

STATES OF JERSEY

OFFICIAL REPORT

THURSDAY, 7th JULY 2011

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

PUBLIC BUSINESS - resumption

1. Composition of the States: further debates before the outcome of the Electoral Commission (P.78/2011) - resumption

The Bailiff:

Then we return to the debate upon Projet 78. Does any Member wish to speak?

1.1 Deputy M. Tadier of St. Brelade:

I will, but I am not sure where my notes went from last night, so one will have to ad lib. Of course one cannot talk about the proposition of the Deputy of Grouville, but I think in order to put the arguments for and against Deputy Pitman's proposition, which I think some of us should and do have reservations about insofar as it does seem, in principle, to slightly restrict what this Chamber is about insofar as it should be open to any one of us to bring up a proposition, which we think has merit, which we think might reflect the fact that a mood in the general public has not been fully taken into account. If we think that there is real possibility that the public mood has changed or facts and circumstances have changed, I think that is an acceptable practice. But that must also be qualified and I think we also have to be consistent. First of all I do not think that much has changed and, of course, the main arguments will come out in the subsequent debate. But I think the reason we can support Deputy Pitman's is because we have come a long way in this Assembly to getting through reforms. It seems that the main argument being put by proponents of 12 Senators rather than 8 is the fact that it is undemocratic to reduce Senators by 4; from 12 to 8. I am not convinced that is the case and of course there will be many arguments to suggest that it is more democratic to move towards a single election date, and it is completely undemocratic to have 6 Members of the States who are not facing election and whose mandate is not tested after a 3-year period when the rest of us do have to do that. It also is the case that reform has been debated time and time again; can anybody tell me in their memories how many times reform has been debated while they have been here? Perhaps, the Constable of St. Ouen, Senator Le Sueur. So it is not simply the case that we can compare it to the likes of G.S.T. (Goods and Services Tax), which I think are social issues, which are economic issues, which do change from day-to-day. The format and the constitution of the States is something which we clearly have not been able to decide on. We have made some limited progress towards a general election date, and that is where we are now. The status quo is not 12 Senators insofar as, okay, that is what we have now but the decision going forward, the status quo, is that we have 8 Senators and that we are moving to a general election day; that is the status quo, and that is what we should be leaving for the Electoral Commission as their starting point. I did have lots of other comments, Members will be thankful that I no longer have them, but it was simply to say that I appreciate, I think, Deputy Pitman has been put in an invidious position. I do not think in an ideal world he would have liked to have brought this proposition, but I think we are having some smoke and mirrors going on. I do not think it is coming from the Deputy of Grouville. Personally I believe her motives are quite genuine, but we have seen a move from a small vocal and, perhaps, very prominent section of society to, what I think, wreck the very significant progress that this States has made. Significant, albeit slow, measured and thoughtful over many debates to reform and to the constitution of the States. We know that those who are behind this are self-interested, in my opinion, insofar as some of them are election candidates. It seems also that those who would be standing for those positions in the States also have a level of self-interest. That is not to be criticised. I am sure if they were cutting a seat in St. Brelade in No. 2 District I would probably have something to say about it as well, but although I may have been willing to accept that were it to promote a single election date. So I think we do have to be

cautious. I think, as I have said in a previous interjection, I do have serious reservations about the way the Privy Council have been lobbied. This kind of stand-off that is being brought is effectively a bluff because we know anything that goes to the Privy Council, unless it is an extreme, and at the moment hypothetical situation, the Privy Council cannot do anything but endorse what this House is doing. I think we are being bullied into making a decision perhaps with the thought at the back of our mind that the Privy Council might override us, which would just lead to a constitutional crisis, which is not going to happen. Certainly not for this. I will be supporting Deputy Pitman's proposition but I will not be supporting ... I do it with slight reservations because I think that it is up to the Assembly and up to any Member to be able to bring propositions as they see fit, but I do think that we also have to put that in context, we have to be mindful of the fact that we have a very busy schedule, Back-Benchers, Ministers, bringing forward what they consider and which are certainly important propositions and legislation. Really, at this stage, just before an election, just before summer recess when we have such a long list to debate something which has already been decided on many times and that has been resoundingly rejected or an alternative decision pursued, I do not think is the best use of this Assembly's time and so I will be supporting, on this occasion, Deputy Trevor Pitman's proposition and rejecting, in all likelihood, the Deputy of Grouville's, for consistency.

1.1.1 Senator B.E. Shenton:

You can tell this is a proposition of Deputy Pitman, when you read it. It is in fact a very ineffective proposition. You can vote for this proposition and still support the Deputy of Grouville's proposition. You can vote contre for this proposition and support the Deputy of Grouville. You can abstain from this proposition and still support the Deputy of Grouville, so it does not achieve anything. In fact you can also go off and do a mountain of constituency work, and I think I know what the public of the Island would prefer. We spend far too much time in this Chamber debating meaningless propositions while the backlog of work for the people of the Island builds up, and it is very sad that we do spend so long sitting in this debating Chamber instead of doing proper work for the people of the Island.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon Deputy Pitman to reply.

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

It is nice to see Senator Shenton here, we always like to see him. I thank all my friends who spoke and Senator Shenton as well. I do not intend to go through what everybody said because ... well, I could be wrong because I did get to sleep yesterday eventually after a fun-packed day here, 4 constituency meetings, some of us do do a lot of constituent work, and then we had a parish assembly, so it was a long day, as we all know, but I think, and people can correct me if I am wrong, but what can be said, I think, without any fear of challenge is this proposal is eminently sensible and common sense and it is what the people want. People want us to talk about real issues, they do not want us sort of running off to day jobs or things like that. They want us to get on with the issues of taxation, population, et cetera.

[9:45]

They do not want to be bothered with these little vested interests, small minority issues. So really what I would say is if you do think that population control, taxation, education of our children, et cetera, is important, and it is important to work for the people who elected us, then you can support this and I hope Members would. Senator Shenton, of course, has got it quite wrong. You cannot really support this and then support the Deputy of Grouville; I mean, if the Senator, with due respect, knew a bit more about politics he would understand that. This is about sending out the message that, no, we are not going to just cherry pick again, as we always do, and as it has got us into a terrible mess. Senator Perchard, I think, was the best ... and I respect Senator Perchard

because he has been consistent in his support of the Deputy of Grouville, but he is quite wrong, if we support the Deputy of Grouville everything else will fall. That is a fact. P.P.C. (Privileges and Procedures Committee) have got legal advice on that. That is a hard fact. So if you think that we should get on to other things and if you think you are willing or future Houses should be willing to be constrained by common sense and letting an Electoral Commission do whatever it needs to do then support this. But, please, Members, if you are going to support the Deputy of Grouville vote against this, and with that I will leave it there. I call for the appel.

The Bailiff:

The appel is called for then in relation to the proposition of Deputy Trevor Pitman. I invite Members to return to their seats and the Greffier will open the voting. If all Members have had an opportunity of voting, the Greffier will close the voting. The proposition is lost: 21 votes pour, 23 votes contre and 2 abstentions.

The Greffier of the States:

The following Members voted contre: Senators Routier, Ozouf, Le Main, Cohen, Ferguson, Maclean, the Connétables of St. Ouen, Trinity, Grouville, St. Martin, St. John, St. Peter, St. Lawrence, Deputies Le Hérissier, Southern, St. Ouen, Grouville, St. Peter, Trinity, Lewis, Gorst, Dupre and Noel. The Connétable of St. Mary and Deputy Jeune abstained from voting.

POUR: 21	CONTRE: 23	ABSTAIN: 2
Senator B.E. Shenton	Senator P.F. Routier	Connétable of St. Mary
Senator J.L. Perchard	Senator P.F.C. Ozouf	Deputy A.E. Jeune (B)
Senator A. Breckon	Senator T.J. Le Main	
Senator F.du H. Le Gresley	Senator F.E. Cohen	
Connétable of St. Brelade	Senator S.C. Ferguson	
Connétable of St. Saviour	Senator A.J.H. Maclean	
Connétable of St. Clement	Connétable of St. Ouen	
Deputy R.C. Duhamel (S)	Connétable of Trinity	
Deputy of St. Martin	Connétable of Grouville	
Deputy J.B. Fox (H)	Connétable of St. Martin	
Deputy J.A. Hilton (H)	Connétable of St. John	
Deputy P.V.F. Le Claire (H)	Connétable of St. Peter	
Deputy S.S.P.A. Power (B)	Connétable of St. Lawrence	
Deputy S. Pitman (H)	Deputy R.G. Le Hérissier (S)	
Deputy M. Tadier (B)	Deputy G.P. Southern (H)	
Deputy T.M. Pitman (H)	Deputy of St. Ouen	
Deputy T.A. Vallois (S)	Deputy of Grouville	
Deputy M.R. Higgins (H)	Deputy of St. Peter	
Deputy A.K.F. Green (H)	Deputy of Trinity	
Deputy D.J. De Sousa (H)	Deputy K.C. Lewis (S)	
Deputy J.M. Maçon (S)	Deputy I.J. Gorst (C)	
	Deputy A.T. Dupré (C)	

2. Draft States of Jersey (Miscellaneous Provisions) Law 201-: request to Privy Council (P.99/2011)

The Bailiff:

Then we move next to Projet 99, Draft States of Jersey (Miscellaneous Provisions) Law: request to Privy Council lodged by the Deputy of Grouville, and I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (to refer to their Act dated 20th January 2011 in which, subject to the sanction of Her Most Excellent Majesty in Council, they adopted a law entitled the States of Jersey (Miscellaneous Provisions) Law 201-) and to agree that it is no longer the wish of the Assembly that the law should receive the sanction of Her Most Excellent Majesty in Council and to charge the Greffier of the States to write to the Clerk of the Council notifying the Clerk that it is the wish of the States of Jersey to withdraw the law which was transmitted through the official channels under cover of a letter from the Greffier of the States dated 26th January 2011.

2.1 Deputy C.F. Labey of Grouville:

I make no apology for bringing this proposition back to the Assembly for reconsideration. I do not do so lightly, nor do I represent a political grouping or persuasion or campaign that is currently going on. I bring it because I am convinced that it is the right thing to do for our Island. To save Members the time let me advance from the outset the arguments that we have been here before, we have been here too recently, we will look stupid in the eyes of the electorate if we change our minds now. We have been here before but the impact of our decision on those who placed us here was seriously misjudged, in my opinion. As part of the slew of the other reforms the reduction in Senatorial seats slipped through the net in a way that should never have happened under the proposition title of Miscellaneous Provisions. Members, with the best of intentions, perceiving dissatisfaction among the public with the makeup of this Assembly took a step to address that, but instead of raising an Island-wide cheer for their efforts this part of the so-called reform was met with dismay, distrust and with more, not less, dissatisfaction and in some quarters complete outrage. We have all read the letters, the emails, the press and seen the resultant petition. It is our responsibility to listen to that and respond to it. We are a States of deliberation. The public has given us something tangible to deliberate upon and it is only right that we should do so. The other argument against debating this is that we have been here too recently. Well, yes, in truth we have. But that vote was lost by only 2 votes and we are under a time constraint for the forthcoming elections. Thirdly, we will look stupid in the eyes of the electorate if we change our minds now. Remind me, how many times have we voted on school milk, G.S.T. exemptions, and other issues? The Members of this Assembly are bigger than this. It is the saddest and most frustrating of all reasons so regularly put forward in this Chamber for sticking to an unpopular or wrong decision. Yes, we are put here to lead. The good leadership involves listening and having the strength to admit when we have got something wrong and the courage to correct it. That is not stupid, it is responsive and right and the public will thank us for it. While I am addressing the arguments against can we please avoid the navel-gazing argument that the listening public are so mightily fed up with us discussing, our own internal affairs. We should move on. This is not our affair, this is theirs and this is about their vote, not our seats. We have a duty not to turn a deaf ear to their cries while their democratic votes are being eroded. Why have they spoken out so forcefully? Because this generation of the voting public, and most of us here have grown up with the senatorial system, it is known to us and trusted because uniquely it is the Island as a whole having their say. A lot of our debates on these issues have brought forward, frankly, offensive claptrap about deterring the wrong sort of candidate from standing. I believe we should all be trying to improve the calibre of membership of this Assembly. Let us be honest, standing in the Senatorial Election is an arduous and rigorous test; to make it less attractive by reducing the chances of success so dramatically is not going to encourage new blood, it is going to deter it. It might only be 2 seats this time, but those are vital 2 seats as it is those 2 seats that can let in the fresh blood and the unknown with an Island-wide mandate. Our electorate is largely centre right as, by and large, our candidates are. That is not going to change. The point is, all of us here can guess who are the certainties to get re-elected and so can the public. Well-known people, politicians with a good track record, established politicians with families and followings in clubs and parishes, who always do well at the ballot box. There is nothing wrong with that. That is reality. But if a potential candidate with no particular

parish ties and an Island-based manifesto is looking at a possible election and is in a field of 6 places we can probably guess the shoe-ins and the certain favourites. They will probably number 3, even 4. If there are 6 places available it is still worthwhile for the unknown to stand. They might still be in with a chance, cut that down to only 4 places and they will not waste their time and money. What does that do for our democracy? So, yes, the proposed reduction in senatorial numbers will deter the so-called no-hopers but it will deter everyone else too and give us less choice in the spectrum of opinion. Therefore, those that argue that this is a Council of Ministers' ploy could not be more wrong. To disenfranchise Island voters at a time of such dissatisfaction with our workings in this House is dangerous beyond belief, and yes I know there are implications to my proposition. The fact is, by restoring our membership to 6 Senators in the forthcoming election, we will have increased the chances of quite a few and the electorate have a real choice instead of being presented with an A list of 4 dead certs. The Chairman of P.P.C. will no doubt elucidate the many reasons why we cannot change this decision. The administrative reasons it cannot be done. Well, yes, it can and she can do it. I know it is asking us to return to an issue debated in only January and in March this year but I am passionate about our duty to keep our democratic process intact until, as an Assembly, we have decided on a different system. One that has been reviewed by those without a vested interest, consulted upon and then debated thoroughly. I believe that the decision made by the Assembly in January is not only anti-democratic it is unconstitutional and conflicts with the third recital of the States of Jersey Law 2005, which says: "Whereas Jersey wishes to enhance and promote democratic accountable and responsible governance in the Island." The removal of 4 senatorial seats will reduce the electorate's democratic rights to vote by between 20 and 26 per cent. It therefore neither enhances nor promotes them. What that decision did was the complete opposite of what our constitution promotes. We have removed and reduced people's democratic rights without even consulting with them. When our rights and freedoms have been fought for over the centuries I would like States Members to ask themselves, by what authority they think they can make such a decision without any consultation with the people they serve and whose rights they are removing. I also remind Members that when the public were last consulted about the reduction in the membership of the States 63 per cent wanted a reduction in Deputies, 17 per cent wanted a reduction in Constables and 6 per cent wanted a reduction in Senators. The P.P.C. commissioned a MORI poll whose results were able to allow the revealed trends to be extrapolated to the voting population as a whole and presented the findings to the States in March 2007. The preferred option was based on a formula of fewer States Members and a general election day. Thirty Members would be elected Island-wide, as Senators are at present, and 12 Parish Constables would stay in the States. All Members would be elected on a single election day every 4 years. There would be, therefore, no Deputies but we would have 30 Members elected in an Island-wide mandate rather than the 12 at present. With 12 Constables there would be a total of 42 States Members, 11 fewer than at present. This scored 31 per cent in the poll and was the favoured option. It is option one that P.P.C. is using to advance the argument for fewer States Members but they failed to point out that it was based on a very different formula. The second preferred choice was their option 3.

[10:00]

The same number and the same 3 categories, Senators, Deputies and Constables, as at present but all elected on one general election day. This allows the existing membership to be retained but instead of having a lot of separate election days and different terms of office all 53, Members would be elected on the same day every 4 years. When going to the polls electors would have 3 separate ballot papers to vote for 12 Senators, their Parish Constable and their Deputy or Deputies. This scored 17 per cent. These results clearly demonstrate that Jersey voters want a higher proportion of States Members to be elected on an Island-wide franchise as, and I quote: "Senators are at present." The least favoured option was a reduction in Senators. Therefore, as we move towards an Island-wide election on the same day for the first time, ask yourself why we, as

Members of the States, voted by a majority of 2 to do the opposite of our voters' wishes. Then ask whom it is you serve. As I have said before, it is not our constitution that is causing voter dissatisfaction. It is, in my opinion, ministerial government. We are shining the torch in the wrong area. For all that, we have achieved a lot in 3 years but we seldom reflect on our successes. We now have all the Constables being elected on one day, the Deputy's term of office has been brought forward to deliver a single voting day, thus doing away with the 2 bites of the cherry that the public resented so much; where a failed senatorial candidate, having received 5 weeks' worth of publicity could then chance his or her arm in the Deputies elections. We no longer have elections spread over 9 weeks with the inevitable and understandable election fatigue contributed to by the gap between the senatorial and deputies' elections. Now, for the first time, all Constables, Deputies and I hope 6 Senators will be elected on the same day this year. I congratulate P.P.C. on achieving these long-awaited reforms, however we still have the problem of having to decide the numbers of Senators. One of the most underrated aspects of Senators is that they are elected on a rolling basis, 6 out of the 12 are being required to stand for election every 3 years. That, in my opinion, is a good system. It provides stability within Government. By historical coincidence the element of stability ideally suited the emergence of industries based in the Island, particularly the financial part of our economy that provides the vast majority of our jobs and income as a Government. This sector relies entirely on the international perception of the stability and effectiveness of our governance. We simply cannot afford to be seen to be tinkering with it rather than amending it following a properly consulted upon review. It is therefore a great benefit that in March this year the Assembly agreed to appoint an Electoral Commission. I voted for it. I voted for it because I knew our constitution would be independently reviewed in a holistic way, free from vested interest. It will review all aspects of the composition of the elected membership of the States Assembly and the election and voting processes, hopefully improving all our performance and effectiveness as a Government of this Island, and as the Lieutenant Governor said last week, to establish a better understanding ...

The Bailiff:

Standing Orders do, Deputy, prevent Members from relying upon things said by the Lieutenant Governor in their argument.

The Deputy of Grouville:

I beg your pardon, Sir. I think we all know what he said. Surely the Electoral Commission and its process of review should only be based on the status quo from an established position rather than after a one-sided reduction in those who represent the whole Island. What we cannot and should not do is introduce piecemeal changes where democratic rights are infringed and reduced in the guise of a reform package. I recognise that it could be some time before an Electoral Commission's recommendations have been consulted upon, agreed and implemented. Nevertheless, I believe we should maintain the current system of Government that has stood us well through time until that time arrives. I also recognise that there will be a real impact on those Deputies who are looking forward to a 4-year term of office that will fall away if my proposition is passed. I ask them to reflect on the benefit to the electorate rather than their own positions. We cannot logically consider reviewing the effectiveness of our Government by offering up a reduced number of States Members taken from the broadest mandates in an untried system. I make my proposition.

The Bailiff:

Is the proposition seconded? [**Seconded**] Deputy Tadier.

2.1.1 Deputy M. Tadier:

I am making the mistake of speaking early in the morning and also speaking early in the debate, but it is something I feel fairly strongly about. I am surprisingly better than I thought in the morning,

certainly when it comes to matters of electoral reform. I am not going to try and pursue the argument that we have been here before and we have debated this enough because, as I have said, I have certainly been here re-debating G.S.T. and re-debating the incinerator, even though I did not debate them initially. It is worth noting though, there is a difference between re-debating the incinerator, which was one of the first debates that we had in this new Assembly, and debating electoral reform because very many of us felt passionately that the incinerator was the wrong decision, the same as the Deputy of Grouville thinks that the reduction in Senators is the wrong decision. The difference is we had not appointed an independent board to look at whether or not the incinerator was a good idea or to come up with alternatives as to what other kind of incinerators could be used. If that had been the case neither the Deputy of St. Mary nor myself or other supporters would have found it necessary to support the rescindment decision. This is one key difference, I think it is important to highlight. We do have an independent body to look at the whole issue, which can be used as an argument both ways, I agree. What I am going to focus on is what I see as the myth, or certainly the half truth that is being pedalled that somehow the reduction in Senators is antidemocratic and that what the Assembly has decided democratically and by majority on several occasions now is somehow less democratic or, as the Deputy of Grouville has put it: "Undemocratic and unconstitutional" because it certainly is not undemocratic or unconstitutional. It is the democratic will and decision of this House. The first thing I would say is that what the House has very difficultly managed to gain over the last series of debates is a general election. We can hear ... of course we get letters in the *J.E.P.* (*Jersey Evening Post*) and we know how the *J.E.P.* around election time sources their letters. I certainly know that in the last elections there were fanciful letters being written to the *J.E.P.* from people who did not exist and who did not live in the houses that they said they were. I was the subject of one letter myself - I just put this in as an aside to show that we have to be wary of some of the machinations sometimes of some of the media in Jersey - because I received a letter, which was critical, and it came from this address on the electorate which the person was not on the electoral roll at all. I made some inquiries and the *J.E.P.* said: "Would you like to respond to this letter before we publish it?" and I said: "Well, I would like to ascertain that it has been written by a real person. They are not on the electoral roll and clearly somebody with such political interest should be on the electoral roll." After I said that I heard nothing back from the *J.E.P.* But that is not to undermine the argument; there is a very strong feeling in Jersey that the reduction in Senators is somehow wrong and somehow undemocratic. The argument I wish to put forward is what we are doing is that we are promoting democracy insofar as that we are giving people more choice at a general election because, as things currently stand, in any one election cycle there are 6 Senators you cannot vote for. This is something I know the electorate feel very strongly about. My own constituents, some of whom are not as completely up-to-date with politics as we are, say: "Oh, there is an election coming up in October, are you standing for election?" "Yes, I am standing for election." "So I know there are certain Senators, I am not going to be voting for them again" (I will not mention any names) "I am not going to vote for Senator X, I am certainly not going to vote for Senator Y." "No, you are not because they are not up for election." And they say: "Really? That is not right. They are not up for election?" "No, but they will be in 2014 because what we have done the States have decided that we are going to have a general election day and you have the right to change the whole of your Government." This is the kind of undemocratic practice that the Deputy of Grouville is talking about and others, so there is a great fear here because this "stability" is a completely subjective word. The 6 Senators who remain there who then go on to become Chief Minister, usually at the lowest point of their popularity, the public popularity, are then appointed by the States Chamber without necessarily the mandate of the people. This is something that people feel very strongly about. The question is, though, I would pose to the Deputy of Grouville (who I know is a proponent of democracy) is how do we balance what seems to be ... it is not counter-intuitive but mutually contradictory desires of the electorate. They want to have more Senators because there is this perception, because they are somehow elected on an Island-wide basis because everybody can vote for them, it is easy to understand, that much is certain. How do we balance that with the fact

that people want to vote ideally for their Chief Minister but, in the absence of that, they want the Chief Minister to be appointed from a new intake of people? They cannot do that. They have therefore no real control over the Council of Ministers - in the absence of any party politics they do not have any way of controlling policy direction - they at least want to be able to change all of the States Members on a single date if they want to. Stability is not for us to dictate. It is not for businesses to say: "We need stability therefore for stability we need 6 people out of 53 staying in the States." Why do we not just say let us have half of the States staying the same or if we want true stability let us not have elections at all. Let us have the business community appointing candidates not just the normal candidates that they do every 3 and 6 years in the form of some of their Senators, who are surreptitiously backed by the business community and then given the top jobs by, what some think, is a nod and a wink in the corridors of power. Let us just not have any elections at all and let the business community, if it is for stability's sake and for the economy, let them just appoint those who they think are best to run the Island. That is probably how things were run in the past. That is certainly not a democracy, that is tending towards more of an oligarchy. That is not something I want to have any part of. I think we have to talk up what the States has done. I do have sympathy for the head of P.P.C. because I know, having been there; I know also previous P.P.C.s what they have had to deal with, they have had to wrestle, and I think on this occasion she has been given an unfair ride by the media, the media who seem intent on keeping what are essentially conservative seats. It is not because of the fact they are conservative it is just simply because of the fact that I think we found a better solution. We have found a way to give the people what they want, which is a general election, we have found a way to make sure that in future the Chief Minister will have to be elected on a new round of elections, therefore solving the problem of asking Chief Ministerial candidates to stand down before or to have to declare before, because that is something which really grates with the public, so I do think that these arguments have not been brought out. The anti-democratic arguments have been pedalled, by and large, by those who have got absolutely no interest in democratic reforms. One of the Senators, who I will not mention, said to me: "I have no interest in democratic reforms. I think the States works perfectly well as it is." That is fine, that is an opinion. He is entitled to that opinion, but it also goes to show that the reason that some Members do not want any change in the reduction of Senators is not because it is particularly democratic, it is just that they will defend at any cost the status quo.

[10:15]

I do think we need to reiterate the fact that the public want lots of different things. They want ostensibly, we are being told, to keep 12 Senators but they also do not want us to carry on talking about elections at the same time. They do not want us to, what is being termed as "navel-gazing." It is unfortunate that we are in this position and that we are being asked to lobby the Privy Council to go back against our decision. It is a very curious thing that we are asking. We are asking the Privy Council not to take on board our previous decisions. It is a very strange set of affairs. So I think the points have been made. The current proposals that we have and that P.P.C. have worked on diligently in many meetings, which could be cast aside today; we could just click our fingers, we could say: "No, we are going to get rid of this, we are going to get rid of all the hard work that is being done, we are not going to have a general election day. Mrs. Ecobichon, Mr. Ahier of St. Brelade, you are not going to be able to vote to change your whole Government in 2014. You are not going to be able to have the ability to change the Government. You are not going to be able to vote for all Senators. You will continue to have a minus 6 deficit at any general election that could have been. There will be 6 people that you cannot vote for." The last thing, I think, is this idea that we are reducing people's rights. No, we are increasing the rights. I think the argument has been made by a Senator himself, Senator Le Marquand: instead of every 6 years, you are voting every 4 years. So you get to choose every 4 years rather than every 6 years. You do not have to wait 4 years to kick out somebody who has managed to perhaps fool you and say: "I support a reduction in

G.S.T. I am not going to increase G.S.T.” As soon as they get the first chance they increase G.S.T. and then you have to wait another 3 years. You say: “Hang on a minute. Is this democratic? We are talking about democracy here and I have got to sit here while there is an election going on for 47 Members and the one person in the States that I want to get rid of because he misled me in the elections, I have to wait another 3 years and what is he going to be? He is going to be the Chief Minister. All right. So, Deputy, who is talking about democracy here? I have to stand here or sit here while the States is being run. I can vote for Senators, Deputies, Constables and it does not matter so long as the 6 people who are controlling power, the 6 people who say things to get elected then change their minds, stay in power.” See, this is the problem that I have and I think many Members of the public have. That is why I favour a single election day. That is why I favour more democracy for the people. Give them the chance to change their whole Government. Do not say that 6 people, on the ostensible grounds of stability ... I mean, one person’s stability is another person’s stone around the neck. These are the only arguments I can make. I have spoken early, I have spoken passionately, and I think that there will be other arguments which I miss. But I think the whole story has not been said. This idea that the public are being peddled in particular by one election candidate who has no doubt spent much money, and he has the money to spend, on a campaign which presumably will not count towards his election expenses; although that is maybe something that P.P.C. would like to look at ... he has been able to put across one side of the story, which is not representative of the whole debate. I am quite happy to stand here, because I know some constituents have been perplexed, saying it is strange that you voted for a reduction in Senators and I hope that I have given an acquittal of my position today and the position which I think many Members of the Assembly would agree with.

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

Sir, I wonder if I may ask the Solicitor General a question based on what Deputy Tadier said and the statement made by Senator Perchard at end of session last night? Is it the case that, if this is accepted by the House, all the other reforms will fall away or can this be separated out, as Senator Perchard was intimating, from the other reforms?

Deputy I.J. Gorst of St. Clement:

Sir, while the Solicitor General is contemplating that question I wonder if we could raise the défaut on Deputy Le Fondré?

The Bailiff:

Does everyone agree to raise the défaut on Deputy Le Fondré? The défaut is raised. Solicitor General, can you answer that question?

2.1.3 Mr. H. Sharp Q.C., H.M. Solicitor General:

Yes. There is presently a law to be considered by the Privy Council and, if this proposition is adopted today or next week, presumably the result of that will be that that law will be withdrawn from the Privy Council’s consideration. So that law will effectively be removed from their in-tray and they will not consider it and, therefore, everything in it will not be passed into law. I hope that helps.

Deputy R.G. Le Hérissier:

I thank the Solicitor General but could he comment on whether the law is constructed in such a fashion that every part depends on the other; it is totally interconnected, in other words?

The Bailiff:

I think the Solicitor General has made the position clear. The law fails, everything in the law fails.

The Deputy of Grouville:

Sir, could I just clarify that? As I said in my speech, we still have one election day, albeit 6 or 4 Members will not be up for election. So it is not everything. It is not every reform. We still ...

The Bailiff:

Deputy, I am sorry. You cannot start having a second speech at this stage. You can deal with this in your reply.

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

I wanted to just ask a further question of the Solicitor General. It was to follow up on a question I think Senator Perchard raised as well yesterday, which I believe he put to the Solicitor General and maybe this is the right time to ask. I think there was a reference that even if this was all rejected today, that is the law is withdrawn, it would be no problem to get any Senators elected under 6 years forthcoming elections to shorten their term. In other words, he inferred that if a 4-year term was to be introduced in the next sitting sometime obviously there would be an impact on the Senators that are elected at the forthcoming elections in October and that they could have their term reduced effectively by an act of law. Now, my understanding in the past is the advice has been that would be against all sorts of rights because the electorate had voted in someone for 6 years and the only way that could be achieved was by those Senators voluntarily standing down. I suppose the point I am asking is Senator Perchard seemed to imply that it was something that could be done legally and my understanding is that is against legal advice that was previously received in all the other reform debates we have had.

2.1.5 The Solicitor General:

So the question is: supposing Senators are elected in October, thereafter can the States pass a law reducing their term of office? The position, of course, is that when you start talking about changing the constitution in such a fundamental way alarm bells start ringing in lawyers' minds and there are risks involved in such a process. There are 2 risks, in my view, or at least 2 risks. The first is that you are not recognising the express will of the electorate. That is to say, they have voted somebody in for 6 years and expect that person to serve the 6 years, save for bad behaviour, I suppose. The second risk, of course, relates to the expectation of the successful candidate who also expects to serve the 6-year term. So there are risks in those 2 ways in the States voting to reduce an elected Member's term of office halfway through the life of a States Assembly.

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

As usual, I will be brief. I did support the reinstatement of the Senators last time and I will be supporting it again. It is my belief that the people of Jersey wish to retain the full Island-wide mandate and, for that, I do support an Independent Electoral Commission. But I do not support in any way, shape or form any petition or approach to the Privy Council. I think this is a very dangerous precedent and should be avoided at all costs, but I will be supporting P.99.

2.1.7 Senator F. du H. Le Gresley:

Hopefully you will agree with me that as we get older our memories start to fade. I have to say today my memory has not faded since January or since March and I do not expect to hear anything new in the speeches that have followed that of the proposer and the alternative view put by Deputy Tadier. The only thing that has changed is that we are going to set up an electoral commission. To me, that has not changed where I stand on this particular issue. I would also like to say that one would have expected a vulnerable Senator like myself to be lobbied between March and today's debate to change my vote and I can tell you that not one person has contacted me. **[Approbation]** So if there really is a mood out there to get back to 6 Senators at the next election why was I not contacted, because I could have been regarded as vulnerable. I think we are going to be wasting our time today. In fact, I noticed very soon after the Deputy sat down, having made her speech, 20 Members left the Chamber. I suspect that those 20 will be summoned back when we come for the vote because they have already made up their mind. In fact, I would go so far as to say we have all

made up our minds. We are wasting our time. We have got a massive agenda. **[Approbation]** I know that the Minister for Economic Development is desperate to debate his terms of reference for the Shadow Board for the Harbours and Airport and I think we should bring this debate to a very swift end, take a vote and get on.

2.1.8 Senator A. Breckon:

Notwithstanding the previous comments, interestingly in her comments the Deputy of Grouville has said: "I felt so strongly at what this Assembly had done that I vowed to fight on." Then in her speech she has said: "Well, there has been no consultation." Well, my question to her, and perhaps she could tell me when she sums up, is: where has her consultation been? Have there been any public meetings? Where were they? How many attended, or have I missed this? I can remember organising a meeting with the Finance and Economics Committee when we were talking about stopping mortgage relief and we had to call out the Fire Service at the Town Hall to check and we had to have another meeting the next night. I do not remember this happening about Senatorial seats. So perhaps she could tell me where the strength of this argument comes from and where the public feeling has been whipped up, because I have missed it; it has gone over my head or I have not picked it up. The other thing is she has mentioned a petition. Now, this petition, the one that is supposed to be around, is a bit of a mystery. It has been on the street, it has been off the street. She also mentioned the Town Park, G.S.T. and the school milk, but they have been very visible and they have come before this House. Where has the other one gone? There are some questions there. Maybe she could tell us how many signatures she got for it. If she feels so strongly, has she been standing out in King Street in the rain doing that, or even in the sunshine? How many signatures, who organised it and who paid for it? These are questions people would like to know. Where is this public feeling? Nobody paid for a milk petition, nobody paid for a G.S.T. one and nobody for paid for one on the Town Park. So where is this coming from? I would like to know and perhaps she could tell us in her summing up. The other thing, this has gone to the Privy Council. I know of cases and Deputy Le Hérissier probably knows them as well. When I first got elected to the States many years ago a number of people phoned me up and they had some seriously complex legal cases and they had trouble with the courts. They were litigants in person and the courts had been kind to them, but they were not satisfied with the outcome and they used this petition as an individual member. Deputy Le Hérissier knows the same cases and people come to you with a suitcase full of papers and say: "I would like to petition the Privy Council." Now, those are the only ones that I am aware of done by individuals who have felt aggrieved by the system. But, again, and I am sure this is the same, if somebody wants to go to a European court then you have to prove that you have exhausted all local remedy. You need to have gone through a process and demonstrated: "Well, I have tried this where I am. I have tried everything and I have tried appeal. It is finished. I can go no further. So I need to go outside." Here, we have not had a public meeting that I know of and somebody has gone to these lengths to go to London to present this to the Privy Council without having a meeting at the Town Hall even to get people there.

[10:30]

Now, if we had filled the Town Hall and we had to go somewhere else then I can understand the strength of public feeling. But where is it? It is not there. So I would say to those that have gone outside the Island, perhaps they have used processes when they should have used people power first to demonstrate the strength of feeling. The other thing the Deputy of Grouville said in her opening speech was: "The decision was seriously misjudged." That is what she said. She also touched on about 4 seats and 6 seats and it seemed to me that she had people in mind: "Well, these 4 are strong. These I am not getting. These are going to have a go." It seemed to me that she had individuals in mind. What we have to do is set aside individuals and look at the process and this is something that has plied the minds of this P.P.C. and others before it. What has happened is that this House has balked when it has been given a set of proposals: "What can we do? Oh, we do not like that bit.

We do not like that bit.” What has happened is ... I remember it coming from the Constables, they were proactive in proposing the 4-year term and that had to be rescinded because the other bits were not coming with it. That is where the progress was and I think P.P.C. recognised at the time that the wholesale change will not happen: “Then we will try bits and pieces here and there”, and that is what happened, the bits were cherry-picked. It is a long time since I was at school, but in maths we learned things about a common denominator and I will explain this. If we think of 3-year terms and 4-year terms, the common denominator is 12 because in 12, 3 goes into it and 4 goes into it. Now, for every 3 years, if you are voting for 6 Senators, it is 24. In the same 12 years, in a 4-year period if you vote for 8 Senators it is 24. So how we get a reduction in who you can vote for, I am not quite sure. Who did the maths? But they are the figures and that is rock solid. That is it. It is true; it is indisputable, indisputable. So where the reduction comes from I do not know. The other thing that has happened, and other people have mentioned, it is possible ... Senators Shenton and Perchard are sitting behind me. They are in the second period of a 6-year term. Now, I am not saying it applies to them but it is possible for Senators in the second part of their term to fall asleep at the wheel and then what can the public do? The idea of coming to a 4-year term was so that this would not happen and we would all have our act together and we were more accountable. Now, that is what the process was about. Now, if we talked about the change, where was the change going to come from? The Deputy of Grouville talked about ministerial government and possible failure. I would say to Members that I think the Constables have kept the contact with the people more than anyone through this process of ministerial government. When we had a committee system we were all out there doing things in various ways and the Constables have kept that contact with the schools, the churches, the parish events and the rest of it and some of us have disappeared a little bit from the public view. Not all of us, but that is how the people feel about it. Now, that is really where we are. So if we look at change, and it is something that has been mentioned recently in this House, we need to keep that contact. That is why others have put a great deal of faith in the Electoral Commission, but it will be for this House to decide and that is where the issues will be. There are things about super-constituencies and things. I would like to think that we could sit down and do it, rather than wheel in and wheel out the great and good to tell us this, that and the other and then take some notice of it or no notice of it. I have not got a great deal of confidence in what that might do. The other thing, I think I made the point that, as far as I am concerned, this is not about us, as far as the public are concerned, is not an issue at all. The public are worried about things, but it is not about whether there is more or less of us; it is about things like school fees, it is about the price of housing and affordability and things like that. It is about everyday living costs. Who we are and what we do is important, but not necessarily how many of us there are. Ask people: “Do you want more Government or less?” The answer is: “We want more effective Government. We do not really care how many you are, what title you have got or what you do. Just do something about the things that we are concerned about.” If you want to know what is really going on out there, go in the 99p shop and see the queue for bread and milk and you will find out what things are about. That is what people are talking about and that is what they are interested in. The thing is, in the end it is who is listening in here and out there and who will act. I have a great deal of sympathy with this P.P.C. and the previous ones because it has got to come before this House and, for me, there is no point spending thousands and thousands of pounds on an electoral commission to do something and then say: “Oh, we do not like that bit.” It is a bit like - and I got lumbered with it a few years ago - Sunday trading. Everybody says: “The law is not policed. It does not work. It is a bit of a nonsense. Change it.” When you propose change they say: “Do not do that, though. Do not do that.” That is about where we are with this. The Sunday trading law is broken every Sunday, every Sunday without exception. So where are we with this? The reason I say that, we are a bit like that with this situation. What is it we are wanting to change? What is it we want to change? Is it the number of people in here? Now, if we need to go to an Island-wide mandate, how do we get 40 or 50 people elected on an Island-wide mandate? You cannot do it in one go. If you do it in 4 goes - turn a timer, let us say - then you have disjointed Government where people are coming and going. How do you have collective working in any way, shape or

form? If we are going to have a change, it is simple enough; it will have to be bigger constituencies. That is the only way, whether you still have the Island-wide mandate or not. But this is not rocket science and we all know enough about it. The other thing is (Senator Ozouf will know because he has done figures over the year) I think the average vote in a Senatorial election from the electorate is 4.6. Many people do not use 6 votes and people are aware of the plumping element of it, whether that is Deputies ... not so much Constables but Senatorial, they are aware of that. The facts and figures show that and there is no hue and cry about this. For me, if you like, it is turkeys voting for Christmas. I have been consistent on this because generally we have agreed we must reduce the numbers in this House. How do we do? I have blown hot and cold about the Connétables and, I must say, my view is that the Constables have been the bedrock of the Assembly and the contact with the public and have seen us through what has been a difficult period of ministerial government where, for some, we have lost touch with the public. But the Constables have not at all. So if we leave that in, where are the rest of us? We need to address that. We do not need, as I say, the great and the good to do that. The reason I voted for this is we need to take a step and the reduction from 12 to 8 was a step. I forget the debate we were having but this Back-Bench was empty (Senator Le Gresley will vouch for that) for a few days, I think people were out of the Island and whatever else. I think it was the Island Plan or whatever it was, in the last fortnight anyway, that this Back-Bench was empty for most of it. I think the Chief Minister and Senator Routier were on States business and I think the other 2 Senators were on a pre-planned visit to the U.K. (United Kingdom). That is the way it was. It did not feel that empty really without that. So I think we can stay as we are. We have agreed to do this. I respect the Deputy of Grouville's right to do this and I look forward to hearing her answers.

2.1.9 Connétable L Norman of St. Clement:

Deputy Tadier was absolutely right. He should not make speeches first thing in the morning [**Laughter**] which is a shame because he started off so well. He made it clear - and it is the same note that I made - that the decisions that we have made on this issue are not undemocratic or unconstitutional and if we support the Deputy of Grouville today, neither will that be unconstitutional or undemocratic. It would be wrong, but it would not be unconstitutional or undemocratic. You see, what the Deputy is showing concern about is not, I think, the reduction in the total number of Senators but it is about the transitional arrangements to get to a situation where the electorate will be offered a greater choice, more votes for Senators in 3 years' time. We will have more votes for Senators in 3 years' time than we have now because from 2014 we will be able to vote for 8 States Members on the Island-wide mandate every 4 years instead of the 6 we have done and the 4 we will do this year. The threat, if there is a threat, to the role of the Senators is not this decision that we have made about reducing the total number to 8 but the decision to have them elected on the same day as Constables and Deputies and by reducing their term of office to the same as Deputies and Constables. That is where the real threat to the Island-wide mandate is because those changes remove the incentives for Deputies who feel they have got a reasonably safe constituency to move up; because what are they being offered? A longer term? No. Less expensive in running the election? I can assure you, having done it a couple of times, running a Senatorial election is a lot more expensive, a lot more tiring and a lot more difficult than running a Deputies or Constables election. So very few Deputies - I am sure there would be one or 2 exceptions - will choose to run for the Island-wide mandate. Once the current crop of Senators has moved on and retired, what they are going to find is, for these 8 Island-wide seats, the vast majority of candidates will be newcomers to politics. Quite honestly, I do not think the Islanders, the electorate, are going to appreciate that very much and, in the end, the role will disappear altogether. So we will not be arguing about losing 2 seats in the short term, but rather losing all of the seats because it is undemocratic to have every Senator elected from newcomers to politics. So I shall be consistent in voting against the Deputy's proposition.

2.1.10 Connétable K.P. Vibert of St. Ouen:

Again, we have heard this morning, as we have done in the past debates, about vested interested and so I think it is important that I declare my interest in this particular debate. I am one of the Members here today who has been privileged to have quite a large say in the way that my Island is run today and into the future. Of course, after 12th November this year I will not have that amount of say. I will have the same amount of say as every other member of the general public. I am really glad that Senator Breckon picked up on the fact that the Connétables do have quite a close role with the public that they are supposed to represent in this House. That public has come to me in quite large numbers on this particular subject. They are saying that the States made this decision without the proper backing of the public that they were making the decision about. When I finish in the States, as I said, I will have the same vote as everybody else and so this year, for instance, I will only be able to vote for 4 Senators if we do not change this vote. Now, I listened to what Senator Breckon had to say and that over 12 years I will vote for the same number, but I could be dead before the 12 years are up; so I will not have that privilege. When I listened to Deputy Pitman summing up in the previous debate, he intimated that this was a small minority issue. I suggest to the House that this is not a small minority issue with members of the public out there. They feel, regardless of how they try and manoeuvre the figures to prove otherwise, that this is, in some way, taking away part of their franchise and I think that we have done a great risk to ourselves. I think that it will be an issue in the forthcoming election and it will be an issue that the public will react to. I have been consistent in my opposition to the removal of 2 Senators through every vote and, like Senator Le Gresley, I do not intend changing my mind.

[10:45]

2.1.11 Deputy R.G. Le Hérissier:

I was not intending to speak but, since you have invited me, I will say a few words. **[Laughter]** **[Aside]** I think, to quote the Constable of St. Lawrence yesterday: “There is an elephant in the room” and the elephant in the room is the proponent of this and does not want any change at all. They never have wanted change. They know full well that the Electoral Commission, despite the finest rhetoric from the Deputy of St. Mary, could well be a rerun of Clothier. We will be stuck with the same issues. What they also should know and what the Constable of St. Ouen did not acknowledge in his speech, and I am as guilty as he, is it is not just the Senators. It is not just saying: “We must keep them because they are the most democratic element,” because what a fallacious argument. Everybody should be democratic and the Constable and I should not be coming in regularly on unelected mandates, for example. What we need is a much more wholehearted reform. I have never, for a moment, believed that the proponents behind this are prepared to do that and, as Senator Breckon quite rightly said (in one of his most passionate and convincing speeches ever, I might add, and I hope maybe this is a sign that he is moving away from the Consumer Council to more passionate areas): “Where is the real democracy throughout the system?” In a way, the public could not give an iota **[Laughter]** about the rearrangement of deck chairs on the Titanic. What they are worried about is that the States is a dysfunctional organisation, it is not working and I think they will support people who are prepared to engage in proper debate at that level. Not this continual rearrangement of the deckchairs.

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

We come to this debate and it is a package of reform that we are being asked to withdraw, and this has not been picked up by our esteemed media when it has been publicised, it is focused on the reduction of the Senators. Like the Constable of St. Ouen, people have spoken to me about it but when you explain to them it is a package of reform and that different bits go together, and when you say the universal 4-year term enables a general election, and I do not know how fine a detail the Constable went, but when I have explained that to people a different attitude has prevailed. A more thoughtful one has come and when you start going into the credibility of the number of Senators elected on the same day attitudes do change. So I have done a bit of research, as I do, and

the Deputy of Grouville from the MORI polls quoted different statistics but she neglected to mention that in 2006 when people were polled, 71 per cent of that sample said that they wanted a general election. Now the only way you can have a general election is by having everyone on the same term. There were benefits to that in that if you have everyone on a 4 year term you abolish the 2 tier system that we have at the moment. Now, no one has commented about the vast - I think Deputy Tadier did - frustration of members of the public who find that a fifth-place Senator X number of years ago find themselves being lined up for a Chief Minister's position without facing a fresh election. Now if we move to a universal 4-year term the benefit from that is Senators will have to stand on a proper Chief Minister mandate in front of the electorate. They will be elected on that basis. Many of the electorate want to be able to vote for the Chief Minister. Why has no one mentioned this yet? But of course with the right of appointment comes the responsibility of dismissal. So if you were to move to a presidential-type system you could be in the absolutely awful position where if the public choose their Chief Minister, if that individual is not acceptable to States Members we could find ourselves in a very bad situation. Then you have got to ask: "How will this individual be dismissed?" Is it by States Members, is it by the public. You are opening yourself to all different types of areas where you probably do not want to go. However, if Senators are standing in front of the electorate on a fresh mandate as a Chief Minister then it makes our job much easier and probably more representative of the public wishes at that time. Now the Deputy of Grouville commented that we are in an invidious position, but who has put us in that position? I would say the Deputy of Grouville by constantly lodging the same proposition. That is why we are here. We sat in this Chamber, we made a decision to our democratic system and the democratic decision was made. Yet some people just cannot accept that decision. That is fair enough. In my research I pulled up a previous speech of a Member and on 25th February 2009 this Member said: "Well, even in the short time that I have been a States Member I am frustrated by the number of times that we revisit decisions that we have made. Just ask, is it good government and how much will this delay cost both financially and to the reputation of our Island? Here we are again asking this House to rescind a decision that we made a last year. That decision at that time was not quick or lightly made. So please let's take responsibility for our decisions we have already laboured and agonised over, please let us just get on with it." That speech was made by the Deputy of Trinity during the incinerator debate. But the Deputy of Trinity is one of those people who have countersigned this proposition. She has quite clearly said in the States: "We have made a democratic decision" and here we are showing another face. It is very frustrating. So by the MORI poll we have established that a general election is what the public want and we have decided that should be done for a 4 year term. But let us imagine for a moment that we keep 12 Senators because some think that this is the magic number, and this goes back to explaining the impact on the public. I went back and I pulled up from the last 2 senatorial elections, the candidates and the votes that they got. So in tenth, eleventh and twelfth place last time you had Candidate Tadier with 5,011; Candidate Pitman in eleventh place with 4,931 and Candidate Troy with 3,927, so let us say 4,000 votes over a population of 92,000 officially, we have to give a system to the public which is credible. We have to ask ourselves is someone coming in from a senatorial election gaining 4,000, how credible is that mandate? Therefore, if you want to move to a general election, to provide a credible system to the public something has got to change. Even if we go back to the previous election, Candidate Carroll, 5,081; Candidate Lewis, 5,028; Candidate de Faye, 4,994. So we are talking about 4,000 to 5,000 votes in order to become a Senator into this House if you keep the number of Senators but provide a general election.

Senator B.E. Shenton:

Can I just point out that the speaker is talking nonsense because if you had 12 candidates you would have 12 votes not 6.

Deputy J.M. Maçon:

Absolutely, but you do not know how many candidates you are going to have and you do not know how many votes that people are going to give. So I accept the point by the Senator (although he did not ask me to give way) that it needs to be taken into the round and all these things need to be considered: the amount of candidates and the amount of votes. So in the round, again, it does not quite work and this is the problem that many P.P.C.s have struggled with: how to deliver a system that people want and the amount of Senators that the people want; it just does not work. I will not be supporting the proposition of the Deputy of Grouville because people want the ability to have a general election, they want the ability to have everyone up on this House facing the Island in whichever way, having a fresh mandate and that is borne out by the MORI polls quite clearly. It has been touched on but the Deputy of Grouville has said the reduction down to 4 is bad, but of course, after that you will have 8. The Deputy of Grouville was talking about the nuances between those that are guaranteed ... well not guaranteed but she alluded to that there is a certain likelihood of the top 4 places going to a certain amount of individuals, but of course she did not mention that if you move to an 8 tier system the flexibility that she wants with the fifth and sixth place is extended to the seventh and eighth candidate. So, again, taking in the round, I do not find myself able to support this proposition.

2.1.13 Connétable P.F.M. Hanning of St. Saviour:

We have had some good speeches, especially as been mentioned by Senator Breckon and the Constable of St. Clement. Once again we are debating ourselves, 3 times before this has been discussed and voted on, and while I accept that the Deputy of Grouville has not agreed with the result each time the House has repeatedly decided that it agreed with the package proposed by P.P.C. I repeat it accepted the package. I would ask Members to look at the comments from P.P.C. In the MORI poll, as we have heard, 71 per cent wanted all Members elected on one day, not most but all elected on the same day. That would go. Members wanted a spring election, that would go. Members wanted a longer term, that would go. Members wanted the Electoral Commission to have a blank sheet of paper, that would go. They would not have a free hand until 2017. I would remind Members that P.P.C. had legal advice that it would not be possible and we have heard from the Solicitor General that there are problems if we try and shorten Members' terms. We had a period of transition with the Constables and we had to work out the period of transition by the Constables carrying out their full terms or resigning. The public do want everyone elected on the same day. I was reluctant to vote to reduce the number of Senators but I did so because it was part of the total package and it was to be achieved step by step. The package offers the change to elect 8 not 6 senatorial candidates at each election. I do not believe that electing 12 Senators on the same day will be successful. As we have heard, on past experience, the last few could be elected with relatively little support. I would remind Members to read P.P.C.'s comments. I believe we should send a clear message to the Privy Council that this Chamber has decided on a package of reform. **[Approbation]** If this proposition is passed we lose the whole package.

The Bailiff:

Does any other Member wish to speak? Deputy Pitman.

2.1.14 Deputy T.M. Pitman:

I am not going to speak for too long either. I think we have to look at the issue that Deputy Tadier touched upon, and I did not think his speech was bad this morning, not by comparison to some of his speeches or mine or anyone else's. Now I am a humanist and although Deputy Martin is not here to have a deep argument with me about it I will tell you a joke. Sometimes even though you are a humanist you start to think sometimes that someone up there is trying to tell you something. This is the sixth debate we have had on this issue, all told, with a rescindment and whatever, and if you look at the Deputy of Grouville's proposals you will see that it was lodged on the sixth day of the sixth month. As I said before 666. **[Laughter]** That is the impact on democracy for me. I do respect the Deputy of Grouville a lot. We had our differences yesterday but she is a good Deputy

and I have a lot of respect for her. I think she is entirely wrong on this issue and I am pleased that the Solicitor General has clarified the myth that was being put about that somehow if we voted for this we could keep the rest.

[11:00]

We cannot. The things we lose are pretty huge. There will be no general election, it has got to be stressed. The Constable of St. Saviour has done a good job in making that clear. The Senators 6 will remain for 6 years and what that does do, I think very wrongly, is it allows a situation where someone, and I am not saying it has happened, who could have got in on a very strong platform, particular issue, but then completely betrayed those people, then that person could still go for Chief Minister and I think that has got to be wrong. Every person I speak to thinks that is wrong. There will be no levelling out of terms, and I do not care if it was 4 years, 3 years or whatever, I must say that I think having now experienced it for myself 4 years makes more sense to try and achieve something with the snail-like process that we make in this Assembly. This myth I do want to speak about, about how it would be less democratic with a number of Senators. Well, I think Senator Breckon has dispelled that and I have to say it was the best speech I have ever heard him make, it was an excellent speech. There is a lot of myth being put around here. I have to come back to the *Jersey Evening Post* who are really the people who have orchestrated this campaign. You only have to look a big full comment page being given to someone who is already a declared senatorial candidate. Now, will we all be offered that in the election? I very much doubt it but it is being spun as if it is some minority driven vote. I think there has to be real credit given here to Senator Shenton who proposed this about 4 years ago when he rightly said there is no real reason to have 12 Senators, none at all. He proposed that and he was right. Funnily enough in the *J.E.P.* the very same Senator is given space to say that this has been driven by Members with smaller mandates. How very strange, how very strange indeed. Perhaps he had forgotten. Yes, we have seen a lot of letters in the media but they have all been from about one or 2 former politicians. I have had absolutely no one, as Senator Le Gresley said, come and complain to me about this. People complain to me about G.S.T., they complain to me about housing, they complain about population, they complain about the mess in the streets. You know, we hear complaints, do we not, about almost everything but I have not heard any complaints, quite honestly I can say that, about this reduction because Senators Breckon and Le Gresley were quite right, most people do not care about this. They care about the issues that affect their lives. They do not care if there is 10, 12, 15 or whatever. I think they might care if there is only one of us left but perhaps that is the way we are going. I just think that what we have got to lose by supporting the Deputy of Grouville is pretty huge. It is going to deny us a proper general election until 2017 and, to be quite honest, the way things work if we do throw this back the Electoral Commission I do not think will want to take it on because there is going to be nothing ... it is going to be a hopeless task for them. They have seen the snail's pace at which we have progressed and I was not on P.P.C. when this was put together but I think - and we have not always seen eye to eye - the Chairman does deserve some credit. Whether that is me coming to the dark side or her coming to the light, I am not sure but it is quite a diverse group of people on P.P.C. It has got even more diverse recently. That is great, that is what politics is about. The strength of politics, whether it is right or left, is you need strong opposition to keep you in check and you need a fair system. We are slowly inching towards a fairer system. The Constables did lead the way funnily enough some years ago when they pushed towards the one day election for them. We thought we had got towards a 4 year term. I can remember listening to that debate. But it seems always when it comes to the crunch there are those who cannot resist the fact that they want to retain what they see as their hold on things. I do not think the public do want that. I think the public want a system where people can be held accountable. Again, that is whether you are left, right or centre. People want a system where, if you do not keep promises, if you say one thing and then do another, then they can vote with their feet and remove you altogether. I have to disagree with the Deputy of Grouville, I do not think the staggered part of our electoral system with

the Senators is a good thing at all. I do not think it is a strength for democracy. It retains people in place, as I say, when they may be past their political sell by date with what they have said, they have not done what they have said. I just find it quite disheartening that we get to this place. My last proposition was brought for the right reasons, I do not think the people want to listen to us week in week out and I understand where the Deputy of Grouville is coming from. Yes, we should all be able to bring issues that we feel strongly about or our constituents feel strongly about, but I would put it to Members, if you are honest with yourselves, people really care about taxation, we see that with 19,000 signing petitions. We have seen it with school milk. People do care about school milk, yet all we get from the Council of Ministers is: "No, you have to take tough decisions." This might be a tough decision. It might be the wrong decision but we have taken it and we have debated it 5 times. People are more interested in the things that impact on their lives. People do not care about this. The majority do not. Where is this petition? Where is it? Whose names are on it? Are they all called Mickey Mouse? We do not know, because whatever you say about Senator Breckon's petition, Deputy Southern's petition, you can see it, the names are there, presented to the House. Where has this gone? I will finish saying - and I know it is not the Deputy of Grouville's fault - the move to the Privy Council has really opened up the floodgates because already there is a group in contact with me who want to go to Privy Council about taxation and about unfair discrimination against Jersey people. That is an important issue, far more important than this, with due respect. That is where we have got ourselves by this really foolish process. P.P.C. have worked very hard, I think they deserve a lot of credit, I think the Deputy of St. Mary deserves a lot of credit - he is not here - but he does. We have got to give the Electoral Commission a framework to work in. We have done that. If we start pulling the sheets out of the book then I think we are going to have an impossible situation. As I say, every respect to the Deputy of Grouville but she is wrong. We have discussed this 6 times now and it is not nearly as important as school fees, tax, population control. I am going to be consistent, I am going to vote against her.

2.1.15 Senator J.L. Perchard:

I completely agree with Senator Le Gresley and I think the last speaker provides good evidence of the fact that this debate has been very well rehearsed. We all know which way we are going to vote on this and I would suggest that there is little more to add. I just have one thing that I think is slightly at variance to the main topics that have been promoted on both sides of the argument and that is the position about any Senator elected in October for a 6-year period, should the decision be reversed to reduce the number of Senators. I took the trouble to have a conversation with the Attorney General and the Solicitor General this morning about this matter and the States' ability to reduce a term of a Senator that would be elected in October. Can I paint a picture for Members? An election takes place of 6 Senators this October, 6 Senators are elected, the Electoral Commission report some time in 2012 and they recommend that a general election should be held in order to improve voter turnout and make ease of running and conducting elections and reducing costs, and ease for the electorate. That is probably an almost certain conclusion they will reach. How then does the States come in line with the problem that we have created of most Members being elected for a period but 6 Senators outside that term. I will ask the Solicitor General to confirm that I have got his advice right. As I see it, if the electorate elects 6 Senators in October and before those elections take place all candidates are advised that there is an electoral commission looking at the whole constitution and makeup of the Assembly and the Electoral Commission may well recommend a general election and a 4-year term. In the event that the Electoral Commission does recommend just that and the States will almost certainly go via means of referendum to the people to endorse the recommendations in the Electoral Commission. It would be quite reasonable then, thereafter, for the next Assembly to vote upon reducing the terms of those 6 elected candidates to come in line with a cycle for a general election. The risk that the Attorney General referred to in an earlier answer to Deputy Le Hérissier would be greatly mitigated by the fact that candidates would be forewarned that there was an electoral commission and that the

people of Jersey, via means of referendum, would have endorsed the outcome or the recommendations of the commission and therefore the States could quite reasonably vote to reduce the terms of those 6 elected Members. I think it might be sensible, if you would allow me, to ask the Solicitor General at this point if my interpretation of what he told me is accurate. Because I think it would be better if he informed Members.

2.1.16 The Solicitor General:

If the electorate are properly informed before they cast their vote in October that there is the prospect of an independent review and a referendum, and if all relevant candidates are properly informed that their term of tenure may change depending on the outcome of that process, then I agree that the risks I identified in an earlier answer are reduced but they are not eliminated.

Senator J.L. Perchard:

Thank you. I need say no more other than Deputy Le Hérissier said the proponents of this do not want change. That is so unfair and simply not true.

Deputy M. Tadier:

Can I ask the Attorney General a question based on that? From what I have understood would it also be necessary or would it be a consideration that all of the candidates should be in agreement beforehand that their term of office which they might have a reasonable presumption that is going to be 6 years could be reduced? If they were not all in agreement and some of them thought that they were standing for a 6 year term, could that create a problem and possible legal challenge.

The Solicitor General:

That is why I said all candidates, i.e. before anyone is elected, must know that although they may serve a 6-year term that depending on the reform process that may change. They need to know that before they are elected. There is a material difference between going into something with your eyes open and knowing what may or may not happen. That is one scenario. The other scenario is going in with an expectation of a 6-year term and then after you are elected, perhaps even a year down the line, the goalposts are moved.

Deputy J.A.N. Le Fondré:

May I ask a further question? If I could perhaps give an example and then ask the question. I am assuming in order to ... for all candidates to be properly informed there would have to be some, I presume, written communication from whoever, whether it is the Jurat or however the correspondence and documentation is produced for Senators that goes to them to identify there could be an element of doubt. But I assume that things like that wording and the nature of the uncertainty, would that have to be agreed, for example, by this Assembly through P.P.C. for example, which I would therefore assume is the normal 6-week lodging period, which means we will be debating it in September after Nomination Day.

[11:15]

The Solicitor General:

Being properly informed does not mean necessarily that you have gone through a rigorous States debate as to what the wording should be. It simply means that somebody has told the candidates what may or may not happen in the future.

Deputy J.A.N. Le Fondré:

I think the question I was asking is who is that somebody and what is their authorisation?

The Solicitor General:

I would have to have a think about that. That may very well be P.P.C. but in any event one knows for sure that this review is coming and therefore it is surely proper to inform candidates that it (a) will be coming and (b) may conclude that there should be changes.

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

May I ask another point of clarification? The Solicitor General said even if the electorate was properly informed and all the candidates were properly informed the risks of a Senator or Senators saying: “Well, thank you very much, I have been elected 6 years, I am stopping with 6 years even if the Electoral Commission and the subsequent referendum tell me that it is 4 years” and the Solicitor General’s response to that was the risks are reduced but not eliminated. Could the Solicitor General go over that very carefully and tell the Assembly what he means by the risks are reduced but not eliminated?

The Solicitor General:

I think when I started answering this question I said that what you are dealing with is questions of quite considerable constitutional importance and therefore when you get into that area you start to get into legal uncertainties and so it is very difficult to give definitive advice. To give an example, it could be said on the one hand that the referendum protects the interest of the electorate. On the other hand, the countervailing argument is: “Well, in October we voted to a 6-year term and we expect you to stick by that.” So it is not clear-cut and I am sorry not to be able to provide you with clear-cut advice as I normally wish to do but it is such a fiddly legal area that it is very difficult to comment at this time.

Deputy M. Tadier:

Can I ask a point of order? I think it is. The question is what Senator Perchard is proposing in keeping with the proposition and one of the reasons I ask that is that this has financial and manpower implications and it seems that what Senator Perchard is asking for to inform the public that the candidates at the next election, very hypothetically, may not be serving a full term as they think. That clearly would have financial and manpower implications.

The Bailiff:

Deputy, Senator Perchard has not put forward a proposition.

Deputy M. Tadier:

No, so what I am asking, Sir, is his suggestion of what could be the case, is that consistent with what the Deputy of Grouville is proposing?

The Bailiff:

I do not think that is a point of order. The Deputy of Grouville is simply asking this Assembly to pass a proposition to withdraw the request to the Privy Council. The matters which the Solicitor General has advised on are obviously matters Members would wish to take into account in deciding how they vote but it is not a matter of order.

Deputy T.M. Pitman:

Could I ask a final point of the Solicitor General on what he explained? If there is still that risk and presumably one candidate or 2 candidates, whatever, said: “No, I got elected for 6 years” and makes a legal challenge, who would be responsible for any financial fallout from that? Would it be the States of Jersey if someone was sued? I am not quite clear on that issue.

The Solicitor General:

It may very well be the States of Jersey, yes.

The Bailiff:

Very well, perhaps we can return to the debate then. I saw next Deputy Le Claire.

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

Thank you, good morning. I know that there is one thing that most Members have said to me since the Solicitor General took office and that is that his advice is crystal clear. It is also good advice and we have heard this morning some very clear advice from the Solicitor General, and I do not know what part of it sets all kind of alarm bells in lawyer's heads going off that Senator Perchard did not understand. I do not know what else there is to not understand about the risks being reduced but they are not eliminated. The advice from the Solicitor General is crystal clear. If we approve the Deputy of Grouville's proposition today, a package of measures will be withdrawn from the Privy Council's considerations. To sidetrack into whether or not we can curtail Members terms of office, I think, is clutching at straws. I have not been more troubled by a proposition since I came to this Assembly because it has really tested my decisions. I am not going to rule out that I might still not be minded to change but I am still, at this time, anyway, of the opinion that the correct decision is to move forwards and to recognise that the long traditions held in respect of good governance of this Island, on behalf of the people of Jersey, and the longstanding citizens that we have, have for ever and utterly been done away with. This Assembly is no longer the Government of Jersey, it is a legislature. Its role needs defining. The Council of Ministers - and it has been advice that we have received from Her Majesty's Solicitor General now proceeded into the Deputy Bailiff's role - they are the Executive and during the Clothier debate former Deputy Layzell sent me a note and I have made this comment before, I wish I had read it out. It said to me: "You do not seem to understand, Paul, in the future the Assembly will not be the government, the Council of Ministers will be the government." When I stood to read it out I was told: "That is a private note, that is a private note." Well, it is not a private note any more. Also many other Members who I spoke to since then that were forced into agreeing because they were bullied and chided into agreeing, that the move to ministerial government was the right thing to do, they have since privately come to me and told me: "We think it was a big mistake." It has divided the Chamber, without a shadow of a doubt, and it is interesting over the last couple of days how many people are smiling at me and talking to me and spending time with me, but they do not have a minute for me any other time of the year. They want my vote, they do not want to listen, they do not want to know about what my electorate wants, they could not give a tuppenny bit at any other time, except for when the vote is this close. I think that is what it is about. The argument has been made that not the entire Assembly has sat to adjudicate upon this matter. Not the entire Assembly has had a chance of having their say. That is the peculiarity of government, is it not, because we are never all here and as the public says: "They are not all there in many ways." It is also a problem we have got with our community and unfortunately I am afraid to say this notion of an Island-wide mandate, and I have been there, seen it, done it, got the t-shirt, came in fourth and then I was given 2 things to do, this and this for 6 years, rotating my left thumb **[Laughter]** and rotating my right thumb around it at the same time. I spent 6 years twiddling my thumbs after having been elected on a very popular mandate of work permits, coming in fourth in the elections, predominantly sole issue campaign that the people wanted in 2000, and when I was returned to the Assembly I was given my place. This Assembly is not a democracy in terms of how the people's views and wishes translate into actions and goals. If the Island-wide mandate, which is being fought for on their behalf at this peculiar time, which they are being told that this is the issue for the election, if it was so important then it would have translated into those Senators being Ministers, but they are not, they are unelected Deputies or they are elected Constables but they are not necessarily ... it is wrong to say unelected because they are uncontested so they do have 10 votes. So the Minister for Education, for example, carrying Ministry of Fort Regent, nobody is interested in that; Culture, nobody is interested in that; Sport, Island games, nobody is interested in that; education fees, nobody is interested in that, he is running a campaign of an uncontested election. How do you do that? Oh, I know, you go to the parish hall and you stand around for 45 minutes and that is it, boom, done, you are in. The Constable of St. Ouen says: "We do not have more

Senators we are only going to have 6 votes” because, of course, they do not have votes for Constables and Deputies in St. Ouen, and I can understand their frustration and I can understand why so many of his electorate are going to him and saying: “We do not think it is right.” A lot of people come to me and say: “How come is it that the Constable of St. Ouen gets to sit on the Council of Ministers for nothing?” by no mandate whatsoever or no vote or no popular decision, or no direct-elected position from this Assembly yet people in other positions of authority: Public Accounts Committee, P.P.C., wherever, they cannot go. Assistant Ministers cannot even always go. Sometimes they are told not to go. Sometimes they are told to come for a little bit and then leave. If you are one of the Constables and you are in charge of the Constables you can sit there all day long. Do not get me wrong because I have got a great deal of respect for these people but I am going to challenge these positions because I do not have a great deal of respect for these positions any longer. I have the greatest of respect for the Constable of St. Ouen, he may not have much respect for me after this but that does not matter, what matters more importantly is do I respect and have genuine concern for his electorate? I certainly do. Do I have genuine concerns for the Deputy of St. Ouen’s electorate? I certainly do, very, very deep concerns, very, very deep concerns about this Island has handed over government to a Council of Ministers that is now run by a very, very small clique of people, a covert - I coined that one - political party. I also coined Council of Millionaires, I should not have done that, that was wrong of me, and then I coined Council of Minister, which was also wrong of me; I should not have done that either. So we have covert political party, a grouping of 20 people signing up to a code of conduct, running candidates against other candidates, not a political party. That is perfectly fine and good. Yet we are being told that the electorate’s constitutional and democratic rights are being eroded. What percentage of the electorate give one penny’s worth of their time to this Assembly at the moment? They do not. They do not because we do not care about them. We do not care about them, and if we did this election would not be about whether or not there is going to be 6 Senators, it would be about some of these things. What is the big decision in this election? Well, the *J.E.P.* will tell you, and certain other candidates that are running that will tell you, it is the senatorial seats, that is the big issue. It is certainly not about G.S.T, we have decided that one, so that is not an electoral issue. It is certainly not about the Island Plan; that has been decided for the next 10 years. It is not about the Housing and Immigration policies which are going to affect everybody, that has already been done. It is not going to be about the economic growth strategy because that is going to be coming and gone. It is not about the States of Jersey Development Company, it is not about educational fees and it is not about any of the big decisions. Just like the incinerator, because they are all taken ahead of the election. So come the election you have got a bunch of smiling faces saying how competent they have been and nothing to debate except 20 people, 21 people sitting on a platform repeating whichever person ahead of them got the most amount of applause. It is absolutely ridiculous. I went and I spoke to 2 people that I thought were going to help me make my decision. I must say I have never known these 2 people to be in agreement in my entire life but I respect both of them for different reasons. One was ex-Senator Frank Walker and the other one was my father. I start with my father, a 77-year-old Jerseyman, through The Occupation, worked down the Harbour, De La Salle School. He said to me when I was 11: “You will never change anything, Paul. You will never change the system.” I thought I could prove him wrong. I am still hoping I can. I said to him: “Dad, what do you think, do you think I should change my vote and reinstate the Senators?” He said: “It does not make any difference what you call yourselves they are not listening anyway.” So my Dad just thought it was ridiculous, pointless and just call yourself what you want, basically.

[11:30]

Elect yourself in for how many years you want and go off and tell your parishes how much they should value their system. The parishes value their system, we value the parish. How many Senators came to last night’s St. Helier’s rates assembly? None. People of St. Clement, I went

down there for the Island Plan: “We do not want any more building in the Parish of St. Clement, we have had enough. We have had enough of all these affordable homes and this social housing in St. Clement.” I said: “You are protecting your parish system and that is why you have got 2 Deputies and a Constable” all the people that were there, good parishioners, they are protecting that parish system that they love and that parish system is working against them in reality on the ground because the parish system favours the urban districts over the rural districts. I know I am bad but Members snoring in speeches I think is just a little bit too ...

Deputy M. Tadier:

Could I ask for clarification? Did the Deputy mean that the system favours the urban parishes over the rural, because that is what he said, or did he mean the opposite?

Deputy P.V.F. Le Claire:

Yes, sorry, it was the snoring that put me off: the rural over the urban. So basically the outlying green parishes, where there are going to be nice big houses for people to live in and green fields to look over, while not favour those of us who are going to be crammed into town, the 48 per cent of us who are never going to have a house and are going to pay rents for the rest of our lives. The second ...

The Bailiff:

You are going to come back, Deputy, are you, to the question of Senators?

Deputy P.V.F. Le Claire:

Yes, Sir. The second person I spoke to was ex-Senator Frank Walker and I said to him: “What do you think? Should I change my vote? Should I go back to the Senators? I am having a great deal of trouble over this one, I do not know what to do” and he said: “No, I do not think it is the right thing to do” and I nearly fell over. I absolutely nearly fell over; I was staggered and I said: “That has really, really surprised me.” He said: “I believe that what we should be doing is we should be moving forwards into a system where there is greater opportunity for people to be elected by greater numbers and one type of Member, perhaps with the Constables involved.” I take the caveat of the Constables but I am not 100 per cent certain on that but he certainly did say not the Senators. I have known my dad a long time. **[Laughter]** Senator Le Main knows my dad as well, he knows and I know that my dad is no newcomer to Jersey politics and nor is ex-Senator, Mr. Frank Walker. I think they both recognise that this Island’s government has stopped working, as far as the States Assembly is concerned, and that is my point. This States Assembly is not working any longer for the people. The Council of Ministers is arguably not working for anybody either. I think Deputy Maçon’s speech was an excellent speech. When you look at having a senatorial mandate of 4,000 people and this has been the words expressed by Senator Ozouf in the past: “Then you do start the question the legitimacy of our right to govern.” I am quite amazed; we have a grouping of people that are politically minded that could be stacking candidates against the likes of the Deputy of Grouville, for example, who does believe in democracy and who is, in my opinion, an extremely good, hard-working Member of the States Assembly who, in my view, should and would be in any large constituency, elected hands down because she brings so much to the Assembly in terms of effort, compassion, understanding and legitimate democratic desires but I think her platform has been hijacked. She did hit the nail on the head though; we are shining the torch in the wrong direction and unfortunately they have thrown the torch into her hand or they have stood behind her and they have redirected the torch and focused or given it more powerful batteries, I do not know. It is the wrong debate. The actual debate about whether or not this Island is being correctly governed, as she said quite rightly and as I have always believed, is the fact that we did not go to a referendum on the ministerial government. Where was the democracy there? Where was the opportunity for the people to have a democratic say about all the things that we know that are involved; how to elect your Chief Minister, who gets the positions? The ministerial positions, in

my experience, have been handed out prior to even meeting the people in this Assembly. I come into this Assembly sometimes after being re-elected, I have done it a couple of times, and I meet people I have never seen before in my life and 5 minutes later they are a Minister or they are a President of something. I am like: "Wow, how did you do it?" I think the Housing Law that we passed yesterday was a good step in the right direction. It removed some of the discrepancies and it created a more equal society. Now it is less equal in some respects but it is much more equal in others. I think that we do ourselves disservice for having different tiers of opportunities in respect of how we are elected and how we are represented and what we can say and who we can get elected in. I thought: "Well, if I vote against the Deputy of Grouville I am going to have all of these candidates and the media campaigning to get me out of my position in district number one." If I vote with the Deputy of Grouville I am going to have all my fellow Deputies in number one and all their supporters campaigning to get me out. I feel like I am in a position where I cannot lose because either way I am going to be able to say: "Right, good, I can get on with something else." But I do think if I am minded to stand again and if I was to fail, having changed my mind to go back to being a Senator, because everyone is thinking about the elections, I would have no answer to come back to the electorate and say: "I want to stand again." "Well, why?" "Well, because I supported Senators." "Yes, well that is fine, that was proved but we just did not want you." "Yes, but I want democracy." "Oh, yes, that is all right, get lost." No, that would have got me elected perhaps; might have got me elected and may not have got me elected but it is not there; what is more important than getting re-elected is trying to make a difference. I received an email from a States Member over the Island Plan that said: "Paul, you have done the right thing, time to withdraw your amendments, no need upsetting people, it is election year. Best thing to do is withdraw it. We have to think about the elections." I wrote back and said: "Thank you very much. I did not get into politics just to get re-elected." That is the difference; I think I am quite prepared to fall on my sword over this even if all of the States Members turn up and vote on this I am going to send a clear signal to this group of people that are going to do the next body of work and a clear signal to the people of Jersey who are utterly fed up with this system of government that we have. I am going to send this signal: I am committed to democracy in this Island, I am committed to elected representatives that represent their electorate, not themselves and if I am not elected on this occasion, because there is a campaign either way for me, my mind is going to be set in stone and my heart is going to be with it. I am for the democratic rights of the electorate. Throwing this package out now is going to do away with the spring election which is going to encourage people to come. There is going to be no prospect of a true general election until 2017, at the earliest. The one thing I will end by saying is we have a significant storm cloud on the horizon. This package of measures has been a catalyst for change into delivering a more responsive and a more effective and a more accountable form of government. If we stick with what we had then we need to get rid of the ministerial system. What we need to focus on, instead of these debates in the future and we had better start focusing very, very rapidly because the storm clouds are certainly on the horizon in terms of the financial issues in terms of Greece, Portugal, Ireland, Germany ...

The Bailiff:

Deputy, I must please bring you back to this debate. It has been a very wide-ranging speech but can you please concentrate on this particular proposition.

Deputy P.V.F. Le Claire:

Yes, Sir.

Deputy P.J. Rondel of St. John:

I was enjoying it, Sir, giving the full background.

Deputy P.V.F. Le Claire:

I cannot use that page then, Sir. You have just cut out a page of my speech, you should be pleased to know. That was my finale though so I do not know how I am going to finish now. **[Laughter]**

Senator T.J. Le Main:

Can I propose the adjournment, Sir? **[Laughter]**

Deputy P.V.F. Le Claire:

Senator Le Main can go home, Sir, if he likes; I will come with him. Okay, so you took away my big punchy ending, Sir.

The Bailiff:

I am sorry about that, Deputy.

Deputy P.V.F. Le Claire:

I will busk it from here, Sir; 60 seconds, here I go. We have all made up our minds about which way we are going to vote. It is just a matter of who is going to be in the Assembly when we start pushing the buttons but that is not what is important. What is important is are we going to go out and deliver a more accountable and a more engaging form of government by agreeing with the Deputy of Grouville? In my view, no. We may win our elections but we will not be doing that. The only way we can progress Jersey, and we need to progress it because we need to be concentrating on the future of Jersey and the financial issues that are going to be facing it very soon, the way to get things going in the right direction is to stick with the package of reform. P.P.C. needs to do a much better job of informing the public very rapidly about what the whole package involves and educate them. We need to get out there and we need to knock on the doors of the electorate and we need to say to them: "This election is not about the Senators; it is about democratic representation" and if you think Senators are so important then where are they when it comes to running the Transport and Technical Services Department, the Health and Social Services of Jersey and the Education, Culture and Sport of this Island?

Connétable D.W. Mezbourian of St. Lawrence:

Sir, excuse me, I must raise the point of health and safety and ask you whether there is a Standing Order that would protect me from the gesticulations of Deputy Le Claire? **[Laughter]**

Connétable G.F. Butcher of St. John:

Sir, before we move forward I give the Assembly notice that I am going to call for the closure of motion in 30 minutes time.

The Bailiff:

Very well. The Connétable of St. Mary.

2.1.18 Connétable J. Gallichan of St. Mary:

I was really hoping not to have to say too much because contrary to what some Members think this is not an attack on me or P.P.C., the Deputy of Grouville knows that; she is bringing a point against a decision of the States, a decision made by an absolute majority of the States on 2 occasions. But there are some things that have to be said and I am afraid a few more since I have heard what is being said today. The first thing I would like to say, sort of off the cuff, is that I was disappointed to hear in the Deputy's proposal speech something that I think was a bit disingenuous, which is entirely unlike the Deputy and I would just like to say one thing about it. The Deputy said something to the effect of this change was ... I suppose the only phrase to say is it snuck in under the title of Miscellaneous Provisions. What are Miscellaneous Provisions? Miscellaneous Provisions, I would remind the Assembly, are what we have to pass when we amend these specific small parts of the States of Jersey Law. It is the States of Jersey (Miscellaneous Provisions) and that is because this States Assembly charged, deliberately ordered the P.P.C. to go away and bring

back changes to the States of Jersey Law, following the lodging and the debate and the adoption of a proposition; P.118, that was called Composition of the States: 4 Year Term and move to the Spring Election. If Members were surprised to see that that proposition contained details on changing the composition of the States then my hope for how Members read and research their propositions and debates goes totally, totally out of the window. **[Approbation]** I must refute the fact that there was any attempt or any wish to sneak this reduction in. This was part of a package of reforms well considered, deliberated to give, as Deputy Maçon has mentioned, the public of the Island who participated with the extrapolated results in a MORI poll the thing they asked for, the single greatest majority and that is a general election. **[Approbation]** What the Miscellaneous Provisions do of course, in part, because we must not forget a package of reforms, is say that the Senators' mandate is valid.

[11:45]

It says that we want to retain Senators and the way to do that within a general election is to have a number that can be elected meaningfully. What Members must not forget is, and none of us can pre-judge what an Electoral Commission will say, but it is quite conceivable that their recommendations, like Clothier's, will say: "Abolish the role of Senator." For Members who are hedging all their bets on the Electoral Commission, think on that because we do not know, as an Assembly, what they will propose. We do not know whether the Islanders will endorse what they propose. We do not know. We have to deal from time to time in the establishment of this Assembly and its composition, its election and its constitution, we have to give certainties. We have to be sure that at every time we know where we are going, we know what the laws we pass mean, we know what we are doing. Like other Members I was given grave cause for concern when the Solicitor General gave his very, very balanced advice that risks can be reduced but they cannot be eliminated. There is a way to eliminate those risks and that is by not supporting this proposition because the risks do not arise when we have a plan and we have put that road map in place and we know where we are going. I think a few things have to be said because one of the things, when you have a risk, is you have to think about the cost that that risk brings you. Members must focus that if there is a risk and if that risk is proven and upheld that compensation in the order of £810,000 might be payable to those Members whose offices are curtailed if the risk is upheld. I cannot say; I have not done a risk assessment, I am not a lawyer. I have worked for plenty of lawyers and I know the Solicitor General's brain is sharp; believe me I could cut myself on it from here. **[Members: Oh!]** But he cannot tell me there is no risk and therefore I must assume that the level of risk is something that would need to be very well-thought-out and evaluated, not done during the course of a couple of hours' debate. Those are a couple of things I think that needed to be said. There are some other things that have been said by Members, to Members, across Members; Deputy Le Claire said nobody had wanted to speak to him so much as in the last few days. Senator Ozouf on Twitter; it is quite fabulous, Twitter; you get to know what Senator Ozouf is thinking, it is great. I have never seen such games being played. Votes should be won fairly, amen to that. The last debate had lots of Members away, not true. The last debate had 5 Members away and it is quite likely that no matter how it might have gone the vote would have been exactly the same. I would remind Members that the first 2 times, where the composition and election and then the Miscellaneous Provisions were debated, there had to be, according to our Standing Orders, and there was achieved an absolute majority; that means more than half the Members of the States. There is no question about the validity of what happened before and I have not been machinating; if Members in the last few days had come to me and asked me: "Does it mean this? Does it mean that?" I would have had an honest conversation. In fact I was very clear, when P.P.C. met to discuss its comments, that I did not want it to say: "You must do this, you must do that because of this, that and the other" I wanted it to say: "This is what will happen if." I wanted you to have the facts because I believe the Assembly and the public deserve the facts. I have not been trying to lobby people because I believe that people need to make up their own minds and I believe that they

need to be robust. If there is lobbying and machinations it has not come from P.P.C. and I think that really needed to be said. I believe that there are times when it is appropriate to revisit States decisions when, for example, new information comes to light for causing to question the continued validity of a previously chosen course of action. I would remind Members again, if any of them need reminding, that we have already had this debate just a few short months ago and I have read nothing in the Deputy of Grouville's report that introduces any fresh evidence or information and she has given me no such material when she spoke. Of course Members will have received correspondence concerning an ongoing petition but let me be clear; this has already been mentioned but not practically enough. This petition has not been presented to the States; there is a procedure for it therefore it has not been validated. We have not seen it; it is a phantom petition. There is, in that, no evidence of mass support for the Deputy of Grouville's position. A Facebook campaign was started months ago; it has 217 friends. An online survey has been completed by 262 people. As Senator Breckon said: "Where is the evidence?" It is vital that Members pay attention to what the acceptance of this proposition will mean. It does not deal just with a number of Senators. It means the loss of the reforms achieved so far, of that true general election and the common term of office and the spring election. I too have had some members of the public talking to me. In fact I had 2 members, one in person and one on the telephone, who were voicing terrible concerns about the loss of these 2 Senators but when I mentioned to them about the General Election, as Deputy Maçon has said, they said: "Of course we want a general election." P.P.C. has always said that in order to achieve that, and we have been completely open about it, that there would need to be an element of compromise. I even spoke to some Members, as late as yesterday, who told me that they did not realise that the proposition would mean that, effectively allowing for risks, there would be no meaningful reform implemented for the next 6 years. Please, re-read those comments if you have not. I cannot see the validity in re-opening this matter for the fourth time without there being something new to add to the debate. To be clear, we agreed this matter in principle in October, we agreed the draft legislation in January and we rejected a proposition identical to this one in March. This proposition can therefore only be an attempt to counter decisions of this Assembly which have been made after long and considered debate and reached by an absolute majority and, in the case of the Third Reading, in fact by an overwhelming 45 votes, 45 votes. **[Approbation]** That was 45 votes pour, of course, and 5 contre. This is to be overturned by simply wearing down the resistance of Members by continually going over the same ground. **[Approbation]** There has been speculation in the media about why P.P.C. proposed the reduction in the number of Senators and I think it is necessary to remind Members of the facts rather than accept opinion of some commentators. The proposal to reduce over time the number of Senators was not made in a response to the decision to have a single election day, as has been recently claimed. It was made because of a desire to move, in due course, to a genuine general election **[Approbation]** with all Members elected on the same day. This is how P.P.C. summarised the problem it faced with having 12 Senators in P.118 which was approved, as I remind Members, in October by an absolute majority. P.P.C. is conscious that previous attempts to abolish the post of Senator have been unsuccessful but it is clear that the retention of the current 12 Senators with a 6-year term can frustrate many other desirable reform proposals. In practice, having 12 Senators makes the concept of a real general election almost impossible as it would be extremely difficult to elect 12 Senators at the same time and there would be a significant risk that the candidates elected in tenth, eleventh or twelfth place would receive a very low percentage of the votes cast. Having considered various options and please, Members, P.P.C. brought many different options to this Assembly, this Assembly could have chosen a different path; this Assembly did not do so. But having considered the various options P.P.C. has decided on balance that the Assembly should be asked to consider reducing the number of Senators and standardising their term of office over a period of time. This proposal, that is P.118, therefore keeps the Island-wide mandate within the States. This proposal keeps the Island-wide mandate but also meets the desire to reduce the overall membership and move towards a true general election for all Members on one day over time. Comments have been made, incidentally, about people being disenfranchised. We do not take the vote away from

anybody and we reduce the amount for every single person in the Island, every single elector, in exactly the same way **[Approbation]** and everybody maintains their same entitlement to senatorial votes. Where the inequality is with the Deputies' votes where electors in some parishes and districts have more votes to cast than in others. That is a serious problem and that is something I have wanted to address before, that the way that P.P.C. offered it through the larger constituencies was not found favour with but when I give my evidence to the Electoral Commission, and I urge every Member to do the same thing, speak to the Electoral Commission; that is the thing that I am going to be wanting to ask. I want everybody in this Island to have the same number of votes. I think that is essential and people ignore that over and over again. **[Approbation]** Indeed, I would say even some of the people who have supported the Deputy of Grouville in the past are on record as acknowledging the difficulties of electing 12 Senators at one time. To quote one Senator during the 20th January debate (he did not tweet this by the way) on the draft law: "8 is probably defensible but 12 is too much." For that reason I would urge Members to vote against the 12 because I do not think it is going to be creditable. There have also been some remarks that the decision to adopt the Draft (Miscellaneous Provisions) Law 201- was somehow invalid or at least less valid because it was supported by Members elected with a smaller number of votes than the Senators. Firstly, this ignores the fact that the proposition was also supported by some Senators, including of course the poll toppers at both the last ordinary election and the by-election. P.P.C.'s comments deal with this; please re-read them and show that the argument is simply not valid and I will not reiterate them now. However, for anybody who still can question this I would simply say that they must therefore also question, for consistency, and challenge the validity of the Deputy of Grouville in bringing this current proposition. They must question how the Deputy, who did not face a contest in the last 2 rounds of elections, can bring something which challenges the decision reached by an absolute majority of the States Assembly. **[Approbation]** I do not think there is any need for foot-stamping on that because of course that is ridiculous. That is absolutely ridiculous. The Deputy is quite within her rights precisely because under our system of government every single Member of this Assembly, however they are elected, has the same rights and privileges **[Approbation]** and I do not take away from the Deputy her right to do this. I just say that every Member has those same rights. P.P.C. is concerned that many of the comments made by some supporters of P.99 appear to have more to do with the identity of which candidates could be elected this autumn in the 6 senatorial vacancies **[Approbation]** that would become available than about the overall principle of the importance of keeping the senatorial position. The Miscellaneous Provisions keep the senatorial position. I would stress that I know that this is in no way the stance taken by the Deputy of Grouville but many of the supporters of her proposition seem more motivated by short-term electoral considerations than by the longer term issues. **[Approbation]** P.P.C. must urge Members to see the bigger picture and not simply to look at short term political expediency in relation to this year's elections. I would remind Members that we are looking at a reduction of 2 positions; 2 positions of Senator and the Electoral Commission will then begin their work with a completely blank sheet of paper. Members will know that I do not normally get this passionate but I have invested, at the States request, an incredible amount of time and effort in doing the work that the States Jersey charged me to do **[Approbation]** and I feel very passionately that having been charged to do it I do not want to see my work and the work of the staff and the work of other Members just nullified. P.P.C. must urge Members to see the bigger picture; the bigger picture is what we need to be considering. The Electoral Commission will begin work with a completely blank sheet of paper after the elections.

[12:00]

The further reform that we have already agreed to move, of course, over time, to 8 Senators because we are only talking of a reduction to 10, make no bones about this, is really that is completely open for debate again and after the next elections the Electoral Commission begins its work and it will, I am sure, look at that. But Members, again, it may decide that the position is

totally untenable, so do not hedge your bets if you want to preserve the Senators on what the Electoral Commission and the future Houses may think. When considering this proposition I would ask Members to consider the 2 following hypothetical scenarios: Members need to cast their minds forward to November 2014 and consider the position when the next set of elections have just been held. I want Members to imagine that the Chief Minister, Ministers and other office holders, such as Scrutiny Chairmen, have just been appointed after the 2014 elections. The first scenario I want to describe is one where all States Members have just faced the electorate in Jersey's first ever true general election. The previous year the Electoral Commission has produced its recommendations and these have been widely supported by the public in a referendum. The recommendations of the Commission have now been fully implemented and the Commission is pleased that its work is finished. The public is satisfied that, at long last, the Chief Minister and other office holders who have just been appointed have just faced the electorate in the general election. I now ask Members to consider an alternative scenario for November 2014. Under this scenario the Chief Minister who has just been appointed is the Senator who came fifth in the 2011 Senatorial Election. This Chief Minister has therefore been in the States for 3 years without facing the electorate. In addition, other office holders, including perhaps one or more Scrutiny Chairmen or one or more Ministers, are also Senators who were elected in the 2011 election. Although the Electoral Commission had completed its work and the recommendations had been accepted in a referendum, the Electoral Commission had expressed frustration in its final report that transitional arrangements were yet again needed before its recommendations could be fully implemented because of the need to accommodate the 6 Senators elected for a full 6-year term from 2011 to 2017. As in the past there has yet again been some public disquiet about the fact that the Chief Minister and other and senior office holders have been appointed by the States without having had to face an election for 3 years. So the choice today for Members is really quite simple: if you think that that second scenario is acceptable and preferable, please vote for the Deputy of Grouville today because that is what Members will get, there is no alternative. If the Deputy of Grouville is successful there will be no true general election, no certainty of it. We all heard about the risks; the £810,000. There will be no true general election in 2014 and the 6 Senators will be elected this autumn for a full 6-year term. Please reject this today and let us give the Electoral Commission the ability to do its work without having one hand tied behind its back. Thank you. **[Approbation]**

2.1.19 The Deputy of St. Mary:

It gives me great pleasure to follow my Constable. What a speech. I want to make I think it is 5 points, briefly. The first is that this is an important matter. People have said throw-away remarks like: "It is not as important as school milk." Well I beg to differ and that is to diminish the status of this debate, although I know that it is a repeat debate. Secondly, I want to pick up on one or 2 of the things that the Constable of St. Mary said. She said: "Why did P.P.C. propose the reduction?" and pointed out that it was a consequence of the desirability of a general election all on the same day. Now, personally, I think that was a mistake. I personally think that we should not reduce the number of Senators until the Electoral Commission has reported, but the fact is that that was then and that was some time ago. I do have a problem with her statement that the reduction was not, if you like, properly flagged up and it may be considered to be a minor point but I do not think it is because we have had it before in another context. She rightly quoted that the headline on P.118/2010 was: "Composition of the States: 4-year term and move to a spring election." I do not hear the word "Senator" there, I do not hear the words "Island-wide mandate", in fact, I hear nothing about the composition. I hear details: "4-year term and move to a spring election." They are big details but the fact is that title is not expressive of what is in P.118/2010. I am reminded of the gambling proposition passed by Economic Scrutiny because we did not see that the Codes of Practice and the Guidelines were being wholesale slipped through without proper scrutiny. Much to the Minister's dismay, we pulled it and we set about reviewing that. But it was the same issue of the title not clearly saying what was in the tin. It is an issue and, I am sorry, it does matter and we do have to smarten up our act and make sure that the titles of propositions both for the benefit of

the media and for States Members are quite clear in what is inside. The second issue I want to pick out of what the Constable said was this, once again, claiming that the single greatest majority was for the general election at 71 per cent. Well it was not. The single greatest majority was for the Island-wide mandate. If you add the 2 figures together of exclusively Island-wide mandate and Island-wide mandate plus some district or parish representation, you arrive at 78 per cent. So please just let us lay that to rest. It does annoy me because when figures are misused like that ... it just annoys me. It also distorts the debate and muddies the waters. But, either way, the Electoral Commission, as the Constable rightly said, has a blank sheet of paper and will come to whatever conclusion it comes to. Reference has been made to the fact that the Chief Minister chosen in 2014 might be a Member who has only faced the electorate in 2011 if we support the Deputy of Grouville. There is a point to be made about that that after the 2011 election we cannot effect that. We still have this problem in the short-term in the next election that the public has basically no say in who their Chief Minister will be and who the Ministers will be but that is a very, very sad fact of life. But we do need to change the game for 2014 and that is of course the key point, is it not, about this debate. That if we support the Deputy of Grouville (and I appreciate her motives in this) but the clincher for me, the unfortunate fact is, that if we support her then any reforms proposed by the Electoral Commission and then endorsed in a referendum will only happen in 2017 and, for me, that is really unacceptable. **[Approbation]** You are looking at a 6-year delay when we could have it all in place by 2014 and that is very much to be regretted and I do not think we can go there. A further point, I do want to just point out the curious thing, and the Constable alluded to it in her speech, about the fact that we are all equal in the Chamber, that every elected Member, whether Senator, Connétable or Deputy, has an equal vote on every matter before the Assembly and that is a consequence of the current structure. She said: "Every single Member has the same rights and privileges." That is true as things stand but it does not make it right. It is true that is the way it is and one works within the systems even though they are not democratic. The point is about the Electoral Commission that that will be addressed. It is a matter of concern that some people here have 14,000 votes; others have 261 and others have 10, as Deputy Le Claire pointed out. That is a serious matter of concern but, again, the Electoral Commission will address that issue. I just wanted to point out that there embedded in the way we vote now is this curious situation that the poor old Assembly has to vote even though its composition is already skewed and not democratic but that is the way it is and that is the nature of power, which is very unfortunate. It can only be changed by those who have the power. That brings me to the Electoral Commission. I heard Deputy Le Hérisier saying: "Well we had Clothier and it is going to be the same." **[Interruption]** **[Laughter]** I mis-reproduce his tone of voice but I do not mis-reproduce what he said. He said it will fail and he was pessimistic and he said: "Where Clothier went there the Electoral Commission will go." Well that does not follow. Just because it happened 10 years ago like that does not mean it will happen again. I take as very important what Deputy Le Claire said about the link to the Ministers and the link to power and the fact that the Council of Ministers is now the Government. The public have to have a say in that and the Electoral Commission has to face that issue. I am beginning to think it is almost the most important issue, alongside the size of constituents is equal votes and so on. It quite amuses me when the Constable of St. Mary, one of my Constables, says that there is an issue with the Deputies and the fact that people can vote for different numbers of Deputies, totalling ignoring the fact that votes are not equal in this Island, that some votes are worth two-fifths of other votes. So some people are worth 2 units and other people are worth 5 units and we are all people; we all equal. It is quite extraordinary. With the Constables' elections it is 15 to one or 20 to one; the ratio of the power of a single vote. So, again, the Electoral Commission will engage with the public on issues like that. But I just wanted to point out on this issue of the connection to the Ministers and the power and the Chief Minister, if we cannot solve this by things like keeping the Senators, or multi-Member constituencies, or having the people with the greatest number of votes automatically become Ministers (and there are problems with those sorts of solutions) then maybe we have to give the people of this Island the power of recall. The power of calling referendums on either specific policies like, what comes to mind immediately, G.S.T., or the

specific individuals like, for instance, what comes to mind is the Chief Minister. Now you would not have a system where referendums can be called by 5 people going off to the Privy Council but you might have a system where referendums could be called by a petition of many thousands. The petition would of course be drafted with the help of the Greffe so it would be a realistic petition and then the democratic deficit would be addressed. We do have a problem in this Island that once the Chief Minister and his Ministers are in place there is nothing the electorate can do. The electorate had no say in those policies at all. No say in the people; no say in the policies. That cannot be right. One way to create that check and balance is to have this power of recall, the power of reversal embedded with the public so they would have that option if they get really cross. Another thing that comes to mind is Plémont, for instance. Certain issues they can generate a referendum themselves; it is not unprecedented. It is done in other jurisdictions and it gives the public the ultimate say. I know that some people are allergic to referendums. Why? Because it puts the power back with the people. In our situation where they have no other say in the Ministers, who they are, the policies they follow, I think that is one possible way forward. But the Commission will generate debate along those lines and along many other lines and I think that to lengthen the period where their recommendations and the results of the referendum come into force by 3 whole years - 3 whole years - more of not having the solution that they propose, to me, is the clincher and I do not think I can support this proposition.

[12:15]

The Connétable of St. John:

I believe 30 minutes has passed and I would like to call for the closure motion Article 84.

The Bailiff:

Is that seconded? **[Seconded]** Well a Member has a right to do that unless the presiding officer considers it an abuse of process; I do not consider it. Fifteen Members have spoken and this is of course a matter which has been debated before.

Deputy M. Tadier:

I just wanted to say that I may have missed it, but I do not ...

The Bailiff:

Deputy, no debate is allowed on a closure motion.

Deputy M. Tadier:

It is just to question the decision, Sir. It is a point of order I think in its ...

The Bailiff:

Let us be sure that it is a point of order. Now, what is it you wish me to rule upon?

Deputy M. Tadier:

You have just ruled, Sir, on the fact that sufficient opportunity has been given to all Members to speak. I would raise concerns of the fact that we have not heard from the Chief Minister, the Minister for Treasury and Resources and the Minister for Economic Development.

The Bailiff:

I am sorry, Deputy, 15 Members have spoken. This is standard procedure ...

Deputy M.R. Higgins of St. Helier:

A point of information, you have told us how many people have spoken, how many people still wish to speak?

The Bailiff:

Yes, I certainly can inform Members that I have at the moment waiting to speak 5 Members.

The Deputy of St. John:

On a point of clarification, having had 15 speakers, that is not even a third of the House. I thought it had to be dealt with by majority.

The Bailiff:

I am sorry, Deputy, the Standing Rule from the Chair is that if an adequate number of Members have spoken, and we have tended to have 10 as a rule of thumb, then it is not an abuse of process to have a closure motion. So that is the practice I am following and now the closure motion is called for.

The Connétable of St. John:

I wonder if I could just clarify to the Assembly my reason for calling the ...

The Bailiff:

No, you cannot. I am sorry. **[Laughter]** No debate is allowed upon a closure motion. You have proposed it; it has been seconded. Is the appel called for? The appel is called for then in relation to the closure motion. If you want to close the debate you vote pour, if you do not you vote contre and the Greffier will open the voting. Have all Members had an opportunity of voting? The Greffier will close the voting. The proposition falls on the basis that there are 25 votes pour; 25 votes contre and one abstention. **[Members: Oh!]** The one abstention.

The Greffier of the States:

The Deputy of Grouville abstained.

Deputy M. Tadier:

Sir, while the one is very useful, can I ask for the 25 who voted to cease the **[Interruption]** ... yes, that is would I would like.

The Bailiff:

The 25 pour.

The Greffier of the States:

The following Members voted pour: Senators Le Sueur, Routier, Ozouf, Le Main, Shenton, Cohen, Perchard, Ferguson, MacLean, Le Gresley, the Connétables of St. Ouen, St. Helier, Grouville, St. Brelade, St. Martin, St. John, St. Saviour, St. Clement and St. Peter. The following Deputies: St. Martin, Le Hérissier, St. Peter, Trinity, Gorst and Noel.

POUR: 25

Senator T.A. Le Sueur
Senator P.F. Routier
Senator P.F.C. Ozouf
Senator T.J. Le Main
Senator B.E. Shenton
Senator F.E. Cohen
Senator J.L. Perchard
Senator S.C. Ferguson
Senator A.J.H. Maclean
Senator F. du H. Le Gresley
Connétable of St. Ouen
Connétable of St. Helier

CONTRE: 25

Senator A. Breckon
Senator B.I. Le Marquand
Connétable of Trinity
Connétable of St. Mary
Deputy R.C. Duhamel (S)
Deputy J.B. Fox (H)
Deputy G.P. Southern (H)
Deputy of St. Ouen
Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy J.A.N. Le Fondré (L)
Deputy S.S.P.A. Power (B)

ABSTAIN: 1

Deputy of Grouville

Connétable of Grouville	Deputy S. Pitman (H)
Connétable of St. Brelade	Deputy K.C. Lewis (S)
Connétable of St. Martin	Deputy of St. John
Connétable of St. John	Deputy M. Tadier (B)
Connétable of St. Saviour	Deputy A.E. Jeune (B)
Connétable of St. Clement	Deputy of St. Mary
Connétable of St. Peter	Deputy T.M. Pitman (H)
Deputy of St. Martin	Deputy A.T. Dupré (C)
Deputy R.G. Le Hérisssier (S)	Deputy T.A. Vallois (S)
Deputy of St. Peter	Deputy M.R. Higgins (H)
Deputy of Trinity	Deputy A.K.F. Green (H)
Deputy I.J. Gorst (C)	Deputy D.J. De Sousa (H)
Deputy E.J. Noel (L)	Deputy J.M. Maçon (S)

The Bailiff:

Very well, so we return to the debate. Senator Le Marquand.

2.1.20 Senator B.I. Le Marquand:

This proposition seeks to focus the attention of Members on one issue and one issue alone: the number of Senators who will be elected in 2011, and arguments are presented on that one issue and that one issue alone. But the effect of the proposition is much wider than that. Its effect would be to overturn almost all of the reform package on which this Assembly has worked over the last 3 years. It means that we will have achieved nothing other than the removal of the second bite at the electoral cherry in relation to failed candidates for Senator or Connétable. This proposition demolishes a whole number of important constitutional changes which have general public support. Firstly, it means that there will be no start at all on the process of starting to reduce the size of this Assembly. It is undoubtedly the view of the overwhelming majority of the members of the public that this Assembly is too large and that numbers should be reduced. Do we need 53 paid Members? No, we do not. Do the public think that we need 53 paid Members? No, they do not. Secondly, it means that the first date for a general election with all being elected on the same day will be put back to at least 2017. That is because if this goes through then this year 6 Senators will be elected for 6 years until 2017. I have listened to the attempt, and a worthy attempt, by Senator Perchard to raise the issue that perhaps there might be some mechanism by which that might be changed. With the greatest of respect to Senator Perchard, he is utterly clutching at straws. **[Approbation]** This is simply not going to happen. I have been here before during the 2008 Senatorial Campaign where people were looking for ideas and ways by which the 6-year term which 6 Members were then going to receive could be shortened. I recall all candidates agreeing that if asked they would stand down to enable a 4-year term to take place. Now in practice we were never even asked. I would have done so. I said I would have done so, and I would have done so, but we were never even asked. Frankly, the prospect that somehow people are going to be elected for a 6-year term this year and somehow miraculously we are going to arrive at a situation where that will be transmitted into a 3-year term is utter pie in the sky. **[Approbation]** It simply is not going to happen by any methodology whatsoever. The Solicitor General, as is the wont of lawyers, has been most cautious in relation to his advice but this is not a practical reality. I can see the cries going up at any attempt to do so: “This is undemocratic. The public elected people for 6 years. What are we doing taking away that right?” et cetera, et cetera, et cetera. How on earth are we going to overcome the obstacles of letting the public know, or candidates know or whatever, as has been suggested? With the greatest of respect, this is a straw of such weakness and such thinness that it is almost imperceptible.

Deputy S. Power of St. Brelade:

The Minister for Treasury and Resources looks very uncomfortable. **[Laughter]**

Senator P.F.C. Ozouf:

I am just saying the word “referendum” which I think was quite important.

Senator B.I. Le Marquand:

I will come to that. That also means, as has been highlighted by others, that the Chief Minister in 2014 could be a Senator elected in 2011. The chance for the general public to express an opinion Island-wide on all candidates for Chief Minister (who presumably would have, in practice, to stand as Senators in order to be in any way credible) that year will be put back to 2017. I believe that a substantial majority of the members of the public want to see a single election date as soon as possible and want to see a public debate between rival candidates for Chief Minister as part of the senatorial process. **[Approbation]** I agree with that. I stood on that platform and I would have stood down, as I have said, from my term if that had made that possible this year. Thirdly, it means that the move from a 3-year election term and therefore probably, subject to the dismissal of the Council of Ministers or the Chief Minister, a 3-year Council of Ministers to a 4-year term will be put back until at least 2017 because of the block of 6 Senators this year with a 6-year term. I believe that the move to a 4-year term is very important. We are seeing again this year the log jam of business from Ministers which results from the short-term. **[Approbation]** My impression also in the 2008 Senatorial Election was that that was what the public wanted: a 4-year term. In practice, new Ministers spend the first 6 months finding out what is going on in their department, the next 6 months trying to work out what they want to do, the middle year implementing some of that and then with about a year to go they panic because they realise they have so little time left to complete that they have to entirely focus on certain targets and do we not end up again with this complete log jam which we have here? Fourthly, although this is not, in my view, as important a point, it means that there will be no move to a May election for a very long time. I think until 2018 but I could be wrong. So it follows that if a Member of this Assembly wants to start to see the size of the States being reduced, or wants to move to a single election date as soon as possible, or wants to see candidates for Chief Minister facing the Island-wide electorate that year as soon as possible **[Approbation]** or wants to see a move to a 4-year term for Members and for the Council of Ministers or **[Laughter]** wants to see a move to a May election, then they should vote against this proposition unless the keeping of 6 Senators with a 6-year term for one election alone is so important as to outweigh that. However, I have some more thoughts. **[Laughter]** The proposition asks us to focus on 2011 when only 4 Senators will be elected under the current proposals. But what about 2014, 2018 and 2022, et cetera, when the public will have the opportunity to vote for not 6 Senators but 8 Senators, so that those who want to vote for more people in their areas can vote for more? I have done some calculations on that. In 2014, 2018 and 2022, assuming that arrangements otherwise continue, the people of St. Ouen, St. Mary, St. John, Trinity, St. Martin, Grouville, St. Brelade No. 1, St. Saviour No. 3 and St. Peter may be able to vote for 10 candidates rather than 8. Is that not an improvement? **[Approbation]** I could go through district by district, I have done the analysis, until I end up with St. Helier No. 3 with 13 rather than 11. There are 2 more in every case because there are 8 senatorial candidates being elected rather than 6. I have no doubt that the next States Assembly will look again at this area after the work of an Electoral Commission. However, I cannot see that any proposal which will be put forward which reduces the size of the States and leads to a general election for all Members on one day will not involve some decrease in the number of Senators. That is because of the difficulty in holding a meaningful election for 12 Senators on the same day. In one of the earlier debates even such a great authority on this area as my colleague Senator Ozouf conceded that it would not be practical to hold a senatorial election **[Approbation]** for 12 Members on the same day or indeed for more. That is because of all sorts of arithmetical considerations that come into play; I will not bore Members with the details. At the moment, historically, the person who has finished sixth has sometimes come in with 35 per cent of the vote. With 12 or more there is a potential for someone coming in with 30 per cent, or even 25 per cent, of the vote and that would not be a legitimate result, in my view. So, if we are going to have to move as part of a package towards a reduction eventually of the number

of Senators, what is wrong with starting doing that now? The Members of this Assembly know that I am passionate about keeping Senators as part of the package but I am not passionate about being fixed on the number of 12. I come now to the referendum issue which is the issue as to whether or not there should be major constitutional change without a referendum. Now I am amazed - I am amazed - to find former senior Members of this Assembly who took through major reforms, much more major governmental reforms than these, **[Approbation]** took them through the States and brought them into reality without a referendum now saying that somehow this is legitimate. **[Approbation]**

[12:30]

I am sorry, with respect to those people, this is nonsense. The biggest change which has happened in government in this Island in recent years was the change to the ministerial system of government. That is the biggest change. That was taken through, whether you like it or do not like it, without a referendum. So to argue now that a referendum is required for such a relatively minor change is utterly inconsistent. **[Approbation]** Almost finally, I come to the thorny issue of repeated debates on the same issue in the same 3-year Assembly. Now, I accept that there can be changes of circumstance, there can be genuinely new information, there can even in a close vote be key supporters missing on a particular day. Here, I think we are looking at the fourth debate (some people are saying it is the fifth debate which means I must have lost count somewhere but certainly the fourth debate) within a year on the same matter. Now this may not be unconstitutional, it may not be undemocratic but this is simply not a good use of States procedure. **[Approbation]** No matter how strongly Members may feel about an issue, and we all feel very strongly about individual issues, this is not a good way to go about running things. So, to summarise, Members should vote against (a) if they want to see the size of the States reduced, (b) if they want to see a single election date as soon as possible, (c) if they want to see candidates for Chief Minister facing an electorate in that year and want to see that as soon as possible, (d) if they want to see a 4-year term for Members and probably for the Council of Ministers as soon as possible, (e) if they want to move to a May election as soon as possible, (f) if they accept that the number of Senators has to be reduced eventually in any eventuality, and (g) if they are concerned about the repeated debates on the same issue, then they should vote against unless the single issue of 6 down to 4 Senators on this one occasion outweighs all those matters. **[Approbation]**

Senator J.L. Perchard:

Can I ask the previous speaker on a point of clarification, he mentioned that it is important that candidates for Chief Minister should be facing an Island-wide election. Can he tell me where he and his colleagues on P.P.C. have included this in any of their proposals? Is not every Member of this House a candidate for Chief Minister?

The Connétable of St. Mary:

Is this a second speech?

Senator B.I. Le Marquand:

I think that is a second speech, Sir.

Deputy J.G. Reed of St. Ouen:

I do not feel I need to speak after the previous speaker dealt with the points I wanted to raise.

The Bailiff:

May I commend the Deputy of St. Ouen, because may I remind Members that standing order 108 says Members shall not unduly repeat the Member's own arguments or the arguments of others. This is the 4th or 5th, whichever it is, debate on this particular topic and we have had a number of

points made, so I do ask Members to ensure that if they are going to speak they have got something new to say.

2.1.21 The Deputy of St. John:

I have real concerns with what we are trying to do here. I listened intently to what the Chairman of P.P.C. said and also Senator Le Marquand. I had not arrived back in time to hear Deputy Maçon or the Connétable of St. Saviour. I am not 100 per cent sure which way I am going but if I am going any way they will have tilted the balance, I think, in common sense. Given the many, many hours since I have come back into this Chamber over the last 2 and a half years that have been spent on government reform, some items which I brought myself which did not go through but we have spent so much time on this, so much time, and to throw it all away on the whim of articles in the local media in part by the former President of P. and R. (Policy and Resources), the then Pierre Horsfall, I think is despicable, given that I personally stood where Deputy Power is seated and requested at the time of the Clothier debates that he put meat on the bones of the proposition that he had brought to this House. I asked that he take it away and bring it back with meat on the bones so that we could debate the way forward. He convinced the Connétables of the day and other Members (a majority in other words of the House) that he would put the meat on the bones if we accepted the proposition in principle. Well, what did he do? He upped and he was away at the end of his term and left us with the mess we have today. **[Approbation]** Unfortunately it is a mess because one part of the Chamber does not trust the other, why I do not know because I work well with the 2 areas of my responsibility, the Minister for Transport and Technical Services and the soon-to-retire Minister for Planning and their various departments. But I am aware that there is this undercurrent continually across the Chamber of trust and that is not there. It is of real concern that 5 years down the road of government reform we could have got absolutely nowhere if this at the 11th hour and 59th minute is allowed to go through. I have got real concerns that we are doing the Island another disservice, because that is what is happening, it is 2 forward and 3 back and honestly that is not good government. As much as over the last couple of debates I have supported keeping the Senators in the States, and I want to do that but if we are going to be standing still or in fact paddling against the tide and going backwards that is not good for this Island, it is not good for my children and grandchildren to see that after 5 years we have got nowhere, absolutely nowhere. We spent the previous 4 years after debating Clothier putting building blocks in place. I can recall sitting on shadow Scrutiny at the time and whatever else only to find by 2011, 10 years since debating Clothier, we have got absolutely nowhere. The cost to this Island in manpower runs into millions and we are getting absolutely nowhere. We have to move forward and honestly, to me, I have got real concerns that by pushing things back yet again, as the previous speaker Senator Le Marquand said, it will be 2017, 2018, 2022 before things happen. By that time, Sir, I am sure you will be retired and there will be somebody else in your chair. **[Laughter]** Others may still be in the Chamber; I do not know if I will be by 2022. I hope if I am fit enough I will be around but who knows. But we need to draw closure, not Clothier, **[Laughter]** draw a line underneath this and move forward in the interests of good government.

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

I am just grateful that the closure motion did not work because that is the most animated I have seen the Minister for Home Affairs in his 3 years in the Chamber. I rather thought it was a very good imitation of a fairground barker and certainly if he was selling goods I would have bought them there and then on the spot. We have had passion too, unforeseen passion, from the Constable of St. Mary. Just briefly, we are told clearly that if we vote for this, which objects to one aspect of the changes we are making, that the whole package goes. It does not get on the agenda. That for me is enough to vote against this proposition. I am told by many that whenever I say I am voting against a proposition that automatically makes quite a few minds up to vote the other way but bear with me because it is reasoned anyway. So that alone should do it. But we talked quite a bit about where we are going and the fact that this is evolution rather than revolution. Members will know

that in terms of electoral reform and constitutional reform I go for revolution but evolution will do and this is evolution that I absolutely concur with that this is the way forward. I will tell you for why, because the public out there do want a connection that means that their vote means something, that something will happen, that policy will happen, policy will change. That needs a one-day election, it needs people standing on a manifesto. Does this sound familiar? It is the *Clothier Report*, is it not? Standing on a clear commitment to a manifesto, a chance to elect the Chief Minister at a recent election, to condone the candidates for Chief Minister, and above all that means eventually a single type of Member. That has got to happen because that is what enables us to have a general election on one day that is meaningful and this effectively will bring that about. The Constable of St. Clement is always very precise and well honed and he pointed exactly the way we are going. He said that reducing the number of Senators down to 4 and giving them a 4-year term, along with every other Member, means that there is very little incentive, apart from the potential to be a Minister, for standing as a Senator. To my mind that ultimately in the long term means that we will see the demise of the Senator and there will be less competition for senatorial places. To my mind that is a good thing, because we have heard a great deal about this reduction being a reduction in democracy. I have stood there on a platform with 21 other candidates and done my 2-minute tweet and my 30-second response to a question and heard candidate after candidate pinch my manifesto and get elected ahead of me [**Members: Ah!**] [**Laughter**] and they are here in this Chamber. That is exactly what happened. All candidates bar one, by the end of the 12 hustings had my manifesto off pat. One kept saying: “All I am interested in is making cuts. We can make cuts, we can make more cuts”, and she got elected as well, one place ahead of me. So in terms of the democratic deficit and the democratic principle, these 12 hustings with 21 candidates is somewhat of a farce. I mean, 30-second sound bites is no way to elect anybody but obviously they were far better candidates because they were more popular and more personable and more presentable than I ever was and so I will never be doing that again, thank God.

Deputy P.V.F Le Claire:

The time I tried that I lost my election as a Senator.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment has been proposed. It is 12.45 p.m. so the Assembly will adjourn and reconvene at 2.15 p.m.

[12:45]

LUNCHEON ADJOURNMENT

[14:16]

The Bailiff:

The Assembly is quorate. Before we recommence the debate, there is an announcement I would like to make. As Members will be aware, next year Her Majesty the Queen will celebrate her Diamond Jubilee and there are national arrangements already being planned for the special bank holiday weekend, which falls over 2nd to 5th June 2012. These are being arranged through the Lord Lieutenants of the various counties. In order to co-ordinate the arrangements for the Island to celebrate this special occasion, and where appropriate to participate in the planned national events, I have convened a Panel which I shall chair and of which the Lieutenant Governor will be a member and these are to mirror arrangements which were made for the Queen’s Golden Jubilee in 2002. The other members of the Panel are the Chief Minister, the Minister for Treasury and Resources, the Minister for Education, Sport and Culture, the Chairman of the Privileges and Procedures Committee, the Chairman of the Comité des Connétables and the Senior Deputy. The Panel met for the first time this morning and it is proposed that a programme of events will be

formulated in due course and Members will, of course, be kept informed of arrangements as they are developed. So I hope that is of interest to Members. Very well, then we return to the debate upon Projet 99.

2.1.23 Deputy M.R. Higgins:

Bearing in mind your comments about being brief and not trying to repeat too much, this will be brief, in fact a lot briefer than I originally intended because we have already had some excellent speeches this morning, I thought, from Deputy Tadier to start with, the Constable of St. Mary, who I thought did an excellent speech, and also a very animated Senator Le Marquand, so I will try not to repeat some of those. I came into the States for a number of reasons and one of them was because I felt that this House did not represent ordinary people. To be perfectly honest, that is one of the reasons why I wanted to be on P.P.C. and spent 2 and a half years working on P.P.C. on electoral reform. I was disappointed when the House threw out our wholesale plans of trying to bring in super-constituencies and so on to try and make the House more representative. However, once they were thrown out P.P.C. brought forward a number of incremental changes so we still made some progress. I would hope that bringing forward a single election day, 4-year term, spring election and moving to a position where people will have a say, a major say in who is the Chief Minister has got to be the right direction and I urge the States not to delay those reforms. They are much needed and the people of this Island will not forgive you if you do. Much has been said about losing 2 Senators, it is undemocratic and so on. I think, to be honest, a lot of the statistics that were put forward from the opinion poll were dated, what, 9 years ago, whenever the research was done. If people were asked today what the biggest problem was they would say ministerial government and the way that the States no longer is the Government of the Island. It is a small handful, 10 people, or we could talk about the inner cabinet of about 4 people, who really are making the decisions of this Island. My own view is let us not throw away the gains that we have made so far and delay things so much further. Yes, we want an Electoral Commission, it will come forward with recommendations, but do I have any great hope that this House will go to a referendum? Certainly in the past on Clothier it did not, on the reforms to ministerial government it did not, and I believe that the Islanders do have to have a say. To say that: "Leave it all to the Electoral Commission, everything will be fine, let us put these things on hold" I think is the wrong argument. One of the comments that I am pleased the Constable of St. Mary mentioned was how these particular measures were slipped into the debates, and she dealt with that adequately. We have had 4 debates or 5, I cannot remember, regarding the Senators and there is no question of it having ever been slipped in. There has been so much debate on it; we all know the arguments. What I would say is that this proposition has turned out to be exceptionally divisive because people have got very polarised views on whether we should go ahead with the reform or not and it is not just because of deeply held convictions. The public do not know about all the little power politics that is going on and all the cajoling, trying to convince different Members to go this way or that, and we all know it is all concerned with the coming election and, more importantly, what happens after the coming election, which is who will be Chief Minister. We know that people do not want to reduce the number of Senators because they are hoping that some of their supporters will get in. The main point that I want to mention here, which has not come up in the debate that much, is about the role of the Privy Council. We are really creating a very dangerous precedent but what I do resent is the spin of certain individuals unless reporting in the *Jersey Evening Post* on the issue and also the fact that it is being cynically manipulated by senatorial candidates, a senatorial candidate who was not standing, has not made up his mind to stand but told many people beforehand that he was going to stand for Senator and then takes this issue up. I had a discussion this morning with the Privy Council Office because I wanted to know a little bit more about the process that led to the delay of the (Miscellaneous Provisions) Law going through. They told me that the meeting was going to take place on a particular place, the day before they received the petition. That petition is unverified, and they are not going to verify it, but they say that any representation that is made they have to consider it under the law that they are constituted under

and therefore they had no alternative but to delay the meeting on the (Miscellaneous Provisions) Law until they have had a chance to look at it. Whether it has merit or not, they must delay under the regulations, but it was spun out of proportion in this Island by saying the Privy Council delayed it because it was undemocratic and so on. No such thing. It was merely procedural and where it is a dangerous precedent is the fact that any piece of legislation that people do not like in this House in future find out when the Privy Council is meeting, especially if it is a time critical one, and put in some form of representation, some sort of petition, and you will delay that too. We are setting a very, very dangerous precedent with what has gone on. Unfortunately, some Members of this House, they may have strong convictions on it but I believe they have been manipulated by others. So the point I want to make is that I do believe that we should go ahead with the reforms that we have done. The 4-year term, spring election, public having a say in who is the Chief Minister and a single election day is absolutely vital for democracy in this Island. That is the real democracy. Finally, I would like to invite Senator Ozouf and Senator Le Marquand, instead of delaying all these reforms and everything else and letting the people have a real choice in who is going to be ... I would invite them both - I know Senator Le Marquand is quite happy to do this - to resign for the forthcoming elections and stand on the platform of being the next Chief Minister of this Island **[Approval]** and let the public decide who it is, rather than all the delays that the Minister for Treasury is going to try and justify, because really it is about power and it is about who is the next Chief Minister.

2.1.24 Senator B.E. Shenton:

I was not going to speak and I thought we could probably wrap this up before lunch but I think it is probably worth pointing out that things have changed. I brought an amendment to the Deputy of St. Mary's proposition with regard to an Electoral Commission because I felt that this was the way to go and I fully support an Electoral Commission. The appointment of the Electoral Commission I think quite rightly takes change out of the politicians' hands and gives it to an independent body. We will all be well aware of the flak I took when I tried to freeze States Members' pay and the arguments that we should not be making decisions of that type. I think that we should leave the status quo as it is and let the Electoral Commission get on with their work. I do find it rather strange that most of the strongest advocates of getting rid of the Island-wide mandate stood for Island-wide election and were rejected by the electorate. The Constable of St. Mary stood and was rejected, Deputy Higgins, Deputy Tadier, Deputy Pitman, Deputy Maçon.

Deputy J.M. Maçon:

If the Senator would give way. Who is this phantom Deputy he is referring to?

Senator B.E. Shenton:

Maçon, Deputy Maçon. I apologise, Deputy Maçon. Deputy Maçon pointed out this morning that it would be undemocratic for a Senator to be elected with around about 4,000 votes because it would not give them a mandate to serve. Let us first of all remind ourselves of 2 things: my colleague in front of me, Senator Le Gresley, only got 5,000-something votes but it was a single election so people only had one vote. What the Deputy failed to realise is he took an election where people had 6 votes and applied the maths where if 12 people were standing people would have 12 votes, and it does worry you slightly that this is the level of logic that P.P.C. have been applying when coming to these sort of conclusions. If you apply that logic, the people with 4,000 votes would realistically have 8,000 votes but according to Deputy Maçon they would not have a mandate in this electorate. Let us just remind ourselves that the Deputy is sitting in this Chamber with a vote of 448 votes, which gives him a mandate to represent the people of the Island whereas someone with 4,000-odd votes does not. The same applies to many of the other Deputies that are so virulent against retaining the Island-wide mandate.

Deputy R.G. Le Hérissier:

On a point of clarification, most of those want bigger constituencies and are quite prepared to face that. We totally agree that needs total reform.

Senator B.E. Shenton:

I would say to those Deputies that if you want bigger constituencies and if you believe that the public are behind you and if you believe that the people of Jersey believe in your policies, stand for the Senatorial election, [Approbation] stand on an Island-wide mandate and see how much the population wants your policies. Of course, we know that all those that have spoken so heartfully for the reduction of Senators, none of them will dare to stand and we know exactly why that is, because they would get rejected once again by the public of this Island. We now have an Electoral Commission. The public have contacted me - they may not have contacted Senator Le Gresley but they have certainly contacted me - and they want to retain the Island-wide mandate, because you do get a different view when you represent the Island. Deputy Le Claire mentioned the fact that he had a meeting at St. Clement and he also mentioned the fact that there was a Parish Assembly in St. Helier yesterday and the Senators did not turn up. I did not turn up because I was at the Grouville Parish assembly and I did attend his meeting, as he knows, down in St. Clement. I think that we will be doing a great disservice to the public of this Island and I think the public of this Island will want to know why the Deputies that want to get rid of the Senators or reduce the number of seats will not put their names forward to represent the Island with a larger mandate. Deputy Pitman says he has put his name forward and he did put his name forward. He came 11th, which was a lot better than I thought he would do. [Laughter]

[14:30]

I would ask the Deputy to give a commitment to the paper, to stand in this year's Senatorial election. He is very good at putting his name forward for this, that and the other. Well, be a man. Deputy Pitman, I ask him, stand in the Senatorial election and make sure that the public really do support his policies. Either do that or keep quiet. I ask Members to support the retention of the Island-wide mandate, I ask Members to support the Electoral Commission and I ask them to make sure that the Electoral Commission starts off from the point of view where we have 12 Members of this Assembly with an Island-wide mandate. [Approbation]

Deputy G.P. Southern:

I did not want to interrupt his speech but will the Senator justify for Members why he has in the past brought a proposition proposing a reduction in Senatorial places?

Senator B.E. Shenton:

Certainly. Because we had no Electoral Commission. Now we have an Electoral Commission we have to let the Electoral Commission get on with the work. This is the message that I got from those Deputies who did not want their pay frozen because they said: "We have got to let the independent bodies do their work." So that is why.

The Connétable of St. Mary:

May I ask for a point of clarification? I am sure he did not mean to mislead. Did the Senator understand that the Electoral Commission was not in place when this Law, these Miscellaneous Provisions, was adopted?

Senator B.E. Shenton:

As I said to the Constable, times have changed and this is the reason for my change in stance and she should realise that we now do have an Electoral Commission in place.

2.1.25 Deputy S. Pitman of St. Helier:

I am glad to come after Senator Shenton because I would like to say to him that those candidates who stood for Senator and did not get in, for one thing they did not have the Shenton name and they did not have a modelling contract with the *J.E.P.*

The Bailiff:

Did not have a what?

Deputy S. Pitman:

A modelling contract, Sir. I am sure you can notice the handsome looks of the Senator. With regard to the pay freeze on our wages, some of us have to earn a living on this wage and those of us who do not go away during States time and run our own business and earn money from that. **[Approbation]** So it is completely hypocritical of the Senator to say that and a waste of taxpayers' money. Just briefly then, getting back to the actual proposition, I would ask Members: do we gain more from supporting the Deputy of Grouville or do we lose more? This is what should guide us, because at the end of the day it is the people that elected us who we should be considering when it comes to democratic reform. The only answer can be that we lose far more if we support the Deputy. We lose a general election with all elected on the same day, no move to a spring election, which is likely to gain a much higher turnout, no standard terms for all Members and, regardless of the usual spin from the usual Senators on this subject, no guarantee of future reform. I would ask Members to forget the sudden conversion of these Senators to referendums. The Council of Ministers will never ask the people what they want and abide by it, and we have seen that in several attempts with referendums; I believe I have brought 2 during my terms. What would we gain by supporting the Deputy? We would retain a couple of crucial Senators and I would say brave Senators, and especially I would say Senator Le Gresley who has spoken up on this subject and who has said himself that there needs to be reform and he is willing to put his own seat on the line this October. But where we would gain one Senator and that would be Senator Le Main who, twice I have noticed, has been snoring throughout this debate, although he declares a passionate interest in this particular subject.

Senator T.J. Le Main:

This is very personal and really typical of the Member.

The Bailiff:

Can all Members please calm down and let us not have personal comments about other Members. Have you finished, Deputy Pitman?

Deputy S. Pitman:

Thank you, Sir.

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

I left this Chamber at lunchtime on a complete and utter high after listening to Senator Le Marquand speak. **[Approbation]** The man spoke with passion and conviction and I found it entirely uplifting after having to listen to some Members repeat things and just go on and on and on. It is coming to the point now that sometimes I really hate sitting in this Assembly. All I have had to listen to in the last 10 or 15 minutes is Members swapping insults across the Chamber and I hate it. **[Approbation]** I hate the fact that we seem to have sunk to this level and I wish Members would stop doing it and just argue the point.

2.1.27 Senator P.F.C. Ozouf:

As expected we have had, as we have just heard from the very wise comments of Deputy Hilton, some passionate speeches. As with other times in the last few weeks, I think we have heard this Assembly at its best in terms of passion and at its worst. I congratulate the Constable of St. Mary and my colleague to my right, Senator Le Marquand, and indeed Senator Shenton (all of whom I

have shared some interesting relationships with from time to time) for the passion of their speeches. We heard Senator Le Marquand, if I may say, in the finest form that I have ever heard him. **[Approbation]** He is a lawyer, Sir, like you, and he is quite used to defending his clients when he was in private practice, no doubt. Of course I am not suggesting at all that his client on this occasion was P.P.C. **[Laughter]** but sometimes you have some interesting clients, but certainly he did a jolly good job in doing the defence. However, on the other side there does need to be the deconstruction of the arguments of the defence and those can also be taken with equal passion. He said in his summing up that if Members were in favour of a single election day, a general election day, they wanted to reduce States Members, they wanted to have an election with a Chief Minister who wanted to face the electorate - something that maybe we will both have to talk about - and they want to keep the senatorials; you need to vote against the Deputy of Grouville. I agree with all of those, I agree with all of those points that he makes, but I am going to support the Deputy of Grouville and I am going to say why. His single argument, the castle which he built in that crescendo of a summing up, was based upon the fact that if we reinstate 6 Senators, if we vote against effectively the (Miscellaneous Provisions) Law (which we, I accept, have passed) then all the reforms are thrown out. So I am afraid that Senator Le Marquand's crescendo, his castle, his defence; I am afraid it is built on sand. It is simply not true. One Member who I spoke to - who I will not name because I am not going to be personal - I think that they thought that in supporting the Deputy of Grouville we would lose a single election day. Not true. We have passed the law; the Privy Council has approved the law, initiated by Deputy Le Fondré, for a single election day. If we support the Deputy of Grouville we will have a single election day come what may, and that is one of those things that Members want. I stand to be corrected by the Chair, but may I confirm for the avoidance ... because obviously there is concern and we need to be debating on facts, can I be absolutely clear, if the Solicitor General wants to come in and ride to my rescue, we absolutely need to be clear about this. This does not deal with the issue of single election day in September; we have already passed it, am I right or am I wrong? I will give way to the Constable of St. Mary.

The Connétable of St. Mary:

Thank you. Absolutely right, I have never contended that we do; but we do not have a general election. There is a difference.

Senator P.F.C. Ozouf:

I will come on to the issue of general election day, but the Member that I was speaking to at lunchtime thought that we were not going to have the single election day for all Members and we had better be clear about that. A number of Members were asking me about that. I am happy to give way to the Deputy.

Deputy J.M. Maçon:

I beg your pardon, but the Senator has just said a single election day for all Members; we will not have a single election for all Members.

Senator P.F.C. Ozouf:

I am simply making the point that a Member was concerned **[Members: Oh!]** No, it is important, because a Member was concerned that we might end up with a situation when we do not do the Le Fondré proposals of electing Constables, Senators and Deputies. They know who they are, but there was a doubt among some Members about that issue and I think that it is important that we clarify it. It does not change that in supporting the Deputy of Grouville. I have supported an Electoral Commission and indeed I have said that one should have been supported and put in place in the past and I am delighted; I was not in the Assembly when it was debated but I am delighted that it has been established. I want to just talk Members through very briefly the process of the Electoral Commission because it is fundamental to this issue about whether or not we can continue to elect 6 Senators at the end of this year. We are going to have an Electoral Commission; they will

make a series of recommendations; they will be published; they will come to this Assembly; we will debate them; I hope that this Assembly setting up an independent Electoral Commission will then submit those proposals to a referendum. There will be a referendum and on the basis that the referendum is accepted the law will come back to this Assembly and in the basis that a referendum is successful then of course I would imagine that this Assembly will pass that law. That is the whole process of an Electoral Commission. I accept it is not binding, but it is an incredibly important body that we are setting up which I fully expect this Assembly to respect; certainly I will respect in terms of that. I will deal with the issue of Clothier in a second. The S.G. (Solicitor General) advised the Assembly - and I think he is rightly cautious in his advice to the Assembly - that there is a risk that some of the senatorial 6 that would be elected for 6 years, if the Deputy Grouville is successful, would not stand down. I do not accept that any individual that would be elected would be privileged to be elected by this Assembly after having been through the process of a law, a referendum and a subsequent law, and would not be willing to vacate that position in order to allow the will of the people to be maintained. I simply do not accept it. I accept that there is a risk that an individual may chain themselves to their senatorial seats, may claim financial compensation, but that is an entirely different issue in terms of risk and we need to be clear about that. I believe that this Assembly, in its current composition, should be the determiner of those changes in terms of the composition. There is a risk in terms of financial risk and I accept that. So I say to my colleague, Senator Le Marquand, that he is making the principal set of his arguments built on sand. I do not accept that the rejection of the (Miscellaneous Provision) Law means that all reforms are put off. All it means is that 6 Senators will be elected for 6 years and I say to the Assembly that if we go through the proper process of the Electoral Commission that those senatorial mandates can be reduced and we can have the full composition of the Assembly properly debated. It is interesting where the opposition is coming from. I say that is the facts in terms of the proper process. Other people have said that is the proper process; we should not be tinkering to the composition of this Assembly before having heard the Electoral Commission and submitting those to a referendum. That is when I turn to the issue of a referendum. I agree with Senator Le Marquand in relation to whether or not the issue of the Clothier reforms and the composition of the States should have been submitted to a referendum.

[14:45]

The problem is that we have never had the opportunity of a proper composition of the States reform. We have got a tinkering issue which is what the Miscellaneous Provisions is, but we have never had a composition of the States reform proper proposal and put to a referendum. I would go so far to say that while referenda are often talked about in terms of taking the public, maybe even people think that we should have had a referendum on tax. I do not agree with that, if we want to move to a Swiss system where we have general issues that are normally debated by our Assembly and our Parliament to a referendum, that is fine. But there are some things that I suggest are absolutely within the preserve of a referendum and need to be decided by referendum and not just simply this Assembly. The fountain of democracy, the fountain of our power base in setting laws for this Island is our composition and we should submit changes to the composition of this Assembly to a referendum. That is the problem with what the Miscellaneous Provisions did, it did not do it. Senator Breckon spoke about the fact that this issue that the Deputy Grouville has brought forward was not subject to public meetings, was not subject to all sorts of public debate. I say to the Senator that the reduction of the 4 Senators has not been widely understood by the public and the public that I have spoken to do not understand and do not appreciate the fact that their mandate has been reduced. When they are aware of it I think that they are not happy, that is the feedback that I have had. If Members are not ringing people up then what Members should have done is ring people up themselves to ask them, because I have asked people what they think about a reduction in the senatorial mandate and I have absolutely no doubt at all that the public say: "Do not reduce my Island-wide mandate before you have dealt with the other composition of the

States.” If at all, in some cases, but certainly not before you move the composition of the States. We should absolutely have a referendum on the fountain of democracy in terms of the composition of this Assembly. The other arguments in terms of referendum I think are not as important. Sometimes we do need to be reminded, sometimes we need to be taken out of our own Assembly and we need to be reminded of the facts and to be given the wisdom and experience of some people. I know that there is considerable doubt, which I share, about some people’s motivations in relation to keeping the Senatorial mandate, et cetera. But there are 3 people who took the unprecedented decision of entering back into the political debate of this Island and who have not done so in my 12 years in this Assembly, who entered the political debate - such was their concern in terms of the composition of this Assembly - and who understand the significance of going to the Privy Council. They were former Senators Jeune, Horsfall and Le Maistre; they put their name to the application to the Privy Council. They are experienced Statesmen; if we had a House of Lords - I had my issues with some of them - they would be in our House of Lords, they would be thinking about the second reading of this legislation and they warned against changing the composition of the States before dealing with an Electoral Commission and a referendum. That was their petition to the Privy Council and I do not think it is appropriate for Members of this Assembly to ignore the wisdom of people that served this Assembly in a great deal of eminence and capacity for a long period of time; and they certainly were not bedfellows in terms of political opinion. Their concern was real and their concern was right. In supporting the Deputy of Grouville we reinstate 6 Senators and we maintain the status quo. That is what this debate is about; no other red herrings about what it means and it does not mean, that is what it means. It does not change anything in terms of the next 3 years. There are issues within the Miscellaneous Provisions that would certainly need to be revisited in another law. They are going to need to be done in any event because of the consequences of the Electoral Commission. The only thing that matters is the 6 Senators being elected in October and I would submit to the Assembly, respectfully, and I would say to those people who are on the deputorial benches and who are on the constables benches that we should not be changing the composition of this Assembly before the Electoral Commission, before a referendum, and before this Assembly has considered a complete pack of measures. I am not entirely aligned with the Deputy of Grouville on all matters (and indeed some of the other supporters supporting the Deputy of Grouville) but I congratulate her tenacity, I congratulate her persistence. I do not like revisiting issues but I think this Assembly has made a mistake and today we have an opportunity, without embarrassment, of returning to the status quo so that we can properly sort out the composition of this Assembly. I urge Members to support the Deputy of Grouville, maintain the status quo and maintain our democratic principles as those 3 wise Members who served this Assembly with distinction did for so long and were quite right.

2.1.28 Senator S.C. Ferguson:

From some of the speeches this morning it does seem to have taken a little time for some of the Members - I am not going to name anybody because I do not believe in *ad hominem* insults - to realise the basics of Politics 101: “Make sure the street lights work” because, obviously, the things that affect people directly, their immediate needs, are the things that concern them more, like population, tax, housing, cost of living. Other Members ventured into the borders of conspiracy theory regarding the Machinery of Government. I think my philosophy is possibly slightly different: I trust until proven otherwise, whereas some of my colleagues appear to have first started from a position of mistrust, or at least that is the impression I get. I have been in 2 minds because I have been concerned about the Privy Council aspect, but on the other hand I am concerned about the intention by Members to reduce all Members to the same level and I say advisedly “reduce.” I have, like many of my colleagues on the Senatorial Bench - not all of them but most of them - found the office of Senator has given me the time and opportunity to look at the broader issues. As Senator Shenton says, you do get a different vista from when you are just in the parish dealing with parish matters. Senator Shenton said he had changed his mind and as Cicero says - I am sorry, I do not know the Latin, I have not got it on my handy prompt - “It is no shame to change your mind

when the facts change.” I mean, I was sorry to find the debate lapsing into *ad hominem* insults, which is not good for the reputation of this House, but I was intrigued by the modelling contract for the *J.E.P.*; I can assure the Assembly that it was not me. **(Laughter)** I regret it, maybe 40 years ago, but not today. **(Interruption)** Wishful thinking. I am sorry certain of the Members agreed with me; I thought that was very churlish. **(Laughter)** As Deputy Southern confirmed when we stood on the same platform, my manifesto did differ from both his and everybody else’s, but mine obviously struck a chord with enough voters. Save money. I agree with Senator Le Gresley that all candidates for Chief Minister should meet for a debate in public. I think that is an excellent idea because, as Members know, I am all in support of transparency and no spin, but I do think the concept of an all-Island mandate must be preserved because this is the message from those who have spoken to me and to whom I have spoken. A number of Members expressed concern about staggered voting for Senators. As I think I have probably said before, and perhaps my colleagues remember or do not remember - I am sure you do - but in the U.S. (United States), which is a great deal more democratic than the U.K. model, one-third of Senators stand for election every 2 years, all congressmen stand for election every 2 years, not 4 years. Why have we got this sacred cow of 4 years into our brains? Is this because it is a U.K. thing? You know, where has it come from? Who has decided it? Whose idea? I do not know. I mean, rejecting this amendment means that eventually Senators and Connétables will disappear from this Assembly. This is not what those who have spoken to me want. What they really want is a streamlined reduced government with spending curtailed. You know, we could have 1,000 people sitting in here, they would not mind, provided we reduce government spending. I think the Electoral Commission must look at what is to be done elsewhere. Switzerland has been mentioned, I have mentioned the U.S., not necessarily the U.K., and they should be looked at in the Jersey context. Obviously, it has to go out to the public. I mean, Clothier was partially torpedoed by the parish assemblies because feelings ran very high. It was the first real meeting like that that I have been to while I have been over here and it was fabulous, absolutely smashing. The speeches were fantastic, there was great passion and it summed up the mood of the meeting. I think we should halt our stampede like lemmings into this, bring everybody down to the same level atmosphere and pause to think again and refer it to the Electoral Commission. This is a very piecemeal approach and I do not think it is appropriate. I am sorry not to support P.P.C. but I think the Chairman of P.P.C. has been aware of my feelings on this and I have only been on it for about 2 months, a month, something like that, so I hope she will forgive me on this. Thank you. I shall be supporting the proposition.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon Senator Cohen.

2.1.29 Senator F.E. Cohen:

I would like to read a proposition. The proposition is that the States agree to charge the Greffier of the States to write to the clerk in attendance of Her Majesty’s Privy Council seeking leave to withdraw the *Loi sur les Elections Publiques*, which was passed by the States and transmitted to the clerk in attendance. That is not fantasy of what would happen if this succeeded; that is what happened in the 1970s. The reality is that the concerns that the approaches to the Privy Council would cause a constitutional crisis are, I am afraid, unfounded. The Privy Council, I have no doubt, will not embarrass us or be embarrassed should the Deputy of Grouville’s proposition be successful. It is my view that ...

Senator P.F. Routier:

Sorry, could I just ask for a clarification of that? Was the Senator saying that this has happened before?

Senator F.E. Cohen:

That is exactly what I said and this related to a matter in the 1970s. I read out precisely from the proposition that was approved by the States in relation to a 1975 amendment. The position here is that urgent reform, in my view, has resulted in proposals that damage our democracy. It is my view that reducing the Island-wide franchise will make the Government of our Island far, far worse and certainly not better. Our democracy is undoubtedly one of the earliest in the Western world. The present system has its roots of government established over 8 centuries ago and central for this, as I have pointed out before, has been that 12 Members are elected on the basis of an Island-wide franchise. This democracy survived enormous pressure from wars in the Middle Ages and invasion - in fact, we have recently as an Island, through the generosity of the Crown, acquired an important document in relation to one of those invasions - to attacks by the French, specifically, to domestic unrest and riots and most recently, of course, as we all know, to 5 years of German occupation.

[15:00]

However, most importantly, even at times of greatest misery, hardship and pressure, there has never been an imperative to reduce the representation of 12 Members elected by Island-wide franchise. As an example, in the aftermath of occupation when the cries for reform were at their loudest a States committee was established to consider reform. At no time did this committee propose a reduction in the Island-wide franchise and merely proposed a shortening of the term of representation. The role of Senator was specifically created out of the post-war reforms, as we all know, but it was specifically and only created as a replacement for the 12 Jurats who at the time were elected - and I repeat - elected for life by Island-wide popular franchise. The origin of the 12 Island-wide elected representatives is often traced to the constitutions of King John, Article 1 of which refers to the Jurats. The concept of who could vote was, as we all know, fundamentally different from today. At that time, only the king's men and large landowners were entitled to vote. The Deputy laughs, but his laughter is foolish because this is merely establishing a point. Democracy evolved internationally over many centuries. Jersey was ahead of its time and our electoral Island-wide franchise was much cherished, even though the franchise was not extended to what we have today become to regard as the norm. As the centuries passed, gradually the franchise, as in other jurisdictions, has been extended to encompass increasingly large elements of the population, but always the position remains that the Jurats were elected on an Island-wide basis. By the time of the Code of Jersey Laws of 1771, the system of Island-wide popular franchise had been firmly established. When the reform committee's proposals were brought to the States after the occupation - and remember, there was no suggestion of reducing the 12 elected by Island-wide franchise - the King, through the Privy Council, effectively intervened. A committee of the Privy Council was established under the chairmanship of Viscount Samuel and this recommended the creation of 12 Senators elected by Island-wide franchise importantly and only as a direct replacement for the Jurats who from that moment would confine their work to their judicial functions. The primary test of any electoral reform, in my view, is that it must improve democracy. In no way can the reduction in the Island-wide franchise be regarded by anyone as improving democracy. In this case we have clear evidence from the public and much of what we have heard simply is not supported by evidence. The evidence emerged a few years ago in response to the MORI poll and that the Islanders cherished the Island-wide mandate and indeed were supportive of the principle that Members should be elected on an Island-wide basis. P.P.C. have changed their position. P.P.C.'s own report in December 2006 stated, and I will quote specifically: "The findings of the MORI poll confirmed earlier anecdotal evidence that electors in Jersey consider that the current Island-wide mandate is important." This is undoubtedly an indication that many electors consider that all voters have the ability to influence the election of certain Members and that remember was P.P.C.'s own findings just a few years ago. Over 70 per cent of the respondents to the MORI poll thought that the primary responsibility of Members was running the Island as a whole and representing all the people in Jersey rather than just parochial matters. The overwhelming conclusion of P.P.C. in 2006 was, and I quote: "P.P.C. believes that the Island-wide

mandate is a feature of the electoral system that should, if possible, be retained.” I have spoken to many, many Islanders about the proposals to reduce the number of Senators and without exception they are all against a reduction. Some are absolutely furious at this proposal. I find it remarkable that any States Member can stand up and say they are oblivious to this anger. It is not an invention; it is real. Everywhere I go when this subject is raised there is anger. I have not met a single Islander, not one, who has expressed to me support for the reduction in the number of Senators. Yesterday, I went back to my department to deal with urgent matters, my old department. I discussed with a senior officer this matter. He too said he, his family and all his friends were vehemently against the proposals to cut the number of Senators. What are we doing? Where has this come from? Why are Members oblivious to anger within our community? I am at a complete loss to understand P.P.C.’s change of opinion. In the report attached to P.72/2009, P.P.C. stated: “P.P.C. does not believe that tinkering with the 3-category Assembly, for example by reducing the number of Senators, would overcome the problems. If the position of Senator has the benefits that some perceive it, it is reasonable to suggest that there should be at least 12 Senators. A reduction to, say, 8 would mean that Senators would be so outnumbered in the Assembly that the position would not be of any real value.” P.P.C.’s own words: “A reduction to, say, 8 would mean that Senators would be so outnumbered in the Assembly that the position would not be of any real value.” But today, we hear the curious alternative view emanating from P.P.C. This is not a criticism of P.P.C., it is just making it clear that they have done a complete 360-degree turn, a complete turn, a U-turn of extraordinary proportions. In fact, that is 180 degrees, not 360. **(Laughter)** Fortunately, mathematics were carried out by my officers during my days at Planning. This is P.P.C.’s own words. P.P.C. believes that the reform of the States is a matter that affects Islanders in such a fundamental way that any reform proposals should be put to the electorate in a referendum before being implemented, but yet here we are, we have made the decisions ourselves. Some outside this Chamber claim we have stolen the rights of the electorate. We have not taken them; we have stolen the rights of the electorate. The public are furious. Some would say that Members have been seduced by a possibility of a shift in power. Some have been seduced by a shift in power. We have removed the rights of the Island’s electorate. Why should, for example, a resident of Trinity only vote for 6 representatives this year when they had previously voted for 8? **(Interruption) (Laughter)** - it would be courteous of Deputy Pitman if he allowed me to complete my speech - especially when the MORI poll showed that Islanders cherished the Island-wide representation. We say we will leave this to an Electoral Commission. It is empty words because we are making the decision to start the process before the Electoral Commission. We are pre-judging the outcome of the Electoral Commission **(Approbation)** and we are unacceptably messing about with the electoral process in the Island. I fully support Deputy Labey’s proposition and I urge every single Member to follow suit. **(Approbation)**

Deputy R.G. Le Hérissier:

On a point of clarification, would the Minister acknowledge that when it comes to levels of anger, the levels of anger about Portelet are such that it should be subject to a referendum?

The Bailiff:

That is not a point of clarification, Deputy. As you well know, that is simply a point of debate that you wish to make. Please do not answer it. It is not worthy because it is not ...

Senator F.E. Cohen:

I will just say it is complete hogwash. **(Laughter)**

The Connétable of St. Mary:

I think mine is a point of clarification. I wondered if Senator Cohen could advise me why it was that the States decided to ask the Privy Council to hold back that law from sanction in 1976?

Senator F.E. Cohen:

It appeared that there was an error in the law that had been passed on 13th May 1975.

The Connétable of St. Mary:

Thank you; I am grateful for that clarification.

2.1.30 The Connétable of St. Lawrence:

Thank you. This is one of those speeches that begins: "I was not intending to speak today" and that is because I had surprised myself when I looked at *Hansard* in preparation for this debate and found that I had said all of these words in the previous speech and I am trying to show Members how much I had said without waving my papers in front of Deputy Le Claire. I was surprised that I had so many words within me, although I would hazard a guess that my husband would not be surprised at that. The important thing I think is that I stand today as an independent Member of this House. I was elected on the policies that I propounded at 2 elections (in fact, one as Deputy and one as Constable) and I have stood by the promises that I made to my electorate on both those occasions. I stress that I am independent. I have not been lobbied by any Member of the House other than I have had a chat with one of our Senators about how we think the vote will go, but I have not been asked to speak in favour of this proposition. But that is what I intend to do, albeit very briefly, because I did say so much last time. My argument stands again for this debate today. Before I go, we had quite a passionate speech this morning from the Chairman of P.P.C., the Constable of St. Mary, who I regard as a close colleague and friend, but we do have very opposing views on this matter. **(Interruption)** I hope she will not be my ex-friend. But certainly, she passed me a note after I had finished speaking in the last debate that said that anyone can quote out of context and I am surprised that you have done that today. I found the note the other day; I kept it because I was surprised to receive it from her. But when I quoted in the last debate it was not out of context; the quotes I made were from papers that had been put to this House by the Privileges and Procedures Committee and they all related to the matter of States reform and the role of the Senators within the States Assembly. Thanks for *Hansard* I can quote again from the report of P.P.C. Indeed, I think during the last debate I followed Senator Cohen and he had rather stolen some of my thunder on that day by quoting what I had in front of me, as he has done again today. But I will be brief. The main point that I want to make is that I am independent and I believe that by reducing the number of Senators as we have done without reference to the electorate, as has been promised to us by P.P.C., we have made a mistake and I will come back to some of those of quotes. P.P.C. have clearly undertaken to hold a referendum on electoral form following a States decision on that reform. What they were concerned about was the low voter turnout in elections.

[15:15]

What they told us in one of their reports was that they were convinced that some reform of the composition and election of the States Assembly was appropriate because during the last 2 Senatorial and Deputorial elections the percentage turnout for the Senatorial elections was much higher than that for the Deputorials. Clearly, when we have a Senatorial election the whole Island gets whipped up almost into a frenzy because they know, the electorate know, that they are able to go out and clearly have their choice of voting in 6 Island-wide representatives. It does not matter how many are in the running, but they will have the vote. They will be able to vote for 6. Their initial assessment, P.P.C.'s initial assessment, of a need for change was the relatively frequent nature of elections in Jersey and we have resolved that by going for the single-day election as has been mentioned by Senator Ozouf and they were worried about the low voter turnout. It is difficult to read this very close writing, I am afraid, that I have printed out, but they said it was quite clear that the Senatorial Elections produced a higher wide percentage of voters than did the Deputorials. It is worth making this point because no one else has, I believe, made it today. One of the MORI poll findings undertaken on behalf of P.P.C. showed that 92 per cent of respondents - and I will repeat that - 92 per cent of respondents were very or fairly interested in Island affairs. According to

MORI themselves that is a significantly higher proportion than U.K. comparisons. MORI told us, as reported to us by P.P.C., that interest in Island affairs, if effectively harnessed, could lead to wider participation and should be seen as an opportunity for greater democratic involvement. Greater democratic involvement, which this House has already decided to reduce by reducing the Island-wide mandate and reducing the number of Senators down to 4 for the forthcoming elections in October. One of the findings that P.P.C. had, and they reported it to us, in their survey on electoral reform in March 2007 ... and I do hope that the Constable of St. Mary is not listening because I am sure she would be very disappointed to hear me quoting out of context, but I believe I am quoting from one of her reports ...

Deputy M. R. Higgins:

She is in the other room near a speaker; she can hear you.

The Connétable of St. Lawrence:

She can clearly hear me; she might be writing a note at this moment - I do hope not - to share her thoughts with me. Okay. The findings of the MORI poll, P.P.C. told us, confirmed earlier anecdotal evidence that electors in Jersey considered that the current Island-wide mandate is important. This is undoubtedly an indication that many electors consider that it is important that all voters have the ability to influence the election of certain Members. I say that P.P.C. made a mistake in bringing their proposition to reduce the number of Senators to 4 for the forthcoming elections. To come back to their survey on electoral reform, they gave the electorate 4 options and the electorate came back with the favoured option of 42 Members; 42 Members of this House, which would be comprised of the 12 Constables and 30 Members elected on an Island-wide basis. That was the choice of the public when MORI surveyed them, giving them 4 options. But I think more importantly, the point that needs to be made is since P.P.C., under the former Chairman, certainly since I have been in the House, which is coming up to 6 years, have always told this House that no reform would go ahead without consultation of the electorate by way of a referendum. That was the point I made in the last debate and it is the point I am keen to make now. We made a decision to reduce the number of Senators without realising that in that proposition there was no guarantee that a referendum would be undertaken. However, in former propositions suggesting reform of the House we were always told that, if we agreed with the proposals, a referendum would be undertaken. I believe that we all overlooked the fact that we were making a decision last time in October of last year without being promised a referendum. Again to quote from one of P.P.C. reports, P.P.C. believes that the reform of the States is a matter that affects Islanders in such a fundamental way. I am learning from Deputy Le Hérissier [**Laughter**] that any reform proposals should be put to the electorate in a referendum before being implemented. A referendum would be the only official way to test public opinion on these important issues. Now, I do not deny that this House is here to make decisions. None of us here could deny that. We are here to make decisions but when we have been so clearly guided by the very committee that we have elected to lead us on constitutional reform, when we have been guided by them through this process and been promised that a referendum will be undertaken, we were wrong to make this decision without knowing that a referendum was going to happen. So I echo the words of Senator Shenton and those others probably who have spoken in favour of supporting the Deputy of Grouville today. We should rescind our previous decision and we should allow the Electoral Commission to look at this, to judge for us, and to come back to us with their considered opinion on the way that this House needs to be reformed. Following that opinion, we not only should but we must be obliged then to take the matter to the public by way of a referendum. Let us then support the view expressed by P.P.C. when they said: "Let us reinstate the democratic right of our electorate to retain the Island-wide mandate as it is." In closing, I urge Members to give the views of the public very serious consideration. We have all been spoken to by the electorate whether they are parishioners who would have elected a Constable or a Deputy or a Senator who would have an

Island-wide mandate. Let us not disregard their views today but let us correct a mistake which we must surely admit we have indeed made.

2.1.31 Senator T.A. Le Sueur:

Yes, I was grateful to Senator Cohen for reminding us of some of the history of membership of the States and the fact that change of this nature is quite a rare and difficult decision, not one to be undertaken lightly and I clearly speak for myself when I say that this subject is one on which I have had more representation than anything else since the introduction of G.S.T. The comments that I have had have been unanimously in favour of retaining the existing status quo for Senatorial seats. Now, I appreciate that there are other States Members who say they have no such indication, that they have had no comments at all. I have, in fact, heard no one who has said that they have had much representation from the public urging a reduction in the Senatorial seats. There are many who urge a reduction in the total number of States Members but very few who think that should be done through a reduction in the Senatorial seats. That is, I think, simply confirmation of what MORI had already ascertained, that the public overwhelmingly like the position of Senator and the ability to have a candidate with an Island-wide mandate. Whether that candidate is going to be a Chief Minister or any other Member of the States, it gives that person a much greater feeling that they have the support of a significant number of members of the Island. I think it unfair that some speakers this morning were casting aspersions at those who had not faced an election because, in fact, we have all faced an election. Not everyone faces a contested election, in some cases, elections are unopposed. That is not the fault of the candidate, that is merely that there is only one candidate in that particular election but we are still all equally Members. However, what I feel when I moved from a Deputy's seat to that of a Senator was that it gave me the greater satisfaction of knowing that I had a much stronger support of more of the public behind me and that is why I think the position of Senator is such an important one and it should be retained but of course that is simply my view. What we have done as a States Assembly is to agree the need for an Electoral Commission and I have to wholeheartedly endorse the comments of others who have spoken who have said that if we are going to have an Electoral Commission, you do not begin by putting certain preconceived conditions on their activities. If you want them to give a fair, unbiased, balanced view of the way in which we go ahead in the future, you give them the proverbial clean sheet of paper. You do not start already imposing certain conditions or if you do, you run the risk of having an unsatisfactory outcome. As I said earlier, electoral reform occurs so rarely that when it does occur, it is up to us to ensure that we get it right and that the people doing it have the ability to have every option explored and we should not inhibit them in any way. For some reason, this debate seems to have got mixed up with the question of who should be appointed or elected as a Chief Minister and I think that is a totally irrelevant argument for today's debate. While it is clearly my view that the Chief Minister should be someone with an Island-wide mandate because he or she would then have the satisfaction of knowing that there are significant numbers of the public in support of their own point of view, I am even more concerned that the Chief Minister has to be the right person for the job in the eyes of the Members of this Assembly.

[15:30]

If it turned out that that person, for one reason or another, was a Deputy or a Constable, but able to demonstrate by their own abilities that they were the best person for the job, then it is up to us to decide yea or nay in that respect. So, like many Members, I deplore the fact that we have had to review this matter time and time again but it is a matter I think of such fundamental principle for so many of us that even in my last 6 months in office, I still feel obliged that I should do as I have always done and that is to maintain the importance of the role of Senator within this Assembly. If there is a case for reducing the numbers in the Assembly, and I am sure there is, that is something which the Electoral Commission can do and I would suggest they might want to look at it pro rata but I am not going to give them any particular preconceived directions any more than we should

and therefore I urge Members to get behind the Deputy of Grouville and to allow the Electoral Commission to do their job in a way which will be best, not for Senators or Deputies or Constables, but will be best for the Island as a whole and I urge Members to support the proposition of the Deputy of Grouville.

2.1.32 The Connétable of St. Lawrence:

May I make an apology to the House, please. I believe I misled them when I spoke earlier. I would like to apologise to the House because I quoted the following words as being from P.P.C. when, in fact, they were my own **[Laughter]** and I need to put the record straight, thank you. So these are not P.P.C.'s words, they are the words of the Constable of St. Lawrence: "Let us reinstate the democratic right of our electorate to retain the Island-wide mandate as it is."

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

I never thought ... or did I think, that we would be here at 3.30 p.m. still recycling old speeches. I am a veteran I think it is fair to say of many, many States reforms. When I look around the House, I can see right across at Senator Le Main, a veteran very much so but when I look at other people like Deputy Le Hérisier and Senator Breckon and, indeed, the Constable of St. Clement, we have all brought propositions to the House for many, many years in the hope that we could get change. I think I will say that one of the mistakes I did make (and no doubt we have made more than one) but one of the mistakes I did make, along with many other States Members at the time, was that I was beguiled by Senator Horsfall. I allowed myself to be persuaded to vote for a half-baked proposition which said: "Let us go for ministerial government and the rest will fall into place." I wish I had never, ever voted for it because it is quite clear that the States have no stomach whatsoever for revolution. It will not happen but what we have got is evolution, something which I never thought I would have supported because I did believe in the complete Clothier package. But evolution is the way forward and as much as I did not want to support what P.P.C. had, I had to change my mind because I felt that was the only way to go forward and that is what we are doing. We have heard about the value of the Senator with the Island-wide mandate. I ask what is the value because the Senators, I believe, have been devalued by the 2 Senators who are not in the Chamber at the moment, the Chief Minister and the other Chief Minister, Senator Ozouf, and if they consider the value of the Senator to be so important, why are only 4 Senators Ministers? I always thought that the role of a Senator was to be seen as a senior States Member, to have the ability to be a Minister or, in the old days, a President. It is unfortunate but again, the whole role has been devalued by the present set-up and again, through no fault of their own, we have 3 Ministers who have not faced an electorate. So I do not know if we saw own goals or maybe hit wickets but it certainly is that. We have heard the Senators again now saying: "Oh, we wish we had had a referendum. We should have had the referendum." Well, Deputy Le Claire will tell you that when we had the opportunity many years ago and I voted against it, indeed, I was in good company because I gather Senator Horsfall also voted against the referendum because I believe we should have gone with Clothier. However, again because I thought evolution may be the way forward, I brought forward a proposition about 2 or 3 years ago asking the States to agree to a referendum on Senators and believe it or not, most of the Senators voted against it. Senator Ozouf certainly did and Senator Cohen could not even remain in this Chamber to vote. So how can they now say: "We should have a referendum"? They head away from that opportunity. Now they are clutching at straws by saying: "Let us have Electoral reform." Well, as far as I am concerned, we have made a decision. If we want to keep recycling, let us vote for the Deputy of Grouville but my recycling days are over. I am not changing my mind. I came here with every intention of voting against the Deputy of Grouville's proposition and I have heard nothing to change my mind and I would hope that Members will also listen to what I have had to say, listen to what the P.P.C. Chairman has had to say. We are down that road. Let us follow it through and let us not wait for the Electoral Commission. We have made a decision; let us stand by it.

Senator S.C. Ferguson:

Can I ask for a point of clarification? The Deputy mentioned that all Senators should be Ministers. Is he implying that the role of Scrutiny is so much less important?

The Deputy of St. Martin:

Not at all but I believe that if we were having to look for Ministers, they should have an all-Island mandate. That is what I believe in and I will do and, in fact, if we have 8, we can still have Ministers from that 8. We can still have Ministers from those who are unelected or unopposed at elections.

The Connétable of St. Brelade:

What I was going to say with regard to evolution has been said so I shall not repeat it.

The Bailiff:

Does any other Member wish to speak? Do you have something new to say, Deputy Noel?

2.1.34 Deputy E.J. Noel of St. Lawrence:

Yes, I do [**Laughter**] which makes a change. I am just rising in light of the Deputy of St. Martin. If I make a decision and it is wrong, I change that decision and that is all we are asking today. I believe that this House has made a wrong decision, regrettably, but let us take account of that and change that decision.

The Bailiff:

Does any other Member wish to speak? Senator Maclean, do you have something new to say?

2.1.35 Senator A.J.H. Maclean:

Of course. I am a little concerned that I am never going to get to my Shadow Board debate [**Laughter**] so I can assure you I will be very swift in this regard. I am just going to pick up one point, in fact, that Senator Cohen made. I thought Senator Cohen made an excellent speech earlier on as indeed, as I am looking at him, did Senator Le Marquand, not that I agreed with a lot of what he said [**Laughter**] but he pushed it across in an unusually flamboyant and interesting way. What I wanted to say was that Senator Cohen raised an interesting point. I talked about the fact that he has not met a single member of the public in the Island that supports the reduction of Senators and I thought it struck me sitting here that that is rather curious because he is sitting right next to one. [**Laughter**] Indeed on top of that, there are a number of others clearly in this Assembly that also feel the same way as Senator Le Marquand. It did strike me as strange that so often the public suggests that we as an Assembly are out of touch and it does strike me that I wonder who indeed is out of touch. Is it the Senators, is it the Ministers or is it those that perhaps choose to go against the wishes of the public of the Island who I believe when Senator Cohen says overwhelmingly support the democratic right to be able to vote Island-wide on the Island-wide mandate? It is absolutely clear to me. I do believe that the opportunity of Electoral Commission is the right way forward. It is an opportunity to get to the right answer at the end of the day and I really would urge Members to support the Deputy, however difficult this is. There is talk about a constitutional crisis and so on. I do not believe that is the case. I think if the wrong decision has been made in the past, the circumstances have changed, it is clear what the public of this Island want. I think we need to make the right decision now and I believe that supporting, however difficult it is, the Deputy of Grouville is a difficult but right decision to make and I would urge Members to do so.

2.1.36 Deputy T.A. Vallois of St. Saviour:

This is going to be short because I found this debate extremely difficult myself. I have spoken to quite a few people during lunch and yesterday and I was toing and froing as to which way I was going to vote for this. My concerns lay at going back to the Privy Council mainly but sitting here and listening and observing what has gone on today, I have to say I am quite horrified that I am a

States Member to be honest, the way the attacks have gone from Senators to Deputies, Deputies to Senators. As a Deputy who some would say was undemocratically voted in because I was voted in on a very small amount of votes, I came to this Assembly knowing that I have got a very important job to do and that every vote that I make is on behalf of every single human being in this Island. I think Members need to be aware that the whole side of this when this came forward, we did not have an Electoral Commission. There was never an Electoral Commission brought forward when this was agreed and I think this was people's last hope of obtaining some form of reform in this Assembly because it is not working. I think many Members would completely agree with that; this system is not working and it needs to change. Now, if we are going to go forward with a referendum based on Electoral Commission decision coming forward with their views to the Assembly, then we should have that in legislation saying that any constitutional reform composition of the States will go out to referendum in black and white so people know where they stand but not start saying it among speeches and then it be forgotten and then 10 years down the line, we are back where we are again because I am not being funny. We look stupid, absolutely stupid. I took it upon myself after listening to some States Members saying the anger out there about us reducing Senators so I asked a few people. I went and bought something at the shop and I just mentioned to them about Senators: "If we reduce them, how would that affect you?" This is an ordinary working person and I know there is a feeling towards the elections in Jersey and it did shock me to say the least. It was: "Will it really make any difference?" That is really worrying, that is really, really worrying. I think we really need to start looking at ourselves properly instead of sitting here debating over and over again. I found this really difficult and although I voted for the reforms, I voted for the Electoral Commission, I think we owe a lot of gratitude to the Deputy of St. Mary for bringing that proposition for us to have an Electoral Commission established to go forward and make some proper change in this House so that it works. But I cannot vote for this and I cannot vote against it. I have to abstain on this proposition and I do not usually abstain. I cannot vote for this because I have concerns about going to the Privy Council and removing something and I understand Members believe that we have made a mistake but that is an opinion and this is a debating Chamber and everyone has their own opinion and rightly so. That is why we are here, that is why we debate things. But to go back to the Privy Council, it really does me concern so I am afraid I cannot vote either way.

2.1.37 Deputy S. Power:

Much has been said about getting rid of the Senators today in this Chamber and many Members have spoken about what members of the public have said to them in different guises: the anger, the frustration, the outrage, all this kind of thing and I would say that if I were to condense into one message as to what members of the public have said to me in the last 3 months it is that they would wish some Members of the whole Assembly were gotten rid of and we would start again with a clean sheet of paper. If anything, the gibes and the jeers and the insults that have been swapped and that have ricocheted off the walls of this Chamber today would bear that out.

[15:45]

I think what Deputy Hilton said an hour ago was very, very true. Getting down to where we are and I will be brief, I have to really congratulate the perseverance, the patience and the work that P.P.C. have done in getting us to where we are right now. Having never served on P.P.C. but having served on the Planning Applications Panel, I now know that there are 2 poisoned chalices, at least in terms of States Members' work in this great Assembly: one is any decision to do with Planning and the other one is any decision to do with Privileges and Procedures, and the Constable of St. Mary has done both. So I think 10 out of 10 for her perseverance. Against all odds, we have managed to get where we are today and I think it would be a disaster that all of the work that has been achieved, all the concessions that the States have managed to agree on, all of the improvements that we are almost ready to advance on, could be washed out this afternoon. In

actual fact, I have checked with a number of members of P.P.C. in the last hour; I believe that were P.99 to be carried today, that P.P.C. would have difficulty carrying on. I really do think that is an issue. I cannot see how 3 and a half years' work can be suddenly thrown out because of what we are about to decide on. I sincerely hope that is not the case and I am not presuming or assuming anything. Senator Cohen made great play on the democracy of the Chamber in the past. He made great play on the role of the Senators being brought in in 1948 and what the Jurats did before that and how they were elected for life. All I would say on that is I think this Assembly now with Deputies, Constables and Senators is a far more democratic place than it was then and I would love to examine what was the Electoral Committee for those that sat in this Chamber 70-80 years ago. I would say it is completely different to what it is now, so bear that in mind. Senator Cohen also said that there is a power shift in the Assembly. Now, I am not quite sure what he means. The shift is moving from those Benches to these Benches or these Benches but what I would say is arithmetically correct if you look at the composition of Executive Government in this Chamber today. If you look at the 3 big spending departments, if you look at Health and Social Services, 3 Deputies, if you look at Education, Sport and Culture, 3 Deputies and there is another one, Social Security [Aside] sorry, the great Deputy Gorst, Social Security, 2 Deputies ... so 3 States departments who are running the biggest departments of the Island are run by 8 Deputies. Now, if you say to me that is an adverse shift in the power of this Assembly, I would say I do not agree with that. In actual fact, that is an evolving Chamber. That is a Chamber where the talents of these men and women who are in executive power today are recognised by this Assembly and it moves on. If you look at the composition of T.T.S. (Transport and Technical Services) it is a Constable and Deputy and if you look at the composition of Housing, it is a Deputy and a Constable so there is a balance here. The great big more important offices are still dominated by the Senatorial Benches but as Senator Cohen said, and I interpret it slightly differently, power will change and there will be a shift. I do not want to denigrate in any way, shape or form the role of the Senators and what the Senators have done in the last from 1948 to now but I would suggest that the composition of this Assembly is reflecting, by and large, the views of the public out there and I think that it has improved and it will continue to improve and what worries me more than anything else in this Assembly is that there are some Members in this Assembly who do not want any change and that simply is not an option. We are all here to improve the democracy of the Island. We are here to move things forward. We are here to move the Island forward. At times the public think we are moving it backwards but by and large, we are elected in this Chamber to make decisions. There were some speeches that stood out this morning and I am not going to quote them again but I think Senator Le Marquand's speech was indicative of the major decisions that have been made in this Assembly without necessarily going to the public and asking the public their opinion and those decisions have been made without any great measurements on the Richter Scale. So I think today we are in this Assembly. There is a good balance of power in the Assembly and I do not think it is necessarily right that where the balance of power was in the past has needed to stay there. It has spread right across the Assembly. In the Executive on the Council of Ministers, there are 5 Senators, there are 4 Deputies and a Constable and I have explained the composition of States departments and I think that is good for this Island. The fact that there are 3 Constables in the Executive is a good thing so balance has changed and I think that is good. I really sincerely hope that we do not throw out the progress and the achievements and the hard, grindingly slow work that P.P.C. have achieved to date and I for one will not be supporting this proposition and I will be voting against.

2.1.38 Deputy J.A.N. Le Fondré:

I was one of those who have been toying whether I do speak or not and in the end, I have decided I hope I have got something to add or at least to remind people where we are and how long it has taken us to get there. We have got 9 weeks, I think it is, till nomination day and we have talked about messages and things like that and I think I cannot remember who it was but somebody quoted to me I believe it is a military expression which was about order, counter order leads to disorder. I

think I can fully understand the absolute frustration I am assuming there must be going through the mind of the Chairman of P.P.C. at the moment. The reason I wanted to remind people and I do not think people have dwelled on it yet, I think it is relatively new information. Let us go back to where we were which was October of last year when the principles were brought to this Assembly and Part C which was electing 4 Senators for a period of 3 and a half years in 2011 was approved by 31 Members to 17. That is more than just the Deputies. Some Deputies were against, probably some Senators were for. Let us skip forward to January when the law came in. At the end of the day after various debates, 45 Members against 4 voted for the relevant things that are apparently causing all the controversy now and just to remind certain people, those people included Senator Le Sueur, Senator Ozouf, Senator Cohen, Senator Shenton, Senator Le Main and Senator Maclean. They are on here. It says: "All those in favour of adopting Article 2 as amended, kindly show." Article 2 quotes Senators and Deputies to be elected for 4 years; a transitional arrangement an ordinary election to elect 4 Senators. That is what I believe we were voting on. At the end of the day, the whole thing was voted on. It was similar numbers; I think it was 45 to 5. Now here we are and we then had this similar proposition almost identical in March which was again voted out. I know people have said: "Groundhog Day." We are definitely here again and I know Deputy Pitman, I think, threatened bodily harm to me at one point many years ago for using the expression "evolution against revolution" type of thing but if you are trying to do slow reform, that is the only way. I found and it was a completely different debate, I am going to say 3 days ago I do not know how long ago it was, but Deputy Le Claire sent us round this A3 extract from the *J.E.P. (Jersey Evening Post)* and it is dated, as he told us, January 2001. But interestingly enough, in there there is a little quote which says: "St. John, Deputy Phil Rondel, who pressed for a date for debate from Senator Horsfall last year said obviously on the matter if they are approaching the *Clothier Report* in the manner the same as the Population Policy, the Island will not see change in the next 10 years" and what year are we now? That is my problem, that this Electoral Commission is apparently the panacea; it is going to solve all of our problems. There was a favourite expression which I think the Connétable of St. Clement denies using, I remember hearing him use on the radio ages ago which seemed to me complete twaddle because all we have been told a number of times is this is just going to push things back to 2017; I think it is, and that is assuming we do not do exactly what we did to Clothier. I have to say I would have probably been equally as guilty because I was not a fan of Clothier so how do we know what the new wonderful all-singing all-dancing Commission is going to bring? It is going to solve all of our problems. In other words, people are holding out that carrot to us to say: "This new Commission is going to solve all our problems" and of course the new Assembly who we do not know who is going to be in there yet will of course all back it. I think pigs and flying spring to mind at times on that one. We have heard the point from the Solicitor General ages ago about the risk being reduced but not eliminated. The point I did want to pick up on and I think it sums up, I was astounded by some comments from senior States Members and their sudden conversion to their faith in human nature, how a referendum would solve everything, as I said, the Electoral Commission, all things will be bright and rosy when this Electoral Commission comes through which of course is in about a year or 2 years' time. Also the difference ... yes, I am very proud to have achieved if that is the way of praising it, a single day election, brilliant. I can point at that and say that is something but that is absolutely different to the general election. It is absolutely different as well to this goal of the 4 years and it depends on people's views but I go back directly to Senator Le Marquand's comments about the practicalities which I am sure we have all experienced of this first 6 months to a year when you are in what you achieve and what you can or cannot achieve. Then suddenly as we are now seeing, this, I will not say panic, but this rush of amendments and things to get things in before of course we finish in I hope 2 weeks' time, at least before the summer recess. That 4-year term does have quite a significant impact I think on the business and the ability and the experience of Members and the ability of those Members to then work and produce, if you like, or bring greater experience and apply that experience to the work that they do for that extra year. I am sorry, in relation to Senator Cohen's comments in relation to the Privy Council, I would find it interesting that he rates it as

something so many years ago - I think it was about 9 at the time - what is the position when the States have voted on this 3 times, have rejected pretty well the most identical proposition 3 months ago, have sent an urgent letter to the Privy Council saying: "Please adopt this" and now we are saying: "We have changed our mind." I think that is a different context. I think the other approach, as I understand it in relation to what Senator Cohen has quoted from Privileges and Procedures, I think what some of those other propositions were I do not know about, but in the past we have had all sorts of propositions to remove the Constables. Excuse me, I am definitely not in favour of that. I think some of them have been about the removal completely of the Senators which I have also had a problem with. I have no problem at a marginal reduction. I do have a problem with a group taken out and inconsistent comments because what they said is: "Oh, no, what we will do, we do not want to change numbers too but we will let the Electoral Commission sort that out" and then of course well, if it is anything like Clothier, it is going to be down to a single Member's situation. So it is not about we are going to reduce 4 Senators or whatever it is, it is about delay and putting off until tomorrow. It is not basically true therefore that the P.P.C. supported the retention of 12 Senators, which I believe is what he was saying. On that note, I am going to just wind up but I am going to slightly paraphrase the comments of the Constable of St. Lawrence, hopefully without misquoting her, but just shortening the first bit which was: "Let us support the views of P.P.C." I am going to stop at that point. She carried on but I am going to say let us support the committee because what they have done, they have done what we told them to do and we have told them twice. We have adopted the principles, we have adopted the law, we have sent it to Privy Council with an urgent request. We have now previously rejected a request to rescind that and now we are trying to do the same again and I am sorry, 4 times, I think I agree with Deputy Vallois. I think that will do for today. On that note, I am obviously not supporting this proposition and I really do urge Members not to do so either.

[16:00]

The Bailiff:

Does any other Member wish to speak? Very well, I call upon the Deputy of Grouville to reply.

2.1.39 The Deputy of Grouville:

I did have a summing up speech but I think I have put a line through it now for today. So I shall just pick up a few bits and pieces from it and I share people's frustration very much in having to debate this again and some will say we do not have to. Well, I would disagree. If you believe in the fundamental principles as I do, I think it is worthy of debating again for one last time before the elections because once these seats are lost, we will never get them back again. There is a lot of work involved. As I said initially, I have not brought this forward lightly. There is a lot of work. It is frustrating but one issue that the Constable of St. Mary mentioned in her very good speech was what has changed since the last debate? Well, what has changed is we now have an Electoral Commission. I voted for it and that is what we have got in place and as she says, I hope everyone will contribute to it. So things have changed and to change our system now in ways as Senator Cohen suggested by stealing votes from people, reducing ... well, I am afraid that is exactly what it is, we have reduced the electorate's voting rights considerably. We have reduced them by between 20 and 26 per cent; Deputy Southern may very well be shaking his head but that is a fact, that is what we have done. So to do that before handing over to the Electoral Commission would be, to my mind, a complete folly. We had our history lesson from Senator Cohen which was very interesting which proved that our system, I think, has stood the test of time and it is a system that is built on various different elements. The Constable of St. Clement said, which is a view that I totally agree with, this 4-year term if we are all on the same year term, what is the incentive in going for the Senatorial position? The whole thing hangs together and you start to scratch at the surface and different elements of it will fall apart but we seem to have been heading for this panacea of a general election and I know not why. I know not why that has been given the utmost

importance above everything else. We have achieved a single election day which is a fantastic achievement of P.P.C. All the Constables elected together; we have hopefully done away with voter apathy. We have got one bite of the cherry and that, I believe, was the single biggest issue that people found most frustrating, the 2 bites of the cherry. All that has been reformed and we have a single voting day but the sacrifice, if I can call it that, I see it as a plus. It is 6 Senators stay in place. I said in my opening remarks this creates stability and I believe it creates stability. It is a plus but nobody has discussed it, it has not gone out to the electorate or anything like that, nor has the 4-year term but as I said like the Constable of St. Clement said, give us all a 4-year term and there is no incentive to stand for Senator, none whatsoever. There were a few other speakers. Deputy Maçon came up with ideas but I would say to Deputy Maçon and Deputy Trevor Pitman who spoke about well, it should be the Chief Minister, the next Chief Minister should go through an election. Well, this is not going to destroy that and why are they not bringing forward propositions to that? What is stopping them bringing forward a proposition to say that you have to go through an election in order to put your name in the hat for Chief Minister? This has nothing whatsoever to do with this proposition. Deputy Le Claire, I think I have touched on his point, whereby: "We have an Electoral Commission now so let us not tinker with our system before then." The whole thing hangs together in a way that has stood the test of time and we need to keep it that way until we make fundamental changes, if we decide to make fundamental changes to the Assembly. One thing that the Deputy of St. John mentioned, and I would say I agree with virtually everything he said, I still was not entirely sure whether he was voting with me or not but what I felt he was talking about was Ministerial Government; it was not the makeup of this Assembly. But everything he said about disenfranchising the public and his views on Ministerial Government and I share them because I too sat with him on a Committee in the early days when I was first elected in the Committee system. What we have now is a retrograde step, and I would wholeheartedly agree with him. We have disenfranchised our public through the Ministerial system and that needs looking at but that is another matter. That is not the same as the makeup of this Assembly so I would ask him to think about that. This system has stood the test of time and I ask Members to think about this. When we are removing their votes, as we have done, they really need to ask themselves on whose authority do they think they are doing this? Who are they serving by reducing the electorate's votes by between 20 and 26 per cent? I do not have that authority and that is why I am fighting to retain them until we have something better to offer. So I ask Members to think very carefully before voting for this but please restore in the interim measure before we go to the Electoral Commission to restore the voting rights of our community. I make my proposition and I ask for the appel. **[Approbation]**

The Bailiff:

Very well. The appel is called for in relation to the proposition of the Deputy of Grouville. I invite Members to return to their seats and the Greffier will open the voting. If all Members have had an opportunity of voting, the Greffier will close the voting. The proposition is lost, 25 votes pour, 26 votes contre and 1 abstention.

The Greffier of the States:

The following Members voted contre: Senators Breckon, Le Marquand, Le Gresley, the Connétables of St. Saviour, St. Clement, St. Mary, Deputies Duhamel, St. Martin, Le Hérisier, Fox, Southern, St. Ouen, Hilton, Le Claire, Le Fondré, Power, S. Pitman, Tadier, Jeune, St. Mary, T. Pitman, Dupre, Higgins, Green, De Sousa, Maçon and Deputy Vallois abstained from voting. The following Members voted pour: Senators Le Sueur, Routier, Ozouf, Le Main, Shenton, Cohen, Perchard, Ferguson, Maclean, the Connétables of St. Ouen, St. Helier, Trinity, Grouville, St. Brelade, St. Martin, St. John, St. Peter, St. Lawrence and the following Deputies: Grouville, St. Peter, Trinity, Lewis, Gorst, St. John and Noel.

POUR: 25

CONTRE: 26

ABSTAIN: 1

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

The Bailiff:

Chairman of P.P.C. then, do you wish to raise a point?

The Connétable of St. Mary:

If I might, Sir. I would just like to ask Members to focus their minds on the fact that we have achieved only 4 of the pieces of business that we have on this section of the Order Paper for this week. At the rate we have gone, we are unlikely to finish this week's business by the end of next week and so much has been said before about staying late but at the last minute, I would like Members to consider and I will propose it at the end if I might that we sit for 5 days next week from 9.00 a.m. until 6.00 p.m. in order to try and catch up.

3. Jersey Harbours and Airport Shadow Board: Terms of Reference (P.47/2011)

The Bailiff:

Very well. So we then revert to the Order Paper and the next matter is Projet 47, Jersey Harbours and Airport Shadow Board: Terms of Reference, lodged by the Minister for Economic Development. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to approve the Terms of Reference of the Jersey Harbours and Airport Shadow Board as outlined in the report of the Minister for Economic Development dated 25th March 2011.

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

I was not sure this moment was going to come but here we are. During the States debate on 6th July 2010, I announced my intention to establish a Shadow Board to provide strategic oversight of the Harbour and Airport. I have since made it clear that this Shadow Board's primary role is to act in an advisory capacity to Economic Development Ministers. To be clear, the role of the Shadow Board is not as a supervisory body. It does not make decisions, merely recommendations to Ministers and provides invaluable support and challenge to the Executive. In seeking to appoint the Shadow Board, our aim was to attract high calibre individuals from the private sector with a mix of maritime, aviation and broader commercial expertise. The recruitment process attracted more than 150 high quality applications, including 6 locals. The process was approved and overseen by the Appointments Commission. On 3rd November 2010, I was able to announce the formal creation of the Shadow Board. It was only following the appointment of the Board that P.170 was lodged by Deputy Le Claire, a proposition that asked me to bring the appointment of the Board to the States for approval. It was, as one might describe it, a proposition that was lodged after the horse had bolted. However, I had a constructive discussion with Deputy Le Claire and we agreed that as the Board had already been appointed, it would be better if I amend his proposition. The amendment changed the original proposition from one bringing the Board itself to the States for approval to instead bring the Terms of Reference for the Board. Members kindly approved my amendment to P.170 on 1st February. This proposition is therefore P.170 amended and the Terms of Reference are described in the accompanying report. I believe the Terms of Reference are clear, concise and wholly consistent with the advisory role that the Shadow Board fulfils. Now, I would like to raise one related matter at this point. I stated in this Assembly in April following a request from Deputy Le Claire that I would make Shadow Board minutes available to Members. I have not done so yet for 2 reasons. Firstly, the latest minutes are still awaiting signoff but secondly, and far more importantly, there are considerable amounts of commercially sensitive information contained within the minutes. I have therefore spoken to Deputy Le Claire about this matter and we have agreed that the minutes will be made available for any Member, subject to current protocols following the approval of these Terms of Reference. I should add that I am disappointed that this debate has taken so long and has been delayed to this particular point. I had hoped to have been able to address those points by now already.

[16:15]

Those Members who do wish to view the minutes will simply need to sign a confidentiality agreement in order to address such issues. I have also agreed with the Deputy that we will publish all future dates of Shadow Board meetings. I should point out that for the avoidance of any doubt, the appointment of the Shadow Board does not change any political or accounting officer responsibilities. Indeed, the relationship between Ministers, Harbours and Airport Executives and the Shadow Board is defined in a Memorandum of Understanding that describes in practical terms how the Terms of Reference will be discharged. This M.O.U. (Memorandum of Understanding) has been shared with Deputy Le Claire and Senator Shenton and is available to any other Members who may be interested in it. There are 3 components to the working relationship. Firstly, the Executive will consult with the Shadow Board when defining a business plan and budget for the following year. This is wholly consistent with States Strategic Objectives within the timetable prescribed by the States. The Minister for Economic Development will, if necessary, amend and then approve this plan for inclusion in the E.D.D. (Economic Development Department) Business Plan and Budget for presentation to and approval by the States. Secondly, once approved by the States, E.D. Ministers will ask the Shadow Board to work with the Executives who are charged to deliver the Business Plan. In both the development and delivery of Business Plans, the Shadow Board will provide commercial and strategic challenge to the Executives to ensure efficient and productive operations. This is an essential objective to ensure that both Ports meet and exceed the needs of Islanders, visitors and business partners. Finally, from time to time, E.D. Ministers may request the Shadow Board to work with the Executive and E.D.D. officers to advise on specific

issues. Most recently, I have asked the Shadow Board for their initial advice on the potential benefits of alternative governance models. This includes options such as the incorporation of our Ports and a realistic timetable in which any proposed changes could be delivered. Work is underway to provide this advice and I very much look forward to the Shadow Board's formal response. Members will recall that I have already stated publicly that if any advice from the Shadow Board should lead to a recommendation for a substantive change in governance arrangements at either Jersey Harbours or Jersey Airport, I will bring any such proposal to this Assembly for approval. Members will be aware that Jersey Harbours and Jersey Airport are highly complex commercial organisations that fulfil a vital strategic role for the Island. They are substantial businesses that turn over £16 million and £28 million respectively per annum. Our objective in creating a Shadow Board was to ensure that we enhance the commercial sustainability and deliver value for money for Islanders. Some Members have also made comment about the perceived costs of the Board but I am absolutely confident that the value of their commercial expertise and resulting advice will far exceed the costs. They are not a cost in my view; they are an investment that has been well worthwhile making. They have the private sector expertise, including specialist knowledge to challenge and oversee the Executive in a constructive and effective manner. The Board has already delivered excellent advice on new senior management structure for the Ports to be overseen by the new Group Chief Executive. This recommendation and subsequent appointment will ultimately lead to greater efficiency and a more streamlined and lower cost management structure to oversee the Ports. Importantly, it will remove duplication of functions. I ask Members to support the Terms of Reference and, by extension, the Shadow Board who I am confident will provide the oversight and advice to protect and enhance the public interests in our Ports. I maintain the proposition.

The Bailiff:

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

3.1.1 Deputy A.E. Jeune of St. Brelade:

The Minister in his opening speech says that this is an advisory board. I would be grateful if the Minister can clarify some aspects for me in his summing up. When I look at the Terms of Reference, one of the bullet points is: "To develop strategy" but is that not what the Chief Executive Officer should be doing? Further down: "To ensure the ability of the trading operations to meet the objective of being self-funding and sustainable." Is that not what the Directors should be doing? The last bullet point is: "To undertake any other appropriate roles as agreed with the Minister for Economic Development." That I find slightly confusing insofar as we as an Assembly are being asked today to agree to these Terms of Reference but it seems that the Minister can add or subtract from these Terms of Reference without coming back to the Assembly. That is how I read it; I am not saying that is how it is. I would like him to clarify, please. He also has just said that this will prevent duplication. The way I am reading this is it is almost duplication. In the last sentence before Financial and Manpower Implications: "In addition the Airport Director, Chief Executive and Harbour Master and Finance Directors of the Airport and the Harbours will attend the Shadow Board meetings." Do we really need all these roles and the Shadow Board? I would be grateful for that clarification.

3.1.2 Deputy R.G. Le Hérissier:

While I have some doubts about the remuneration arrangements, I have got no problem with the Board and I think that the Minister, particularly in regard to Harbours as well as the Airport, is going in the right direction. The one point I would like to make is one that came up yesterday when the Minister proved to be quite a fan of the new A.T.C. (Air Traffic Control) system. I wonder if he could explain to the House how this Board will monitor technical developments where it is so easy to hide behind a regulator or to hide behind the manager in charge of that technical area but I

would expect that Board to ask some challenging questions in regard to these roles and, of course, that is what was in front of us yesterday. I wonder if the Minister could elaborate on that.

3.1.3 Deputy P.V.F. Le Claire:

First of all, I would like to thank the Minister who has been extremely cordial and open with me since I approached him about this subject. Obviously that approach came after I had lodged my proposition to close the gate after the horse had bolted and it obviously did upset him a little. I tend to do that but what I was trying to do was ensure that in the future, no such other advisory bodies or other bodies attached to Ministers, especially when they are receiving remuneration and taking such an active part, are implemented by Ministers without reference to the Assembly. I think that we have achieved that in my proposal and I would certainly be surprised now if any other Minister would bring forward a group that were already constituted and had already met just to sweep up behind this in Terms of Reference as is happening here. But not to belittle that Terms of Reference opportunity, what the Minister has done is taken advice and the Board has already been constituted and they have sat through an extremely rigorous process. I went to see the former Chief Minister who kindly gave me an hour of his time (he is a busy man) and I really did ask him some hard questions. He and I have known each other for a long time and he knows that I do not pull any punches when it comes to questions and I will not take no answer for an answer. He was very polite. He gave me the answers and he told me the process that he had been through. He told me about the Board. He told me about the people that were involved. He told me about the Chair who is a stickler for procedure and will not let anything go away. He talked to me about Mrs. Margaret Llewellyn who is an extremely valuable asset in relation to her experience; Mr. Smith who we know from the Co-op. and Mr. Mills who gives everything deep thought about these matters and, of course, Mr. Collett and the Chief Officer combining to make a considerable asset to the States of Jersey. Now, obviously there are concerns and there have been some expressions of concern about the aspects of remuneration. I do not have a problem with people being remunerated if they are worth the money that they are getting. In this instance, they are not worth the money that they are getting; they are worth a considerable amount more than the money that they are getting. These people could, in an instant, go away, the vast majority of them, and make much, much more money than this if they were to set themselves about their private affairs. So they are giving of their time and their experience and they are taking a small remuneration in respect of the opportunity that we are going to derive from their involvement. So on reflection, I did feel, having searched quite rigorously through this whole thing, that what we have got is a group of people that have put themselves through an extremely rigorous selection process to enable us to tackle 2 of the most significant issues that lay ahead of us in terms of strategic issues. How to make the Harbours less bureaucratic, more economical, making money, how to deliver that into the future, how to invest in that in the future, how to keep it successful and also, more importantly and moreover, how to get people into a position where they can help us address the issues that we are going to face with the Airports in the near future. We have got an Airport that is probably going to require something in the region of £200 million worth of investment to get it on its feet in the next 20 years. Where we are going to get that £200 million from is going to be a challenge in itself. So I think that this Board is going to help us tackle some of those issues. I have looked and I must say I was a little bit concerned myself with the last bullet point of the Terms of Reference in order to ensure, as it is stated by Deputy Jeune, that to undertake any other appropriate roles agreed with the Minister for Economic Development. It would be nice if he could explain that a little bit for us and if we vote maybe in agreement to bring back any other significant change in the Terms of Reference but I was comforted a little by the fact that he explained quite clearly to us in his speech that this is a body that is operating in an advisory capacity. Now, he did allude to the fact that that may include incorporation of the Ports in the future and the significant assets obviously he did undertake to bring back to the Assembly but I think in moving forward, I would say I have asked the questions. I have got the answers. The answers satisfy my concerns. The processes in place and the pledges from the Minister are in place and the guarantee of that through the Assembly now makes sure that

we do not have any horses bolting out before we have had a chance to scrutinise them and I regret the fact that this has happened in the way that it has. I certainly did not want to hold up, put off or insult any of the people that have had to obviously hang around while we have got to this point. I can only say that the one small nigging I have got at the moment is in relation to the last bullet point. Perhaps the Minister might want to talk about the fact that he would undertake to come back to us with fairly significant change of role. Aside from that, I see this as an opportunity for us to draw upon some extremely seasoned and experienced people. The Chief Officer I did not realise used to be a pilot. He has got a pilot's licence. We know he has been involved with the Harbours and his own boat for a long time. He knows the States inside out. Mr. Mills, former Chief Officer, knows the States inside out. These people do not take any nonsense and nor does Mrs. Llewellyn. If, as I have been informed, the information is not at their disposal, then they make it quite clear to the officers that it needs to be and it needs to be in a hurry and they are not taking any prisoners. In finishing, I would like to thank them. I would like to assure the Members of this Assembly and also the public that without people of this calibre giving the time and effort that they are going to give, it is going to cost Jersey a great deal more money, potentially millions. We have got people here under a new set of Terms of Reference that are operating with the full protection of the Minister's oversight and I would like to thank the Minister and his department for having been patient with me and Members in achieving this.

[16:30]

3.1.4 Deputy M.R. Higgins:

I have a number of concerns about the Shadow Board which I am hoping the Minister can allay. My first concern is that this is the first step to privatisation but a privatisation through the back door. Now, let me just say from the beginning I am not against privatisation per se. There is a case for privatisation in certain areas although there has to be very, very good justifications for it. What I do not like seeing is it slipping in, sliding in, and I do believe this could be a means by which it is going to be done. I must admit it is going to take a lot of convincing for me to believe that the strategic assets of the Harbour and Airport should be under private ownership, especially if we look at what the experience of the U.K. has been. My second concern and I would like the Minister to assure the Assembly on this is that no Minister, no Assistant Minister or officer has canvassed particular people to apply for these positions and I would like him to tell me, if people have been canvassed to apply, whether they have been appointed.

3.1.5 The Deputy of St. John:

I have to ask: has Jersey missed the boat on this? **[Aside] [Laughter]** I entered the States in 1994 the buzzword at the time and you will probably remember it as a young Greffier or Assistant Greffier, the buzzword at the time was "Jersey Limited" on the lips of the outward going movers and shakers of the day. This was soon replaced by another buzzword "incorporatisation." Yes, first it was Telecoms, then much money was spent on trying to persuade the staff at the Post Office that this was the right way forward and a Shadow Board was set up alongside the Postal Committee of the day and there were many, many staff cuts and there still are. I remember it well, being on the last Postal Committee with the only other remaining Member here, the Deputy of St. Ouen. I was in the boardroom at Broad Street when the Shadow Chairman, a well respected former banker said: "Will you tell the Members present that incorporatisation of the Postal Service was not viable?" But the gist of it was that to do so was a folly and he resigned his post. He was replaced by the former C.E.O. (Chief Executive Officer) of the J.E.C. (Jersey Electric Committee) and we now know, 7 years later, that he was correct. Let us not make the same mistake again now the new buzzword is "Shadow Board." Again, let me take you back to the 1990s on the turn of the century and yes, this time it was Harbour and Airports, trying to do everything, incorporate the Harbour and Airports. Hundreds of thousands of pounds were spent, employing people from outside of the Island to make it happen. If I remember, we had a special rank created for a Director at the Airport

called Change Director. All this finished in tears. Instead of cutting staff, we built a pyramid where the Harbour Master became a C.E.O., with a wage packet to match, and the Change Director at the Airport went from a short-term contract to something that was semi-permanent. Top management grew while the number of workers at the bottom fell. I have a problem. Is it the intention of the Council of Ministers to make this a profit-making organisation? If so, I believe we have it wrong. What we need is not a board of people from outside this Chamber with wages et cetera; we have people here within this Chamber who could do the job. We have a number of Members who do not sit on any committee or any board, any ministry, any panel within this Chamber. Give them the job not pay out more wages to people who will only report to the Minister. The ports of Jersey are the lifeblood of this Island. Yes, they have to wash their face but not at the cost of the people of Jersey for, as sure as eggs are eggs, in 3 to 4 years' time, we will have another new buzzword. The Council should be looking at putting a non-profit-making trust in place to run the Ports working with the interests of the Island at heart not wages for Directors and the like so that it can become a cash cow for the Treasury Department. The Ports should, yes, be washing their face, yes, have all the modern equipment and the like but it should not be there as a way of collecting an additional tax for the Treasury because it is the blood that flows through the veins of every person in the Island, whether it is at the airport or whether it is at the docks, all our produce has to come in and out of both those ports, and to go down the road of having non-elected people on a board ... and we have seen it in other areas, where directors immediately they are put into a full working mode, at the Post Office now, whether it be Telecoms or elsewhere, things we put in place, all of a sudden the senior staff, the figures rise up by 5 per cent or 10 per cent for their wages, all of a sudden they are up into the hundreds of thousands and they are trying to compete with heads of multinationals in the United Kingdom and elsewhere. Really, do we need to go down that road? Because then we will be putting in place some other department to keep an eye on them at great cost, as we did with the Postal Service, because they incorporatised that and then they opened it up for all this competition and then we have these regulators who come in and they charge each one of these departments hundreds of thousands of pounds to operate and we build all these other little pyramids. We need to do what is right for the people of Jersey, not necessarily make a fortune, we need it to wash its face, no more no less. Because our lifeblood is in these ports, whether we are shipping out produce for the farmers, whether we are shipping out D.V.D.s (Digital Versatile Disc) for the fulfilment business, whether we are importing goods to sell to the local people. By putting the figures up, by putting something in place that is going to be run on a commercial basis, then it is going to affect the pockets of everyone in this room, everyone in this Island. Put in a trust, and the trust deeds can be put in such a way that they control what is going on in there, but it is a non-profit-making trust, as happens in quite a few other ports around Great Britain, and they operate well. We looked at this in my time on Harbour and Airports and I was quite impressed at what I saw. We did not see the trustees turning up at that time in, shall we say Rolls Royces and posh cars, they turned up, they were ordinary people these trustees were, just ordinary people. I do have concerns that we are going to be creating a cash cow for something that should not be run in that particular way. Sir, I will not be supporting this, I think you have probably gathered that from my speech, and I sincerely hope other Members contribute towards this debate because a Shadow Board has been put in place by the executive, that is their job to look at ways they believe is the right way forward, but I do not believe ... because why has this not been brought back to the Chamber so we could have discussed it before today, been given a group of names? What input have we had? We have had none. We should have had input before now to discuss this and I think it is quite discourteous of the Minister to bring people's names forward at this late hour after having set a Shadow Board in place and we have not had the opportunity of discussing that way forward. Thank you, Sir.

The Greffier of the States:

Does any other Member wish to speak? Senator Routier.

3.1.6 Senator P.F. Routier:

I will be brief, but I would just like to share with Members the experience I have had over the last 6 months with working with the Shadow Board. I have to say it has been very, very valuable. The expertise which they bring to the considerations of the matters has really I think taken the decision-making which I have to make ... it is not them who make any decisions, it is the Minister obviously as well makes the actual decisions ... but the information and the recommendations that they bring forward to myself to make the decisions is first class. Their expertise has been fantastic. At varying levels on the management side we have a group of non-exec people there who have real good, strong, management skills and they know how to call people to account, and I have to say that they are doing that and doing that strongly. We also have maritime experience which Deputy Le Claire has expressed; Mrs Llewellyn, her expertise is fantastic, and on the aeronautical side as well, Mr Mike Collins. They are well experienced in maritime and aeronautical matters and it has been of great value to have their vision put into the way forward. The way we are discussing the Terms of Reference, and I know we are not the individuals, but the Terms of Reference is working extremely well. The way that it has been established, I know we are agreeing them today but I would say in practice that we have been using them over the last 6 months and it is working exceptionally well. I meet fortnightly with the Chairman of the Shadow Board and also I have an open invitation to attend the board meetings themselves and there is a very good exchange of information to enable myself to make any decision regarding anything to do with the harbours and the airports. All I can say is that I thank the Shadow Board for the input they have put in so far and I hope that the House will endorse these Terms of Reference because they work extremely well.

Deputy M.R. Higgins:

Can I ask a point of clarification from the last speaker? He mentioned the board has been meeting for 6 months and he has an open invitation from the Chief Executive. Is that the same individual who was appointed and started work on Monday or are you talking about a different person?

The Greffier of the States:

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

3.1.7 Senator A.J.H. Maclean:

I will briefly try to cover Members' questions. Deputy Jeune, who is not in the Assembly now but I will cover her questions anyway, hopefully she is listening somewhere. She was concerned about the value the board would add and suggested that although I have mentioned that we were seeking to remove in the new management structure duplication of function; in fact, her feeling was that we were adding complication and duplication by putting in place the board itself. I can reassure her that is most certainly not the case. The board has - the Deputy has arrived, marvellous - immense and varied commercial expertise. It has already been touched on by Senator Routier but that sort of value is going to add and advise and support the executive in a way that has never been possible before. It is the type of structure that businesses of this size would expect to have and would be displaying in the private sector and the type of value that it adds is virtually immeasurable. It is certainly a major step forward. What we will be seeing is between the 2 ports a reduction in the number of functions being carried out. We will have consolidation in areas like finance and given resources and other functions that are being carried out currently in both ports and can be carried out in a far more consolidated way in one single entity.

[16:45]

A good example is the appointment of the new Group Chief Executive who started work on Monday and there we have the expertise, I might point out for Members who are not familiar, with a highly-qualified individual whose most recent experience has been running a \$60 billion business. It is this type of expertise as the oversight bringing together the ports and with his experience in reducing costs and ensuring that we have a far more efficient and effective structure will add enormously to the considerable skills that we already have in both ports. It is a step forward that I think we can all look forward to and the public can look forward to to ensure that we do get continued value from our ports. Deputy Jeune was also asking about the final point on the Terms of Reference which was for the board to undertake appropriate roles as agreed with the Minister for Economic Development. That quite simply is there because as we move forward and these commercial operations issues arise and it may well be that I see a matter that needs investigation and I might wish to ask the board to look at a particular issue. I have most recently written to the board to ask them to advise on the future sea routes, in particular the new arrangements from December 2013 as we move forward and the potential for the tendering of our sea route services. That is the type of input that I am looking for from the Shadow Board and I look forward to their report back on that particular request that I have put forward to them. Deputy Le Hérissier suggested that I was a fan of our new, very fine air traffic control facility. I do not describe myself as a fan. I think it is a fantastic facility. It is an £11 million or £12-million facility which, as I said the other day, employs cutting-edge technology. It is suffering, as Members are aware from comments I made the other day, from some teething problems. That in many respects is not surprising although clearly I am looking, together with the management, at an early resolution to the problems as we move forward.

Deputy C.H. Egré of St. Peter:

Just an observation, Sir. Teething normally lasts a very short period.

Senator A.J.H. Maclean:

Deputy Le Hérissier was in particular asking the questions about the challenge that the board would bring in issues, I think he was specifically meaning in relation to this, I would just simply point out that I am absolutely, 100 per cent confident that the board will bring challenges to the executive in all areas. I would just simply say on this particular matter the specification for the tower and its completion started back in 2008, long before the board was in place, but clearly their input will

grow now that they have a position and I think that we can all be reassured that that will add significant value. I thank Deputy Le Claire for his comments. I have tried to work with him in order to reach agreement and he more or less confirmed that. I will just confirm to him again, which I did in my opening remarks in any event, that any substantive changes that should come forward as proposals from the board to the executive and to Ministers would come from this Assembly. There would be no question that any substantive changes in governance to the harbour or airport would not come before this Assembly for consideration. So, Deputy Higgins suggested that this was a step towards privatisation. There is absolutely no suggestion that privatisation is on the cards for the ports, that is certainly not a consideration. What I did say in my opening remarks was that I have asked the Shadow Board to look at the potential for incorporation of the ports. I am looking forward with interest to the report when I receive it on their views on the potential for that particular model. We have listened to the Deputy of St. John who himself has made a suggestion of another model. All I would say is that should a proposal come forward to incorporate the ports that is a matter, as I have already pointed out, that would come to this Assembly for debate so Members would have an opportunity to debate such a move and approve it or not as the case may be, or indeed amend it if that was felt appropriate by an individual Member. Deputy Higgins also asked whether indeed there was any canvassing, I think he was referring to members of the board when the board was being advertised.

Deputy M.R. Higgins:

Yes, members of the board by any Minister, Assistant Minister, officers or anybody else and whether they were appointed, the people who were canvassed.

Senator A.J.H. Maclean:

All I can say to the Deputy is that I am not aware of any canvassing that went on to Members of the Shadow Board. I would say that all Members applied, we had a significant response, the Appointments Commission oversaw the process and I am perfectly satisfied that that process was fair and indeed I am delighted with the quality of the board that we have and I think as an Assembly and an Island we can all rest assured with the high calibre of the Shadow Board that is overseeing our ports. I turn to the Deputy of St. John. He said I think, and I do not wish to misquote him, I am sure he will pop up if I do, but I think he suggested that either we or he had missed the boat.

The Deputy of St. John:

I do pop up, Sir, you have missed the boat.

The Greffier of the States (in the Chair):

The Minister had missed the boat?

Senator A.J.H. Maclean:

I was not quite sure who he meant had missed the boat. I was going to go on to say that it is never too late, if he did feel he missed the boat he could always seek to embrace change and progress and I think, listening to his comments, that he gave us a fairly detailed history lesson of the past. Members will be aware that the Deputy has some considerable experience of seafaring matters, he has experience on the former Harbours and Airports Committee, so his knowledge is always of interest. Having said that I am somewhat disappointed by some of the comments that he made because he suggested that there are and have been quite a number of issues over the years but as a former Member of the Harbours and Airports Committee clearly he was in a position to try and influence those. I believe that we are making progress, I believe we are moving forward now, I think it is important to learn from the past. I think it is important to look to the future and I think it is important to act and I believe that is exactly what we have done and I think that a good example of that is the appointment of the Shadow Board. I think a good example is the way in which we are shaping the management structure of the ports and the appointment of the new Group Chief

Executive all of which is going to deliver, in my view, better value, better structure, better value for the public of this Island and I think that sort of progress is something that should be welcomed. The Deputy did mention his views on a trust model for the ports in the future. That is an interesting idea and I know in the past the former Harbour and Airports Committee did look indeed at that model and I am sure that the Shadow Board, when giving considerations to future models, will be aware of that research that was undertaken at that particular time. I do not believe there are any other questions. I thank those Members that have spoken and have raised some points. I hope I have answered them clearly and I simply maintain the proposition, thank you.

The Connétable of St. John:

Sir, can I ask for a point of clarification from the Minister?

The Greffier of the States (in the Chair):

No, you did not speak in the debate.

The Connétable of St. John:

It was from the speech, Sir.

The Greffier of the States (in the Chair):

No, we had this issue yesterday.

Deputy P.V.F. Le Claire:

I would like to, then. I spoke, Sir.

The Greffier of the States (in the Chair):

Deputy Le Claire, is your question about 16:53:35 (several inaudible words)?

3.1.8 Deputy P.V.F. Le Claire:

Sir, I did ask the Minister if he would be kind enough to consider that the final bullet point in his Terms of Reference, I did say to him I wondered if he might be minded to bring any substantive change to the Terms of Reference back to the Assembly. He did reconfirm what he stated in the first place, which was that he was going to bring any substantive change to the harbours and airports back to the Assembly but I wanted to ask him if he would maybe concede that any substantive change to the Terms of Reference he would also consider bringing back to the Assembly.

3.1.9 Senator A.J.H. Maclean:

The final bullet point, which I think the Deputy was referring to, just for clarity's sake I will read to Members. It says: "To undertake any other appropriate roles as agreed by the Minister for Economic Development." That is clearly left open and flexible. These are commercial operations. Situations do change. It may well be that the future Minister, he or she, might seek advice from the Shadow Board on any number of different areas. It is intended, therefore, to allow a future Minister to have the flexibility to seek advice from the board. It is not about making changes. I have given an undertaking that should any substantive changes to the governing structure of the board result from advice that that will come back to this Assembly so, I hope that will satisfy the Deputy, Sir.

The Greffier of the States (in the Chair):

Very well, all those in favour of adopting the proposition. The appel is called for. I ask Members to return to their seats. The vote is for or against the proposition of the Minister for Economic Development. The Greffier will open the voting. All Members have cast their votes. The Greffier will close the voting. The proposition is adopted 36 votes in favour, 2 votes against and one abstention.

The Assistant Greffier of the States:

Those voting contre the Deputy of St. John and Deputy Maçon and the Connétable of St. John abstained.

POUR: 36

Senator T.A. Le Sueur
Senator P.F. Routier
Senator P.F.C. Ozouf
Senator J.L. Perchard
Senator A. Breckon
Senator S.C. Ferguson
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F.du H. Le Gresley
Connétable of St. Helier
Connétable of Trinity
Connétable of Grouville
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 St. Peter
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 I.J. Gorst (C)
Deputy M. Tadier (B)
Deputy A.E. Jeune (B)
Deputy A.T. Dupré (C)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)
Deputy M.R. Higgins (H)
Deputy A.K.F. Green (H)
Deputy D.J. De Sousa (H)

CONTRE: 2

Deputy of St. John
Deputy J.M. Maçon (S)

ABSTAIN: 1

Connétable of St. John

4. Draft Health Insurance (Medical Benefit) (Amendment No. 4) (Jersey) Regulations 201- (P.71/2011)

The Greffier of the States (in the Chair):

Very well. We come now to the Draft Health Insurance (Medical Benefit) (Amendment No. 4) (Jersey) Regulations 201- lodged by the Minister for Social Security. I will ask the Greffier to read the citation.

The Assistant Greffier of the States:

Draft Health Insurance (Medical Benefit) (Amendment No. 4) (Jersey) Regulations 201-. The States in pursuance of Articles 9 and 36 of the Health Insurance (Jersey) Law 1967 have made the following regulations.

4.1 Deputy I.J. Gorst (The Minister for Social Security):

It is a straightforward amendment which will increase the medical benefit which my department pays to G.P.s (General Practitioners) in line with R.P.I. (Retail Price Index).

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does anyone wish to speak on the principles of the regulations? Senator Breckon.

4.1.1 Senator A. Breckon:

I wonder if the Minister could tell the House why this has been increased, because I understand that when we increased the amount to £19 it was to do with a service level agreement with General Practitioners and at the time I do not remember, I think it was going to be a fixed sum for 2 years or something and then it was going to reduce after that. So, I am not sure why this increase has come up so soon because my understanding when we got the money it came out of the fund and it was extra money, it was quite a hike at the time, and I was not aware and I do not think the House was told that it would be increased by annual increments either. I wonder if the Minister could explain some of that.

4.1.2 Deputy D.J. De Sousa of St. Helier:

Also if the Minister can fill us in on where things are with the service level agreement on the G.P.s (General Practitioners)?

4.1.3 Deputy S. Pitman:

I just wanted to know what the status of H.M.A. (Household Medical Account) is at the moment because I know a lot of people on income support - it is being stopped because apparently they are not using the doctors enough and also those new applicants are also not receiving H.M.A. any more.

4.1.4 Deputy R.G. Le Hérisier:

Could the Minister tell us in terms of controlling this amount, is there any control on over-visiting and over-prescribing?

4.1.5 Deputy A.E. Pryke of Trinity:

I just wonder if I could update a few things and just to say first of all that the Minister for Social Security and I work very closely together with this and I do include the Assistant Minister too in that, most of the time anyhow. P.36 last year raised the medical benefit as we know to £19 but this funding, which comes from the Health Insurance Fund, unlocked a major programme of primary care reform which I think is what all Members would wish. This proposition is to allow medical benefit to be index-linked and I wish to expand I think to help Senator Breckon with what has happened to enable us to begin reform of the primary care. At the point of last year's deal and in recognition of what was needed to have their licenses revalidated by the General Medical Council the primary care body which represents all Island G.P.s agreed to 3 key actions. One was to work to deliver a new, quality contract which ensures that Jersey patients receive best and, I stress, evidence-based care to local regulation as soon as the law can be changed and working with Social Security and my officers to establish a G.P. control server which is on track to be up and running early 2012. All of this will meet the new and more stringent requirements of the General Medical Council. G.P.s are already assessing their achievements against a quality framework in shadow form and an updated Medical Practitioner Law has been lodged on 8th July. But above all a

quality-assured primary care system is placed to meet the new and more stringent requirements of the G.M.C. Also, very importantly, for the first time we are now getting good quality information about health needs and health care outside the hospital. This is vital for service planning into the future and I really urge Members to support the Minister for Social Security in this proposition.

[17:00]

The Greffier of the States (in the Chair):

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

4.1.6 Deputy I.J. Gorst:

If I take the first issue raised which the Minister for Health and Social Services has dealt with in P.36 last year. It was at that point said that this benefit, or the total benefit, would be index-linked and that index-linking has to come back to the Assembly for approval. Some of the index-linking that we do in our department can be done by order, some is automatic, it is in the legislation, and others, which is the current case with the Health Insurance Fund we have to come back and seek States approval for it. That P.36 increased the benefit from £15 to £19 and that has unlocked a series of reform again, as the Minister for Health and Social Services said, she has launched the medical practitioners' registration which will enable the registration of G.P.s in a timely approach rather than the historic approach which we have at the moment. I think that is down for debate in July. She has also lodged the Medicines Law amendment which will allow health professionals other than doctors and dentists to prescribe which will allow us then to go to nurse-prescribing and perhaps other health professional prescribing as well. It is, although it is all a package that is coming together, it means a lot of amendments to different laws. My department and the Department of Health are currently working on amendments in general to the Health Insurance Fund. I hope to be able to be in a position to lodge those during the course of the summer. That will mean that we can then contract with G.P.s and other health professionals to deliver the services that we need to do. Of course sitting on top of all this is the work that the Department of Health has been doing with regard to their green paper and the way forward that we wish to deliver health. Without wishing to second guess exactly how all those services will be delivered these changes in law will allow us to be flexible in that delivery and will allow us to move care out of the hospital and into the community, which is what that report really talks about, and will allow G.P. care to be delivered on a contract basis rather than just on a visitation basis, which has some unintended consequences, and will allow other health professionals to deliver services as well on a contract basis. So, although it perhaps appears to be slow there is a lot of work that is going on and this is part of that work and I think that covers most of those questions arising. Deputy Pitman asked me about the H.M.A. Of course H.M.A. is not connected with the Health Insurance Fund at all now, when it was H.I.E. (Health Insurance Exemption) it was. There were H.I.E.-eligible people and that money came part from the taxpayer and part from the Health Insurance Fund. H.M.A. is a saving mechanism within the Income Support system and is not connected with the Health Insurance Fund at all. Of course, part of the reason we should be uprating this is to try and eliminate increasing medical costs for those who are visiting anyway and this is all part of the long-term piece of work which we are undertaking. I think I was also asked about control over visiting and prescribing. It is some of these other laws and the revalidation of G.P.s which will allow us to be more proactive perhaps in visiting because what we hope to do is move away from a visiting scenario to a contract basis for delivery of services which deal with conditions and prevention rather than people always having to go to the G.P. and be charged on that type of basis. But there will be a marrying-up of that coming together. We do of course do prescribing reviews and monitoring and we are able to see what G.P.s are prescribing, whether they are generic or labelled drugs and help to control costs in that way. We have a professional adviser that advises with that and we, I think it is fair to say, take that very seriously and G.P.s are signed-up and involved in that process.

Deputy R.G. Le Hérisier:

Just on a point of clarification, could the Minister describe whether there are incentives under the current system to use practice nurses for many consultations as opposed to a fully-fledged G.P.?

Deputy I.J. Gorst:

No, the Deputy makes a very valid point. That is one of the reasons that we are making the changes. In actual fact the incentive is not to use a practice nurse because they are currently paid by visit and that is a visit with a G.P. and therefore the reverse is currently the case and that is why we need to move forward so that there is not an incentive to see a G.P. if you can do other things. They still have a role to play but there are many things that could be undertaken by practice nurses, could be undertaken by pharmacists, could be undertaken by other health professionals and we need to make sure that we are rewarding the health community generally for those things and not saying that every time a G.P. has to be seen, because we know in other communities that is not happening and we know that that is one of the main things that the KPMG report is suggesting we need to consider as part of our moving-forward strategy. I maintain the regulations.

The Greffier of the States (in the Chair):

All those in favour of adopting the principles kindly show. Any against? The principles are adopted. Now to the Chairman of the Health and Social Security Scrutiny Panel, is there a Member of that panel?

Female Speaker:

Yes, Sir, and no, thank you.

The Greffier of the States (in the Chair):

Do you propose Regulations 1 and 2, Minister?

Deputy I.J. Gorst:

Yes, indeed I do, Sir. One Member is suggesting I have not answered her question. I wonder if she perhaps might like to put it again and I will see if I can answer.

The Greffier of the States (in the Chair):

Does the Member with the unanswered question wish to speak?

Deputy I.J. Gorst:

Perhaps I was more full in my answer than I thought.

The Greffier of the States (in the Chair):

Does anyone wish to speak? All those in favour of adopting the regulations kindly show. Those against. The regulations are adopted in the second reading. Do you propose the regulations in third reading, Minister?

Deputy I.J. Gorst:

Yes, if I may, Sir, thank you.

The Greffier of the States (in the Chair):

Seconded? **[Seconded]** Does anyone wish to speak? All those in favour of adopting the regulations in the third reading ...

Female Speaker:

Can we have the appel please, Sir?

The Greffier of the States (in the Chair):

The appel is called for in the third reading. Members are returning and in their seats. The vote is for or against the regulations in third reading and the Greffier will open the voting. All Members have cast their votes. The Greffier will close the voting. The regulations are adopted on the third reading 34 votes in favour, no votes against.

POUR: 34

CONTRE: 0

ABSTAIN: 0

Senator T.A. Le Sueur
Senator P.F. Routier
Senator P.F.C. Ozouf
Senator A. Breckon
Senator S.C. Ferguson
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F.du H. Le Gresley
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 of St. Ouen
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 I.J. Gorst (C)
Deputy of St. John
Deputy A.E. Jeune (B)
Deputy of St. Mary
Deputy A.T. Dupré (C)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)
Deputy A.K.F. Green (H)
Deputy D.J. De Sousa (H)
Deputy J.M. Maçon (S)

5. Draft Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 11) (Jersey) Regulations 201- (P.74/2011)

The Greffier of the States (in the Chair):

We come now to the Draft Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 11) (Jersey) Regulations 201-. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Public Employees (Contributory Retirement Scheme) (General) (Amendment No. 11) (Jersey) Regulations 201-. The States in pursuance of Articles 2 and 3 of the Public Employees Retirement (Jersey) Law 1967 have made the following regulations.

5.1 Senator T.A. Le Sueur (The Chief Minister):

This is really a matter of housekeeping to keep up to date. Where actuarial review reveals a deficit in the public employees' pension funds it is up to the Members to try to agree to find a solution which is acceptable. If they fail to do that the default position is to reduce the amount of pension by a sufficient margin to eliminate the deficit. The present regulations require that if in a 5-year period a surplus is then disclosed on a future valuation the previous change reducing the pension can be made good and the pension brought back to what it previously was. That was fine when actuarial reviews were done every 5 years but the policy now is to do a review every 3 years and so the proposal is to amend the 5 years to 6 years which would in fact cover 2 3-yearly reviews. That is the nub of the principle of the regulations and I propose the principles.

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles to the regulations? I put the principles. Those Members in favour of adopting kindly show? Any against? The principles are adopted. Senator, do you wish to propose regulations 1 and 2 for the Minister?

Senator T.A. Le Sueur:

Yes, Sir; remarkably simple, I propose both of them.

The Greffier of the States (in the Chair):

Are they seconded? **[Seconded]** Does anyone wish to speak?

5.1.1 Deputy D.J. De Sousa:

May I just say this is a way forward, and well done.

The Greffier of the States (in the Chair):

Does anyone else wish to speak? I call upon the Chief Minister to reply.

5.1.2 Senator T.A. Le Sueur:

To thank Deputy De Sousa and maintain the Articles.

The Greffier of the States (in the Chair):

All those in favour of adopting the regulations 1 and 2 kindly show. Any against? They are adopted in the second reading. Do you propose the regulations in the third reading, Chief Minister? Seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting the regulations in third reading kindly show. Any against? They are adopted in third reading. If I could just announce to Members (as it tends to be overlooked at the adjournment) the lodging of certain matters today. The Draft Shops (Regulation of Opening) (Jersey) Regulations 201-P.95/2011 there is a second amendment lodged by the Connétable of St. Lawrence and a third amendment lodged by Deputy Green and an amendment to the Long-Term Care (Jersey) Law 201-P.108/2011 amendment lodged by the Minister for Social Security and 2 matters presented in an addendum to the proposition of the Deputy of St. Mary on uplifts in land values P.90 and second comments from the Minister for Health and Social Services on the G.S.T. (Goods and Services Tax) exemption or zero rating for health foods proposition. The Assembly comes now to the Draft Income Tax (Amendment No.38) (Jersey) Law 201- and I will ask the Greffier to read the citation.

6. Draft Income Tax (Amendment No. 38) (Jersey) Law 201- (P.79/2011)

The Deputy Greffier of the States:

Draft Income Tax (Amendment No. 38) (Jersey) Law 201-. A law to amend further the Income Tax (Jersey) Law 1961. The States subject to the sanction of Her Most Excellent Majesty and Council have adopted the following law.

6.1 Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

This proposition seeks to remove from the Income Tax Law what is known as deemed distribution and full attribution rules. For simplicity's sake at the end of a very long day I will refer to these collectively as the "deeming provisions." I think it is important that I do at least put this into some historical context because it is important to give some limited background to the reason why this proposition is being brought. Members will know that way back in 2002 as a good neighbour policy with the E.U. (European Union) the Island made a voluntary commitment to comply with the E.U. code of conduct on business taxation and as a consequence, as this Assembly's time has been taken up on a great deal of occasions, we brought in a change to our corporate tax regime bringing an end to the old exempt company and I.B.C. (International Business Company) regimes. The concept of Zero/Ten was proposed back in 2003 and confirmed that the regime with a general rate of tax of zero and with a special rate of 10 per cent was not harmful. In 2007 my predecessor developed alongside the Zero/Ten regime some personal anti-tax avoidance measures which were the deeming provisions. This was I have to say to the credit of the Minister for Treasury and Resources at the time a belt and braces approach, and we still have general anti-avoidance rules which can be used to prevent tax abuse. At the time I can say that the U.K. agreed these deeming provisions as a personal tax matter and that they fell outside of the Code of Conduct group. So, Zero/Ten and the deeming provisions were introduced in good faith and the law brought in in 2008. In 2009 we became aware that some E.U. States considered Zero/Ten was in conflict with the spirit of the code. There has been, as Members will be aware, a great deal of debate on this issue and of course it is fair to say, as I have said on a number of occasions, that some E.U. Member States do not like zero, but there is nothing in the code or indeed in international law or any international standards which dictates what rate of tax a country must charge. Opposition in response to the concerns raised was: "Please tell us what is the concern with our regime and we will of course consider what action to take from it." The code group began formal assessment of our Zero/Ten regime and indeed the Zero/Ten regime that is also in place in the Isle of Man and Guernsey and it became clear that the concern by the code group related to the deeming provisions and not the Zero/Ten issue itself, although of course some Member States do not like the issue of low taxation, as we have seen in the international debates concerning the Island within the E.U.

[17:15]

Having initially identified the concern about the deeming provisions some of the Members of the code group raised questions about also the scope of the code. The E.U. Council High Level Working Group, which is a bit of a mouthful, on tax matters was therefore asked to consider this matter further; in particular whether shareholder taxation such as our deeming provisions were indeed part of the scope. They found specifically that our deeming provisions did fall within the scope of the code and in their opinion gave rise to harmful effects. As part of our continued good neighbour policy towards the E.U. the Chief Minister on behalf of the Council of Ministers announced in February this year that while we did not agree that the deeming provisions were a business tax regime, they were a personal tax-avoidance measure, we would therefore abolish them if we thought that that was possible. ECOFIN (Economics and Financial Committee) have now completed their review of Jersey and the Isle of Man current business tax regime. They have accepted the view of the code group that the regime, including the deemed provisions, do potentially give rise to harmful effects. This was the conclusion of the formal process and following the activities and the reports that we had from the high-level working group this came as

absolutely no surprise. Members may ask, and I am sure that they will, why we are confident that if we remove the deeming provisions that we are compliant with the code. I want to say to Members that there are strong indications that Zero/Ten without the deeming provisions will be compliant with the code, and I say that for 2 important reasons: firstly, ECOFIN's conclusion in 2003 was that Zero/Ten was not harmful. Secondly the clear conclusion from the code group and the high-level working party is their concern concerning the deeming provisions. There has been no comment about the Zero/Ten concept itself. That is extremely important, and even the harshest critics of Jersey have conceded that the removal of the deemed provisions are likely to work and that is indeed certainly encouraging. I can say that we have had discussions with Her Majesty's Treasury Officials as Members would expect. They have firmly expressed their view that the removal of the deeming provisions and not replacing them with anything else that looks like deeming provisions will make our Zero/Ten regime compliant with the code. Finally it is also worth noting, because it is important that in its report to ECOFIN the code group stated that they have been informed that they are content with the proposition and indeed they welcome the proposition that we are removing the deeming provisions. Turning to the law itself, the law change is very simple in terms of explanation, although as Members will see it is quite complicated in its drafting. Basically it means that the deeming provisions will be abolished with effect from 31st December 2011. It is really important that I make a public statement that we are not proposing to replace the deeming provisions with another measure which has the same or similar effect. If the proposition is passed from 1st January 2012 shareholders will broadly be taxed when they receive distributions from companies that they own. I know that Members are concerned about the potential abuse that may arise as a result of the removal of this. I want to give Members some confidence that this matter is something that has commanded our attention to a very great extent and I would remind those Members who are concerned, quite understandably, about this issue that we do have the tools in place to counter abuse. Our Jersey Income Tax Law contains a general anti-avoidance measure which the controller can, does and will use. An anti-avoidance provision relating to shareholder loans also remains in place and this is necessary. We will of course continue to monitor the situation closely and while I am very hopeful it will not be necessary I will have no hesitation in proposing any additional measures to protect our taxation revenues using the general anti-avoidance measures that we have. That will mean that without the deeming provisions we can be confident that the Zero/Ten regime will be compliant with the code. Removing these deeming provisions addresses directly all of the concerns raised by the code of conduct group. This action will bring certainty back to what has been certainly an uncertain situation over the last few months because of the issues raised and the great deal of speculation about what exactly the problem is and it is recognised by the industry, which we have consulted to a great extent, that this option is the best option for the economy of Jersey. This proposition brings forward the legislation required to remove the provisions that were of concern. By the time the code group meets to consider the roll-back position in September it is important, and this is why I have exceptionally brought forward an amendment to the Income Tax Law in advance of the budget, to show that we have removed the problem area as far as the code group is concerned. I want to say that nothing that we have heard from London or Brussels caused me to doubt that the code group will not sign off Zero/Ten when they meet in September if we remove these deeming provisions. We can move forward if we pass this legislation today confidently to ensure that we have a simple, stable, tax-neutral regime which our finance industry needs and our economy needs to be competitive. I am confident that it is the foundation stone on which our economy will continue to flourish in years ahead. This proposition fulfils our promise to the E.U. and the U.K. made earlier this year to remove the parts of our tax system which, while we did not agree with, but in the view of the code group were the issue that caused harmful effects. I hope that little history of the Zero/Ten regime and the reasons why is sufficient for Members. I urge Members to support it and stand to answer any questions that Members may have.

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]**

6.1.1 Deputy J.M. Maçon:

Very briefly, in my manifesto for the reasons that Senator Ozouf has touched on about the concerns of the group and how I did feel that these particular provisions did break the guidelines, specifically in my manifesto I did support a repeal of these provisions and therefore I will quite happily support the Minister for Treasury and Resources.

6.1.2 Deputy D.J. De Sousa

I just wonder if the Minister in his summing-up, in the financial and manpower implications it states that the Treasury forecast suggests that the removal of this provision will lead to a cash-flow effect from 2013-2014 which in any one year is not expected to exceed £10 million. Does the Minister expect this to be ongoing and will he assure the House that he will not raise G.S.T. to claim this £10 million back?

6.1.3 The Deputy of St. Mary:

I quite like the Minister's phrase to shorten what we are talking about into the deeming provisions. I think that is quite a nice name for something that was deemed to be the case but it was considered by others in the E.U. not to be the case. If I were being mischievous I would have brought in my Zero/Ten file and what a pity I did not, but it will speed things up that I did not, and then I could have quoted the good Minister's comments going back years saying: "This will work" and then: "This will work" and then: "This will work, there is no problem" to: "We will soon have some certainty. Oh, we now have certainty but we will fight on" and finally: "We now have certainty" and what a good thing that is. The reason I mention that is he mentioned in his speech the good-neighbour policy that we once upon a time had in 2002 I think it was, he said, and I just wonder if he is going to comment in his summing-up on how the good-neighbour policy has survived that catalogue of being investigated by ECOFIN, it being passed around various expert bodies and working parties and goodness knows what and then, in the end, Jersey having been found to be on the wrong side of a line ... which we were told back in 2005 we would be found to be on the wrong side of that line. So, I just wonder if he will comment on what our good-neighbour policy looks like now and how much damage he thinks that might have done in terms of our relationship to the E.U. It does remind me of the Reciprocal Health Agreement where we totally shambled it by pretending that it was an even agreement and then it must have had an effect inside Whitehall to know that we were pulling the wool over the eyes of our partners in that agreement. It is not good practice and so I welcome the comments of the Minister on that. Then a couple of things from the report which I would like his clarifications on: on the bottom of page 4 he talks about: "The removal of deemed distribution and attribution from business will ensure that Jersey can maintain its general rate of tax of zero per cent for companies." This gives rise to 2 concerns of mine. One is how harmful is that for Islanders? I am reminded straight away of Voisins and De Gruchys and I cannot square this comment of a zero rate for companies with what I am told from other sources that one of those companies pays tax in Jersey and the other does not. So, I know it is an old chestnut but nevertheless it is absolutely relevant to this. The second aspect of the zero per cent for all companies in Jersey, apart from the 10 per cent and the 20 per cent that we know about, the 10 per cent for finance and 20 per cent for utilities, but the fact is it is zero per cent for everyone else and I want him to comment on how that will pan out internationally. Just how long he thinks that other countries are going to allow corporations to, as we saw in the paper I think only last night, a large company that does construction support all over the world is relocating and restructuring so that its headquarters are somehow in Jersey and I think it was Cayman as well; I forget exactly, it was Jersey and one other jurisdiction offshore. How does that get viewed now by other countries who see the legitimate tax revenues from that company? Because I am sure that was about tax. They do not want to relocate here because our working practices laws or our health and safety laws

are different and apply wherever they are working throughout the world. I just do not see that. So, how stable does he think that is, the zero per cent and its effect internationally? Finally the financial and manpower indications, this extraordinary statement that the removal of these provisions would lead to a cash-flow effect which in any one year is not expected to exceed £10 million. Does the Minister mean by saying there is a cash-flow effect of £10 that there will be a loss of revenue of £10 million? Because it seems to me that when I first saw the statement, whether it was the Chief Minister or the Minister for Treasury and Resources on this issue, saying that there would be this cash-flow effect, I thought that is intentionally misleading. It is spin, it is trying to hide what is the case which is that we will lose so much revenue as a tax-levying authority and therefore it will either have to be made up somewhere else or there will have to be corresponding savings. The point I am making is not about that, it is about the reputation of this Assembly. When the public is told that there is a cash-flow effect and it is going to be put off a year or something and they are not told straight: "We are going to lose revenue because of this" then this House loses credibility and that annoys me and it should annoy other Members too. I would like comments on those matters, please.

6.1.4 Senator A. Breckon:

Just to follow on from that, Deputy De Sousa and also the Deputy of St. Mary have mentioned that, but I would like to address a question to the Minister about that cash-flow effect of £10 million. Would he give a definition of what that is? Is that tax revenue that is going to be lost per annum and if that is the case, if that is the cost then what is the benefit to the Island of doing this? Obviously there is a compliance issue but can he tell us what the benefit is?

6.1.5 Deputy G.P. Southern:

I am aware we are coming to closing time but will the Minister confirm that while the E.U. code group have welcomed this change it has not been formally accepted and ratified? It seems to me it is similar to the Deputy of St. Mary's question, deemed distribution was obviously set up to gather more tax revenues and then we are told that this is just a cash-flow problem. How much tax are we going to lose annually? Does this restore a level playing field between locally-owned companies and non-locally-owned companies and if not why not? While we are on the topic, is he any further on with measures to get some tax revenue or charges on non-locally-owned companies trading here in order to improve the revenue of the Island?

[17:30]

6.1.6 Deputy M.R. Higgins:

On a similar vein I accept that Zero/Ten as it now stands with the deemed distribution stripped out probably will be compatible. My concern is that it is compatible because both foreign companies and local companies, and the Minister can tell us, will be treated the same. They are both paying zero tax. We are being told that he has anti-avoidance measures within the income tax law to claw it back. If you are treating people on a level playing field you are still going to try and claw it back. I do not know how that is going to be compatible. More importantly my concern is the fact that we have already seen almost a tidal wave of shift in terms of the tax burden of this Island from companies to private individuals [**Approbation**] and I do not see anything, absolutely anything that the Minister has said or is bringing forward that will reverse that process. In fact, I see it being exacerbated. I see the personal individual in this Island paying tax and companies paying next to nothing. Unfortunately the Minister has a great credibility problem with me and he gave us fantastic assurances about how the Zero/Ten regime was compatible right down to the wire until he was proved totally wrong, and now I have a great deal of difficulty believing he is going to be able to claw back any money and that the individual is not going to be landed with all the tax bill. Will he please try and give an assurance that I might be able to believe?

The Greffier of the States (in the Chair):

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

6.1.7 Senator P.F.C. Ozouf:

I am grateful for the confirmation of the sceptics because I understand that there have been some very healthy sceptics like Deputy Higgins and Deputy Maçon that Zero/Ten will be compliant if we remove these deeming provisions. There are 2 issues there: there is the issue of the compliance of Zero/Ten and there are the general issues which I will address Deputy Higgins in terms of the issue of the whole balance of shift in terms of taxation. I am confident because it is not my own view, it is the view based on our advice and all the information that we get from both London and Brussels, et cetera, that the removal of deemed distribution will ensure that Zero/Ten is compliant. While I fully accept I have had an awful lot of flak and there has been an awful lot of red herrings about it, frankly, the removal of deemed distribution, the underlying maintenance of Zero/Ten and the successful passing of the Zero/Ten regime, which will I am sure, I am confident and I obviously stand by my reputation that this will happen in September, that proves that we have been correct. We have been correct that there was not an issue in relation to the fundamental of Zero/Ten. There is an issue in relation to the deemed distribution which is one aspect of one frankly minor aspect of the whole regime, but it means that Zero/Ten and all of the principles that we set out in terms of Zero/Ten has been proven correct. That is, if I may say, a statement of confidence in terms of the position that we have taken. There is an issue about the changed balance in terms of corporation tax and I accept that and this is something that has been a repeated concern of this Assembly. The move to Zero/Ten cost the Island £100 million, not because of the move to zero, it was the loss principally to a great extent of the move of 20 per cent to 10 per cent which had nothing to do with the Code Group (European Union Code of Conduct Group (Business Taxation))... and I see Deputy Higgins rarely nodding to me ... because of the competitive issue in relation to the 10 per cent on financial services. I am sorry but the situation internationally is that we have had to compete and a large part of that loss of £100 million was because the Island needed to compete in terms of corporation tax. These issues have been debated on many occasions in the past. I will also reconfirm my continued work, which will be of course a dominant issue in the budget, to comply with the Deputy of Grouville's request passed by this Assembly in order to attempt to recover some form of revenue in the manner in which we have already debated. There is a challenge of course about that, because the general rate of tax at zero to maintain tax neutrality must remain at zero and that must be the founding, fundamental principle that we maintain and we are well advanced, I may say, at looking at these issues but we have been slightly frustrated in relation to the whole issue because of this uncertainty in relation to the code group and that means that we have not been progressing as fast as I would have liked in relation to dealing with this issue but I will be making announcements in the budget about this and I hope to come to a solution. I need to mind my words and be extremely careful when I am responding to Deputy De Sousa in relation to the issue of G.S.T. and I know that. I am confident that this issue is about a cash-flow impact on the States of Jersey and we are dealing with the cash-flow issue and the reason there is a cash-flow issue is frankly dividends need to come out of a company, they need to come out of a company at some point via the majority of owners of a company, that is how we get the taxation from it. We estimate that because we are not going to require a compulsory dividend on somebody's personal tax return there may well be a holding of some revenue within companies and that means that we will get the taxation later. So, it is later, not lost. That is what cash-flow is, and there is no doubt in terms of that issue and we are going to be monitoring this issue. It is quite difficult to calculate because obviously the Zero/Ten regime has not been in place for very long but I am confident that we will not need to, because of the very sensible decisions of this Assembly with balanced public finances which we are looking at, we will not be able to have to make any other tax-raising measures as a result of this issue because it is a cash-flow issue and it is a cash-flow issue ... £10 million is a lot of money but in the cash-flow requirements of the States of Jersey it is not. I will give way to Deputy Southern because he indicated he wanted to ask a question.

Deputy G.P. Southern:

The Minister appeared to say that the £100 million tax hole was due to the “Ten” part of Zero/Ten. My understanding was that the split between 10 per cent and zero per cent tax was around the 70/30 per cent margin so 70 per cent of it was due to the 10 per cent rate and 30 per cent was estimated to be due to zero. Is that not the correct figure?

Senator P.F.C. Ozouf:

The point is well made. There were a number of contributions to the £100 million deficit. A great extent of the £100 million, I do not have the figures in my head, was the move to 10 per cent, not the move to zero because we already had zero in terms of tax neutrality. That was the issue and it is often lost in the whole debate about the general rate of tax at zero that we have made. I should say that it is incumbent upon me to say that it is not companies that pay tax, it is individuals ultimately that pay tax and that is the form of revenue that this Island will ultimately depend on in terms of income tax and consumption taxes in the longer term while we maintain a healthy revenue, when bank interest rates recover, we will maintain a healthy revenue from corporation tax as a result of the special rate of 10 per cent in terms of financial services. So, I think that I answered all of the questions that Members asked.

The Greffier of the States (in the Chair):

Deputy De Sousa is indicating ...

Deputy D.J. De Sousa

I did ask first of all if the cash-flow effect was year on year on year and, it is a simple yes or no, if it is deficit year on year on year is there a guarantee, yes or no, that G.S.T. will not go up to cover it?

Senator P.F.C. Ozouf:

Cash-flow means that we will lose cash-flow revenue. £10 million is our estimate, it could be less, it could be more, but that is just a one-off cash-flow effect that rolls forward. So, we are going to have to find £10 million of our cash revenues to effectively move from year to year in relation to this issue. That answers the question, it is cash-flow, it is not a cumulative cash-flow measure, it is a one-off cash-flow measure. It is difficult to calculate but on the basis that shareholders need to get their dividends out at some point they will come out and at some point we will get the taxation revenue from them. So, I think that deals with all Members’ questions so I propose the principles.

Deputy M.R. Higgins:

Can I ask for a point of clarification from the last speaker? He mentioned that he saw that it was basically coming from individuals, the tax coming from individuals. One of the arguments has been **[Interruption]** I need to clarify this, Sir, it is very important. I was asking a question earlier about companies not paying tax. What is happening is the shift in the burden of taxation means that it is individuals that are paying the tax and the Minister seemed to be implying that companies will be paying their tax by employing people and that is where the States is going to get its revenue from because it is not going to get it from the companies. Is that correct?

Senator P.F.C. Ozouf:

Deputy Higgins and I spar over this issue on numerous occasions. It is not an issue for today in relation to the issue of the fundamental decision. We have made a decision to introduce Zero/Ten, we have dealt with the corresponding problems that have occurred after Zero/Ten as a result of the financial crisis. These matters are well ventilated. They are nothing to do with the simple issue of removing deemed distribution. There is nothing further that I can say on that issue. It is very clear, this is the principles of a bill to remove the deeming provisions and I ask Members to ...

Deputy M.R. Higgins:

Sir, he could say if I was right or wrong on that point, because I am right.

Senator P.F.C. Ozouf:

We are never going to agree on this matter. He thinks that you can raise corporation tax. We do not have a finance industry unless we have a zero rated neutral tax. It is as simple as that.

The Greffier of the States (in the Chair):

The principles are proposed. All Members in favour of adopting the principles kindly show. Those against. The principles are adopted. Do I sense the mood of the Assembly is that Members wish to try and finish this matter today? Very well, Corporate Services Panel, is this a matter you ...

Deputy G.P. Southern:

I did hear the Minister say that the individual Articles are quite complicated. Is it going to take 5 minutes or more? Because 5 minutes ...

The Greffier of the States (in the Chair):

Well, I think Members have had a general debate on the issue. I am sure they can ... I need to clarify with the Chairman of Corporate Services to bring it all to an end, anyway, but ... No. Very well. Well, Minister, how long do you ...

6.2 Senator P.F.C. Ozouf:

Frankly, Sir, the fact is that it removes the deeming provisions and it basically removes them from 2011. I propose the Articles en bloc. I will answer any questions that Members may have and if Members are content to proceed on that basis.

The Greffier of the States (in the Chair):

Articles 1 to 10 are proposed. Do you wish to say anything further? Very well. Are they seconded? **[Seconded]** Does anyone wish to speak on any of the Articles? I put the Articles. Those Members in favour of adopting them kindly show. The appel is called for on Articles 1 to 10. Members are in their seats. The Greffier will open the voting. All Members have voted. The Greffier will close the voting. The Articles are adopted 41 votes in favour and 2 votes against.

The Deputy Greffier of the States:

The 2 Members voting contre: Senator Breckon and Deputy Fox.

POUR: 41

Senator T.A. Le Sueur
Senator P.F. Routier
Senator P.F.C. Ozouf
Senator F.E. Cohen
Senator S.C. Ferguson
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F. du H. Le Gresley
Connétable of St. Helier
Connétable of Grouville
Connétable of St. Brelade
Connétable of St. John
Connétable of St. Saviour
Connétable of St. Clement
Connétable of St. Lawrence
Connétable of St. Mary
Deputy R.C. Duhamel (S)
Deputy of St. Martin

CONTRE: 2

Senator A. Breckon
Deputy J.B. Fox (H)

ABSTAIN: 0

Deputy R.G. Le Hérisssier (S)
Deputy G.P. Southern (H)
Deputy of St. Ouen
Deputy of Grouville
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy J.A.N. Le Fondré (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy K.C. Lewis (S)
Deputy I.J. Gorst (C)
Deputy of St. John
Deputy A.E. Jeune (B)
Deputy T.M. Pitman (H)
Deputy A.T. Dupré (C)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)
Deputy M.R. Higgins (H)
Deputy A.K.F. Green (H)
Deputy D.J. De Sousa (H)
Deputy J.M. Maçon (S)

The Greffier of the States (in the Chair):

Very well. I propose the Draft Law in third reading. Is it seconded? **[Seconded]** Does any Member wish to speak on the third reading?

6.3 The Deputy of St. John:

Yes, Sir, I will. This type of legislation going through so quickly, I can understand why some Members voted against, especially when it is time to go home. Standing up and just laying the amendments on the hoof basically, or across the Chamber without any explanation. It does create some concern in the back of my mind that we are rushing this important legislation and I will ask for the appel on this one.

6.3.1 Deputy P.V.F. Le Claire:

The Minister for Treasury and Resources cannot win it seems. What he is doing has been explained to us quite clearly. We have all said and recognised this is an issue that was probably going to cause concern. We all have significant issues coming up on the horizon. We only have one industry. We spend 4 days, 2 weeks, debating things that have no substance behind them. The Minister for Treasury and Resources brings something that is of necessity to maintain the finance industry, we have nothing else, and he is criticised. He cannot win. In this instance I feel sorry for him. I did not in the previous debate but I think he is known as a hawk and he is doing the best he can and I think where credit is due he needs to have that credit. He is not the one that has been forcing this upon Jersey, he has been doing his best to defend us, so I think in this area we have to recognise sometimes these things, en bloc, get the job done. We have to move on from here.

6.3.2 Senator P.F.C. Ozouf:

I mean absolutely no disrespect to Deputy Fox or the Deputy of St. John and I did spend some time explaining the principles. The Income Tax Law is a very complex law with all sorts of Articles. I explained that it removes deeming provisions. In relation to the timing of it exactly there are some

transitional provisions in there. I can assure the Deputies that there has been a substantial amount of scrutiny goes on with in the Treasury to ensure that this is robust or I would not propose it to the Assembly and I am grateful to Deputy Le Claire. We have had a great deal of flak in relation to Zero/Ten but if I may say we have been proven to be not only consistent but we have been proven to be right, if I may say, in the best interests of the Island and I am grateful for Members' support and I ask for the appel.

The Greffier of the States (in the Chair):

The appel is called for in the third reading. Members are in their seats. The vote is for or against the bill in third reading. The Greffier will open the voting. All Members have voted. The Greffier will close the voting.

The Deputy Greffier of the States:

The Members voting contre, Senator Breckon, and Deputies Fox and Southern. The Bill is adopted in third reading 38 votes in favour, 3 votes against.

POUR: 38

Senator P.F. Routier
Senator P.F.C. Ozouf
Senator S.C. Ferguson
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F.du H. Le Gresley
Connétable of St. Helier
Connétable of Grouville
Connétable of St. Brelade
Connétable of St. John
Connétable of St. Saviour
Connétable of St. Clement
Connétable of St. Lawrence
Connétable of St. Mary
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy R.G. Le Hérisssier (S)
Deputy of St. Ouen
Deputy of Grouville
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy J.A.N. Le Fondré (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy K.C. Lewis (S)
Deputy I.J. Gorst (C)
Deputy of St. John
Deputy A.E. Jeune (B)
Deputy T.M. Pitman (H)
Deputy A.T. Dupré (C)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)

CONTRE: 3

Senator A. Breckon
Deputy J.B. Fox (H)
Deputy G.P. Southern (H)

ABSTAIN: 0

Deputy M.R. Higgins (H)
Deputy A.K.F. Green (H)
Deputy D.J. De Sousa (H)
Deputy J.M. Maçon (S)

The Greffier of the States (in the Chair):

Minister, do you wish to propose under Standing Order 80(a) the Act declaring this Law will have immediate effect? I will ask the Greffier to read the citation of the Act.

[17:45]

The Deputy Greffier of the States:

Act declaring that the Income Tax (Amendment Number 38) (Jersey) Law 201- shall have immediate effect. The States in pursuance of Article 19 of the Public Finances (Jersey) Law 2005 have made the following Act.

6.4 Senator P.F.C. Ozouf:

Sir, I hesitate after a debate about a reference to the Privy Council to just remind Members respectfully that the Public Finances Law enables legislation passed by this Assembly to have immediate effect even though it has to be subsequently ratified by the Council and I am sure the Chairman of P.P.C. would perhaps like that with other laws, so this is a standard provision in relation to the finance arrangements. It is a standard immediate effect. I make the proposition.

The Greffier of the States (in the Chair):

Is the Act seconded? **[Seconded]** Does anyone wish to speak on the Act? All those in favour of adopting the Act kindly show. Any against? The Act is adopted. The adjournment is proposed but the Chairman of P.P.C. did indicate she wished to move the Assembly on where we go from here.

The Connétable of St. Mary:

The purpose of me rising before was to warn Members predominantly that we are in danger of not finishing the business that we agreed for this week during the time we have allocated next week to do the continuation matters. It gives me grave concern because we all know there is nowhere we can go in the long term. I did want Members to consider whether they would sit for 5 days next week, 9.00 a.m. to 6.00 p.m. A number of Members have approached me since then and said that they would be prepared to sit for 4 days, Tuesday to Friday, but so close to the time they have many commitments lined up on the Monday. I also implore Members over tomorrow and the weekend to consider the business that they have lodged and to call me and to contact me if there is anything that can be debated at another time. I have to make no bones about it, that will most likely mean withdrawn for now and re-lodged later because we have no time left for continuations. So, Members, please give consideration to that and let me know and I will make arrangements on Monday to review the order of business with the Greffier. May I make a proposition and test the mood of the House, hopefully with very little debate, whether the Assembly is prepared to sit Tuesday to Friday next week from 9.00 a.m. to 6.00 p.m.

The Greffier of the States (in the Chair):

Do you wish to take it all together, the time and the days?

The Connétable of St. Mary:

I hesitate, Sir. If I could have some guidance for the procedure of it, otherwise we will end up thwarting the thing we best want to do.

The Greffier of the States (in the Chair):

I would suggest some Members might be in favour of the Friday and not in favour of the hours and others vice versa. I wonder if perhaps it would be sensible to test the mood of the Assembly first on sitting on Friday, 15th July.

The Connétable of St. Mary:

Eminently sensible, Sir. I move for that.

The Greffier of the States (in the Chair):

Does anybody wish to speak briefly? Deputy Pitman.

Deputy T. Pitman:

Sir, we have very important Scrutiny hearings which is probably the only date we can use on Friday the 15th so it is really putting us in a very difficult position if we have to sit that day.

Deputy J.B. Fox of St. Helier:

Sir, regrettably I am out of the Island. It is prearranged and I cannot change it.

Deputy E.J. Noel of St. Lawrence:

Sir, just a reminder. We have the business plan meetings on Friday, the 15th.

The Connétable of St. Saviour:

I think we have really to put this in perspective. I think if we do not finish our business now we could be looking at August. People are going to have to make up their minds.

The Deputy of St. John:

Can I suggest that ...

The Greffier of the States (in the Chair):

We had this proposition before.

The Deputy of St. John:

Yes, but while we are doing it think about working some evenings. Have an hour break at 6.00 p.m., come back at 7.00 p.m., then get the work done, Sir.

The Greffier of the States (in the Chair):

Let us decide days first, then we can get to hours, or we will be here until midnight tonight. All Members in favour of the proposition of the Chairman of P.P.C. kindly show, that the Assembly should sit on Friday, the 15th. We may need the appel, it is simpler to count for the appel I think. If you wish to sit Friday you vote pour, if you do not you vote contre. The Greffier will open the voting. Have all Members voted? The Greffier will close the voting. The proposition is adopted 19 votes in favour, 17 against.

POUR: 19

Senator P.F. Routier
Senator A. Breckon
Connétable of St. Saviour
Connétable of St. Clement
Connétable of St. Lawrence
Connétable of St. Mary
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy G.P. Southern (H)
Deputy of Trinity

CONTRE: 17

Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F.du H. Le Gresley
Connétable of Grouville
Connétable of St. Brelade
Connétable of St. John
Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
Deputy of St. Ouen
Deputy of St. Peter

ABSTAIN: 0

Deputy S.S.P.A. Power (B)
Deputy K.C. Lewis (S)
Deputy I.J. Gorst (C)
Deputy of St. John
Deputy A.E. Jeune (B)
Deputy A.T. Dupré (C)
Deputy T.A. Vallois (S)
Deputy M.R. Higgins (H)
Deputy D.J. De Sousa (H)

Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy S. Pitman (H)
Deputy of St. Mary
Deputy T.M. Pitman (H)
Deputy A.K.F. Green (H)
Deputy J.M. Maçon (S)

Chairman do you wish to address the issue of time?

The Connétable of St. Mary:

Yes, Sir. Would the Assembly be prepared to start at 9.00 a.m., rise at 6.00 p.m. with the usual lunch hour to allow some break and also to allow them to put in any business that they need to defer?

Deputy T. Pitman:

Sir, could you advise if we decide Scrutiny is much more important in this case where do we stand if we wish to pursue that? Because people go to day jobs, this is States business scrutiny. We only have that day free.

The Deputy of St. Mary:

It has been suggested that we meet one evening and that would at least kill some of the business and it would certainly help to obviate the need for the Friday, so I am going to propose that we meet one evening for starters.

The Greffier of the States (in the Chair):

Just to answer Deputy Pitman's question the Standing Order 138(4) does specify that a Scrutiny Panel shall not meet at any time when the States are meeting except at the lead of the States, so you would need to seek permission from the Assembly to do that.

Senator A. Breckon:

Sir, I wonder if the House may take stock on Tuesday after lunch and see where we are. I think the suggestion the Deputy of St. John has made, if there was a comfort break sometime late afternoon and then reconvene might well despatch some of the business but further down the Order Paper there are various things, some of the things we have left are not that heavy so I think we can dispense with some things say at 2.30 p.m. on Tuesday if we look at where we are and maybe sort it out then.

Deputy M.R. Higgins:

Sir, can I also ask, I know the Minister for Treasury and Resources has gone but we have the business plan and we have Fiscal Policy Panel on Friday. Can they try and arrange ... I know we want to see how business goes this week but it is vital that we do hear those things and I want to hear the Fiscal Policy Panel. If we have to go on, can they try and arrange an evening one so that we get there.

The Greffier of the States (in the Chair):

I am sure the Minister for Treasury and Resources will take account of the decision of the Assembly.

Deputy T. Pitman:

Can I seek permission from the States then, Sir, because Scrutiny have witnesses and we are in big trouble if we cannot do this. It makes a mockery of the whole mechanism of government.

The Greffier of the States (in the Chair):

Let us just take one thing at a time. We are talking of 9.00 a.m. to 6.00 p.m. at the moment. Deputy Hilton, do you have ...

Deputy J.A. Hilton:

No, Sir, I was just rising to suggest that maybe Deputies Pitman, Wimberley, Southern, might suggest withdrawing the propositions that they have lodged for debate next week until after **[Interruption]** Well, it is just a suggestion.

The Greffier of the States (in the Chair):

I am sure there are lots of things lodged and lots of people will be reviewing them. Now, the proposition is that the Assembly should sit from 9.00 a.m. to 6.00 p.m. with the usual lunchtime on the 4 days next week. I will take the appel again, it is easier to count. The Greffier will open the voting. All Members have voted. The Greffier will close the voting. That proposition is adopted 27 votes in favour, 11 votes against.

POUR: 27

Senator P.F. Routier
Senator A. Breckon
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F. du H. Le Gresley
Connétable of St. Saviour
Connétable of St. Clement
Connétable of St. Mary
Deputy R.C. Duhamel (S)
Deputy J.B. Fox (H)
Deputy G.P. Southern (H)
Deputy of Grouville
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 A.E. Jeune (B)
Deputy of St. Mary
Deputy T.M. Pitman (H)
Deputy A.T. Dupré (C)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)
Deputy M.R. Higgins (H)
Deputy A.K.F. Green (H)
Deputy D.J. De Sousa (H)
Deputy J.M. Maçon (S)

CONTRE: 11

Connétable of Grouville
Connétable of St. Brelade
Connétable of St. John
Connétable of St. Lawrence
Deputy of St. Martin
Deputy R.G. Le Hérissier (S)
Deputy of St. Ouen
Deputy of St. Peter
Deputy J.A. Hilton (H)
Deputy P.V.F. Le Claire (H)
Deputy S. Pitman (H)

ABSTAIN: 0

Deputy Pitman, did you wish to make a proposition the Assembly grant you leave for your Scrutiny Panel to meet next Friday?

Deputy T. Pitman:

Yes, I would like to do that, Sir, because I do not think it is fair to ask Members who play a full part in Government to be penalised here. We have put propositions in, we have our constituency work and our Scrutiny work. We have no other date so I do put that to the House.

Deputy A.E. Jeune:

Sir, could I just ask the Deputy is his Scrutiny Panel morning or afternoon?

The Deputy of St. Martin:

Surely the remedy is for us to get weaving and make sure that we finish by Thursday evening.

The Greffier of the States (in the Chair):

Deputy Pitman is entitled to make his proposition. Is that proposition seconded? **[Seconded]**

Deputy J.M. Maçon:

Sir, I think it would be helpful if the Chairman identified which Members would need to be excused.

The Greffier of the States (in the Chair):

It is the Members on the Panel, it is the Deputy of St. Mary ...

Deputy S. Pitman:

Deputy Le Hérissier, Deputy of St. Mary, Deputy Tadier, myself and we will have a Minister to speak to as well.

The Greffier of the States (in the Chair):

All those in favour of granting leave to the Chairman. Shall we take the appel? If you wish to grant leave you vote pour, if you do not you vote contre. I will ask the Greffier to open the voting. All Members have voted. The Greffier will close the voting. The proposition is adopted 39 votes in favour no votes against.

POUR: 39

Senator P.F. Routier
Senator A. Breckon
Senator A.J.H. Maclean
Senator B.I. Le Marquand
Senator F.du H. Le Gresley
Connétable of Grouville
Connétable of St. Brelade
Connétable of St. John
Connétable of St. Saviour
Connétable of St. Clement
Connétable of St. Lawrence
Connétable of St. Mary
Deputy R.C. Duhamel (S)
Deputy of St. Martin
Deputy R.G. Le Hérissier (S)
Deputy J.B. Fox (H)
Deputy G.P. Southern (H)
Deputy of St. Ouen
Deputy of Grouville
Deputy of St. Peter

CONTRE: 0

ABSTAIN: 0

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 K.C. Lewis (S)
Deputy I.J. Gorst (C)
Deputy of St. John
Deputy A.E. Jeune (B)
Deputy of St. Mary
Deputy T.M. Pitman (H)
Deputy A.T. Dupré (C)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)
Deputy M.R. Higgins (H)
Deputy A.K.F. Green (H)
Deputy D.J. De Sousa (H)
Deputy J.M. Maçon (S)

The Deputy of St. John:

There will be a lot of long speeches cut out now, Sir.

Deputy J.A.N. Le Fondré:

I have another question, Sir, for Members to think about. Given the precedent I think it was of last week, which was if Members were unavailable to attend because of commitments can they be considered for défaut excusé, Sir.

The Greffier of the States (in the Chair):

I expect they will take account of that on Friday.

Deputy J.A.N. Le Fondré:

Well, it is on Tuesday, Wednesday, Thursday or Friday, Sir.

The Connétable of St. John:

Could I ask you, Sir, what the situation is at the moment about the election for the Minister for Planning and Environment?

The Greffier of the States (in the Chair):

My understanding is that the Chief Minister was to do that Tuesday. I think he will be in a position to make the ... he needs to give notice of his nomination by 9.30 a.m. on the working day before the decision is made. He has given me his nomination which I will be circulating shortly so I think he will be in a position to do that on Monday.

The Connétable of St. John:

Can I propose that it is moved over to the next scheduled sitting? I am sure Senator Cohen would love to stay on for another 10 days. Some of us have pre-existing commitments, myself being one, and I am sure others have as well next week.

The Greffier of the States (in the Chair):

I do not think it is a matter for the Assembly, it is a matter for the Chief Minister when he makes his nomination so I will raise the matter with him but it is his decision, I think.

The Deputy of St. John:

Sir, when raising with the Chief Minister this particular item, given it is not an agenda item at the moment, we have a full agenda to finish from this week. Can you ask him to consider seriously not putting any more items on the agenda, like the nomination of the Minister for Planning and Environment, until the following week when it will be a new sitting. Because Members are going to be here until 11.00 p.m. or 12.00 p.m. if there are extra items.

Deputy P.V.F. Le Claire:

You are obviously going to discuss the issue with the Chief Minister and you are going to put that view. Could you also make the point that other Members believe that the position and the appointment should be progressed because it is important to have a new Minister in place to safeguard the environment and the planning issues that are beholden upon him?

The Greffier of the States (in the Chair):

Senator Cohen may be keen for the position to be filled.

Deputy G.P. Southern:

Sir, may I finally just seek assurance from the Minister for Economic Development that I will have comments on the milk proposition before him?

Senator A.J.H. Maclean:

Yes, Sir, I can confirm that those were approved today at lunchtime and they are with the Greffe at the moment and will be distributed.

The Deputy of St. Mary:

We will get them in St. Mary's by Tuesday maybe.

The Greffier of the States (in the Chair):

Very well, the Assembly will reconvene ...

Senator A.J.H. Maclean:

Sir, just before we do, one minor point. I am out of the Island on Tuesday on States business. The first item up is P.82 which is Draft Companies Amendment No. 6 and I would ask the leave of the Assembly to move it down the Order Paper until later on. It is a very minor item.

The Greffier of the States (in the Chair):

We can accommodate that. Very well, the Assembly will reconvene at 9.00 a.m. on Tuesday.

[17:58]

ADJOURNMENT