

**STATES OF JERSEY**  
**OFFICIAL REPORT**  
**WEDNESDAY, 27th SEPTEMBER 2017**

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[9:32]

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

**The Deputy Bailiff:**

Connétable of St. John, I was informed you had something that you wished to inform the Assembly of.

## **APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS**

### **1. Nomination of committee members for Public Accounts Committee.**

#### **1.1 Connétable C.H. Taylor of St. John (Chairman, Public Accounts Committee):**

If I may, I would like to start by thanking this Assembly for electing me and putting the trust in me to be Chair of the Public Accounts Committee, but before I go forward to nominate membership for my Committee I would like to firstly pay thanks to the former Committee members who have stood down. Firstly, to the Constable of St. Helier, whose term was brief, but did an excellent exercise and took the lead on the report into the new police station. Secondly, I would like to thank Deputy Andrew Lewis of St. Helier, the former Chair of the Committee. Whilst his departure was not particularly pleasant, the 3 years he has worked on that Committee has been substantial. **[Approbation]** It is right that he receives the recognition for the enormous amount of work that he did. The third person I would like to thank is Mr. Gary Drinkwater, a lay member of the Committee, who sadly fell ill in London. He is now recovering, but the recovery, unfortunately, while being steady is slow. His input on to the Committee was substantial and we owe him a very great debt and I would like it noted my thanks, the Committee's thanks and I sincerely hope this Assembly's thanks to him and his family. **[Approbation]** To start with, I would like to have 2 States Members and 2 lay members on the Committee in order to be compliant. I would like to nominate 2 States Members to start with, being Deputy Judy Martin and Deputy Montfort Tadier.

**The Deputy Bailiff:**

Are those nominations seconded? **[Seconded]** Are there any other nominations?

**Deputy R. Labey of St. Helier:**

I wonder if I might raise the défaut on Deputy Martin.

**The Deputy Bailiff:**

Yes, indeed, the défaut is raised on Deputy Martin. That probably will be helpful.

**Senator L.J. Farnham:**

May I raise the défaut on Senator Maclean?

**The Deputy Bailiff:**

On Senator Maclean as well.

**Deputy J.M. Maçon of St. Saviour:**

And the Constable of St. Saviour.

**The Deputy Bailiff:**

And the Constable of St. Saviour, excellent. So, you have nominated - just for those who were on their way in - Deputy Martin and Deputy Tadier as States Member members of your Committee,

Connétable. That has been seconded. I was about to ask are there any other nominations. If there are no other nominations, then Deputy Martin and Deputy Tadier are members of the Committee.  
**[Approbation]**

**The Connétable of St. John:**

If I may, I shall also be asking - and they have accepted, but I am not sure on the procedure - the 2 lay members to be Mr. Robert Parker and Mr. Michael Robinson.

**The Deputy Bailiff:**

Well, that is not a matter for the Assembly on this occasion.

**The Connétable of St. John:**

That is a matter for afterwards. Thank you, Sir.

**The Deputy Bailiff:**

Very well, thank you very much.

## **PUBLIC BUSINESS - resumption**

### **2. States Assembly: selection and appointment of Ministers, Committees and Panels - return to secret ballots (P.73/2017) - amendment (P.73/2017.Amd)**

**The Deputy Bailiff:**

We now return to the debate on the proposition of Deputy Labey, P.73/2017. The proposition has been made and seconded, and there is an amendment from Deputy Mézec. I ask the Greffier to read the amendment.

**The Deputy Greffier of the States:**

Page 2, paragraph (b) - for the words "the Minister(s), subject to review by a corresponding Scrutiny Panel, should be excluded from voting for the chair of that particular panel" substitute the words "all Ministers should be excluded from voting for all Scrutiny Panel chairs."

#### **2.1 Deputy S.Y. Mézec of St. Helier:**

Good morning, and good morning to everyone else as well. I am not going to speak for very long on this amendment, because I think it is on an issue of principle that I think most States Members will probably be able to make up their minds on pretty quickly. I think that the proposition lodged by Deputy Labey rightly forces us to consider a few issues to do with how we organise ourselves in this Assembly and how we allocate the roles to various official positions. I do not agree with every point that he has made in his proposition, but the point he has made about who should be able to vote for the people who will head up our Scrutiny Panels, I think, is a sound one. He used the example: who would you prefer to be your inquisitor, Jeremy Paxman, or Alan Titchmarsh and I just felt that the inevitable conclusion of that way of thinking must surely be that it does not just apply to the Minister in question for that particular panel, but surely it must apply to the entire Council of Ministers. It is my personal experience on Scrutiny that has led me to believe this. I am a member of the Education and Home Affairs Scrutiny Panel, which, I think, has done some very interesting work over the last few years, none more so than our review into financing tertiary education. Throughout the process of doing that review, of course, we did not just scrutinise the work of the Minister for Education, we also scrutinised the work of the Chief Minister and of the Minister for Treasury and Resources, who, of course, have a vital input into what our Education Department is able to do. We know that there are other examples where panels will be reviewing

work done, perhaps, by the whole Council of Ministers, or by groups of Ministers put together and it just got me thinking that the Council of Ministers, in this government system, is a team. The successes that they have together will be shared by them all for all their hard work towards those objectives, but likewise it also means when they get something wrong it reflects on the whole team. The purpose of Scrutiny, as we know, is not to be the opposition in this Chamber, but it is to be there to objectively scrutinise what the Government does and from time to time that may well mean highlighting a blunder.

[9:45]

It may well necessitate drawing attention to something the Government has got wrong, sometimes something the Government has got very, very wrong, and that is an important tool, because knowing that there is this mechanism to be held to account will incentivise the Government to work harder, so that they do not make as many mistakes. That is, I think, an essential democratic safeguard. So, I think the logic that follows from the points made by Deputy Labey must, surely, be that the whole team is bound together by their successes and failures and, therefore, those who are scrutinising them, to maintain their independence properly; I think that they should not be chosen by the entire Council of Ministers. I accept that some Members will not necessarily agree with that point, or they will not even agree with the point that is made by Deputy Labey and they might point to other examples of Parliaments, in the Commonwealth, that have different procedures for electing the heads of their Select Committees. I do not necessarily feel that those are fair comparisons, especially the House of Commons system, which is very, very different, where, of course, they have the party system which enables them to produce quotas for which parties will have X number of seats on which panels. Of course, they also have traditions in the House of Commons, such as the one that says the chair of their Public Accounts Committee should always be a member of the lead opposing party. So, they have, I think, different mechanisms for making sure that their Select Committees have the right people on them to hold the Government to account and obviously that is a framework that we do not have in this Assembly. So, I want to give this Assembly the opportunity to decide whether, or not, we could do what I think will enhance our scrutiny and let those Members, who are not tied to the Executive, decide who chairs those panels, so that they can claim that extra bit of independence and be able, I think, to scrutinise what the Government does, without fear or favour. The final point I make on this is that this is not to cast aspersions on any current, or future, Minister. I think it is simply to recognise that there is a perception of conflict there, whether we like it or not, and if this amendment and then the main proposition from Deputy Labey is accepted, that argument will not be able to be had. I think that would enhance Scrutiny. I think it would enhance our government system as a whole, so I want to give the Assembly the opportunity to have that debate and make up their mind on it. So, I make the amendment.

### **The Deputy Bailiff:**

Is the amendment seconded? **[Seconded]** Very well, does any Member wish to speak on the amendment? Deputy Labey.

### **2.1.1 Deputy R. Labey:**

Just to say, before Members ask, that it has always been my intention with this proposition to take each item separately when it does come to the vote. I do not disagree with anything that Deputy Mézec has said. I did think very, very carefully when drawing up this proposition and my inclination was to go with something more incremental to begin with as a ‘toe in the water’ exercise, because I thought that might be more acceptable to Members. Of course, the principle is exactly the same between my original proposition and Deputy Mézec’s amendment and I would be quite happy with it, if the House is happy with it.

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

I was very interested by the amendment and I would support it because, currently, we have something called ministerial responsibility and, of course, this is tied in through a collective responsibility. Under collective responsibility I think it is reasonable that if one Minister cannot do something, then it should be collectively responsible and all Ministers should be under the same condition.

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

Where we were on P.P.C. (Privileges and Procedures Committee) we have gone around and around with this and I think we - 6 months ago - were nearly here and then we went backwards after we sent the proposal to the Chairmen's Committee. I brought some Standing Orders through. Again, this was one of the ones that was pushed to the Sub-Committee when the new Assembly was formed. Again, we could not get agreement, so I think today is the day we have the debate with the current Members. Deputy Labey's one seems, as he says, to be incremental, step it slowly, slowly, but where are we? Because we are in such a mess. I brought something to ask the Chief Minister about Assistant Ministers. We do not know where we are there. But, let us be fair. Let us go with the process we have today. We come in here after the general election. We know who has been nominated, maybe with 2 names, or with the 6 names, and we have the election for Chief Minister. Once that is done, he has some time and he then nominates his Ministers, normally 10, maybe 11, whoever they are. We then know who they are and with all the cross-sections of a bit of this and a bit of that, it is very hard for Scrutiny to say: "Well, when we go to the next round, we will say that that Minister there cannot vote for the chairman of Scrutiny, or that Minister there cannot vote for a chairman of Scrutiny." Very, very messy. They have then, on that first day, second day, formed a Council. They have no idea, so we are told - they are not even elected - who their Assistants are going to be. They are all going to be in this House as Back-Benchers, so why can we not say to the rest of the Assembly: the Council is elected, it is collective. It says it on all their propositions: collective responsibility. The Council of Ministers has a single policy on this position, on this proposition, and as such all Ministers are bound and it will be the Assistant Minister, as well. But forget the Assistant Minister for now because, magically, there are phone calls that go on after - we always say after - the chairs are elected. Nobody knows, sitting here the day after, if they have had the phone call. The Chief Minister is agreeing with me. Well, that is good to hear. **[Interruption]** But actually, no, we say on the one hand our Assembly is different, we have moved parts. Assistant Ministers are not elected ... I do not know what the Chief Minister is talking about there. Assistant Ministers are not known. We are talking about the Council of Ministers being not allowed to vote on Back-Benchers' positions on Scrutiny chairs. It is as simple as that. The Chief Minister elects his team. The team leave the Assembly, then the rest are all Back-Benchers. They can ask questions. Maybe that is going too far. They are not allowed to vote. To me it is cleaner than Deputy Labey's. They know exactly where they are. Even if you have the phone call as an Assistant Minister, you are still allowed to vote, you are still allowed to nominate, but you know the collective team cannot pick the person who is going to chair the Scrutiny team for the next 4 years. It is a very simple proposition. I am glad we are having this debate today, because it has gone around since me and Senator Ozouf were elected to the Sub-Committee and we have gone back to the Committee. We have, as I say, nearly been there and then it has gone to the Chairmen's Committee. For some reason the Chairmen want the sort of halfway house that Deputy Labey is thinking about, and they will stand up and obviously, I hope, tell us why because I was not in the room at the time. Very messy. We know who the Council are after the first 2 days. They cannot vote on who is scrutinising for the next 4 years, very simple. They are collective. The rest of us need to do the work and they cannot be in the process of electing that person who chairs it. It is simple.

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

I ask the question and it is a rhetorical one: who would you rather be interrogated by as a Minister, by myself, or by a Constable from one of the country Parishes? I know, I know, yes, that will not be seen as legitimate criticism. It nonetheless is. Why have I not been elected a chairman for the past number of years, having done a thorough, good, forensic job on Economic Affairs and on Social Services throughout the years? Because, I put it to you: because we know, in our heart of hearts, Ministers vote to give themselves the easiest time possible. They do not want forensic analysis of their policies. They do not want enthusiasm and commitment that drives forward good Scrutiny. They would much rather have tea and cakes with somebody less effective. That is the reality. While people may shake their heads, people may say: "Oh". No, look in your heart of hearts. How does this system work? We know exactly how it works. It works on a party system that has no name. The Ministers do not need to make that round of phone calls. They know who their mates are. If they want a scientific, forensic analysis of their policies and the consequences of them, they would be picking me, but they do not. They would much rather have an easier time with some other chair than pick me. That is the reality. I know that to be the truth. I suspect many of us in this Chamber do. So, I would urge Members, if anything is of value in this proposition, it is this amendment, which can tidy up that particular anomaly, which makes it, in some cases, ludicrously easy for a Minister to be nominally held to account, but to receive very little in the way of a thorough search of consequences and decisions on how things are done. That is what I would argue. I think we know it. I urge Members to vote for this amendment.

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

I just wanted to add to Deputy Martin's point about the messiness it could be to try and pick one Minister when something else is going on and, of course, Deputy Mézec's point, which was how, when you have issues and policies which cross across departments, it does not seem as clear to do that. The point I wanted to add, though, of course, is as we have seen with this Chief Minister, if you want to collapse and move responsibilities around within a ministerial portfolio, so you could begin with one policy aspect somewhere and have it transferred somewhere else, in which case it does seem cleaner and to make more sense to have it across the board with the Ministers, rather than to have a confusing system. Because you could have a Chief Minister who says: "This is how I want my ministerial portfolios to be after I am elected", but that still has to come back to the Assembly, but you have to choose the Ministers before that. So, we could find ourselves in a quite confusing situation where we do not know where the different policy aspects and angles are. As I say, it seems much cleaner to have it across the board than simply to pick and choose, so if the Assembly is minded to go this way, it does seem to me to make more sense.

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

I am very minded to support Deputy Labey in his proposition on this and, certainly, from my own instance, I would not feel comfortable voting for the chair of the Scrutiny Panel that would look into the work that I do in the Environment Department. But speakers thus far have said that it is very clear what the amendment means, but to me it is not. We have already had some speeches that referred to Ministers and Assistant Ministers and some to Ministers. I have looked back at the amendment and it is quite clear that it is referring to Ministers. That is not clear for me inasmuch as we do not know yet how many Ministers will be appointed in the next session of Government. It may well be that we have 4 Ministers, each with 3 or 4 Assistant Ministers and the amendment would mean something very different. The Chief Minister, in the next session, may decide to appoint only Ministers and not have them have Assistant Ministers. So, what we are being asked to do here is to move forward with something where we do not know how many Members of this Assembly would be excluded from voting for Scrutiny chairs. It would be much clearer if the

amendment had said the Executive and not Ministers, because what we do not know is how the Executive will be made up in the next session. I will not be supporting the amendment.

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

I am glad to hear from at least one Minister. I do not think the Minister has understood the issue here, because it is about chronology, essentially. Deputy Mézec is quite right and he quite clearly said it will only be Ministers. There is a practical reason for that. It is because we elect the Chief Minister first. We then elect Ministers after that point and it may well be in the future that the Chief Minister might appoint his Ministers, if the Assembly think that is right. It may well be that the Chief Minister says: "I do not think we need any Ministers, because I can do all of the jobs myself", which you could argue it is going in that direction already anyway, with his very good administrative support that he gets from some very talented officers, it has to be said.

[10:00]

But let us work on the assumption that there will be a Chief Minister, there will be at least some Ministers to head up the major departments and I do not see us going down to fewer than 7, or 8, ministries. That is the starting point, so it is one of principle. Of course, we could exclude Assistant Ministers and in theory we should, if we elected the Assistant Ministers ourselves, before the Scrutiny chairmen. Then, of course, we probably would do that, but the next point on the agenda in the new Assembly is that we appoint and we elect the Scrutiny chairmen so, of course, we do not know who the Assistant Ministers are officially. Certainly, we do not know as an Assembly, although I am sure the Assistant Ministers probably know by that point. So, it is purely a matter of practicality. I do not think the arguments that were advanced by the last speaker are valid and hopefully they have been cleared up very quickly by that explanation. Now, I see this as a great opportunity, because if there is one thing I think we all agree is that we hear time and time again from the public that Scrutiny does not have enough teeth, that Scrutiny is not respected, that Scrutiny is ignored and that Scrutiny does not have equality of arms. Now, some of those things are probably factually correct. Some of those are perceptions from the outside. Some of those are accusations from ... not accusations, but points that are raised from scrutineers themselves inside the Assembly, certainly to do with the equality of arms. We have seen today when trying to recruit people for a new committee, or an existing panel, towards the end of a term - and this is at a time when we are talking about reducing States Members - it is difficult even sometimes to get the numbers to work on Scrutiny. So, we have to recognise that there is a problem both, I think, in perception and in reality with the way Scrutiny functions, not necessarily systemically but just with the way it is respected and perhaps resourced. One of the biggest things that we can do as an Assembly, to restore the public's trust in this Island, in the absence of any meaningful democratic reforms during this Assembly for 3 and a half years, is to say: "Yes, we do recognise that Scrutiny is important and, therefore, we will strengthen Scrutiny by this one simple act." Hopefully, there is another area of consensus that we can all agree to: that Scrutiny should be independent and it should be independent from the Executive. Now, if we believe in that principle, and I hope that we all do agree that Scrutiny should be independent, how can it possibly be independent if Ministers are able to vote and have a say on who those Scrutiny chairmen and chairwomen are? There is an issue there, because, in reality, we know that the biggest potentially organised and disciplined voting bloc in this Assembly and in any future Assembly will be the Council of Ministers and that includes, in reality, Assistant Ministers. On a good day, we know that when the whips are out, even on a proposition that they might lose ... and we have seen certain propositions come to this Assembly where the only people to vote against the proposition are Ministers and Assistant Ministers. There are a few examples of that. You can imagine in a new Assembly, when you have new faces and people who are not necessarily organised, where the only voting bloc to be organised is the Council of Ministers, who have had time and the resources to say: "This is our game plan.



Who do we want as the Scrutiny chairmen?” That is simply not acceptable. So, I think the one thing we can do today is get behind the amended proposition, this part, which Deputy Russell Labey of St. Helier has already said he is willing to accept, and do things properly. I do not buy this incremental change, because it is purely tokenism if we say that one Minister ... and, of course, the Assistant Minister for that person would already be able to vote freely knowing the fact that they are going to be an Assistant Minister anyway so it cancels it out. So, let us do things properly. Let us say that Scrutiny should be ring-fenced for those purposes and that Ministers, once they have been chosen, should not have anything to do with the election of any of the Scrutiny Panels. The point has been very well made, of course, that many Scrutiny Panels look across departmental issues anyway and many policies, increasingly, are being brought forward across the departments. I think those are the only real points that need to be made. I think we should fully support this. The Council of Ministers has been very silent up until now. They have not issued comments. If this proposition were to fail, because a majority of the Council of Ministers voted against it, that exactly highlights the problem we are talking about, so I think it is important. Maybe the Council of Ministers might wish to abstain on this particular vote, just to show willing as to how it is going to work in the future.

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

I am just going to say a few words; one, to agree with Deputy Southern. There are Members in this Assembly, who might not like to think of themselves as being weak, or perceived as weak, or there are others who are perceived as strong. Let me put it this way. The Council of Ministers are very interested in what Scrutiny does and how effective Scrutiny is. There have been occasions in this Assembly when the Council of Ministers have attacked personally and thrown obstacles in the way of committee chairmen. I think, for example, of the Corporate Services Scrutiny Panel on the review of the States of Jersey Development Company. It got to the stage where they had to issue summonses to get information, yet Ministers were fighting hard and fast to prevent any information coming out. To this day, I still do not believe that this Assembly knows the truth of what has gone on in the States of Jersey Development Company and the developments. We were told various things about pre-lets and so on, which changed over time. You get a Scrutiny chairman and a panel that are trying to get to the root of the matter and they have every obstacle thrust in their way, because it was not convenient. There have been other examples. I can think of Senator Ferguson, on another occasion. I can even think of my own first term and the problems that I had. All I can say is that the Council of Ministers should not be given a free ride. If Scrutiny is going to be effective, it has to have good, strong, independent chairmen, not people who are friends and are just going to toe the line and change their view. If that is thought unfair on some committee chairmen, I apologise for it. I know there are some very, very good chairmen out there, but what I would say is they should not get a free ride and I agree totally with Deputy Mézec on this one. All the Council of Ministers should be excluded from choosing the committee chairmen.

#### **2.1.9 Deputy S.M. Brée of St. Clement:**

Firstly, I would like to say that the comments made by Deputy Southern about the Constables I believe to be totally wrong. **[Approbation]** I work with a number of Constables on a number of Scrutiny Panels and I have to say their work ethic and their commitment to seeing something through is something that we could learn a lot from. Moving on, though, I think that what has come out of Deputy Mézec’s speech, when he was proposing this amendment, is quite interesting to me and quite concerning at the same time. It is the way in which the term “government” has come to mean the Council of Ministers, the Executive. Now, effectively, we do not have party politics as yet, so you do not have the leader of a party, who have won the majority in an election, being asked to form a Government. We, the States Assembly, do appoint Ministers. Yet I think Deputy Mézec is quite right in the fact that we are faced with this situation where, at the heart of the problem that

we are debating over this amendment, is collective responsibility. If you are a Minister, you are bound by collective responsibility. You have the interests of the whole of the Council of Ministers to bear in mind. So, while we might agree with Deputy Russell Labey's proposal that a single Minister should not be allowed to vote for the chairman of the Scrutiny Panel, that is going to scrutinise that particular area, the rest of the Council of Ministers will, obviously, be minded to ensure that possibly the best person for that role does not get that role. So, if we are going to go down the route of saying: "No, a Minister cannot elect the chairman of his, or her, panel," then we do have to extend that to cover all Ministers. Because, unless we do, we face the problem of still a collective responsibility, a collective voting, creeping in from the other Ministers. I think it is only fair that Scrutiny is allowed, or the chairmen of Scrutiny Panels, are allowed to be elected totally independently of the wishes of the Government, because otherwise Scrutiny ceases to be totally and truly independent. It ceases to have the ability to influence policy that is brought forward by Ministers, or the Council of Ministers, because, as I said, perhaps the right person has not got the right job. Therefore, I seriously urge Members to support this amendment and to support the work of Scrutiny and to support Scrutiny's independence.

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

I do understand the sentiments behind what Deputy Mézec is proposing and if I may politely say to Deputy Mézec who is - and I respect the fact that he is - in a party and perhaps some of his other party members... I hope that he will say the comments made by Deputy Southern, not only of the Constables, but that Ministers who do not want to be scrutinised, I think, is not the way to win friends and influence people. Ministers, certainly in my experience, do want to be scrutinised and do want to be scrutinised properly. There are a number of fundamental issues which do underlie, which I agree with Deputy Brée about. There is a whole debate about the evolution of ministerial government, what government is. The word "government" has been, it is true, only recently introduced as a concept and, in reality, government has a number of elements in it, of which a parliament is one, but, colloquially, the word "Government" is normally used in terms of the Executive. Our Executive does have, in law, collective responsibility, but I have to say I do not think collective responsibility is working within this Government. I do not think it is there. It may be there in law, but it is not there in practice, certainly in what I have seen in the last few months. You have, effectively, what is a collective responsibility in law, but you almost have a fiction of it, because you have a number of people who are operating with one set of maybe undisclosed, or nod and wink, collective responsibility, dealing with some issues - and I can see Deputy Mézec agreeing with me - and others. Indeed, I think there are some big issues that this Assembly and we, as an Island, are going to have to tackle in terms of the way we run our political system, because things are not working. Having collective responsibility in law clearly is sending a very bad message out to people in terms of the fact that Ministers are effectively gagged by law in not speaking, but they have to supposedly, certainly in public, say that they are part of, effectively, this collective responsibility. In other places, collective responsibility would be bound by a party system and a party system would be transparent if it is 2 parties together in coalition, which would have a coalition agreement. Here you have a number of individuals, who are operating, effectively, a coalition of independents and they have this coalition agreement, if it is one, which is approved by this Assembly, because their manifesto is effectively the plan put forward by the Chief Minister. So, I am afraid it is all a bit of a jumble, because, effectively, we are trying to overlay concepts which are, at the heart of it, the Westminster system, which is bound by rules and has evolved with rules that have emerged on a party system, and trying to put this on top of an independent system of government, an independent system of individuals. The whole thing is, frankly, a bit plastic, because it really is not. The Council of Ministers is not a party.

[10:15]

If it was a coalition of independents, with a coalition agreement, well, that is not working, that is for sure, with what I see in terms of different views of different Ministers and the support that, supposedly, the Chief Minister has. I do not think he has had the support that is required, certainly, in law from some Ministers on different occasions. Now, you could say that if there might be some allegiances it might be that I would be in support - not because I like him personally, but I happen to sign up to his policies and what he believes in - that I am a member of his coalition, but then I am not in the government. So, if this proposal would be put forward, I would be voting as a "Senator Gorstite" but I am not in a party, because we do not have a party, but then if I am not a Minister I can vote for Scrutiny chairs. This is just, effectively, a jumble and it is making a whole series of rules. I will come back to the underlying proposition in a minute, but with the greatest of respect I do understand and respect the views that Deputy Mézec put forward. But, effectively, trying to put these rules on, in this piecemeal way, without having a proper discussion and some settlement about what it means - and the future Government of Jersey in terms of the Executive sorted out next time, I think, needs to be done - in this piecemeal fashion, with the greatest of respect, I cannot support even though I understand the sentiments that Deputy Mézec says. To take it to the extreme and just to point out the farcical situation that you would have: the Chief Minister does not have the view of who his Ministers are, so you have, effectively, Back-Benchers, who are going to vote Ministers, who might want to put somebody on the Council of Ministers almost to make sure that it does not work. I hear some silence on that. That has happened; that you put somebody on the Council of Ministers so effectively it does not work. Now, those Back-Benchers, who now are saying they are not part of the Government and they want to be Scrutiny and want to, basically, vote for their own members, I understand that - which is why I would support ultimately, in a new system, what Deputy Mézec is saying - those Back-Benchers will vote for the Minister that will, effectively, mean the Council of Ministers will not work, but the Chief Minister will have to say: "I am just going to have to accept this slate of Ministers" because he cannot decide, effectively, who his team is. Then some people are excluded from the decision of the Ministers, but not the Scrutiny Panels. This is a mess. You cannot have one rule for one and one rule for another. Yes, we do need to evolve our political systems. We do need to have some more transparency. Collective responsibility needs to be dealt with and collective responsibility needs to be respected, but this, I am afraid, while agreeing with the sentiment, not at the moment, Deputy Mézec, if I may say through the Chair. I understand the sentiment he is making, the points are not lost, and I think there is a debate to be had on sorting out quite a number of things. But the way this Assembly has done piecemeal incremental changes has got us into the nightmare we have got to and I do not want to be part of a piecemeal thing. I want to be part of a proper overall reorganisation of systems and I hope the Chief Minister is going to try and do as much as he possibly can in terms of trying to sort this out, because life cannot be easy for a Chief Minister that has legal collective responsibility, but effectively not collective responsibility in reality.

#### **2.1.11 Deputy A.D. Lewis of St. Helier:**

Just briefly, I am very pleased to follow Senator Ozouf, because he has said much of what I was going to say. I would support and I have seen already Ministers abstaining from votes when it comes to Scrutiny Panel members, when they know they are going to be scrutinising them. It is almost self-policing at the moment. To add in the extra, to have all Members of the Government - as Deputy Brée suggested that they were not - excluded from voting, I think, would be almost undemocratic. All of us are independent Members, regardless of whether we are part of the Government, or not, and many of those Ministers have independent views and do express them and go against collective responsibility when it seems fit. Sometimes they are permitted a free vote, as well. So, they are independent Members. They are not members of a party. I think to exclude them from the democratic right to vote for people that are going to scrutinise them, would be wrong. I also do not agree that Ministers do not want effective scrutiny, because they do. I have

seen it happen and they welcome effective, well-run scrutiny, because it is doing work which, sometimes, they do not have time to do. I have often heard Ministers welcome and thank Scrutiny chairs for the work they have done and it has been extremely useful. I have seen it particularly happen with the Health Scrutiny Panel and the Minister has said as much in recent times. So, to exclude Members to not be able to vote for chairs of those committees, I think, would be undemocratic and not what our Chamber should be doing. If we change the whole system, as Senator Ozouf was suggesting - not that he had a solution, but it does need change, we all know that - then that is a different conversation for a different time. As laudable as Deputy Mézec's suggestions are, I just do not think now is the time. I think we should stick with what Deputy Labey is proposing and not make this amendment.

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

I am really just speaking, I think, in my capacity as President of the Chairmen's Committee. I did just seek a memory refresher as to what the chairmen have said. It was something like May of last year, which is why I had to search my memory. Essentially, the submission we made to the P.P.C. Standing Orders Committee, at the time when this particular proposal was put in front of us, is that we made the alternative suggestion, which broadly equals what Deputy Russell Labey is proposing. The reason was so as not to unduly restrict the participation of Members in the business of the Assembly, we would propose that the restriction on voting should only apply on a case-by-case basis. In other words, Ministers that would fall directly within the jurisdiction of the panel, whose chairman was subject to election, should not be permitted to vote during the process was our view. So, for example, Ministers for Environment, Housing and Infrastructure would not vote during an election of the chairman of the Environment, Housing and Infrastructure Scrutiny Panel. I do hasten to add - I cannot remember whether it was a unanimous view, or not, or whether members' views have changed since then, and obviously the Chairmen's Committee is not bound by collective responsibility - but I will not be supporting this amendment on the basis of the submission we made and I will be supporting Deputy Labey's proposals.

#### **2.1.13 Deputy T.A. Vallois of St. John:**

I think I understand what Members are trying to get to here, but I find myself in a position where I am agreeing with Senator Ozouf and Deputy Andrew Lewis, to a certain extent, unusually. I do not mean that horribly. The position I see here is that we are being asked to decide whether all Ministers are able to vote for a chair of a Scrutiny Panel. Now, anybody that has served on Scrutiny and understands the Scrutiny system, also knows that we can elect members of those panels. So, the chairs will not be voted for by Ministers, but the members of the panel can be voted by Ministers. Then, of course, bearing in mind that the chairman does not chair every single report, that can be given to a member of the panel to chair up a particular review on something. That particular review could be within the role of an Assistant Minister of that particular department, who is able to vote for that member. So it gets extremely messy and I believe that it is more democratic that all Members are able to have a say in who takes on these extremely important roles. I do not think it tarnishes the independence and the objectivity of the role of Scrutiny. We have a very unique system in Jersey where we do not have this party politics and we do not have that opposition, as such, in terms of the one party versus the other, but there is a lot of opposition. There is and it does not have to be aggressive. I have seen it time and time again where there have been chairs appointed and they have been elected, Ministers have voted for those chairs, and they have been at complete loggerheads. It does work; it can work. Scrutiny does have the teeth, if they want to use it. They can bring a proposition, just like any single Member of this States Assembly can bring a proposition and debate it here and have the argument on the floor of this Assembly, as to whether we believe something should be implemented, or not. So, I think this is done trying to assist with a system that I think is extremely broken already and with all the good intentions in the

world, I think, it is not going to help. If anything, it is going to make it worse. I hope, like I do with many things when we are debating stuff in this Assembly, that taking on board the fact that if you want that pure independence in a scrutiny role, then I think it is absolutely down to the integrity of the role of the members on that Scrutiny Panel to ensure they keep that objectiveness and that independence and ensure that almost everything that they do is done in a public forum, because that is the purpose. It is openness and transparency of Scrutiny and ensuring you are holding that Minister to account. One thing we do fail on, in a Scrutiny function, is making sure that we follow up in terms of the recommendations we make and make sure that the Ministers are implementing what they said that they agreed to. So, unfortunately, I cannot support this amendment, or the actual paragraph (b) of Deputy Labey's proposition. I do understand the intentions and I do understand what they are trying to attempt, but I think this is the wrong route.

### **The Deputy Bailiff:**

Does any other Member wish to speak on the amendment? I call on Deputy Mézec to respond.

#### **2.1.14 Deputy S.Y. Mézec:**

Thank you to Members who have contributed. I have to say I quite like Back-Bench Senator Ozouf. There is quite a lot of what he said in his speech that I agreed with. Obviously, I do not agree with how he will be voting on this, but he made some points that I thoroughly agree on. He used the phrase "overlay concepts" from other jurisdictions and I think that there is a lot of that going on. I completely accept that and I think that is far from ideal. I think his chief criticism of this proposition was that it constitutes piecemeal change and that there is a lot more that needs to be done to amend our government system to get it working properly. Again, I agree with that. I think it is not too dissimilar to the point that was made, just then, by the Deputy of St. John. I cannot remember the exact phrase she used, but she did say this was a broken system and things like this are not necessarily helpful. I completely see where those Members are coming from and I know that any Member of this Assembly, or the public for that matter, will know that the government system that we currently have is a million miles away from the one that I think would work best in the Island. On a few occasions I have brought these amendments, to do my best to see what we can do to work within the current framework, to try and make it a little bit less bad, if that makes sense. There are elements of what we do that I think we will agree do not necessarily work very well, and while I might want wholesale change, to make the system entirely different from what we have, I accept that that is probably not likely to happen any time soon. Therefore, I am prepared to support minor changes that, I think, do tinker with things to improve things. I do not think that is a bad thing to do and that is why I will not be supporting every part of Deputy Labey's proposition, but some parts of it I will be, because even though they would not necessarily constitute what I would like in a perfect system, we are not going to get what I consider a perfect system, so I do think it is right that we should make minor amendments every now and then to try and improve things and get them working a bit better. In terms of the argument that was made by Deputy Southern, I may not have phrased it in exactly the way that he did, but if we were taking the point he was making, which is that if you were going to look at a current Minister and ask who would they prefer to have scrutinise them, somebody like Deputy Southern, who is a stated opponent of the political philosophy of this current Council of Ministers and is someone who is a highly experienced scrutineer, versus somebody who may be more politically sympathetic to the Council of Ministers and less sympathetic, I think it is fair to say that even if Ministers were going to act with professionalism, which as the Deputy of St. John said they certainly have done previously when it comes to this, there is certainly at least a perception of a conflict there. I will turn it round and I will ask Members to think of it this way. Imagine a hypothetical, not so distant future, where I was serving as a Minister. Who would I prefer to have scrutinising my department, Deputy Southern, or somebody else? Well, of course, I would want Deputy Southern scrutinising it, because he is

somebody who I know is very politically sympathetic to my position and he is my friend. Great. So, speaking of which, I would prefer to have him scrutinising me.

[10:30]

Would Members of this Assembly feel comfortable with me getting on with a job in Government in a ministerial department with Deputy Southern being chair of the Scrutiny Panel that are scrutinising my work? Well, I would say that that would not necessarily be appropriate and it would be better to get somebody else in that political instance.

**Deputy G.P. Southern:**

Would the speaker give way?

**Deputy S.Y. Mézec:**

I will give way.

**Deputy G.P. Southern:**

Since I am being addressed. The potential Minister would have one heck of a time, as I grilled him fiercely about what the consequences of his policies were. I know how to take my party political cap off and put my Scrutiny hat on and ...

**The Deputy Bailiff:**

Deputy, if a Member speaking agrees to give way, you can ask him to explain any material part of his speech, or any material part of your speech, if it has been mischaracterised in your view, or to elucidate a matter raised in the speech, not to make another speech.

**Deputy G.P. Southern:**

If I did, I apologise. I thought I was elucidating.

**Deputy S.Y. Mézec:**

It was a welcome point, as far as I am concerned. The Member who, I think, summed up the motivation behind this proposition most simply was the Constable of St. John, who referred to collective responsibility. I know that there are issues behind collective responsibility and I do not support collective responsibility within our current system, but I accept we have it. Therefore, if we have it, we have to make do and amend the other parts of our government system to take into account that we have it. So, what the Constable of St. John said about his motivation for supporting it being based on the fact we have collective responsibility, I think, is the key point here, really, because the Government is collectively responsible together. It is a team. It shares in its successes and failures together and, therefore, they are all at risk of being embarrassed when one Minister has a blunder that has to be exposed by Scrutiny. I can hear something buzzing. Is that mine? It is not going off. So, that is why I make the point. I offer Members the opportunity to either vote for what I consider to be the natural conclusion, or go for what might be considered a compromise, proposed by Deputy Labey. I think either would be a step forward from what we have now. I hope Members will vote for my amendment but, if not, I will certainly be voting for an unamended proposition from Deputy Labey. I ask for the appel.

**The Deputy Bailiff:**

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

<b>POUR: 16</b>	<b>CONTRE: 24</b>	<b>ABSTAIN: 3</b>
Connétable of Grouville	Senator P.F. Routier	Senator P.F.C. Ozouf

Connétable of St. John	Senator I.J. Gorst	Senator A.J.H. Maclean
Deputy J.A. Martin (H)	Senator L.J. Farnham	Deputy R. Labey (H)
Deputy G.P. Southern (H)	Senator A.K.F. Green	
Deputy of Grouville	Senator S.C. Ferguson	
Deputy J.A. Hilton (H)	Connétable of St. Helier	
Deputy K.C. Lewis (S)	Connétable of St. Clement	
Deputy M. Tadier (B)	Connétable of St. Mary	
Deputy M.R. Higgins (H)	Connétable of St. Ouen	
Deputy J.M. Maçon (S)	Connétable of St. Brelade	
Deputy R.J. Rondel (H)	Connétable of St. Martin	
Deputy S.Y. Mézec (H)	Connétable of St. Saviour	
Deputy L.M.C. Doublet (S)	Connétable of Trinity	
Deputy S.M. Bree (C)	Deputy J.A.N. Le Fondré (L)	
Deputy T.A. McDonald (S)	Deputy of Trinity	
Deputy of St. Mary	Deputy E.J. Noel (L)	
	Deputy of St. John	
	Deputy S.J. Pinel (C)	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy A.D. Lewis (H)	
	Deputy of St. Ouen	
	Deputy G.J. Truscott (B)	

## 2.2 States Assembly: selection and appointment of Ministers, Committees and Panels - return to secret ballots (P.73/2017) - resumption

### The Deputy Bailiff:

Very well, we now return to the debate on the main proposition. Does any Member wish to speak on the main proposition? The Connétable of St. Helier.

#### 2.2.1 Connétable A.S. Crowcroft of St. Helier:

I was very pleased to second Deputy Russell Labey's well-researched and well-explained proposition, particularly given that the introduction of the secret ballot was made by a former representative of St. Helier, the 7-term serving Philippe Baudains, whose enormous contribution to Island life and St. Helier life is marked by the bronze bust in Parade Gardens. I am sure Deputy Labey will be popping along there to see whether there is any similarity in profile. This happened at the end of the 19th century. I have not been able to find out exactly when but, as Members will know, people used to vote in elections in Jersey by turning up at the Parish church and putting up their hand for a candidate. Of course, enormous opportunities for all kinds of influence there. If you could not stop a person voting the wrong way that way, you could take them to the Écréhous and leave them there during the vote. **[Laughter]** I fully support this and I was very interested in how the Deputy explained how we got into the mess of these open ballots. I think his description of the period in States life when that happened certainly chimed with my memory of it. Interestingly, the 2 most common introductions you get, or I get, when someone phones me on Parish business, the first one is: "I am a Jerseyman and ..." or they say: "I am Jersey born and ..." and I interject at that point and say: "Well, I am not Jersey born, but I regard myself as a Jerseyman. How can I help you?" The second one I get quite a lot is: "I voted for you, Constable, and ..." and then I interject and say: "Well, I was not contested at the last election, so you probably did not vote for me at the last election, but hopefully that may change next year." The fact is how we vote really should not be a matter for anybody else but ourselves. It is a matter for us and our

consciences. I think there are certainly times when one can be influenced by what, either people within this Assembly will think of us in terms of how we vote, or what people outside will think, who follow the States. My closing remark is simply to remind Members that a secret ballot does not guarantee secrecy or confidentiality. Some Members were in the House when I proposed a Member for the presidency of the Health Committee. It was a 4-way fight. When the totals were read out, he got one vote **[Laughter]** and every head in the Assembly turned to me. I do not know whether he was Deputy then, or Senator, Le Claire, but the former Member said in a marvellously quick-witted reaction: "I would like to thank everyone who voted for me." So, I hope secret ballots will come in, but they will not protect one in those circumstances.

### **2.2.2 Deputy A.D. Lewis:**

As I think I said earlier, I am fully supportive of the Deputy's proposition here. I just want to recount a little story, though. When I was first in this Assembly there was a secret ballot for Ministers, and Members and particularly the Council of Ministers then - it was the first Council of Ministers, in fact - were perfectly accepting that there would be a scalp. What they meant by that, was that there would be one pick that was not a pick of the Chief Minister and possibly sometimes 2. Senator Ozouf did say that that can have a very detrimental effect to an effective Government, but I have seen that effect swing both ways. I have seen people come in that were unexpected, they have done a great job, and I have seen people that have been a bit more disruptive. But it does give the House that right to elect that person that would not have been the Chief Minister's first pick. I think that is a good thing. I have seen it happen in the first Council of Ministers and subsequent ones as well. The last one, I spoke to the Chief Minister after a particular vote and he said to me: "I had no idea having a secret ballot would have such an effect on that particular vote." Some of you may remember what it was. I think having a secret ballot is democracy in action, really, in the way that the Constable of St. Helier mentioned. I will just read you a brief part of the Deputy's proposition which I think is really key: "There is a reason why party leaders and Prime Ministers the world over to this day are elected by means of a secret ballot and that is to free both elector and candidate from the burden and scourge of any suggestion of favouritism, nepotism, preferential treatment, cronyism or pork barrelling." **[Interruption]** That sums it up; not the buzz, what I just said. It also goes on to say: "In this way the public are better served by a secret ballot," which I firmly believe. "The secret ballot does not prevent any States Member from declaring how they intend to vote, or how they did vote. That is left to personal choice." I have seen that happen when there was a secret ballot. That used to happen. So by no means completely secret ... **[Interruption]** My iPhone is off, so it might be Deputy Tadier.

### **The Deputy Bailiff:**

I wonder if everyone could just check their phones and devices to ensure that they are switched off, or in flight safe mode, or something.

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

Yes, I am waiting to speak.

### **The Deputy Bailiff:**

I have already noted your desire to speak, Deputy.

### **Deputy A.D. Lewis:**

In other words, I would firmly support this motion. I would urge Members to do so. I think you will have a more effective Council of Ministers as a result. You will occasionally get that scalp, which I think is a good thing for an effective democracy in our particular Assembly, which is quite



unique, not having full party politics. I think this provides some of that, so I would fully support and endorse the concept that Deputy Labey is proposing and I would urge other Members to do so.

### **2.2.3 Deputy M. Tadier:**

I do not think I have heard such specious and spurious arguments since the last time we debated this, which is a few years ago. The Assembly clearly made a decision, at the time, to move from a situation where voting was done in secrecy, to where it was done in public. I think, that said, there are some potentially compelling arguments that Deputy Labey has made. It may well be true in certain circumstances that under secrecy, under the protection of secrecy, people behave differently to what they would without that secrecy and without the accountability. We know this and we have short memories, because there was this report that came out. This is the first volume of it, the Jersey Independent Care Inquiry. We stood here just a few weeks ago saying what can we do to make sure that the perception of secrecy ... and what can we do to make sure that we enhance democracy and that this connotation of the negative aspects of the Jersey way are countered, yet only a few weeks later we have somebody suggesting and Members in this Assembly saying: "Let us have more secrecy" because that is the way we counter the Jersey way, that is the way we strengthen our democracy, by having more secrecy. We are not a secret society, that is the difference. The members of the public, of course, have the right to vote in secret, to avoid coercion. We would not want a scenario where you have people going around stopping people and saying: "Look, you voted the wrong way. We are going to penalise you for that," because we all know where that potentially leads. So, while it might be the case that we might vote differently in secret, I think the argument has to come down on the side of accountability. Are there Members in this Assembly who would vote differently secretly to publicly? If there are, put your hands up now and tell the public that you would do that, because that is really worrying. I certainly would not. My vote would be exactly the same, whether it was done in secret, or in public. I did take part in one election for the Chief Minister, which was in secret, or it was not public, but I held up my ballot paper to the people in the Chamber upstairs, so that they could see it, if they wanted to, because I had absolutely nothing to hide. Similarly, the arguments that the Constable of St. Helier was making saying of course everybody comes up to you and says: "I voted for you" and you think: "Did you? I do not think you have ever lived in my District" but, of course, there is always an element of confusion for those of us who at one point stood for Senator. It is technically possible that people might have voted for us at some point in the past. Anyway, we are all too polite to correct them in an Island where 60 per cent, or 70 per cent, do not vote habitually anyway. But that same argument can be used, of course, within this Assembly to say: "I voted for you, Minister." You can say that to both, or all of the candidates for any one post, of course. I do not think it enhances democracy. We are here to be accountable. If you extend the argument, where does it stop? Because we could say today if the vote that my colleague Deputy Mézec just proposed was done in secret, that might have won. It may well have won because certainly he had all the better arguments. We saw the arguments that he made that the Council of Ministers and the Assistant Ministers all stick together and vote in one way. That is exactly what happened today, but we would not know that. We would not know that if it was not done in public, so where do you end it? We could debate in secret because, of course, that is what the Council of Ministers say. They say it is important that we sit around a table and have secrecy so that we can have a free and frank exchange of views, because that is what we are taught to do.

[10:45]

So then we just shut down the Assembly completely and we say nobody is allowed to come in and watch and, of course, that is what used to happen in the past. That is what happened in other Parliaments before Hansard was produced. That was not the norm. People had to stand up and fight for democracy and fight for openness and transparency and I, for one, stood on a platform in

2008 of trust, transparency and teamwork. Hopefully, I will live up to that. Certainly, that is something that runs through our party manifesto. I implore Members not to take this retrograde step at a point when we should be putting the recommendations of the Care Inquiry at the centre of everything that we do, despite the fact that there may be some niche intellectual arguments that may be correct in some hypothetical cases. I think we all know that we are States Members and we should stand by our decisions and not be scared to be judged on our record.

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

I do not know whether, or not, my de-ministerial position or broken ankle has meant that I have had a de-ministerial lobotomy, or something, but I agree absolutely with everything that Deputy Tadier has just said. I apologise to Deputy Russell Labey, who I like and respect, and also the Constable of St. Helier, because I understand their motivation and why they have said it and I do not think that any issue that Deputy Tadier has raised about the issue of secrecy should ... I do not want them to take affront, or exception to that. Indeed, the parts of the proposition are interesting, because I just asked the Deputy Greffier whether, or not, it was possible to take some parts of the proposition, (a) and (b), separately. Because I think that, certainly, I have not come to a firm conclusion on this, but I will not absolutely vote for a secret ballot for Chief Minister for the period of time that they are Ministers nominated in secret. I think that would be a terrible retrograde step for the reasons that Deputy Tadier raised. Also, referring to my earlier comments about the problems whether, or not, there were parties, or hidden parties. The one thing that one knows, if you have a public vote for Chief Minister, is who voted for the Chief Minister. An absence of parties, you do not know who that coalition is. I can see Deputy Southern agreeing with me; I am getting worried **[Laughter]** but I absolutely agree with them. I am not about to join Reform Jersey; they would not have me, I know. But they are right. They are absolutely right; the secretism of the issues that the Care Inquiry raises, the real fundamental issues about that negative connotation of the Jersey way of secretism. I am sorry that certain Members did not see ... there was a fantastic art exhibition across at the gallery of a photographer in residence by the Société Jersiaise, a wonderful young artist, Jonny Briggs, who did some work - I do not know how many Members saw it - who came to Jersey and got the sense of Jersey and took the words that the Chief Minister used after the Care Inquiry and did some fantastic art about effectively what secrecy is. One very striking figure, effectively a shocking figure, was an arm coming out of somebody's mouth that indicates that they were being forced to do something, because of some other force. Secretism in terms of the vote of Chief Minister, I am afraid, is going to go down in the public like a lead balloon, and rightly so. Deputy Labey, in his report, mentions the Freedom of Information Law and while we do not like the Freedom of Information Law, there are issues about the Freedom of Information Law that need to be dealt with, because I can say that it is not working, because effectively things are just getting hidden underground. Rather than being more open, I suspect the way the Freedom of Information Law is working means that things are less open than before, because the information does not exist at all, because it is not documented. So, by doing something that appears to be the right thing in the first order, that looks right, that is going to improve democracy, could have a countervailing, much more powerful effect. I can see some Members nodding in agreement. It would be a terrible decision, in absence of a party-political system where the Chief Minister is very clearly aligned with certain people but is open, to then have a secret ballot in relation to nobody would know who the leader of the Government was. That would be a retrograde step. Now, the reason why I would just consider whether, or not, there are potential arguments for secret ballots to some of the other positions, potentially the chair of P.P.C. and potentially Scrutiny Panel, there I may be persuadable that there may be a reason. I would be interested to hear other Members' observations. There may be a reason why, effectively, a secret ballot may be the right thing to do. I am sorry, if this offends you, Sir, but, as you know, I do and will be supporting - and again nothing personally against you - a separation of powers. But, if we do come to an election of a Speaker, for example, I am not sure

whether that position should be an open ballot, or not. I am not sure, I have not thought through the consequences of that. I am not sure about that. But certainly the chairman of the planning panel, I am sorry, that has to be open. You cannot have a secret ballot for a chairman of a planning panel having the power of the planning panel and the massive, massive financial benefit on that decision can take. You cannot have it for the Chief Minister and you cannot have it for Ministers. So, I am afraid to say, I understand the proper, well-intentioned ... and I am not being in any way disparaging, or in any way being patronising to Deputy Russell Labey, but I cannot vote for this on the basis of that, but would consider a part of it if there were some compelling argument, perhaps, for some positions such as the chairman of the Privileges and Procedures Committee.

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

Before I start, I would like to apologise to Constables in the Chamber and to say that I have worked with many Constables in my time in Scrutiny and always got on famously. At the end of the day, we have always agreed a form of words, which we can accept and be 100 per cent behind as part of the art of effective Scrutiny. So, I say that in order that I should not have 12 Constables refusing to vote for what I am about to say, because I think I just did that to my partner, Deputy Mézec, in the last vote. Having said that, this is absolutely crystal clear. If we were to accept the reinstatement of a secret ballot, it would be a completely retrograde step for democracy and I absolutely 100 per cent agree with my normal opponent, Senator Ozouf, on this single issue. It is because we do not have a fully-fledged political-party system where political parties put forward policies before the electorate and say: "If I am elected, or if you put your trust in me, then I will do these things." We know, by and large, that does not happen. So, people can stand up and say simply: "I am a good bloke and I am a good businessman, vote for me," or they can say: "Vote for me and I will support our old people and I will support our children and I will support our families and I will support our employees." Do you want a secret ballot, then, on taking £10 million out of benefits? Changing the disregard on pensions, removing £14 a week from single parents, thus putting children in poverty figures, do you want a secret ballot on that? "How did you vote on that?" Would the public out there, who voted for us, wish that to happen? It is not an enormous step to say: "What I did was I voted for this Minister, this Chief Minister, even though I knew what he was going to do, because he finally came up with some policies, one of which was reducing £10 million from the benefits bill, one of which was ignoring the calls for a living wage, one of which was keeping down the minimum wage, *et cetera*, one of which was freezing the pay of our civil servants, teachers, nurses, *et cetera*. You do not get to know how I voted on those, so when I stand again I will just say: 'I am a good bloke, vote for me.'" Again, I will say: "I will support the old people, I will support the young people, I will support families and I will support our employees" while doing entirely the opposite. Now, this is why our system does not work. This is why 70 per cent of potential voters do not turn out, because there is absolutely no connection between what people do when they get in and what they say on the hustings before they get there. No connection between my vote and what happens. Part of that openness, which is the only way the electorate can understand what is going on: "You said you would do this. You did not; in fact, you did the opposite." The only way we can make that connection, at least my vote counts for something, involves also the vote for Chief Minister, because, often, the candidates for Chief Minister are the ones that attempt to put some meat on the bones of their: "I will look after the old folks." That is the reality; that is the problem with our system. Our system is broken and the people out there know it. There is absolutely very little connection between their vote and what happens in this Chamber, including who gets to be Chief Minister with what little bundle of policies they have got. If we were to revert to a secret ballot, then the people out there will not even know that and that would be a crying shame. Next time I am knocking on doors and people say to me: "I used to vote. I do not vote anymore, it does not make any difference", I will be forced to say: "Yes, and, what is worse, even the vote for the most important place in this Chamber" - is it? - well, perhaps: "the

Chief Minister, we do not tell you what we voted and keep that secret and yet I can ask for your vote.” I am sorry, that is a form of fraud. Let us not be guilty of that. Let us not have this retrograde anti-democratic movement for a secret ballot on the single, perhaps arguably, most important vote you can take. It would be criminal, in my belief.

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

This proposition comes in 3 parts, really. The second part, I have already indicated, I am going to support, because I do not particularly want to vote for the person who scrutinises me as chairman of my Scrutiny Panel. The last part I am fairly ambivalent about, but at the end of the day I am not going to support it, because the election of Ministers, Assistant Ministers, Scrutiny chairs, *et cetera*, is a long and drawn-out process that takes an awful lot of time in this Assembly. At the end of the day, it is 6 of one and half a dozen of the other. Yes, maybe only one person need propose and second and that person can go forward as a candidate for Chief Minister; that is going to involve another speech, another section of questioning. I also think the people who want to be Chief Minister need some sort of a mandate and I am not sure that a single proposer and seconder is enough, but either way I am not too fussed. Obviously, the fundamental for this proposition is part (a) and, I am sorry, but whichever way you dress this up, to me, going back to a secret ballot just means having the ability to say one thing and do something else and, for me, that is fundamentally not the way I operate. I have, sometimes, to think very hard and carefully about what I am going to say, but at every opportunity I always think to myself: “This is a decision I am going to make and, if necessary, I am going to have to stand up and justify it in front of people” and I do that. I do not want to be in a position where we revert to the secret ballot, because I want to be able to make firm decisions, I want to be able to say what I believe and I do not agree with going back to a system where you can say something and vote in another direction.

[11:00]

### **2.2.7 Deputy G.J. Truscott of St. Brelade:**

I think I would like to start by saying that I will be defending the ancient right of the Bailiff to be sitting in that chair, to the hilt, if necessary, and plainly I mean that figuratively. I see things in a very black and white way and so I think you will probably realise this through what I have to say in this speech. Now, is there any chance that we can have this particular vote as a one-off, as a secret vote, because it would give me the first opportunity for a long time to say to Deputy Russell Labey of St. Helier that I did vote for him and I did support his proposition. One could argue - there is the problem, there is the rub - because by saying one thing and doing another I think that is fundamentally what is wrong with what we are debating here today. The freedom of speech and my right to exercise my vote are 2 very important things that I hold dear, as I am sure all Members in this Assembly and all democracies around the world do. Wars have been fought to preserve that freedom and it is so important to democracy. Over 1,000 people voted for me in St. Brelade District 2. They entrusted me with their vote and to vote in a way that they would have voted had they been voting themselves. I hope my voting pattern has been consistent throughout my term in office. I am a Jersey Conservative through and through and will always vote accordingly. I am working class and proud of it; no spoon in my mouth. I have achieved everything through hard work. I want to let the people see how I voted and who I voted for. Of course, there will be tactical voting, that is politics. If I can further a Conservative agenda, then I will. Likewise, the left-wing fraternity in this Assembly will do the same thing. Yes. It is important to leave an audit trail and leave no doubt in anyone’s mind as to how I voted and who I voted for. I think that is absolutely fundamental. The trouble with the secret vote, it is that it opens up a world of smoke and mirrors and possibly deception and that, plainly, is not good for Jersey and good government. For me, an open-voting system is the only true way. There is nowhere to hide, it shows your colours, it records your mark. To finish, in my opinion, when it comes to voting, there should be no stealth mode, no

operating undercover, no cloaked, secret voting and no restrictions imposed on Members' right to vote in all matters. Thank you.

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

I think we need to remember why secret ballots were brought in in the first place and I quote here: "The secret ballot is a voting method in which a voter's choices in an election, or referendum, is anonymous, forestalling attempts to influence the voter by intimidation, blackmailing, and potential vote buying. The system is one means of achieving the goal of political privacy." Now, as Members may, or may not, remember from their history lessons, the Act bringing the secret ballot in in the U.K. was brought in in 1872 and with the 1832, 1867 and 1884 Reform Act formed the backbone of electoral reform in 19th-century Britain. These Acts were necessary, because of the rotten boroughs. To carry on with this open system, I have heard rumours about the ministerial elections after the last election, I do not know, they are anecdotal so I cannot say anything. There is no reason why you cannot just say: "Well, yes, I voted for so-and-so and I voted for so-and-so." Nothing to stop you doing that, but I do remind Members of the changes in the Trade Union Law in the U.K., when secret ballots were initiated for strike ballots. This, effectively, removed the bullying, cronyism, and general frightening behaviour, which forced members to vote with the majority, even if they did not agree. I think this proposition of Deputy Labey removes the position of cronyism. I think in line with the tradition of the secret ballot, I may have voted for removing it last time, but having considered it more closely and more carefully during my gardening leave I think this is an excellent proposition and I think we should support it.

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

The arguments that are running through on this debate are fascinating. I have to say, the one time I am going to agree with Deputy Tadier on this, is when he has used the words "specious" and "spurious" in certain instances, but I think we will probably be looking at it from the other end of the microscope, I am afraid. Ultimately, the vote is the most important thing in the context of what we are talking about one can have. I am pleased to follow Senator Ferguson. We have had some extensions, one way or another here, on these arguments. We have been told that the logical extension to this is we should have secret ballots for everything. I think that is missing the point. What we do 90 per cent of our time in here, is make individual decisions which directly affect the population straightaway. It is taxes, it is other general issues that, ultimately, are going to have an impact on the Island. This is about the composition of the Council of Ministers; that is slightly different and that goes back to the general principles of the ballot. The logical conclusion that the people are saying that having an open ballot on this should be retained, is you would have an open ballot for the electorate, so that we would know individually who voted for us of the 1,000 people we have had. That, in my view, would be unacceptable to the nth degree. Why would that be? Because precisely what is being said, it would be about pressure. I have to check my memory here. I think in the days - was it the Magots, the Charlots and the Jeannots, or whatever it is - there were various rumours at the time, or effectively from what I recall of history, was if you were not going to likely support their preferred candidate, you would be having a free holiday in the Écréhous, or the Minquiers for a few days. That is the ultimate point of pressure. That is the point of having a secret ballot, so people cannot put pressure on you in those most critical times and that you have then the free choice - it is up to you if you want to tell people afterwards - as to who you vote for as you think is the best candidate. Having seen, along with a number of Members ... although we are getting fewer and more diminishing as time goes by; I have been through both systems. The way this originated was that, I think it was Deputy - I am going to say Trevor Pitman - it was a Deputy Pitman, brought a proposition in to have an open ballot on the Chief Minister and that was approved by 2 votes. At that time I voted against it, for the reasons I have just elaborated, basically. That was at the end of, or before the change in Assemblies and the following Assembly

within that following year - and I think it was in 2012 - he then brought what was, effectively, a lot of extensions to say: "Let us have an open ballot on everybody" which I accept, at that point, I voted for, because I thought we should be consistent across the board. So, having seen both systems: (a) when we had full secret ballots on everything; and (b) when we have had full open ballots, I cannot remember who it was - it may have been the Connétable of St. Helier, or it may have been Deputy Andrew Lewis - who made the remark that, I think it might have been, the Chief Minister had not appreciated what a difference the secret ballot would have made, or did make, on the outcome and that is quite important. I can certainly think back, I think it was the last election for Council of Ministers, versus the time before, when a particular candidate, at one time, was successful for a particular post that was under the secret ballot and the next time was not, by a long margin, and that was on the open ballot. The view was, therefore, that it does not matter whether you think it is influence, or pressure, that people may have been influenced about how they were going to be seen to vote. I am certainly aware, and I do not think this is acceptable, in my view, is that there have been candidates who have been told they, he, or she, were the best choice, but the individual they were speaking to had had to vote in a particular manner because either they were hoping to get an Assistant Minister role, or they were lined up within the Council of Ministers, or whatever. I am certainly aware that I think certain Members in the past if they have had a close relationship with a particular candidate had, therefore, felt compelled to vote for that candidate, whereas they might have considered another candidate to be better, but because of the ructions it might cause in the personal relationship they could not go down that line and that is the whole point. There is nothing wrong with that, but what we want to achieve is the best choices for the people who are going to govern the Island and not just because my vote is going to be known and that I have got to go that way because I have been told to. It is a horrible illustration of being forced to do something by some other force: this hand coming out of the mouth. Is that not the point? Is that not the point? This is this artistic illustration that I think Senator Ozouf was referring to. Is that not the point? It is trying to make sure that that absolutely prime right of the democratic ballot, the secret ballot, to avoid pressure, is retained within the Assembly. That is part of the democratic process, the ability to vote. That means it is open to everyone, but also the ability to keep your vote confidential to yourself in these circumstances. It is not about whether we take £10 million worth of benefits away, that is clearly the case. There is a difference in the decision one is being asked to make. As an example, we have heard reference to Westminster. Now, I do not know the precise details - because I would have to go back and dig out another 50-page report or something - but we were presented, and I think it was on one of the Sub-Committees of P.P.C., by a document that went through some of the procedures that had changed in Westminster in recent times. In Westminster, as I understand it, there has been a secret ballot reintroduced for appointing the chairmen of Select Committees and that was directly to reduce, or basically remove, the influence of the party whips. So, it was to remove the influence, it was to allow people to vote for who they thought was the best candidate and not be controlled by the party parameters they operated in. The people presenting it to us, presented it as having given greater strength to the Select Committee process and I think that is the point. In here, we are looking to select the team and on that basis it should be an open and free ballot. When I say "open", it is open to all of us, but it should be a secret ballot from the point of view of how it is recorded. So, on that basis, I think we should be supporting Deputy Labey's proposition. I have yet to make my mind up on part (c); I am happy to support part (b).

#### **2.2.10 Deputy S.M. Brée:**

I have listened with interest to the various points that have been put forward and would like to raise a couple of my own. Have we not learnt from recent history? Have we not realised that secrecy of any kind by this Government is not acceptable to the public of the Island of Jersey? When I stood for election, I stood on the platform of wanting to have open and transparent government. We are

answerable to the electorate. A secret ballot is for a general election to elect representatives to sit in this Assembly. It is not for how an elected representative votes in this Parliament. Why should the way we vote on everything not be publicly known? I can see no reason why any of our voting record, on any matter, should be made secret, because, at the end of the day, we are accountable to our electorate.

[11:15]

We are here to represent them. They have a right to know our voting record, they have a right to see: do we believe that our elected representative is representing our wishes, is living up to his election mandate, the way in which he, or she, presented would act on behalf of us, the electorate? I would suggest that a secret ballot could increase the opportunity for all of the problems that Deputy Labey insists will be avoided by introducing it, because nobody will know who voted for who. I recall the Constable of St. Clement, when I first stood for election, giving me a very, very good piece of advice: “The only people you believe are the ones who say they are not going to vote for you.” **[Laughter]** I would also raise concerns that the suggestion that has been made that any Member would vote differently in a secret ballot, or an open vote, is surely calling into question their very integrity and that is what concerns me. Is the next move that is going to be brought forward to propose having *in camera* debates for the election of Chief Minister and Ministers, so the whole thing is kept secret? That would worry me again. Openness, transparency and accountability, these are what constitutes real democratic and effective government. Therefore, I would urge all Members to vote against bringing back any form of secrecy into this Government. Any form of secret ballot is wrong because it does not allow the electorate to see how we represent them.

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

As Members will be aware, I have been at this Assembly for a little while and have experienced the previous way that we used to elect our Ministers, our Chief Minister, through a secret vote. I have to say during my time, having experienced the other way of doing things, there were certainly times when there was pressure being put on people to vote a certain way and you would really struggle with trying to decide which way to vote. People look back at those times with rose-tinted glasses as being: everything was fantastic, because we had a really good Assembly. But I can assure you perhaps that may not have been the case to look back with rose-tinted glasses, having been through all that time. I last time voted to maintain the secrecy, because I thought that was the right thing to do at that time. I have spoken to the proposer of this proposition and said that I would be doing that again. I have been listening to this debate very, very carefully and in particular I listened to the words of Senator Ozouf and others. I have come to the conclusion that we must continue to have open voting, because I believe that it is the right thing to do and it would be a retrograde step to go back to secret voting. There was one issue which I struggled with: the words of Deputy Southern with regard to the benefits of having political parties and knowing what people were going to be standing for, because political parties never change their minds. Well, I am afraid that is also looking through rose-tinted glasses, because political parties do change their minds during Assemblies. They get elected on a manifesto and they take a different route once they get into power, so please do not get carried away with that idea that political parties do not have the ability to change their minds. So, going back, I did give an indication to the proposer that I was going to support this proposition but having listened to the debate, I think it would be the wrong thing to do and I will be rejecting the proposition.

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

In fact, I wish I had put my light on earlier, because many of the things I was going to say were said by Deputy Brée and I applaud him for what he did say. I believe it would be a retrograde step to go

back to the secret ballot. I agree with him 100 per cent. Elections for this Assembly must be by that, because we have got to stop the electorate being intimidated, bullied, bribed, or whatever. They must be a secret ballot. But in this House, as he stated, we have to stand up here, say what we believe in, vote for what we believe in and, I am afraid, if it means disagreeing with a friend, or an associate, or someone who I have known for years and I agree with everything else they do but I think they are wrong, I have got to have the courage for my conviction and the integrity to vote against them. So, this idea of secret ballot: I do not want to offend him, so in a secret ballot I can vote against him, but he would not know, that is not acceptable. The public expect integrity, they expect trust, honesty, honour, all those things, and if we go back to a secret ballot, I am afraid, they go out the window. The public will not trust us. They do not trust us now. I agree with, I think it was Deputy Tadier who said it, if only 70 per cent of the electorate do not vote, imagine if we carry on as we are doing and going backwards and trying to keep our decisions secret, then they will not trust us in the future and we will never get people voting in elections again. The other point I would like to make is that it is also the question of the *in camera* debate. I believe a proposition should be brought, I will bring it myself if no one else does, or if the Council of Ministers do, that we should do away with *in camera* debates. We have recently had the situation - he will not like me mentioning it - but Deputy Andrew Lewis. That particular case gave no credit to this Assembly. We had Members saying: "Well we have *in camera* debates, so we can say what we want without the public finding out." The argument that was used is: if we have an *in camera* debate, people do not expect what they say to be out in the public. Why should they be allowed to say one thing in the House that is totally opposed to what they are telling the public in another way? Totally unacceptable. So, we should remove, as I say, the *in camera* debates, we should have open ballots, so everyone knows exactly where we stand. If you have not got the courage of your convictions and be prepared to stand up and explain to the electorate why you acted in a particular way and ... okay, I have not decided if I am standing yet, but the point is, if I do stand, I have got to explain why I voted a certain way. I would say that probably, except for 2, I will not tell you what they are, but I voted a particular way; I did it tactically and it blew up in my face. All I would say is, I have learnt a lesson. Do not listen to your colleagues and say: "Vote tactically because it ..." in fact, Deputy Southern knows exactly which one it is, because he has constantly reminded me of where I voted in a particular way. I regret it. I will tell the public I regret it. But the point is, as I say, we should have the courage of our convictions, stand by what we believe, show integrity and do not show 2 faces, saying to your colleague you are going to go and support them and then vote against them in a secret ballot. No, it is the wrong direction, a retrograde step. Although I do like Deputy Labey, I cannot support him on this.

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

The only thing I agree with what Deputy Higgins said was the *in camera* debates and I will try and explain why. Yes, in 2011 I was persuaded, I was like Deputy Labey said, I said I was not a jelly baby and I really had the courage of my convictions to say I was quite happy to let people know who I voted for. Then I came into the real world. Now this Assembly, we did not even have an election for Chief Minister last time. So then we have the Chief Minister; then we had the Chief Minister's slate. Did those places get contested? Yes, they did. Did anyone get near overturning the Chief Minister's choice on an open ballot? No, they did not. It was a secret ballot the time before. The time before I stood against Senator Le Marquand for Home Affairs and scared myself that I nearly got the job **[Laughter]** but it was a secret ballot. It was not an open ballot. So, what am I saying? It is not about integrity, it is about human beings. It is about your friends, it is not about giving them their vote. This is what the people elected me for and I will stand here and say: "I was wrong in 2011." Because what I do not want, I do not want whoever is the Chief Minister, whoever their slate is, to never be overturned again. This has happened for hundreds of years. Everyone thinks the open ballot came in with Ministers. We used to do this for committees, for



years, and then we would have 6 people on the committee. I have known committees to fall, to get rid of one Member, they have then got their chair back and the vote has gone that they have put the Member back on. Like Deputy Andrew Lewis said, sometimes you then have to work with the people. So, that is why I have changed. I want to know that people can literally vote for the person who gives the best answers on the day, who may be right for the job, but I had it. Last time I challenged Deputy Pinel for Social Security. Maybe I was terrible on the day, I do not know, but I had Members come up to me afterwards, who were in the Council and said: "I could not vote for you." Did not explain any more than that. Truthfully: "Could not vote for you." Maybe they wanted to tell me I was terrible, but it did not feel like that is what they were explaining to me. So, are you allowed to change your mind? Is it a retrograde step? No. If you never want to see somebody who is not a pick of the Chief Minister again get the job of Minister, keep it open. You want the best people for the job and have a chance of really, truly independent elections, we have to close this ballot down. We have to make it secret. It is nothing to do with what else we do in here. It is like the man in the box and where they put their tick. It is sacrosanct. There is no fear, or no favour. You make your choice and you do not have to tell anybody. Why should you? I do not mind if I tell somebody, but I might tell the second person the same thing. That is just the way it is. That is when you go for secrecy, but to me it makes it completely your independent choice, with nobody influencing you. I do not remember the days of Senator Routier when he said when it was secret he used to get nudged one way or the other. Of course he could go in the coffee room, could he not, like I could, with a straight face and say: "I do not know what happened. I voted for you." Except for the case like when a Senator gets one vote. It is very obvious, especially if you are the proposer. But we all walk into it sometimes, or it keeps hitting you over the head. But, no, I absolutely said we need this debate, we put this to bed once and for all. We could not decide on the Sub-Committee of P.P.C., we could not decide around the whole Committee and that is why I stood up and said weeks and weeks ago, and Deputy Labey has brought this, having the debate. History will tell. If we do not go back to secret ballots, I say it again, let us watch the next election for Chief Minister and Ministers. If they stay the same, the slate will go. It will be imposed on this Assembly. Is that what you really want for your electorates? It is not what they put me here for.

#### **2.2.14 Deputy S.Y. Mézec:**

I am glad to follow that speech, because I think there is an underlying point here, which is being missed. The argument that seems to be being made in favour of secret ballots is that we currently operate a secret-party system and therefore to undo some of the negative elements of that, we have to introduce secret ballots. Well, no, I disagree. The way that you fix that is to bring the secret-party system out into the open. The reason that Deputy Martin did not win the vote to be Minister for Social Security is because she is not part of Senator Gorst's party.

[11:30]

That is why. The candidate who did win was and that covert party has a majority in this Assembly and I do not see anything wrong with that. That is a normal way that parliaments work. I just think we should, perhaps, be a bit more open about that and I think the public would benefit from that. I just wish that those Members, who are proposing having secret ballots to somehow mitigate that, I just wait for the penny to drop there and for them to realise that the much smarter way of doing things is to just have this out in the open. I do not want to speak too much on the secret ballot simply because most Members, who have spoken, I think have made the points. The one thing that I will say is - and for whatever reason this part of the proposition is accepted - I will continue to publish my votes for who I vote for, and I would urge all other Members to do that, simply to uphold that principle of accountability and transparency. I just cannot believe here, in 2017, with all of the problems that Jersey democracy has, some people seem to think it will improve things by having more secrecy. It simply does not add up and I think the public would be furious about it. I

do not think they would accept the argument: “We have to have secret ballots because we might hurt people’s feelings if we do not vote for them when they would like us to.” Come on, let us be serious, the public are not going to support that at all. A few Members have spoken to the other parts of this proposition and I want to speak to them, simply because I will be supporting them. Even though I am not backing part (a), and I would not back part (a) if that vote was a secret vote itself, the other parts, I think, are sound. I think it is part (b) about exclusions of relevant Ministers from voting for Scrutiny Panel chairs, I spoke about that in my speech for my amendment. I think that is a sensible way to go forward and I hope Members will be supporting that as the moderate position, compared to what I was proposing before. Part (c) is about reducing the number of Members you need to nominate you to be a candidate for Chief Minister. Again, I completely support that. I think it was unsatisfactory, at the last election, that there was no challenge for Chief Minister and I think to have a wider context would be a positive thing. We know that, in this Assembly, if there is no majority of votes in the first round, then you will knock out the candidate with the least votes and go to the second, third, fourth round, however many times you have to do it. I think that would be positive for the Island to force that debate and have different alternatives out there. So, I will be backing parts (b) and (c), but I urge Members to reject part (a), because I do not think that is necessary. In fact, I would go further and say not only should there not be a secret ballot for Chief Minister, I do not think there should be a ballot at all for Chief Minister. I think it is a role that could be appointed by the Lieutenant Governor. However, the Lieutenant Governor should be appointing the leader of the largest party in parliament to do that; that is how many other parliamentary systems work. You do not need a vote for that, the Lieutenant Governor appoints it. I believe that is what they do in places like Australia and then what happens is that newly-appointed Chief Minister, or Prime Minister, then puts together a programme for Government. There is a vote in the Parliament and if the Parliament votes against it, then the Lieutenant Governor has to find another candidate for heading the Government, based on who will have majority support in the Assembly. That, I think, is a much better way of going about it; a secret ballot is completely unnecessary and anti-democratic, in my view.

**Deputy M. Tadier:**

May I ask a point of order? It just relates to paragraph (c) when it says that a candidate can be selected by 2 elected Members, does that mean 2 plus the candidate or can the candidate also be one of the 2?

**The Deputy Bailiff:**

Well, in terms of the strict wording on the proposition, in theory, the candidate and one elected Member can, because the candidate is obviously an elected Member and is not excluded from the definitional part.

**Deputy G.P. Southern:**

So that would be 24 candidates.

**2.2.15 Senator I.J. Gorst:**

Sausages. Sausages. It is said that the public and those who eat them should never find out how sausages are made and they say the same for laws, because it is complex. This debate this morning has shown that often it is quite messy and there is a large dollop of personality thrown in and I think it is important to remember that when we come to vote on this particular proposal. I want to congratulate the mover of the proposal. He was not his normal theatrical self and I think that was good, because he recognised - he recognised - the balance of the issue that he is asking us to think about. He recognised, as many Members have said, that there can be different outcomes to a vote that is held in private, to one that is held in public. I think he has majored on that and there has

been a lot of toing and froing in the debate today about whether that is right, or not, whether that should be happening, or not. I think it is about time in a lot of areas of how we operate in this Legislature and Government that we are honest with people. There are 2 Members of this Assembly that I could pick out - I am not going to pick them out by name - who have suffered at the hands of quite a significant majority of this Assembly, who have been told things by Members of this Assembly about how they would vote in a particular debate and then voted the other way and I think probably both those Members are still suffering. So, we had one case where the Member went around and spoke to other Members and they said they were going to vote in a particular way and then, on the day of the debate, they did not. We have another Member who Members said: "Oh, yes, you have my support" and they came around the back door and said other things, to other people, that if they did not do something they would vote in a different way and we spoke about that at a previous sitting. It is not acceptable. It is not right. We should vote the same way, whether the vote is private or in public. But, we have to acknowledge, some of us have to do a little bit of soul-searching, that we do not. Or that sometimes we say something to a Member, we tell them we are going to vote in a set way and then we do not. Sometimes, that can be kept confidential, other times it is not. That is not good for democracy. It is not about a party, although the Gorst haircut is maybe explained by the last speaker's comments. It is not about a party; it is not about one's friends. It should be about who we think is honestly the best person for the job. In fact, we even heard that someone put their name forward and nearly got elected, much to their surprise. They were not expecting to be elected. It sounded as though they did not want to be elected. But, they were also surprised when people, who had not voted for them - I was quite astounded by this - people who had not voted for them, after the vote went up to them and said: "Oh well, I would have voted for you. I wanted to vote for you, but I did not." "Could not", even. "Could not." It is not acceptable, that. It is not acceptable, because Members often, and you could call it a politician's disease, we want to have it both ways and that is what we tell the public. This is where Deputy Southern, in some of his speech, was quite spot-on. But we do it with lots of debates. We tell the public we want to stop immigration and then around the back door we come and see Senator Routier and his fellow politicians and say: "Oh, but for this particular constituent I would like to have another licence, please." It is not how we should be operating. We are called upon to make difficult decisions. There is a lot of balance in those difficult decisions and Deputy Labey spoke about that balance when he moved this proposition but we, above all, are accountable to the electorate. Above all, we are accountable to those we serve. We heard, in an earlier debate, that a speaker was not sure whether people were speaking and saying to potential Assistant Ministers before the election for Scrutiny chairmen, but it just was not made public. Members are already speaking to each other about which particular role they want after the election and who they want to have as Assistant Minister and what particular deal they are trying to make in order to get into that position. This is what happens and it influences people's votes when what should be influencing our vote is being held accountable to the public. So, for my part, I accept that a secret, or private, ballot can give a different outcome, but it is for each person, who votes in those elections, to do soul-searching about why they are voting in a particular way, but it is not a reason to return to a secret ballot because we must be held accountable to the public for the way that we vote. Therefore, I cannot support the Deputy's first proposal, nor do I think, going down his list, it is right to reduce the number of Members that a candidate requires in order to stand for election. From your ruling, that would be the candidate and one other. In our system, where there is only one small party, although it might seem with some strange alliance of ... like that buck, it might get larger, who knows? Chief Ministers have to command support in the Assembly and reducing that requirement to show some of that support prior to becoming a candidate, I think, is a backward step as well. We are accountable, we have to accept that, we have to acknowledge it, and it should be a positive thing, not a negative thing that some have suggested. It is all about the appropriate balance and accountability. We are here to serve. We do not do absolutely everything that our constituents

want, but when we vote in a different way, we should rightly stand up and be accountable for how we have voted and that should be on the public record.

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

I have listened carefully to what has been said and there have been many, many issues. We come down basically to, unfortunately, politics itself. I have had the privilege of working in the Parish of St. John in public elections since the early 1980s and I could keep this Assembly entertained until 5.30 p.m. quite happily with the stories, but do not worry. But there is one particular one that comes to mind in which a candidate got his friend to get his best car out of the garage, polish it, cover it in ribbons and he was going to assist the less mobile members of the Parish to the Parish Hall to cast their votes.

[11:45]

The car came up outside the Parish Hall, the Jurat went and sat in the back seat of the car covered in blue and white ribbons, or whatever colours they were, to take the individual's vote. He handed the ballot paper to the elderly gentleman who then lent forward and tapped the driver and said: "Which one am I meant to vote for?" It illustrates a position where no matter how carefully you lobby, at the end of the day the individual needs to make his own mind up. We have heard it said there is a difference between open votes and secret ballots, that the results are different and that reflects very sadly on the integrity of this Assembly. Personally, I believe that we either elect the Chief Minister and Ministers by secret ballot, that is one way, or the alternative is that the Chief Minister appoints his Ministers as they do at Westminster. Those are the 2. What we have at the moment is something in the middle with a bit of a mishmash, which probably is playing to the gallery, or whatever. What is needed, and I was quite amused by the speaker in the previous debate when he said: "There needs to be more discussion." It is quite interesting, because when a Back-Bencher brings a proposition - and I applaud Deputy Labey for doing this - we hear the Minister say: "This is a good idea, but it needs more discussion." When the Minister, or Council of Ministers, bring a proposition, we are told: "We have fully discussed this. We have investigated it; we have taken all sorts of soundings; we have had professional advice" but it has not ever been with the rest of the Assembly and that is where the problem lies. There is a divide and we need to have an inclusive Government and there needs to be more discussion. I am torn in 2 ways how to vote. One is to say it should be a secret ballot, because that way you get the best result, versus the other way it should be an open vote and the individuals will have to face their electorate, because at the end of the day that is the ultimate: "Why did you vote for that silly idiot? I saw you voting for him being Minister of whatever." That does and can lose votes. I am going to support, I think, on balance, the proposition, because at the end of the day, what we want is the best candidate and we do not want influences that take place. I know that there is arm-twisting that goes on in the background. That is human nature. As long as there is arm-twisting, there is not a free and open ballot. The position of Chief Minister and of Ministers, while being extremely important, they are not policy decisions that directly affect the public. The public wants to know: "How did you vote for the taxis? How did you vote for the flooding of Queen's Valley? How did you vote for the regeneration of La Collette low-rise?" Those are the day-to-day influences of individuals and they want to know how their representatives, how their candidates voted, but I think for the officers of the Council of Ministers and those outlined in the proposition it must be done without arm-twisting, on a free and open basis, so I will be supporting the proposition.

### **2.2.17 Deputy M.J. Norton of St. Brelade:**

My apologies for those whose speeches I missed earlier this morning. I was delighted to be able to come in when Deputy Brée, to my right, was speaking and I concur a great deal with many of the points that he was making. Interesting that the previous speaker wants things without arm-twisting

in an open way with a secret vote, that has confused me even more. Like many, I would like to congratulate Deputy Labey of St. Helier for bringing this proposition, because I feel that the debate has been extremely worthwhile and has allowed many Members to vent their feelings on integrity, on openness, or not, as the case may be. I do take the point about political patronage and the public “cosying up” I think is a word that is within the proposition, or a term that is in the proposition and that we should, perhaps, have a better outcome by having a secret ballot. I do accept that voting may well be slightly different. I do not think it will be dramatically different, it may be slightly different, and that may be the one or 2 votes that would tip the balance either way. But to think that there is no arm-twisting outside of this Assembly, whether it be in the coffee room, or the Royal Square, or in other buildings, other departments, before the election of anyone to any post within this Assembly would be completely naïve. We all talk, we all send text messages, we all send emails, we all have a little cabal where we can all sit around and discuss what we would do in the perfect world and who we would work with. To think that we do not and that we will come in here with a completely open mind and my mind will be completely swayed by 2 candidates that may stand before us, I would like to think that those candidates will, of course, put on their best performance and I would like to think that my mind is not totally made up, as it has not been on many votes, but it happens. To think that it does not happen and to pretend that it does not happen is just a little bit naïve. Who does the secret ballot make it easier for? For the public? No, because the public do not know who put you in there. It makes it easier for us and that is, of course, what we are trying to do here, is it not, make it easier for ourselves? Let us have a secret vote, so that we do not have to say who we have voted for, so we cannot stand up and be counted for who we can blame, for who we put into office. We must stand up, we must be counted. We must be accountable for every vote that we give within this Assembly. The operation of this Assembly is up to us, so for that, as much as I understand why and I appreciate why the proposer has brought this proposition, I cannot support it, because you have to stand by the openness and the progress that we have made towards openness and that progression that must continue. Unfortunately, a secret ballot and going back to it would be a retrograde step. For that reason, I give my apologies to the proposer for not supporting him, but I give you my reasons why, by standing up and being counted, as I would do so on all occasions.

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

I listened with interest to the speech of Deputy Judy Martin and I have to say that, on this occasion, I agreed with a great deal of what she had to say. The same applies to the Connétable of St. John. I think the focus today needs to be very much on outcome, because that is really what the electorate would expect from us. By that, I mean that we need to think very carefully about what we wish to achieve by the vote today. Now, by maintaining a secret ballot, I believe that, without doubt, will give the best outcome in terms of the best candidate for the job. Indeed, it was a point that the Chief Minister himself made. He said that he accepted a different outcome would result via a secret ballot as opposed to an open and transparent ballot. I thoroughly agree with him. Other Members have made good points about transparency, openness, accountability and so on and so forth, but it is not for any other reason than to simply say we must, in my view, ensure, to serve the public in the best way possible, that we elect the best people for the job. That is why I believe the secret ballot on this occasion is right. It is not surprising, therefore, that if we look elsewhere, as I believe the proposer of this proposition made the point in his opening remarks, that other governments, when electing party leaders, prime ministers and so on also do so through the process of a secret ballot. There are other points, of course, worth making. I have been in this Assembly for a number of years. I have been there when there was a secret ballot and I have been here when there has not been one. Of course I have seen what goes on in the coffee room and around and about in the lead-up to such elections. Promises are made. It is difficult when serving for long periods with other Members. Friendships, obviously, get in the way of sometimes making the right

decision. That is not how it should be, but that is human nature and that is why it is important, in my view, to remove the human nature issue from this, to ensure that we get the right people elected to do the right job. I like Deputy Labey and on this occasion I am going to not just like him, I am going to support him, because I think it is the right thing to do in the interests of the public. I have noted a number of Members have said they are not going to support his proposition today for very well-made reasons. I would hope, on this occasion, that one, or 2, of them, who have perhaps made u-turns in the past may do so for the right reason today and change their minds and come with Deputy Labey, myself and hopefully others in supporting his proposition - certainly the first part of the proposition - for the right reason, to ensure we get the best possible outcome for the Island. I would make one other point on the other points that are contained within the proposition. You have given a ruling with regard to nominations, only 2 Members. I was slightly concerned. I understand the principle, but just if it is one Member plus one other, it does concern me slightly. I think, frankly, we would be in a better position, therefore, if we maintained the existing *status quo* with regard to nominations. I would hope ...

**The Deputy Bailiff:**

I am sorry, I think with Deputy Noel going, we have become inquorate.

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

I do find it surprising other Members do not wish to listen to what I have to say and I hope that they are doing so attentively in the coffee room. But I was just making the point about the numbers of Members that would need to nominate a potential candidate for Chief Minister. I think the existing *status quo* would be better to be maintained, rather than the uncertainty created by what we have in the proposition, where it may, indeed, just be one Member and a friend, which all being well, I think is probably a bit on the light side. That said, I will support the rest of the measures in the proposition. I congratulate the Deputy for bringing it forward and I hope Members will also be supportive for the reasons that I have laid out.

**2.2.19 Deputy P.D. McLinton of St. Saviour:**

I was going to keep silent on this, as I am reminded sometimes we are not paid by the word in here, but if we were, some people would be multi-millionaires for the wrong reasons. But a sentence just flashed through my mind, which I think might get to the crux of this. It is that an open ballot appears honest, but runs the risk of not being honest, peer pressure and a secret ballot appears dishonest, but at times, in this environment, can be as honest as you can be, with no peer pressure. This debate is down to courage of conviction, whether you have the courage of your own conviction to vote in the direction. That is what we are debating here today.

[12:00]

Do I have the courage of conviction to vote against a friend of mine, somebody who has been leaning on me and to have that on record, or do I not risk my social standing, my standing within this Assembly, by going against that conviction, or will the secret ballot allow me to be truly honest by the way that I vote and not be judged into the future of my political career? I have really been swaying on this one for all the above reasons. It is down to that honesty, it is down to how we best serve the public. Yes, Deputy Norton said it is about the public and it is about not serving ourselves, but the ability to be completely honest, can it be best served if we can push a button without being judged on which button we push, which box we tick? Unbelievably, every time I have heard a speech I have gone: "Oh yes, I am going to vote for - oh yes, I am going to vote against." It is really flip-flopping in my head. I am still waiting to decide, but right now, secrecy allowing complete honesty with one's intention seems to be the way that I have started to think. I am not confirming anything yet, Deputy, but I am starting to err in that direction.

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

The issue seems very straightforward to me. I stood as the Scrutiny Panel Chairman at the beginning of this term. I noted who voted for and who against me. Some Members afterwards came up to me and said: “Very good speech, David, but I preferred to vote for the other candidate, because he was already in office and knew the ropes better.” Very plausible reason. Anyone taking office, or coming to the Assembly, must understand that he, or she, is going to win approval, or not. If they do not win approval, it should not be taken as a personal insult. If they have any contrary view, they should not even seek office. It must be that we continue to have an open vote, otherwise the public will be severely disappointed. That is all I have to say.

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

Just reflecting back to 2008, when I first stood for office, and I made a promise - only one promise - to the electorate in St. Peter and that was to do my best for the parishioners of St. Peter and hopefully the population of the Island as a whole. The one thing that enables me to keep that promise is to ensure that when we come in to elect our Ministers and Chief Ministers that we elect the right person that is going to serve the Island best, therefore I am compelled, unfortunately, to go with - not unfortunately at all - the proposition, because in that regard I believe we are more likely to get the best person for the job, rather than somebody that we want to try and influence, to favour ourselves individually. I support the proposition.

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

I think that an open ballot system for this sort of voting is potentially more divisive. I have served in this Assembly where we have had both and I must confess to being a bit surprised at votes, a bit disappointed at votes. I have been surprised that some people did not vote for me when I felt that they should have done. **[Laughter]** Other Members do not appear to be surprised, but I was: a feeling other Members know well. I will be open about this, I found myself maybe perhaps carrying that disappointment for a bit longer than I should have done. I do not see any advantage to doing that. I am not sure what it achieves. I think if a lot of Members are honest, especially those that have been voted into office by this Assembly, I think Members do carry a little bit of a disappointment with them. I do not think that is productive at all. I am still undecided. I am leaning towards supporting Deputy Labey, because I think on certain issues, when we vote among ourselves, we should be able to do so with a complete clear conscience, without fear of retribution. When I say retribution, it might be very subtle retribution, but we should be free of that. Of course, when we vote on all other matters, I believe in full openness. I think we should end *in camera* debates wherever possible, but on this one, I think I am leaning towards supporting it.

### **The Deputy Bailiff:**

Does any other Member wish to speak on the proposition? I call on Deputy Labey.

### **2.2.23 Deputy R. Labey:**

Senator Green is the nicest man in this building and I remember my first week in this Assembly and I say that because, as a senior Member of this House, he was so warm and welcoming and made sure he came over to see new Members and shake their hand and what have you. Just like your first day at school, or work, you never forget those people that do that. When I did not vote for him as Minister for Health, I felt terrible. I remember going to see Senator Green and I said: “Andrew, I am terribly sorry, but I backed Senator Cameron for the Minister for Health” and he stopped me there. He said: “Russell, I do not even look at who votes with me on these occasions, or any others.” I thought to myself: “That is a lesson, Russell. You could have kept your trap shut again and got away with it and you did not.” **[Laughter]** I would like to thank Members for taking part in this debate. Just thinking back to that time, as part of the new intake of the class of 2014, I think

people have probably gathered by now that I am no shrinking violet, but I found voting for some of those positions completely terrifying. I suppose I am a different person now, but they are difficult decisions. But the trouble with making a speech the night before is that people tend to forget what you said. I was at pains to point out to Deputy Brée and others that I was making no accusation that any single Member of this House today ... I said all 49 have no problem in standing up and being counted for the decisions they make. I stand by that. It is not about that. I would say to Deputy Tadier: "Be careful how you flash that Care Inquiry report around and how you use it." In some cases, possibly this debate, it is grotesque to do it, because we must not devalue the currency of the Inquiry findings, no matter how passionate we feel on certain issues. We have seen a lot of passion today. I am going to try and keep this very short, because the nub of the matter, I suppose I was trying not to reveal too much of it on the issue of the secret ballot, because I did not want to let Senator Gorst, the Chief Minister, and others into it, but they have already got there, they are already with me. The point is this: people do vote differently between closed ballots and open ballots and generally the people who benefit from the open ballot are the ones in power. I have not colluded with Deputy Martin, and I was so pleased that she said what she did in her speech. I like to see - and Deputy Andrew Lewis touched on it too - things mixed up a bit on the Council of Ministers. I think it is healthy. We are supposed to be inclusive. I do not want to see, I am afraid, the Chief Minister's candidates for all the ministerial roles getting in. I would rather see it mixed up. I think that is healthier. That is at the root of the reason for my making this proposition. Senator Ozouf missed, unfortunately, my speech last night, but I did touch on making the message. Senator Ozouf, when he puts his mind to it - and I have shared a platform with him - is brilliant at convincing people. When he is on form, he is on fire with convincing people of especially an unpopular policy. I have watched him do it and he is brilliant. It is a shame that that has not infected the rest of how we all communicate with the public on various issues, good and bad. We have all spoken of this before now: communications are not what they should be. All I can say to the Senator is I took some flak when I put the proposition in. I spent a lot of time messaging people, talking to them, posting on social media, what have you. I got 100 per cent reasonable responses back, not everybody agreeing, some saying: "Okay, thanks for explaining your motives. I understand, I agree. Thanks for explaining. I am afraid we part company. I cannot agree with you." It can be done. We just need to be better at explaining it to people. Just this little issue of the 2 nominations for a Chief Minister. Good luck, I would say, if that is your ruling. Good luck I say to the senatorial candidate who nominates himself, because I do not think he is going to get very far. It is a tricky one to explain to people. It is a tricky debate. There have been some excellent speeches in opposition to what I am trying to do and I do appreciate them, but it is one vote at the very beginning of a session. Weird as it may seem, Deputy Truscott, the reason for the secret ballot is to stop the smoke and mirrors, because you get more smoke and mirrors behind the scenes when people can know how you are going to vote. The secret ballot is to stop the favouritism, nepotism, preferential treatment, cronyism, pork barrelling and what have you. In that respect - and I know this is a hard principle to sell - it is more democratic, it is more helpful. There is no problem in any Minister, in any Member of this House telling their electorate how they voted. It is this issue, really, about the electorate knowing how we vote, or is it about people in here wanting to know how other people have voted, conscious, or subconscious, marking of a card? That is what worries me. I think we get a better result when we go in secret on this one occasion. Deputy Brée, you might have missed that very early in my speech last night, I said I find it much more offensive that we go *in camera* still in this House in 2017. But this, as weird as it may seem, the secret ballot is safer, it is better and it comes up with better results for the people we serve. I maintain the proposition. I ask for the appel and individually on each item.

### **The Deputy Bailiff:**



How would you like to take the vote on this, Deputy? You can take it under paragraphs (a), (b), (c) and (d) or I think on a proper construction, it is possible to take (a)(i), (a)(ii), (a)(iii), (a)(iv) separately as well, because they can stand alone.

**Deputy R. Labey:**

Could we take (a)(i) ... (a), (b), (c), (d)?

**The Deputy Bailiff:**

Very well. The first vote then is on the adoption of the proposition insofar as it is paragraph (a). Those in favour of ... the appel is called for. I invite any Members not in the Chamber to return to their seats. I ask the Greffier to ...

**Deputy A.D. Lewis:**

If I may, I think the Deputy was about to say that there are a number of people here, I think, today that are concerned about the open ballot for Chief Minister as against an open ballot for Ministers, hence I think the reason why the Deputy was going to suggest that (a)(i) could be taken separately to the other items.

**The Deputy Bailiff:**

I took the Deputy to change his mind on that and say he would take (a) separately, but it is open to any Member to ask for a provision to be taken separately.

**Deputy R. Labey:**

If it is possible to take (a)(i) separately.

**The Deputy Bailiff:**

Then (a)(ii), (iii), (vi), (v) and (vi) together?

**Deputy R. Labey:**

Yes, Sir.

**The Deputy Bailiff:**

Yes, it is possible to do that, in my view. Yes, Deputy.

**Deputy M. Tadier:**

I was just going to ask, has that been done before, Sir? It is useful to know that that can be done, but I have never seen the individual Roman numerals being divided up for a vote.

**The Deputy Bailiff:**

I think it depends upon what sense can be made of the overall paragraph if you take a Roman numeral out. That is often why that cannot be done. In my view, it is quite possible to remove a sub-paragraph and still make sense of the overall paragraph (a). Accordingly, that is the way I will accept the vote being taken on this occasion. If it is wrong, obviously I will be corrected on a future occasion, but that is how I interpret the matter at the moment.

[12:15]

**Deputy M. Tadier:**

That is useful to know. Could I ask the mover if it is up to him to take all of the Roman numerals separately? Because it has been suggested that, for example, (vi) is something which might be relevant and the rest of them no doubt may also be relevant.

**Deputy R. Labey:**

I would prefer just to take (a)(i) and then the rest together, but ...

**Deputy M. Tadier:**

Senator Ozouf in particular raised concerns that the Planning Committee chairman should be done specifically publicly and we could be in a strange situation where there were strong arguments for (iii), (iv) and (v) to remain secret, but for (vi) to remain open. I would ask the mover to at least ask for (vi) to be taken separately, (i) and (vi).

**The Deputy Bailiff:**

Deputy, it is open to any Member of the Assembly to ask for a separate provision to be taken separately, so if you wish a particular one to be taken separately, it can be taken separately.

**Deputy M. Tadier:**

In that case, Sir, I would like to ask that they all be taken separately.

**The Deputy Bailiff:**

Very well. The first vote then is ... is the appel still called for? It is. The first vote is on paragraph (a)(i). Those in favour, obviously you press pour. I ask the Greffier to open the voting.

<b>POUR: 19</b>	<b>CONTRE: 24</b>	<b>ABSTAIN: 0</b>
Senator A.J.H. Maclean	Senator P.F. Routier	
Senator L.J. Farnham	Senator P.F.C. Ozouf	
Senator S.C. Ferguson	Senator I.J. Gorst	
Connétable of St. Helier	Senator A.K.F. Green	
Connétable of St. Clement	Connétable of St. Ouen	
Connétable of St. Peter	Connétable of St. Brelade	
Connétable of St. Mary	Connétable of St. Martin	
Connétable of St. Saviour	Connétable of Trinity	
Connétable of Grouville	Deputy G.P. Southern (H)	
Connétable of St. John	Deputy J.A. Hilton (H)	
Deputy J.A. Martin (H)	Deputy of Trinity	
Deputy of Grouville	Deputy M. Tadier (B)	
Deputy J.A.N. Le Fondré (L)	Deputy of St. John	
Deputy K.C. Lewis (S)	Deputy M.R. Higgins (H)	
Deputy A.D. Lewis (H)	Deputy J.M. Maçon (S)	
Deputy L.M.C. Doublet (S)	Deputy of St. Martin	
Deputy R. Labey (H)	Deputy R.G. Bryans (H)	
Deputy T.A. McDonald (S)	Deputy of St. Peter	
Deputy P.D. McLinton (S)	Deputy R.J. Rondel (H)	
	Deputy S.Y. Mézec (H)	
	Deputy S.M. Bree (C)	
	Deputy M.J. Norton (B)	
	Deputy of St. Mary	
	Deputy G.J. Truscott (B)	

**The Deputy Bailiff:**

The vote then is on (a)(ii) in relation to Ministers. I ask the Greffier to open the voting.

<b>POUR: 15</b>	<b>CONTRE: 28</b>	<b>ABSTAIN: 0</b>
Senator A.J.H. Maclean	Senator P.F. Routier	
Senator L.J. Farnham	Senator P.F.C. Ozouf	

Senator S.C. Ferguson	Senator I.J. Gorst	
Connétable of St. Helier	Senator A.K.F. Green	
Connétable of St. Clement	Connétable of St. Ouen	
Connétable of St. Peter	Connétable of St. Brelade	
Connétable of St. Mary	Connétable of St. Martin	
Connétable of Grouville	Connétable of St. Saviour	
Connétable of St. John	Connétable of Trinity	
Deputy J.A. Martin (H)	Deputy G.P. Southern (H)	
Deputy of Grouville	Deputy J.A. Hilton (H)	
Deputy J.A.N. Le Fondré (L)	Deputy of Trinity	
Deputy K.C. Lewis (S)	Deputy M. Tadier (B)	
Deputy A.D. Lewis (H)	Deputy of St. John	
Deputy L.M.C. Doublet (S)	Deputy M.R. Higgins (H)	
	Deputy J.M. Maçon (S)	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy R.J. Rondel (H)	
	Deputy S.Y. Mézec (H)	
	Deputy R. Labey (H)	
	Deputy S.M. Bree (C)	
	Deputy M.J. Norton (B)	
	Deputy T.A. McDonald (S)	
	Deputy of St. Mary	
	Deputy G.J. Truscott (B)	
	Deputy P.D. McLinton (S)	

### The Deputy Bailiff:

We vote now on (a)(iii), Scrutiny Panel chairmen, and I ask the Greffier to opening the voting.

<b>POUR: 13</b>	<b>CONTRE: 30</b>	<b>ABSTAIN: 0</b>
Senator P.F.C. Ozouf	Senator P.F. Routier	
Senator A.J.H. Maclean	Senator I.J. Gorst	
Senator L.J. Farnham	Senator A.K.F. Green	
Senator S.C. Ferguson	Connétable of St. Clement	
Connétable of St. Helier	Connétable of St. Ouen	
Connétable of St. Peter	Connétable of St. Brelade	
Connétable of St. Mary	Connétable of St. Martin	
Connétable of St. John	Connétable of St. Saviour	
Deputy J.A. Martin (H)	Connétable of Grouville	
Deputy of Grouville	Connétable of Trinity	
Deputy K.C. Lewis (S)	Deputy G.P. Southern (H)	
Deputy A.D. Lewis (H)	Deputy J.A. Hilton (H)	
Deputy L.M.C. Doublet (S)	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy M. Tadier (B)	
	Deputy of St. John	
	Deputy M.R. Higgins (H)	
	Deputy J.M. Maçon (S)	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	

	Deputy R.J. Rondel (H)	
	Deputy S.Y. Mézec (H)	
	Deputy R. Labey (H)	
	Deputy S.M. Bree (C)	
	Deputy M.J. Norton (B)	
	Deputy T.A. McDonald (S)	
	Deputy of St. Mary	
	Deputy G.J. Truscott (B)	
	Deputy P.D. McLinton (S)	

**The Deputy Bailiff:**

We now come on to (a)(iv), chairman of the Privileges and Procedures Committee. I ask the Greffier to open the voting.

<b>POUR: 12</b>	<b>CONTRE: 30</b>	<b>ABSTAIN: 0</b>
Senator P.F.C. Ozouf	Senator P.F. Routier	
Senator A.J.H. Maclean	Senator I.J. Gorst	
Senator L.J. Farnham	Senator A.K.F. Green	
Senator S.C. Ferguson	Connétable of St. Clement	
Connétable of St. Helier	Connétable of St. Ouen	
Connétable of St. Peter	Connétable of St. Brelade	
Deputy J.A. Martin (H)	Connétable of St. Martin	
Deputy of Grouville	Connétable of St. Saviour	
Deputy J.A.N. Le Fondré (L)	Connétable of Grouville	
Deputy K.C. Lewis (S)	Connétable of St. John	
Deputy L.M.C. Doublet (S)	Connétable of Trinity	
Deputy R. Labey (H)	Deputy G.P. Southern (H)	
	Deputy J.A. Hilton (H)	
	Deputy of Trinity	
	Deputy M. Tadier (B)	
	Deputy of St. John	
	Deputy M.R. Higgins (H)	
	Deputy J.M. Maçon (S)	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy R.J. Rondel (H)	
	Deputy S.Y. Mézec (H)	
	Deputy A.D. Lewis (H)	
	Deputy S.M. Bree (C)	
	Deputy M.J. Norton (B)	
	Deputy T.A. McDonald (S)	
	Deputy of St. Mary	
	Deputy G.J. Truscott (B)	
	Deputy P.D. McLinton (S)	

**The Deputy Bailiff:**

We come on to (a)(v), the chairman of the Public Accounts Committee. I ask the Greffier to open the voting.

<b>POUR: 11</b>	<b>CONTRE: 31</b>	<b>ABSTAIN: 0</b>
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Senator P.F.C. Ozouf	Senator P.F. Routier	
Senator A.J.H. Maclean	Senator I.J. Gorst	
Senator L.J. Farnham	Senator A.K.F. Green	
Senator S.C. Ferguson	Connétable of St. Clement	
Connétable of St. Helier	Connétable of St. Ouen	
Connétable of St. Peter	Connétable of St. Brelade	
Connétable of St. John	Connétable of St. Martin	
Deputy of Grouville	Connétable of St. Saviour	
Deputy K.C. Lewis (S)	Connétable of Grouville	
Deputy A.D. Lewis (H)	Connétable of Trinity	
Deputy L.M.C. Doublet (S)	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy M. Tadier (B)	
	Deputy of St. John	
	Deputy M.R. Higgins (H)	
	Deputy J.M. Maçon (S)	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy R.J. Rondel (H)	
	Deputy S.Y. Mézec (H)	
	Deputy R. Labey (H)	
	Deputy S.M. Bree (C)	
	Deputy M.J. Norton (B)	
	Deputy T.A. McDonald (S)	
	Deputy of St. Mary	
	Deputy G.J. Truscott (B)	
	Deputy P.D. McLinton (S)	

### The Deputy Bailiff:

Lastly under (a), (a)(vi), chairman of the Planning Committee. I ask the Greffier to open the voting.

<b>POUR: 9</b>	<b>CONTRE: 32</b>	<b>ABSTAIN: 0</b>
Senator A.J.H. Maclean	Senator P.F. Routier	
Senator L.J. Farnham	Senator P.F.C. Ozouf	
Senator S.C. Ferguson	Senator I.J. Gorst	
Connétable of St. Helier	Senator A.K.F. Green	
Connétable of St. Peter	Connétable of St. Clement	
Deputy of Grouville	Connétable of St. Brelade	
Deputy K.C. Lewis (S)	Connétable of St. Martin	
Deputy A.D. Lewis (H)	Connétable of St. Saviour	
Deputy L.M.C. Doublet (S)	Connétable of Grouville	
	Connétable of St. John	
	Connétable of Trinity	
	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	

	Deputy of Trinity	
	Deputy M. Tadier (B)	
	Deputy of St. John	
	Deputy M.R. Higgins (H)	
	Deputy J.M. Maçon (S)	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy R.J. Rondel (H)	
	Deputy S.Y. Mézec (H)	
	Deputy R. Labey (H)	
	Deputy S.M. Bree (C)	
	Deputy M.J. Norton (B)	
	Deputy T.A. McDonald (S)	
	Deputy of St. Mary	
	Deputy G.J. Truscott (B)	
	Deputy P.D. McLinton (S)	

### The Deputy Bailiff:

We now have the vote on (b) and I ask the Greffier to open the voting.

<b>POUR: 33</b>	<b>CONTRE: 10</b>	<b>ABSTAIN: 0</b>
Senator A.J.H. Maclean	Senator P.F. Routier	
Senator I.J. Gorst	Senator P.F.C. Ozouf	
Senator L.J. Farnham	Senator A.K.F. Green	
Senator S.C. Ferguson	Connétable of St. Clement	
Connétable of St. Helier	Connétable of St. Ouen	
Connétable of St. Peter	Deputy G.P. Southern (H)	
Connétable of St. Mary	Deputy M. Tadier (B)	
Connétable of St. Brelade	Deputy of St. John	
Connétable of St. Martin	Deputy M.J. Norton (B)	
Connétable of St. Saviour	Deputy G.J. Truscott (B)	
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy K.C. Lewis (S)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		
Deputy S.Y. Mézec (H)		
Deputy A.D. Lewis (H)		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Bree (C)		

Deputy T.A. McDonald (S)		
Deputy of St. Mary		
Deputy P.D. McLinton (S)		

**The Deputy Bailiff:**

We come on to vote on (c) and I ask the Greffier to open the voting.

<b>POUR: 16</b>	<b>CONTRE: 27</b>	<b>ABSTAIN: 0</b>
Senator S.C. Ferguson	Senator P.F. Routier	
Connétable of St. Helier	Senator P.F.C. Ozouf	
Connétable of St. Brelade	Senator A.J.H. Maclean	
Deputy J.A. Martin (H)	Senator I.J. Gorst	
Deputy of Grouville	Senator L.J. Farnham	
Deputy of St. John	Senator A.K.F. Green	
Deputy M.R. Higgins (H)	Connétable of St. Clement	
Deputy J.M. Maçon (S)	Connétable of St. Peter	
Deputy S.Y. Mézec (H)	Connétable of St. Mary	
Deputy A.D. Lewis (H)	Connétable of St. Ouen	
Deputy L.M.C. Doublet (S)	Connétable of St. Martin	
Deputy R. Labey (H)	Connétable of St. Saviour	
Deputy S.M. Bree (C)	Connétable of Grouville	
Deputy T.A. McDonald (S)	Connétable of St. John	
Deputy of St. Mary	Connétable of Trinity	
Deputy P.D. McLinton (S)	Deputy G.P. Southern (H)	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy K.C. Lewis (S)	
	Deputy M. Tadier (B)	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy R.J. Rondel (H)	
	Deputy M.J. Norton (B)	
	Deputy G.J. Truscott (B)	

**The Deputy Bailiff:**

Lastly, on paragraph (d), I ask the Greffier to open the voting.

<b>POUR: 39</b>	<b>CONTRE: 4</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier	Deputy G.P. Southern (H)	
Senator P.F.C. Ozouf	Deputy M. Tadier (B)	
Senator A.J.H. Maclean	Deputy of St. John	
Senator I.J. Gorst	Deputy M.J. Norton (B)	
Senator L.J. Farnham		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Mary		

Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy K.C. Lewis (S)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		
Deputy S.Y. Mézec (H)		
Deputy A.D. Lewis (H)		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Bree (C)		
Deputy T.A. McDonald (S)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy P.D. McLinton (S)		

### **3. Draft Sea Fisheries (Trawling, Netting and Dredging) (Amendment No. 4) (Jersey) Regulations 201- (P.74/2017)**

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

Very well. The next item is the Draft Sea Fisheries (Trawling, Netting and Dredging) (Amendment No. 4) (Jersey) Regulations, lodged by the Minister for the Environment. I ask the Greffier to read the citation.

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

Draft Sea Fisheries (Trawling, Netting and Dredging) (Amendment No. 4) (Jersey) Regulations 201-. The States, in pursuance of Articles 2 and 29 of the Sea Fisheries (Jersey) Law 1994, have made the following Regulations.

#### **3.1 The Deputy of St. Martin (The Minister for the Environment):**

It is a pleasure to be able to provide some light relief between Deputy Labey's electoral reform propositions. The Sea Fisheries (Trawling, Netting and Dredging) (Jersey) Regulations 201- is the regulation which controls the design and use of fishing trawls, net and dredges within Jersey's territorial seas for fisheries management purposes. The proposed amendment to the Regulations is required to fulfil a fisheries management decision made through the Bay of Granville Agreement by the Joint Management Committee and to fulfil the Island's obligations to multilateral environmental agreements such as O.S.P.A.R. (Oil Spill Prevention, Administration and Response), Ramsar and the Convention on Biological Diversity. Trawling and dredging for fish and shellfish



can disrupt seabed habitats, leading to changes in sediment properties, biodiversity and productivity. The result can be a reduction in the overall health of the seabed habitat and most importantly including an ability to act as a nursery area for key species. The offshore reefs of Les Écréhous and Les Minquiers are internationally recognised for their important wildlife, as well as the local fishing and tourism industries. Since 2010, surveying by the States of Jersey and local non-government organisations have identified the presence of key seabed habitats within both reefs. These include extensive sea grass meadows, maerl beds and kelp forests. It was agreed by the Department for the Environment and its associated stakeholder group, the Marine Resources Panel, that restrictions were needed at the Écréhous and the Minquiers on trawling and dredging to protect these habitats. As well as safeguarding sensitive species and habitats, this move will protect key nursery areas for many commercial species of fish and shellfish and so will assist with sustainability within the local fishing industry. The Écréhous and the Minquiers are located outside Jersey's 3-mile exclusive fishing limit and in a part of the territorial sea that is covered by the agreement concerning fishing in the Bay of Granville. The Bay of Granville agreement sets out the relationship for the management of fishing between both France and Jersey in waters around Jersey and the adjacent French coast. Under that agreement, proposals to protect marine resources, the impact on local fishing activity, must be considered and discussed by both the Joint Advisory and the Joint Management Committees, as defined by the Bay of Granville Agreement. The principle and extent of the proposed restricted areas and their boundaries were discussed by both committees and there was agreement for the need for this protection. In February of this year, the Joint Advisory Committee recommended the implementation of 2 defined zones where the use of trawls and dredges would be prohibited. This recommendation was subsequently endorsed and approved by the Joint Management Committee. As these management measures apply in Jersey waters, the appropriate law drafting is only required by Jersey. The proposed restricted zone at the Écréhous will cover 15 square kilometres and encompass the reef's central intertidal area and its shallow marine key habitats, which include sea grass, very importantly maerl beds, and kelp forests. The proposed zone at the Minquiers will cover 47.5 square kilometres and will encompass the majority of the reef's intertidal area and its shallow marine habitats, which include sea grass again and extensive kelp forests. The addition of these 2 zones to the existing no mobile gear zones brings the total area where trawling and dredging is prohibited within Jersey's waters to just over 150 square kilometres. The introduction of these restrictions at both reefs has been welcomed by a variety of organisations, including the Jersey Fishermen's Association, the Société Jersiaise and the Blue Marine Foundation. As the seabed areas at both reefs are generally in good ecological health, this move is seen as being proactive against a recent trend, driven by improved technology, towards increasing dredging and trawling in very shallow waters. It should be noted that proposed restrictions affect only the use of trawls and dredges. Static gear, such as lobster and whelk pots, nets and line fishing will be unaffected. The amendment will also not affect scuba divers, or restrict access to the reef by leisure boats, kayakers, jet skis, or others. This amendment is a major step forward in recognising and protecting the sensitive marine habitats and species associated with the Écréhous and the Minquiers and it will also form a part of Jersey's commitment to creating a sustainable fishing industry that can support the long-term needs of the Island's commercial and recreational fishing sectors. I commend the principles to the House.

**The Deputy Bailiff:**

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

**3.1.1 Senator A.K.F. Green:**

I would really just like to stand up and thank the Minister for doing this. Some Members may know I am a scuba diver and I have seen the damage, indiscriminate, that trawling can do. I have

dived the seabed around the Minquiers, doing a survey for the Marine Conservation Society, where we found the oldest fan coral ever found - and the biggest - in the U.K. That could be wiped out in a second by dredging going through it. I have seen the seabed before dredges have been through and I have seen it after and it is totally devastating and indiscriminate. As the Minister says, it will also protect species for breeding and so on. For me, dredging is akin to ploughing the field with the cows still in it and no farmer would do that. Therefore, I am very grateful to support the Minister for bringing this forward.

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

While I am happy to support the proposal, I do have concerns on a related matter, which I would like the Minister to address. This is the increased number of R.I.B.s (rigid-inflatable boats) making short daily trips to the Écréhous, in particular. Can I ask the Minister if he shares those concerns and whether it is something he is considering introducing any restrictions on the number of such vessels that can make those trips?

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

About 20 or 30 years ago, while holidaying in the South of France, I discovered the Ile de Porquerolles, a small group of islands off the south coast of France, of which 80 per cent of them were purchased by the French Government in 1971 and became part of the French National Park, a system which has progressed steadily over the years.

[12:30]

While the South of France and the Mediterranean is generally beautiful along the coastline, it can become barren and disappointing as you get a bit further up, because of the high usage of vessels in the area, except for this one area, the Porquerolles, which are like a tropical paradise. Not only has it conserved conservation and wildlife, but it has become an incredibly popular tourism destination area, so I think that said more than enough to show that the States supporting these moves is a very good idea. It will only enhance the whole area for wildlife and for Islanders alike.

### **3.1.4 Deputy M. Tadier:**

I am following on from Senator Green's comments, who obviously speaks from a point of knowledge and experience. I suppose the question to the Minister is: does this legislation go far enough and does he have plans in future, given the comments - which I think most of us would probably agree with - on dredging? I think similar arguments can be made for the relatively indiscriminate way that trawling works, and if not indiscriminate, certainly it is not really sustainable in the global scheme of things when, potentially, in a few years, we will be facing the extinction of certain types of fish, which in the past were plentiful. Is it time that we ban dredging in all Jersey waters? I understand the analogy of ploughing a field while the cow is still in it, but of course the key difference is that when you dredge, you are trying to catch not the cow, but you are trying to catch the fish, but so much destruction is done with that and it is disproportionate. I hope that this is perhaps the first step. No doubt it will need delicate diplomacy from the Minister and his team to talk to the fishermen who may still use these techniques, but I think, at some point, we, as a world community, need to face up to the fact that these fishing techniques are not sustainable and that, increasingly, we probably do need to look to sustainable, but also subsistence fishing increasingly. I think that means that as we have more discerning consumers, people will accept that they may have to pay more for the fish that they get in the supermarkets, but that they can rest assured that it is done to ensure that stocks survive in the long term.

### **The Deputy Bailiff:**

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

### 3.1.5 The Deputy of St. Martin:

I thank Members for their support and I thank them also for their very well-considered comments. I will address the issue of R.I.B.s at the Écréhous first. Some Members will know that I am slightly conflicted in this regard, but what I will say to the Deputy of St. Mary is I will look at this further. I have already spoken to officers about the number of boats that visit the offshore reefs, especially the Écréhous, which is far more accessible than the Minquiers. While it is not necessarily under my remit, I will make sure that discussions do take place for the future to make sure that we balance that delicate balance that we have to find between the private individual's right to visit the offshore reefs, if they wish, the need to enhance our tourist offering by offering these trips to people who visit our shores to show off our beautiful Island and the balance that we have with wildlife which exists out there. But I will take the Deputy's suggestion forward and make sure that we do look at it carefully for the future. These places are becoming more accessible to everybody, they are becoming more popular and we need to make sure we do not overstep the mark. I finally finish by just addressing Deputy Tadier's question about sustainability. One thing that I have been very hot on, and I hope Members will realise, is especially with the bass fishing, I have always been very keen to look forward to its sustainable fisheries in the future, so that the future of our fishing fleet in Jersey can be assured, which is why we have looked to restrict the amount of bass we can catch, which is why we have got a sustainable lobster fishery, because of the way we have addressed those issues. I take on board the comments about dredging. I cannot begin to disagree with them, because obviously the observations of Senator Green and others are correct. What I would say is we do have fishermen both in Jersey and in France that rely on this form of fishing for their livelihoods and moving forward we need to take a balance with them to see how we move forward with them. But there is no doubt that the review of the Granville Bay Treaty, which is something I intend to start very soon, I will be looking at the amount of resource and dredging resource that we have and seeing what can be done about that moving into the future. Again, I thank Members for their interest. I would just ask that we could take this as a very simple amendment and I would just like to take it *en bloc*, if possible.

#### The Deputy Bailiff:

First we have to adopt the principles, Minister. All those in favour of adopting ... the appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

<b>POUR: 43</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				

Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**The Deputy Bailiff:**

Does the Environment, Housing and Infrastructure Scrutiny Panel wish to call this in? You would like to deal with the Articles *en bloc*?

**The Deputy of St. Martin:**

Yes, I would propose the Articles *en bloc*, Sir, thank you.

**The Deputy Bailiff:**

Is that seconded? **[Seconded]** Does any Member to speak on the Articles? Very well, those Members in favour of adopting the Articles, kindly show. Those against? The Articles are adopted. Do you wish to propose the matter in Third Reading?

**The Deputy of St. Martin:**

I do, Sir.

**The Deputy Bailiff:**

Are they seconded in the Third Reading? **[Seconded]**

**The Deputy of St. Martin:**

Can I call for the appel, please, Sir?

**The Deputy Bailiff:**

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

<b>POUR: 42</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator A.J.H. Maclean		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator A.K.F. Green		
Senator S.C. Ferguson		
Connétable of St. Helier		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Connétable of St. John		
Connétable of Trinity		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy of St. John		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		
Deputy S.Y. Mézec (H)		
Deputy A.D. Lewis (H)		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Bree (C)		
Deputy M.J. Norton (B)		
Deputy T.A. McDonald (S)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy P.D. McLinton (S)		

## **LUNCHEON ADJOURNMENT PROPOSED**

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

Looking at the clock, I wonder whether the next proposer wants to propose his thing before lunch or after lunch.

### **Deputy R. Labey:**

I would much rather go after lunch.

**Senator P.F. Routier:**

Or withdraw, of course. **[Laughter]**

**Deputy R. Labey:**

I hear where the Senator is coming from and I would defer, but it is time-critical, this one. It is already a big ask and for that reason I cannot defer it. We have to take it.

**The Deputy Bailiff:**

But you propose the adjournment?

**Senator P.F. Routier:**

I do. I understand the Deputy's position, certainly. It was a quip at the end; I did not mean it.

**The Deputy Bailiff:**

Members agree that we adjourn slightly ahead? Very well, the States stands adjourned until 2.15 p.m.

[12:37]

## **LUNCHEON ADJOURNMENT**

[14:16]

### **4. Chief Minister: election by Island-wide vote of registered electors (P.78/2017)**

**The Deputy Bailiff:**

I have suddenly lost the ability to count, sorry. Very well, the final item of business is Chief Minister: election by Island-wide vote of registered electors, P.78, lodged by Deputy Labey of St. Helier and I ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of the opinion - (a) to agree, in principle, that the Chief Minister should no longer be elected solely by Members of the States but by an Island-wide vote of registered electors; (b) that where candidates for Chief Minister secure 18 or more votes from States Members at the States sitting held within 7 days of the election, those candidates should be put forward for a public vote held no later than 21 days after the general election; (c) to charge the Privileges and Procedures Committee to bring forward for approval the necessary legislative amendments to give effect to the above proposals for implementation before the elections in May 2018.

#### **4.1 Deputy R. Labey:**

Thank you. I would like to ask my Assistant Minister to act as rapporteur for this one, but I do not have one. **[Laughter]** There is a long report to my proposition, so, for me, that equates to a shorter speech, Members might be pleased to hear. **[Approbation]** I may have only been a politician for 3 years, but I have been involved in Jersey politics - and this is going to age me - for over 40 years, because my dad, Roy Labey, would invariably run the campaigns in Grouville for his chosen senatorial candidate and I, from a very early primary school age, would go and canvass with him. I remember putting the leaflets through the doors; I can remember the colours of Bernard Binnington were yellow and green. I remember that because he supported him. Then in my early teens I supported Corrie Stein when she stood for Deputy in Grouville. That was seismic. I remember I

painted all her banners: "Vote Corrie Stein" and the colours there were pink and purple. I remember it as if it were yesterday. That campaign was the first time I got my hands, or my seat, in the radio van and was able to use the megaphone going around the Parish encouraging people to vote. Members might be unsurprised to learn that I took that role like a duck to water. I have to say, I was quite good at it. I was used by other people in subsequent campaigns around and about in the radio van with the megaphone, including the lovely late Anne Perchard in St. Martin, a very tight race. I remember going around the Montford Estate right up until polls were closing, trying to get people out to vote. The next day I went to my school, Victoria College, and in my year, I suppose about 5 of us would have been up late that previous night in the whole year, 5 of us, most of us probably farmers' sons. I also remember vividly too the Channels T.V. (Television) debates, hustings debates, hosted originally by John Rothwell, before he became a Senator in this House, and then presided over by Alastair Layzell, both of whom were quite brilliant as inquisitors. They used to opt out of the network and have these debates among usually about 10 senatorial candidates and it could be make, or break. People were broken in those, because they did not have answers to either Alastair Layzell or John Rothwell's questions. I look back at all that and I ask myself: how have things got better now, where we are with the senatorial race, for example? Of course things have, in some ways, the initiatives of the Greffe, the social media, *et cetera*. But in many ways they have not got better, they have got worse. We still have the Parish Hall hustings for the senatorial race and instead of the more manageable 10, maybe a dozen candidates, now you have got up to 28 and they are squeezed into those stages on the Parish Halls and they get to do 3 minutes, their first 3 minutes, many of them make the mistake and go through their past C.V. (*curriculum vitae*) for 3 minutes; big error, if I may give that tip to any prospective senatorial candidate: you want to give your vision for the future, no one is interested in your past. Then they get to answer questions, if they are lucky, 3 questions per session, 2 minutes each. So, a senatorial candidate will speak for 11 minutes maximum in a senatorial hustings and that cannot be confused with, as people often do, an election for Chief Minister. For starters, you do not get to ask individual people on that panel, who might have declared their intention to stand as Chief Minister, an individual question, you do not get to drill down into the policy differences between the senatorial candidates. The same-day election that we have now is for retaining, or gaining, a seat in this Assembly, it cannot be confused with a senatorial election. Just to recap, in a nutshell, for Members, this proposition says we meet as usual after the election, we go through the election for a Chief Minister, as usual after the election, with the open ballot. If 2 candidates reach a threshold of 18 or over, the run-off, the decider, is done by the public. That is this proposition in a nutshell. Looking at our election process, the way we are here, how many manifestos do we produce? I cannot remember how many candidates were there fighting the last election, but it is a manifesto per person, and one, maybe, for the Reform Party. How do people express a coherent choice? How do they tell us what change they require, what they want? I think our electorate deserves better. I think we have to do more for it: we have to provide better, clearer, bolder manifestos at election time. Too often the Jersey manifesto is an exercise in revealing as little as possible, so as a kind of please-all so you do not upset anyone, rather than being forthright and bold and strong on the difficult questions. We have to find ways to present real choices, so that, at the ballot box, an elector feels his vote can effect change if the majority of others casting their vote go along with them. What happens to our manifestos once we have been elected to this House, as opposed to what happens to the manifesto of the winning party in the U.K. elections? In fact, at the least election, Theresa May just won with the Conservatives, her manifesto goes, effectively, into the statute books. I am looking at the Greffier, because he will know all about this. They do not get ripped up. Ours get ripped up, ours get put in the recycling bin, through the Chair to the Chief Minister, but in the U.K. the manifesto of the winning party goes into the statute because of, I think, the Salisbury-Addison Convention. There are rules and regulations over what the House of Lords can amend and chuck out, depending on whether it has been a manifesto pledge of the now ruling

governing party. It is an important document; it feeds into the system and it is there, and the House of Lords, by the Salisbury-Addison Convention, is not allowed to bring wrecking amendments to propositions which pertain to manifesto pledges of the governing party. We do not have anything like that. We have already heard how little people can get away with saying at an election and still be elected, but what we could do is give the people the final choice of Chief Minister, as proposed here. It is clean and it is quick, it is potentially reinvigorating to our electoral system, and it will be the biggest change since the Occupation, in terms of our electoral system. It is genius and it is imperfect. The Assembly retains the power to decide the final 2 candidates. You have to get support from one third of the Assembly to go to the public run-off. Members are ceding very little power, and that is why that threshold is there, an incremental step. Then it is off, I say, to a 2-week public run-off, just as they do in France to decide between the final 2 candidates at the presidential election, which happens, and, on the Sunday 2 weeks later, it is a national referendum on who they want to choose, and M. Macron got through this time. Talking of presidents, P.P.C. ... oh, he has gone again; I was going to compliment P.P.C. for the very helpful comments, for the benefit of the chairman, who was not here yesterday when I said the same. I mean it; the comments were very useful, produced early. On this one, they are critical, but it is very stimulating criticism, which I take delight in answering. The P.P.C. questions whether this would result in some kind of hybrid half-presidential, half-prime ministerial ... now that our Chief Minister would return to the House with a mandate from the public, does that make him somewhat prime-ministerial, or a hybrid between a president and a prime minister? I say: "Yes, yes, yes. That is it. Now, you are getting it, P.P.C." Because I am a gardener, and hybrids are excellent: they produce more flowers and they bear bigger and better fruit. We should not be afraid of striking out and going our own way with a new system. I do not want to ape the other system, least of all Guernsey, not the U.K.; I want to have our own system. My vision for the Island is one that strikes out and does not slavishly follow the U.K., and in other areas, in all areas. Never mind the doctrinal objections to the same-sex marriage question; it was going to come anyway, it was coming down the track: we were going to allow men and women to marry other men and women, but just imagine if we had been the first place in the British Isles where same-sex marriage, equal marriage was legal? The economic benefits to that would have been huge, as well as sending out a great message about us being an Island of brotherly love, or sisterly love. Similarly with medical cannabis: why do we have to slavishly wait for the U.K.? Why could we not have gone first and started allowing our sick and terribly suffering patients to be treated with medical cannabis? In all sorts of other areas.

[14:30]

I think we should be looking at where we can anticipate things that are coming. There are lots of environmental issues where we could go. We are small, we are lean, we are nimble. We should be able to move quickly and carve our own identity by striking out and being individual. There is an issue that P.P.C. has with the potential for a stalemate. There is the issue of, well, at the moment the Chief Minister is the first among equals, which is a weird concept and something of an oxymoron, because if we are equals, how can we have a first among us? That is slightly odd anyway, but what are the difficulties with a Chief Minister returning to this Chamber with a public mandate for us? The question from the opposition to this sort of thing most often used is: "Well, no, we cannot let the public decide on the Chief Minister, because we have to work with this man or woman and what if we cannot, because we do not agree with them?" So the P.P.C. suggests: "What if it does not work and there is a no confidence vote and the whole thing is rerun again and it gets the same result, what would happen then? That is a stalemate; that is deadlock." Yes, it is, and it is also known around the rest of the world as consensus politics. You have to build a consensus, you have to compromise, you have to put your ego to one side and you have to make it work, because you are not here for your own ego, you are here to serve the public. P.P.C. quite rightly bring up the worst-case scenarios, but what if it all works smoothly? What a change that



would make. I have to break it to the Assembly and to P.P.C. that every democracy has its flaws, some of them way bigger than ours, even though we are not perfect. The U.K. has, effectively, rotten boroughs which will always return either a Labour, or a Conservative Member of Parliament. What does that do to the people living in that borough who do not want to vote either Labour or Conservative? It completely disenfranchises them. That is not good. In the U.S.A. (United States of America) gerrymandering is allowed, it is permitted. You also have the case, just recently, where more people voted for Hillary Clinton than did for Donald Trump but, because of the electoral college, Donald Trump is the President. That is 2 flaws in the U.S.A. system. In Japan, they have a 1.5 party system, so no surprises for guessing that the 0.5 party never get into power. It is the same party. The Japanese will tell you: "Well, that is very good, this system, for continuity and stability." Where have you heard that before? It would be wonderful to do a hands-up, would it not, of how many people put: "Continuity and stability" on their manifesto in 2014. Whenever I see that phrase used, I always replace it with "stagnation", and it seems to make much more sense. Again, with P.P.C., to make this change before 2018 is tough, but I am advised it could be done, otherwise I would not have brought the proposition. It is easy for me to say, of course, I have not got to do all the work, but I am advised that if we went for it with energy, it could be done in time for the next election. One moment; I crave your indulgence while I re-find my place. For the first time, if this were to go through, people would get to express a real choice. They would feel that they can effect real change, and that is why I think we have a problem with voter apathy. I think it is because people do not feel they can make real change or make choices. The people would be properly enfranchised by this, and I think they would respond to it with relish, so it matters. It would have all sorts of other benefits too, because every Chief Minister would have an Island-wide mandate and a proper mandate, so it enfranchises all 49 Members of this House, because you could propose a Deputy, or a Constable, for Chief Minister, knowing that if they are going to get the role they have to go to the country, to the Island. So, everybody would have an Island-wide mandate and it would matter maybe just a little bit less if your Deputy got in unopposed, because you know you would have a say in the choice of Chief Minister. Some people feel disenfranchised because in their Parish, or District, there is rarely an election, and the same candidate gets in all the time. We have not managed to change the system and that may continue. At least with this system people would know they would get a choice between candidates and they would be able to find out the direction of each candidate and the policy of what they stand for, drill down on exactly where they want to take the Island and what their views are on all the controversial subjects and leading subjects of the day. I just ask the Assembly how long we can go on denying the people a say in who becomes their political leader. What does it say about the confidence we have in our people that they are not to be trusted with that decision? There is no better electorate in the world to represent than the people of Jersey, and I think they deserve more from us. That is what it boils down to for many. A chief ministerial election would be different, not fighting for a seat in the Assembly, both of them will already have a seat in the Assembly; the chief ministerial election will be for drilling down on policy and direction. I know there is a fear and this is, I think, why the Assembly has resisted this since its foundation: that people will vote for the populist candidate, and the populist candidate is not necessarily the best man, or woman, for the job as Chief Minister. That is what the Assembly wants to guard against, and that is a fair point. Again I say, I believe the people should be trusted in this decision. In democracies all over the world, parliaments have to trust the people who elect their president, or prime minister. I have tried to find evidence to support my claim and what I am saying to the Assembly today, that I believe that the public of the Island can be trusted in this. It was interesting for me that in the Walker-Syvret face-off for Chief Minister, Radio Jersey conducted a little poll just before the House re-sat to elect the Chief Minister. Interestingly enough, even though Senator Syvret had topped the poll a week earlier and 3 years previously Senator Walker had limped in at sixth place for Senator, you would think the tie would be with the Syvret candidate in that scenario. You would think it would be a walkover, and

it would be fair to say that, probably, most of the Assembly on that day would not have wanted that to happen. In fact, the Radio Jersey poll, it is unscientific, it is people phoning in, but there were 300-plus people who elected to poll themselves, and Senator Walker came out on top. I find that very interesting, and I think it just goes to show that, depending on your point of view, we can trust our public to be discerning. We trust our public to put us in here; I think they could be trusted to make the final decision on the 2 candidates we put forward as potential Chief Minister. When I proposed this, the reaction I most got in social media and from people I met in the street and on emails to me, was: "Great idea, but they will never go for it." How depressing a verdict is that on all of us? Well, what if they did and what if it worked, because we made it work? It would be transformational. This Assembly would be seen in a whole new light because it, effectively, would have seen the light in terms of enfranchising people and giving people this choice. I make the proposition.

**The Deputy Bailiff:**

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

**4.1.1 Deputy J.M. Maçon:**

Sir, a point of clarification, if I may, to my good colleague, Deputy Labey. He talked about what happens to manifestos when they are gone. Of course, I will take every opportunity to publicise the vote.je website, and they can be found on the vote.je website.

**The Deputy Bailiff:**

Sorry, what point of clarification are you asking?

**Deputy J.M. Maçon:**

Whether the point that manifestos get binned is correct.

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

I could speak for a while - and in the same volume as Deputy Labey - on the ups and down sides of a presidential versus Westminster systems. I could speak of the checks and balances of the fact that the President of the United States of America is universally elected by electoral colleges is unfair. We could speak about how the checks and balances work about a written constitution; about how the fact that a presidential system and leader of Government, as they have in France, then appoints a Cabinet of comprising members of a House of, necessarily, a National Assembly. But there is no point, because you cannot fix our electoral system with a gardening hybrid, such as suggested by Deputy Labey, who I do like very much and whose speech I found illuminating. I did not know that he was a gardener. His proposition does need to be put into the compost, I am afraid. I know there are some Members of this Assembly who would like a committee system. They say that a camel is a horse designed by a committee; I think that is legally possible. If the mover of the proposition likes hybrids, then he might know that some things just do not work together, some chromosomes just do not work. I think that if, in fact, a monkey and a pig were put together, you would come out with a ponkey. That is about what this is: it is an impossibility. A ponkey can never happen, it will not work because you cannot put a pig and a monkey together. This system is trying to fix something which we all know exists, and to which there is not a connection between people's votes and an outcome of the election, and so the Deputy makes a very serious point in respect of that. I am afraid, simply putting this fix on an imperfect system of a senatorial system that is absolutely not right and not working ... that there is no connection, on top of a deputorial system that is unfair, unequal and inequitable. I am worrying because Deputy Southern is nodding with me again. No, he is shaking his head; that is okay. **[Laughter]** It just simply will not work. We, and I, am spending too much time in this Assembly standing on my feet, talking about

ourselves again. **[Approbation]** I think that means that Members want me to sit down and shut up and say nothing more about a proposition that simply is not a panacea, it is not a beautiful arrangement that somehow Deputy Labey, and those who turned their faces against the actual proper composition of the States commissions that we have had with learned people looking into things, and cast them aside. I am afraid they cannot fix it with this ponkey; it does not exist, it cannot work, it should be put into the compost bin and we should not be talking about it. It is ridiculous to suggest that we are going to fix all our woes and all our electoral problems with this issue. Even the glimmer of hope of something, if the Deputy says he did not say that it was going to be the solution, it will not work. It is, I am afraid, well-intentioned, but we really should not be talking about ourselves anymore and I will sit down.

#### **4.1.3 Deputy M. Tadier:**

The problem is, of course, until we fix our democratic system and the way we access this Assembly, we will always be forced to talk about ourselves. No one likes it, and future Assemblies and future iterations will be forced to face the same issues, unless we make the right decision on things that we know are inevitable. We have those types of propositions coming up for debate in the next few months, and we will always be back here, and we should not be apologetic for having to talk about ourselves but we should not relish it either. We should give the public a system that they deserve.

[14:45]

The way you do that is you do not start from trying to fix the symptoms, you try and establish the democratic principles that you wish to work from, and start from that point. That is what various reports have done in the past and, if we can all agree on the basic democratic principles, then we can have consensus and move forward. Of course, after that, have the relevant political fights and debates across the usual, or even indeed unusual, political divides. What are those principles? They are basically that one person has one vote when it comes to a member of the public, and that they have equal parity in voting. So, whether or not you have single-seat constituencies, or not, you have one type of States Member. The Island is so small, it is ridiculous to have 3 different types of States Members elected in different-sized constituencies, all overlapping. You need one type of States Member elected in equal-sized constituencies, that are not gerrymandered, which is a word that the Deputy who is proposing this used. We do not want a gerrymandered system that does not favour anyone, and in order to do that you have a Boundary Commission which is independent, and you say to them: “We want you to design a system for us which is fit-for-purpose”, in which there are equal seats and they can be single or they can be double seats, whatever, and then you have a democratic optimal voting system, which is not first past the post, which is probably an alternative voting system, which gets the most representative view of the public. Now, there is a lot of nostalgia for Senators, and what I find strange is that the mover of the proposition talks about the fact that you could have a Chief Minister who has never put his manifesto to the public. Let us be fair, we all know that we do not have a party-political system yet, we do not have an overt party-political system, but, as far as I know, all of the Chief Ministers, and indeed probably going back a lot of the heads of the Policy and Economics ... if that was the name, Policy and Resources, they tended to be Senators. To be fair to people like Senator Gorst, Senator Walker, Senator Le Sueur, and some of his predecessors, they did face the electorate on more than one occasion on an Island-wide platform and they did put their manifesto, of sorts, whatever it was, to the public. They cannot be criticised for doing that. We have not, as yet, elected a Chief Minister who has not been a Senator. I am not saying it is impossible. I do not necessarily think we need to legislate for that in Standing Orders, but it has not happened yet. There already is, perhaps, an argument that the Deputy is trying to solve something, which is not really a problem. He said something to the effect that we are doing people a disservice in saying that they do not have a say on who the next Chief

Minister is, but I would turn it around and I would say the people, who do not want party politics in Jersey, are doing themselves out of a say in who the next Chief Minister is. They cannot have it both ways, you cannot say: “We want a system where we vote for independence” and then, of course, you get 49 independents of all different colours and some, perhaps, with very little colour, and others who make up for it by being much more colourful, so you just pick somebody yourself. That is what you will always get in an independent system which votes for people who are essentially nice guys. The ones that do have manifestos, of course, should not be criticised for it. I think that is part of the problem. The Deputy mentioned a whole host of issues, such as same-sex marriage, a whole variety of environmental green issues, and medicinal cannabis; all those kinds of things which do not, I think, have universal support from the public. These things only happen, really, when people work together and when people push for them. There is a reason why candidates do not stand up before an election and say: “I support gay marriage” ... because I remember, I think in 2008, one of the young unknowns, Michael Pashley, I think was his name, and his name is in the public domain; I would not normally name a member of the public, who said: “I think we need to have same-sex marriage. I think we need a casino in Jersey”, which we did not have at the time: “because that would fill some of the black hole.” Of course that went down like a lead balloon in the country Parishes, because these were very radical concepts at the time, and I think he was probably the only candidate that I can remember in recent times to get less than 1,000 votes across the whole Island in a general election for Senator, not a by-election. It goes to show that if you want to get elected in your rotten boroughs, which I think was something else the Deputy was referring to, it is better not to have any policies if you can help it, and certainly do not have any controversial policies. Just show your face now and again at the Parish events, turn up to all the Parish Assemblies, grow some nice flowers, give a bag of spuds to your neighbour every now and again, and you will probably be okay. Certainly, do not get into politics if you want to get elected into this Assembly; that would be far too controversial. I think the Deputy is trying to fix the symptoms of a system which is broken, and I think many of us now agree that the system is broken, but he is treating the symptom rather than the cause. I think that is a very “small c” conservative Jersey approach. They would like to make *ad hominem* arguments, but I think it is a reasonable observation to make when the Deputy, on the one hand, talks about the need to fix these rotten boroughs but yet he was the lead face of the option C campaign in the referendum. Lucky for the option C campaign. I mean he was the only really charismatic person they had on their team. He is the only credible person, I think, who was strongly putting the arguments across for the compelling and passionate arguments that he put across for no change and of course the option C(1), that they got what they wanted and we still have no change after what is coming up to about 15 years since Clothier, so the conservatives have got what they wanted in this Island. So, I would ask the Deputy really to put his mind to start working with other like-minded people to campaign for real change. I put a challenge to him that he should ... he knows, I am sure in his heart of hearts, that the future for Jersey politics lies in party politics. I make a public invitation to him; by all means he is welcome to come and join us if he passes the [Laughter] ... if can pass through the interview process. Of course there is another, no doubt ... and I hope the Chief Minister will soon be launching his own party, because he knows it is necessary to have an open grouping, I think now, going into the next election where you can outline your manifesto pledges and say: “Well, I have got a team around me who are ready to deliver it and some of this you will not like, but it needs to be done and it is not necessarily all populist, but at least I have some policies and I have got a group of people who will help me deliver that.”

**Deputy G.P. Southern:**

He is writing that down.

**Deputy M. Tadier:**

So there is a choice already. These are what I think the previous Chief Minister might have called “the wobblers” in the Assembly. They can decide to wobble one way and fall one way, or join the other party if they want to and if that is not good enough why do they not form their own party to look at things like same sex marriage, which has already been done, because it was proposed by our party and it was taken up by the Chief Minister and now that is policy, which has been brought forward initially on a party platform. There are lots of green issues in Jersey that we are not dealing with. I think there is probably no real ... there is a distinct lack of environmental voices in this Assembly, which is tragic given the fact that there are so many capable environmentalists out there who are, perhaps, tentatively dipping their toes into the political water, but need, I suggest, to join a party, or form their own. Of course, there are lots of people out there who would campaign openly for medicinal cannabis and that is, again, something which is being put forward by our party and I think which is gaining popular support, because the arguments simply are already there and in fact the Barnes Report has shown the Minister is already needing to go in that direction anyway. But the bottom line is if you want to get elected as an independent you do not need policies ...

**The Deputy Bailiff:**

Deputy, it does not seem that the last few minutes have been directly targeted at the purpose of the proposition which is obviously putting the Chief Minister to the ...

**Deputy M. Tadier:**

So, what I am saying is that I think he is trying to solve an issue about the malaise in politics, about the fact that there are so many things about our political system which do not work, but he is drawing the wrong conclusion for it. Let us get back to the position of Chief Minister. There seems to be an obsession about the Chief Minister, in the eyes of the public, in the sense that it is a very important person. It is a very important role. Of course it is. But he is still only one of 49 Members of this Assembly and he, or she, in the future, cannot do anything without a team around him, or her, and it would be ludicrous, and we have already seen off one vote which could have potentially given rise to a ludicrous situation where you have a Chief Minister, who has 8 secretly elected Ministers who do not support him conspiring in the background against his policies. Of course, the clever Members out there will be listening: “Hang on a minute, did not Deputy Mézec, a member of your party, try and bring a similar proposition in 2014 to have the public choose the Chief Minister?” Without wanting to be offensive to the current Deputy, that was a much different proposition and I think it was much more nuanced. First of all, it was brought at the beginning of a term as an election pledge and it said: “Let us agree, in principle, that the public should choose the Chief Minister.” There was no talk about this threshold and it was up to P.P.C. to bring back the relevant framework for doing that. I think that is very much different from what is being proposed in this hybrid system. So, let us imagine a scenario where you do get 18 Members of the Assembly who vote for ... let us make it, argument’s sake, let us say it was Deputy Mézec on my left and let us say that there were 18 Reform Jersey members or Reform Jersey sympathisers in the new Assembly, but only 18 and that we managed to get our 18 in there, so Deputy Mézec automatically gets through to the next round. Now, of course, what you could have is another 2 members on the ballot paper and one would get - I think let us do the maths - one would get 20, so that is 38 votes. So someone gets 20 votes. That person gets through to the public vote and then 38, you have got ... the next person gets 11, gets knocked out in the first round. So presumably that person who gets 11 votes gets knocked out even though we do not know where the votes would go from the other 2. So, if Deputy Mézec got knocked out, those 19 votes may well go to the person who got 11 votes and that person would be elected potentially under our current system to be the Chief Minister of the Assembly, but the person who got 11 votes of course does not get on to the ballot for the public vote. So, you get a runoff between Deputy Mézec, young moderate, who wants to bring forward lots of new exciting energetic policies for the Island and you get the safe pair of hands from the

usual grey suit and grey tie, or maybe blue tie. I do not know. Let us add some colour into this. That is fine. We put it out to the public support and whoever manages to energise the public, perhaps whoever has got the best Facebook campaign and manages to get the voters out they win. So, you have got a system whereby, obviously, Deputy Mézec would win the public vote. I mean that goes without saying in this hypothetical scenario and we have this strange system whereby we have got 31 Members of the Assembly, who do not want Deputy Mézec - Senator Mézec obviously in the future - as the new Chief Minister, but he is the Chief Minister, nonetheless, but it is okay, because Deputy Labey has told us: "That is all right, because the new Assembly would respect the public's wishes", just like we do with referendums. So, we would say: "It does not matter. We think he is the best thing since sliced bread now and we are going to put our differences aside and we are all going to become Reform Jersey sympathisers and in fact we are going to sign up to the party and we are all going to become a one party state just like we have been in the past, but when there were no parties officially." That is an interesting way of doing things and good luck to the Deputy in selling that. I just think that is far too messy. If it was a clear choice about giving the public a vote on Chief Minister, I might be more inclined to do that but again that would change the relationship between Chief Minister and the Assembly and I think Senator Ozouf has already touched on the fact that you are moving to a system, if not a presidential system, then certainly one in which you could argue for a proper separation between the Executive and the Legislature, which is not what we have had traditionally in the Island where the Assembly is purely here as a scrutinising body, possibly a body for vetoing ministerial decisions, but the president of Jersey in the future, President Mézec, would probably be allowed to choose his Ministers from outside the Island, so it would be comprised entirely of postmen, teachers and miners - diamond miners of course, in Jersey who worked down the gold mines and the diamond mines - and we make sure that we have a good socialist and syndicalist ministerial system which would get the support of all States Members, because they respect the vote of the public.

[15:00]

It is pure fantasy. It really does not make any sense and I do ask Deputy Labey to come out from the shadows to form his party and to stand on some coherent policies, which he can put to the public, so we can have a proper debate, whether it is in the senatorial elections, or in the Parish elections in those Parishes which are fortunate enough to have contested elections, but certainly do not point the finger at Senators, saying: they do not have a manifesto. The Chief Minister has no mandate because, as far as I can see, the Senators are one of the few groups in our current imperfect system who do have to produce manifestos and take part in about 15 hustings that I can see. By the way, I would quite happily get rid of Senators tomorrow, because it is such an imperfect system, but that is another argument for a different day. This is not the way forward, unfortunately, but I think party politics clearly is the way forward.

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

I shall try and be brief, as brief as I can. I have, in the past, in 2014, supported a very similar proposition from my colleague, Deputy Mézec, to institute a public vote for the Chief Minister and I saw that then and still see it as one possible solution to the problem we have of 46 independents and one small party and trying to govern a complex Island through individual votes and individual opinions. Individual opinions which sometimes are ... I illustrated earlier in the previous debate, get written into a manifesto and then, the proposer was quite correct, get shredded, jumped, disrespected, ignored, whatever, as people go on to say: "Oh, yes, I said that to get elected but then I would, would I not?" No intention of delivering any of it and that is the reality of our electoral system. Deputy Tadier is absolutely correct when he says that Deputy Labey is attempting to fix the system which is broken in a particularly peculiar way. It is laudable, his attempt, but I do not think it works. We are trimming around the edges. We are fiddling around really. We have not

got a solution. The solution comes back to the issues that we have been told about by Clothier and Carswell; that is the way forward. So, when I read the first one, the first paragraph (a): “To agree in principle the Chief Minister should no longer be elected solely by Members of the States but by an Island-wide vote of registered electors”, I think absolutely. That is one way of trying to sort this mess which might be a step forward, rather than a step backwards. No problem at all with that. But then I get to the very next line and I am afraid the whole thing just falls apart. “That where candidates for Chief Minister secure 18 or more votes from States Members ...” and I look at that and go ... and I was pleading with Deputy Labey to give us a reason for the pick of 18. Why 18? Deputy Labey gave a very entertaining speech, wonderful speech, about which I can only comment to say there is nothing right about an election which contains the colours pink and purple next to each other and some of those pictures were, really of Senator Stein at the time, were absolutely amazing. It reminds me of many of the posters that were put up around during our elections where you look at them and say: “Oh, yes, that is what it used to look like. That must be 30 years he has taken off there.” Election system is broke. Proposal says: “Ah ...” and I read the concept. Having listened to the speech and got nowhere with that I read the content and the content seems to say: “Not to worry, because with a threshold of 18 it looks very unlikely that we will ever have the runoff in public. It will not happen most of the time, so you are safe doing this amendment, this change, because it will not get put into action.” Apart from when Senator Ian Gorst, and this is the illustration, with 27 votes and Senator Philip Bailhache with 24 votes would both have passed the threshold and we might have got that vote. Perhaps, he is right, perhaps, that would have produced manifestos which may, or may not, have been costed and deliverable but really 18 days and a very complex ... sorry, 18 votes and a very complex system which does not do that much to mend things. I was interested to hear Senator Ozouf’s reference to a “ponkey” as to suggest that this was a creature that could not exist and I think the good Senator has not got either grandchildren, or children of a young age, because he would know that there is a creature that does exist called a ponkipine from *The Night Garden*. It is a wonderful relief to all parents of 3 year-olds, because it is called *The Night Garden* and it puts kids to sleep. It is brilliant. Somebody in the Chamber has a young child and is fascinated, as I am, by Makka Pakka. “Makka Pakka. Makka Pakka.” Yes, but I have drifted off to join the good Deputy Labey in his indulgent attempt to make things better which, in my opinion, sadly, fails completely. I would urge Members to get on with this. It is 3.10 p.m. now. We should not be debating this for very much longer.

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

Here we go again. I am listening to ... I want to call them the Optimistics Party behind me, because they live in some world that I am not in and we have had electoral reform. This does not do it. Deputy Southern and Deputy Tadier would be the first ones to say: “Oh”, and when I bring in something and the Chief Minister’s words, or comments, say: “La, la, la.” But where is the amendment and where is the amendment to reform? Sorry, they nearly got a drink thrown over them there. Someone was lucky that glass was empty, not even half full, but empty.

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

It is now.

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

Oh, I am sorry. I am sorry, Deputy. I am sorry.

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

I think we will just continue with the debate please.

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

Yes. But you know this morning everyone knew what the public wanted, the public wanted an open vote. The public have always been miffed by this and for a history lesson to Senator - oh, he is not Senator yet - to Deputy Tadier. I do not know if he is going for Senator. There is no cat out of the bag. When Senator Syvret had topped the poll in an Island-wide vote, he stood against Senator Frank Walker, who had not been elected for 3 years. He was in the last 3-year term. He did not do a manifesto and he came in here and the public, they realised then, after that 3 years, the first Chief Minister got elected. He had not faced them in an Island-wide vote, weeks before. He did it 3 years before when it was 6-year term and it happened again with Senator Terry Le Sueur against Alan Breckon. Were the public miffed? The public were angry. Do they care whether we vote secretly really? Not for the Chief Minister. Do they want a say in it? Yes, they do. They absolutely do. So here we are today, we have got pingos, pongos, something out of children's story books that are not real. Deputy Southern, in the world of reform they may be real. It is still a fictional character in a children's story book whether it is a pongu, pongupine, or pingo. I really have lost the plot this afternoon, because I knew the same people this morning, who knew everything the public wanted, everything the public must have, will come back today and turn this around: "It cannot be done." I mean, Senator, I mean how dare you ask the public. They might put somebody in that we do not get on with. Well, sorry, the public put you here first of all and now the public, after 15 years, absolutely do realise the power, what the position is and they would then form a Government. What the public really do understand that this is a big position, but the people in it just cannot move. I mean we heard again our Chief Minister, Senator Gorst, this morning promising ways he is going to change. We hear it is going to happen. We are 6, 7 months away from the next election. "This is going to be tight if it went through." Well, when are they bringing in the proposals? No, it is not going to happen and all they are going to do again is stand up and say: "Oh, I do not know. That is a bit tight." Why 18? What if you did not like 18, you liked your reform thing, why do you not bring an amendment because we have got stuck now with this? I should have maybe brought an amendment, but I did think there needed to be a test but at least 18 to 36, we have still got 49 Members, so I do not care if somebody had 20 votes, or 25 and some just scraped in with 18 and they went out to the public, a 2-horse race, and one was 10 to one and one was evens and the 10 to one won. I would respect that, because the thousands of people who have said: "That is who we want" and they have been round there twice, and it could be a Deputy, it probably will not be, but you would not get the 18 votes in here, but you then go out and say: "That is exactly the job I want; back me." Because people, when they go for Senator now are very sort of ... they do not come out and say it. Senator Gorst, to give him his due, he did, right the way through. He said: "I want to be Chief Minister. I am going for Chief Minister and that is why I am going for Senator." Right up front; that is great. We do not get that all the time. Then we want a contested election, so we say to people: "You do it. You do it." Have a contested election. Well, then the public are absolutely miffed. We have had everything to try. I mean I have tried. Deputy Labey has tried. Even Reform have tried to reform this Assembly and nothing has worked, so every time somebody tries to bring something that where the public really would be involved ... and I do not care who they pick. They pick the person who we put forward and I am telling you now these close votes, which Deputy Labey has put in his proposition, they would have been 18. Two people would have got 18 votes, because you would have made sure and in an hour you have got the open ballot, because you will be going out there and people will be saying: "Why did you give him the chance to go for Chief Minister? You voted for the other bloke and so did another 30-odd people." It would not work. You really then do become accountable. So if any of you want to nail your colours to the mast, same way as you did this morning, and I am still going to vote for it, although I voted for it this morning. It has got to be done, but you are going to trudge out, we are going to hear, all got to be patient, things are going to change. I mean we have got the great design of ministerial government for the people who design ministerial government, for the people who work in the ministry and it has never changed. These are the same suits and faces that have been



there for the last 15 years, but we are going to change it, so you are all more inclusive and we are not a government. I think I need something, a large whiskey or something, something medicinal, because I cannot listen to any more of the promises that are never going to happen. This is probably the last debate we will have on ourselves, but it is very important. It will involve the public. The public want to have their say in who governs them in that very ... sorry, you can say they have got no leadership power, or rules and laws. It is a very powerful position that the Chief Minister of this Island holds and the public, if you really believe what you all said this morning, either way you voted, you all said the public want to know what they do not want to know and they want to know, because they do not want to know, literally you should vote for this. Let P.P.C. sort it out. It can be done. It is tight, but it can be done. I am on P.P.C. and my chairman is not here at the minute, but he can do it. He is a miracle man. We will get it done. I urge people do not, please, listen to more promises. They are never going to be delivered. Put the vote to the public if that is what you really believe. You believe the public have courage of their convictions. They are not stupid. They will listen to the 2 candidates and they will vote for the best one. It might not be your mate, but it will be the public's choice, simple.

[15:15]

#### **4.1.6 Deputy S.M. Brée:**

We have moved from ponkeys to a party political broadcast from Reform Jersey, which I have to say is probably one of the worst ones I think I have ever heard, and it is all about, do we get the Island's voters involved in the choice of Chief Minister. Now, you could say this is basically sticking plaster politics. The current system is broken. I think ...

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

No, I am afraid ... we are now quorate but we will not be if someone leaves.

#### **Deputy S.M. Brée:**

Thank you very much, Sir.

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

Thanks to Reform Jersey.

#### **Deputy S.M. Brée:**

As I was saying, this is what some would see as sticking plaster politics. We know the current system is broken. We know that there are fundamental issues .... **[Interruption]**

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

The Greffier will be happy for the contribution I know. Please do continue, Deputy.

#### **Deputy S.M. Brée:**

We know that there are fundamental issues with our current system of government that needs to be addressed. So, is it right to tamper around the edges of a system that is broken? Some would say not. Now, Deputy Labey has said that this proposition of his gives people real choice. Does it? Well, does it give people choice about the candidates that this Assembly gives them to vote for? One can think of certain countries around the world where the candidates that are put forward by the government for certain positions always, surprisingly, get those positions. We have got to look at voter apathy. There is a lack of faith and trust among the voters in this Island with our current system of government, the way in which this Assembly works. If we do not support this proposition then, to use Deputy Labey's words: "We are denying people choice in who becomes Chief Minister." Well, the problem with that statement is: no, we are denying people the choice,

because we are not giving them the choice. We are giving them our preferred candidates. Now, I do fully support more public involvement in electing our Chief Minister. What I am really looking for is real choice, real involvement, so that we can get over this problem that we hear time and time again: “There is no point in me voting, because it changes nothing.” I believe that the Chief Minister should have gone through a senatorial election process so that he, or she, does have an Island-wide mandate. So, this proposition has major flaws. I have major issues with it but if, like me, you do believe that we need to start work on getting back the public’s trust in this, it is the first step in the right direction. Yes, we may not agree with all of it. Yes, it is imperfect and I am not sure whether it is imperfect genius, or it is genius being imperfect, but it is the right direction we want to go in. If we all believe that we are here to represent the public of the Island and that we are all servants of the public, then the position of Chief Minister is a very important position. The public perceive the Chief Minister to be, effectively, a prime ministerial-type position. That is what they are looking for. They are looking for real leadership. They are looking for somebody who is prepared to admit they make mistakes but is prepared to do everything that he, or she, can in the best interests of this Island. It reminds me of a saying that all journeys start with the first small step and perhaps that is how we should be looking at Deputy Labey’s proposition. Yes, it has flaws. Yes, it might not work perfectly. It might not suit everybody’s view of how this should work, but what we are doing if we do support it, is we are taking that first step in the right direction and the rest of it we can deal with. We can sort it out. As I said, in another debate: “Where there is a will there is a way”, and it is up to all of us to find that way and therefore I will be supporting Deputy Labey.

**The Deputy Bailiff:**

Does any other Member wish to speak on the proposition? Then I call on Deputy Labey to respond.

**4.1.7 Deputy R. Labey:**

I was just imagining what I proposed with the 2 most recent chief ministerial candidates. What a marvellous thing a runoff between Senator Gorst and Senator Maclean would be with the public then being able to drill down in their different policy directions, and I just say that because, I do not know, somehow I have renewed my faith and admiration for Senator Maclean after his speech this morning. It would be a small step. It would be a small step forward, but it would be a giant leap in the minds of the public. I would like to thank the Members who came back after lunch and who spoke in this debate. I maintain the proposition and ask for the appel.

**The Deputy Bailiff:**

The appel is called for. I invite any Members not in the Chamber to come in and resume their seats. Members have returned to their seats. I ask the Greffier to open the voting.

<b>POUR: 12</b>	<b>CONTRE: 26</b>	<b>ABSTAIN: 0</b>
Connétable of St. Helier	Senator P.F. Routier	
Connétable of St. Saviour	Senator P.F.C. Ozouf	
Deputy J.A. Martin (H)	Senator A.J.H. Maclean	
Deputy of Grouville	Senator L.J. Farnham	
Deputy K.C. Lewis (S)	Senator A.K.F. Green	
Deputy of St. John	Connétable of St. Mary	
Deputy J.M. Maçon (S)	Connétable of St. Ouen	
Deputy R.J. Rondel (H)	Connétable of St. Brelade	
Deputy L.M.C. Doublet (S)	Connétable of St. Martin	
Deputy R. Labey (H)	Connétable of Grouville	
Deputy S.M. Bree (C)	Connétable of St. John	

Deputy T.A. McDonald (S)	Deputy G.P. Southern (H)	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy M. Tadier (B)	
	Deputy E.J. Noel (L)	
	Deputy M.R. Higgins (H)	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy S.Y. Mézec (H)	
	Deputy of St. Ouen	
	Deputy M.J. Norton (B)	
	Deputy of St. Mary	
	Deputy G.J. Truscott (B)	

**The Deputy Bailiff:**

Very well, that concludes Public Business for this meeting and I invite the chairman of P.P.C. to propose the arrangements for future meetings.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

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

A little bit complicated this time. The arrangement for public business; if we look at the Consolidated Order Paper for the next sitting I am advised that the Draft Liquor Licensing (Jersey) Law should be put back to the latest date that it can be, for a 6-month lodging period, which would be 12th December, and I also understand that Deputy Tadier is going to withdraw P.62, the Bailiff of Jersey: cessation of dual role, and he is nodding, so that seems to be correct. Two items which were lodged yesterday; P.89 has been put down for 14th November and P.88, regarding the Jersey Electricity Company, in the name of the Deputy of Grouville, 4 weeks' time, 31st October. I understand that the Deputy of Grouville wishes to make a request regarding that, but before she does that could I also ask on 31st October the 2 Social Security items be placed first on the agenda as the Minister will be away the following day. With that I make that proposition, but I believe that the Deputy of Grouville wishes to ask something about her proposition.

**5.1 Deputy C.F. Labey of Grouville:**

If I could request from the States, if they were minded, to approve P.88 which ... it was my own fault. I was under the impression that for a Back-Bencher the lodging time was still 2 weeks, but I had not fully appreciated it is 4 weeks now. So as there is ... as what I am asking for in the proposition is to request C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities) to have a look at the proposed standby charge which the Jersey Electricity Company intend to bring in on 1st November. I think it would be fairer on all concerned if that could be debated on 10th October rather than the 31st.

**The Deputy Bailiff:**

So you are asking the Assembly to truncate the normal lodging period and have it dealt with on the ...

**The Deputy of Grouville:**

On 10th October, yes.

**5.2 Deputy G.P. Southern:**

Could I inform Members that I wish to postpone debate on P.72?

**The Deputy Bailiff:**

The States Employment Board Living Wage 2017; when would you like to postpone it to, Deputy?

**Deputy G.P. Southern:**

Can I discuss that with the Greffe later?

**The Deputy Bailiff:**

Deputy Tadier, the chairman suggested you were going to withdraw your proposition: is that correct?

**5.3 Deputy M. Tadier:**

Can I just explain briefly? It may be obvious to Members that the Chief Minister has lodged a proposition which is along the same lines as mine, but which gives much more detail and I did take into account that during the last debate some Members said they want to see more detail about the workings and I would like to thank the staff in particular at Chief Minister's with whom I and a few other States Members have been working to try and put the meat on the bone, so to speak, of the process that would be employed if the proposition were adopted, so I think my proposition is now superfluous and I am happy to give way to the Chief Minister and support that proposition.

**The Deputy Bailiff:**

Very well. Thank you very much, Deputy. Well, the only matter that ...

**Senator A.K.F. Green:**

In the absence of the Chief Minister can I just thank, on his behalf, Deputy Tadier for withdrawing his proposition.

**The Deputy Bailiff:**

The only thing then that is to be decided by the States before considering the recommendation of the chairman is whether it is agreed that the Deputy of Grouville's proposition may be dealt with on the next sitting of the Assembly instead of the one afterwards. That is your proposition, Deputy. Is it seconded? **[Seconded]** Those in favour of adopting the proposition kindly show. Those against? Very well, then your matter will fall to be dealt with at the next sitting of the Assembly. Members in favour of adopting those alterations, the arrangement of business as proposed by the chairman. Very well, the States stands adjourned until 10th October.

**ADJOURNMENT**

[15:29]