on the same day. Again, we are back to this is the anomaly we have created. It is a mess. The first question brings a bit of clarity, a bit of light. We will get a steer one way or the other on that and that says whether we can go forward with Clothier or without it. The second one is already part of the mess. So this particular amendment is already part of the mess. We have made the mess by electing the Senators for a different length of term with a different mandate on the same day. So we have removed entirely any motivation, apart from that of ego: "And I stand, if I get elected, Island-wide. Therefore, I am more important now than you or you because I have got an Island-wide mandate." It does not work because there is no motivation to be a Senator. So we have already wrecked the system. Adding in the Senatorial question: "Do you want Senators?" does not add any clarity at all because we have already got a system. We have invented a system that is not going to work. I think perhaps my colleague Deputy Pitman earlier did focus on some of this anomaly. I have to disagree with the Deputy of St. Mary in saying that we can quite happily take one question and the next question and go on, it is all right; whatever answers we get, because the second one I do not think will help; the first one does. So I will not be supporting this particular amendment in this particular debate.

The Greffier of the States (in the Chair):

If no other Member wishes to speak, I will call on the Deputy of St. Martin to reply.

2.2.14 The Deputy of St. Martin:

I thank those Members who have spoken. I think it is appropriate I should start with the Connétable of St. Ouen. I know he is not here, but I can understand his concern and I think the problem we have - and, again, I am not laying the blame at P.P.C. - but one of the things we ought to have done from Clothier was to get some Electoral Commission going so that we took this away from individual Members and we had someone in there dealing with the problem. As it is, it has to either come down by P.P.C. trying something or individual Members trying something. There is this impasse about what do people want, and coupled with what the Connétable of St. Ouen said, depending on who you speak to they will say: "Yes, you must have Constables" and you speak to someone else who will say: "No, you must not have Constables." Well, how do we know? What the referendum really is for is to give people that opportunity of finding out what they really want. I do not mind what the result is because I am not anti-Constables, I am not anti-Senators, and I am not anti-Deputies. In many ways it would be probably better if we exactly knew what the public were thinking because we cannot make that decision ourselves. What I am asking is at least give the public the opportunity of saying do they consider the Senators to be part of an Island mandate, in which case if they want that, we know where we stand. Again, I have to come to Senator Shenton and Senator Perchard who were both of that vein. I think personally there is a good

possibility, I would certainly hope, that we are going to allow - because that is the whole purpose of this debate today - the public to have their say. Now unless you vote pour today, we are not going to allow the public. Now if Members do not want to allow the public, well, so be it. The Members did not want it last time, I am hoping now with the 29 new Members in the House plus the 2 who were absent last time, will be a bit more positive, will at least say: "Well we now have a referendum facility at hand, why not allow the public?" Because it may well be that the public want the Constables, they want the Senators, they want things to stay the same. If that is the case, shut the door and go along. We have now agreed what Deputy Le Fondré has said and he has said we will have an election on one day, but at least let us put this thing to bed. One way of doing it is by having this referendum. Again, I thank Senator Perchard and Senator Shenton for that positive thought because at the end of the day we are not going to find out unless we vote for it. I want to pick up a little bit on my good friend Deputy Le Hérissier, the man who muddied waters this morning; [Laughter] started talking about Deputy Jeune's amendment, when we were really talking about the Deputy of St. Martin's. It is quite clear. I would add that it may be important to read what we voted for last time because, believe it or not, amid all that confusion, Deputy Le Hérissier voted for it. So last time the election was - the Connétable of St. Clement now; as he was then Senator Norman - we were asked to agree the referendum should be on a Saturday. We have not had that one today but that would have made a difference to say: "Why do we not try an election or a referendum on a Saturday?" Then the other question was, very much like Deputy Jeune is going to talk about presently, do we agree that the text of the question should be: "Do you agree that the number of States Members should be reduced to 42 or 44 Members?" That was the one. Then the other one: "Do you agree the office of Senator with its Island-wide mandate should be abolished? Yes or No." That basically is what I am asking for. Then we had the other one which we will return to with Deputy Tadier asking: "Do you think the Connétables should be entitled ...?" So we have had these debates before as I mentioned earlier when I began this morning, so it is nothing new. What I am asking Members to do really is give the public the opportunity to make a difference. Let them be involved in the decision because we are only speaking here from what we believe we know. I think the Connétable of St. Mary told us that we already know what the public want because the Connétable of St. Mary has asked: "Well, again, how constructive was that question?" We were only asking people from opinions. This way they were never given the opportunity via referendum and that is the slight difference because I believe that, as indeed the Deputy of St. Mary was quoting from MORI polls, *et cetera* but, again, they are not as accurate as those people who make the effort to go to a referendum and vote yes or no or vote what they want. So I think what we will be looking for is clarity. I am not going to dwell on summing everything up because I think it is quite simple, I believe that this is an opportunity for the members of the public to have an opportunity of supporting a referendum; let the public make a decision. I am pretty sure we will have an interesting, lively debate getting there. I would hope there will be some hustings to let people give their thoughts out, but unless we give the opportunity to the public, I think we are going to be going around in circles. I would ask the Members to support my amendment.

The Connétable of St. Mary:

Could I just clarify something from the Deputy's speech? He did ask about the MORI poll. The MORI poll was conducted in a statistically accurate and robust way with well in excess of, I think, double the number of recipients needed to make the statistics robust and kept impartial.

The Greffier of the States (in the Chair):

The appel is called for. The vote is for or against the amendment of the Deputy of St. Martin to add a question of voting for the position of Senators. If Members are in their seats, the Greffier will open the voting.

POUR: 16		CONTRE: 26		ABSTAIN: 0
Senator B.E. Shenton		Senator P.F. Routier		

Senator J.L. Perchard		Senator P.F.C. Ozouf		
Senator A. Breckon		Senator T.J. Le Main		
Connétable of St. Clement		Senator S.C. Ferguson		
Connétable of St. Peter		Senator A.J.D. Maclean		
Deputy R.C. Duhamel (S)		Senator B.I. Le Marquand		
Deputy of St. Martin		Connétable of St. Ouen		
Deputy of Grouville		Connétable of Trinity		
Deputy P.V.F. Le Claire (H)		Connétable of Grouville		
Deputy J.A.N. Le Fondré (L)		Connétable of St. John		
Deputy S. Pitman (H)		Connétable of St. Saviour		
Deputy I.J. Gorst (C)		Connétable of St. Lawrence		
Deputy M. Tadier (B)		Connétable of St. Mary		
Deputy A.E. Jeune (B)		Deputy R.G. Le Hérisier (S)		
Deputy of St. Mary		Deputy J.B. Fox (H)		
Deputy T.A. Vallois (S)		Deputy G.P. Southern (H)		
		Deputy of St. Ouen		
		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy of St. John		
		Deputy T.M. Pitman (H)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		
		Deputy D. De Sousa (H)		
		Deputy J.M. Maçon (S)		

2.3 Referendum: position of the Connétables in the States (P.146/2009): second amendment (P.146/2009 Amd. (2))

The Greffier of the States (in the Chair):

Very well, we come now to the Second Amendment. Deputy Jeune, you have 2 separate amendments, it seems to me, that touch quite separate issues, are you happy to take them one at a time and have a separate debate on each? I think that would be better.

Deputy A.E. Jeune of St. Brelade:

Yes.

The Greffier of the States (in the Chair):

Very well, I will ask the Greffier to read Amendment 1 on its own.

The Deputy Greffier of the States:

Page 2, paragraph (a) after the words “Members of the States” insert the words “and the number of elected Members of the States”; for the word “question” substitute the word “questions” and after the existing question insert an additional question as follows: “Do you think that the number of elected States Members should be reduced by 6? Yes or No.”

The Greffier of the States (in the Chair):

Very well, I invite you to propose Amendment 1, Deputy.

2.3.1 Deputy A.E. Jeune:

I ask myself the question: dare I stand up again on this subject and incur the wrath of Deputy Green once again? [**Members: Oh!**] The answer is yes. Members will recall that a short time ago I brought a proposition - P.138/2009 - to this Assembly to reduce the number of senatorial seats by 6.

My reasons for this were explained at the time so I will not repeat it all again, but 53 Members to govern a population, we are told, of less than 100,000, I and others believe are too many. Because it was quite apparent that Members did not have any intention of progressing such a reduction or having a debate on such, and in response to Deputy Tadier's statement of his impending proposition for a referendum, I withdrew that proposition with every intention of bringing this amendment. The one thing that appears to be clear is that Members are never going to agree on change to the composition of the States. *Status quo* and *temps passé* come to mind or should it be something about ostriches? So, let us ask the people. Deputy Tadier's proposition will provide evidence of whether the electorate agrees with us and the amendment of the Deputy of St. Martin would have addressed the issues of the electorate's view on the Island-wide vote. I am now asking Members to use this referendum to best effect and efficiently and firstly to add another question as to whether the electorate consider that the number of Members should be reduced by 6. It would be a matter, I believe, for P.P.C. and this House as to where and how that reduction would occur. I maintain the amendment.

The Greffier of the States (in the Chair):

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

The Deputy of St. Mary:

Can I ask a question of clarification?

The Greffier of the States (in the Chair):

From the speaker or ...?

The Deputy of St. Mary:

From the speaker, yes.

The Greffier of the States (in the Chair):

Yes.

The Deputy of St. Mary:

The speaker just alluded to it in her last sentence but that is all we heard, was if there is a reduction by 6, say we go ahead, we vote for this down the line and the public vote for the reduction of 6, say the public also vote for the abolition of the Constables, where will the 6 come from? Has the Deputy worked out what will happen next?

Deputy A.E. Jeune:

As I said, it would be a matter for P.P.C. and the House.

2.3.2 Senator J.L. Perchard:

Just briefly, when the proposer of the amendment sums-up, perhaps she would explain why she chose the number 6, is it her lucky number? **[Laughter]**

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

I wonder why it is when we have so much pressing business to attend to so many much, much, much more important things to do, so many, many difficult pressing issues, particularly in housing, social welfare, financing, **[Laughter]** I wonder why it is when we have so much more to do, so many more houses to build and so many Island Plans to pass, I wonder why it is when we have so much more to do that we are trying to sort out the democratic process of elections in Jersey. I get a lot of support from my right when I speak like that. It just goes to show even if you do not mean anything, you can get support from those **[Laughter]** that listen to the mantra and the wrong message. I certainly do not have confidence in this particular proposition because of the fact that I think it is not well thought through as perhaps it might have been in relation to what would happen

if we were to get rid of 6 people. But I do think that it is time for us to put to bed once and for all the myth that we have much more important work to do than getting the electorate involved with electing those individuals that come here to serve them. The Island has for far too long had a political party that is unaccountable, that has ruled the roost. It continues to rule the roost with affiliations and associations and political harmony in the ideology of the ruling elite. **[Interruption]** I am not talking about the J.D.A. (Jersey Democratic Alliance) and I am not talking about Senator Le Main at all today because it his birthday, other than to say: “Happy birthday; beware those bearing presents.” I do think that we have to be a little bit more respectful of the issue even though it has been around the House a few times because of the fact that we have never given the population, and we have never given ourselves, since Clothier the answer that is really required from what was, in my opinion anyway, a flawed process. I supported the Deputy of St. Martin’s proposition, not because I believe we should not have a Island-wide mandate, because I, like Senator Shenton, believed wholeheartedly that the public would have supported the Island-wide mandate 100 per cent, or thereabouts. I certainly think that it is right that we put the question to the public because there is a large grouping in the public that do not attend elections and do not participate and there are a large group within the public that do attend elections, that do participate, that want this question asked. Now getting back specifically to this proposition, having demolished the myth that there is far more to get on with, what would we do if we lost the Constables or 6 Members in a Ministerial government that has been set up to manage our affairs, unlike the United Kingdom which has a series of political parties to hold checks and balances and a whole plethora of non-government organisations that are strongly funded and are watchdogs of the public interest and also, most importantly, councils? They have elected mayors and elected councils. There are hundreds, if not thousands, of people representing the interests of the United Kingdom and not least of which are the M.P.s (Members of Parliament), the House of Lords and also that little bunch in Brussels, the Members of the European Parliament. The United Kingdom is hardly a place that we should draw comparisons from in respect of there being too many Members in this House. If anything, we are nothing compared to the political representation that the United Kingdom enjoys.

The Greffier of the States (in the Chair):

Deputy, just to pick up the point Deputy Southern alluded to earlier, you must be careful you do not turn this into a debate about whether there should be less Members; it is a debate about whether to add a question in a possible referendum on this. We are not having the substantive debate today on whether there are too many Members. I would not want you to go too far down this route. The amendment is about adding a question on whether the public should be asked about this.

Deputy P.V.F. Le Claire:

All right. Whether we should have a question about whether or not the public should be asked about whether or not they should have 6 less Members? I feel I am extremely walled-in on this now and it will obviously curtail a lot of debate if we cannot even consider what the actual question that is going to be put to the people, other than the number. What are the implications of that question being answered and asked?

The Greffier of the States (in the Chair):

It is perfectly valid for you to explore that.

Deputy P.V.F. Le Claire:

I would like to just draw out, if I can, what the implication would be of a reduction in terms of - not necessarily too much about the process - but what would happen. Not to draw it out, because I realise I have been on my feet long enough, one last thing I would like to say is, I would like Members for a moment to consider whether or not the functions of this Assembly are the only functions of this Assembly because they certainly are not. I went home the other night at about 8.00 p.m. after having attending a Parish Hall meeting at the end of one of these sessions, and it is

not just the Constables who are elected to the States of Jersey that have a parochial duty, it is also the Deputies and the Senators that have political responsibility and parochial duties. How many times have we heard: “Would not make a good Constable, makes a great Deputy. Did not necessarily make a good Senator because he did not have Ministerial ability, but makes a great Deputy”? How many times have we heard: “Made a great Deputy, a great representative in the Parish, nobody stood against them because they are a great Deputy. They used to always go around, they asked their questions in the States, they did a lot of door knocking, they did their constituency work”? Even Senator Sarah Ferguson has recently commented upon the fact that she likes to be a Senator because she keeps the high position of the overarching policy and leaves the parochial issues to the Deputies who can knock on the doorsteps and handle the constituents’ issues. If we strip 6 Members from this Assembly, or if we ask the public to strip 6 Members from this Assembly, we must be certain about which 6 we are asking them for us to strip. I think I will get off the word “strip” before there are any more unfortunate connotations. What I mean is remove. In summation, I would suggest that this question that we are asking is not defined enough and this consideration of the question that we are asking has not been defined enough for us to put a general question of this sort into the public’s hands, because the outcome of it would be detrimental and ill-thought through.

2.3.4 Deputy J.M. Maçon of St. Saviour:

I will be very brief, again, it is looking at the number. I think that you would probably still get a very significant positive result if the number was 53 **[Laughter]** because we do know, for whatever reason, there is a desire for less States Members. But for arbitrarily deciding 6, or whatever, does not take in the appropriate balances that must occur and the different sways of representation that are there and therefore I cannot support this amendment.

2.3.5 Deputy T.M. Pitman:

Again, like Deputy Maçon, very brief. I think he hit on something there. If this was reworded to say: “Propose a cull of all States Members” I think you would be on to a winner. **[Laughter]** I am not going to support this, though. I do have to say, on a serious note, it is a complete myth that taking 6 out would have negative results. I proposed 47 in the recent arguments. It clearly can be made to work without any problem at all. It does not impact on the so-called “Troy” Rule but there are problems there. I do have to respond to Senator Shenton, I think it was - who is not here - that assumption that it would be from the Deputies. Well the statistics back us up quite clearly; St. Helier is under-represented by 3, that is an inarguable fact. So that is one issue. How would we get rid of those 6? Well I think, to be fair to Deputy Jeune, her original proposition linked it to Senators and whether we supported that or not; it was a fair argument. This, I think, does not really give us any such direction, so I do have to acknowledge what some Members have said on that. Six we could get rid of because until I embarrassed a few recently, let us just be quite honest, there must have been at least 6, maybe 10, Members who played absolutely no part on the Executive or on Scrutiny, so do we need them? I am sure perhaps they did a big lot of work on their constituent work; some of us have to fit that in as well. So cutting it down to 47, it is not a problem and I think you have to be fair to Deputy Jeune in that case, it is not unmanageable and I believe it could work. I am not going to support this purely why I did not support the Senators amendment because if we are going to have a referendum then I think it has to be kept clean and simple on one fact. I would be saying that if the main proposition had been related to Senators and not Constables. I think there is a danger of muddying the waters and no disrespect to Deputy Jeune. As we have all made the jokes, if we could all pick out the 6 people we do not like they would be different from that side of the House, they would be different to what I would suggest but that is just playing silly politics, none of us really mean it. If we are going to be logical, you have to have a proper reason for taking out those 6. This does not give us this at all. So, sorry to Deputy Jeune, but I cannot support this but I respect you for bringing it.

2.3.6 Senator S.C. Ferguson:

I think we are attacking this from the wrong direction. Deputy Jeune is basing this really on the basis that we are over-governed and that we should remove 6 people. What is the scientific basis and evidence for this? Because I read recently that the most democratic country in the world, in America, they have something like one elected representative for every 1,500 voters.

The Greffier of the States (in the Chair):

Senator, let us try not to have the debate on numbers if we can help it. It is about adding a question, as I said to Deputy Le Claire.

Senator S.C. Ferguson:

Yes, it is adding a question but I am saying the question is wrong. There is no evidence provided to that question. We have the U.K. (United Kingdom) figure quoted but in actual fact there are around 6,000 voters to every elected representative. So we are probably coming at this from the wrong direction. If you ask people if they want to pay lower taxes, what do you think the reply is going to be? If you ask them if there should be fewer politicians, what do you think the answer will be? I am sorry, there is no evidence for the number and I think the question is ... there is a way of asking questions to get the answer you want, we all learn that, and I think this is just asking the question in the wrong way with no evidence attached.

2.3.7 The Deputy of St. Mary:

I am wary of being pulled up but, in fact, there is a difficulty, is there not, when there is a question which we are discussing to be added to a referendum which I believe is fundamentally nonsensical and will bring no light, really, and to explain that takes just a little while. The first point I want to make is that this amendment will make the unfairness that we have in our present arrangements and which is the driver for change... that is why P.P.C. rightly said in P.72 that the present situation is unsustainable and that is why we keep coming back to this. That is why Deputy Le Claire was absolutely right to say: "This is a key and important debate." Until we sort our electoral arrangements, they will keep coming back. That is a prefatory remark. But this business of fairness is absolutely fundamental and what I am going to say now is relevant to the whole debate because it comes up later as well but particularly to this amendment. When the Deputy Bailiff swore his oath the other day, I am sure there was a reference to the need to uphold fairness. I am sure that somewhere in there, there was "equality before the law" and I certainly heard the word "équité" in something that either he swore or that the Bâtonnier said. This principle is absolutely fundamental. We are all equal before the law, we expect to have equal treatment when we go next door, if we ever go next door, and we expect equal constitutional rights. That is fundamental subject to such legal qualifications such as the length of residence as this House decides to put in place. I believe there is a restriction on the right to vote, for instance, because you have to have lived here for a certain while. But bar that once you have it, then you are equal in constitutional rights. Would we go back to the days of only property holders can vote, or only men can vote? Maybe some would like to go back. I do not think anybody would want to go back to that. Yet, in Jersey we have a situation where our voting rights are unequal. The point that I am going to come to is that under this question which we are suggesting to put to our electorate, this will be made fundamentally worse and I cannot think that we can ask the public to be put in that situation. So what is the situation in Jersey? Just how unfair is it? The short answer is that a person who lives in - I better get these Parishes right - an inhabitant of Grouville, is that a Grouvilleé? I think there is a special term, but anyway a Grouvilleé is worth precisely two-thirds of an inhabitant of St. Lawrence. Pity the Constable of St. Lawrence is not here to hear that. But anyway the point is it is unequal, two-thirds, and it does get worse if we go to the figures provided in P.72 on page 8. Well, St. Mary is even more unfair. But if we look at the table on page 8 about just how unfair the present situation is, and I exclude St. Mary because it is outlying. Statistically it is so off the chart that you cannot even really talk about it. But in St. John, for instance, there are 1,309 electors for each representative; that is Deputy and Connétable. In St. Clement there are 2,732, that is less than

half. So a St. Johnée is worth twice as much as a St. Clementée. **[Laughter]** If we look at Trinity it is 1,059 and that is again double the value of a St. Clementée, and so it goes. If you go from the bottom of the table, like the least numbers - the lowest numbers - the people who are most represented, are they not lucky? St. Lawrence: 1,567; St. Martin: 1,814; St. Saviour: 1,902. Do you notice what is common to all those? They all live in the country. Now if we start at the top, the Parishes with the highest number of residents per Parish representative, we have St. Clement at 2,732, St. Helier with 2,574 and St. Brelade with 2,534. Interesting, is it not, that the urban Parishes are the ones that are under-represented and the country Parishes are the ones that are over-represented, and I say this as a Parish Deputy. I remember it being thrown back at me: "Well, not many people voted for you." That is part of the problem that we are, in all these debates on electoral reform, trying to solve. The unfairness is not recent; it has been going on for a long time and yet this Assembly sits on its collective hands and the original proposition gives us a chance to do something about it. But if we have a manifest unsustainable inequality, which is what the P.P.C. said in their P.72 - this situation which I have just listed - they say: "P.P.C. believes that the above imbalance in membership is unsustainable and must be addressed." So it is incumbent on us to ensure that this one Chamber is accurately representative of the public will. That is the fundamental question before us. I have to ask the proposer of this amendment: what does this amendment do to tackle this? How does reducing the number of Members in this House by 6 tackle the issue of proportionality? The answer is: it does not and it cannot and it will make it worse. So let us look at one scenario. Say we have a referendum that we vote is binding or that we accept the result of a referendum that is not binding. Say the public - and subsequently the States - accepts the Constables will stay as of right, so all 12 are still here. We have just voted out the possibility of saying that the public do not want the Senators, so they are here as well, so that is 24. So we have 29 to play with, 29 Deputies - that is what we have now - take out 6 Deputies because the public have voted for the Constables, and the Senators is another question. But if we go to minus 6 of the Deputies, we end up with 23. How do we allocate 23 Deputies fairly across 12 Parishes and, in fact, 17 constituencies? The answer is mathematically it will be virtually impossible. You have no margin to play with; you are mapping 23 on to 17 constituencies. So the only possibility is to re-draw all the constituencies, in fact, re-draw the Parishes; I am not sure if the proposer wishes to do that, or to go to some other system. Deputy Pitman said that St. Helier was under-represented by 3. That is the sort of issue you are faced with and yet you are down to 23 Deputies you have to re-map on to 17 constituencies. I think that mathematically you are in a very hard place indeed if you try to do that. Now I did a lot of work preparing my proposed solution which I will talk briefly about later in the main debate, but in that my assistant mapped 41 Deputies on to the Parishes and 43 on to the Parishes. In fact, with 43 you can get almost perfect proportionality. That shows if you get more Deputies to play with you can get nearer to proportionality and as I have said, with just 23, you are going to find it damn near impossible. So I just ask the proposer to explain how the reduction in 6 Members will work out in practice and how it would give us a fairer voting system? Because if it does not, then we should not go to the public and ask them what they think about it because we have this business of asking them about something that gives a result that just is unacceptable in the wider picture. That is my first point and the second observation is that this - and people have touched on it but not gone fully into it - invites the public to vote for reducing the number of States Members. Well people have pointed out, of course, they will vote for a cull, but as P.72 points out correctly on page 13 - but I will not quote it; it is just there - they say of course the public would say that they would rather have fewer States Members. So putting this to a referendum is to invite our public to vent their frustrations with the States. Well, they may very well take the opportunity, or they would if this amendment was passed. But the problem there is you are putting ourselves in the position where a referendum will be used in the way it is not intended which is often the problem with referendums. I have heard this said about referendums in the U.K. and in Ireland, and so on, it is not really about the issue in front of the electorate, they are going to use it to give a kick to whoever is bringing the referendum, usually the government in power. We do not want to go there, we want to ask

questions that we really want the answers to and not give people the opportunity to give us a kick up the proverbial. So, I am not sure that this is a very clever amendment. Then again, there is no evidence, as Senator Ferguson correctly pointed out, as to whether fewer Members would lead to better government. That is the issue in the public's mind: will they get better government? Not: "Let us take out 6 and see what happens." Somebody correctly also pointed out: "Which 6?" Well we will all have a different view but, of course, that cannot be specified in advance, so how will reducing the number of Members bring better government? The proposer talks about 53 Members for 100,000 population and mentions the word "over-governed". Now, of course, that is a constant complaint, is it not, red tape, over-governed by regulations, and so on? But the fact is that in a small Island that is the price of prosperity; lots of people on a very small area. But we must not confuse that with how many people are there in the States? That is not the same question. That is an issue about the fact that we would move from a traditional society to a law-based one and everything has to be tied up in little ribbons and parcels in laws. So it is plausible to say: "Well let us go from 53 to 46" but it ignores certain things. It ignores that we are a nation State, that the 53 of us have to do the job of Parliament in the U.K. and it is quite a stretch. Those of us who work like dogs know that it is almost impossible to keep up, even with the workload of little Jersey. We are not Swindon or Preston and our budget is £750 million which theirs is not. We are also an international finance centre and I remember in the swearing-in again a reference made to the complexity of the cases that come before this court. They are complex because we have an international finance industry largely, and that creates its own demands on our time and our willingness to do our homework and not to mention the constituency work, the legislation and the policies that we have to monitor, originating propositions, Scrutiny work and Ministerial work. I think that Clothier, in suggesting a drastic reduction - I do have to differ with Clothier - it is the same mistake. It is all: "Well we can do it quicker with fewer people." I am not sure that doing it quicker is what it is about and we do have bitter experience of getting it wrong. We have heard in the debate just passed about getting it wrong, there are different reasons for that but the fact is that there were serious failures and they belong here, they come back here, and there are other failures too, of course, which we know about. So the case is not made at all for a reduction and I hear that there is a possible reply from the proposer. Well it does not matter about what any of us says about whether it is a good question, let the people decide. But, as I have said, we cannot put to the people something to which the answer may be a nonsense and I do not think it is facing the real issues. Finally, a brief point which someone has already mentioned, this number 6 is completely random. Why not 12? I toyed with bringing an amendment, why not 12 or 3? The logical conclusion is not just 6, which I have mentioned in a slip of the tongue, why not go down to one? It is quicker, it is more efficient, but it is not democracy and Winston Churchill, of course, made his famous remark about democracy: it is the worst apart from all the others. So what is the justification, proposer, for 6? The justification in the report to this amendment is one sentence and the sentence says something about the balance between Ministerial government and Scrutiny. I am sorry, that is not a justification for a question about a constitutional issue about how we vote this Assembly into place: one sentence to justify the number 6. I am sorry, that is not a way that we should go. It is legitimate to ask questions about a certain class of Member, but this is a piece of a jigsaw which should be cut later by this House accepting its responsibility - as people have said - to create a package that works, an overall package that makes sense and delivers the requirements of electoral reform. So this is a thing that should be done by this House, it is too small to go to the electorate. It will have unintended consequences and it will reduce fairness in our electoral system which is precisely the problem we are trying to address. I urge Members to reject this amendment.

2.3.8 Deputy M. Tadier:

I believe a number of very valid and well thought-out arguments have been made as to why we should reject this particular amendment. We have heard that the number 6 is arbitrary. It reminds me of the song - I just had it in my head for some reason - *Three is a Magic Number* so there must be something doubly magic about number 6 [Laughter] which I am sure will be addressed in

summing-up. But really what I would like to do here is to try and play devil's advocate because I think there are perhaps - purely as an intellectual exercise - arguments to be said in favour of Deputy Jeune's amendment. The first point is I think we could get fixated on the number 6 but I think what we could also do, if the referendum does go ahead, is say: "Let us take this slightly more loosely as a general message from the public that they do want to reduce the number of Members in government" and we can interpret that afterwards. The other point that I have managed to think of in favour of this amendment would be that, in fact, everyone is saying to Deputy Jeune: "What is the point of this 6? Which 6 will be in that? It is meaningless." But the point is that surely - and Deputy Jeune, I am sure, will say this - it is up to the public to decide and at the end of the day she will be leading the "yes" campaign presumably for the reduction of the number 6 and it will be her task to convince the members of the public to reduce the States by 6 and I am sure she will have good reasons to do that.

2.3.9 The Deputy of St. John:

As a supporter of Clothier, I have great concerns about this proposition because I would have expected something with a lot more meat within it. A lot more meat within it. So much so that I gave thought: "Should I bring an amendment to reducing it by 52 and have just the one position, the Deputy of St. John?" **[Laughter]** given that he is such a nice guy and he gets on with everybody. But really this one has not been thought through and how we would expect the public to vote, it is turkey for Christmas. I would like to ask the proposer to withdraw this. She must be getting the feeling of the House by now and I would ask that she withdraws it.

The Connétable of St. Ouen:

I did not wish to interrupt the speaker but could I maybe be allowed to ask a question of him: if his proposition went through, who would answer his questions? **[Laughter]**

The Greffier of the States (in the Chair):

He would answer his own perhaps.

2.3.10 Senator P.F.C. Ozouf:

I do not believe that Deputy Jeune is wrong in wanting to ask a question on the number of States Members in a referendum. The question is whether or not we need a referendum at all and whether or not this particular question is properly constructed. I am afraid to say that while I agree with the underlying sentiments, I do not think it is. I think that it is approaching Thursday lunchtime, apart from question time and passing some Sunday Trading legislation, I do not believe this Assembly has solved anything in 2 and a half days of debate. **[Approbation]** We have pontificated, we have ventilated, I said we have not achieved anything or solved anything. There are issues of membership and structure of this Assembly but I do not sense that this, with the greatest of respect to Deputy Jeune, is going to go any further, so am I able to propose moving on to the next item of business?

The Greffier of the States (in the Chair):

Which would be the next part of the Deputy's amendment.

Senator P.F.C. Ozouf:

Well, at least it would be better than ventilating some more about this one.

The Greffier of the States (in the Chair):

Well it is a matter for the Assembly. A number of Members have spoken; I am prepared to allow that proposition. Is it seconded? **[Seconded]** Do you wish it is put to the Assembly without debate. **[Interruption]** The appel is called for. I think with these unexpected votes it is fair to allow Members a few minutes to return to the Chamber.

Deputy J.M. Maçon:

How many people do you have left to speak on your list?

The Greffier of the States (in the Chair):

Two at the moment. Very well, Senator Ozouf has proposed that the Assembly move to the next item of business which will be the next amendment in the name of Deputy Jeune. The appel has been called for and I will ask the Greffier to open the voting.

POUR: 13		CONTRE: 23		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator P.F. Routier		
Senator T.J. Le Main		Senator J.L. Perchard		
Senator S.C. Ferguson		Senator A. Breckon		
Connétable of Trinity		Connétable of St. Ouen		
Connétable of Grouville		Connétable of St. Lawrence		
Connétable of St. Saviour		Connétable of St. Mary		
Connétable of St. Peter		Deputy R.C. Duhamel (S)		
Deputy of Trinity		Deputy of St. Martin		
Deputy S.S.P.A. Power (B)		Deputy R.G. Le Hérisssier (S)		
Deputy of St. John		Deputy J.A. Martin (H)		
Deputy E.J. Noel (L)		Deputy G.P. Southern (H)		
Deputy A.K.F. Green (H)		Deputy of St. Ouen		
Deputy J.M. Maçon (S)		Deputy J.A. Hilton (H)		
		Deputy P.V.F. Le Claire (H)		
		Deputy S. Pitman (H)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy M. Tadier (B)		
		Deputy A.E. Jeune (B)		
		Deputy T.M. Pitman (H)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy D. De Sousa (H)		

Greffier of the States (in the Chair):

Had you concluded your own remarks, Senator, before you made ...?

Senator P.F.C. Ozouf:

Just to say I think we are time-wasting.

2.3.11 Deputy G.P. Southern:

At the risk of once again incurring the wrath of Senator Ozouf, I will waste a bit more of his time because this is democracy and the point is, as I have said before, the thing that we need to change is a single type of Member, and the Deputy of St. Mary has pointed out graphically what this does. In fact, I fairly cruelly savaged the original proposition that the Member brought, but this is worse. Here we have another month or whatever it is and we have brought something worse with even less thought. At least on the last proposition, the Member had a suggested way forward, i.e. the cull was going to be the Senators, but this one does not even have that. There really ought to be, if this is to have any legs whatsoever and to be a decent question on any referendum, a 1(a)(i) paragraph that says: "P.S., neither I nor anybody else on God's earth could make this work."

2.3.12 Deputy A.K.F. Green St. Helier:

I will be very brief but I thought I might disappoint the Deputy if I did not speak. She may be surprised to hear I will not be supporting this and I will not be supporting any of this for reasons

that I think we are completely wasting our time. That said, if we were to ask people do they want to reduce the number of States Members, we know the answer. It would be like asking them if they want to pay G.S.T. (Goods and Services Tax) or income tax: the answer would be no. But we are wasting our time and I will not support this.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on this part of the amendment? Very well, I call on Deputy Jeune to reply.

2.3.13 Deputy A.E. Jeune:

I thank those Members who have spoken and I was not aiming for it to be so long because this is about asking the people. Senator Perchard asked if number 6 was my lucky number. I am not aware it is, and it is probably not going to be after this. **[Laughter]** However, a balance needs to be struck between Ministerial and Scrutiny roles; I do believe this is achievable with 6. Similarly, within a referendum one cannot have multiple choice, it needs to be a straight yes or no and therefore I left it from my original proposition, which I withdrew, as 6. The Deputy of St. Mary asked the question - I am sorry, he is not here to hear the answer - as to how it would be introduced but as I said at the very beginning, this would be a matter for P.P.C. and the States, however, perhaps it could be combined. One role could be combined: St. Mary and St. John, who knows? I maintain the proposition and I call for the appel.

The Greffier of the States (in the Chair):

Yes, the appel is called for on Part 1 of the amendment of the Deputy relating to a question asking about the number of elected Members be reduced by 6. If Members are in their designated seats, the Greffier will open the voting on this amendment.

POUR: 6	CONTRE: 34	ABSTAIN: 1
Senator A. Breckon	Senator P.F. Routier	Deputy M. Tadier (B)
Deputy of St. Martin	Senator P.F.C. Ozouf	
Deputy J.A. Martin (H)	Senator T.J. Le Main	
Deputy J.A.N. Le Fondré (L)	Senator J.L. Perchard	
Deputy I.J. Gorst (C)	Senator S.C. Ferguson	
Deputy A.E. Jeune (B)	Senator B.I. Le Marquand	
	Connétable of St. Ouen	
	Connétable of Trinity	
	Connétable of Grouville	
	Connétable of St. John	
	Connétable of St. Saviour	
	Connétable of St. Lawrence	
	Connétable of St. Mary	
	Deputy R.C. Duhamel (S)	
	Deputy R.G. Le Hérisier (S)	
	Deputy J.B. Fox (H)	
	Deputy G.P. Southern (H)	
	Deputy of St. Ouen	
	Deputy of Grouville	
	Deputy J.A. Hilton (H)	
	Deputy P.V.F. Le Claire (H)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy S. Pitman (H)	
	Deputy K.C. Lewis (S)	
	Deputy of St. John	
	Deputy of St. Mary	

		Deputy T.M. Pitman (H)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		Deputy D. De Sousa (H)		
		Deputy J.M. Maçon (S)		

The Greffier of the States (in the Chair):

Very well, we come now to the Second Amendment of Deputy Jeune relating to the referendum and I will ask the Greffier to read Part 2 of the amendment.

The Deputy Greffier of the States:

Part 2, page 2, new paragraph, after paragraph (b) insert a new paragraph (c) as follows “(c) to agree that the outcome of the referendum will be implemented by the States in order to be effective for the 2011 elections, provided that there is a turnout in excess of 50 per cent of the registered electorate voting in the referendum.”

2.4 Deputy A.E. Jeune:

I appreciate people would like to get to lunch, so I will be as quick as I can. Referendum is not binding and as we saw in the Lisbon Treaty when it was voted on in the south of Ireland one might say: “They only take notice when the electorate vote the way the Government wants.” So why would one bother to vote if this Assembly is not going to respond to what they say? I would like to believe that we have said in advance: “Yes, we will listen to you. Yes, we will respond positively to how you vote.” Perhaps then our electorate will be motivated to attend polling stations and cast that vote. However, we can only commit to such a promise if we believe it really is what the majority of our people want. Therefore, I have qualified such a commitment by saying if more than 50 per cent of the electorate vote, then this House will act on that information. That is not to say that we will not listen if the turnout is less but I do not believe it would be correct to make it binding on this Assembly in such an event. This is a referendum that is being proposed, not a petition. I maintain the amendment, thank you.

The Greffier of the States (in the Chair):

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

2.4.1 The Deputy of St. Mary:

Just a few points that came to me as the Deputy was speaking. I have not made my mind up on this yet. If we go with the making it binding, it certainly adds an element of excitement to the proceedings because people will really know that we will do what they say if the 50 per cent is reached. So, from that point of view it does seem quite attractive and when the proposer said that if we do say that it will be binding by 50 per cent, that does not mean that we will not listen if it is under 50 per cent and that, too, is very important. If it was 49 per cent, or 48 per cent, and if we have a referendum, then of course that would be a very strong indicator one way or the other. My final point is I would just like to ask if the Constable of St. Ouen, when he was in Switzerland, if you can tell us what their approach is to binding and not binding, indicative and not indicative, and so on? I do not know whether he was able to find anything out on that but it would be quite useful for us as we make up our minds on this: whether there are downsides to making a referendum binding or whether in most cases they are and so on, it would be useful to have some kind of information. Thank you.

2.4.2 Deputy P.V.F. Le Claire:

In her financial and manpower implications the Deputy says there will be no additional manpower or financial implications of this amendment if it was approved. While I think there are arguments and thought around this question, I am just wondering if a logical conclusion was, let us say, for example, that we agreed to this - it is a question, really - is there not a requirement in the law or is it just in Standing Orders? Would there not need to be a law changed as well in addition to a decision? In which case there has been no identification of the timing of that and the financial and manpower implications in respect of ... if we agree this, there are obviously implications: law-drafting time, *et cetera*, because I believe by law at the moment it stands. I may be wrong.

2.4.3 Deputy M. Tadier:

I will be supporting this amendment. I do not know if it is the majority of people who give this reason for not voting but certainly a very common reason people give for not voting in general in elections is that they say: "It does not make any difference; it will never change anything anyway" and that the Government do not listen. So if one of the main reasons to have a referendum, or a reason, is that it is good for grass-roots democracy, I think that is also a good amendment to bring and that it should be binding because people will know if there is a big enough turnout surrounding the campaign on both sides that they can make a difference, so I will be supporting it. I will put a couple of caveats in. I noticed that Deputy Jeune mentioned that even if the percentage is less than 50 per cent that turns out that is not to say we will not listen, I would perhaps like to say in more stronger terms that we must listen at whatever the result is but we must balance it, so we must look at it statistically. One criticism could be that 50 per cent, like the number 6, in some ways is arbitrary. That is not to say that you do not have a limit because we know that if there are precedents in other countries to have a limit, sometimes it is 40, 50, 60 per cent, we know that in the House, for example, when it comes to constitutional reform we need an absolute majority. Other countries have a 66 per cent requirement when they are making issues about constitution in the House and it is quite usual for there to be a limit. So I do not think we should get hung up too much about what that limit is as there is always going to be an element of an arbitrary nature in that. What I would say, though, it would be tragic if we did decide to have a referendum, if there was a 49 per cent turnout and it was, let us say, 90 per cent in favour of retaining the Constables, if we say: "That is not binding so I am still going to bring a proposition to get rid of the Constables." I certainly would not do that; I would respect whatever the result was. But what I am saying is that a 49 per cent turnout with a 90 per cent mandate one way or the other would be a lot stronger and indicates with a 51 per cent turnout with 51 per cent and 49 per cent, so we have to be logical in our approach and I am sure that as P.P.C. we would look at that. We would look at the statistical significance of the results because anyone who has done statistics or mathematics - I certainly did for A level - would realise that there is a bell curve and that just because you have 54 per cent who voted one way or the other, it is not necessarily significant. So a small sample size with a big enough mandate one way or the other can nonetheless be statistically significant and we need to bear this in mind. So, that is the caveat, but to reiterate the point it is good for grass-roots democracy. It will, I think, give people more of an incentive to get out there and to vote and it should be supported.

2.4.4 Deputy G.P. Southern:

Once again, we were lapsing into the "getting rid of the Constables" argument even from the proposer of the only bit of this referendum. It is not about getting rid of the Constables, it is about the method by which they become representatives in the States, not *ex officio* here, and that is important and we are already lapsing on it. What sort of steer are we going to get from the public if we behave like this and we are this inaccurate? Talking about inaccuracy, and the validity of any results, we have to, as again a precursor, just in the way that the essential change, it is a single type of member that we need in order to progress anything. The other thing, the essential change that we need in order to have anything valid from a referendum or indeed from an election is a decent electoral register that is kept up to date, that everybody is on. In the question of the Constables,

who loves the Constables best? It is the country Parishes. Where is the register most accurate? Because the Constables do such a good job, it is nice and accurate in the country Parishes. That is where your accuracy is. Where is the register and where is the campaign to register people in order that - I think the phrase was - I want to hear from the majority of the people but the wording says the majority of those registered. Where is it least accurate? In the urban areas and woefully inadequate. My estimate is that one in 3 of potential voters in the urban areas are registered accurately. Of those one in 3, what is the turnout in the urban areas? It is around one in 3. So we get to one in 9 of the people in the urban areas. Why is that significant if the only thing is going to be the role of the Constables and the way we elect them? Because that builds an askew. Unless and until we can guarantee that at least the registration is accurate and up to date and the vast majority of people who can vote are on it then we are - what is the word - whistling in the wind I think. The intent is laudable. The delivery requires a precursor. We have got to get a register that works.

2.4.5 The Connétable of St. Ouen:

I am afraid I cannot give an answer to the Deputy of St. Mary but I am sure that he will be able to find that answer on a website which he is very good at looking at. It just seems to me that this proposition should be an amendment to the Referendum Law not an add-on to a referendum proposition because in fact I cannot see it sitting properly. Yes, if the first part of the amendment had been accepted then I might accept that it went with it but with the falling of the first part, it seems to me that this particular proposition should be an amendment to the Referendum Law. I think there is also an argument to be had, if and when it is debated, whether it is human rights compliant because after all we do not swear an oath to the fact that we will vote one way or the other. The oath points that we vote on our conscience.

The Connétable of St. Mary:

This is not a speech. I would like to ask a question perhaps of the Attorney General Designate for the reasons exactly that the Constable of St. Ouen has just said. If a referendum was binding according to law, my understanding would be that the decision of the referendum would simply be adopted. However, this would simply say that the outcome of the referendum would be implemented by the States which seems to imply a further States decision which then seems to my mind to imply that I or any other Member would be given a steer as to how they should vote in order to implement that. I do not think that does comply with my oath of office, Sir, and I would be grateful for some clarification.

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

I am not sure I can give a clarification as to what might comply with an oath of office because I think that must be a personal thing for any Member. But there is no doubt in my mind that in the event that this amendment were to be adopted, this would necessitate a change in primary legislation which would need to be brought by way of a proposition. The States of Jersey Law of course provides that the membership of the States comprises the Connétables. In the event the referendum was passed in the form and it was deemed to be binding then that law would have to be amended.

Deputy P.V.F. Le Claire:

Sir, may I press my earlier point to the Attorney General Designate and ask him if he could comment upon my point which was similar if not the same but extended to the point about the time required in law drafting issues in relation to give effect to this request that we are being asked for.

The Attorney General Designate:

I have not been able to give any thought to precisely how complex the exercise would be in terms of drafting but I am aware that law drafting time is limited. A programme is established and I simply

do not know whether or not it would be feasible. I can only say that if the Assembly were to pass a resolution which required a law to be put in place so far as is possible in accordance with the timeframe suggested in it then it could well be that some other piece of legislation currently scheduled would have to drop out.

Deputy M. Tadier:

Can I ask for clarification? Since we are talking about the oath of office, I personally would like to ask whether it should be seen more as a direction for individual Members which is open to interpretation. The reason I ask that is because there are certain things which if we were to take the oath of office literally that would preclude us from other human rights such as freedom of speech. I can give an example. There may be Members in the Assembly who are Republicans who would be favourable of the abolition of the monarchy. I use that simply as an example. In our oath of office we are told that we have to uphold the traditions I believe of the monarchy. If we were to uphold the oath of office in its literal letter then it would be infringing on other human rights which are taken to be universal; that of freedom of speech.

The Connétable of St. Mary:

Sir, may I say is this relevant to the debate?

The Greffier of the States (in the Chair):

The Deputy was asking about the oath of office but the Attorney General Designate had explained he did not touch on the oath of office. Perhaps any advice, anything you can add, Attorney General Designate?

The Attorney General Designate:

No, I am afraid I do not think I am in a position to comment on the interplay between the oath of office. The oath of office is that which a Member takes. The Member must honour it and interpret it in the way that his conscience dictates it seems to me.

The Greffier of the States (in the Chair):

But if it does assist from the Chair, when the Bailiff approved the amendment it was on the basis that this Assembly is giving a public political commitment that it will be the same Assembly passing the necessary legislation. It is giving that public commitment it is willing to implement the referendum. It is nothing more than a political commitment.

Deputy A.E. Jeune:

Sir, could I just say probably just to clarify from my point of view, where I was coming from was in relation to this particular referendum and that it would be for this House to do during the duration of this particular Assembly.

The Greffier of the States (in the Chair):

It has been given inference at this stage.

The Deputy of St. Mary:

I am still not clear I am afraid, Sir. Maybe I just lost it a little bit. Could the Attorney General Designate confirm that the situation is that the Referendum Law, which I have here and have just glanced at, is an enabling law. It is very, very short and under it one brings a particular law to govern this referendum, for example, if it goes through. In that law there could be a clause saying binding or not binding or direction or whatever. Is the Attorney General Designate saying that that would take the normal 12 months or does the enabling law give us the power just to put the other one through quite quickly? I am still not clear. I am really worried about this time factor.

The Attorney General Designate:

I am not sure that I entirely understand the Deputy's question. He is entirely correct to say the Referendum Law which is short is an enabling law. It provides a framework within referendum can be put to members of the public. It provides for a fairly broad set of circumstances which can be included in any referendum document. It does not speak to the timing within which a referendum can be brought. A referendum can be brought whenever it may be brought in accordance with the rules. When I was talking about law drafting I was not talking about law drafting in connection with the precise details of the referendum. I was talking about law drafting inasmuch as it might relate to amendments to substantive legislation which would be necessary were the Assembly to honour whatever the referendum disclosed.

2.4.6 The Deputy of St. Martin:

I am sure there must be people listening to this particular debate wondering like I am, do we need this debate anyway because if we are not going to support the reduction in number of States Members we are not going to support a proposition to have a referendum about Senators. I put money on we are not going to support the referendum on Connétables. I am just wondering whether we need it at all. But I think the principle is important because what we want to do is get people out to vote. One of the concerns people always say, what is the point of voting? You never take notice of what we say anyway. But this particular occasion there will be. They know if they go and vote there will be that incentive. To me if we are going to have a referendum, it would make sense to support this particular amendment and I shall be giving it my support.

2.4.7 Deputy J.A.N. Le Fondré:

Yes, to an extent I endorse the comments of the previous speaker but I have also said I will not be supporting this because I consider that the fundamental question is flawed. From support of the question, yes, one should have some form of cut-off and be very careful and this goes into the wider debate about the percentages and the results and how you interpret them. I will touch on that in the main debate. The reason I wanted to speak was very briefly to pick up on something that Deputy Tadier spoke about from a statistical point of view. Statistics require a representative sample. That is the point of the normal distribution of the bell curve or the end distribution. I think in fact there is even a T distribution because it deals with small samples but there you go. But you cannot say that a low turnout vote is statistically representative of the population because it depends upon the makeup of those who voted. The 2 are completely different and you must be very careful about how you apply because that is why MORI polls are important because they are statistically representative. I just thought I would make that comment because it was I think misleading people in the direction to go.

The Greffier of the States (in the Chair):

I call on Deputy Jeune to reply.

2.4.8 Deputy A.E. Jeune:

I think we have probably had all the answers already, in so much as again I will reiterate the amendment was only in relation to this particular referendum and to be done by 2011 if it was to go through. It was this House to make that commitment on this occasion. But it is probably worth raising that in many other countries there is a requirement that a certain minimum turnout of the electorate takes place in order for the result of a referendum to be considered valid. That is pretty much where I was coming from. I call for the appel.

The Greffier of the States (in the Chair):

Yes, the appel is called for on the second part of the amendment of Deputy Jeune. If Members are in their seats, I will ask the Greffier to open the voting.

POUR: 18		CONTRE: 22		ABSTAIN: 0
Senator A. Breckon		Senator P.F. Routier		

Connétable of St. Clement		Senator T.J. Le Main		
Deputy R.C. Duhamel (S)		Senator S.C. Ferguson		
Deputy of St. Martin		Senator B.I. Le Marquand		
Deputy R.G. Le Hérisssier (S)		Connétable of St. Ouen		
Deputy J.A. Martin (H)		Connétable of Trinity		
Deputy of Grouville		Connétable of Grouville		
Deputy P.V.F. Le Claire (H)		Connétable of St. John		
Deputy I.J. Gorst (C)		Connétable of St. Saviour		
Deputy of St. John		Connétable of St. Peter		
Deputy M. Tadier (B)		Connétable of St. Lawrence		
Deputy A.E. Jeune (B)		Connétable of St. Mary		
Deputy of St. Mary		Deputy J.B. Fox (H)		
Deputy T.M. Pitman (H)		Deputy G.P. Southern (H)		
Deputy T.A. Vallois (S)		Deputy of St. Ouen		
Deputy M.R. Higgins (H)		Deputy J.A. Hilton (H)		
Deputy D. De Sousa (H)		Deputy J.A.N. Le Fondré (L)		
Deputy J.M. Maçon (S)		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		

LUNCHEON ADJOURNMENT PROPOSED

The Greffier of the States (in the Chair):

The adjournment is proposed.

Deputy M. Tadier:

Sir, before we do that. I do not want to interrupt the flow of the debate this afternoon and I would just like to make Members aware that yesterday I was asked for a point of clarification from the Constable of St. Lawrence about the issue with the Centenier and the beast of Jersey. I have the document, gratefully another Member of the States provided to me. It is an extract from the memoirs of the former Bailiff and also the former Attorney General, Sir Peter Crill. It does confirm in fact that the beast of Jersey and the Centenier was involved and that he got round giving his fingerprints to the police through his close relationship with that Centenier who I will not name. It is simply Centenier L.B. of Grouville. Members can read that I am sure. I hope they will be ...

The Greffier of the States (in the Chair):

You can place in Members pigeonholes and they can ...

Deputy M. Tadier:

That has been done.

The Greffier of the States (in the Chair):

Very well. The Assembly stands adjourned until 2.15 p.m.

LUNCHEON ADJOURNMENT

PUBLIC BUSINESS - resumption

2.5 Referendum: Position of the Connétables in the States (P.146/2009) - resumption

The Deputy Bailiff:

The Assembly is now returning to P.146/2009, the proposition of Deputy Tadier - the Position of Connétables in the States.

2.5.1 The Connétable of St. Ouen:

I think this morning's debate, if nothing else, supported my original contribution this morning in that I think Members have realised that the advice that I was given in Switzerland was the correct advice, that before a proposition for a referendum comes to this House, the question needs to be thoroughly examined and thoroughly thought out so that you do get the answer which is required at the end of the day. While I have no problem with the idea of referenda, the real issue here today is whether this question and the answer to this question will take us any further than where we are at the moment. I suspect that it will not. I suspect that as has been said by several Members this morning we know what the answer to this question is going to be. At the end of the day we will be no further off than we are now.

The Deputy of St. Martin:

Could the Constable tell us what the answer is going to be?

The Connétable of St. Ouen:

I think I said that it was pointed out by several Members this morning what they felt the answer would be and I agree with them. I think the answer will be that the public wish to keep the Connétables as is in the States. But I am trying to go by the advice which the proposer gave us this morning and not to mention Connétables or Constables. I am trying to address the idea of referenda. We are down to really the process of determining how the question is posed and what question is posed. I go back to what I said this morning that my advice on the Swiss system was that they had a cross-party commission who looked at the question and came to a resolution as to what that question should be. It has been mentioned this morning that there are several questions asked at the same time when put to the Swiss people. I do not doubt that for a moment because there is a National Assembly but there are assemblies at cantonal level and there are assemblies at town level. Yes, it may well be that there are a multitude of questions but I am not sure whether there is more than one question on one particular topic. The Deputy in making his proposition this morning mentioned that the public is unclear about the role of Deputy and Connétable. He went on about someone asking him a question about a parochial matter and he maybe having to go to the Connétable for the reply and maybe *vice versa*. I suspect that this is the problem with this particular question. I am not convinced that everyone will understand what is meant by this question. I am not sure whether they will understand the term "by virtue of his office". I think that if you are going to go ahead with this type of question, this needs to be sorted out before the question is put. There was also mention of the role of the Connétable at election time. While I agree that the Connétable organises election day, the appointed person for the day by the Royal Court is not usually the Connétable. Certainly in my experience over the many years that I have been involved with parochial matters in St. Ouen that if there is a question which involves a member of the Connétables or a member of the Connétable's family, he would automatically stand down for that day. I suspect that if this particular question were put by way of a referendum that the same thing would happen. In the accompanying report, the Deputy points out the States has spent countless hours in this Assembly and in P.P.C. over the years debating this issue and commissioned surveys and polls, all at a great cost to the public purse and all without being any the wiser. I entirely agree with that particular statement, other than the last few words, those of "without being any the wiser". It is my feeling that numerous decisions before and since the Deputy has joined this House have confirmed that we do know the answer to this question. I maintain that this particular question being put will lead us to being no more the wiser. Deputy Le Claire this morning tried to convince us that this particular question is of vital importance to this House. I do not agree. I think that we have some much, much more difficult questions to answer

and I think that that is what we should be concentrating on at the moment. I will reject this proposition and I urge other Members to do the same.

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

Like the previous speaker I have problems with the wording of the question that the proposer has drafted. He wishes to ask in a referendum: “Do you think that the 12 Parish Constables should have an automatic seat in the States Assembly by virtue of their office?” I must say if I was a member of the voting public, I think I would say no on reading that. Automatic seat. Why should anybody have an automatic seat in this Assembly? It strikes me that this is a leading question. I think that questions in referenda must be put in a fair way. If I can offer the Deputy an alternative version of the question I would say: Do you think that the role of Parish Constable should include representing his or her Parish in the States? Perhaps you could argue that is a leading question designed to get people to say, yes, I think it should. I think Constables should represent their Parish. But the point that I am making simply illustrates that the wording of this question is vitally important. The wording that we have been presented, it seems to me is defective. Possibly my suggested wording is also defective. But more work needs to be spent on that wording before we agree to have a referendum. I have no objection to asking the public about the role of the Constable in the States and I have no objection to doing it through a referendum. We have to get it right. The States have to agree the wording of the question. It would have been better perhaps if the Deputy had formed of group of interested States Members including some Constables and done some work on that wording before bringing it to the House for a debate. Having said that, I think that many Members and many members of the public would far rather have a referendum on a whole reform, a whole package of electoral reform. Son or daughter of Clothier is what we should be giving to the public to vote on in a referendum not just the narrow issue of the role of the Constable. That is why we had amendments about the role of the Senator as well. Let us ask P.P.C. to do that work, to come back... this frustrating process of one proposition after another trying to tinker with the mechanisms of the States. If it is time to have another Clothier review, let us have one. Then let us put that to the public in a referendum. But let us not try and deal with it in these bitty *ad hoc* ways with wordings that are simply not up to the job of a referendum. Clearly I cannot support the proposal in its present form.

2.5.3 The Connétable of Grouville:

At the risk of repeating what I said earlier on the first amendment, I have to say the wording of the amendment is stage 1. Stage 2 is when you get the result of the amendment, what do you do with it? We have no clue here whatsoever. Is there going to be a cut-off point? Is there going to be a stage when we say we will take notice of this or if it is too low will we ignore the whole thing completely? I would like to know the proposer’s views on this. Whether he thinks there should be a cut-off point, at what stage we should listen to it and at another stage if we should in fact move on it.

2.5.4 Deputy P.V.F. Le Claire:

At one point in my political career I sat much further to the left than I do at the moment. At another I sat much further to the right. In fact at one stage I sat a couple of seats to the right of the Constable of St. Ouen but I have never felt that he or I were very much apart. On many of the issues that have come to the House I have always believed the Constable of St. Ouen has brought not only experience and wisdom but also a sense of Jersey that has been valuable for many of the debates that we have heard the Constable contribute to. I certainly did not want to put across to Members that I believe that the issue of this particular proposition was of more importance than any other issue that comes before us. I was trying to put across, maybe perhaps not as well as I would like to be able to put across, some of the sentiments that were put across by the Deputy of St. Mary. That is really representation. I wanted to try to squash the myth that we do have a notional or an on-message view that we have more important things to deal with than constitutional reform. I

started to think last night for the first time as to what would happen ... with your allowance, Sir, I will not deviate more than 30 seconds or so but I will come back straightaway if I can. I got to thinking what would happen if we got rid of the Law Officers and the Crown appointees from this Assembly? In the future would they be there to stick up for us? Many times in the past I have been considering propositions where as a Senator I felt that I needed the support of the Constables to stop an ill-thought through proposition that wanted to do away with the Island-wide mandate and reciprocated in supporting the Constables retaining their position in the States as a Senator because I thought that a lot more people vote for Constables in Constables elections than vote for some Deputies in some Deputies elections. Really from a proportional representation perspective, Constables have a larger mandate than many Deputies. I would imagine and I would assume, though I do not like to assume, I would imagine then that most Constables if they stood against the Deputies in the Parishes would beat them hands down. The thing is the position of Constable is something that this Chamber has evolved through and into and belonging with. As we have heard before in many other speeches and debates, it is the one of the oldest positions in the Assembly. I think it is really the peculiarity of the requirements of the personality and skill sets for the office that is required within the parochial role. But maturing in politics as I am, albeit perhaps a little slower than some Members would like, I have started to understand that the Deputies also undertake a parochial role. Normally that is driven home by 8.00 p.m. meetings at night in the Parish of St. Helier when most members of the public think we only meet on Tuesdays. I have come to the belief that I do think the wisest thing for us to do is to try to increase the electoral register and empower the electoral register and improve the desires of the public through the involvement of the public. But I do not believe *ad hoc* propositions will be supported if they are brought in isolation. I certainly think when you lose a Senatorial element or you lose a Constables' element or if we are in such a financial mess or a political mess as we find ourselves in at times, particularly now, then people will just suggest we are not including the Senators so we cannot do this and we have got far more better things to be getting on with. It would probably annoy people to hear this. I still would suggest that the mess that we are in, that we need to tackle now is because of the political inactivity in resolving some of the constitutional aspects of our society which would have allowed us to have had better political representation and would have allowed the thoughts and the wishes of the people to have steered us away from some of the political messes and financial messes we are in now. We are only basically managing the political mess that we have achieved out of what has been a *de facto* one party State for the last 10 or 20 years. I think Deputy Tadier really has done well to bring a proposition and as a new Member has still a little way to go in finding his feet. But I am sure that given time he will overtake me and journey further and higher above the offices that I have held because of his intellect and his ability. But I do think that he has got some way to go in catching me up in relation to understanding the nuances of the political Assembly and the individuals within it. Therefore, although I am minded to support this, I also would support and encourage him to take up the offer of the Constable of St. Helier and after this proposition not just walk away from the issue of political reform but campaign for it. Campaign for it within the Assembly and without the Assembly. Campaign for it among the population and campaign for it within this Assembly. If he does get a take-up from Constables to increase electoral representation through the empowerment of the electoral roll then great. If he does not get any take-up then he can just campaign away with those of us that would support him outside of the Assembly. I have strayed far enough. I do not know if this Assembly has got the stomach for political change. I think I have the stomach for political change. Deputy Tadier is trying to interject my speech with political dialogue between myself, a discussion which is not obviously possibly the wisest use of his time and effort. Have I got the stomach for political change, nevertheless, he asks of me? He says it does not sound like I have. I have but I want meaningful and realistic and workable change. I do not want wholesale change that is going to be worthless. If you are going to get into a political fight then get into one that is worth winning which this is - political representation - but also get into one when you are holding the high ground. Choose your battles well. Do not fight at the wrong time which this may very well be. Do not

come at it ill prepared. Yes, I have stomach for engaging with the issue but I do not have stomach for any more defeats. Deputy Tadier no doubt will take up my speech when he finishes but what I am trying to suggest to him is that already I sense he is going to find this difficult to win. I will support him but I am trying to offer him a realistic chance of getting the end goal. In my belief it is not getting rid of any sector necessarily. Possibly having one Member is better. But the end goal should surely be worthwhile effective representation for the people of Jersey through this Assembly, whatever we call ourselves and however we divvy up the charts and however we cut up the map. What we need to achieve is we need to achieve an effective government for the people of Jersey and not just whether or not the Constables should be sitting in here *ex officio* to their office or not. I have said to him from the beginning that is really where he is losing it. It is not about that old argument. That old chestnut has been worn and ground down to nothing now. I sense I have annoyed him so I will probably sit down. I tried to encourage him but there you go.

2.5.5 Deputy A.K.F. Green:

I will not speak very long and I did hold back this morning from speaking on the amendments. I did say in a very short speech I made on one of the amendments that I will not be supporting any of this. Why will I not be supporting? While I reserve and respect the right for Members to bring propositions, we have already had a go at change in this Assembly in the time that I have been here. I think tinkering the way we did last time, not because of the proposition that came from P.P.C. but because of the amendments that came, we have created a problem already with the Senators' post I believe, although I agree with the general concept of a one day election. I think it will put people off applying or standing for that post or Deputies standing for that post because of the problems that they may not get in as Senator and then will not be able to revert back to the post that they were in. We have already started to interfere with the system that we have. I agree with the Constable of St. Helier that if we are going to do this ... I know we are talking about referenda really but if we are going to look at change we need to look at it as a complete package and not a bit here and a bit there and build up expectations with the public that we cannot meet or may not be able to meet. Therefore, I will not be supporting it obviously. I wrote down this morning when I was listening to the Constable of St. Ouen and the Deputy of St. Ouen; wise words from the west because to write a questionnaire or ask a question in a referendum - I have done a number of surveys in my time; I know that is not a referendum - you have to be very skilful at writing the question if you are going to get the right answer. By the right answer, I mean the answer that people really think not the one you want them to give you. It is very, very skilful. That is another reason why I could not support it. The other reason - and the Constable of Grouville has already mentioned it - I do not think we would get a representative view from the Island. I wrote down 28 per cent. I think the Constable said 30 per cent. That is not truly a representative view. It might have been if we had done a whole mini-Clothier or done a complete review and then went for referendum on the election day. You might stand a better chance of getting a wider representative review. But we have not done that. I think people are fed up with us talking about ourselves. Look what is on the agenda for this week. We still have not done the Depositor Compensation Scheme. We have achieved very little except spend most of this morning and the rest of the afternoon if we are not careful talking about ourselves and achieving absolutely nothing. I would urge P.P.C. to look at changing Standing Orders so that we can only have one constitutional debate per the life of the Assembly because otherwise we are just going to ... I have no doubt we will be getting another proposition with a different version in the next few weeks. Are we just going to spend our time looking at ourselves instead of getting on with helping the people of this Island? Those that are unemployed. Those that are not getting the services that they require from Social Services because the resource is not there. I know the Minister is working on it. Those are the sort of issues that we need to be working on. Ensuring that the income will continue to come from the finance sector. Those are the issues we should be working on not talking about ourselves all the time. So I will not be supporting this.

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

I am sad when I have to follow Deputy Green and totally disagree with what he was saying. The public are fed up with us talking about ourselves. Ourselves are the people who ... he was knocking on their doors over 10 months' ago saying I am going to represent you but I know what you think as well because you do not want this because I know you do not. I have heard from the Constables today. In the last debate - P.72 - the reason to dismiss everything in that was they had no phone calls. Nobody was interested out there. Nobody wanted any change. No, people out there are so fed up that this change has been coming for 10 years and nothing has happened that they will not do anything. They will not phone us any more. We have a start today. Deputy Tadier may have got his question wrong. I will have to disagree again with my Constable. Do people understand? Do people understand? There are people listening out there. Do they understand what the virtue of their office is, the Constable, by sitting in the States? If this does go out to a referendum, they soon will because there will be the yes and the nos out there doing the Hustings and telling people. After Clothier I get so angry that we are 10 years' down the line. I have supported the Constables in the States. This is not a debate on whether you, Deputy Green, anyone else who has spoken to say that Deputy Tadier's proposition is absolutely worded wrong, this is wrong. We need to go to the public. All right, we have voted down other amendments. I do agree that if it is voted down today, he really has to work hard and tell people that you will have a chance. You will have a say in what is going on in the States and who can represent you. Although I agree to some point that we are spending time but people out there that I speak to when I knock on the door are: "Well, does anything really change?" Deputy Green even seems to be against Senators cannot have a re-bite of the cherry now because that is really what used to get up people's nose. You go for what you want to be. You go now. On the election day you will go for Constable, you will go for Senator or you will go for Deputy. Yes, there will be no second bite of the cherry until the next general election. What is the harm in that? People tell me that all the time. Maybe I am talking to different people to other people. What I am saying is why do we not? The Referendum Law has been in since 2002. The only thing we have ever taken was do you want to put your clock forward or back [Laughter] the same time as Europe. That is really interesting. It was interesting. We did it on election day. You have got the people there, why not ask them a question that will not really break the camel's back. They are not going turn out for it but it is done on election day. I am very sorry, I do not know. I do not know now, 10 years' on, what the people out there want. But judging by the turnout over the last few elections, they are certainly not happy with the system they have got. I may be wrong but I am willing to put it to the people.

2.5.7 The Deputy of St. Martin:

So much for fresh blood. So much for fresh thinking. Even less people voted pour this time then what they did 5 years' ago. My amendment really was to take away the focus from the Connétables. What we are getting into, should Constables be in the States or should not be, is not for us to decide. What we should be deciding is whether we want to give the public to have a say. I think we are simply getting away from that. I do not want to be dispirited for Deputy Tadier because I have been there before. I have already been there and I have lost this morning. It is interesting to know that the chance of this getting through must be very high because we have had 3 Senators voting for a referendum about the Senators and we have had 2 Constables voting that we should have a referendum for the Senators. I do not think there is going to be much support from the Connétables or the Senators having a referendum on how the Constables will be, which is a shame really. But I would like to pick up a point from the Connétable of St. Helier who I do not think was present in the Chamber this morning when I was singing his praises because he stood out like a beacon last time because he was the only Constable who voted for a referendum. I know Senator Norman in those days voted for it. He is now a Connétable. But I did expect you to be at least supporting the vote this morning but I do not think you were present this morning for the vote. Now I see the Connétable of St. Helier is unlikely to vote because he is not happy with the wording. If it would help the Connétable and other Members, when Senator Norman brought his proposition to the States it was: Do you agree that Connétables should no longer be entitled to sit in the States

by virtue of their office but should be free to stand for election to the States if they so wished? Quite clear. Deputy Tadier is asking the public: Do you think that the 12 Parish Constables should have an automatic seat in the States Assembly by virtue of their office? I would have thought it is either yes or no. I do not think it is implying anything. If you know anything about the role of Constable, either you say yes or no. But we are not going to give them that opportunity because we know what is best. Unfortunately I do not think the Connétable of St. Ouen is here but he is telling us we all know what the answer will be. In actual fact if the answer is that there is an overwhelming support for the Connétables in the States, I will be pleased with it because at least we have got a decision because at the moment we have got everyone telling us that we all know what the result is yet we have not got the courage to put it out to the electorate to make sure that we know what the result is. It is rather disappointing really that we are not even going to allow the horse even to get to the starting blocks. That is a shame because I think what we should be doing here is looking as a vote of confidence for the Connétables. That is how it should be. I would hope that the Connétables ... I see the Connétable of Grouville would like to ...

The Connétable of Grouville:

Just a point of clarification. Can the Deputy tell me what he considers an overwhelming amount of support would mean? What would it be? What are the numbers?

The Deputy of St. Martin:

Overwhelming means that there are more people voting for something than voting against it, as I would see it. Obviously if you want the word “overwhelming”. Maybe if I take away the word “overwhelming”. What we may well see, there is this real support for the Connétables to remain in the House. If that is the case so be it but at least we know we have got that support. But at the moment all we have is anecdotal evidence. Everybody knows depending who you speak to. Of course if you go to a Parish Assembly where you have a dozen, 15 people there, maybe even 30 or 40 people there, they will all say keep the Constables in the States. Quite right and I am sure they will all come out and vote to keep the Constables in the States. In fact that is how it should be. But they are not going to have that opportunity providing we keep taking that opportunity away from them. Today that is what this is all about. Not us deciding whether Connétables’ roles should remain in there but whether in fact we should give the opportunity to the public. I would certainly ask Members really to think seriously that we are going to look for change. In particular it is so disappointing that I thought we had a number of people come into the House with a mandate. They were looking for change. Yet when I asked the Greffier for a list just to remind me of the amount of fresh blood that voted pour to allow the public to make a decision about the role of Senator, when I see all that fresh blood voting contre, well. Deputy Tadier, I will not go down to put money on this now because I think the chances are we have not got the courage in this House to give the support for your amendment or your proposition. I would hope I could persuade Members at least to give the public that opportunity, see that they have got the confidence in the Constables. I shall certainly be supporting the proposition.

2.5.8 Deputy J.A.N. Le Fondré:

Sorry, Sir, I thought I was further down the queue. I have always found it slightly difficult to get my position straight on this proposition and in general because I have got a fundamental unease about referenda. There is talk about giving the public a direct say on States reform, putting the issue to bed once and for all, that the referendum process will engage the public. Boy, do I really wish that would be the case. I think that is rather naïve. I have lost track as to how many propositions and amendments I have taken part in or even brought and that is only during 4 years. I hate to think about how many of these debates Deputy Le Hérissier and the Deputy of St. Martin have taken place and have had to endure. I agree with Deputy Green. I think the majority of the public do not particularly care what we decide today. I think at present, bearing in mind that some of them have very recently lost jobs or have job threats or have wage freeze whatever, they would

like for us to focus on the bigger issues out there, fiscal matters. I am an accountant. That is I think where we should be going. That is the kind of big priority we face and that is going to take some time to sort out. I am going to go back to the theme of deciding once and for all. Members may recall that a former P.P.C. brought proposals to this Assembly including taking such proposals to the public in the form of a referendum. We are kind of back where we were 2 years' ago I think. Members I think are also very clear that this is not binding. That is another problem. We are talking about a fundamental change. If a decision is taken as a result of a referendum to remove the Constables from the States - and that is slightly different because obviously the question in theory is not to remove - we are talking about removing 23 per cent of this Assembly. That is pretty fundamental but with no suggestion in the question for engaging with the public on as to what we do with that 23 per cent. What is going to replace it? Do the public not have an influence in that as well? I am going to take your sweeties away with one hand but I do not know what I am going to give you back with the other hand equally. The Constable of Grouville has referred to it so I am definitely not going to go too very far into it but what percentage are we talking about? Ultimately, 51 per cent turnout, 60 per cent of people vote in favour of something, that is 30 per cent roughly of the population. That is not a mandate for change as far as I can see. Deputy Tadier, because I am sure he will, will probably say if I have had those sorts of concerns I should have brought an amendment in the same way that Deputy Jeune did. What I will say is I have been through this process before and I still bear the scars of that debate. The logic I used was a corporate analogy where any fundamental change in the rules governing the constitution of a company requires a special resolution which normally requires a 75 per cent majority of those entitled to vote. That is because it is so fundamental to the running of the company. What are we talking about here? A very fundamental change into the running of the Island. I think we have touched on it elsewhere. What level do you bring the change in? I will not go over the history. I do remember being very battered and bruised. In fact Deputy Jeune I think doubled the result that I got in those days so possibly there is progress on that matter. But the main proposition will potentially direct us to do something or to throw everything out on the basis of a one-third result if we are lucky. People may turn around and say certain Members were not even elected on that type of percentage. But that is individual Members. We have to try to get the turnout up, *et cetera*, but changing the very foundations of the States should not be done on a whim. As far as I can see we are just setting ourselves up for another public relations mess because we will either end up changing something on the basis of a minority review or we will turn it down and be accused of not listening. So as for solving the problem once and for all, I do not think so. I have said I do not think the majority of public opinion is particularly concerned on the matter. Obviously that is my opinion. But Deputy Tadier has talked about engaging with the public. However, how do we ensure that there is adequate knowledge of the issue and the consequences of the results? I like to consider - and people may well challenge me on that - I feel myself reasonably well informed. But I certainly do not fully understand the full history of the role of Constables and all of the roles that they perform or of the full consequences of their removal. I once asked about changing their oath to get rid of this label of an automatic right to sit in the States because I have always found that a very tenuous argument. The trouble as I have understood it - and this is from recollection - is that their role is so intertwined with numerous parts of legislation, customary law and our history it is not such a simple change but potentially with the will it is doable. But this is all part of our custom and our heritage and in my view we risk it at our peril. I am going to go not off-tangent as such but I was elected on the platform that included strongly supporting the Parish system and considering the Deputies and Constables as an essential part of that system. I do not recall any questions being asked of me, either on the door or at the hustings this time round. In any case I was elected on that basis. What I will also say is - and reference has been made to it to a certain extent - the principle of the same day elections has been approved. That is a step forward but do not muddy the waters. Let us get that adopted first. Evolution rather than revolution, as I said then. Sorry, Sir, a private joke shared with Deputy Trevor Pitman over lunchtime. Let us see how the public engage with that change. I will say I have had more positive feedback on that one issue than anything else that has

happened in the last 4 years and that is including from people who I do not normally imagine follow politics. We have had MORI polls on this subject. The Constable of St. Mary has very clearly set out the position that the polls are statistically representative, that their base should be far more reliable. I think we do have a clear view on the position of Connétable. The polls say it is supported as is the Island mandate. Put all that aside. Let us talk about the proposition and the issues coming from that and the question. The Constable of St. Ouen has already talked about the care needed in developing questions and of the experiences of Switzerland on this matter. I know Deputy Tadier did a bit of investigatory work on the Internet or sometimes referred to as evidence by Google I think. But I think he missed the point. In the interchange that occurred earlier on - I think it was this morning - the Connétable of St. Ouen was trying to say that Switzerland had very, very clear standards and procedures to define the question whereas it is not about I believe those items that Deputy Tadier quoted from which is basically the results of the referendum and how well they worked. The Connétable of St. Ouen is talking about the process of putting that question together. Question: Do you think that the 12 Parish Constables should have an automatic seat in the States Assembly by virtue of their office? I have to say, in the same way as I think other people referred to, I think it is a slightly slanted question or at least overly simplistic. But even if it was not - because that is obviously my opinion - what happens if the answer is a resounding no? In other words, the Constables should not have an automatic right to sit in the States by virtue of their office. There is not a solution to the question that is offered as part of this whole process. It does not automatically mean their removal, I would argue. It could mean, assuming I have got my facts right, that we just have to change the oath of office, bearing in mind not you, Sir, but your predecessor would probably go pale at the prospect from what I understand because it is immensely complicated. It is not an unambiguous question with a clear consequence. Yes, Sir, successor. Therefore, I think again will just end up in a complete mess. How would we interpret the results? That is why the question is flawed. That is my answer to the earlier question that Deputy Tadier raised, I cannot remember if it was before lunch or after lunch. Equally, how would the public when they are voting on it interpret the question? Therefore, I think it is naïve I believe. I think it is possibly well-intentioned. The question is not clear. It is not unambiguous and it does not have clear consequences. I think on that basis I do not think this proposition is supportable. I am certainly not supporting it as is probably fairly clear from my speech and I hope most Members will vote against it.

2.5.9 Senator J.L. Perchard:

As I said earlier on the amendment on the Senatorial positions, I think Constables are greatly valued by Islanders and they would have nothing to fear at all from a referendum. Personally I think we could put this to bed once and for all and the position of Constables will be confirmed by the Islanders and perhaps people like Deputy Tadier could be satisfied. It has been mentioned there is a problem with the question. I think this is probably a slight of hand to distract Members from the core issue. This is not a problem question for the people of Jersey. They will enter a ballot booth knowing that a yes will mean, yes, they want the Constables. A no will mean, no, they do not want the Constables in the States. Do not belittle the integrity or the intelligence of the electorate by using this diversionary tactic that the question is not quite as Members would wish it. I am disappointed that we are not using this opportunity, if we hold a referendum, not to have asked the second question which Deputy Hill proposed about the Island-wide mandate. Again it would have put this question to bed. We are wasting a wonderful opportunity here. An opportunity to engage the public, to engage the youth, the 16 and 17 year-olds of Jersey to really work with them so that they understand what politics is about and they can get behind their Parishes and their Constables and support them as I know they will. Again talking of diversionary tactics, Deputy Le Fondré set an extra set in the other direction just now when he said, what would we do with the 12 seats that were vacated? Again that is not a reason not to hold this referendum. One would assume the 12 seats that were vacated would give an opportunity to correct the electoral deficit that Deputy Wimberley spoke of at length earlier. Finally, Deputy Martin reminded us that we know how to

hold a referendum. We have done it recently. She said we held a referendum on something as trivial as moving the clocks forward. I suspect Members like me wish that the Island had accepted the idea to move the clocks forward. Probably if we had this debate would be over.

2.5.10 Deputy S. Power of St. Brelade:

I will be very brief. It is not 5.35 p.m. like it was last night but I have a short speech. My first concern with my Parish colleague's proposition is the use of the word "automatic". I think the wording of the proposition is ambiguous because of the word "automatic". There is an implication in the use of the word "automatic" that the process of election or the process for election of a Constable is in some way a process which is not comparable to a Deputy or a Senator. I find that is the first reason why I will not support this proposition. Constables are elected as we all know. They are all elected every 3 years. Different times up to recently but now they are elected every 3 years, whether the election in that Parish is contested or otherwise. That is irrelevant. There is an election. In the last 4 years that I have been honoured to be in this Assembly I have to say that in my work in Les Quennevais and La Moye and in all my other work, with phone calls from other parishioners from other Parishes, whether it is housing work, whether it is planning work or whatever, I have to say that on a scale of one to 100 this issue as far as my own personal experience goes, rates about a one. Out of a one to 100 and that is my understanding of a clamour by the public to determine the status of a Constable in this Assembly. I would go further to say that there is little or no clamour for a decision on the Constables outside this Assembly. The clamour is inside this Assembly and I think that this type of proposition, and with all due respect to my colleague in St. Brelade, is reflective of part of his own opinion. If we look at the voting returns, if we look at the participation in Parish elections, say going back to the early 1990s, it is very clear that where there is a contested election for Constable in Parishes, the voter turnout is very high. I think that, combined with the statistical information that has come out of the MORI polls, indicates very strongly that the public wants to retain the Constables. This Island has many, many issues to face in the next foreseeable future. I am not going to run through them all, you all know what they are. We discussed some of them this morning, the Health and Social Services issues. We have black holes, deficit budgeting. We have got migration issues. We have got issues, which are outside the scope of this proposition and I think we should be concentrating more on these issues, as Deputy Green said, that are affecting us. We need to move on and make important decisions in this Assembly. That is what we were elected to do and I do not think that this is one of them. Deputy Le Fondré said that he had reservations about referenda. I do not if they are constructed properly. I voted in 2 myself in my own homeland and we heard the Constable of St. Ouen this morning discuss with his colleagues on A.P.F., the Swiss experience. I think a referendum can be a good thing and I think it can be a valuable tool in a democracy, but I think for the reasons I have outlined, I cannot support this proposition and I will be voting against it.

2.5.11 Connétable L. Norman of St. Clement:

I have got absolutely no problem with the wording of the question and I do hope that Members are not going to use that as an excuse not to support this proposition, because I have brought one or 2 propositions myself over the last 9 or 10 years about reform and have always been amused and wondered at the ingenuity of Members finding excuses not to support a particular amendment. But there is the problem with the question. It is not the wording; it is the fact that it is out of context. It is in a vacuum. People are going to be asked this question, whether they like the Constables being in the States or not, without knowing what the implications of a negative decision would be, which is not very helpful. People do need to know what result of any vote, any decision they make is going to be. They are not being told and quite honestly I do not think that the Deputy knows. So in that vacuum people are likely to vote for safety, for security, for something they know. So they are likely to vote for the *status quo* and support the Constables remaining in the States. So it is not a proper question. If you ask the question in the referendum, something like: "Do you agree that the States should be made up of 42 elected Members, all elected on the same day for the same term and

on the same basis?" That would ring a bell with people I think, and I think they would be more likely to support it but that would mean removing the Constables from the States. So you get a totally different result by asking a different question. Now I am one of those fortunate Members, I think like Deputy Green, I do know what people want. They want to keep the Constables, they want to keep the Senators and they want to keep their Deputies, and they want to have fewer States Members and they want them all elected on the same day and on the same basis and on the same terms. That is total confliction and the only way you could change all that is to show some leadership and we have not done that over the last 9 or 10 years. We have debated these issues goodness knows how many times and we cannot reach a consensus in this House. We just simply cannot show leadership and quite honestly this question, this referendum, does not show any leadership at all. It is a simple popularity poll taken at an instance about the Constables. I am quite happy for there to be a referendum but whatever the result of it will be totally meaningless and make no difference to the constitution and election of the States, which is the real issue that we should continue to address no matter how bored some of us might be getting with it.

2.5.12 Deputy G.P. Southern:

Again I will try and be brief because for some of us it is several times round the block on this particular question. The first thing to say is would this be a useful referendum? Would it give us a steer, and notwithstanding my reservations about the inbuilt bias that might be there with the state of the electoral register in urban areas, and whether that bias the answer. I think the answer to that question would be, whatever the result of this referendum I think it would be useful. I say that because in 2006... which is quite a while now that the MORI poll was conducted. The question was: "To what extent do you agree or disagree that Parish Constables should remain in the States?" It did not mention how they got there, just "remain in the States". Whether or not that is the right question to ask, and this question is different, it already points to something perhaps different, but it is worth remarking that in terms and the gradations were Strongly Agree, Agree, Do not know or Do not care, Disagree and Strongly Disagree. If you examine the results, this provided the sharpest distinction between Strongly Agree and Strongly Disagree. It was a mere 30 per cent to 21 per cent. Now that, to my mind, reflects a strong division of opinion between for and against. If you take in the merely Agrees, then the margin becomes 54 per cent to 35 per cent. Now assuming a different question and assuming that some of those people who said they agreed or disagreed rather strongly perhaps fiercely agree or disagree, and some movement among them with a very specific and different question that is the subject of a campaign, I think the potential is there that we would get a different result. That might turn out to be strongly agreeing with the *status quo* and the present position or strongly disagreeing, or it might be fairly balanced. Either way that gives us a steer. Even if it is fairly balanced and the House looks at that and says: "It is neither one thing nor the other, we do not have to act and we will not change anything perhaps." Then that gives the marker for the future. I would argue that depending on the turnout and depending on what has happened to the electoral register by the time we have that, I think we might find strong evidence for improving the quality of our electoral register. I hate to disappoint Deputy Green who does not want any more talk of constitutional or electoral change, I am going to be bringing some more stuff on electoral change because I was elected on a policy of ... 3 strong policies; fair taxation, tax reform, population control very strongly, and electoral reform because it is one of those chicken and the egg situations. How can you bring about change in any way whatsoever until you have fixed the machinery? I think that by and large the machinery is fairly broken in terms of responding accurately and promptly to what is going on for people. So I think it would be useful. Again we are reminded that we are starting with the wrong question and the Constable of St. Clement, who I for some reason consistently keep agreeing with despite our different politics, and the Constable of St. Clement said that the right question is the one about a single membership. Then you can get your general election and then you can get things moving. Nonetheless given that reservation, given the reservation I have about the state of the electoral register, this is a question I think is worth supporting and going forward with and we will get a steer from. Just briefly in

response to Deputy Power who cannot understand the question and says that I do not see a difference between the Constables and the Senators and Deputies, as many who also said the question is not clear, the electorate will not understand it. Please, I would say, the question is perfectly clear to me, it is perfectly clear to many people. Please, please stop underestimating the electorate out there. They are sharper than we often think and to do so is quite patronising. The question will be clear; it certainly will be if we are clear about what the issue is when we campaign for it or against it. The result. So, worth going ahead and I will be supporting it.

2.5.13 Deputy J.B. Fox:

Deputy Tadier is a new Member. He is also a member of the P.P.C., which I am on and 7 other Members who are incorporated with the P.P.C. and we have been charged - and previous committees - of finding a way forward from the time of Clothier, 9 to 10 years ago. We keep coming back and we keep coming back and we act piecemeal when we cannot put things together. Today we have had a very long and a very good argument, probably at the wrong time because we have got important things like depositors' compensation schemes, which I would imagine, is probably top of everyone's list at the moment. So why I was going to ask and the reason I am standing up at the moment, is Deputy Tadier, whether he would consider setting aside this proposition at this moment in time and go back to P.P.C. of which he is a member and I am a member. It is a working group that is made up of diverse Members of this House. We have heard all the various viewpoints of this House and yes it would not be available for the next election but the suggestion I am going to make to you is probably more likely to get a positive resolution. If we could look at having a referendum at the next general election as we are having it, and that would also become an election issue when the opinions of the public can be couched and received, that would allow a far greater understanding of the question whatever it is or whatever they are at that time of the election. Then that would allow the constitution to be reviewed at a time that was fresh and it would also allow for any propositions to be subsequently brought to the new States with a view to any changes that were brought out and considered at that particular election. That is all I wish to say at this moment in time. I believe that we should wait until we can do a proper job on it instead of doing things piecemeal at this moment, which I am sorry to say to you Deputy, I do not think you are going to achieve in this isolation but you could do if you would bear in mind of what I am suggesting.

The Deputy Bailiff:

I think this is the fifth time this afternoon that Members have not spoken through the Chair. Can I remind you gently, please to speak through the Chair? Does any other Member wish to speak? Connétable of St. Mary.

2.5.14 The Connétable of St. Mary:

I am just having a little trouble finding my feet here, there are so many papers down here. There is nowhere to stand. It would be useful perhaps if there were fewer Members then I could have a seat to put my papers on. When proposing the proposition Deputy Tadier asked a question, yet I think now it was such a long time ago, is this a valid question for a referendum? Well possibly I think it is. He said that referenda could be used for constitutional issues. He then went on to say that the Rectors and Jurats were removed and so there was a precedent for removing a class of Member if that was to be the outcome. Well, certainly that is true although of course the Rectors and Jurats were not elected by the public the way that the Constables are. He went on to say that we had not been able to make any decisions. I think that is a fundamentally misleading statement. In this present Assembly alone we have made decisions, we have decided not to remove the Connétables and we have decided not to remove the Senators. We did this after a lengthy debate, we did this after a proposition with a number of amendments that were debated at some considerable length, 99,000 words of extra debate for example, so it is quite wrong to say that we are incapable of making a decision. One thing that springs to mind from this question as it would be posed is - I am

not clear and perhaps the proposer will make it clear to me - if we did have the referendum and the answer was given that the public were not happy that the Constables had an automatic right of sitting in the States by virtue of their office, would they be able to stand as another Member, because previously of course that was always one of the things that went along with that question? But as we have now as an Assembly moved to a single election day with all the classes of Members being elected on the same day, I am not sure how that would work and I am sure that is one of the first questions that the public would ask. I am not sure of the answer and I would like to know from the Deputy who is going to provide the answer? That is in his summing up. The public will be asking questions. Who will answer their questions? One of the most useful ways in which referenda work is where there is an issue which has a real polarising effect, and the Deputy has certainly used the word polarising several times in his proposal, but from my point of view I have not had any on-the-street evidence of a huge movement on this issue. I am wondering who is going to generate the momentum for putting the case for either a yes vote or a no vote, because traditionally that is one of the things that happens during a referendum. I am not sure where that would come from. Of course we have only had one referendum in the past and that was the one that Senator Perchard's proposal referred to, and of course in that time a group of concerned Islanders who were against the move to C.E.T. (Central European Time) got up a sizeable campaign. None of that was funded with government money. That is very important. None of that adds to the cost of the referendum. There has been a call from some speakers for a wider referendum, that we should not be looking at this on an issue-by-issue basis that we should put forward a much bigger picture. But again I think Senator Perchard, who is probably the Member with the strongest penchant for referenda, did put down a sizeable referendum for debate in I think it was 2007. He put down a whole list of options he wanted to have put to the public, and generally what was thought as a result of that proposition was that it would not advance our knowledge at all because unless you want very specific - when there are either/or options or too many options for consideration, you again do not get the clear steer that you are looking for. In fact the P.P.C. of the day said as much: "It is unlikely that this will give any clear steer on the way forward and will delay the possibility of introducing transitional arrangements for 2008." Gosh that was a long time ago was it not? "It might even preclude any reform for the foreseeable future." So that was exactly how right they were but we have heard that some Members would like a much wider referendum and I have just shown that does not work. We have seen that some people have said you can be too narrow and too focused with a referendum because it does not address the issue in the context and I think that is valid too, but what must be said is that a referendum must be questionable unless there is a huge information campaign to advise the public of what will be involved, and I have not heard any mention of how that will be funded and who will be responsible for it. I really look forward to the proposer's summing up when he can tell me about that because as far as I can see it, the extent to which P.P.C. would get involved, might legitimately get involved with the use of taxpayer's money for this, would be in publicity for the event itself and in encouragement for people to register and participate. But whether it should get involved in a for or against debate would surely be a political matter, not for the use I would think of taxpayer's money. In the past when P.P.C. has put forward a referendum, that has been consequential to the acceptance of a proposition setting out the terms for reform and therefore there would have been a States decision tying down the reform which would then have gone to the public for a confirmation, an affirmation if you like, and would be a completely different scenario to the one now. Deputy Le Claire said that there were people out there who, and this is something he said in an earlier speech, there were people out there who do not go to the elections. He seemed to be saying that a referendum might engage those people in a way that the elections do not and really I question what the evidence for that would be. The people who do not necessarily get involved in elections and do not get involved in other things are exactly the kind of people who are more likely... who have a chance of being captured - their views being addressed - by a poll because a poll is completely random, it is statistically robust. Certainly prior to the polls that were undertaken by the last P.P.C. considerable effort was taken to ensure that as wide a cross-section of the public as possible would be contacted. In fact special representation

was made for if a call was made to someone who was not a native English speaker, shall we say - perhaps a recent immigrant, somebody who was not confident in the English language - to call them back with someone who could speak the language, because one section of the community that really participates less than others are the non-local people and this was designed to get opinions from everybody. Deputy Le Fondré has already explained about representation and it seems to me that if you want a wide representation a poll is the way to do it. We have already done several polls. I assert that we know the answers to these questions but what we have not done is been able to put them all in to a cohesive package that this Assembly could take forward. Deputy Tadier, in an aside, asked a Member: "Do you have the stomach for change?" Well let me make it clear, I am a Connétable but I do not think I have got any conflict with this issue at all because I certainly do not fear a referendum on it or I do not fear the questioning of the position of the Constables. In fact my track record speaks for itself as I have previously voted against the position of the Parish Deputies when I was one and as chairman of P.P.C. I have fought hard for reform and I have tried to bring reform. I have voted for reform. So I can say that I have got the stomach for change without question. I have also called for a referendum on the results. I certainly do not have any fear of referenda but I simply do not believe that this referendum would give us any more information than we already have. The Constables themselves, do not forget, have been responsible for reform. They brought about the Senators' and Constables' elections on the same day at the last election. We already have by virtue of Deputy Le Fondré's proposition that we accepted some months ago, a considerably different format for the next round of elections. I would just like to quote from the Constable of Trinity, something he said during that debate. I will quote from it as soon as I can find it because it seems to me that what he said there was eminently sensible and it was nice to see that one Constable J. Gallichan had something sensible to say. He said: "I would say let us go forward with a single day election but for the next election in 2011 let us keep it to a 3-year term and then see how everything balances out, whether the voter turnout has risen." That is what everybody says they want, increased voter participation. "See whether the voter turnout has risen, whether everyone is happy with that and then move forward with constitutional change after that." That was sensible to me then and it is sensible to me now and it seems to me that this Assembly is not incapable of accepting what the people have said, and is not incapable of making decisions on the basis of that but it seems to me the decisions we have made are not the decisions that some Members wanted. Deputy Tadier said: "If we do not put this issue to bed it will come back every 6 months." Well there is a very simple answer to that, do not bring the proposition. We do not need to be debating this now; we have had the debate already. As far as I can see it, if Deputy Tadier did not want us to put this matter to bed he simply waits, sees what happens at the next election and then we see how we go after that. Finally, the Deputy said he could not see whether there was any difference with the holding of this referendum to other elections with regard to the participation of people at the Parish Halls. Well the simple way to answer that question is to ask people. I have asked people, a good number of the people who have assisted at the polls in St. Mary in the past. They are more than happy out of a public-spirited duty, to take a day off work to come, and either as Honorary Police to secure the perimeters and guide people in and make the area safe, and as members of the public to take a day off work and to come and assist within the polling station. They are not happy to think that they could be doing this at *ad hoc* times throughout the 3-year cycle when they have livings to make and their jobs are on the line as well. I think that needs to be borne in mind. Simply, I do not set out that is a reason why the referendum cannot be held but I say it needs to be borne in mind when the Deputy is thinking about the logistics and the costings. He has simply used the figure from the Senatorial election based on the fact probably that the last referendum happened on the same day. I really do question whether that figure is in any way, shape or form realistic, and I look forward to his answer on that.

The Deputy of St. Mary:

Can I ask a point of clarification? I held it back because I did not want to interrupt the speech. Could the chairman of P.P.C. and Constable of St. Mary, tell the Assembly what the arrangements

were for publicising the previous referendum in to C.E.T., in to Central European Time? What role did P.P.C. play in that referendum? Just to explain.

The Connétable of St. Mary:

As far as I can recall it was very little. We did an awful lot of publicity for the elections, which of course happened on the same day and as far as I can remember the leaflets, *et cetera* said: “You can also participate in the referendum.” P.P.C. had no role whatsoever in the publicising of the issues.

The Deputy of St. Mary:

Can I ask who prepared the actual leaflet? There was a leaflet I clearly remember there was a leaflet with 2 sides giving the arguments on both sides and I welcomed that leaflet because that is what I based my vote on. I just wonder where that came from and whether that was funded by the State?

The Connétable of St. Mary:

I believe that may have come from the Chief Minister’s Department but it certainly did not come from the States Assembly budget.

The Deputy Bailiff:

I call on the Connétable of St. Peter to speak, who is next in line, and I think it is a convenient time to say that from this perspective, taking up the chairman of Privileges’ comments to me yesterday morning, there are a number of Members who are looking tired and therefore it is especially important that comments that are made must be new and relevant and hopefully brief. The Connétable of St. Peter.

2.5.15 The Connétable of St. Peter:

I will start slightly differently then, 386 that is the number of days since I was elected to the position of Connétable by 1,600 members of the Parish of St. Peter. They voted for their Connétable in the full and certain knowledge that he was going to be representative of their wishes in this House, and that he would work with their Deputy equally to represent their wishes in this House. We are not in this House as Delegates. We are in this House as Representatives and yet many Deputies today have come from the point of view, who are we to try and represent the views of our people? We are here because they have asked us to represent their views. In the hustings in the process coming up to the election period there were questions both to myself and the other candidate in the Constables elections: “How do you see your role as Constables and being in the States working together? How do you work forward on that basis?” Since I have been in the role I have had less than the fingers of one hand people come to me and say: “I think the Constables should come out of the States.” The opinions that I have received on an ongoing basis are that the Constables should remain in the States, are now seen as a stabilising force in this House to bring forth good judgment on behalf of the people of the Parish and also the Island. Deputy Martin did make the comment that he did not believe we had the courage to go forward with this referendum. I certainly do have the courage. When I started coming to this debate this morning I was minded to support every aspect of it if only to kill the subject once for all. I cannot support it now and I have the courage to say no to this referendum and I have the courage to say no to anything else, which I think is wrong for the general public of this Island and I will not be supporting this today.

2.5.16 The Deputy of St. Mary:

Going back to what Deputy Green said, I do respect his views on many matters and he said: “Why are we talking about this again and there are other important ...?” Well I think he said: “There are other more important matters for this Assembly.” Well I have to disagree with that. Process is important. It matters how we get here. It matters about the constituencies. It matters about our representativity. It matters about the numbers who elect us. All those things are important and there is dissatisfaction out there. Now I am not saying that the dissatisfaction is with this particular

part of the system because it is one of those below the radar things. As Deputy Southern called it, it is the machinery, and people do not get very excited about the machinery of government but my goodness it is important. The nature of the machinery determines whether the car even goes or not and in which direction and whether it is safe. So just carrying on is not necessarily a good idea and we do have to remember the dissatisfaction level with the States is nearly 50 per cent. The chart is in here of people who are either dissatisfied, or fairly dissatisfied or very dissatisfied. That is not good enough and so we come to this issue. Now people have talked about when someone told me and people come up to me and so on, and I think the proposer used the word magnets and of course he is right. People are likely to come to us who agree with the stance that they know we have, and the individual comment can be compelling but in this case we are after the will of the public. We are after trying to get a steer on this issue and the reason that we are trying to get a steer on this issue is that we do not seem capable of moving forward ourselves. The referendum is one way. It is a tool to move the logjam. The Constable of St. Peter, who has just spoken said: "I am representative, I do not need to go to the people on this and that as a Delegate because I know that I represent my people." Well yes of course, but the problem with this issue is that we have been at it for years and as I said in my other speech: "We have been sitting on our hands effectively for years in the face of injustice and we have to do something about it and we have to get an answer." This, as I say, the referendum is one tool. The Constable of St. Ouen said: "We do not need to find out." I think that is a direct quote and that we do know, he implied or what he said amounted to, we do know the answer. Others have said more or less the same that we know what this referendum will bring. My answer to that is, we do not. We know that on this issue, as Deputy Southern pointed out, it is split. It is slightly what we know from the MORI poll, and I do take the Constable of St. Mary's point - the chairman of Privileges and Procedures - that the MORI poll is pretty good evidence. We do know that it is 54 per cent who either tend to agree or agree with the notion that the Constables should remain in the States. Although the question was not put in the same way as the referendum question. It was not put in terms that they should sit there *ex officio* but nevertheless there is an indication there that it is sort of over half and it is split. So we do not know whether that would evolve in the course of a campaign and so I think it is a realistic question. There was a case to say that we knew what the opinion of the public was on the Island-wide mandate. We know there is widespread support, but on the Constables it is more divided and I think that would be useful information. Reference has been made to... the Constable of St. Clement talked about this referendum, the question would be put in a vacuum and so therefore it would be difficult to give credence to the results or indeed difficult for people to understand what they were voting about. Well no, Constable Norman, it would not take place in a vacuum, it would take place in the context of a campaign. There would be a referendum campaign. There would be people out there saying: "No, no, no, no, no, no" and there would be people out there: "Yes, yes, yes, yes, yes." and it would be something to involve the public in this decision. I would just ask Members to think what the effect on our young people would be. Senator Perchard has made one reference to the young voters and it really hit home when he said: "And the young people would be able to vote in this." If you just think of what the effect of this referendum would be on the young people, hopefully with the support of the Minister of Education, Sport and Culture if this proposition goes through. There would be involvement in the schools and what a tool this would be for increasing understanding of how the system works, of what the different roles are and the dual role of the Constables and so on and in that context it is not in a vacuum. There would be a large amount of interest generated I believe. Why would we not approve a referendum? Why not go to the public and do a 100 per cent poll? Of course it would be self-selective, not everybody would answer the phone as it were or go to the polls, but the fact is it gives an opportunity of a 100 per cent sample. I would remind Members that some play has been made that we should go to the public with a proper coherent package as P.72 was. It was a package, I will not say it was coherent but it was a package and the idea was that it would then go to a referendum. I have some sympathy with that view that it is our job to work out all the permutations given that we do have the MORI information, and come up with something that matches what the public has said that they

want, taking on board what Constable Norman said about the fact that if you add everything together that people say they want it is incompatible, but there are steers in that information. There are very clear steers in the information and the amendment that was not debated because, through electronic glitches and being on holiday in Estonia, the amendment had some problems getting here. There was an amendment that was mine and I believe was a package that answered the requirements of the public in almost every respect. It preserved the Parish link, which we know people want. It preserved the Island-wide mandate, which we know people want. It solved the problem that Deputy Southern had earlier of Deputies not wishing to stand for Senator and therefore the role of the Island-wide mandate would simply become less and less important and trivial. It solved that and it was based as I said, on the evidence of the MORI poll and a lot of research went in to it, and it solved the problem of proportionality. So there is a package, we have not debated it yet but the problem with rejecting this proposal is that it will come back. Deputy Southern has promised it will come back. My election leaflet which is what I was fishing for in the bottom of my desk because I do keep my election leaflet here for reference because as the good Constable of St. Peter said, he was elected on a programme. People know what he is going to do in here, where he stands on things, and I read on here under Democracy and Community I see: "Establish trust in the government", which I bang on about quite a bit.

The Deputy Bailiff:

Deputy, excuse me I would like you to address your comments to the proposition and not generally.

The Deputy of St. Mary:

Yes Sir, okay.

The Deputy Bailiff:

Things, which might have happened in the past or might yet, come in the future. We are talking about the proposition before the Assembly today.

The Deputy of St. Mary:

Sorry, Sir. The second point under that was: "overhaul our election system." So I am just making the point that it will come back because some of us - a fair number of us - are committed to electoral reform for very good reasons. For the reasons that P.P.C. gave in their P.72, that the present situation cannot go on, it is unjust; we all know that. It is part of the unease out there. It is part of the dissatisfaction with this Assembly. Now of course electoral reform will not solve the problems. It will not solve all the other issues but it will in itself move us forward in a better direction. The issue fundamentally, to sum up, is fairness. It is about whether we manage to get this Assembly representing people fairly and proportionately. The referendum is a tool for asking people what they want. It has now been watered-down to just one question, unfortunately in my view, but there we go. A subsidiary issue is that we... the first issue is fairness, and the second issue is the need to do electoral reform as we have said we will do. There is an expectation on this House that we will tackle this problem. The public expect us to tackle this problem and as a gesture of goodwill to the public I still believe, notwithstanding the possible problems with the wording, I still think that on balance the wording is adequate for the public to give their view. As a gesture of goodwill to the public I think we should support this amendment and try to inform our debates on these matters better.

2.5.17 The Connétable of St. Lawrence:

I will be brief. I have a couple of questions that I would like to address to the proposer of this proposition and I look forward to hearing him respond in his summing up. The Deputy of St. Martin said during one of the amendment debates this morning, that he was not laying blame on the Privileges and Procedures Committee. I believe that he was making reference at that time to what he perceived to be a lack of reform on electoral matters. The Deputy went on to say that what we should in fact have done was to set up an electoral commission. I remember voting for the

Privileges and Procedures Committee at the end of last year I think, and one of their terms of reference is to keep under review the composition, the practices and the procedures of the States as Jersey's legislature, and bring forward for approval by the States, amendments to the Law and Standing Orders as considered appropriate. I wonder why I bothered to vote for Privileges and Procedures for a Committee because Deputy Tadier took delight in reminding us earlier that he is a member of P.P.C. This leads me on to my first question to him, which is; does he have confidence in P.P.C.? Because I wonder why he was minded to bring this *ad hoc* proposition to the House when he is a member of the committee that is charged with reviewing the composition and practices and procedures of the States. So in fact I believe that every time as we have elected a committee to do precisely that, it seems to me that every time an individual Member brings a proposition to change the composition of the States, they are saying that they have no confidence in the Privileges and Procedures Committee that we have elected to do precisely that. I believe that I would like the Deputy to address that in his summing up. One other thing that he said when proposing this was that if this referendum goes ahead it would heal the rift. It would heal the rift. I would like him to explain what the rift is because I do not know what the rift is. I would like him to explain what the rift is. I do not know what it is myself but seemingly this referendum, if it goes ahead, would heal it. Just one other point, Deputy Southern mentioned earlier - again I cannot remember whether it was on the proposition or during the amendments - that we have already wrecked the system. We have already wrecked the system by choosing earlier this year to vote for all Members to be elected on one day. This is another *ad hoc* ill-advised proposition I believe, simply because as other Members have stated it is not a consideration in the round. When P.P.C. do bring forward ideas for reform, they have been considered through what the consequences are, how they will be dealt with, and as far as this proposition is concerned I cannot see that that consideration has been given to it. So in this instance I will not be supporting it.

The Deputy Bailiff:

I assume no other Members wish to speak, in which case ... Deputy Jeune.

2.5.18 Deputy A.E. Jeune:

During this past year I have become increasingly aware of the value of Connétables in the States but that is my opinion. This particular Assembly chose to keep the *status quo* on keeping the Connétables in the States a very short time ago. We also preferred, it appeared, to keep the Parish boundaries rather than super constituencies but that was our opinion, not what the public were thinking. We do not know and by having a referendum we were going to give them that opportunity. As Deputy Le Fondré said: "We need to engage the public, we need to get more people to vote" but given that this House has chosen, in Part (b) of my amendment, not to give a commitment to respecting the outcome of the referendum proposed subject to more than 50 per cent, I find it now very difficult to support this proposition, which is now targeting one question, one particular role, not the bigger issue. The Connétable of St. Mary said we had had several polls. Well this will probably just be rather like that and I do not wish to see Deputy Tadier and others going to a lot of effort, including the good people in the Parishes, to bring about a referendum, which is probably not necessarily going to get us anywhere. I am really finding it difficult now to support the proposition.

The Deputy Bailiff:

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

2.5.19 Deputy M. Tadier:

First of all if I can thank everybody who has spoken? We have had a lot of comments and I will apologise in advance if I do not manage to address all of them but I will do my best and feel free to stand up on a point of clarification if I have not answered your particular question. First of all I want to ask, what happened to the can-do government that we had yesterday and the day before.

We were having Constables standing up and Deputies and Senators in fact saying: “We need to be a can-do government and we need to get on with things.” It seems that the mood has definitely changed today and that is a sad thing. It has been said we are finding an excuse not to vote for this. I really did misjudge where the red herrings were going to come from today. I really thought that the issue would be focusing on the cost and we have only had a minor contribution on the issue of costs I think because I believe the figures are very good. They were provided by the Greffier, and I do think that they have integrity because I do think the Greffier’s Department do a good job of providing accurate statistics. The excuse we have been coming up with has ostensibly been one that is to do with the wording of the proposition. In fact this is why I stood up - roughly I think it was a month ago, 4 weeks ago today - and I said that if any Member has a problem with anything in the report to bring an amendment. We have had 2 amendments, one from the Deputy of St. Martin and one from my colleague, Deputy Jeune. No, I believe I even said on the day, if anybody has a problem with the wording, because wording is very important, then bring amendments. None of the objections that came from the Constables’ benches earlier in this session did materialise in the form of an amendment. So we had no amendments that therefore one is to presume that the wording is okay. Really I think it is a red herring, there is nothing wrong with this question. It is quite simple: “Do you think that the 12 Parish Connétables should have an automatic seat in the States Assembly by virtue of their office?” We have already heard from a Constable, Constable Norman, that there is no problem with the wording. We have already heard from a Senator, Senator Perchard, that there is no problem with the wording. The reason is “automatic” must be in there because at the moment Constables when they are elected to represent their Parishes do have an automatic seat in the States. If there is a flaw with the question, it is because there is a flaw in the role of the Constables and that is not anything I can help. So the question itself is valid and I would defy anyone to come up with a clearer question. Obviously no one did in the lodging period so I think that can be put to bed. I get really frustrated because I feel that we cannot win in this Assembly. We are told on the one hand that we have to look at things holistically. We are castigated if we bring anything that is piecemeal, and indeed we know that wholesale changes in the constitution of the States have not worked. We have a system I believe, which does not engender, it does not lend itself to any change even if that change is the right one. We have seen over the last few weeks, and I will address the issue of the Constable of St. Lawrence now, because I believe it is an important one that needs to be put to bed. I am a member of P.P.C. Yes I do have confidence in P.P.C. and the current P.P.C. I do not believe that there is a contradiction in me bringing this proposition, in fact that is exactly the reason I held off on this proposition, to wait for the more holistic approach to be taken by P.P.C. We did lodge several... well we certainly lodged our preferred model, which got rejected. I know other States Members also amended that proposition to lodge theirs. I waited until this all was done so we could have holistic and meaningful change. States Members rejected that. I believe that the actual system of choosing what kind of reforms if any we should have is flawed because it is based on a binary system. “Do you want this change?” “No.” Let us go to the next one. “Do you want that one?” “No.” We cannot simply lay all the options on the table and say: “All of us prefer this one or most of us prefer these 2, let us eliminate the other options, let us have one or 2, let us move forward.” There is no sensible way the system rightly or wrongly or intentionally or otherwise is not set up for any kind of change whether that change be good or bad.

The Deputy Bailiff:

Deputy, excuse me a moment. There is a general hubbub going on while the Deputy is summing up. I would be grateful if Members would kindly give him the courtesy of allowing him to speak without the chatter. **[Approbation]** It is coming particularly from the Senatorial benches.

Deputy M. Tadier:

Thank you for that, Sir. I must try and get my train again; luckily I have numbered my notes here. I think a lot of the problem from what I can hear is coming from the new piece of technology that I

am reading from, which I think that is the issue, and at least technologically wise we are being dragged in to the 21st century in this Chamber. So just to continue with the last point, this whole argument of holistic versus piecemeal, this evolution versus revolution: the fact is none of them will work because one is always attacked. It is either, we are looking at things in the whole we need incremental change. When we try and bring incremental change in, no we need to look at it in the whole picture. So we cannot win at all, that is why I have been forced in to this position of bringing in incremental change. It is not an attack on the Constables as such because as we know we asked to have the Senators included. That was rejected so we are left with this single proposition to ask for the referendum on the Constables. The Deputy of St. Martin said that we may be in the very strange position, even in spite of new Members who were elected on a reform ticket, to have even less support for this particular proposition than we did in the past. I would suggest that in fact this is not necessarily strange because as somebody who has studied something of psychology and of psychoanalysis, I know that psychiatrists say that resistance is greatest the closer you come to a breakthrough. So this is to be expected, we know that government usually lags behind public opinion. We know that there is a great debate and a great appetite, I believe, for reform in Jersey. It is just a question of what kind of reforms and this referendum is simply to ask people what they think, to empower them. So we should not be surprised that perhaps resistance is great. Another colleague of mine also said: "Drowning men clutch at straws" and goodness me, have we not heard some very spurious and straw-clutching arguments today? Earlier I had an interview with Channel Television and they were fairly pessimistic about the result and it seems that air of pessimism seems to have contaminated the Chamber as well. I simply said that it would be interesting to see what the result of the vote would be if the votes of the Constables were discounted. I am not going to be so bold as to suggest that the Constables should abstain on this issue because they have a direct interest. That is where their conscience is, but I would suggest that if it were I, I would certainly abstain on the issue. It is funny that we have had a number of Constables standing up and saying: "I am not going to be supporting this proposition but it has nothing to do with the fact that it is a referendum to ask people if they are happy with the role of the Constables." Nonetheless 12 of the Constables - 12 out of 12 - will vote against this proposition but that is not statistically significant. That is purely because they do not think it is a good use of States time. So that time and money, that brings me to Deputy Green's next point, that in fact we are just wasting time and money. I agree with Deputy Green and that is indeed why I say this in my report. If we look at the financial and manpower implications, this referendum I say will give us a clear answer and before we waste more States time and public money on this subject. Not simply the subject of the Constables and their position but the whole area of States reform. We know that if this referendum now - this proposition - gets rejected it will not heal the rift. There is a rift in the Chamber. No, it does not matter whether it is a perceived rift or an actual rift because if you have a problem in your own life, it does not matter if that problem is an actual problem or a perceived problem, it is still a problem. If there is ill-feeling on both sides and if the Constable genuinely cannot see that there is a rift, then I think that is indicative of the fact that there is a rift. The fact that I even have to explain that, I find gobsmacking so I think that could never be explained. There is no commonality of language. That is why we need to get back to the people. What is the problem? We simply want to ask the people of Jersey whether or not they are happy with this decision even though we are told that Members know what is best. Daddy knows best, Daddy and Mummy of the Parishes.

The Connétable of St. Mary:

I find that last remark disrespectful.

The Deputy Bailiff:

Yes. I am sure you could re-word it, Deputy.

Deputy M. Tadier:

Father and Mother know best. Sorry I did not realise that there was anything wrong with Daddy and Mummy. I think that is traditionally what children call their parents. They sometimes call them Dad, Mum, Mother and the Constables I think traditionally call themselves Father and Mother of the Parish, do they not?

The Deputy Bailiff:

Order please.

Deputy M. Tadier:

Okay, we may be getting an idea of what the rift is in the States now. Good. Yes it is just me, is it not? That is right. The Constable of St. Mary I think did raise some interesting issues relating to the running of campaigns and who should pay for this. Traditionally referenda do not get States-sponsored subsidies unless it is the government who are arguing one side of the equation or not, so simply a yes or no. We know that there will be people in the public who are willing to support the yes campaign. There will be members of the public who are willing to support the no campaign. I will certainly be one who is willing to support the yes - let me have a look at the question. That is right, I will be happy to support the no campaign and I am sure that there would be no shortage of Constables who maybe would be happy to lead the yes campaign. I think similarly we would not have any problem in relying on people to turn out in the Parish Halls because people love the Parish system, they love to get involved in the Parish and to offer their time free. I do not think that is a problem and I do not think there is any reason why this should cost more. It is a referendum. We were given a figure of between £15,000 to £20,000 for a Senatorial election which has a bigger ballot paper and so I do not see what the problem is there. If the Constable is suggesting that the Parish staff would boycott it because it is a referendum about the Constables then I do not think that is the case either. I do not think there is an issue there at all so it is not a valid criticism. There was an issue about the MORI poll as if a referendum is completely worthless. This was addressed by the Constable of St. Mary but also by Deputy Le Fondré saying that a MORI poll is excellent, it is completely scientific because it gives you a broader cross-section. But a MORI poll, remember, is also self-selecting in the sense that nobody can force you to take part in a MORI poll. If you do not want to return the question or if you do not stop in the street no one can force you to do that. It is only the people who are willing to stop and give their opinions in a MORI poll who would be willing to do that. Similarly, I would suggest it is only the people in an election who turn out, the people who care enough who turn out, who will vote. All of the elections... the general election turnout in Jersey is less than 50 per cent. We do not therefore say: "People obviously do not care about government so we will not have a government." I think this is also a spurious argument. Of course we should encourage a high turnout but just because people do not want to engage in a majority that does not mean that we cannot take the results that we do have seriously and so I do not think that is a valid argument. I will be willing to give way now to the Constable of St. Mary.

The Connétable of St. Mary:

Thank you, Deputy. It was simply to point that in fact in a MORI poll if a respondent does not wish to participate another is selected until the target number is achieved.

The Deputy Bailiff:

Is that a second speech, Connétable? It is not a question of clarification, it seems to me. Will you please not invite further interruptions in your summing-up, Deputy.

Senator B.E. Shenton:

Could I have a ruling from the Chair, please? Are laptops allowed to be used in the Assembly?

The Deputy Bailiff:

I had noted the use of the laptop which as far as I am aware is the first occasion, apart from the Law Officers, on which Members have access to a laptop for wholly different reasons. I understand the

P.P.C. are looking at this issue at the moment. In the circumstances where the Deputy has clearly got his notes on the laptop I did not think it was appropriate to ask him to stop using it for the purposes of summing up his speech just now but I have to say that I think it would be desirable if P.P.C. resolve a policy on this as soon as possible.

Deputy M. Tadier:

It was purely out of courtesy, Sir, that I gave way. I do try and give way for clarification and obviously I do not know as a speaker until I give way whether the point of clarification is a valid one or not.

The Deputy Bailiff:

I think, Deputy, the point is that we do not wish to encourage interruptions during the summing-up speech. You should be summing up and dealing with the points that have already arisen. **[Applauding]**

Deputy M. Tadier:

The last point that I have got written down here is to address a point raised by the Constable of St. Peter saying that when the electors of my Parish voted for me they did that in the knowledge that I would be sitting in the States. That is true but the point is when you vote for a Constable you cannot tick a box and say: "I just want them to be the Constable of the Parish but not sit in the States", so there will be a lot of people in your Parish and in my Parish who vote for a Constable in spite of the fact that they sit in the States, not necessarily because of that fact. There is no way at the moment of them noting that on the ballot paper. A referendum would give them the choice and the ability to say: "Yes, I do love my Constable" and this is a point that I have raised in my report. I do say clearly there is support for the position of the Connétable and having this referendum will clarify once and for all whether this support extends to a desire for them to continue to have an automatic seat in the States. So that is all it is. It is not an attack. I do not want this to be seen as an attack on the Parish system or on the Connétables. It is really to give people the chance to say: "Yes, I do want my Constable and I want him or her to be in the States or, yes, I do want my Constable but I do not want him to sit in the States, I want him or her solely to be responsible for the Parish." I think that is a very reasonable question to ask. I do not think it has ever been asked of the public and it would be an informed debate. So the suggestion that the public cannot handle this kind of question is patronising in the sense that when anyone turns out in an election to suggest that they do not understand our voting system, which they may not, we still allow them to vote so that cannot be a valid argument for not letting them attend a referendum. This is simply to say: "Does your goodwill for your Constable extend to them being in the States of Jersey?" We have had suggestions that this will be the case but it is by no means categorical. I am certainly not certain about that. I would love the chance to be able to be convinced once and for all about this, otherwise there is still going to be an argument to be had, both in the States and out of the States, and that is necessarily the case. So I would appeal to perhaps people who I believe can still be swayed, like Deputy Green who I believe is a Democrat who does want the best and to be representative of the people of Jersey, to just for once let us go to the public of Jersey and ask them quite simply. I do not think I need to carry on any further. If there are points that I have not addressed yet then I certainly would apologise for that and I am not going to invite any more interruptions, as this new Chair has indicated, so I will not be doing that. So, simply, let us just sum up very quickly what I think the pros are for having this referendum. As I said earlier, it is a valid question to ask; it is the kind of question that normally gets asked in a constitution; it is good for grassroots democracy; it will engage us as representatives with our electors and not just the people we usually talk to. It will not be the people who stop me at the cheese counter at Checkers and say: "When are we going to get this lot out of the States?" because I do not hear the people who come up to the Constables and say: "I think you are doing a great job, you are a good force within the States" and I want to hear those people. This will provide an opportunity for all of us to hear

both sides of the argument. So, Sir, I do make the proposition. I ask that we be a can-do government, that we do give power back to the people in this sense, and that is what a referendum does. Thank you.

The Deputy Bailiff:

Do you call for the appel? The appel is called for. I invite Members to return to their seats to vote on the proposition which is to agree that a referendum be held on the position of Connétables as Members of the States - the text of the question is set out in the proposition - and to request Privileges and Procedures to take the necessary steps to implement that recommendation. The Greffier will now open the voting.

POUR: 17	CONTRE: 29	ABSTAIN: 1
Senator B.E. Shenton	Senator T.A. Le Sueur	Connétable of St. Lawrence
Senator J.L. Perchard	Senator P.F. Routier	
Senator A. Breckon	Senator P.F.C. Ozouf	
Connétable of St. Clement	Senator T.J. Le Main	
Deputy R.C. Duhamel (S)	Senator F.E. Cohen	
Deputy of St. Martin	Senator S.C. Ferguson	
Deputy R.G. Le Hérisssier (S)	Senator A.J.D. Maclean	
Deputy J.A. Martin (H)	Senator B.I. Le Marquand	
Deputy G.P. Southern (H)	Connétable of St. Ouen	
Deputy P.V.F. Le Claire (H)	Connétable of St. Helier	
Deputy S. Pitman (H)	Connétable of Trinity	
Deputy M. Tadier (B)	Connétable of Grouville	
Deputy of St. Mary	Connétable of St. Brelade	
Deputy T.M. Pitman (H)	Connétable of St. John	
Deputy M.R. Higgins (H)	Connétable of St. Saviour	
Deputy D. De Sousa (H)	Connétable of St. Peter	
Deputy J.M. Maçon (S)	Connétable of St. Mary	
	Deputy J.B. Fox (H)	
	Deputy of St. Ouen	
	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 I.J. Gorst (C)	
	Deputy A.E. Jeune (B)	
	Deputy E.J. Noel (L)	
	Deputy T.A. Vallois (S)	
	Deputy A.K.F. Green (H)	

The Deputy Bailiff:

Before we come to the next item of business, Senator Shenton raised a point of order with me about the use of laptops a moment ago and the decision I gave was that there was no direction to Deputy Tadier to cease using his laptop. The closest Standing Order we seem to have on the matter at the moment is Standing Order 99 which reads: “Before entering the Chamber a Member of the States must switch off any mobile telephone and every other electronic device he or she has with him or her that would be likely to disturb the proceedings of the States.” So the Standing Order at the moment says it is a requirement that it should disturb the proceedings of the States before it has to be switched off. It is a matter for the Privileges and Procedures Committee to consider but I have to say from the Chair that if it were to become commonplace that Members brought laptops into the States it is quite obvious that it would be capable of disturbing the proceedings of the Assembly and

while the Standing Order is as it is I cannot guarantee the Chair would take the same view on the next occasion that it has done on this occasion. I thought I would give notice to Members that that is the position.

Deputy R.G. Le Hérissier:

Can I raise a point? Surely there is a question of definition. There is a laptop in use as a word processor without a connection to the internet and there is a laptop in its fully-fledged sense, indeed as replicated through the BlackBerries which are so keenly used, where there is a connection to the internet, and I thought it was that latter area where we were forbidden allegedly to use them.

The Deputy Bailiff:

Deputy, I think these are probably going to be issues for the Privileges and Procedures Committee which I am sure will have an enormous amount of difficulty tackling quite technical points at some time and I am certainly not intending to tackle it this afternoon.

3. Draft Banking Business (Depositors Compensation) (Jersey) Regulations 200-(P.86/2009) - Regulations 2 to 4

The Deputy Bailiff:

The next item of Public Business is the resumption of the debate on P.86, the Banking Business (Depositors Compensation) (Jersey) Regulations. I remind Members that the principles were approved on 15th July 2009 and we now move to a discussion of the debate on the Regulations themselves. It would seem to me to be reasonable that the Minister might wish to cover some of the principles in the context of introducing Regulations 2 to 4 but he will want to be very careful about not reopening the debate about the principles because those have already been adopted by the Assembly and so it will only be to the extent necessary for clarification of the Regulations as now proposed. There is a running order which I think has been circulated to Members. Regulation 1 is to be held over and not proposed at this stage in the light of the amendments to which we will come later on, and, Minister, you wish to propose Regulations 2 to 4.

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

Thank you, Sir, for your guidance on the manner in which I can make my introductions. Yes, Regulations 2 to 4. I felt that as the debate was in July I would give an overarching view on the scheme itself in relation to these Regulations initially to assist Members. The key driver behind this legislation has been a need to deliver consumer protection that meets international standards. We accept that our scheme may have areas that need improvement but like other jurisdictions the scheme will evolve as international standards, and indeed expectations, change. I have already given a clear undertaking that we will carry out a full review within 12 months to make any improvements that may be necessary following consideration of the Economic Affairs Scrutiny Panel report. I have accepted some of the points raised and thank them for their valuable input into the process. These points include but are not limited to consideration of S.M.E.s (small and medium enterprises) and the standing board, matters to which we will come in due course. However, what I am not able to do is to accept most of the panel's amendments as drafted. This is because these amendments would fundamentally change the scheme to such a degree that experts believe that it could be very damaging to the Island. Importantly, the amendments would not improve consumer protection either but I will come to that point in due course. I would like to emphasise a key point that our scheme is structured specifically for Jersey in that it takes into consideration the particular banking model that we have here. We also believe that it is based on a credible funding model that is affordable. In contrast, the scrutiny model seems tailored for much larger jurisdictions that accommodate a wide variety of banks where multiple bank failures occur on a regular basis. If I may I will continue into Regulations 2 to 4. Just for clarity for Members, because there are a series of complex and interlinked amendments that have been lodged to these

Regulations, we will go through the draft Regulations and propose these in numerical order insofar as possible but of course we cannot deal with 1, 7 and 15. So, Regulations 2 to 4 provide for the manner in which applications for compensation will be made and other necessary criteria. Regulation 2 sets out the requirements for an application by a depositor for compensation to be a valid claim. Among other things, the application must provide sufficient evidence to show that the applicant is an eligible depositor and to allow the identification of the applicant's deposit and the amount of that deposit. By checking the information provided by the depositor against the bank account data supplied by the failed bank, the D.C.S. (Depositor Compensation Scheme) will be able to quickly establish each depositor's entitlement to compensation. Regulation 3 provides that the amount of each applicant's deposit must be calculated at the relevant date, which is defined elsewhere as the start of the date that the bank failed. As the amount of each deposit will fluctuate over time it is necessary to be able to identify a single point in time when the level of deposits can be determined and used to calculate the amount of compensation due to each depositor. Regulation 3 also provides for the conversion rate of non-sterling deposits and requires all compensation payments to be in sterling. Regulation 4 provides for the treatment of accounts held in more than one name. Essentially, joint accounts will be presumed to belong to each account holder equally unless there is evidence to suggest otherwise. As the £50,000 limit on compensation will apply per depositor rather than per account this means that each joint account holder will be protected up to this limit. Thus a joint account held equally by 2 people will be protected up to £100,000. If I may I propose Regulations 2 to 4.

The Deputy Bailiff:

Is there a seconder? **[Seconded]** Does any Member wish to speak?

3.1.1 Deputy J.M. Maçon:

Just briefly, the Scrutiny Panel definitely welcomes this amendment. It is part of a mechanism that helps make it work. However, through our hearings we were interested again in the mechanisms and as time has passed we are wondering what the department has come up with in terms of templates in order for the applications to be done and if the Minister could enlighten us on what has developed in that regard I would be most grateful.

3.1.2 Senator A.J.H. Maclean:

Obviously this is a work in progress and of course it will be a matter to be decided in due course by the appropriate board. I have agreed to a standing board to be established. Indeed, matters of that nature will be dealt with when they are decided upon. At this stage the clear template is not established.

The Deputy Bailiff:

Regulations 2 to 4 are proposed. All those in favour kindly show? Against? Regulations 2 to 4 are adopted.

3.2 Draft Banking Business (Depositors Compensation) (Jersey) Regulations 200-(P.86/2009) - Regulations 5

The Deputy Bailiff:

Minister, Regulation 5 you wish to propose?

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

Yes, thank you, Sir. Regulation 5 defines and clarifies the terms "eligible deposit" and "eligible depositor". Generally, only deposits held by natural persons, that is by individuals rather than companies, trusts and partnerships, will be protected up to £50,000. This limit is in accordance with international standards. Exceptions are made for deposits held by charities and for parents

who hold accounts in their own name for their children and deposits held by an administrator containing the proceeds of a deceased's estate so that they are also protected up to the limit of £50,000. The reason for covering charities is that there are a very limited number of charities in Jersey, many of whom are not cash rich and carry out important duties for the community, especially for the vulnerable and less well off. We also cover where accounts are held by children but are banked in the name of the parent and the inheritance payments as well. These exemptions do not add significant costs and were considered to be reasonable. Sir, there are also 2 separate amendments. If I may I will propose Regulation 5. Thank you.

The Deputy Bailiff:

Thank you. Is it seconded? [**Seconded**]

3.3 Draft Banking Business (Depositors Compensation) (Jersey) Regulations 200-(P.86/2009): amendment Part 1 (P.86/2009 Amd.)

The Deputy Bailiff:

There is an amendment. The first amendment proposed to Regulation 5 is your own amendment, Minister. I will ask the Greffier to read the amendment.

The Deputy Greffier of the States:

Page 14, Regulation 5(1), after subparagraph (d) add: "(e) is the Jersey registered company called Community Savings and Credit Limited."

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

I am proposing the first amendment which I hope will not be too contentious. The Community Bank exemption has been inserted because officers had originally believed that the Community Savings and Credit would be covered under the D.C.S. as a charity. However, it later emerged that the Community Bank has a slightly complicated structure and an amendment was necessary to cover the company - the bank's customer deposits - which are separate to the overarching charity. This amendment has therefore been lodged to extend protection to retail deposits held with the Community Savings and Credit in the Island. I would hope that Members will support this pragmatic approach that adds full coverage to a worthy cause. I would add that the Jersey Bankers Association accept this proposal. I propose maintaining the amendment.

The Deputy Bailiff:

Is there a seconder? [**Seconded**] Does any Member wish to speak on the amendment?

3.3.2 Deputy M.R. Higgins of St. Helier:

I would just like to seek some clarification from the Minister. In our review of documentation there was discussion about one of the reasons for the Community Bank not being included was how it would be able to pay levies. So if we did have a bank failure, as the Community Bank is not terribly well funded how would they be able to meet the levy payments into the Depositor Compensation Scheme? I might add I have got no problems with having the Community Bank in the scheme but certainly that needs to be explained. Thank you.

3.3.3 Deputy S. Pitman:

The other question is that I understand the Community Bank lends out money or gives out grants, so people who are using it give money back every week. How are they going to be compensated when they do not hold money within that bank? They are paying money to the bank; they have not got an account.

3.3.4 The Deputy of St. Mary:

I wanted to first of all say how much I welcome this. I think it is an excellent provision that the Community Savings Bank and the deposits of those people who use that bank are protected by the scheme now. It would have been a major mistake if we had not done this, so I do commend this amendment to the House. I think the other thing I want to say is back with the original article. So that is all I need to say about that. It is a good thing that it is in and I hope Members will vote for it.

3.3.5 Deputy I.J. Gorst:

I just want to join with the Deputy of St. Mary and welcome this amendment. It is only right that funds that the Community Savings Bank holds with other institutions should be protected in the same way as naturalised persons. This bank does an excellent job and they are to be encouraged every way that we can. Thank you.

3.3.6 Senator A.J.H. Maclean:

Deputy Higgins asked a question about how would the Community Bank pay levies. Of course, they would not pay levies and that was why I made the important point that the Jersey Bankers Association accepted this proposal because, of course, the banks effectively are taking up the slack in this regard. But, of course, they would benefit so that is, in my view, a very positive and pragmatic outcome and I think we can be thankful to the Bankers Association for taking on board the need of this worthy organisation being protected. Deputy Shona Pitman asked the question about loans. The Community Bank does make loans. In fact, it is the recipient of support from the banking industry. I believe it is supplied an annual grant from banks which they loan out. They would also receive coverage under the scheme as part of the scheme so if there was any loss any members within the Community Bank would receive their money back in the same way as any other depositor. That is the whole purpose of them being included. I would simply thank other Members for their support. I think it is important that the Community Bank is included. The cost is not great and I maintain the amendment.

The Deputy Bailiff:

The appel is called for. Those Members wishing to vote kindly return to their seats. The proposition of the amendment is to adopt the amendment to include the Community Savings and Credit Limited. The Greffier will open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				

Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

3.4 Draft Banking Business (Depositors Compensation) (Jersey) Regulations 200-(P.86/2009): second amendment (P.86/2009 Amd. (2))

The Deputy Bailiff:

There is a second amendment in the name of the Economic Affairs Scrutiny Panel and I ask the Greffier to read the amendment.

The Deputy Greffier of the States:

On page 14, Article 5, (a) at the end of paragraph 1(c) omit the word “or” and after paragraph 1(d) add the following words and sub-paragraph: “or (e) is a small trading company.” (b) After paragraph 5 add the following paragraphs: “(6) In this Regulation ‘employee’ has the same meaning as in the Employment (Jersey) Law 2003; ‘small trading company’ means a company that (a) is incorporated in Jersey, (b) is a trading company and (c) upon the relevant date satisfies the condition in paragraph (7) or (8); ‘trading company’ has the same meaning as in the Income Tax (Jersey) Law 1961. (7) The first condition is that the company is not liable to be registered under the Goods and Services Tax (Jersey) Law 2007. (8) The second condition is that for at least 6 months in the calendar year preceding the relevant date, the company employed less than 5 employees.”

3.4.1 Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):

As Members are aware from my previous speeches I do not like making long speeches and, despite scribbling away in the precincts for the last few days trying to write a speech, I can assure that I do not intend to break that habit today. That is despite the importance of a series of amendments that have been tabled by the panel. Before getting into the meat of this amendment though I hope the Chair and Members will allow me a few minutes to make some general comments that will enable Members to put this amendment and some of the following amendments that we shall be debating today into context and hopefully to allay Members’ concerns about what the panel is proposing, following the unprecedented lobbying by the Jersey Bankers Association and the comments to our amendments made by the Economic Development Department. If you take their comments literally, the sky is falling, the end is nigh and Jersey will be committing political or economic suicide if the Assembly accepts our amendments to the draft Regulations. The Economic Affairs Scrutiny Panel has worked intensively throughout the summer recess to scrutinise the draft Regulations and we came to the conclusion that they were seriously flawed in part, although there are elements that we wholeheartedly agree with and endorse. The panel was so concerned with the flaws that it identified that it drafted the amendments we shall be debating today, something that we have been told is a first for scrutiny, that scrutiny have never drafted amendments to legislation

before. At this point I would like to thank the Law Draftsman for speedy and very professional work and if there are any flaws in the draft they are mine and not the Law Draftsman's. I would also like to thank the panel scrutiny officers for their hard work [**Approbation**] and the panel's adviser, Mr. Raymond LaBrosse, a leading and well-respected expert on depositor compensation schemes and one of the founders of the International Association of Deposit Assurers, the standards body that is located within the Bank of International Settlements in Basle in Switzerland, for his expertise and guidance. At this point I would also like to allay the fears of any Members who may feel that what the panel is proposing is a scheme that I drafted when I was with the Financial Services Commission in 2002-2003. It is not and it bears little if any similarity to that scheme, because the world has changed and the panel's proposals are based on a consideration of the evidence and current best practice. I would also like to thank the Greffe for their efforts as well. What the panel is proposing in its amendments is to make the scheme more credible to depositors so that it is a scheme that if called upon to work it will work rather than be a marketing gimmick to encourage depositors either not to transfer their deposits to other jurisdictions which have depositor compensation schemes or to encourage somebody to deposit their money in Jersey. It also is to address the weaknesses in the E.D.D.'s (Economic Development Department's) proposals, such as the fact the scheme is premised on the belief the banks located in Jersey are so systemically important to their home states that they will not be allowed to fail and that the Jersey banking business model is risk free and that therefore the scheme will never be activated. It is also to address the weakness of the lack of provision for small and medium enterprises - which are essential to our economy, which is this particular amendment - the lack of preparation and awareness of what a bank failure involving banks whose parents are located in other countries will entail, the lack of public awareness of what depositor compensation schemes do and do not do. For example, the proposed scheme is not really designed to deal with multiple failures. It may or may not deliver the up to £50,000 to depositors. This depends on the size and/or the number of banks failing and people may get less than the advertised £50,000 compensation or, indeed, there may be no compensation at all. Also we feel a weakness of the scheme is that it is being funded in the way it is being funded. We want to make the scheme funded solely by the banks themselves rather than by the banks and the taxpayer, although I will state from the beginning that the panel has no difficulty or problem with the States lending money to the board to be recovered later from the banks to provide liquidity to ensure that depositors are compensated as quickly as possible. What the panel is recommending to the Assembly is not revolutionary or rocket science but standard practice in many of the best schemes found round the world and it has been tailored to the Jersey situation. I will deal with most of these matters later when we deal with the other amendments but let us deal specifically with the first of the flaws we see in the proposed draft Regulations: the lack of protection for small and medium sized enterprises. The scheme as proposed in the Regulations provides compensation to natural persons, by which we mean people like you and me, i.e. personal account holders or joint account holders and simple trusts for children's education, certain types of executorships and charities. It does not protect small businesses. In evidence before the panel we learnt that small businesses were not consulted, that neither the Chamber of Commerce nor the Institute of Directors were consulted. In the comments that have been made to the second amendment by the Economic Development Department they mention in the third paragraph: "Discussions with the Institute of Directors and the Jersey Chamber of Commerce have since confirmed this to be the case." What they are talking about here is the fact that no data was available to quantify the size of the potential liabilities relating to the inclusion of small companies. Further on they also mention again that: "The Minister has said consistently that the proposed D.C.S. will be subject to the annual review. The Minister will undertake to do further work to cost the inclusion of small businesses in the D.C.S. and feed the findings into the annual review. This approach is supported by the Institute of Directors and the Chamber of Commerce." I was very surprised by that because we had the Small Business Group of the Chamber of Commerce come and give evidence to the panel and I was quite surprised that they appeared to have suddenly gone over or had changed their evidence. Basically they said they had not been consulted and yet this

implies in the comments that they had been consulted before these things came in. I have spoken to David Warr today and he has sent me a message. He says: "Chamber has not made any comment outside of scrutiny. My comment about the U.K. compared to Jersey when deciding where to draw the line which was given to the Finance Industry Manager after we tabled our amendments was in relation to other larger companies being introduced into the scheme. Our scheme is for very, very small businesses." The Chamber of Commerce, or David Warr, perhaps thinks that we should go further, that we should adopt the turnover limit of £100,000 that is contained in the U.K. Companies Act. That is what he said to the Finance Industry Manager, not that they support the idea of leaving this until later. He is more content with what is being proposed and he said to me: "Your idea of using the G.S.T. turnover numbers is a good one" and they support what we are doing. So I would like to deal with that fact that some of the comments here are misleading. They were not consulted and it is the panel's concern that small businesses are not included in this scheme that led us to bring this amendment. Just carrying on, it says the Minister and officers did not consult them - this is the small businesses and the others- because they knew what they wanted and what they wanted was to have maximum cover and protection. But the department decided they knew what they wanted, did not go out and ask them but knew that they would want to be covered by the scheme, but they deliberately excluded them at that point. What has been said is that they wanted a simple, low cost scheme and for this reason they left them out. These are the comments that we got back from scrutiny from the hearings. They wanted a simple, low cost scheme and for this reason they left them out. We also learnt that they did not seek data from the banks to even consider including them in the scheme. Oxera (Oxford Economic Research Associates) did no analysis on S.M.E.s, which is mentioned in the comments, because they were not provided with any data from the Island. We were also told that the Economic Development Department were advising small businesses that sole traders were covered by the scheme as they were natural persons but what they may not have been told was that money that they had put in their own account and in their business account would be amalgamated under the scheme and would be capped at £50,000. So if there was more business money in the account than their own personal money that still exceeded £50,000 they would only get the maximum of £50,000, providing there was enough funds there to do so. Partners in partnerships would not be covered if they are trading as a partnership in other than their own names, in which case any partnership money could be split between partners and held in their own names thus giving them protection up to the £50,000. But like the sole trader, their own personal deposits and business money would be included in the £50,000 cap, and those businessmen who had companies could place company money - and remember this is the advice coming from the department - in their own personal bank accounts and would thus be covered up to £50,000. This advice is flawed in 2 respects. Firstly, as companies are separate legal entities with a life distinct from their shareholders who own the business, the money is the company's and not the individual shareholders' or directors' money and thus what is being proposed, we believe, is contrary to law. Secondly, even if not contrary to law, the money so held would be held in trust for the business and therefore not protected under the scheme and no compensation would be payable on it. We believe these people should be covered and they have been given wrong advice. I would call upon the Attorney General Designate if he would just clarify the points as to money that is being used by companies and put in this way.

The Deputy Bailiff:

Attorney Designate, are you ready to deal with that now or would you like time?

The Attorney General Designate:

I think I can probably deal with it now. If it turns out I cannot then I will metaphorically go away and come back later, if I may. The scheme, as I read it, is available to anyone who is an eligible depositor and an eligible depositor is, within the definition of Regulation 5(1)(a), a natural person and the deposit is for the person's own benefit, among other things. So the first thing is from 5(1)(a) the natural person would be claiming for a deposit, provided that deposit is held for his own

benefit. A company is not covered by that and it seems to me that if a company transfers money from itself to a depositor but in reality the depositor is holding the money for the benefit of the company then it looks like it would not fall within that definition because the money would not be held for his own benefit, it would be held for the benefit of the company. If, however, there is a *bona fide*, legitimate reason that money that was once held by a company is then transferred into the name of its director then that money becomes the property of the director and it is held in the account for his own benefit but I do not think it would be open to a director to hold money which was in fact the property of the company simply in his own name and thereby be able to make a claim within this scheme.

Senator J.L. Perchard:

While there is a natural break in proceedings I wonder if I could ask Deputy Higgins to explain, before he starts again, his definition... or is there an official definition of a small trading company?

The Deputy Bailiff:

It is in the amendment.

Deputy M.R. Higgins:

Yes, Sir, thank you for drawing the Senator's attention to it. We have defined a small business in the amendment that we are proposing and I will just read it out. We are basically saying that: "A small trading company means a company that is incorporated in Jersey, is a trading company and on the relevant date satisfies the conditions in paragraph (7) or (8)." What we have laid down is that: "The first condition is the company is not liable to registered under the Goods and Services Tax (Jersey) Law", which basically sets out the cap. Obviously with G.S.T., firms below a certain level do not have to pay G.S.T. We are covering them up to that cap, so we have chosen that particular level. "The second condition is that for at least 6 months in the calendar year preceding the relevant date the company employed less than 5 employees." So, in other words, what we are trying to do is give protection to the most vulnerable of the small businesses in the Island. It could be that we should consider extending it beyond that, and I am quite prepared for the Economic Development Department to come back in the future with further amendments but at this stage we believe we should give protection to these businesses and we believe they should get the same protection as natural persons protected under the scheme. We say so for a number of reasons. Small and medium enterprises are protected in the Isle of Man and in the United Kingdom, although it is only up to £20,000 in the Isle of Man but it is £50,000 in the United Kingdom. The other reason we believe they should be protected is that these businesses are an important sector in our economy. According to *Jersey in Figures 2008*, 77 per cent of the Island's 5,730 businesses employ 5 people or less and therefore the decision to exclude small businesses from the scheme is a very significant one with the potential to affect a significant proportion of the Island's businesses and consequently local people. We all accept that the failure of a bank will be a disaster for every depositor in the bank and for this reason we are trying to introduce a depositor compensation scheme to protect their deposits and to ensure the least inconvenience to them to try to ensure a fast payout of compensation payments. Also consider what the effect of a bank failure would have on small businesses who bank with the institution. They would not only lose their deposits but they would also lose their main source of liquidity - their overdrafts - and how would they be able to pay for the wages of their workers or their bills. The net result would be a large number of business failures and loss of employment locally. The panel believes that this is not tolerable, bearing in mind their importance to the Island and the human cost that would be involved. We speculate that the real reason behind the exclusion from the scheme was simply to keep the cost of the scheme down to the banks and we urge Members to support the amendment that we are putting forward here. I will be making more comments later in relation to the cost of the scheme and the motivation behind the scheme but at the moment we are debating this particular amendment and therefore I will stop at this point. Thank you.

The Deputy Bailiff:

The amendment is proposed. Is it seconded? **[Seconded]** Do any Members wish to speak?

3.4.2 Deputy T.M. Pitman:

This will be quick. Like almost all Members, I suspect, I am not an expert in what is a very, very complex area. Indeed, it has I am sure - as many would agree - taken a dogged reading and re-reading of background material to get into a position to even feel able to vote in an informed manner in today's debate, which obviously is a position we all want to be in and must be for the people of the Island. Having said that, the one and only issue which did leap out at me as a non-expert - very much a non-expert - was this issue of protection for small businesses. I took an interest in that because I have got a number of friends with small businesses. Small business is already finding it a very hard time. I do have to say that I find the scenario painted for us now by the Economic Affairs Scrutiny chairman is at best very surprising and at worst very worrying, even more so, I have to say, having heard the advice now from the Attorney General Designate. All I really want to say, at the risk of stating the obvious, is the small business sector is of huge importance to this Island, as I know we all agree, and the fact that the Minister for Economic Development has not ensured such businesses, and more importantly the individuals behind them, are fully covered cannot be acceptable to anyone surely, and for that reason alone I absolutely am convinced that we must support this amendment. Indeed, to hear that this situation may have come about because of trying to keep the scheme as cheap as possible to the banks I find reprehensible. I believe we must support this amendment, it is absolute logic and it is absolutely the decent thing to do. Thank you.

3.4.3 Senator A.J.H. Maclean:

In many respects it was a difficult decision to leave small and medium sized businesses out of the proposed scheme but in order to be credible any depositor compensation scheme must be limited in scope and the proposed Depositor Compensation Scheme targets protection to individual depositors, which was our priority. Individual depositors are the ones who may face particular hardship in the event of a bank failure. The issue concerning whether to extend protection to small businesses was considered during the development of the scheme. While I am not opposed in principle to the possibility of including small companies, as I am sure Members would appreciate, the difficult decision was taken not to do so initially for 2 principal reasons. Firstly, in their analysis Oxera expressly noted that no data was available to quantify the size of the potential liabilities relating to the inclusion of small companies. The Institute of Directors and the Jersey Chamber of Commerce have since confirmed that fact. When contacted by my officials, both organisations accepted that the inclusion of small and medium sized businesses should be properly analysed and costed, and that included David Warr. Once this is done, informed consideration can be given as to whether to include them in the scheme at a later date. Their inclusion without analysis and costing could harm the interests and protection to other depositors, or natural persons as they are described. Secondly, in the timescale available and with no way to ascertain the costing of S.M.E.s we concentrated on targeting the protection to those most needy members of society, namely the natural persons, in order to be able to put forward a scheme as quickly as possible. It should be noted the Guernsey scheme only covers individuals. To be absolutely clear here, Guernsey do not cover companies either. However, we have consistently said that the proposed D.C.S. should be subject to an annual review and have agreed to undertake such a review. As such, I have undertaken to do further work to properly cost the inclusion of small businesses into the scheme and feed the findings into this review. This approach is supported by the Institute of Directors and the Chamber of Commerce. Members should also consider that the amendment being proposed by the Scrutiny Panel, if approved, would grant much greater protection to small and medium sized businesses in Jersey than they are afforded in the Isle of Man where compensation is limited to £20,000. As I have already mentioned, Guernsey do not protect small businesses in their D.C.S. The U.K. is consulting about removing small businesses and the Isle of

Man are already reviewing their inclusion on affordability grounds. This amendment is seeking to include S.M.E.s up to £50,000 each, which is more than double the Isle of Man current level. Finally, we must not forget the relevance of the panel's other lodged amendments to this amendment. They propose to reduce the coverage of the scheme to £65 million per bank failure. The effect of this will reduce protection for depositors at any one of the 4 medium-sized banks. Including additional coverage for S.M.E.s would further reduce coverage for individual depositors. For all these reasons I cannot support the Scrutiny Panel's amendment to include S.M.E.s at this time. During the development of the proposed Depositor Compensation Scheme I considered that it would have been irresponsible to propose coverage of any class of depositor in the D.C.S. without having a proper appreciation of the cost consequences in so doing. My view on that has not changed and I cannot therefore support this amendment and would urge Members to reject it as well. I would also just like to make a couple of additional points. The chairman of the Economic Affairs Scrutiny Panel talked about the definition that is included by his panel with regard to small businesses and he referred to small businesses employing 5 or less individuals. Members should be aware that that accounts for about 80 per cent of businesses, 80 per cent. That is a significant number. I would also like to point out that David Warr from the Small Business Forum of the Chamber of Commerce, when contacted, was asked how the Small Business Forum would define a small business. His answer was: "That is the 5 million dollar question." One of the keys to the coverage of small or medium sized businesses is about definition and I am afraid that, although well intentioned, the proposed amendment from the Economic Affairs Scrutiny Panel exposes us to significant risk, uncosted risk. It is something that we have committed to analyse and cost out. We will do so and include it in the annual review in 12 months time.

3.4.4 Senator S.C. Ferguson:

From a general point of view - and I think it is pertinent to the debate as such - the real problem with the Scrutiny Panel's amendments are that they change the entire nature of the scheme. Their amendments change the whole scheme from an ex-post scheme to an ex-ante scheme. In other words, it has been changed from a depositor compensation scheme ...

Deputy M.R. Higgins:

Can I just interrupt for a moment? I have refrained from going into all the rest of the detail. This is not relevant.

Senator S.C. Ferguson:

I have not given way.

The Deputy Bailiff:

If one may say so, Senator, the thought was occurring to me that it would be helpful if you could confine your remarks to the amendment which is under consideration at the moment and not speak generally to the panel's report or the panel's other amendments.

Senator S.C. Ferguson:

I will get going with it later, Sir. I am very concerned about the total rehash of the whole system because on a practical point of view I also understand, and from talking to banking regulators, the small business implementation would be extremely difficult to put into place. I would suggest that this is an area which requires more work before implementation. Apropos the definition that many small businesses are those not registering for G.S.T., many register for G.S.T. so that they can reclaim it on some of their inputs. This amendment is well meaning but it really is quite impractical at the moment.

3.4.5 Deputy S. Pitman:

I will just focus on one particular issue regarding this because I know that other members of the panel will speak. I firstly wanted to give credit to Deputy Higgins because he has worked

extremely hard throughout the summer break and in doing so he has also organised the Battle of Britain. So I think Members should give him a lot of credit for the hard work that he has put in, because he has not taken any holidays during that time. I refer to some hearings that we had regarding the matter of small businesses and one of them was with the Director of International Finance and he said when asked about the matter: "If we had consulted with small businesses and asked them whether their deposits should have been covered what do you think their answer might have been? Deputy Higgins: So in other words you did not ask them because you knew what their answer was? They would want it to be covered. The answer is that they would have wanted to be covered, yes." So absolutely in the first instance no consultation whatsoever with small businesses or the Chamber of Commerce and we are saying now that we want to do it. We also spoke to the representative of Oxera and he said this: "The natural person was clearly an absolutely necessary part of this operation. [That was when they undertook the report.] We did ask at some point about whether the banks could indeed split out small and medium enterprise types. In essence it is not easy to do so which is why I think somewhere in our report we say that what we have modelled is the natural person and we did not have data on either charities or S.M.E.s. Deputy Southern: But are you saying then that the fact that S.M.E.s [which is small businesses] were not included for example was simply a question of data because you could not access it?" "We could not model it," said the representative. Then he goes on: "I think we were asked to look at the practicality of modelling it. I am not sure whether I need to go and check exactly what we were specifically asked to do or not to do but we certainly could not get the data." So there was no remit within this report to cover small businesses. So, if the event ever occurs that we have a collapsed bank we are going to be covering non-Jersey residents but we cannot cover small businesses, we cannot cover our own small businesses, and I think this is quite appalling.

3.4.6 Deputy P.V.F. Le Claire:

During questions without notice I did put a question to the Minister for Treasury and Resources on the numbers of natural depositors and I am glad that the Minister for Treasury and Resources is back in the Assembly because he did promise us that, although the question was complex, he would circulate that to Members. The reason why I asked was I attended the Depositor Compensation Scheme briefing for Members and I listened to what was being said at that meeting and the message was quite clearly that the S.M.E.s could not be supported because the data had not been collected and it could not be modelled, although, as has been repeated this afternoon, Senator Maclean has said that the scheme can be reviewed and it is their intention to review it in a year's time.

Deputy S. Pitman:

A point of clarification, may I? Oxera said that they could not get the data from the department, that is why they could not cover it. They did try.

Deputy P.V.F. Le Claire:

I do not know if I am putting this across wrong. I am not trying to make a grand speech on the whole issue. I have got a question that I think is important and I am trying to just word it in, I am not trying to take a position. I am stuck trying to decide. That is why I am trying to speak to try and get resolution for myself anyway in coming to understand how we should vote on this. I am glad that it is this hour because hopefully the Minister for Treasury and Resources will be able to provide Members, prior to the summation of this amendment, what the actual numbers are in relation to a natural depositor. The arguments that are being made are that small businesses cannot be done until a proper appreciation of the cost compensation of any scheme has been undertaken and it has just been reiterated as a point of clarification by Deputy Shona Pitman that they could not get the data in the evidence that they took in their study. So we have had Oxera telling the Scrutiny Panel that they could not get the data to run the modelling and we have also had the Minister who is bringing this telling us quite insistently that they would certainly not want to go into something where this was not clearly defined although they would consider it in the long term. They do not

want to have a position, to use the words of the Minister: “which exposes us to significant risk and uncosted risk”, and that is the parallel I am trying to make. I wanted to know what the natural depositors were and what the significant or costed risk of those natural depositors was and that is why I appealed to the Minister for Treasury and Resources to give us those numbers. If they need to have a scheme that has been costed that does not expose us to a significant risk which has been defined and understood then we can go ahead with it. I have yet to see the numbers of the natural depositors, although I have been informed that the numbers of those do appear within the scrutiny report and I have looked at that with the chairman and I have looked at those numbers. That does not give me any breakdown in relation to what the modelling would be in any number of scenarios or any mean number of scenarios. So, as the Minister for Treasury and Resources has said, it is a complex issue and the numbers needed to be presented. I am hoping that he can present and circulate those because then we will be in a position to see, first of all, whether or not the scheme that is being proposed at the moment has been costed and thoroughly modelled and supportable or whether or not there is a bit of hope in that scheme as it is. If they are telling us they have got to have the knowledge of the numbers then I want to know what those numbers are and if they are telling us that they cannot run on something that has not been costed then I am considering that. One of the new things that I have not considered in the past is the moral dilemma where you offer protection, as has been identified by Deputy Shona Pitman, to people that have got deposits in this Island, and that is the only reason they have connection with this Island, and yet small businesses may be in a position where they could fail without protection.

Deputy S. Pitman:

Small businesses are taxpayers.

Deputy P.V.F. Le Claire:

I do not know if Deputy Shona Pitman is trying to augment and support what I am saying or maybe she is challenging it. I am trying to suggest that I have yet to see what the implication is for the original scheme that the amendment is coming to work on. With the greatest respect to Deputy Shona Pitman, I do not know if she thinks I am at odds with her; I am not. I recognise that the small businesses do pay taxes and I recognise that there would be possibly a situation that small businesses could be affected. I suppose we need to declare an interest if we have got small businesses, I certainly do. I do not know though whether or not extending a scheme to protect those businesses when it has been uncosted is the right thing to do. So, as I said, I am standing up to ask the Minister for Treasury and Resources to circulate those numbers to us overnight so we can understand that the position is that the costed scheme, which we are being told is covered - the sensible one, the credible one - is capable of sustaining any impact. One thing I will say, though... and I will contribute in other ways in the debate in a bit more of an informed and certain manner because I am uncertain about this one. There is one element to this that I took away from the meeting... obviously consolidation factors in terms of banks, which was a bit of a spectre, but I am very, very keen to make sure that the depositors in Jersey are protected as soon as possible because I am concerned, as has been mentioned, the next 6 months is uncharted territory. I would much, much, much rather have a good element of cover than no element of cover at all and I am just a little bit concerned that while this may not be perfect, if it gets anywhere near perfect I am going to be supporting it because I am concerned for the small business, sole business owner - because this scheme does extend to the sole business owner, the sole enterprise - and the individual depositor who will be left in an unprotected manner if we do not look out. So I am worried for the individuals within the community who would have nobody to fall back upon. They certainly would not have the welfare state that they would have in other nations. Some may help them. It might be worse in some countries than others but individuals at this time only have a verbal guarantee from the Council of Ministers that their deposits would be protected, nothing in law. Nothing in statute. So if we can have the numbers from the Minister for Treasury and Resources to tell us it has been costed and what that risk is, overnight - and I will probably need some help with that because I am

no great mathematician but I would like to see that that work has been done that was promised - then I can probably go with that. But even in going with it I certainly would like to say, just to reiterate what Deputy Shona Pitman has said, I think the work of the panel - and in particular Deputy Higgins - has been extraordinary over the last few months. I certainly do think that a number of the issues they have brought forward are of great significance and concern. I do wish personally to see small businesses protected. At the moment I am not certain whether or not I will support the amendments because I have not seen the evidence. I apologise to Members for obviously not a very clear speech but I am left in a bit of a no man's land at the moment with my own feelings about this. I know we had a briefing due to be given to us by the chairman who was unfortunately not able to deliver that in the time that was necessary but we are in this debate now, in a position where we are not all privy to the same information, we are not all privy to the same experience in terms of banking and his experience in terms of financial services exposure and understanding - along with some other members of his panel - is far greater than I will ever have.

Senator A.J.H. Maclean:

Could I just clarify a point for the Deputy that might be helpful?

The Deputy Bailiff:

I think you have spoken, Minister. The Deputy has raised a question which undoubtedly one of your Assistant Ministers will be able to address later on in the course of this debate. I think that is the right way of dealing with it otherwise ...

Senator P.F.C. Ozouf:

A Member is allowed to give way with the permission of the speaker, are they not, Sir?

The Deputy Bailiff:

The Deputy has sat down. I am not sure that he has asked for the ...

Deputy P.V.F. Le Claire:

It might be helpful if I give way, if that is within Standing Orders. **[Laughter]** I had one more thing to say and then I was going finish. I apologise, I do not want to be in this position of uncertainty but I am concerned about getting ... it is not about me or any of us, I am concerned about getting protection for the individuals in the community, that is what I am concerned about.

Senator A.J.H. Maclean:

So is the Deputy giving way?

The Deputy Bailiff:

I had understood you to say you were going to wait overnight; night has obviously come early. You are giving way and so it is open for the Minister to give a clarification.

Senator A.J.H. Maclean:

Thank you. It was a just a matter of clarity. The Deputy seems to be conflating a number of issues. The scheme is fully costed. Just to be clear, it is a £100 million scheme over 5 years. That is absolutely clear. The issue and the area that is not clear is about small businesses. That is not costed, simply we cannot find the information quickly enough to be able to include them in the scheme. I think the Deputy, the proposer of the amendment, suggested that Oxera did not have the data. They do not. The banks themselves do not have the data readily available, it will take time and that is why we want to include it in the 12 month review so that the issue of including small businesses can be properly analysed and costed.

The Deputy Bailiff:

That is clarified now, Deputy. Your last point.

Deputy P.V.F. Le Claire:

My last point is that although it is a costed scheme, until I am certain that the numbers of natural depositors have got some real chance of getting compensation across the greater majority then I am uncertain that the scheme being proposed is adequate, even though it has been costed. We have been told the amendment does not have the numbers. I still have not seen the numbers of the natural depositors, until I am able to see those and understand those I am having a bit of a difficulty.

3.4.7 Senator J.L. Perchard:

That intervention of the Minister's was very useful. I have to agree with Deputy Shona Pitman, it does leave somewhat of a bitter taste in one's mouth that Jersey's small businesses will not be protected by this scheme when perhaps a depositor who has never set foot on this Island will have protection under this scheme. It does leave a bitter taste and I take a little comfort from the Minister's assurance that he will revisit the scheme after 12 months with a view to - and he has to I think - define what a small business is. Already in this debate, Deputy Higgins, Deputy Shona Pitman, the Minister himself has spoken about S.M.E.s. There is almost a contradiction before we start. We do not know the definition of a small business. Deputy Higgins pointed me to page 71 of his scrutiny report where a small business can be 5 people or less. Of course you could be a hedge fund of 5 people turning over £100 million a year or you could be a carrot farmer with a team of 6 turning over carrots ...

The Deputy of St. Mary:

Could I just ask for a point ...

Senator J.L. Perchard:

I am sure the Deputy of St. Mary will speak at length during this debate as he is accustomed to do on every debate. I have not finished. The definition of a small business is really the reason I have struggled with this. The sentiment behind it is absolutely right, I look forward to the Minister coming back in 12 months' time with a definition and a proposal to support small businesses. I know, having spoken to him privately after the briefing the other day, that it is something that he would like to do and he recognises that ordinary people like us and like our small business entrepreneurs out there will have a bitter taste in their mouth if they are not protected by the scheme. So until there is a clear definition I am afraid that I will not be able to support the amendment unfortunately.

3.4.8 Connétable J.LeS. Gallichan of Trinity:

I would like a bit of clarification. A lot of individual depositors are owners of small businesses with not a great number of shares in these accounts. Could I have clarification whether if the individual depositor placed £50,000 into the business account, would that be covered? On the genuine thing that he was helping his company. I am just concerned that this could be a little side way of moving money from another individual ... so you would have double cover, you would have your own individual cover from your bank and you would have another £50,000 individually covered by your company. Things do happen in this world where people move money. I just want to make sure before I vote on this that people cannot move £50,000 out of their individual accounts into their company account and that will be covered. Basically they are getting £100,000 cover where the ordinary individual is getting £50,000 cover.

3.4.9 Deputy G.P. Southern:

I do not know whether the Attorney General Designate wants to volunteer something at this point or whether he wants some breathing time. Okay, it looks like breathing time. It is a joy to be helpful and I think I can be, especially to Deputy Le Claire's question. It is quite simple. If Members have read their report - I know it is a long report - they will have etched on their minds I

am sure pages 61 and pages 69 where the numbers are. What we have got here is on page 69 of our report the numbers of deposits by people that are covered. What we find is for balances less than £50,000, i.e. the entire deposit is covered, we have got some 500,000 in total deposits, 125,000 of those are resident and non-resident is nearly 400,000. So the ratio of small deposits under £50,000 is around about 4 to one, non-locals to locals. For balances over £50,000, for people with substantially more money, we are talking about 112,000 deposits covered by persons, only 12,000 of whom are resident and 100,000 are non-resident. So approximately 10 to one non-locals to locals. But listen to the numbers: 500,000 £50,000 or less deposits; 112,000 £50,000 or more deposits. Big numbers. The Minister says that we could not cost a potential of covering small businesses. Well, let us have a look, how many small businesses are there? Are we talking large numbers? Cannot possibly be large numbers because we are talking, on our definition - and I will remind people it is a very clear definition - and for Senator Perchard's information it was given earlier, but in this definition of who we are covering if we include small businesses, a small trading company is one that means a company that is incorporated in Jersey so it is local, is a trading company obviously, and upon the relevant date satisfies the condition in paragraph 7 or 8. In 7 it says the first condition is the company is not liable to be registered under the Goods and Services Tax (Jersey) Law 2007, i.e. it does not have to register. Now that ceiling is its turnover is £300,000. So if you do not have to register, even if you are registered because it is more convenient to you and you claim the G.S.T. back, whatever, then fine, you are under that limit. If you are over that limit, over £300,000, you do not qualify. You are a bigger than we need to cover company. The second condition is that for at least 6 months in the calendar year preceding the relevant date the company employed less than 5 employees. So the company that has got an enormous turnover of £10 million - it deals in money - does not get covered. The company that is dealing in carrots with its turnover and is small, and has employed less than 5 employees for 6 months is covered. So we are covering small local trading companies.

The Deputy Bailiff:

Deputy, you are asked to give way for a point of clarification, it is up to?

Deputy J.A.N. Le Fondré:

My reading of the amendment is that it is paragraph 7 or 8, therefore paragraph 7 is the G.S.T. turnover condition or does not employ less than 5 employees, not "and." Therefore if it is not a turnover condition it is possible to have a high turnover company but with few employees. Equally the trading company, the reference seems to be that at trading company is a shop or something along those lines. In my past experience, and this is a clarification because I wonder how the panel has dealt with it, I have audited an investment holding company and an investment trading company. Therefore I think in those instances could somebody from the panel interpret how this definition is as tight as we would like it, not simply for example hedge funds.

Deputy G.P. Southern:

I am very grateful Deputy Le Fondré thinks I am that knowledgeable, however I will leave this one to my chairman who gets his opportunity to sum up on this amendment, I believe.

The Deputy Bailiff:

He certainly will be able to deal with that point on summing up. It is one of those points which hover between a point of clarification and a speech.

Deputy G.P. Southern:

Indeed they do. They are quite common, Sir, and I have been known to do one or 2 myself. But obviously I will reform my behaviour from now on under your good guidance. Either way I still say the point is how big is this issue? Is it a serious issue, enough to trouble Deputy Le Claire that, hang on, we may be taking on this enormous amount of money? No, it is a drop in the ocean. But the principle that we are covering local businesses, as the chairman said at the very beginning, and

these local businesses make an enormous contribution to the local economy in the fact that they do employ, whether it is 2, 3, 4 or 5 people. Can you imagine the disaster, the bank goes down and there is a number of local small companies stuck there, cannot pay the wages, cannot move anything. No coverage whatsoever. Absolute nightmare, that is the reality if the bank goes down and a number of small business get frozen. That is a knock on effect on those 3, 4 and 5 families that may cripple their lives. That is the point. Isle of Man can do it, the U.K. can do it, we can do it: we should be doing it. It is an interesting point to note that under the scheme of covering persons, we are covering vastly more non-residents than we are residents. It would be appropriate, as we might expect, knowing our economy, but it is entirely appropriate to make sure that where possible we get the locals - meaning the local trading companies - if we possibly can. I do not believe that those sort of numbers... and they are very simple, it is very straightforward, a small number of extra accounts will be covered. I remind Members that the words of the A.G. (Attorney General) Designate when asked by the chairman ... and the advice being given to these companies is: "Just stick your money in your private account and you will be covered" is misleading. The chairman says maybe unlawful. We do not want to encourage that sort of behaviour and yet that is what the Minister for Economic Development is encouraging: "Do not worry, boys, stick your money in your private account and we will treat it as yours. Oh, hang on, you are just holding it for the company." It is a fiddle and yet that is the advice that is coming from E.D. That should not be happening; we should not be putting ourselves in that position. As to the numbers thing, it is perfectly possible. The problem with not including the small trading companies, the small businesses is quite ...

Senator A.J.H. Maclean:

If I may, I think the Deputy should withdraw that comment about suggesting that we are encouraging businesses to fiddle their books. We are certainly not doing so.

Deputy G.P. Southern:

I think there is certainly misleading advice being given and certainly if I saw somebody doing that, just parking £50,000 of company money in their own private account, I would use the word: "That is a bit of a fiddle."

The Deputy Bailiff:

I did not understand the Attorney General Designate to say quite that. Perhaps he might like to clarify later on but ...

Deputy G.P. Southern:

No, I am saying that. I am saying I would label it a fiddle. It is clearly misleading advice as the A.G. Designate has said. The point is ... I do not believe I gave way but he answered the question anyway. The point is why did E.D. not go there? Are these such enormous sums? Do they frighten anybody? How difficult is it to find this? It does not matter how much is in the accounts, if they are above or below £50,000, you only get £50,000 worth of cover. The fact is that 77 per cent of 5,700 businesses, which is what we are talking about is perhaps 4,000 accounts. That is perfectly coverable and it should not have been hard to find out. The detail might have been hard to find out. The banks might have said: "I do not know about that" but nonetheless the overall figures are always there. The point is early on in the process E.D. decided that they were not even going to bother going there. They made up their mind that they were not going to consult, they did not consult anybody who might have been involved in that, they just decided. It was convenient. It was convenient and I believe it was wrong. We can put this right by the amendment and it is safe.

The Deputy Bailiff:

Mr. Attorney Designate, you flashed your light, did that mean that you wish to clarify your advice to the Assembly?

The Attorney General Designate:

I was partially going to do that but partially also to return on the question raised by the Connétable of Trinity. First, by way of clarification, I certainly did not mean to suggest that anyone had given anybody else misleading advice. I do not know what advice may have been given but I would simply repeat that what I was intending to convey was that to be eligible you must be holding money for your benefit. If you are holding it for the benefit for another entity or another person then you are not an eligible claimant within the terms of the scheme as drafted. As I understand the question from the Connétable of Trinity it relates to the situation in which an individual may transfer money from his own bank account to that of a small business, a small company account in the event that this amendment were to be adopted, and would that individual therefore be able to claim 2 lots of £50,000. I think I have understood the question correctly. The amendment would bring in the ability to claim for a small trading company. That company is defined as a company incorporated in Jersey, therefore it has the ordinary meaning, it is a limited liability company. It is therefore a separate entity and if that is added into the definition of 5(1) it seems to me that paragraph 5(2) of the Regulation would apply: "If by virtue of paragraph 1 a person is an eligible depositor in more than one capacity the depositor shall be taken to be a separate eligible depositor in each such capacity for the purpose of Regulation 23 which deals with the payment out. That coupled with the fact that it would be a separate entity in any event would mean that in my view it would be in a position to claim £50,000 and the individual owner would also be in a position to claim £50,000.

3.4.10 The Deputy of St. Mary:

Yes, I know 6 minutes. **[Laughter]** Exactly 6 minutes. Yes, 6 minutes, okay. This is a simple matter of principle and we are told often by the Minister for Economic Development that diversification is an important goal of his department. We have to keep our economy vibrant at every level. It is not just about finance it is about the guy who grows carrots and it is about the person who runs a fish store, and it is about all the little businesses around the Island. As Members know from our report, and I shall remind them, we are talking about 77 per cent of the 5,700-odd businesses in the Island. So on the one hand as Deputy Southern has rightly pointed out, it is not very big numbers compared to the retail depositors who, as we now know are in the order of 5,000 under £50K and of the order 120,000 over £50K. Here we are talking about 77 per cent of 5,700, well I make that something under 5,000. So really compared to the retail deposit scale of things, this is more clear. But I come back to it. Are we supporting our diversified economy and, if not, why not? It just is not good enough to say this is a difficult decision. The Minister said this was a difficult decision. I am not at all sure that it was. The reason he gave for not covering S.M.E.s is that it would further reduce coverage for retail depositors. The maths does not stack up. The 5,000-odd small businesses and the 620,000 retail depositors, I am sorry, I cannot see the maths. When he assures us that in the review in 12 months' time ... "Leave it to us" he says ... I am creating a hum in St. Ouen. But, anyway: "Leave it to us" he says: "and we will review this in 12 months' time." But look at the outlook of the Minister and his department. They did not even go to the small businesses, they did not ask. The reason they did not ask was that they knew the answer already. They knew that the small businesses would not like this approach and would tell them what they did not want to hear. But that is what consultation is. You hear what you want to hear and you get messages that you do not particularly want to hear but you listen and you find out that there is concern, and we heard the concerns of the small business and we thought: "Crikey, that is an important issue." There are livelihoods all over the place that will simply be at threat when a bank - if a bank - comes into problems. There will be immediate impacts on small business after small business after small business and on livelihoods throughout the Island. That would happen. To say that we will just leave it for 12 months and we have not talked to small businesses yet because we would not like the messages. I am sorry with that attitude I just do not have much faith in the 12 months down the line. I am sorry. We need to move on this. The only valid reason given was this problem of getting at the data. Well, we were told by one of the bankers in a transcript that

it is very complex to disentangle all these different kinds of business and you get into a complicated set of questions: “Do you look at any non-Jersey businesses that are covered? Is it the shell business or is it the actual functioning businesses in Jersey?” When you hear questions like that coming from the bankers that points to the deeper problem, it points to the fact that we want to protect trading companies in this Island. Then we get this basically obfuscation that it is going to be so difficult to disentangle real traders growing carrots and selling fish from shell companies and God knows what. Well, I am sorry, we have to find the way to do this and this amendment will protect our local small businesses. If we cannot do that in this Assembly then heaven knows what we are here to do. Thank you. I hope people will support this amendment.

Deputy J.A.N. Le Fondré

I propose the adjournment, Sir.

The Deputy Bailiff:

It is 5.28 p.m. Just in case the vote goes wrong on the adjournment I thought I might just report to Members that there has been presented Report 122/2009 - the financial review of the Jersey Heritage Trust by the Comptroller and Auditor General. That only took about 30 seconds. The adjournment is proposed.

Senator P.F.C. Ozouf:

May I ask a point of clarification on some other procedural matter. There has been an urgent question which has been submitted. Is that going to be taken as the first item tomorrow, or how will that work and what are the arrangements?

The Deputy Bailiff:

The question has been submitted and approved, it will be taken first thing tomorrow morning.

The Deputy of St. Mary:

Can you enlighten us as to what that question is about, please?

Senator P.F.C. Ozouf:

I can assist the Assembly if you wish.

Deputy G.P. Southern:

I can assist the Assembly. The question is from me about the potential redundancy of over 20 workers at Jersey New Waterworks and we are the controlling shareholder in that company. This is more than half the staff employed.

The Deputy Bailiff:

The Greffier points out it will be on Members’ desks in the morning. The adjournment is proposed. All those in favour kindly show? The States stand adjourned until 9.30 a.m. tomorrow.

ADJOURNMENT