

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 16th JANUARY 2008

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

PUBLIC BUSINESS - resumption

1. Draft Companies (Amendment No.9) (Jersey) Law 200- (P.174/2007)

The Deputy Bailiff:

The next matter of business for the Assembly is the Draft Companies (Amendment No.9) (Jersey) Law - Projet 174 - lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Companies (Amendment No.9) (Jersey) Law: a Law to amend further the Companies (Jersey) Law 1991. The States, subject to the satisfaction of Her Most Excellent Majesty in Council, have adopted the following Law.

1.1 Senator P.F.C. Ozouf (The Minister for Economic Development):

Good morning to you, Sir. I hope that Members are suitably refreshed after a night of, no doubt, studying the mercifully much shorter legal change to the company law. The law change that is before Members has, however, been lengthened by the need for a number of temporary articles from the Regulations. I am going to try and be as simple as I can in explaining it but, effectively, there are a number of iterative changes that have been made in the law which are a requirement of the Regulations. So, in fact, the law change, itself, is rather longer because of the changes that were approved last night; basically giving different powers... the law needs to be changed to give various different powers. I am not going to explain the matters which have already been discussed and passed in the Regulations. I will simply draw to Members' attention, in the best way that I can, those changes that are before Members now. I have thought overnight, Sir, about the need to brief Members on company law amendments. I have spoken to some of my officials and I can assure Members that next time we bring a company law amendment as complex, not only will we do a briefing but I will also organise a suitable arrangement for the Scrutiny Panel. But I can assure Members, again, of the exhaustive amounts of work that have been done by my own officials, but also from an industry working party that has spent many hours of careful deliberation over these important changes to the company law. There are some significant changes in this amendment, mainly a Jersey company to make a distribution out of any capital account provided that directors make a statement in relation to company solvency. There has been an enormous change in the way that corporate thinking has been in other jurisdictions, in the U.K. and Australia and other places. It made significant changes to the arrangements for companies and their abilities to deal with the capital funding arrangements. Most importantly, they have requirements for solvency statements in order to protect creditors in situations where there could be an abuse at the expense of creditors. Also, the amendment before Members simplifies the ability of certain types of companies to reduce their capital accounts, again with the focus on creditor protection, focusing on solvency statements instead of outmoded concepts of capital accounting as a means of protecting creditors. Finally, there are a number of other significant changes to increase the flexibility of Jersey companies. For example, allowing a public company to include the abbreviation of "Plc" in its name, both in the upper case and lower case. There are also a number of changes in relation to the notice periods for meetings and other company arrangements. Taken together with the Regulations, this company law this will mean that there is a further reason and a further encouragement for the use of Jersey companies. Jersey companies are used for incredibly complex transactions and it is important that the provisions available within our company law allow for those transactions to be carried out. We are in a competitive marketplace. What I can say is that there has been significant modernisation of company law, both in the U.K. and elsewhere and frankly what we need to do in Jersey is, as Deputy Gorst rightly said yesterday, we need to ensure that our company law is up-to-date in order to be able to compete in that marketplace but always with a requirement to protect creditors. These proposals have been consulted on with the industry. There was, in fact, a paper produced on 30th

April 2006 which was given wide consultation; the draft legislation has been considered, as I say, by the steering group industry and importantly, by the Commission; and, of course, by the Attorney General. The industry is extremely supportive of these arrangements. As is, I have support from the commission and I make the preamble to the Law, Sir.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on the principles of the Law? Yes, Deputy Breckon?

1.1.1 Deputy A. Breckon of St. Saviour:

I just ask the Minister to note, he said that certain notice periods of 14 days are required, and towards the middle of last year I had reason to take up a case with the Jersey Financial Services Commission because it is a case of how this was notified. Some elderly residents had an interest in certain financial matters and this was advertised, and it said the details are available on a website to which they did not have any access or any knowledge about. I would ask the Minister to note that, Sir, there is a degree of transparency if people are being given 14 days notice how that is given and it is given, hopefully, in a way that they would have access to it. If they do have some issue with that then they have a chance to make some representation depending on what these transactions are. But I do realise, Sir, that it is a question as well of what is reasonable for a company to do and I think that is the keyword; what is reasonable. I would ask the Minister if he could perhaps note that and maybe even respond. Thank you, Sir.

1.1.2 Deputy R.G. Le Hérisier of St. Saviour:

Just a point of clarification since we are all on a fast learning curve for reasons that were rightly outlined yesterday. When the remote disaster recovery proposal was put forward - although it was very elegantly put forward - I was totally confused about the mixed message. Was it a way of promoting more business or was it a way of providing greater security and greater protections for people who might be involved in this particular area, and there was this continual dual and, indeed, mixed message. What I would like to know, Sir, from the Minister, who is pushing these amendments other than him, personally, at the moment, obviously? Who is pushing them and is the intent to create more business and, if so, what kind of business?

The Deputy Bailiff:

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

1.1.3 Senator P.F.C. Ozouf:

In relation to the comments by Deputy Breckon, he makes a point at which he asked me to note and I note the issue of notice periods. Of course, nothing in these arrangements changes the requirements of companies to carry out their affairs in a proper way of what we are asking or infringing the minority interests of shareholders, *et cetera*. What the articles will go on to do is simply reduce the requirement of giving notice for a meeting, for a special resolution or any other meeting, from 21 to 14 days. But, of course, he rightly says that that notice must be given. But 21 days, when dealing with important changes within a company, is a long period of time and the world is an increasingly fast-moving one and 14 days is, effectively, the standard which other jurisdictions have incorporated for notice periods for special resolutions, *et cetera*. But I note the comments and I will certainly take up the comments that he makes, Sir, with the Commission. In relation to Deputy Le Hérisier, I think his question was about the disaster recovery arrangements that we passed yesterday and I am happy to have him in to the department to have a discussion about those disaster recovery issues. He asks who is the promoter of changes for legislation. I would say that the world of commercial company law legislation has changed quite dramatically in the last 10 to 15 years. When I, a long time ago, did my accounting exams the world of company structure - the U.K. company law - looked dramatically different from that of which I studied 10 to 15 years ago. That indicates a wholesale change in the way in which companies have gone about

putting in place protection for creditors. The whole sea change of the introduction of no par-value companies, of doing away with the restrictions on what you can do with share capital. All those have been done away with in some other jurisdictions and Jersey, as I have attempted to explain, has to compete in a global marketplace and Jersey companies... Members will be aware that I cannot remember how many companies that we have on our company registry - it is something in the order of 50,000 to 60,000 I think - I will correct that if that is wrong - 50,000 to 60,000 active companies and it is important that our company law is up-to-date with current world-wide thinking. So, the promoters of the company law are from a variety of different sources. From Economic Development I am wanting to ensure that our company law is up-to-date, fit for purpose, in order to continue to drive business, to serve the interests of existing companies that are already here and existing fund structures, and all the rest of it, but also to drive new business for Jersey. I am announcing this morning that for the first time we are going to be visiting India - looking at opportunities for India - India and China being super powers of the future. Opportunities for Jersey there, opportunities for the funds industry, for the banking industry; a whole range of opportunities. It is important that we compete. Deputy Gorst highlighted something yesterday which was important. We could be criticised in this Assembly of not bringing our company law up-to-date in the manner in which we should have done, and what we are trying to do is bring forward changes to our company law to bring it, not at the cutting edge of company law arrangements, as is often the case, but just bringing up to global standards. So, the drivers are both ourselves in meeting our targets of economic growth but also the industry. The Commission has requirements. Many of these changes and certainly the amendment that we are going to be going on to discuss is, in fact, an amendment which is sponsored by the Commission, requirements or audit requirements of I.O.S.C.O. (International Organisation of Securities Commission) standards, all the rest of it. So, there is a whole variety of different areas but I understand Members are wanting to understand some of the drivers of this. I will do better in explaining some of those drivers and further changes so I make the preamble.

The Deputy Bailiff:

All those in favour of adopting the principles of the Law, kindly show? Those against? The principles are adopted. Minister, you have an amendment which comes in at Article 17. How do you wish to proceed until then?

Senator P.F.C. Ozouf:

May I just simply propose the amendment briefly and then take the articles as amended? That is exactly what I would do, so I propose the amendment to just explain that?

The Deputy Bailiff:

Yes, very well but I think the Greffier must read them in.

The Deputy Greffier of the States:

Page 14 - Article 17. *For Article 17, substitute the following Article* - "17. Article 104 amended. In Article 104 of the principle Law - (a) for paragraph (2) there shall be substituted the following paragraphs - '(2) The accounts must be prepared in accordance with any generally accepted accounting principles. (2)(A) The accounts of a company must specify the generally accepted accounting principles that have been adopted in their preparation. (2)(B) The accounts of a company that is required by Article 109(1) to appoint an auditor must show a true and fair view of, or be presented fairly in all material respects so as to show - (a) the company's profit or loss for the period covered by the accounts; and (b) the state of its affairs at the end of the period, and must otherwise comply with any other requirements of this Law.'; (b) in paragraph (4)(b) for the words 'subject in the case of a private company to paragraph (5)' there are substituted the words 'subject to paragraph (5)'.". Page 14 - *After Article 20 insert the following Article* - "21. Article 110 amended. In Article 110 of the principle Law for paragraph (3) there shall be substituted the

following paragraph - '(3) The report must state whether, in the opinion of the auditor, the accounts - (a) have been properly prepared in accordance with this Law; and (b) give a true and fair view or, alternatively, are presented fairly in all material respects.'", and renumber the subsequent Articles. Page 20, Article 32 - For paragraph (2) substitute the following paragraphs - "(2) Except as provided by paragraph (3), this Law shall come into force 7 days after it is registered. (3) Articles 17 to 22 of this Law shall come into force on such day or days as the States may by Act appoint."

1.2 Senator P.F.C. Ozouf:

I am grateful for the Deputy Greffier for reading the amendment. Sir, this amendment to the Bill was not originally included in the original proposition. It deals with the audit and accounts requirements of the Law. They were not included when I lodged the original Law because there was no agreement between the industry and the Commission as to whether the proposals contained in the amendment were in accordance with the I.O.S.C.O. principles. There was debate between the parties, and an agreement has been reached, but these changes are very important for the requirement for Jersey to be tested by the I.M.F. (International Monetary Fund) assessment later on this year. These now have been accepted by the parties and the Commission and are an important part in this case to Deputy Le Hérissier as far as the I.M.F. vote changes are made. Sir, I move the amendment.

The Deputy Bailiff:

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

1.2.1 Deputy C.F. Labey of Grouville:

Could I just ask why the Minister wants to differentiate as to when part of the Law comes in within 7 days and the part is appointed at some later date? Thank you, Sir.

1.2.2 Deputy R.G. Le Hérissier:

It is a general point that the Minister's invited me to by mentioning the I.M.F. There is a view abroad in the Island that people go to I.M.F. meetings or read I.M.F. documents and when they are told to jump, they not only jump, they go into the stratosphere and the whole bureaucratic apparatus is brought in. While the Chief Minister, who is now regulating charities to a great extent, may be nodding his head there is this view abroad and I wonder if the Minister for Economic Development could say what degree of discretion exists? Is he able to apply I.M.F. words of advice - or directives or however they are brought to him - is he able to apply them with a light touch and with a degree of discretion or are we going hammer and tongs and bringing in big country solutions for small states situations?

1.2.3 Deputy G.C.L. Baudains:

Yes, I wonder if the Minister could just comment on something for me under Article 17(a)(2). It refers to: "...must be prepared in accordance with any generally accepted accounting principles." This does seem sort of rather loose and woolly to me. I wonder if the Minister might be able to explain in more detail why that is felt necessary?

1.2.4 Senator F.H. Walker:

Yes, Sir. I would just like to respond to Deputy Le Hérissier's comments about the I.M.F. He said there is a feeling abroad that when the I.M.F. say jump, it is not a question of do we jump, it is a question of how high. Well, he could not be more wrong. What is happening with the I.M.F. is that it is important in Jersey's best interests - and that is all that we are interested in at this juncture - vitally important that we do get a good report from the I.M.F. for the sake of our future economic plan. If we do not get a good report then we are losing competitive edge, we are losing international respect; both of which would have serious potential consequences for our economy. So, what is happening in relation to the I.M.F. is purely in Jersey's best interests. It is not a

question of kowtowing to I.M.F. or anyone else. It is a question of protecting Jersey and I think that is a point that needs to be emphasised very strongly.

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

Yes, Sir, if I may also make a point in relation to the I.M.F. It seems to me that the I.M.F. inspected us some time ago and it seems that this company law, along with others, seems to be being adopted almost at the last minute before the I.M.F. come again. Many recommendations were made many years ago about what should be done. It seems at the moment we appear to be in a rush to put things into place to gain time for the next inspection. To what extent is that true? To what extent should we have phased these in over the past few years and should we not have been working on them earlier rather than last minute, which is what it appears?

1.2.6 Connétable G.W. Fisher of St. Lawrence:

Just in response to Deputy Southern's comments, my understanding is that the I.M.F. carry out reviews around the world and update their requirements as they go along. They find new reasons to have controls, *et cetera*, so one is never quite sure what the final position is going to be until nearer the time of an inspection. That is my understanding of the situation.

The Deputy Bailiff:

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

1.2.7 Senator P.F.C. Ozouf:

Dealing with the issues concerning the I.M.F. assessment, I completely endorse the comments of the Chief Minister. The whole range of legislative changes that this Assembly has considered - and there are still some to come concerning the I.M.F. assessment - is a joint working responsibility between the Chief Minister, the Treasury Minister, Home Affairs and myself, dealing with a number of different issues. I would have thought that Deputy Southern, with respect, Sir, would have been aware that, indeed, this is not a case of simply bringing legislation requirements for the I.M.F. at the last minute. Indeed, as my Assistant Minister said, he is absolutely correct in saying that local standards, and certainly the requirements for anti-money laundering provisions, the counteracting of terrorism, *et cetera*, is a changing world. Indeed, some of the changes that this Assembly has made in terms of law in the last few months have only been adopting the standards that have been put in place very, very recently; almost in the matter of last week when we started the process of preparing for the I.M.F. some of those standards were not even put in place. So, perhaps there would be some of the more minor issues that have been taking their time through the legislative programme. I, as other Ministers, have to argue for law-drafting time in the law drafting available. There is a huge burden of bringing in place effectively an enormous amount of international legislation on, effectively, a very small jurisdiction of Jersey and some of that does take time. But I think that Jersey's record is good and I would say to Deputy Le Hérissier about kowtowing to international standards, the economic growth that we are seeing in Jersey, the higher levels of economic growth that we are seeing in Jersey compared to other places... yes it is and I saw Mr. Body commenting in the paper yesterday that politicians in this Assembly should take no credit for any of this because it would happen anyway - I think that is what he said. I am sorry if that is not what he said - but some people will say that. In fact, what is the case is that it is important that we, as an Assembly, put Jersey in the position in order to seize the opportunities where global markets are in an upward turn. There is no point in effectively sitting on our laurels and not working and investing and changing law and putting in place new structures and investing, and simply believing the business is going to come. I am looking forward to comparing the economic results of Jersey versus some of our near neighbours and seeing how much better we are performing. I think that the standard of regulation that we are setting-up in Jersey, the fact that we will be getting, I hope, a good mark and a good standard from the I.M.F. will drive more business. I certainly know and am part of an incredibly healthy debate within the industry - within the

Commission - of exactly where that balance of accepting international standards would be. That debate is alive and well. I was part of it just before Christmas with a meeting between the Commission and the industry where these issues in detail were being discussed and which, of course, we then need to consider. So, I will not say any more about that. I think we have the balance right and I think this Assembly, and I am pleased that this Assembly is supporting the Council of Ministers in the requirements of putting in place up-to-date legislation in preparation of the I.M.F. visit. In relation to the particular provisions and the questions, there were 2 from the Deputy of Grouville and Deputy Baudains. I will deal with Deputy Baudains first. The issue of a true and fair view. The true and fair view issue is that there were accepted accounting standards within the United Kingdom. There are also generally accepted accounting standards in the U.S. and what this is doing is this is putting in place an ability for Jersey companies to have their accounts signing-off on either of those G.A.A.P. (Generally Accepted Accounting Principles) compliance. I think there was a doubt, I am advised, about whether or not Jersey companies could sign-off against U.S. G.A.A.P. and there are some differences. This deals with this issue and it is also appropriate Jersey companies - I am advised that it is 33,000 active companies - will be carrying out activities all over the world and will have audit requirements of different jurisdictions. I would hope that that would satisfy Deputy Baudains. In relation to the Deputy of Grouville's question about why there are different bring into force days of the different arrangements, I am afraid that this is really quite complicated. The reason is that it is not known whether this amendment will have received Privy Council approval in time for some of the different provisions and I am proposing a different bringing into force because of the requirement of bringing some of the Regulations into force and the company law amendments in place to ensure that this I.M.F. related issue is in place, I hope, for the assessment of the I.M.F. I have probably not done a very good job of explaining the different reasons of why there are different arrangements but there are different provisions and iterative arrangements between the Regulations and the Law which are probably going to come into force at different times. Of course, the Regulations are adopted immediately. The Law requires Privy Council approval and that is one of the reasons why there are some arrangements in the Law which are different. Sir, I move the 2 principles to the preamble.

Deputy R.G. Le Hérissier:

I do not think my question was answered, although I do thank the Minister for that excellent exposition. What I would ask, Sir, when a requirement arrives from the I.M.F. or a person in his jurisdiction brings a requirement forward, what discretion does he have in the way in which that requirement is dealt with? Does it have to be hard legislation? Does it have to be something that provides an onerous administrative burden for the industry or, indeed, for charities? What discretion does he have in dealing with that requirement?

Senator P.F.C. Ozouf:

Well, of course, it is not a world where the Minister is simply attended upon by an I.M.F. official or anything like that, concerning these issues. There are a number of individuals. There is the I.M.F. group which is chaired by the Chief Executive of the States, which has a number of the different regulatory bodies including the Attorney General, members of the Commission, members of the Chief Minister's Department, Economic Development who are basically going through these individual requirements. The detail of which, each I.M.F. requirement, and a judgement will be sought. Sometimes one can only deal with the requirement of an I.M.F. statement or an I.O.S.C.O. principle by changing the Law. Otherwise it is simply not effective. A code of practice will not be good enough. Each requirement is debated, discussed at great length by senior officials within the Island, advice is taken and then advice is given to Ministers. Of course, it is then up to Ministers to ask and to test their officials on the recommendation and that is what goes on each time that a change is made. Of course, a balance is struck between the efficiency and the regulatory burden of an individual change, and there is a regulatory burden with changes to the requirement and the trade-off is needed to be made. We understand the regulatory burden of changes that are made but

we also understand the importance of economic activity and the reputation of the States of Jersey if a standard was not put in place for Jersey. I just assure the Deputy that a huge amount of work is done by very senior officials on each and every requirement, including this one, concerning the I.M.F. So I move the principles.

The Deputy Bailiff:

All those in favour of adopting the amendment, kindly show? Those against? The amendment is adopted. Deputy Southern, I should ask you whether you wish to have this piece of legislation referred to the Panel?

Deputy G.P. Southern (Chairman of the Economic Affairs Scrutiny Panel):

No thank you, Sir.

The Deputy Bailiff:

Very well. Now, how do you wish to take the articles, *en bloc*?

1.3 Senator P.F.C. Ozouf:

En bloc, Sir. If I may, I will just simply draw Members... I will not draw Members' attention to, as I say, the individual matters that relate to the Regulations. I think there were simply 5 issues that I would draw Members' attention to. I draw Members' attention to Article 5 which is designed to enable a public limited company to end its name public limited company, plc or PLC or any combination of upper or lower case that is preferred. This is to avoid any technical offence being committed by the use of the wrong case. Plc has not been permitted until now in the use of Jersey companies' names. In Article 8, this relates to the power to redeem shares. Currently, the Law imposes restrictions on the source of capital from which redemptions in respect of par-value and no par-value can be made. As I tried to explain before, the world is changing in terms of what you can do or the restrictions on capital and these are changes that are bringing Jersey companies up-to-date. The third thing I would draw to Members' attention is Article 14 which allows members of private companies to dispense, by agreement, with the requirement for an Annual General Meeting to be held. The amendment, by omitting the word "private" alters the provision so that it will apply to all companies, public or private, that this provision aims to increase the flexibility of companies to operate where all shareholders agree and that no Annual General Meeting is required and thus is designed to save costs in the administration of the company. Likewise, Articles 15 and 16 propose to reduce from 21 to 14 days the period of which notice shall be given of a meeting for a special resolution or any other meeting to be held. Again, the aim is to reduce costs and simplify the Law so the companies can operate more flexibly and efficiently, saving costs, but I note the comments that Deputy Breckon made in the preamble. The last thing that I draw Members' attention to is the new Article 17 and Article 21, as contained in the amendment. This gives more flexibility to companies to prepare accounts in accordance with the generally accepted accounting principles. As I explained to Deputy Baudains, it gives the ability to sign-off accounts prepared under either U.K. or U.S. G.A.A.P. in the event that auditors are appointed. Perhaps finally, Sir, Article 21 relates to the qualification or appointment as auditors. The current Law requires that in order for a partnership to be eligible for appointment as an auditor, all partners must hold the relevant qualification, or at least 75 per cent of the partners and voting rights must have relevant qualifications. This is seen as being too restrictive in the modern world where auditors may qualify for work in global partnership in a number of jurisdictions and this amendment seeks to reduce the percentage to 50 per cent of qualification. Again, I can assure Members that this is in line with reforms in company law in the United Kingdom and elsewhere and, basically, it is explained by the fact that there is an increasing global marketplace in audit practises around the world. Sir, I will attempt to answer any other questions that Members may have but those are certainly the important provisions that I would draw to Members' attention. So, I move the Articles.

The Deputy Bailiff:

Does any Member wish to speak on any of Articles 1 to 33? No? Very well, all those in favour of adopting Articles 1 to 33, kindly show? Those against? The articles are adopted. Do you propose the Bill in Third Reading?

Senator P.F.C. Ozouf:

Yes, Sir.

The Deputy Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading, kindly show? Those against? The Bill is adopted in Third Reading.

2. Employment Tribunal: appointment of members (P.180/2007)

The Deputy Bailiff:

We come next to Employment Tribunal: appointment of members - Projet 180 - lodged by the Minister for Social Security and I will ask the Deputy Greffier to read the citation.

Deputy G.P. Southern:

May I ask a point of order? It has come to my notice that there are objections to one of the nominees, which are coming from a shareholder in the process, and I wish to speak in a negative sense about one of the candidates. I wondered whether it was appropriate to go into camera so that I may be as open as I can be in criticising an individual who is not in the House?

The Deputy Bailiff:

Well, it is up to the Members of the Assembly. You are entitled to move if you wish.

Deputy G.P. Southern:

I think I would feel more comfortable being totally open if we were in camera.

The Deputy Bailiff:

Would it be right, I must submit, for Members, not to do that at this stage. In other words, to have the proposition explained in public so that it can be heard and then if you, yourself, wish before you speak to move that the Assembly go into camera, then it will be a matter for the Assembly?

Deputy G.P. Southern:

If that is the appropriate way forward that is how I put it.

The Deputy Bailiff:

The more that can be in public on any view the better.

Deputy P.N. Troy of St. Brelade:

The Minister is out of the Island on personal business so...

The Deputy Bailiff:

One moment, Deputy. I think we had better read the proposition first.

Deputy P.N. Troy:

Can I comment on what the Deputy has said, Sir?

The Deputy Bailiff:

Yes.

Deputy P.N. Troy:

As the Assistant Minister for Social Security I wondered if the Deputy's comments are going to be of a personal nature regarding the individual or just regarding their capacity to perform because I wonder if there truly is a need as to whether we need to go into camera?

Deputy G.P. Southern:

The comments I have to make are, obviously, not personal and they are not directed from me. They are, however, critical of the capacity of this person to do the job and I think I would feel freer and more able to speak freely if we were in camera when I spoke.

The Deputy Bailiff:

Well, as I say, I think that is a matter to be discussed when you make your case, if you wish to, Deputy, to move into camera. But...

Deputy G.W.J. de Faye of St. Helier:

On a point of order, Sir, if the Deputy is referring to any one individual out of a number, I think it would be not helpful, as it were, if we stopped the proceedings with the spotlight focused on one individual. It seems to me that we - and realise this may run against the grain of open and transparent government - that unless we throw the blanket over everybody involved then, inevitably, someone will be highlighted.

The Deputy Bailiff:

My understanding was that once Deputy Southern wishes to speak he will ask if the Assembly wishes to go into camera. He need not mention the particular one that he complains of at that stage and so those listening will not know which of the 4...

Deputy G.P. Southern:

If it helps the Deputy, I intend to speak first, so the proposal will come and I will try and speak first and I will ask if we can go into camera to ease the things I have to say.

Deputy P.N. Troy:

I would say, in the light of that process, that does seem to be the fair way forward.

The Deputy Bailiff:

Very well. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of the opinion to appoint, in accordance with Regulation 3 of the Employment Tribunal (Jersey) Regulations 200- and on the recommendation of the Jersey Appointments Commission, the following persons as members of the Jersey Employment Tribunal for a period of 5 years: Mrs. Anne McPhee, Mr. Mark Thérin, Mr. Michael Baudains, Mr. Michael McCarthy.

The Deputy Bailiff:

Yes, Deputy Troy, I understand you are acting as rapporteur, as Assistant Minister, in this matter?

2.1 Deputy P.N. Troy (Assistant Minister for Social Security - rapporteur):

Yes, Sir. Sir, I propose the appointment of the 4 new members of the Jersey Employment Tribunal, as has been said: Mrs. Anne McPhee, Mr. Mark Thérin, Mr. Michael Baudains and Mr. Michael McCarthy. The Employment Tribunal (Jersey) Regulations 2005 were amended in 2007 to increase the number of side members who may be appointed to the Employment Tribunal. This allows the appointment of 2 additional employee representatives and 2 additional employer representatives. In forming a tribunal, 2 side members - one from each side - are selected to form a

3-person panel with the chairman or deputy chairman. The recruitment process was undertaken by the Employment Tribunal with the assistance of the Jersey Appointments Commission and following short-listing structured interviews were held by a panel consisting of the tribunal chairman, deputy chairman and an independent representative of the Appointments Commission. So, we are satisfied, Sir, that these proposed 4 members are suitable for appointment. The Regulations provide that the members of the tribunal may hold office for 2 terms, each not exceeding 5 years and it is proposed that each of the following new members is offered an initial term of 5 years. I would ask Members to approve the appointments and I make the proposition, Sir.

The Deputy Bailiff:

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

2.2 Deputy G.P. Southern:

Yes, Sir, I wish to criticise one of the appointments and, therefore, in order that I may speak as openly as I can I ask that the House would go into camera for the duration of my speech, at least, if people want to respond to it as well. I think this is a serious issue. I would just feel freer, more able to speak openly if we were in camera.

The Deputy Bailiff:

You propose to go into camera? Is that seconded? [**Seconded**] Does any Member wish to speak on whether we should go into camera?

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

Very briefly, Sir, I think that in this instance it is appropriate that given Deputy Southern's desire to speak about one individual and covering all 4 it is probably wise this morning that we do go into camera but I would stand and take the opportunity, if I might, to request P.P.C. (Privileges and Procedures Committee) to inform us as to what they are doing in regard to these issues. We did have a debate earlier last year about the appointment of W.E.B. (Waterfront Enterprise Board) and during that debate there was going to be a whole raft of work done by P.P.C. in this area, which we have not heard anything about, in regards to appointments in camera and the issue about whether or not we are appointing people with the ability for the public to hear or not. I can see the President of P.P.C. shaking his head as if he does not recall or has not done any of the work, so now is a timely moment for me to remind him that if he would like to review the transcripts it was quite clear at the time that was something they were going to bring back.

2.2.2 Deputy R.G. Le Hérissier:

Partly building on Deputy Le Claire's view, I am very ambivalent about this. I thought we, as an organisation, Sir, have always been embarrassed by these debates. We have never thought a 53-person recruitment and appointments panel was the way to handle personnel issues just as it does not handle government reform and I am very embarrassed, Sir. People have been put through what appears to have been a very professional appointments process, and while I do not doubt for a moment that Deputy Southern may have some very valid points to raise about an individual, it really raises some very serious points about our belief in the validity of the process that has allegedly taken place. I really feel for these people. They have been put through this. Hopefully it was professional, it was thorough and then all of a sudden information has apparently come forward which may well undermine this process. While I do not wish to see personal details discussed, we have worked through this before as an Assembly, we tried to avoid becoming a 53-person appointment panel and I will not vote for this, I am afraid, on principle.

2.2.3 Senator P.F.C. Ozouf:

I am sure you do not want a detailed debate on whether or not we are going into camera but I completely agree with the comments made by Deputy Le Hérissier. We have set up... this Assembly has appointed a Jersey Appointments Commission...

The Deputy Bailiff

Senator, sorry to interrupt for a moment. I nearly interrupted Deputy Le Hérissier. We are, at the moment, only deciding whether to go into camera. I feel that the points that the Deputy made are perhaps more appropriate than whether one should ever vote against this sort of proposition where it has been through an appointment by the Commission. We are limited at the moment of whether to go into camera. Deputy Southern is entitled to make such observations as he wishes about the candidates, whether the Assembly agrees with him or not, for the reasons given by Deputy Le Hérissier, is up to them. He is entitled to make the comments and so we are really only concerned with whether, if he wishes to make those comments, they should be in camera or not.

Senator P.F.C. Ozouf:

I would make the argument that if we go into camera we are, effectively, becoming a recruitment tribunal and a recruitment commission. That is what we are going to be doing and we are going to be effectively doing the job of the Appointments Commission. That is why I do not think it is right or appropriate for us to, effectively, set aside the process that has been done by the Appointments Commission. If the Deputy does not agree with the process - with the Jersey Appointments Commission, their procedures and their individuals - then he should bring a proposition to say that he does not like it. But to turn this Assembly into a Jersey Appointment... **[Interruption]** no, exactly, he wants to turn this Assembly by going into camera, into an Appointments Commission and that is not the job of this Assembly and for that reason I would respectfully suggest that we put the stricture on this Assembly that we do not become an Appointments Tribunal in private. What should be possibly be able to be said of an individual... there is a restriction on the public listening to this that is an appropriate one and the public will think that what is being said behind closed doors that could not be said in open session, and I am completely against this Assembly being turned into an Appointments Commission and would urge Members to vote against going into camera.

2.2.4 Deputy A. Breckon:

I wonder if I may seek your guidance from the Chair. The proposition has been read and names have been named and however we debate or discuss this, at the end there would be some vote and I would assume by the proposition it would be a collective vote so we could not say we vote for him or her. We would either have to accept the 4 people or reject the 4 if we have had some sort of discussion on that, Sir. So I would, in the circumstances, ask if perhaps the Assistant Minister, in the absence of the Minister, would consider delaying this matter while discussions take place because I am not aware of anything but I think it is a messy way to proceed. So, I wonder if you could tell us how we may vote at the end of this?

The Deputy Bailiff:

It seems to me it is a matter for the Assistant Minister as to whether he, at the end of the debate, invites a vote *en bloc* or whether he says that he wishes to have a vote on each, individually. Yes, Minister?

Deputy P.N. Troy:

I am not inclined to withdraw at the moment, Sir, and I did earlier try to obtain from the Deputy where his objections lie because I do not believe they lie on the fact that, from what I understand, from discussions that he maybe has had with the...

The Deputy Bailiff:

Deputy Troy, just a minute. My query was, perhaps, directed towards whether you would, at the end - assuming there is a vote - wish to take it *en bloc*, so they stand or fall together or whether you wish to seek votes individually so that, if you wish, you can have 3 appointed and one either appointed or not appointed depending on the vote.

Deputy P.N. Troy:

I think it would be better *en bloc*, Sir. They have been through a rigorous selection process, Sir.

The Deputy Bailiff:

That is your decision, so that is what you would wish to do. We do not want to go too long on this but...

2.2.5 Deputy G.W.J. de Faye:

With the greatest respect, Sir, I have to say I think both Deputy Le Hérissier and Senator Ozouf have completely missed the point about why we should or should not go into camera. It has nothing to do with the validity or not of the appointments process. If that is a procedure that needs to be reviewed it should be reviewed but not now. The fact of the matter is that a number of names have arrived in front of this Assembly in order to be approved or not. This is not a rubber-stamping process. Members are entitled to pass comments and whatever view they have to take on the names that have been put forward to Members. If the situation was otherwise we would not be in this discussion in the first place and the appointments would be made in an entirely separate mechanism. The fact is that names are before the House to be discussed and I believe it is only fair, if people's credentials are to be called into question in any way whatsoever, that may or may not cast some light upon them, it is entirely appropriate that we make all those comments in camera. I am sorry if there is some feeling that the vast swathe of listeners to this session are somehow going to be up in arms about this. I do not believe that to be the case at all. Assuming that there are any listeners - and there may be one or 2 - I believe that any right-minded Islander would fully understand that it is an entirely appropriate mechanism to discuss people without exposing them to any level of public oversight as to whether they are good, bad or indifferent whatsoever. It is an absolutely proper way to approach and, similarly, in order that no individual could be picked out of the numbers of names put forward to us we should deal with the whole process in camera and not single out any one name or another. It seems to me this is an entirely fair and proper way to go about things. It is nothing to do with transparency of government because there will be an end result which will be entirely open for everyone to see. It is about being able to talk openly about the appointees that are put before us without causing embarrassment to anyone. It is an unbelievably simple move to make and we should make it.

2.2.6 Deputy G.C.L. Baudains:

I entirely agree with the last speaker, Sir, and I also agree that Deputy Le Hérissier and the Senator were mistaken in their views because we are, in fact, here as Deputy de Faye has just said, in order to come to a decision. It is our duty to come to the best possible decision. We should not, as he has said, be rubber-stamping this. It is our duty, if there are problems with any of the candidates, to debate that. I think Members seem to have got themselves into a position where they are concerned about the reputation of this Assembly simply because there are some mischief-makers outside of this Assembly who would suggest that by going into camera we are doing some sort of backroom deal and that is entirely unsatisfactory. Of course not. The whole purpose of going into camera is an entirely responsible one. It is to protect the integrity of any of these particular individuals. Now, if the public suggest that we should discuss the personal or private details of any of these people in public I am sorry I have to disagree with them. That is not the way forward. This is entirely appropriate that if there are any comments which might have an adverse effect on any of these individuals then they should be made privately so they do not in anyway disadvantage the people concerned. I can see no other way of doing this job properly than to go into camera.

2.2.7 Deputy J.J. Huet of St. Helier:

Nobody should be nasty or unkind about people if you can possibly help it. But the Commission Board, which is a very good board because I have been with them, they cannot know everything about everyone. It is an impossibility, and it is only by something coming to this Assembly that

something is known about people that is not known in general, but that does not mean to say that they have to make that public. I think we are old enough and wise enough to say, that should be in private. It could have been something from many years ago that is long gone but just makes that person unsuitable for that particular post. But it does not mean to say that we should hold that person's washing up in public for other people and I believe it should be in camera, Sir.

The Deputy Bailiff:

Very well. Deputy Fox, do you have something new to add to this debate as to whether we should go into camera?

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

Well, Sir, I am entitled to speak and I do not like what I am hearing at the moment. It would appear that the Deputy has not spoken to Social Security on what...

Deputy G.P. Southern:

May I, Sir? I have, I requested the Minister yesterday to withdraw this for reconsideration so that I did not have to make a public statement, or a private statement, about one of the candidates. I made my views clear and the facts clear about the case and ask them to withdraw yesterday.

Deputy P.N. Troy:

Yes, Sir, but as far as I understand the Deputy's objection is more related to someone's job function rather than their skills to perform the job.

The Deputy Bailiff:

One moment, please, one moment. We cannot have all Members speaking...

Deputy G.W.J. de Faye:

On a point of order, Sir, we are drifting well away from the debate and we are in danger of introducing items that will identify individuals.

Deputy J.B. Fox:

What I was going to ask was, as a point of clarification, is it not better to see if this can be put back for it to be discussed and sorted and, if appropriate, come back with revised names or whatever the outcome is? Is that possible, Sir?

The Deputy Bailiff:

Well, at the moment we are discussing the proposition of Deputy Southern as to whether to go to camera...

Deputy J.B. Fox:

So that makes a difference as to what the decision might be?

The Deputy Bailiff:

Well, the rapporteur has said that he does not wish to withdraw it at the moment so the matter rests there.

Deputy J.B. Fox:

Right, thank you, Sir.

2.2.9 Senator L. Norman:

I know some Members, Sir, are getting frustrated at the length of this particular part of the debate but nevertheless I do think it is quite important, an important matter of principle that we are being asked to decide upon. As I recall, the last time that we voluntarily went into camera for such a

proposition as this was the appointment of the Chairman of the Waterfront Enterprise Board. Now we all know, subsequent to that decision and going into camera, that that decision was both unnecessary and inappropriate, and more than that it caused more suspicion, more anger and more distrust than had we had the debate in public as indicated we should have done. So, I think, Sir, that we should learn from our mistakes in going into camera far too easily and to reject the proposition of Deputy Southern and to have this debate transparently and in public, as it ought to be.

2.2.10 Senator J.L. Perchard:

Just one brief point to add to that, Sir. I think Deputy Southern has had nearly 8 weeks to comment on this proposal. This list of names was lodged on 23rd November 2007. I believe he is politicising this appointment and I think the House should firmly reject... he has been lobbied, he has been got at and the House should firmly reject this suggestion to go into camera so that he can expound some of his mates' views on one of the candidates. **[Interruption]** No. If he has something to say publicly about a person he has had 2 months to say it.

2.2.11 Deputy C.J. Scott Warren of St. Saviour:

I do believe that Deputy Southern would not ask to go into camera if he felt it was all right and okay for the public of Jersey - Jersey is a small place, everybody knows everybody - to speak in public. Politically, it does not do him credit to ask to go into camera if it is not necessary. We are in this position where we are supposed to ratify these names and either we have the flexibility to hear what other candidates want to tell us, whether abbreviated in public or fully discussed in camera. Obviously, maybe, this is not the way to appoint members to tribunals. This appointment system may need - does need - political procedures to overhaul it but while we have this system we have to decide do we trust that Deputy Southern would speak publicly if he felt able to and do we give him the benefit of the doubt and let him say what he wants to say in private? Thank you.

2.2.12 Connétable D.J. Murphy of Grouville:

I am ambivalent about this but, at the same time, I would like to be assured by Deputy Southern that what he has got to tell us has not already been considered by the employers and the tribunal. In other words, I would like an assurance from him that we are going to be told something new, if we are going to go into camera? Thank you.

2.2.13 Senator S. Syvret:

I am just speaking briefly in response to the comments by Senator Perchard. Firstly, this Assembly is the Island's debating chamber, it is our legislature so it is here that decisions get made and Members listen to the debate and express their view, not in e-mails or whatever 8 weeks earlier. Members are entitled to raise issues of concern to them during the debate and I am pleased to see that Senator Perchard now does not like Members standing in the Assembly to speak on behalf of his mates. What a pity he did not remember that at the time of the debate on the rezoning of the fish farm **[Laughter]** land in Grouville, which was being brought forward by his best friend.

The Deputy Bailiff:

Senator, can we keep ourselves to this topic?

Senator S. Syvret:

I too, as the Constable of Grouville, I am ambivalent about this matter, but what I would need in order to vote against going into camera is an assurance from the Chair - and this may be a point of order - that Deputy Southern, if it is in public, can speak frankly about his concerns without it breaching Standing Orders or him being silenced by the Chair.

The Deputy Bailiff:

Well, if it is any assistance, yes, the general rule of course is that people should not be named unnecessarily, but here the names are already the central part of the proposition and the Deputy is free to say what he wishes. Of course, Members as far as possible, must exercise restraint when talking about those who cannot answer back in this Assembly. But he is free to say as he wishes.

Connétable T.J. du Feu of St. Peter:

Can we please go to the vote because I believe that we have had enough comment one way or another and we are not doing ourselves any credit in continuing to discuss it?

The Deputy Bailiff:

Very well, if no other Member wishes to speak, I will ask Deputy Southern if he wishes to reply?

2.2.14 Deputy G.P. Southern:

Thank you. Just briefly, my request is not because I have things to say about one of these individuals that is personal in nature and may cause offence in any way. It is merely my powers of rhetoric and my powers of oratory that I might stray in public and say something I did not mean to. So, it is easier for me to speak accurately **[Interruption]**. Will the Member just listen for a minute? Members have already made offensive remarks today. I wish he would let me respond. In fact if the House wishes, of course I will speak in public and I do not believe I will say anything particularly untoward. In answer to the Constable of Grouville, I believe the information I have has not been put to the Appointments Panel and therefore is fresh information which has a material effect, I think, on the decision.

Senator J.L. Perchard:

Well, a point of order, Sir. Just for clarification, did the Deputy say that he is quite happy to speak publicly, but he is concerned that he may be inaccurate, but he implied that it is okay to be inaccurate in camera?

The Deputy Bailiff:

No, he did not imply anything of the sort, Senator. Now, do you wish an appel, Deputy, or a standing version? Very well, the appel is called for as to whether to move into camera, for or against and the Greffier will open the voting.

POUR: 29		CONTRE: 14		ABSTAIN: 0	
Senator S. Syvret		Senator L. Norman			
Senator W. Kinnard		Senator T.A. Le Sueur			
Connétable of St. Mary		Senator P.F.C. Ozouf			
Connétable of St. Lawrence		Senator J.L. Perchard			
Connétable of Grouville		Connétable of St. Peter			
Connétable of St. Brelade		Connétable of St. Clement			
Connétable of St. Martin		Connétable of Trinity			
Connétable of St. Saviour		Deputy of St. Martin			
Deputy R.C. Duhamel (S)		Deputy P.N. Troy (B)			
Deputy A. Breckon (S)		Deputy R.G. Le Hérisier (S)			
Deputy J.J. Huet (H)		Deputy J.B. Fox (H)			
Deputy G.C.L. Baudains (C)		Deputy J.A. Hilton (H)			
Deputy C.J. Scott Warren (S)		Deputy of Trinity			
Deputy J.A. Martin (H)		Deputy S.S.P.A. Power (B)			
Deputy G.P. Southern (H)					
Deputy S.C. Ferguson (B)					
Deputy of St. Ouen					
Deputy P.J.D. Ryan (H)					
Deputy of Grouville					
Deputy of St. Peter					

Deputy G.W.J. de Faye (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

The Deputy Bailiff:

Very well, so I would ask the Usher to clear the galleries please.

[Debate proceeded in camera]

The Deputy Bailiff:

Very well, for the benefit of the media, we have just returned. The matter before the Assembly is a proposition by Deputy Southern to refer back the proposition by the Minister for Social Security. So, that is now the matter upon which we are to vote. So, it is pour or contre the reference back, The Greffier will now open the voting.

POUR: 17		CONTRE: 31		ABSTAIN: 0
Connétable of St. Clement		Senator S. Syvret		
Connétable of Grouville		Senator L. Norman		
Connétable of St. Brelade		Senator F.H. Walker		
Deputy R.C. Duhamel (S)		Senator W. Kinnard		
Deputy A. Breckon (S)		Senator T.A. Le Sueur		
Deputy G.C.L. Baudains (C)		Senator M.E. Vibert		
Deputy C.J. Scott Warren (S)		Senator P.F.C. Ozouf		
Deputy R.G. Le Hérisier (S)		Senator T.J. Le Main		
Deputy J.B. Fox (H)		Senator F.E. Cohen		
Deputy J.A. Martin (H)		Senator J.L. Perchard		
Deputy G.P. Southern (H)		Connétable of St. Mary		
Deputy S.C. Ferguson (B)		Connétable of St. Peter		
Deputy P.V.F. Le Claire (H)		Connétable of Trinity		
Deputy D.W. Mezbourian (L)		Connétable of St. Lawrence		
Deputy of Trinity		Connétable of St. Martin		
Deputy S. Pitman (H)		Connétable of St. Saviour		
Deputy K.C. Lewis (S)		Deputy J.J. Huet (H)		
		Deputy of St. Martin		
		Deputy P.N. Troy (B)		
		Deputy of St. Ouen		
		Deputy P.J.D. Ryan (H)		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy G.W.J. de Faye (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy S.S.P.A. Power (B)		
		Deputy A.J.D. Maclean (H)		
		Deputy of St. John		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

The Deputy Bailiff:

Very well. Well, now that means that the debate continues. The debate is in camera, so I very much regret that we... [Laughter]

Senator S. Syvret:

On a point of order, Sir, does the debate have to continue in camera now because it seems to me that we are aware of what the concern is and it is merely one of categorisation of the particular individual, whether an employer or an employee. It seems to me that that kind of thing could be debated perfectly satisfactorily in public.

Deputy G.C.L. Baudains:

I agree with that, Sir. It does seem to me that we have possibly ventilated everything that is necessary under the in camera issue and we could now perhaps stay in normal debate.

Deputy G.P. Southern:

I certainly would leave that to the House that we proceed in public. I do not think there is anything that can be added in private that cannot be added in public.

The Deputy Bailiff:

It is a matter for Members. Clearly, much has been said already and that does not need to be repeated.

Senator S. Syvret:

2.3 Shall I make a formal proposition that we continue this debate in open session?

The Deputy Bailiff:

Very well, is that seconded? [Seconded]

2.3.1 Deputy G.W.J. de Faye:

I would like to speak again, Sir. I am not entirely sure there is a proposition to continue an open debate and as such, therefore, I wish to bring a proposition that we debate the details of these individuals in camera.

The Deputy Bailiff:

I am sorry, Deputy, it is the other way around. At the moment we are in camera because the debate was to be in camera. It is correct therefore that Senator Syvret bring a proposition to now...

Deputy G.W.J. de Faye:

In which case, Sir, I will speak against that proposition, but I cannot see we can be in camera when I see members of the press here.

The Deputy Bailiff:

No, this can be an open. No, sorry, I missed that.

Deputy G.W.J. de Faye:

Sorry, Sir, am I in camera or am debating...

The Deputy Bailiff:

We are not in camera at the moment unless we have this debate.

Deputy G.W.J. de Faye:

Right. In which case, Sir, I think we should continue in camera. The discussions that have been held in camera up until now have been illuminating and have certainly given me reason to believe that it is eminently possible in any one of the speeches that may yet transpire for people's reputations to be damaged. As I have already heard a series of very damaging critiques of persons. I therefore think it would be entirely inappropriate just because we seem to have felt we have reached some impasse in the proceedings to chuck over the original principle which is that this Assembly, I believe, at all costs should take the appropriate measures to protect people's reputations. That is what it boils down to. We have not concluded this matter. Four names are before the Assembly which is quite apparent to me that there would be a number of Members who will wish to pass comment either on those people or their associated organisations and it will be entirely inappropriate to suddenly feel that the matter is now concluded because we are not having a reference back and suddenly everything is honky dory. No it is not. People's reputations could still be very easily damaged and it seems to me that it is a matter of utter, utmost import that we continue to offer a blanket protection to anyone whose personality, character or reputation may possibly be damaged and I suggest we continue in camera.

2.3.2 Deputy J.J. Huet:

I could not agree more. We have heard all the nasty things, so I think we have a right to reply for the nice things. All we have heard are the bad things and you cannot just say you were going to be in camera for the bad things, but not in camera. It means you cannot reply and say anything nice because you would be able to pin it down.

The Deputy Bailiff:

Very well, does any other Member wish to speak on whether to go back into open session?

2.3.3 Senator F.H. Walker:

Could I just make it clear on the back of a couple of the speeches just been made, that the character of none of the candidates is being challenged here and I think it is important the public know that and the candidates know that. Characters are not in question. There is merely a technical issue here which we have been discussing and which we are one way or another going to continue to discuss. But I think everyone needs to know that no one's character is being brought into question.

2.3.4 Senator S. Syvret:

I will follow my own advice and not repeat things. I agree with everything Senator Walker just said and I would simply add, Sir, that we go into camera only on particularly necessary occasions and it is better for us, for the public and for trust in the Government if we do as much as possible in open session. All we are dealing with here is a dispute about categorisation. As Senator Walker said it is nothing to do with personalities or qualities or anything of that nature and I really cannot see why we cannot conclude the debate in open and I ask for the appel.

The Deputy Bailiff:

So, the appel is called for and the proposition before the Assembly is for going into public session or contre remaining in camera for the balance of the debate. The Greffier will now open the voting.

POUR: 35		CONTRE: 9		ABSTAIN: 0
Senator S. Syvret		Senator F.E. Cohen		
Senator L. Norman		Connétable of St. Clement		
Senator F.H. Walker		Deputy R.C. Duhamel (S)		
Senator W. Kinnard		Deputy J.J. Huet (H)		
Senator T.A. Le Sueur		Deputy C.J. Scott Warren (S)		
Senator M.E. Vibert		Deputy of St. Ouen		
Senator P.F.C. Ozouf		Deputy G.W.J. de Faye (H)		
Senator T.J. Le Main		Deputy J.A.N. Le Fondré (L)		

Senator J.L. Perchard		Deputy I.J. Gorst (C)		
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Saviour				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy P.N. Troy (B)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (B)				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy of St. Mary				

Deputy P.V.F. Le Claire:

I will not enter into any remarks in relation to the in camera debate, Sir, but I would just like to say in the public forum I was so emotional or annoyed and I still have to clarify whether or not my name was referred to at the beginning of summation of the reference back, and so I might have voted the wrong way, Sir. I just wanted to make that known. Although I voted no, I did not support the reference back. I wanted to make that clear. I voted incorrectly as some Members have done in the past. I would like to say, Sir, that I will be reviewing after this session, the words that were spoken in camera in transcripts in private, as we are all entitled to do, to see exactly what was said because I do believe that the issue about it being not personal, in my view, Sir - and I need to be comforted on the fact that I believe the way that the points were initially raised and the remarks that were initially made by Deputy Southern, I need to review those, Sir - because I believe that there is more than an issue about whether or not there was a technicality, as we are now trying to put across that there was, and I believe that there was a personality issue. I will be supporting the proposition of the Assistant Minister for Social Security and the Social Security Department and I must say, Sir, that I am wholeheartedly disgusted with this event this morning.

The Deputy Bailiff:

Well, no, Deputy, I do not think you can speak at the moment because this is your proposition is it not, at the moment? No, I beg your pardon we are all getting muddled now.

Deputy G.P. Southern:

I proposed a reference back as part of my speech. I should still be on my feet, I think.

The Bailiff:

Yes, you did speak at some length, but nevertheless ...

2.4 Deputy G.P. Southern:

I will keep my remarks short and to the point because I think we have identified the crux of the matter. The crux of the matter is that in order to maintain the trust and respect of all those involved, the Employment Tribunal must be clearly seen to be balanced and thereby impartial and to be able to give a fair hearing. It seems to me that objections have been raised to one of the employee nominees to the effect that he is effectively - this is what happens when you go public again - more representative of the employers interests and therefore the balance between the side members is shifted effectively from 6 on each side to 7 on one side, 5 on the other as a matter of fact. That throws into question whether the whole process can be made impartial and therefore can be trusted. Now, that is the question and it is a question of trust in industrial relations and in individual and collective disputes. Now, this is one where I believe we have not got clarity over what the situation is and whether the Appointments Board knew all of the facts, and it knew in depth how strongly this balance was required and the feelings involved. It seems to me that we should not be proceeding with this appointment because we do, however marginally, put the whole process and the trust in the process in the balance and in doubt. So, I would be voting against this set of appointments.

2.4.1 Deputy P.J.D. Ryan of St. Helier:

I think the basic problem really stems from the definition of what an employer representative is. It is probably clearer in the private sector where you might have the employers clearly or a director of a company, *et cetera*. I think most of us could probably come to the conclusion on what an employers' representative is much easier in the private sector than perhaps one could in the public sector. But there are other sides to this as well. The Transport and General Workers' Union, or any union for that matter, could probably be forgiven for believing that their brand of politics, whatever that is, is the only legitimate employee description. But, of, course, for those of you that are old enough - and certainly as old as me - they might remember the B.B.C. (British Broadcasting Corporation) comedy programme called Till Death Us Do Part, when in fact you probably had a very employee kind of person that probably lay slightly to the right of Genghis Khan. So, you know, where exactly is the politics of employees as opposed to employers? It is a difficult one. My own view is that it is becoming clearer and clearer to me that the Social Security Department has got this one slightly wrong in a couple of areas, in that somebody that they are appointing as an employee representative has a history in the public sector, where they have clearly represented the interests of the employer rather than the employee. For that reason, I am worried about this general batch of appointments, and I am, at this moment, inclined, I am afraid, to vote against it, much as it is a fairly marginal decision, and I can understand where the Social Security Department is coming from. We are in the public sector; there are employees that go to a very high level, because of the nature of the public sector. But I think realistically, it is a little bit of a naïve appointment to have made certainly one of these appointees as a representative of the employee side, rather than the employer side; and for that I think that their decision may be flawed. So, as I say, I am inclined to vote against it at this point. I am considering.

2.4.2 Senator S. Syvret:

Sometimes I am often forced to think that Members really must have nothing better to do with their time than sit in this Assembly. I mean, I have got an immense amount of relevant and important work I could be doing instead of listening to all of this. It seems to me that the issue is perfectly plain. I am going to vote against the proposition, and my reason for doing so is that we are dealing with a *de facto quasi* judicial body and therefore it not only needs to be impartial, but it needs to meet the test of the appearance of impartiality. If there is a significant dispute over the categorisation of one of the members, thus disbalancing it, it no longer meets that test. Therefore I will be voting against the proposition in the hope that the Employment and Social Security Department will readdress the matter.

2.4.3 Deputy C.H. Egré of St. Peter:

Sometimes I think I live in a parallel universe. I have trust in the Employment Commission. All the arguments that we are perhaps putting forward here, I would hope, would be tested in that environment. When we start dealing with grey areas here, I hope that they would have dealt with that grey area and come to a conclusion. I am also satisfied that within the operation of fairness that we do have those protections already built-in, in the fact that someone who is going up in front of the board can, if they so wish, say that they are not happy with the people sitting on the board, and it will be dealt with. The protections are built-in. I realise I am repeating what has already been said, but I just wish to emphasise that particular point. So, yes, we have to have trust in our Employment Commission, and within that trust we also have the safeguards built in within the system that we have approved within this House.

2.4.4 Deputy C.J. Scott Warren:

I will not be supporting this proposition today. In my opinion, Sir, the problems identified should be discussed further and need to be resolved. This, Sir, is why I supported the reference back, and this is why I cannot now, at this stage, support these 4 candidates. I hope the candidates concerned will appreciate that I admire each of them for putting their names forward, and I may well have been able to support them if a short time span had been agreed by this Assembly. Thank you, Sir.

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

I had not heard about anything that has been spoken about before today, whatever anybody may or may not believe. That is up to them. But I have listened to people who have obviously much more knowledge than me of this particular person, and who have described them quite clearly as they would perceive them to be, an employer, and more on the employer's side. We are dealing with a very delicate balance. I stand only to speak after the Deputy of St. Peter, since I feel a lot of other Members in the in camera debate seem to feel we have a panel in place, and a perfect place where somebody who is appearing in front of this tribunal can object to one of the panel. They can, Sir, and it was pointed out by the rapporteur, that they can object and it will just be taken into consideration by the Chairman of the... Yes, I am hearing, Sir, behind me. No. If someone sitting on the panel has a conflict, they may decline themselves from being on the panel. If someone appearing in front of the panel has a problem with one of the panel members, the rapporteur told this House, if you listen very carefully, that would be taken into consideration by the Chairman of the Employment Tribunal - just "into consideration". Again, that would then leave somebody not maybe of ours, but the person who is appearing in front of the tribunal, having to present the case feeling that one of the tribunal members is predominantly more an employer representative than an employee's. I do not think we need to be there. I am very sorry that the reference back was not accepted. Firstly, it was probably not voted upon because the Assistant Minister, rapporteur, told us that they would not really even reconsider. From what I have heard today, I cannot feel that this is appropriate. I also feel that there seems to be quite a bit of misunderstanding on how the person who has got to be standing in front of this tribunal can choose who they want to be on it. I think, if I am not clear on it, I am certain the Assistant Minister is not clear on it, and I am also certain there are about 50 per cent of States Members who do not understand. I am definitely not sure on it, and for that alone I think they should not vote for this, and I will be voting against it. Thank you, Sir.

2.4.6 Deputy J. Gallichan of St. Mary:

While I agree wholeheartedly with one of the comments that Deputy Southern made earlier, that there is a balance to be maintained, the issue here for me goes beyond that, because we have in place a due process for consideration of tribunal members. My understanding is that an objection to a category of member, shall we say, generally, was raised, but that when further information was sought by the panel, none was forthcoming. In other words, it was not substantiated. In that case, it seems that due process was followed, and we are now facing a situation where we are saying that we are not happy with that process and the way it was carried out, if we refuse this appointment. It

seems to me that we need to consider, perhaps, a broader issue here, of examining how these appointments are made, if we are continually going to be unhappy. We were initially led to believe that we would get completely new information, I believe, but it transpired during our in camera debate that in fact the information was not new, but was just being re-presented in a different fashion. I have not heard anything that would make me question what is in this proposition, Sir. Thank you.

2.4.7 Deputy G.W.J. de Faye:

Clearly I feel constrained, as we are not in camera, but I am sure that will come as a great relief to Members, now I am not going to expound in detail on some of the background issues. Where the issue seems to be foundering upon is, what is an employer and what is an employee, and have we got the balance right? I have to say I disagree with those Members who are putting forward the theory that the balance is wrong. They seem to be overlooking, I think, a very important element of government, and that is that our public services which comprise of numerous cadres of people - civil servants, manual workers, so on and so forth - are in broad terms, split into what have generally popularly been described as blue collar workers and white collar workers. Now, I have no doubt in my mind that the department has got the balance right here, because the people being put forward as employees are employees: one of them clearly obviously so, because they are a Union member and convenor, and the other one happens to be a white collar employee who has a level of authority. That does not make someone an employer. Perhaps I should remind Members that the employment scene within the States of Jersey has drifted rather dramatically as Ministerial government has developed, because the employer is the States Employment Board. As a Minister, I am not the employer of the employees in my department. I have no direct say-so in hiring and firing. I am not the employer. It is the States Employment Board who is the employer. Everybody who works, therefore, in the States, to the States Employment Board controlled via Human Resources, are employees. Some of them will have authority over other members of their workforce, but ultimately we get down to the manual worker on the ground who, I suppose if you want to put it this way, does not order anyone else around but is in receipt of all the orders coming from the top down. Nevertheless, it would be, I think, a mistake to suggest that the department has got this wrong and that somebody is an employer, when in fact quite clearly they are a white collar employee. That really is the issue that Members have before them. I think it is a simple one to resolve. It is merely to understand that we have a very large workforce of about 6,000 people that comprise blue collar workers, white collar workers; some have authority over others, but they are all employees.

2.4.8 Senator T.A. Le Sueur:

It strikes me listening to this debate, that if you repeat an opinion a few times it becomes a fact. I think what we have here is a contrast between an opinion raised at the eleventh hour, and a rigorous selection process involving open assessments and structured interviews. It may well be that as a result of that interview process, the panel felt that it was right to have a mixture of white collar and blue collar - as Deputy de Faye would call them - representatives. But I certainly believe that if there has been a proper recruitment inspection interview process, that it is more than likely that a correct decision was arrived at on a rational process, rather than the basis of a swift back of the envelope opinion. So, I believe, Sir, that this proposition is well-founded, and I shall be supporting it.

2.4.9 Senator F.H. Walker:

Other than ask questions I have not spoken in this debate until now, because I did not want to add further time to what I consider to be a quite inordinate and inappropriate amount of time we have already devoted to this subject. I have not wanted to extend it further. But I think it is necessary to speak now. This is, as we have heard, a question of balance. What we have got here is one complaint about the balance of the proposed 4 candidates. A complaint that has been made, so far

as I can ascertain, only verbally to one Member of this House; and although it was raised, as we heard from the Assistant Minister with Social Security, it was not then followed-up. We seem to be on the verge of saying: "Well, that complaint carries more weight than the collective expertise, the time taken, the consideration given to the whole process by the Employment Tribunal themselves, and by the Appointments Commission." I think that is a very dangerous concept for this House to accept. Sir, the Appointments Commission do a very good job. They are known to be independent. They are known to be thorough. The Employment Tribunal has no axe to grind here at all. It is in their best interests to maintain a balance, and I cannot believe that they would have recommended to the Minister these 4 candidates if they felt that any of them would put that balance in question. This is not the fault, as it has been suggested by some speakers, of the Social Security Minister. It is nobody's fault at all. But the Social Security Minister has reacted quite rightly and appropriately to the advice he has received from the experts who have undertaken an exhaustive process. But here we are, ready, apparently, to turn over that process almost on a whim, and as Senator Le Sueur said, on an eleventh hour objection raised verbally with one Member. It simply does not stack-up. It does not make good government. It is not good use of this House's time to go on considering this in depth. We should, whatever our views are now, come to a vote quickly. But I would urge Members to support a thorough process rather than an *ad hoc*, off the cuff, eleventh hour complaint made verbally to one Member of this House. That just does not make sense.

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

I wanted to come in earlier because I think I am more than satisfied with the process. I think that we have heard now that we have now got 12 people. Of those 12 people, those on the panel can have the choice of coming off it if they feel they are conflicted, and more importantly, those who are appearing before the panel also have the right to decide whether they are happy with the people in front of them. Now, if indeed, I was going before the panel and I objected to someone on the panel, I would refuse to attend, and I am pretty sure that the chairman himself or herself would not allow that process to go through because in fact, if it did and there was an appeal, the first thing the appellant would say was: "I objected to someone on the panel and yet the chairman refused me." So, therefore, the whole process would be thrown out. No chairman worth his salt would allow that to happen. I am pretty certain that this will be the case. Maybe that could be confirmed by the Assistant Minister, because I think it would help. As far as I am concerned, all the safeguards are there and we should go ahead and vote after we have heard from the Assistant Minister.

2.4.11 Deputy G.C.L. Baudains:

Earlier in this debate - and it seems to have been going on for some time now - the Assistant Minister assured us that the selection process was robust and he had every confidence in it, and it was endorsed by his department. Well, I have to say, Sir, that I am not satisfied, and I will be one of those people making the decision here today. There are, as we have heard in the course of in camera and out of camera debate, several issues arising. Senator Walker in his speech a few moments ago suggested there was only one. I cannot remember if he was in Chamber during the in camera debate, but I thought at least 3 issues have been raised, not one. It is because, in my view, Sir, that the proposition is defective, it seems to me, as a result of a cursory selection process, that I will not be supporting the proposition.

The Deputy Bailiff:

Does any other Member wish to speak? Very well. I call upon Deputy Troy's reply.

2.4.12 Deputy P.N. Troy:

I thought this was going to be an easy one. [Laughter] How this happened, I just do not know at the moment. I am still trying to work it out. With any tribunal, we have a chairman who has legal skills, and then we have the employer and employee representative. As I have said, once we have got these 4 members approved today, there will be a pool of 12 to choose from as we take tribunals

forward. But there have been instances in the past where some of our pool of members have not been able to attend for other commitments, and it has put some strain on the process. So, this will alleviate some of those problems that we have had. Evidence is then presented to each tribunal, and that evidence is considered by the tribunal with impartiality, and of course, as I said, the chairman has legal skills overseeing the whole process. As has been mentioned earlier, any representative can excuse themselves where there is a conflict, and a chairman can exclude a member where he becomes aware of a conflict. Also, as the Deputy of St. Martin said, the parties to a hearing can object to a panel member. I would say they would have to give reasons as to why they are objecting to that member, and then the chairman would consider their removal. I think the Deputy of St. Martin was right that the chairman would be acting in rather a cavalier attitude if, once he had a valid objection, he just continued on with the process. But the last word on the matter, I think, would go with the chairman as to how he operated that panel. But, certainly, if there really was a valid objection, I think the department would urge any chairman to replace that individual with another from the pool. The Deputy of St. Peter and Senator Le Sueur and Senator Walker all commented on the faith and trust that we must have in the Appointments Commission process, and I think that is a very important point. It may come along again on another issue like this in the future. I think we have got the Appointments Commission. That process is there. It is a proper process. There has been a great deal of thought and effort put into how it is structured, and I do believe that we should have faith in it. Deputy de Faye, of course, made some very valid points regarding employer and employee definitions within a States Department, which I feel were most useful to Members. So, Sir, I make the proposition.

Deputy G.P. Southern:

May I ask a point of clarification? Can I seek of the Assistant Minister whether the Appointments Panel knew of the strength of the objections to this particular appointment?

Deputy P.N. Troy:

Sorry. If the Appointments Commission knew, or...?

Deputy G.P. Southern:

In their deliberations, did they know the strength of the objections to this particular appointment?

Deputy P.N. Troy:

I really am uncertain on that point. As far as I am aware, the Deputy has told us that he has only become aware of it in the last 24 hours. I did say that Unite had...

Deputy G.P. Southern:

I think "yes" or "no" will do.

Deputy P.N. Troy:

I am not certain as to the date that any objections were made. No.

The Deputy Bailiff:

Very well. The appel is called for in relation to the proposition of the Minister for Social Security, and I invite Members to return to their seats, and the Greffier will open the voting.

POUR: 34		CONTRE: 11		ABSTAIN: 0
Senator L. Norman		Senator S. Syvret		
Senator F.H. Walker		Connétable of Grouville		
Senator T.A. Le Sueur		Deputy R.C. Duhamel (S)		
Senator M.E. Vibert		Deputy A. Breckon (S)		
Senator P.F.C. Ozouf		Deputy G.C.L. Baudains (C)		
Senator T.J. Le Main		Deputy C.J. Scott Warren (S)		

Senator B.E. Shenton		Deputy R.G. Le Hérisssier (S)		
Senator J.L. Perchard		Deputy J.A. Martin (H)		
Connétable of St. Mary		Deputy G.P. Southern (H)		
Connétable of St. Peter		Deputy S. Pitman (H)		
Connétable of St. Clement		Deputy K.C. Lewis (S)		
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy P.N. Troy (B)				
Deputy J.B. Fox (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

3. Draft Income Support (Special Payments) (Cold Weather Payments) (Jersey) Regulations 200- (P.181/2007)

The Deputy Bailiff:

We come next to the Draft Income Support (Special Payments) (Cold Weather Payments) (Jersey) Regulations 200- - Projet181 - presented by the Minister for Social Security. The Greffier will read the citation.

The Deputy Greffier of the States:

Draft Income Support (Special Payments) (Cold Weather Payments) (Jersey) Regulations. The States, in pursuance of Articles 8 and 18 of the Income Support (Jersey) Law 2007, have made the following Regulations.

The Deputy Bailiff:

Deputy Troy, I understand you are acting on this one again. **[Laughter]**

3.1 Deputy P.N. Troy (Assistant Minister for Social Security - rapporteur):

I hope this is the easy one, Sir. Last 3rd September the Assembly approved the Council of Ministers' proposition P.89 which identified a mechanism whereby a formal cold weather payment system would be introduced as part of the income support scheme. This, of course, originated from Senator Shenton's original proposition on this matter. There will be a legal right to receive cold weather payments if a household satisfies certain conditions. These Regulations set out that mechanism, and the Regulations specify that income support households that include a child below the age of 3, an adult aged above 65, or any individual with high personal care needs will receive a cold weather payment on a monthly basis. The payment is made in arrears, and its value is based

on the average temperature each day in the previous month. Payments are available between the months of October to April in accordance with the formula described in Article 2(iii) of this proposition. The first payments will be made in February 2008, if January qualifies as a cold weather payment month. So, Sir, I make the proposition.

The Deputy Bailiff:

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

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

Without wishing to make Deputy Troy's job any more difficult, I do have some objections to this seemingly simple amendment. When States Members voted a while ago during the budget to support the recommendations brought by Senator Shenton at the time to bring in a cold weather payment, I query whether Members were truly wishing to bring it forward in the form that has been brought forward. What strikes me, Sir, is that in suggesting that a yearly amount of some £600,000 be allocated to these payments, of course in some years it will be grossly or substantially more than that, and in some years less, depending on the weather - we do not really know what it will be. The monies represent, if it is shared between 3,000 households, some £200 per household. Now, we have already had partial debates, Sir, and indeed there are probably going to be forthcoming debates to discuss environmental taxation, and whether or not monies should be raised through fiscal measures in order to put into such things which are worthwhile in my view, as home insulation programmes. But here we are again, frittering away £600,000 - it does not sound like very much - on the worthwhile cause to keep 3,000 households warm. Now, while not making a case to say that the persons within these households should not be kept warm, I am just querying whether or not it does make sense. We need to bear in mind that this House will consider at some stage, hopefully, in the future, moves towards home insulation, which would solve the problem once and for all. Notwithstanding the earlier decision and the grounds on which we made it, which I think were mainly due to wanting to put one in the eye for the Council of Ministers when we were discussing budget issues - I think that was in some people's minds, perhaps - we need to decide whether or not we are solving the problem in a sensible way. This will literally burn £600,000 of taxpayers' money, year in, year out, and will not solve the problem. It is particularly pertinent, I think, Sir, to consider what £200 spent in different directions in a little bit more of an enlightened fashion, could represent. I am not particularly suggesting anybody should wrap up in blankets, or wear thermal underwear, or be given woolly hats - or perhaps I am. But, as a way of solving the problem, it would go a lot, lot further and be money better spent, I feel, than just considering these one-off payments to be frittered away to fuel companies. Now, in terms of focusing help, one of the other considerations that we have to think about, is that although the monies will be able to be drawn-down, there is no guarantee that the monies will be spent on fuel, or anything else. That, Sir, worries me, because you know we do stand up at times and suggest, very sensibly, that if we are going to have targeted help, then the focus of those payments should be spent in areas that we would really desire the monies to be spent on. As I say, Sir, within this simple proposition, it does not enforce or require the person who does qualify for the help, to spend the money on the fuel systems that would warm their rooms. In essence, Sir, I do think it would be better to maybe reconsider these - certainly, maybe not now, but certainly into the long term, and maybe to refocus the emphasis on home insulation methods which, as I say, Sir, would solve the problem in one go. Following on from that, there was another point. On page 3 we are given a formula, and although it suggests that there have been discussions with the Met. (Meteorological) Office to provide a more accurate representation of the impact of cold weather on domestic heating costs, the formula is fairly simple, but it is based on the wrong assumptions. The t minus 90 over 450 is to provide a mechanism to give you a scale factor which varies between nought - meaning that no monies will be paid - and one - meaning that the full monies will be paid. In order to do this, the temperature differences from 15.5 degrees Celsius each day, for the previous month - because it is intended that

the monies be paid in arrears - is aggregated and then offset by the 90 and divided by 450. What this means, Sir, is that although the aggregation of the degree days is done on a previous month, the 90s and the 450 in the formula do represent an assumption based on 30-day months. So, while it may well be that the outcome is entirely dependent on the weather conditions, in some months we will be paying more, in other months we will be paying less. Members should consider, Sir, that of the intention to pay monies, I think we are suggesting that monies can be applied for between the months of October to April, that is 7 months, and if people refer to their calendars, or we should know the number of days in the month by any means, there are 4 of those months which will be based on 31 days, 2 months based on 30 days and, indeed, because the calendar span includes February, February will have 28 days in a non-leap year, or 29 in a leap year. So, that does mean if the formula is applied in the way it is suggested to be applied, by subtracting 90 and dividing by 450, this does assume that there are 30 days in every month, and there are not. The formula could quite easily have been amended. In actual case if that had been done to properly represent the amount of monies to be made payable, if indeed the intention was to scale that scale factor between nought and one, there should be 4 formulae based on the number of days in the previous month. That has not happened, and I just ask the Assistant Minister when he sums up, to explain the rationale behind the base assumption that all months between October and April - in fact it will be September and March because it is done in arrears - are based on 30, and that will bring about, as I said before, overs and unders in the formulation. One other final point, Sir, just to put him out of his misery [**Laughter**] and that is, I am told, Sir, that this extra factor, the $t - 90$ on 450 , is to provide a scale factor between nought and one, and of course if the temperature goes down below 2.5 degrees, the actual formula on the paper will produce a scale factor in excess of one, which might not or may be the intention of the department. So, again, the monies that are being paid out might well be exceeded. Of course, the pundits among us might suggest: "Well, due to a climatic over warming and climate change, the temperatures will never go down below 2.5 degrees and certainly if they do, they will not go down to those levels for 30 days at a time." But the point has to be made, Sir, that if we are going to the trouble to provide a more accurate formulation in order to solve a problem, we should do our mathematics correctly. Thank you, Sir.

3.1.2 Deputy J.B. Fox:

Briefly, I just wanted to say that it is very important that we do target in the right places, and appreciating that this is a watered-down version from the previous, it goes a long way towards targeting it to the right areas. I agree with the previous speaker that there is a lot more work to be done in relation to insulation of properties and providing better building standards in some areas. But I hope that the Planning Department will advance this for future so that this can be reviewed. But at this time I support this proposition. Thank you, Sir.

3.1.3 Deputy J.A. Martin:

Yes. I am sure Deputy Fox and Deputy Duhamel were among those that supported my amendment when we tried to bring insulation under the income support. But I must also confess, Sir, that probably you have taken my eye off of the ball in income support and hopefully the Assistant Minister will tell me why, under this new equitable system, and payments for this cold weather on page 5, are to include households for that month with a child under 3, or a person over 65: "The household is in receipt of income support, is entitled to a housing component of income support and owns or rents accommodation other than a hostel or lodgings." Now, I would like the explanation and, as I say, unless they had a very good reason, I probably would have tried to amend it, but I confess that I had not noticed that it says lodgings. Now, lodgings are now entitled to the rent component. I can see many, many single parents living in someone's back room when the temperature, you know, is going below freezing who have been here over 5 years who are getting everything else but are being denied, for some reason that is beyond my comprehension, this cold weather payment, and they will have a child under 3. They will have a nice caring landlord who has put in an electric meter that probably takes your pound in coins for double the unit that they are

paying to the electricity company, but this person is being denied. I need to get a reasonable explanation, and for the life of me, Sir, I cannot see one. I can possibly see hostels, because they are overall, but lodgings are... I mean, it will need to be identified. We have been through this in the main debate on the Regulations: a lodging is if someone is paying a rent on it to a landlord, be it in their own home, being the person lives in the same building, they are still entitled to the component for rent. Why then, Sir, are they not entitled to this cold weather payment if they are under every other criteria? That is all I really have to say, Sir. If I do not get a reasonable answer I cannot vote for this, because I can see so many people, even elderly people who have fallen on not good times - do not live in their own properties, rent a room - being denied this payment for no good reason. I really cannot understand it, Sir. Thank you.

3.1.4 Deputy G.W.J. de Faye:

I have occasionally nurtured visions of what it must be like to live in the austere and ecologically-driven household of Deputy Duhamel, particularly during the winter. I can visualise the family with woolly hats and greatcoats, jogging around the supper table to keep warm, and occasionally pausing for a morsel of carbohydrate before resuming their exercises. Indeed, I would be very nervous about being invited round to tea in case I was asked to sit on a bicycle-like contraption to pedal away for 15 minutes to warm up the kettle. Nevertheless, despite the Deputy's hard green beliefs, he is of course entirely right. This type of measure is simply throwing more fuel at the fire, and I certainly would give him every support. Roll on the day when we can launch the States of Jersey Insulation Taskforce, and instead of burning energy, we conserve it, and we can keep the winter fuel costs down to sensible levels. On that front he is, of course, entirely right, and it is something that we should pursue. Having said that, I think that I really welcome this proposition. I think, given all the background circumstances, what has emerged is entirely sensible. I note for example, that qualifying elements include having children under 3 years, and that is an obvious recognition of another element. It is not simply old folk who get cold in the winter, but very young children can be affected by the cold just as seriously, and it is right that we have an eye to that. It is also right that we have a formula that reflects the weather, because what is the point of cold weather payments when the sun is out and the temperatures are not that bad. All in all, I think that this has emerged to be an entirely sensible proposition. But to go back to Deputy Duhamel, which is why I tease him occasionally, he is right in saying and in recognising that this is a measure for today. This is a measure that we should be putting in, but we need to realise that it is not the ideal way forward, to keep throwing money at the problem by buying more energy to burn. The proper way forward, and we must change our practices over time, is to concentrate on the energy efficiency of buildings that we ask people to live in, and I already congratulate Deputy Duhamel because I know he is making progress and I believe Deputy Power as well. Members of the Environment Scrutiny Panel are making progress with this in terms of building regulations and new, I think, reasonably visionary approaches to planning. I commend their exercises. It is something that all Members should give support to, and I hope that we realise that this proposition should be a recognition of a turning point in how we think about keeping people warm during the winter. It is not a question of lighting fires all the time. It is a question about getting the circumstances right, and ultimately ensuring that we conserve energy and use energy properly and wisely.

3.1.5 Deputy G.C.L. Baudains:

I am somewhat disappointed by this proposition. I have to say it is nothing personal, finding myself having difficulty with another of Deputy Troy's offerings to this Assembly, Sir, but that is the way it goes. This proposition does seem to me to be somewhat removed from what we, or certainly I, initially expected was going to happen. It does seem to me, reading through it, to be quite restrictive and fairly complicated - in fact, possibly so complicated that no one will ever get anything. I mean, I am sure when we look at the monthly payment as being 1.16 multiplied by t minus 90, divided by 450 times C, will be a calculation that pensioners will be doing on a regular basis to make sure they are getting their due. It does seem to me, Sir, that possibly the only factor

left out is a correlation with global warming, unless of course one considers the reference made by Deputy Duhamel to the number of days in the month. Perhaps the proposition is based on the old Jewish calendar - I am not sure - and the other many numerical details which he advised us of. Sir, it does appear to me that this is a plan almost to ensure that nobody gets anything because of all the bureaucracy and complications. Why does it have to be so complicated? I must say, Sir, I am not sure whether or not I can support this proposition.

3.1.6 Deputy G.P. Southern:

I thought there were a few queuing behind me, but obviously not. Yes. Perhaps I am about to reiterate what Deputy Baudains just said, because my critical eye says: "Aha. This looks very good. This has got an equation. It has got a little table. It looks like a piece of, what I call, pseudo-science - the appliance of science." Yet, the key critical question is not answered, because there is no evidence in this paper that this, with a fuel allowance, will deliver anything. If I am going to trust what the formula says and what the figures say, I need to know, for example, if we were to have applied this over the last 10 years each winter, how much would have been delivered in each year, or in each month of each year, as appropriate, over the actual temperature reality? If there was a table in the back, an annex, that said: "Yes, and if applied over the last, let us say, 5 years, we would have paid out this much and this much and this much during those years, because the temperature did this. This is how it will work. That much could be projected in the future. This is how much it will deliver." Then I could say: "Ah. I completely trust this. This is not like the old days when we cobbled together piecemeal bits of Social Security legislation to do a bit of benefit here, a bit of benefit there. They look great on paper. They look wonderful on paper. Oh, yes. We are doing something about that - that poor old folk there, or the children there." When you came to examine how they delivered, they delivered to very few people and very little, and H.I.E. (Health Insurance Exemption) comes across to me as one that to very few people looked great on paper. Family Allowance over the years was allowed to dwindle down until it was hardly worth having, and it did not get to very many people. So, my fundamental question is: "Does this presentation, this piece of paper, convince me that this will deliver some real benefit, or is it in the old tradition - supposed to have gone with income support - the old tradition of, cobble something together, on paper it looks good, but in fact does not deliver?" I see no proof in here that it will deliver. In my suspicious, cynical, scientific mind - and I am right to be cynical, I am paid to be cynical, and suspicious of what comes to this House, and my electorate would want me to be eternally vigilant, which I try to be - I notice the only figure on there in the text, £210 per annum. Members will look at that and think: "Oh, well. It is going to deliver £210." No, no. It is not an average figure. That is a cold winter. That is a cold winter. That is likely to be a maximum figure. A maximum figure in a cold winter is likely to be around the £210. Normally, it is going to be a lot lower. So, if a lot lower, how much lower? What does that deliver, at what temperature? Not there. Now, for those who are not watching in colour, Deputy Troy has been up and down and in and out like a jack-in-a-box. But if he is going to get my vote with any confidence, he really has to come to this House with some facts - with some evidence that says: "And this benefit will deliver." Because I look immediately to the rest of the proposition, and really this impression of piecemeal, a bodge-it that will fix, that will work or not, is left there. So, for example, Deputy Martin has already pointed out: "Why exclude lodgings?" Old people are in lodgings. Hypothermia knows no barrier on house type. It does not come along with the Housing Department, knock on the door and say: "Hypothermia here. Oh, I should not go to lodgings. I should only go to States' private rental, whatever, homeowners." Hypothermia knows no barriers. So, the question is, why exclude lodgings? Why not thought through? Is it a bodge? Yes, we should have done. Or, is it like the income support scheme, driven by cost? The driver of income support was: "This is how much we give to benefits and welfare in total. We will not spend a penny more, and that dictates who and how much and when we will deliver." Did the first bit of this paper go in? Was it a budget of £560,000? Does that dictate the whole thing, and will it deliver effectively or not? The question is not answered. We then look elsewhere and you see: "Ah. Household includes a child aged under

3.” Well, that is reasonable, is it not? Consistent, and joined-up with the fact that Home Responsibility Allowance stamp gets paid to parents looking after children under 5. So, one aspect of support says children under 5 - that is the marker. This one, children up to 3. Do 4-year olds not get cold, ever? Do they not require protection? Do they not require heating? Well, I know they tend to run around a damn sight more than one-year olds, but nonetheless I do not think we can just assume that we can stick all 4-year olds in a woolly hat and a woolly jumper and ask them to jump up and down a bit more. Why that difference? Any explanation? Not there. Again, the sensation I have got, a bit of a Billy Bodge-job. Yes? What can we deliver within this budget? Then, finally, I return - and the Deputy knows the answer but he is just going to check it, I am sure. Yes, he has come fully prepared, and he has got some more to deliver. I return to the point made by 2 previous speakers, but just briefly, what about insulation? Yes, this is a short-term fix. I suspect it is anyway. It has not got my vote yet. But why, oh why, is there nothing in income support and the system about insulation, about making sure we keep these payments, for example, to a minimum? Why did the Minister reject our amendments that there should be some sort of grant or system towards home insulation and, by God, we need it? If you go round to the Cedars, if you go round to Clos du Roncier, and feel the wind whistle through the entire house, under the door, straight through the window, because the metal frames, single glaze, are deformed, you have got an inch of gap. We have got housing that is not fit to live in, in States’ accommodation. Where is the grant towards improving that? Where are the improvements? Where is the insulation? It is not there. So, I would seek an assurance from the Assistant Minister that at the very least, his department will look again at the possibility of introducing some form of grant towards insulation for households, if only to contain and try and bring down, as Deputy Duhamel says, these costs here, this £500,000 plus, going towards a winter fuel allowance, some of which might be better directed at insulation costs. So, I would want an assurance that his department will go and look at that again, and to come to the House within a reasonable timescale with some proposals to do something about it, because it is their remit. At that point, as I say, I am not convinced by this paper. It looks a bit shallow. It looks like a Billy Bodge-it job. I suspect it is, and I am certainly not convinced by the evidence presented here that this will deliver anything - and until I am, the Assistant Minister does not get my vote.

3.1.7 Deputy S. Pitman of St. Helier:

I have a question for the Assistant Minister. I have a constituent who will be in receipt of income support, and also he has a pension. He is also in his seventies, and he suffers severe asthma to the point that he has to go to hospital on a regular basis. I would like to know, and I cannot see it in any of what I have read about the income support system or this winter fuel allowance, where there is a grant where he can pay for his heating? He needs an exceptional amount of heating. In a quarter, last winter and the winter before, he had to pay £500, and he has had to go to a charity for that. Now, I do not see anything in income support. I would like to know if the Assistant Minister can point me in the right direction, or if his department is considering such a grant?

3.1.8 Deputy C.J. Scott Warren:

I will be supporting this proposition, although in my opinion it will not help sufficient numbers of people who may still hesitate to run up heating bills. Deputy Duhamel has pointed out the need to improve home insulation, but obviously these measures cannot be introduced in all homes immediately. I did, Sir, admire all the complex arithmetical formulae until I heard Deputy Duhamel query them, where it would appear that this may fox some States Members who are not particularly mathematically-minded. But we hear that it does not run correctly through each month. This proposition, Sir, has changed from the original proposition brought, I believe, by Senator Ben Shenton. I remain, Sir, concerned that those just above the income support level, those who fear the bill, may reluctantly decide to shiver instead. The fear factor, Sir, will remain for many people who are just above low income support. Although I will support this proposition, in my opinion, it is a better-than-nothing provision, but, Sir, it is still not good enough. Thank you, Sir.

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

I support the cold weather payment, Sir, as a short term fix. I appreciate the work done by the Environment Panel regarding regulations for new buildings. However, we need to concentrate quite a bit on retro-fitting existing buildings with insulation. I think that would go a long way. I have many people, senior citizens, who are living in accommodation that is both cold and very damp, some of which is States' accommodation. I would like to ask the Assistant Minister how many times in the last 10 years would the figures that he has formulated been achieved, and as has been mentioned before, would he define lodgings? The figure is the daily temperature of each month falls below 15.5 degrees. If you are as old as I am, that is 59.9 degrees Fahrenheit. I wonder if the Minister would clarify that, Sir? Thank you.

3.1.10 Deputy A.D. Lewis of St. John:

I just have a couple of questions to the Minister. I note that on page 3 you talk about the formula being used by the Parishes, has been recently updated by the Met. Office. Can I assume that the Parish has been doing something similar for some time that has presumably been working okay? My other slight concern, echoing some of the other speakers really, is that it does appear complicated on the face of it as a casual observer. How easy and simple would it be for those elderly people to access it? The Council I am sure would say: "It is nice and simple and easy for them to access the Connétables and have this explained to them." Would it be the same when it is done through your department? Would it be easy to access? Also, a couple have mentioned, and it often comes up when we talk about any kind of income support, there are lots of people that would fall on the cusp here. Is there any, sort of, discretionary powers with the Minister to make provision for those people that are just on the cusp here of being able to claim - or rather, not being able to claim? Does the Minister have any discretionary powers that he can adopt in certain circumstances in certain cases? Those are the questions I have, Sir. Perhaps he could answer in his summing-up. Thank you.

3.1.11 Senator B.E. Shenton:

As I look around the Chamber at the number of empty chairs, I realise that this Assembly is very good at talking but not particularly good at getting things done. There are probably people at home listening on the radio to this debate, wondering how they are going to pay their next heating bill, or say they are struggling to keep warm while we sit here. It is quite warm and cosy today in here; all paid over £40,000 to talk, and shortly many Members will be going off for their free lunch, paid for at the taxpayers' expense. It is all very well to talk about insulation and so on, but it is about time that we got on and did things with insulation. Insulation policies are not going to keep people warm this winter. It is all very well to talk about not voting for this because you leave out the people at the lodging houses, but I would say that it is better to protect those people that we are protecting today, and to get this payment out as soon as possible. I notice that the J.D.A. (Jersey Democratic Alliance) bench is empty at the moment, but I would say to those people that are thinking about voting against this simply because it has missed out the people at the lodging houses, to vote for this and get it through. If it is defective, bring amendments to it to make sure it does hit the right people. But for goodness sake, let us do something and not do nothing, and just moan about it and go downstairs and have a sandwich.

3.1.12 Connétable T.J. du Feu of St. Peter:

Could I perhaps ease a little pressure off the Assistant Minister, in part of the question that the Deputy of St. John raised earlier on, that the current system the Connétables Comité are circulated with the actual temperature reading of the previous month. That is the payment that is then passed on to the recipients of the cold payments for that past month. It works on that basis month by month. It has been a very good formula and indeed a very welcome one. This brings me a little further on to the proposition in question. In the Regulations, I noticed that it has to accommodate the persons who are recipients of income support. At the moment what happens - as is not

unknown - for a number of people in various Parishes that do not receive a regular welfare payment, as it is now, but they are helped from time to time with their heating in severe winters. The Regulations that are placed in front of us at the moment do not take any account of that. I would certainly hope that that might be looked at because there are people that the pinch-point is if we have a very severe cold snap. They find that they can get by generally but they find it very difficult if they suddenly have to boost-up a lot of the heating. I would hope that that would not be forgotten on the Minister who might consider that and come up with maybe an alternative of responding to it.

3.1.13 Senator T.A. Le Sueur:

I do not believe that this formula is going to be of major issue to many States Members. Just to reassure Deputy Scott Warren and Deputy Duhamel, I believe the formula is realistic. It means, as Deputy Duhamel rightly says, there are some months the payment will be higher because in a month of 31 days it will have a greater component. That is, I think, perfectly reasonable. It is a longer month; there are more days, so you get more money. The formula is perfectly realistic. If it is very cold then the factor can be greater than one and that means people will get more money in very cold days. I think the formula is perfectly reasonable and so I would take that burden off Deputy Troy as well so that he can sum-up on the rest of it.

3.1.14 Deputy P.V.F. Le Claire:

The theory on the Titanic was that the water would not go into another compartment. When they designed it I am sure that the mathematicians, the statisticians, and the designers were quite happy with their theory, but when it came into contact with the hard cold iceberg everything fell apart. Unfortunately, I believe - echoing some of the other comments that have been made this morning - what we are effectively doing this morning is ticking the box. That is the first thing that we are acknowledging that we are doing. Senator Shenton brought an issue to the Chamber that we all supported. The Minister went away and brought back a proposition that has been pointed out is complex and we are ticking the box. That is done. Let us move on. Knowing how the States works, now that I have been here nearly a decade, I know that it probably will not get looked at again unless we make a point now of making sure that it gets looked at now. I would like to echo Senator Shenton's words about getting something done. I propose that at the lunchtime adjournment Deputy Duhamel and Deputy Shenton and I, and anybody else that is interested in seeing this thing change into something better, get together and form a working group with the Minister or the Assistant Minister to do this. I do not believe it is going to be addressed properly. Are we seriously talking about cold weather payments to people that need them? Or are we talking about ticking the box? It is a little bit like the invalidity benefit, is it not? Is the money we are providing being spent on heat? Is the money we are providing being spent on heating rooms where people who cannot afford to be able to heat those rooms themselves, living in? Are they being genuinely wise in spending that money in that way? I listened to Prime Minister's question time on television the other day - sad I know, but I find that quite interesting. He said that when somebody is over 80 in the U.K. they get something like £800 a year in cold winter allowance. The increases that he mentioned since he took power in the United Kingdom have been significant. So the questions I have in relation to some of my speech are specific and I would like to ask the Assistant Minister; what is the provision in the United Kingdom for winter fuel allowances? Is there a bracket above 80 that gets a special amount? If so, how much is it? What are the other brackets and how much do they get? Not to say that the whole ethos of just throwing more money at the fuel company is not wrong, as pointed out, because I think it is. But the Skills Executive is shortly to be transferred or is transferring at this time to the Social Security Department. I spoke with the Minister yesterday about the excitement and the opportunities that that represents in relation to re-skilling the workforce and providing opportunities for apprenticeships in those areas. I have mentioned on a number of occasions apprenticeship schemes that re-train and re-skill adults that are out of work, in general areas of electricity, roofing, plumbing, *et cetera*, that are available in the

United Kingdom. I forwarded that information on numerous occasions to various politicians in charge. I have still yet to have an invitation to discuss it. Website is up there. Skills club. You can see people getting trained. I have mentioned it a number of times. We are not talking about young people leaving the workforce. We are talking about adults that are not adequately qualified; that would do very well to earn £30 or £40 an hour as a plumber or an electrician rather than sitting in our community seeing whether or not their calculations add up to income support. It is a short-term fix. If we look at this a bit like the fire department do, we could do a lot more. The fire department spend more time on fire prevention now. They go around, they look to see whether or not the properties in town have got adequate fire alarms, smoke alarms, *et cetera*, and that cuts down on the unnecessary and false alarms that are costly to the department. It also prevents fire, which is obviously much more costly. We need to stop throwing money at the electricity meter - which is arguably going at the electricity meter in any event. We need to spend more money on making sure that we have skills in the community; we have schemes in the community; we have people that are trained in those skills, supported by government and affecting those skills and those schemes into real benefits for the community. Making sure that States' properties and the private sector properties are adequately insulated, adequately maintained and adequately repaired and habitable for people within Jersey, because Jersey is a cold climate. My son grew up and is visiting me now from Canada. My wife is from Russia. They both know the extremes of those 2 different countries. I know them too. The cold in Jersey is a different type of cold, as we all know. It is a damp cold. It is a penetrating cold. It is not necessarily that cold but it goes to your bones. A formula that is based upon the temperature does not normally take into account that factor, in my view. So I think we are not getting it right. You can laugh in your little rich house, and your lots of money and your lots of fires. **[Aside]** I am keeping to the subject. It is easy for people in high office sitting in this Chamber today with millions of pounds in the bank to ridicule my speech but the reality is that I do know what it is like. My mother sat opposite a fire and existed in one room during the winter times. When one does not qualify for low-income support or when one would never go and ask for it in the first place because they are too proud, one has to factor-in those equations. I am suggesting that if we want to tackle cold weather by influencing that factor with States' expenditure, then we do more than throwing the money into the fire. I hope that any Member that has taken on board what I have said this morning would join with me - at Senator Shenton's initiative - meet with Senator Shenton briefly after this debate at lunchtime to see how we can effect a real change in a positive direction. Otherwise, it is going to be ticking the box and we will all go off to lunch and forget about it for another couple of years.

3.1.15 Connétable S.A. Yates of St. Martin:

I would like to follow on from the Deputy of St. John and his inquiries about the Parish welfare cold weather payments. Last week I signed a series of cheques and I have a feeling - I do not have it in my mind - for £50 or thereabouts. I want to tell the House that this is the last Parish welfare cold weather payment. Therefore, please, can we get our act together and vote this through because otherwise there will not be a cold weather payment for this month. I cannot compare the actual formula because I do not know the formula, but I know that the cheques were... I think they were in the order of £50. If you look at this table on page 4 where the daily temperature is 5 degrees below normal - £48.48. We know December was a cold month because we had that week or so of frost. It could be an indication that these... I cannot say for sure but this table is of the same order as the Parish welfare cold weather payments. We have to do it. We should not be talking about it. Get it voted now because this was the last cheque I wrote last week. There is not going to be any more.

The Deputy Bailiff:

I call upon the Assistant Minister to reply.

3.1.16 Deputy P.N. Troy:

I would like to thank everyone who has spoken in support. Certainly Deputy Duhamel started the proceedings off and mentioned that the payment could be around £200 per household. We did mention a figure of around £200 in a cold month. Some other Members, Deputy Southern as well, queried how much people would be getting if this had been in operation for the last few years. I can let Members know that in 2004-2005, that winter period; it would have been £163.90. In 2005-2006, it would have been £210. In 2006 through to February 2007 would have been £113.39. For this November, it was £15.51. For this December, it was £37.23. So for November and December so far we are up to £52.74 for the 2 months. The Deputy suggested that payments are being frittered away to fuel supply companies, but of course - as has been said - this is needed by people who have low incomes and who meet the criteria, and this is going to be very important to everyone who qualifies. This was a decision of the States. Under Parish welfare, Constables have previously given out fuel allowances. This moves it forward, we now have a defined formula that we can work on and we can receive the accurate figures through the Met. Office and make payments based on the temperatures. Deputy Duhamel discussed the formula; said it was based on 30 days but as the Treasury Minister pointed out on a 31-day month, of course, the figure is increased and so the formula increases throughout. Again, yes, on a 28-day month then of course it does reduce. However, it is always taking account of the amount of fuel that one might expend within one's home over that month. Deputy Martin said: "Why are we excluding lodgings?" Well, it is not always the case that a lodger bears the cost of heating the premises in which they are living. One can be lodging in premises and you have heat transfer between rooms, the lodging room might be on a central heating system. We felt that we would exclude lodgers from that. Many lodgers have heating supplied in their premises. Deputy Baudains mentioned global warming. Of course, the only thing I can say about that is, if we do get global warming and our temperatures increase there will be no need for cold weather payments. I cannot really say anything more than that on what he said. I think I have answered Deputy Southern on how much people would have received over the last few years. He did say: "Why is it that we have considered that 4-year olds do not need cold weather payments?" There is no evidence that 4-year olds require cold weather payments. This is really to protect infants. Infants certainly have a lower temperature control mechanisms within their bodies. Any medical evidence is generally related to very younger children. That is our reasoning. If the Scrutiny Panel wants to investigate that and maybe come back with changes that would be perhaps down to them. Deputy Pitman said she knows someone who has asthma and certainly needs assistance. I do not know what their income is. With that person, if they receive income support - I think Deputy Pitman said that they do receive income support - then I think they might qualify under the High Personal Care Needs and they would need to come to the department. That would have to be looked at on their individual case. I think they might have to supply medical evidence as to their needs. Deputy Scott Warren said that she was concerned about those people who were just above income support. Of course, yes, if they are above income support they may lose out, but that is because their income is deemed as sufficient to meet their needs. If at some later date we feel that we need to raise the income levels on income support that would be down to coming back to that later. At the moment we feel they are at satisfactory levels. Deputy Le Claire mentioned as to whether the payments might be used... whether they are being used for heating. I cannot say, of course, whether recipients of the cold weather payment will use it for heating but those who are heating their premises will have added comfort that if they qualify for income support and meet the criteria for payments then they will get assistance. This gives them the comfort and perhaps stops the worry of not being able to afford heating. If you know you will qualify and you know you are going to receive payments, it certainly takes away a lot of the worry. I think this is the right step. This is the right move. I would like to thank Senator Shenton, for obviously bringing this forward originally. I know that the Constables have been given the equivalent of cold weather payments for years, but this is a continuation of that policy and I ask Members for their support.

Deputy P.V.F. Le Claire:

The Assistant Minister did mention me in his remarks in summation... something that was an aside to the main points I made. I did ask specifically if he knew what the contribution for cold winter payments were for the U.K. If he is unable to answer us at this stage perhaps he could get back to us and then in the future we could see whether or not the level of the bar needs to be raised and whether or not you assess an income based upon the assessment of the need?

Deputy P.N. Troy:

I think the criteria for the U.K. are totally different to us in access to the system and in the payments that they make. I think I would have to come back to the Deputy in a more detailed personal response.

Deputy G.P. Southern:

I would also ask the Assistant Minister whether he knew how many people were in lodgings and unlikely to qualify?

Deputy P.N. Troy:

I do not have that figure.

The Deputy Bailiff:

The vote is for or against the principles of the regulations.

POUR: 44	CONTRE: 0	ABSTAIN: 1
Senator L. Norman		Deputy G.C.L. Baudains(C)
Senator F.H. Walker		
Senator W. Kinnard		
Senator T.A. Le Sueur		
Senator M.E. Vibert		
Senator P.F.C. Ozouf		
Senator B.E. Shenton		
Senator F.E. Cohen		
Senator J.L. Perchard		
Connétable of St. Mary		
Connétable of St. Peter		
Connétable of St. Clement		
Connétable of Trinity		
Connétable of St. Lawrence		
Connétable of Grouville		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy A. Breckon (S)		
Deputy J.J. Huet (H)		
Deputy of St. Martin		
Deputy P.N. Troy (B)		
Deputy C.J. Scott Warren (S)		
Deputy R.G. Le Hérisier (S)		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy S.C. Ferguson (B)		
Deputy of St. Ouen		
Deputy P.J.D. Ryan (H)		
Deputy of Grouville		
Deputy of St. Peter		

Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

The Deputy Bailiff:

Deputy Breckon, do you wish this to be referred to your Scrutiny Panel?

Deputy A. Breckon (Chairman of the Health, Social Security and Housing Scrutiny Panel):

Yesterday Deputy Martin made a statement as chairman of the Sub-Panel who looked at income support to say they are in fact still in being. In view of that, there is no point it being referred to Scrutiny. If any Member, or indeed any member of the public, has any problem then the reference would be to Deputy Martin and the Sub-Panel, which is already there to do, in fact, the scrutiny process on this and other things.

The Deputy Bailiff:

So, no. [Laughter] Do you wish to take the Regulations *en bloc*?

3.2 Deputy P.N. Troy:

Yes, please.

The Deputy Bailiff:

Do you propose them? Are they seconded? [Seconded] Does any Member wish to speak on any Regulations 1 to 3?

3.2.1 Deputy C.J. Scott Warren:

I think one issue that has been raised that comes under Regulation 2 is what the Connétable mentioned - the situation with this being the last payment that the Parishes are doing, and the fact that the degree of flexibility that a Connétable has had when there is a hardship situation. I would just really like to ask the Assistant Minister rapporteur whether that flexibility would be continued with bits of special payments where somebody who does not fit this criteria has a hardship situation of paying a heating bill?

3.2.2 Deputy G.P. Southern:

Just on a technicality I am aware of the Income Support Law but I do not carry around what Article 5(3)(a) is. That is the qualification under 2B of this particular Regulation. Could the Assistant Minister tell us what 5(3)(a) qualification is? I think it is important as it exempts people from receiving it.

3.2.3 Deputy K.C. Lewis:

I may have missed something somewhere, but this is for H.I.E. recipients, will it be paid automatically or will it need to be claimed?

The Deputy Bailiff:

I call upon the Assistant Minister to reply.

3.2.4 Deputy P.N. Troy:

Those who receive income support who will meet the criteria, they are on our database, and cold weather payments will be made to them automatically. Anyone who is outside of income support and is suffering hardship they can make an application under special payments to the Minister. As such, those would be considered by the Minister according to the case before them and to the information before them. I am quickly trying to find Section 5 and I cannot. Can I come back to the Member about the Law in 5(3), I just cannot find it in my notes at the moment, Sir, I apologise for that. If I can just come back to Deputy Southern?

Deputy G.P. Southern:

I think that with hindsight it may be a reference to the specified degree of disability. It may refer to a degree of disability, which also entitles you to winter fuel allowance.

Deputy R.C. Duhamel:

Could I make a point of order? I was a little bit slow off my feet. It does say in the report that we just discussed that payments would be from October through to April but calculated on the month before. It does not say that under 2(3). It says that: "t is the aggregate of the amount by which the average daily temperature of each day in that month"...

The Deputy Bailiff:

Deputy, I am sorry but this is a point you could have made when speaking about the Regulations. Now the Minister is replying... too late I am afraid. Assistant Minister, do you wish to say anything else in reply?

Deputy P.N. Troy:

If I can proceed with that, Sir, and go to the vote if there is going to be one. I will take a standing vote, please.

The Deputy Bailiff:

Very well. All those in favour of adopting Regulations 1 to 3 kindly show? Those against? The Regulations are adopted. Do you move the Regulation in Third Reading?

Deputy P.N. Troy:

Yes, Sir.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading kindly show? Those against? The Regulations are adopted in Third Reading.

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

The adjournment is proposed. The Assembly will reconvene at 2.15 p.m.

LUNCHEON ADJOURNMENT

4. Draft Income Support (Amendment) (Jersey) Regulations 200- (P.182/2007)

The Deputy Bailiff:

We come next to the Draft Income Support (Amendment) (Jersey) Regulations 200- - P.182/2007 - lodged by the Minister for Social Security.

The Deputy Greffier of the States:

Draft Income Support (Amendment) (Jersey) Regulations 200-. The States, in pursuance of Articles 5(5) and 18(1) of the Income Support (Jersey) Law 2007, have made the following Regulations.

4.1 Deputy P.N. Troy (Assistant Minister for Social Security - rapporteur):

The second Income Support Regulation to be debated today deals with the definition of the personal care components within income support. The report accompanying the Regulations explains the background to this amendment. The funding of residential care is an area of concern to us all. We are well aware of the impact of the ageing population and the additional demands that this will bring on many areas of States' administration. The new Parish Rates Law has brought the costs of providing residential care fully into the States' budget. The Parishes continue to make a valuable contribution to this cost through the Island-wide rate. However, the additional cost to be borne over the coming years will need to be met by the taxpayer. The Income Support Scheme will eventually provide consistent funding to all individuals that need assistance with the cost of residential care. However, the current funding mechanisms are complicated and for some time the Minister and I have realised that it would not be possible to introduce a fully-fledged residential care component within income support on day one. During 2008 the department's officers will be working closely with colleagues from the Health and Social Services Department, Family Nursing and Home Care and care providers to establish a method of providing consistent funding. This will include standard contracts for residents receiving residential care and standard fee rates for the cost of that care. A placement tool has already been developed by Health and Social Services; this tool is used to assess an individual who may need residential care to ensure that they receive the correct level of care. The placement tool is the first part of the new system to be introduced. It will be in use for all new placements by the end of this month. During this period of development individuals currently receiving residential care and those that enter care during 2008 will continue to receive financial assistance at the same level as at present. It is our intention to return to the House at the end of 2008 with a set of Income Support Regulations laying-out the new rules for residential care funding. In this interim period most of the provisions concerning residential care are included in the Transition Order. Unfortunately, the amendment we are proposing today could not be included in the Transition Order and therefore needs to be dealt with through this separate Regulation. The amendment changes the definition of 2 of the personal care elements. At present any individual scoring 75 points from the statement included in the schedule to the Regulations is entitled to a personal care element of £436.73. Any individual scoring between 56 and 75 points is entitled to a personal care element of £122.85. That is the present situation. The amendment makes 2 changes. It enables individuals in residential care who score at least 56 points to receive the highest level of personal care component. This is mainly aimed at adults with learning disabilities who receive care through the Les Amis group of charities. Secondly, individuals with a score of at least 75 points only receive the highest level if they are in residential care. Although the great majority of individuals scoring 75 points or above will already be receiving residential care there will be a number who continue to live in the community. At present the maximum disability benefit available for an individual in the community is £141.30 a week. The Minister and I are both very keen to encourage individuals to remain in the community and personally I was very pleased to see the introduction of a separate carer component as a small acknowledgment of the work undertaken by those who care for their friends and relatives. As part of the work on residential care, departmental officers will be working with Family Nursing and Home Care and Health and Social Services to identify the most appropriate way to support people with high care needs who wish to remain in their own homes. At present the home care services provided by Family Nursing and Home Care are heavily subsidised by Health and Social Services. If the Regulation is not amended there will be individuals in the community who will be able to legitimately claim a personal care component of over £430 a week, even though their care needs are being met by Family Nursing and Home Care for a small fraction of that amount. They will also continue to receive components for

their normal living costs and accommodation costs if they are not in residential care. It is then very important that I assure Members that if any individual has high personal care needs and the costs exceed the value of the income support component then that individual will be able to apply for funding through the special payments system during this interim phase. I assure Members that the Minister and I will be doing our best to minimise the time period of this interim phase. Our intention by the end of 2008 would be to set a number of personal care components to cover individuals requiring care both in a residential setting and in their own homes; this being achieved in partnership with Health and Social Services, Family Nursing and Home Care and care providers. Members may recall that during the Income Support Regulations main debate that the Minister made it quite clear that there would be a need to continually monitor the legislation and make amendments as necessary. This is one of those necessary amendments. The Law as drafted would have a serious effect on the costs of income support as it would erroneously pay the full residential care component to some in the community, who while needing support, do not have the costs associated with a residential care provision. This proposition rectifies that anomaly. We are in the situation, really, where we were progressing forward with an integrated route with Health and Social Services but that is not all in place. So we need at the moment to step back from that and ensure that this is funded correctly through income support, and until we have a system in place with all of these services we cannot proceed with the Law as it is presently drafted. I ask for Members' support.

The Deputy Bailiff:

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

4.1.1 Deputy G.C.L. Baudains:

May I just start by making an observation? I am sad to see that there are so few Senators in the Assembly today. Rarely have there been more than 4 or 5 during the proceedings. Secondly, I must say how it does appear to me that Deputy Troy is a glutton for punishment with all these propositions that he is bringing today, not to mention the Amendment he will be bringing later. Having said that he will no doubt be surprised to learn that I am not opposing this one. I warmly appreciate the statement in the report about the development of a long-term care insurance scheme, which is long overdue, and may it appear before this House in suitable form as soon as possible. It cannot be right that people who have been prudent throughout their lives and bought their own home and whatever then find that they have to sell it and are unable to leave it to their children or whatever as a result. Whereas others who have wasted much of what they have earned through their lives are catered for by the taxpayer. Just one query I have, I hope the Assistant Minister can help me in this regard. When I look at the report on page 6 I notice that there is a substantial jump between the various categories. It appears that if you have a score of less than 36 the sum involved is £20.37 but if you have 36 or more it comes to £83.58. I feel sorry for the people who are just on the cusp of that. I would have liked to have been told that there was a sliding scale for this, perhaps there is, but if there is I wonder if the Assistant Minister could point me to it, because I do not see it in the report.

4.1.2 Deputy J.B. Fox:

Clearly, I think everybody in the States will support this proposition. It is something that has been long overdue in being needed. Indeed, we shall look forward to the proposed insurance plan coming forth. The thing that does disturb me at the moment is the financial and manpower considerations. I would just ask that the rapporteur would just confirm that if they do end up with a £1.5 million shortfall, does he have any idea at the present time how they are going to cover this without doing undue damage to the other low-income support requirements that are in place at this time?

4.1.3 Deputy P.V.F. Le Claire:

Just very briefly, I think while the debate will continue I just wanted to say that I personally have been encouraged by the Assistant Minister's abilities today and congratulate him and his department for bringing these things forward. I think he is doing a superb job considering the fact that his Minister is not here today. He has had a difficult day, he is bringing things in a professional way and a compassionate way, and I would like to offer my support to him for that.

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

I will just make a couple of points. First, I think as the Assistant Minister has perhaps alluded to, the funding of residential care is not just an issue for our elderly population. Indeed, there are those with learning and physical disabilities that need to be catered for. Perhaps there are 2 questions that arise that could be clarified by the Assistant Minister. One he speaks of is that financial assistance will remain as at present levels. Yet I am led to understand that charges linked to Les Amis, for argument's sake, are somewhat higher than the total, if you include the personal care level for, and the other allowances. I wonder what is the suggestion as to how the difference might be made up, or the assurance if you like that if there is a difference that the Transitional Order and the Minister's responsibility will deal with that difference? Also, is the Minister aware that respite care offered to those suffering learning difficulties are being reduced from March this year as one of the places that offers care to those with disabilities is stopping offering that opportunity? The last question is that although we read that residential care is being supported, I am aware that an opportunity for respite care is being removed this March. It is, I believe, offered by Les Amis, for those with learning and other disabilities. Could he inform us, was he aware of that? If so, what is the department planning to do to deal with the need that is still there subsequent to the ending of this service?

4.1.5 Deputy R.G. Le Hérissier:

Just a quick question, slightly tangential. We have all been waiting a long, long time for the new form of long-term funding, be it insurance or whatever, and a consultation paper is now out. I wonder if the Assistant Minister could tell us when is it his intention, and that of the Minister of Health, to publish this paper? This has been dragging on for years.

The Deputy Bailiff:

I call upon the Assistant Minister to reply.

4.1.6 Deputy P.N. Troy:

I would like to thank Deputy Baudains. Certainly, concerning long-term care arrangements I agree with him that it is definitely an issue that needs to be tackled now. The sale of properties to fund residential care has always been an issue that many in the community have been concerned. That is high on the agenda for discussions in bringing this forward when we go through to an integrated policy, which we are working on with Health. I assure him that that is high on the agenda. Deputy Fox says that in the document it states that we will have a £1.5 million shortfall if we do not carry this through today. That is absolutely correct. Really there would only be 2 options if Members did not support this today; that would be to reduce other benefits within income support or alternatively to go cap in hand to the Treasury Minister and ask him for £1.5 million. I do not know how generous he is feeling at the moment, but I imagine he would not look kindly on that. I think Members have to remember that everything is in hand to get this integrated system in place, but we are not at that position at the moment. Regrettably, we have made an error in putting it into the Regulations in the current format and this rectifies that situation because we cannot progress forward with the wording in the Regulations at the present time. The Deputy of St. Ouen talked about Les Amis. Obviously, they provide a very worthwhile service, they have many residents, and part of this allows them to receive funding from income support in support of the very valuable work that they do. Within the Les Amis group, there are quite a few organisations that are carrying out important work such as Mencap and Cheshire Homes and so on. There is a very important need

that they receive some support for their residents as well. Respite care was also mentioned. I personally do not know of the fact that Les Amis are removing respite care. I am not aware of it, but I do not know if the Health Minister or the Assistant Minister is aware of it but I personally am not, but if that is the case then I am sure that Health will be putting in place some arrangements whereby there is assistance for people who need respite. I think Health already has a responsibility for respite across the Island and perhaps Les Amis are providing their own services, so they are changing their own structures. Health, I think, will have to take that into account when they are working out their own strategies. I cannot speak for Health. I see the Assistant Minister maybe wants to say something.

Senator J.L. Perchard:

It is sufficiently worrying - I think the point that has been raised by the Deputy of St. Ouen to users of the respite facility at Les Amis - that the matter is not left up and open for people to worry about. It is true that the threats of withdrawing respite services has been made by Les Amis albeit only recently with 3 months' notice to Health and Social Services because of funding issues. We have just recently received a letter to that effect. I was quite taken aback. We think it is a little unprofessional of them to give such short notice. It is occupying our officers' time and my time to ensure that this imminent threat does not take root and that respite services will be offered to the users currently and in the future. At this stage there is not a resolution. I am convinced that Health and Social Services can assure the users and carers for people who need respite that a resolution will be found and the threats to withdraw the service by Les Amis will be withdrawn itself.

Deputy I.J. Gorst of St. Clement:

While I appreciate the intervention of the Assistant Minister for Health, I really do ask him to withdraw his terminology branding an organisation like Les Amis as unprofessional as they are meeting their budget requirements. I ask him if he could withdraw that comment, please?

Senator J.L. Perchard:

Les Amis are a very professional organisation but I do consider the threat to withdraw the service to be unprofessional.

Deputy G.C.L. Baudains:

Just before Deputy Troy rises again. Could I press him, when he was answering to the comments I had made he appears to have overlooked a question that I put to him. I really did not want to interrupt him while he was speaking. That is about the difference between the categories. Those people on the cusp, it does appear to me if you fall one side you get £20, if you score one point more you jump to £83. I did ask whether there was a sliding scale to cater for this. Because otherwise it does seem this transitional amendment does seem to be unfair. However, he did not respond to that.

Deputy P.N. Troy:

I do not believe that there is a sliding scale. The scoring card for someone's ailments have been worked on in conjunction with Health and we feel that this adequately categorises the extent of someone's care requirements or disability requirements. As such, we come up with a rate and that is the rate that will be paid in those instances. The groupings have been carefully selected and the scoring has been worked and heavily consulted upon with the medical profession. We feel that it will work very well. If I can make the proposition?

The Deputy Bailiff:

The appel is called for. The matter before the Assembly is for or against the principles of the Regulations. The Greffier will open the voting.

POUR: 44		CONTRE: 0		ABSTAIN: 0
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Senator S. Syvret				
Senator L. Norman				
Senator F.H. Walker				
Senator W. Kinnard				
Senator T.A. Le Sueur				
Senator M.E. Vibert				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

The Deputy Bailiff:

Do you wish to propose the Regulations *en bloc*? Before doing that, I should invite Deputy Breckon to consider whether he wishes the matter to be referred to his Scrutiny Panel?

Deputy A. Breckon (Chairman of the Health, Social Security and Housing Scrutiny Panel):

No, Sir, the same applies as this morning. The Sub-Panel chaired by Deputy Martin is still in place. If any Members do have any problems or the members of the public, it is open to them.

4.2 Deputy P.N. Troy:

Can I propose the regulations *en bloc*? Regulations 1 to 4 to amend the schedules as schedules 1 and 3, as shown. I propose those Regulations.

The Deputy Bailiff:

Very well. Seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations?

4.2.1 Deputy G.C.L. Baudains:

While I may not necessarily oppose these Regulations, it does occur to me that in his rather lengthy answer to my previous question the word no could have been substituted, there does not appear to be a sliding scale and I remain concerned about the categories. There is a great difference between somebody who scores one set of points and you only need to score one point more and you could jump to an enormous amount of money. It does seem grossly unfair to me, Sir. I do not think I will oppose this but I would ask the Assistant Minister to... it is all very well to say that this has been looked at by the medical profession and all the rest of it but it does seem to be hugely unfair to somebody on the cusp. If there is not a sliding scale, I would ask them to look into creating one.

The Deputy Bailiff:

Does any other Member wish to speak? Do you wish to reply?

4.2.2 Deputy P.N. Troy:

Yes, Sir, I of course will bring the Deputy's concerns to the attention of the Minister. We will discuss that at our next meeting, Sir.

The Deputy Bailiff:

Very well. All those in favour of adopting the Regulations kindly show. Those against? The Regulations are adopted. Do you propose the Regulations at Third Reading? Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading kindly show. Those against? The Regulations are adopted in Third Reading.

5. The Draft States of Jersey (Amendment No. 5) Law 200- (P.183/2007)

The Deputy Bailiff:

We come next to the Draft States of Jersey (Amendment No. 5) Law - P.183 - lodged by the Privileges and Procedures Committee. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft States of Jersey (Amendment No. 5) Law: a Law to amend further the States of Jersey Law 2005. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

5.1 Connétable D.F. Gray of St. Clement (Chairman, Privileges and Procedures Committee):

When on 18th July last year the States narrowly rejected the reformed proposals of P.P.C. (Privileges and Procedures Committee) I said that in our opinion the matter should now be left to the Assembly elected in 2008 to decide upon. Nevertheless, the States immediately decided to support a proposition put by the Comité des Connétables to ensure that all Connétables were elected on the same day and for 4 years. As a result of this decision Deputy Troy lodged a proposition requesting P.P.C. to bring forward amendments to Standing Orders so that the term of office of Deputies was extended to 4 years so that their election would be held in the same year as the Constables. This proposition was debated on 26th September. Although it was approved it was

by a very narrow margin of just 4 votes; 22 for and 18 against. In bringing forward its earlier proposals for reform, the Committee have undertaken considerable research which indicated that piecemeal alteration was not the way forward but this is just what the States had decided they would like to happen. The 2 separate propositions made it very difficult for the Committee to bring forward a coherent proposition. It was felt, therefore, that the position of Senators who had seemingly been ignored must be addressed. At present 6 Senators are elected every 3 years in the same years as all the Deputies face the electorate. If we alter the terms of the Deputies but left the Senators still having a 6 year term, only the 6 Senators elected in 2008 would face an election in the same year as the Deputies and this would only occur every 12 years. The 6 Senators elected in 2011 would always be at odds with the rest of the Assembly. For this reason alone it was considered necessary to address the terms of office of Senators. It was also necessary to consider how the election of the Chief Minister, Ministers and Scrutiny Chairs and members would be arranged. These appointments would best be dealt with when the majority of Assembly is elected but it would be possible to elect a person to a responsible position if he or she had only a year to serve before they faced an election and possible defeat. Over the 12-year period with no change to the length of office of the Senators it would result in 7 elections, a sure way to encourage the feeling of election fatigue of the electorate. In the P.P.C.'s proposals in order to bring forward the concept of a general election as quickly possible there would be 5 elections during this period. This would result in the entire membership of the States being elected in 2016 and thereafter every 4 years. Our proposal has raised 2 significant issues which I will address. Firstly, the value of the position of Senator if they serve the same term as Deputies. It has been suggested that there would be no incentive to incur the additional expense of an all-Island election. This could be overcome by making the office of Chief Minister only open to Senators. The fact that the holder of the office of Senator knows that he or she has the approval of all the Island electors rather than just those of a particular Parish must add a lot to their authority in this Assembly or if it does not at present it probably should. The other question is reducing the number of Senators should we have a fairer distribution of Deputies seats. The feeling in some quarters is that this could be achieved by increasing the numbers of the 4 lost Senatorial seats, but the redistribution and the enhancement of the role of Senators are for another occasion and would have to be addressed as a matter of urgency by the next Assembly if this proposition is adopted without amendment. This proposition is not in P.P.C.'s opinion the best way forward. The best way was the one the Committee brought forward in July. We feel, nevertheless, that this proposition is a package that is workable and enables the decisions of the States to be implemented in a sensible way. Having said that, I am not convinced the majority of Members want any reform, certainly not at this time. If this is the case, now is the time to make that decision rather than after a lengthy debate on the articles and the associated amendments. To achieve this you merely have to vote against the principles. In that event it must be fully understood that any reform for Senators and Deputies will be put off at least until some time in the life of the next Assembly. The Senators elected this year will serve until 2014 and there is no possibility of shortening this. Having said that, it must also be borne in mind that the rejection will only reinforce in the public's mind that the States like to spend a good deal of time talking about reform, often agreeing in principle to move forward only to reject proposals at the final fence. If on the other hand we take these proposals forward even with the proposed amendments neither of which undermines the principle of 4-year cycle Assembly, a 4-year term for all Members would in the opinion of P.P.C. be a way forward and should enable the Executive and Scrutiny to operate more efficiently. If we also decide to reduce the numbers this will meet the apparent wish of the majority of the public as expressed in the 2 M.O.R.I. (Market and Opinion Research International) polls the Committee arranged to be held last year. Having said that now, I propose the adoption of the principles, Sir.

The Deputy Bailiff:

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

5.1.1 Deputy C.J. Scott Warren:

It may not be the right time but rather than it be left too late to mention, on the explanatory notes under part 3, amendments in 2011, it says about the Deputies are sworn in - the first paragraph, Article 7, following the 2011 ordinary elections. Obviously since the success of Senator Vibert's proposition - the amendment yesterday - that is correct but it would not have been correct if his proposition had fallen yesterday, been defeated. Therefore, I just wonder if the Privileges and Procedures Committee have got some added foresight here because it would have been 2012 and yet this is written as 2011 because 2012 had already been agreed for Deputies prior to this being printed. I just thought I would bring this to the attention now and obviously now it is correct.

5.1.2 Deputy G.W.J. de Faye:

I trust this is the right moment to deal with the general body of this proposition being put forward because as Members know I have amendments to it. I have had a very unhappy period considering all aspects of this because I have a concern and a worry that the Assembly may make a bad decision today. I think it is worth reflecting on how we have got to the paperwork drawn up in front of us. The key issue has always been the concern over turnouts in elections, reinforced once again by the recent Constables election in St. Helier that saw what can probably be best described as a low turnout but realistically a pretty dismal turnout, although I am sure the Constable of St. Helier will relish the fact that he has something like 90 per cent support among those people who did vote which is probably something of a record for anything in Western, civilised, democratic society. Nonetheless, turnout has been the issue; some concern that we have disconnected from the voters and that there is something wrong in the machine that needs fixing. I have said time and again that there are some very direct things that can be done about encouraging people to vote; one is make it compulsory by law and you will be fined if you fail to vote. That is not a particular avenue I wish to follow. Alternatively, you find some mechanism which allows an advantage to going out to vote. I have on a number of occasions indicated that some form of lottery system would make a radical difference to turnout. There may be no such thing as a free lunch but I promise the Assembly the idea of £5,000 and £10,000 prizes for bothering to turn out to vote would be an enormous encouragement to local voters. What I feel is of no interest whatsoever and it has been proved time and time again by turnouts to public meetings - handfuls of people and so on - is this idea if we somehow rearrange the system; what has been described as rearranging the deckchairs on the Titanic. I do not believe and never have believed that this was the way forward. It was a matter of some dismay to see Privileges and Procedures Committee following their M.O.R.I. polling technique of constitutional reform in the hope of trying to find some way forward. We now have got to this position where the final determination is a broadside assault on the position of Senators. It may be that the other sides of the House are not particularly impressed by the current line-up on the Senators bench opposite but, nevertheless, they are what are regarded as the senior Members of the House. Why is it that Privileges and Procedures Committee have decided this is the one section of the States that needs to be chopped down a bit, not only in length of office but also in numbers? I suggest something has gone badly, badly wrong here in the thinking and the logic. I do not see this as a satisfactory result. It is when you cast around this report looking for some of the thinking and the logic, you realise how thin it all is. We have been told apparently that changes needed to be made to avoid electoral chaos. One of them we know is that the Constables will probably have an election all on one day. Personally I think that is an improvement. I think that is probably a good idea. Constables will know that I am a firm supporter of the role of the Constable within the Island. I was one of the key supporters of the Constables having a 4-year term of office. I thought that was a good move. Indeed for a matter of perhaps 6 to 10 weeks last year I think we had the formula about right. We had the Senators as they were - the senior politicians - on 6-year tenures of office on a rolling basis of government thereby ensuring that we always have 6 Senators in play at any one time, never mind if the rest of the States is in chaos. Good idea. We have the Constables who we know are enormously respected around the Island on 4-year terms of office. Good luck to them. They are the next senior cadre within the States. Then the Deputies on 3 years as has been the case

for a very long time. It was a matter of great sadness to me that a particular Deputy upset the applecart by suddenly putting forward a proposition to say if Constables should run 4 years so should Deputies; it is a matter of equality. Anyone who has read the report that accompanies my amendments knows my views on the levels of equality between Constables and Deputies. They are almost basically incomparable. The differences between Constables and Deputies are extremely significant. As a Deputy, I have no power to close roads in the Parish of St. Helier. I cannot summon a roads committee to consult. There are numerous other things. No Procureur du Bien Publique to support me in my thinking of what the Parish accounts are like. The roles of Deputy and Connétable are extremely different. I have to say to Members it was a bizarre decision, as far as I am concerned, of this House. We suddenly decided that there had to be equality in place and there would be 4 years dished out. But back to electoral chaos. We have been electing the Connétales on a random basis from time immemorial and I have not noticed any particular chaos. There will, it is true to say unless there is a change to the system, be occasions when the Senators under the current basis will be elected... and I think if we look at Privileges and Procedures' report here on page 4 you can see that almost immediately - 2011 - there will be some 6 Senators elected for 6 years facing possibly a number of casual vacancies to fill. Is this of major import? Is this a crisis for those 6 Senators? I do not believe so because in 2012 there will be a full round of elections and everyone can have a chance to put their hat in the ring for all the various roles of responsibility. Has that created electoral chaos? I think not. I mean the only chaos that I recall ever taking place was in my first month as Minister of Transport we had traffic chaos in St. Clement. Of course it is to my eternal regret that I have not appointed Senator Perchard as my Assistant Minister because I know I could have relied on him to go down in his Range Rover with some members of his workforce and probably sort it out physically. **[Laughter]** I can just see him now ordering teams to lift cars physically out of the queue, turn them around and send them back the other way. Simply because Senators do not immediately rise to roles of responsibility is not electoral chaos. There is no chaos in terms of how policies and strategy are pursued. They are laid down in the Strategic Plan and they are adjusted on a very limited basis, supported by the Business Plan. Again only single opportunities appear. Indeed any Senator who is elected but not elected to a higher position has an opportunity to contribute to all those and to vote on them as well. Where is the electoral chaos that is being threatened here? I just do not see it. We find ourselves tilting at windmills Don Quixote-style. We have managed to talk ourselves into a position of finding a solution to a problem that does not exist. Or is it to do with the fact that we have a number of us who are absolutely insistent on so-called general elections. I think this is probably at the seat of the problem. I wish to remind Members that the general elections are by no means the panacea that Members think they are and by no means have the support of the general public that Members think they have. That is for a number of very significant reasons. First of all, the very strange M.O.R.I. polling technique we applied. Let us just look at the Island for a moment. M.O.R.I. polls by their very nature take a representative sample of the population. Our population in Jersey, first of all, consists of a minority of Jersey-born people with significant history in the Island who are the sort of people who understand what a Deputy is, what a Constable does and why Senators can be voted for in every Parish. However, the majority of people who live in this Island come from somewhere else. They come from the various parts of the United Kingdom, scatterings across Europe as well as the rest of the Commonwealth and so forth which means that roughly two-thirds of the people in this Island come from a culture of political parties and general elections. Therefore, if you take a M.O.R.I. poll and ask a representative sample: "Do you think general elections are a good idea?" the obvious result you are going to get under those circumstances is that probably roughly two-thirds of the people are going to say: "Yes, we do" because that is part of the culture they have grown up in. Interestingly, I would love to give way, Deputy, but I have a few more things to say. The key factor here is that we are being misled by our own polling. Throw into that my understanding over time now that many of the people who took part did not understand what general elections were meant to be. They described Senatorial elections as general elections. That is what they thought. They did not realise we were talking about all-on-the-same-day general

elections like they have in the United Kingdom and other countries. There were other people who thought that the Deputies elections were the general elections so they thought that was why they were a good idea too. We have a basis for where we are here I think that is very ill-founded. Secondly, general elections do they work? Yes, they might. But are they the best system for getting rid of governments you do not like? No, they are not. As many Members will know - and those who do not will find out now - I prefer a system of what is called rolling elections. The current Senators are a good example of what you get from a rolling electorate. In other words, you have a total of 12 and you have 6 at a time and another 6 are elected. I will not go into the detail but basically if we are determined on 4-year terms, a rolling election would allow the electorate to get rid of 25 per cent of this Assembly each year. That means that if on day one there is a sudden determination that the great and the good really were a bad, bad move and we prefer the party that meet in the telephone box, under the system of general elections you would have to wait 4 years before you could do anything about it because you would not be allowed to vote. Under the system I put forward, every year you would be able to take out 25 per cent of the great and the good and replace them with members of the party that meet in the telephone box. By year 2 you have got a *status quo* in the House. By year 3, the party that meet in the telephone box would have three-quarters of the vote. It is a system that changes the government more quickly, more satisfactorily and with less trauma. Rolling elections are a better way to do it. Has the Privileges and Procedures Committee studied this? Yes, they did because I mentioned it to one of them one morning in the States and by lunchtime I had been told, no, they did not think it was a good idea. Thank you, Privileges and Procedures Committee for devoting so much of your time [**Laughter**] to studying what is unquestionably a completely alternative way of conducting government that may put Jersey ahead of the rest of the world and leave the rest of the world behind floundering with their crummy, corrupt political parties and general elections that do not really work. Thank you. Thank you for all the time and effort you devoted to that. I have to say, Sir, that this has been the constant story from the Privileges and Procedures Committee. Frankly, it is perplexing its ongoing obfuscation and abasing of new theories and principles on ideas that have no serious foundation. I am very sorry to see that we have got to where we are. It is not a place we should be in. I think that the best and most sensible thing will be to reject this all. As I say, I think we came jolly close to having a sensible setup when we had Senators, 6 years; Constables, 4; Deputies, 3. The boat has been rocked since then but I think if we can, we want to go back to where we were. As for the rest of it, I am happy to discuss rolling elections with anyone until the cows come home with committees, inquiries or whatever because I think there are better ways of doing it than the way we are doing it now. I think it is a shame that it is only when we get to these types of situations where we have to look at all these amendments in the white of the eye that we get some straight talking and some commonsense because we are not getting it from the Privileges and Procedures Committee, I regret to say. Sir, I am sorry to say this but I just cannot see that I can support any of this. That is the reason I have brought some amendments forward because if this thing is going to go through it is going through with some of my stuff nailed to it if I can get it there in order to save what I think is potentially a sorry mess.

Deputy C.J. Scott Warren:

On a point of clarification, am I not correct that after Senator Vibert's approval of the proposition yesterday, we are now debating a proposition which has got... the circumstances have changed in that we have now got a 3-year term for Deputies. The 4 years is out now for Deputies. Is it not out? It is not retrospective because it says in the proposition that it comes into effect immediately in that provision, therefore, how can that stand, that decision?

The Deputy Bailiff:

Can I just be clear? My understanding is that Deputy Vibert's proposition would come into effect immediately so it affects this vote. In other words, in so far as anything in P.183 alters in any way the membership of the States or lengthens or shortens the term of office or adds constituencies then

the new voting structure will apply. With the Greffier I have been through it and it seems to me that the new voting structure applies to the debate on the principles and to the debate on Articles 2, 3, 4 and 7. Those are all matters which it seems to me fall within the terminology of Senator Vibert. Other matters will be dealt with on an ordinary majority. Now we are on the principles.

Deputy R.G. Le Hérisier:

Just on a point of clarification. I will not make a speech at the moment. I wonder, Sir, if the Deputy could --

The Deputy Bailiff:

You say you are not making a speech at the moment.

Deputy R.G. Le Hérisier:

No, Sir. Could he clarify whether he believes in terms of his comments about M.O.R.I. that voting in Jersey should be confined to people who have a certain background?

Deputy G.W.J. de Faye:

Yes, I do, Sir. I think people should have been in the Island at least 2 years.

5.1.3 Senator L. Norman:

Just very briefly, I must say I very much enjoyed Deputy de Faye's speech. I enjoyed it this afternoon. I enjoyed it the last time he gave it when we discussed constitutional issues - competition issues - and I enjoyed it the time before that when we debated constitutional and competition issues. Strangely, I find myself in a very strange position because I personally do not have a problem at all with the proposition as it stands. The problem that I have - and I suspect that most Members will have - is that it is not what the States asked for during that in-principle debate last year. It has been absolutely convoluted. By having rejected over the last 7 years now all the various options available - and I think we have debated every single option that is possible - I concur with the Chairman of the Committee that it does not seem right to be reopening the whole debate of composition of the States reform so soon, simply because the same result as we have had in every debate over the last 7 years, the same result is absolutely inevitable despite those of us who do want some reform. We know that it is going to be defeated in its early stages because it is not what the States asked for. What the States asked for was that term of Deputies should be increased from 3 years to 4 years. That is all. Nothing about reducing the number of Senators. Nothing about changing the terms of office of Senators. Just changing the terms of Deputies from 3 years to 4 years. That would not create any more chaos than we have already got and demonstrated over the last 7 years. It was a perfectly simple, perfectly reasonable decision. I just do not understand why the Committee has not brought forward legislation to that effect instead of bringing forward what is a convoluted proposition which involves changing the terms of Senators which was not requested by the States, changing the terms of office, length of office, of the Senators which again was not requested by the States. As it happens, I agree with the Committee about reducing the number of States Members, the number of Senators. I agree with the Committee about reducing the term of office of the Senators. But I know and the Committee must know that they are bound to be defeated. What will not happen is that what the States have decided with the Deputies' term should change, that will not happen either. So reform goes one step forward and 2 steps back again. We are simply not being offered today what the States requested the Committee to do.

Deputy P.V.F. Le Claire:

I do not know if the Senator is finished or not but I could just ask on a piece of clarification? In regards to what he is suggesting, which I concur with, the desires of the States Members from the previous debates have not been brought forward as precisely as we would have liked. Is it still not an opportunity for us to debate these things today and vote in the articles accordingly to give effect to those principles and thereby not adopting the other articles that do not meet our wishes?

The Deputy Bailiff:

We will have the debate in the normal way. We will debate the principles of the legislation. If Members wish to, in effect, proceed with the legislation they should vote in favour of the principles. If not they should vote against. Then we will debate each article. It is open to Members to vote for or against individual articles. Of course where that leaves everyone at the end if some were adopted and some were rejected one would have to wait and see.

Senator L. Norman:

With respect, Sir, but surely the articles themselves cannot be split up. I mean one article there says: "Senators should be elected for a term of 4 years. Deputies should be elected for a term of 4 years." That is in one article so we cannot change the proposal.

The Deputy Bailiff:

No, we would vote article by article.

Senator L. Norman:

Exactly. So we cannot do as Deputy Le Claire would like to do and as indeed I would like to do.

The Deputy Bailiff:

No, the Senator is absolutely right. We will have to vote on individual articles and as the articles say what is to happen to Senators and Deputies then it is a bit of a package.

5.1.4 Deputy G.C.L. Baudains:

With reference to the comments made by Senator Norman, I am glad that he appreciates the work that Privileges and Procedures Committee has done for it has been extensive, Sir. But it does seem to me that he has not understood a fundamental issue and that is that when you change one thing there are consequential changes unless you are going to have literally chaos. If you are going to change the Deputies' term of office from 3 years to 4 years then it no longer synchronises with the 3-year term of Senators or the 6 year term that rotates every 3 years. It all becomes out of synch and then electing people to be Ministers, electing people to be chairmen of Scrutiny Panels and so on, it starts to become disorganised. There are consequential changes for everything you do. The Privileges and Procedures Committee has looked carefully not only at the workable changes but the consequences of all those changes. You look at the whole broad spectrum of everything that could be done and immediately three-quarters of them are ruled out because of the complications that they bring forward. But one thing I would like to address, Sir, because I was saddened to read it, and that is the comments by the Council of Ministers, Sir, because they too appear to have completely misunderstood the situation because what this is all about is addressing low voter turnout. We seem to forget that what we are doing by bringing forward these changes is not to satisfy ourselves so we can have a 4-year term in office and 3 years or whatever. It is solely to address the low voter turnout. What is it that the public does not like about the present system? As I just mentioned a few moments ago, Sir, the Privileges and Procedures Committee went to enormous lengths, engaged the public with M.O.R.I. polls, questions, consultations to find out why this problem existed. That, I am sad to say from reading these comments, is something that the Council of Ministers appears to have missed. The main gripe as we surely should know by now - we have discussed this subject long enough on so many occasions - was their inability to change the direction of the States at election time because for other reasons we had decided - we had not decided but previous Assemblies had decided - that consistency would be better served by maintaining one group of people in the States over each election period. That is why the Senators there are 12 but elected for a 6 year term but on a 3-year cycle. That is the thing that the public do not like; the fact that they cannot change the entire States Assembly at one time. They have the feeling that there is a nucleus which stays in reserve all the time and somehow or other it contaminates the new Assembly when it is formed. I do not believe they are right but that is the perception, Sir. Clearly the answer to this dilemma is a single election date. Again the Privileges

and Procedures Committee have spent an enormous amount of time looking at the possibilities of a single election day or a single election period so at least the public's concerns would be satisfied over a short period of time, perhaps a month or 6 weeks or something of that order. As I have said, you solve one problem and you create others. That in itself creates a problem because it appears to me from previous debates that we have had on the subject that a lot of Members clearly have not understood. Maybe they did not read the paperwork fully or they would not have gone down the path that they have by choosing the options that they have done in the past because a single election day creates enormous problems. In fact it is basically, under our present system, unworkable. Unless you do away with the present system that we have of 3 classes of Members - the Senators, the Constables and the Deputies - and have one class of Member as Clothier recommended, it simply will not work. You cannot have elections for 3 different classes of people all on the same day. The confusion that would create would be enormous. I thought that had all been carefully explained in previous debates. I mean could you imagine the situation in a Parish such as St. Helier where you are electing. The Constable is going round canvassing. The Deputies are going round canvassing. You have got Senators going around canvassing. All 3 sets of posters would be up at the same time. The public would not know if they are coming, going or been. What we have got to appreciate with this debate today, Sir, this is not about what we want, protecting our own interests as it appears to me that the Council of Ministers are doing. It is about reconnecting with the public. We really do not have any chances after today to sort this out. The best options have already been rejected as I am sure some people must now realise. The last remaining options are really all we have left. If they are amended I believe we will end up with an unworkable situation. We will end up simply having to tell the public that I am sorry but we put our own interests first and we were not interested in addressing your concerns. I have to say, Sir, if Members want voter turnout to continue to decline and government to sink even further into disrepute then, yes, let us adopt all the amendments today so we not only do not address the public's concern but, as I have said, make our elections of Ministers and Chairmen of Panels and so forth a laughing stock. Deputy de Faye earlier, Sir - I notice he has left the Chamber at the moment - was talking about chaos in his speech but I think he was slightly confused or maybe more than slightly as he was referring to history, Sir. He was saying there is no chaos at the moment but of course what Privileges and Procedures are talking about is not what is happening at the moment but the chaos that would ensue if we put into practice some things that this Assembly have already adopted. The chaos is not there at the moment but it would be if we adopted those. He has failed to understand that. Clearly, Sir, he has spent too much time in his own telephone box. I believe to amend what I consider to be our last chance saloon options I believe would be completely irresponsible. I must urge Members, Sir, to concentrate on this proposition, and hopefully a little bit more than they did on previous occasions, because basically I suppose we have 2 options today, Sir. We can either adopt P.P.C.'s proposition or reject it, in which case we stay as we are. You cannot fiddle with bits and pieces of government and expect it all to work afterwards. This is not a lawnmower, Sir, where if you fiddle with it and it does not work you can buy a new one or borrow your neighbour's. This is government for Heaven's sake. I hope a greater level of understanding of the issues will prevail than occurred during previous debates on this subject, Sir.

5.1.5 Deputy P.V.F. Le Claire:

I am sorry to raise this again but I re-read the article. While I appreciate it is going to be a complex debate, the amendment does, within the articles itself if we were to move to that vote; if we were allowed to take a vote on it independently, on page 14, Sir, just an example because we are being faced with... I may as well speak, Sir, rather than make points if I make this my speech. Rather than making this principle the start and finish of everything that we have considered over the last few years and into the next few years just on this in principle vote at this time, surely, Sir, in terms of individual voting on these articles on page 14 under (5) Terms of Office of Senators and Deputies when we come to: "(1) Senators shall be elected for a term of 4 years; (2) Deputies shall be elected for a term of 4 years" is it not possible to vote on those 2, Sir, independently?

The Deputy Bailiff:

No, Deputy, it is not. We always take articles as a whole. Articles are proposed and taken as a whole.

Deputy P.V.F. Le Claire:

Is it not open for a Member to propose that the Standing Orders be set aside for that regard, Sir?

The Deputy Bailiff:

It is always possible for a Member to propose the suspension of Standing Orders but the correct way of dealing with it if we want a part and not another part is usually to propose an amendment.

Deputy P.V.F. Le Claire:

Yes, Sir.

The Deputy Bailiff:

To propose, therefore, that a certain part be deleted or varied, that is the proper procedure. I would counsel the Assembly against on the hoof trying to start voting for a part of an article at a time. I think that would be I have to say extremely dubious practice.

5.1.6 Senator M.E. Vibert:

I think from what I have heard so far it has proved that all we are getting into is a mess. I believe that the States by discussing and voting previously on piecemeal changes to the constitution election of the States erred and unfortunately has created this mess for itself. I do not believe we have consulted with the public properly on any of these proposed changes. I do not believe that we have looked closely enough at the consequences, unintended or otherwise, that these changes would bring in. I believe the best course for the States now would be to vote against these principles so that it can go back to the drawing board if there is the will to do it in the future. But this certainly is not the way to go about reforming the States.

5.1.7 Senator F.H. Walker:

To an extent Senator Vibert has said very succinctly what I intend to say and indeed to endorse his comments. Sir, this is the first time that the Council of Ministers have entered the debate on the constitution of the States. We have made it a point of principle so far not to become involved as we believe that the constitution of the States is not an issue for the Executive. But we are now in such a serious situation that the Council of Ministers felt it could no longer stay on the sidelines; that it had to take a view and had to put that view to the House. Hence the comments and it is, I emphasise, the first time that the Council of Ministers collectively have commented on States reform issues. It is a measure of the concern that Ministers now feel that we have done so at this stage. Sir, I am absolutely dismayed personally to be in this position. I never expected to be in a position where I would be opposing reform of the States because ever since the early Clothier days I have been a strong supporter of reform. But sadly, as Senator Vibert has said, because we have approached it in such a piecemeal fashion we have now got ourselves into a total and complete mess. We cannot endorse that mess and allow this to go forward in the way in which it is proposed today. I believe that by failing - and we have failed; let us be quite clear about it - to get to grips with the issue of reform in a co-ordinated, joined-up way, and by taking piecemeal decisions I believe we have failed the Island and we have let ourselves down in the process. Little or no thought has been given to the consequences of what is before us today. We are demonstrating yet again that we are totally incapable of getting to grips with reform in the proper joined-up way which of course it is our duty to do. We have taken on the hoof, one-off, *ad hoc* - call them what you will - decisions. This proposition which I emphasise I think has been brought for all the right reasons. I do not think P.P.C. had much choice other than to bring this proposition because of the *ad hoc* decisions we have already taken but this proposition, nevertheless, merely adds to the problem that we ourselves have created and adds to the mess that we ourselves have created. The

proposition is purely reactionary. It is a reaction to the decisions taken by the States. It is not the position that P.P.C. themselves would have wanted to find themselves in or would have wanted to propose to the States but they have little alternative under current circumstances but that does not make it right. Deputy Baudains said this is not about what we want. Actually it is. That is exactly what it has become because of the piecemeal decisions we have taken, this is now about what we want to do as opposed to what the public previously have told us to do, which is get to grips with reform in a co-ordinated and joined-up way. So it is about what we want rather than what the public want. That in itself is a very, very sad position. I believe it is totally unacceptable and not the way that good government suggests we should move forward. It is, in short, a mish-mash. We cannot afford to mish and we cannot afford to mash with something as important as the structure of this House and government reform. Sir, it was my intention initially to propose a reference back but having further considered that position and consulted with some colleagues I am not going to do that. I am going to merely oppose, as I think is clear, the proposition. But the reasons I was going to give for a reference back were that there has been no consultation whatsoever on this proposal so how anyone can say that this has the support of the public I really do not know. How anyone can say that the position we have found ourselves in has the support of the public I really do not know, because there has been no consultation on this position, no research. I have not - and I do not believe any other Member of the House has - any idea at all what the public view on this proposition and what we have already created is. I do not believe it is credible for anyone to say that this proposition and the outcome of it has public support because there is no evidence for that whatsoever. I contrast the lack of consultation in reducing the number of Senators and reducing the term of office, of which there has been none, I contrast that with the view taken quite rightly I think by P.P.C. on the question of reallocation of Deputy seats where they say this is such an important topic it requires consultation, it requires further research, it requires much thought. Absolutely right but why is it then that we can propose such a fundamental change as reducing the number of Senators and reducing the term of office without engaging in any equivalent research or consultation whatsoever. Why is it the 2 approaches... and I do not blame P.P.C. here. I think they have found themselves in an impossible position but, nevertheless, the 2 approaches they are taking here are fundamentally contradictory. The right approach is the approach that they have suggested on the reallocation of Deputies' seats. The wrong approach is the proposition that is before us today. This has been cobbled together on the back of ill-informed, unjoined-up States' decisions and P.P.C. themselves would recognise that. This is not, as I have said, a position that P.P.C. wanted to or expected to find themselves in but we have put them in this unenviable position. Sir, I never ever thought I would stand on my feet in this Assembly and say this but sadly I feel I have to. I believe now we have no choice other than to, in effect, go back to square one. We have made a complete mess of this reform issue. A complete mess. I believe now we have, in effect, to go back to square one. That is why the Council of Ministers in their comments have suggested that the Privileges and Procedures Committee should now establish a clear inquiry process by establishing a Committee of Inquiry during this year with clear terms of reference which would report back to the States in early 2009, setting out specific recommendations for constitutional changes for approval by the new States. How sad is it that the Council of Ministers feels that we have to propose, in effect, going back to square one? What a sad position that is. But we believe that continuing with the *status quo* until we are in a position to take joined-up, informed, well-researched decisions which have been widely consulted upon, we believe that maintaining the *status quo* for a further period of time is infinitely preferable to taking on the hoof, *ad hoc*, unresearched, ill-thought through decisions whichever way you want to call it. Infinitely preferable. We cannot go on lurching from one unconnected decision to another. We cannot go on creating something about which we know so little. What are the consequences of reducing the number of Senators and reducing the terms of office? We have not got a clue because nobody has come up with any research or information to say that this is a supportable way forward. The only reason for proposing this is because we have already agreed in 2 totally separate decisions to change the terms of office of Constables and Deputies. This is necessary if that stays to co-ordinate, to have any sort

of order whatsoever. But that is the only reason this is before us today. Not because it has been considered. Not because it is public opinion. Not because it has been researched. Not because it has been consulted upon. The only reason is to try and make something out of the total mess we have already created. That is not an acceptable way to structure our government for the future. Sir, it is with total dismay, I have to say, that I stand here and recommend that we do indeed now have to go back to square one. I only do so because I believe it is infinitely preferable to continuing with what, as I have already said, is the shambles we have created and which this proposition will perpetuate and indeed make even worse. I am dismayed and disappointed that I have to make this speech but, Sir, I would urge Members to seriously consider what is indeed before us, why it is before us, what lies behind it or what does not lie behind it which is probably more important, reject this proposition and with reluctance go back to the drawing board and ask P.P.C. to set up a Committee of Inquiry or whatever you want to call it to come forward again in the light of things that have advanced over the last few years, come forward again with proposals for joined up, co-ordinated reform which we hopefully will find ourselves capable of getting to grips with, unlike the way we have got to grips with or failed to get to grips with what has been before us over the last few years. Sir, it is with reluctance and sadness that I make that proposition. I very much hope Members will take on board what I have said, the lack of credibility behind this proposition, the lack of research behind it, the lack of thought behind it and vote it out.

5.1.8 Deputy P.N. Troy:

I think the Senator speaks as a Senator. I think he is rather concerned maybe about the reduction in the term of office for the Senators unduly because we have the chance today to support P.P.C. and I have an amendment which leaves the *status quo* on the number of Senators. There is an option today for Members to support P.P.C. and support my amendment which leaves the number of Senators at 12. We would be left with an outcome that by 2016 we would be in a position that we are at the closest possible to a general election which is absolutely what the public want. Senator Walker has said that he is very concerned and he is very worried about all the implications and what is behind this and why do we want this. If you go back to the Clothier recommendations, it was suggested that we move to a Ministerial system, that we get all of States Members on to a common length of term of office and that we progress in that manner. We moved to the Ministerial system but Members said we are going to stay as we are on 3 years and 6 years and so on, this hodgepodge. What P.P.C. are doing today, they are giving effect to 2 decisions of the States that we have already had in 2007 that, number one, all of the Constables will get elected on the same day and have a 4-year term of office; and that all of the Deputies will have a 4-year term of office. It is the logical extension and we discussed this at the time. It was the logical extension that the Senators would then be on a 4-year term of office and we would move forward to a general election type of environment in 2016. That is the goal. That is what is achievable. Everything that is said there... this thing about the balance of the States if we support P.P.C. in this proposition then support my amendment, nothing will change apart from the 4-year term of office for all Members. We are then in 2016 in the absolutely excellent position whereby we can have Constables and Senators elected on the same day. It would be 24 Members elected on one day and then maybe a week or 2 weeks later 29 Members, the Deputies, elected all on the same day and all in the same year. We are never going to be anything like that unless we support P.P.C. today. We really must move this forward. Senator Walker said we have been grappling with reform and we messed it up. Yes, he is absolutely right but today is the day that we can put it right. **[Laughter]** We can grapple with reform and get some reform. I think the Senators are worried that they are going to lose 2 years. It might do them good to go out for some elections every 4 years instead of every 6. They get a bit cosy sometimes on their 6 year periods. Let us all go to the polls at the same time. Let the public have the opportunity of removing a large number of people from this Assembly all in the same period. This idea where we are continuously back at the polls to vote on one-third of the Assembly does not really work. I am really imploring Members today to stick with the 2 decisions we have made. Remember we have made 2 decisions; the Deputies for 4 years and the Constables

for 4 years. Stick with those, please, and then we bring the Senators into line and we have a general election in 2016. How many of you will be here in 2016?

Deputy P.V.F. Le Claire:

Depends how long your speech is. [Laughter]

Deputy P.N. Troy:

My speech will not last till 2016, Deputy Le Claire, but I think it is worthy of note that many Members here will not be in this Chamber in 2016. We are looking at the future. We are looking at the future of this Government. We are not worried about the position of half a dozen Senators who might or might not be here in 3 or 4 years' time. So stick with what we have done, go all the way with it and support P.P.C. today.

Senator F.H. Walker:

Could I just on a point of clarification, the Deputy made almost an allegation saying I was one of those who supported the removal of Senators from the States in total to the Clothier Inquiry. This has nothing to do with seeking to support the position of Senators *per se*.

5.1.9 Deputy R.C. Duhamel:

I think P.P.C. are to be commended and they have done the job that we asked them to do. We are not asking them to have a go at rocket science or anything. All we are asking them to do is to come forward with a proposition, which they have done, to ask all sides of the House to step in time. Now, if we were all recruits at some military academy or whatever, that would be the very first thing that we would have to do. It would not be the Constables marching to one tune and the Senators going off in the other direction and the Deputies not even bothering to tag along. You would have a very strong Colour Sergeant, somebody out there saying: "Look, we have to pretend to the world a common front, marching together is what it is all about." So what happens? You all step in line and you show your solidarity, which is really key to this proposition. Something pretty good happened, I think, last year where we had the Constables taking over the role of the Colour Sergeant, so to speak, and saying: "Look, if nobody else is going to be bothered to organise things, we will stick our necks out and make a jolly good attempt to show what we should be doing." The Deputies, not to be outdone, for the first time agreed with the Constables *en bloc* by and large to say: "Yes, we will fall in behind the Constables on this issue." I think it is about time that the Senators realised that one of the first things that we have to do is to show ourselves to be a mature organisation and capable of all doing something, something very, very simple, which is to be elected *en bloc* for the same length of time. Whether we vote for the P.P.C. proposition - amended by Deputy Troy's proposition - or not, and it does not really matter which way, I feel, then we will be doing that. It is very, very simple. Let us all vote for the single thing that would give us a little bit of pride to say we have achieved something out of all the discussions that we have had as to what type of government we want. Until we can go forward *en bloc* for the same period of time, we are going to represent this House as being 3 squabbling, competing factions wanting to put their own private initiatives or interests over and above what matters most, which is the common good of this Parliament. We are all Members and it is about time that this House told the Senators very, very clearly. I think really that is why they are squawking as loudly as they are at the moment. We have a real opportunity to tell the Senators: "Step in line or we will tell you to step in line" and I think we should take that opportunity today and get on with it.

5.1.10 The Deputy of St. Mary:

I have to start by saying, Sir, that I am totally in a cleft stick about this. As a Member of P.P.C., I have striven to fulfil the wishes of the Assembly to bring forward draft legislation to reflect the decisions on limited reform taken last year. Small decisions, Sir, have potentially huge consequences. At all times I have had to bear in mind a duty to ensure that the legislation would result in a workable structure. It is my job and now the job of this entire Assembly to look at all

those consequences. I believe that what we have on the table now is a mongrel and not the thoroughbred solution that we need. Please do not accuse me of stalling, of not wishing to take forward reform. My record on this will show that I have supported and promoted propositions which would have resulted in real, comprehensive, meaningful and workable change, but this House showed that it did not have the appetite or perhaps not the stomach for that reform. P.P.C.'s stance at that time was that if reform was not desired it should be postponed until after a further bedding-in period of the machinery of government reforms could be allowed to enable this House to concentrate on other important legislation and work that it has to do.

The Deputy Bailiff:

I am sorry, Deputy, but there is a lot of talking going on and it is quite hard to hear the Deputy. Could Members please stay silent while the Deputy is speaking?

The Deputy of St. Mary:

Instead, however, the tinkering has continued. That is all well and good if considered and well-integrated incremental reform can be achieved, but we do not seem to have been able to do it. We talk a lot about aspiration and vision. It seems to me, Sir, in contrast to what Deputy de Faye said earlier, I do think that P.P.C.'s initial consultations and our work on which we based our earlier propositions was comprehensive and it certainly reached a much broader spectrum than simply relying on one M.O.R.I. poll. I think that the public have painted the big picture and they have painted it in glorious technicolour, but the only thing that I can assume is that in some way it must be a picture of a Dalek because everybody in this House seems to be watching it from behind the sofa with their hands over their eyes. Yesterday, the importance of constitutional reform was reinforced in the clear acceptance by this House of Senator Vibert's proposition P.162/2007. I do not believe that change for the sake of change is good necessarily. I do not believe that a difference that makes no real difference in the outcome is any kind of difference at all, and I do not believe that this proposition necessarily gives us the clear reform that we needed. I stress that from my point of view this proposition was the only proposition that we could bring with any chance of fulfilling our remit and giving a workable solution. Deputy Troy says that to support his amendment and keep the *status quo* on the number of Senators is a workable way forward. I disagree for all the reasons that P.P.C. has stated previously in its numerous reports to numerous propositions, and we have restated it here. All the research shows that if you are electing the Senators on an Island-wide basis, the last few Senators to be elected get such a small percentage of the vote. If you increase that and make an election for 12 people all on the same day on an Island-wide basis, as desirable as that might be in theory, the danger is that those last few Senators to come in, numbers 8, 9, 10, 11, 12, will get such a small percentage of that Island-wide vote as to make their mandate - which we are all looking for, this Island-wide mandate - reduced so much that it really will not mean what we want it to mean.

Deputy P.N. Troy:

Can I interrupt? The Deputy comes from the smallest Parish, Sir, and she has the smallest mandate in this Assembly.

The Deputy of St. Mary:

Absolutely, I agree, from the smallest and the happiest Parish, Sir. I have a pretty big mandate percentage-wise in my district, Sir. I do not believe I would be in error to say considerably larger than probably the percentage of the Deputy. But really, that is beside the issue here. I am a fully elected Member of this House and I will speak and I will have my voice heard, Sir. What would we achieve? A reduction in the number of States Members? Well, yes, in the ranks of the Island-wide mandate holders when the public have quite clearly shown that they really value the Island-wide mandate. Yes, all Members would be elected at the same time, if not necessarily on the exact same date, but without any meaningful enhancement of the role of Senator there is a very strong

possibility that the last vestige of the Island-wide mandate, reduced as it would be, would probably wither and die off. P.P.C. considers that the reform of the Senators had to happen at the same time. We have talked about electoral chaos that would ensue. We have given our catalogue, our table of how if the Senators' position and mandate was not reformed now there would be chaos. Deputy de Faye says that he favours this as a rolling election. Sir, I am sorry, I cannot share his view on that. I believe the people have made it quite clear for many of the reasons that Deputy Baudains stated and for various other reasons as well that they are looking to be able to change the make-up of this House on or about a very close period. Also, Sir, for all the logistical reasons I can think of, to enable this House to make a meaningful use of each single term of office, to be able to set up the structure of this government, to bed-in people in the various roles they will carry forward, to enable a proper structure of the scrutiny function with adequate time to get into the system and to follow the business plans - the strategic plans - all the way through, all these things could best be done by the government and this Assembly being given roles at the beginning of a term and with a certainty that those roles would continue throughout that term for the majority of cases. I am sorry, I am getting quite passionate about this, but I think that this is one of the most important things. I think we have been corralled like sheep into a corner. I am just asking other speakers, Sir, to give me a reason why we should do this as opposed to carrying on with the idea of more time to look at how the changes we have made so far have been bedded-in and to make a real, meaningful, comprehensive change at the earliest opportunity, probably in the next Assembly, Sir. Thank you.

5.1.11 Deputy J.A. Martin:

I will be brief because I think the Deputy of St. Mary has already covered quite a few of the points that had not been raised, i.e. the Island-wide mandate and who will bother, because even Senators who are in the House today - and I will not name any, Sir - have already said to me: "What would be the point, really? We might as well all stand as Deputies." Now, has the public really decided that they do not want an Island-wide mandate, which will easily, I think, fade out if we come to the decision on everyone being 4 years? I am not necessarily against it. I am afraid he has left the Chamber, but I agree with absolutely near enough everything that Senator Walker, our Chief Minister, has said today, which is a very funny cab to find me in, and not in the telephone box as Deputy de Faye always accuses me of being. The only thing I would say - and I think P.P.C. are probably praying for it - is do not send them back to do any more work. Last year they did bring some substantial reform and they were voted down. I voted against a lot of them because of seeing the workload, as the Deputy of St. Mary has just said. There has been another review. There is a lot that needs changing in the machinery of government on the Ministerial side, on Scrutiny, on P.A.C. (Public Accounts Committee), everything that needs to be done, and we are exactly where we are because Deputy Troy brought a proposition that the Deputies were worthy possibly of 4 years. Then he has just gone on to explain, Sir, his interpretation of a general election is 24 on one day - that is Constables and Senators - and 29 on another day, being Deputies. But that is his idea of a general election and I do not think it is the idea of a general election that people think. I know P.P.C. were put in a very difficult position. I would agree with Senator Norman. They have not delivered what they were asked to deliver. They have added because they felt that it would put people out of kilter. I again do not really have as much problem. I think Senators, especially on an Island-wide mandate, who walk into this House on a first-time election - and nothing has changed; Chief Minister, nothing has changed - I do not think it would really hurt for them to sort of be a Back-Bencher for a year before the next round of Ministerial and Scrutiny come up. I would not have a problem. It does not under this system happen with Deputies. I go back to, I think, the first or second speech through Deputy de Faye. If we really want to do nothing - and I think it has been pointed out by most speakers on P.P.C. - it is very unusual for someone bringing a proposition to advise Members - perhaps that is too strong a word; tell Members - your best vote is to vote the principles down. I seem to have been getting this through the whole speeches of P.P.C. because we have created a dog with 7 legs or something. I did not vote for Deputy Troy; I said it was not consulted with the public. It was giving myself another year in the job. He accused Senator

Walker of talking as a Senator but when he brought his proposition, Sir, and people pointed out: "Well, you have done nothing about Senators," I think his words were something like: "Well, that is not my problem. Let P.P.C. or the Senators sort it out." This was the cause of all the problems. The Constables have 4 years; we need it. I will not go on, Sir. I am going to vote against it. I think I will just ask P.P.C. to clarify that if I vote against it - because now we are even getting into: "Let us pick what part of the Articles we like and let us leave the rest out", which I think you, Sir, pointed out is not really the way to go - the *status quo* of the principles is we keep it at 3 years for Deputies, we still have the debate on the Constables separate, which is coming for the 4 years, and 6 years will remain for 12 Senators. Then let us get into a new House and it might even take another 3 years to do. We have a lot of working out of this new system before we start meddling, as I think we decided yesterday. The constitution of the States is very, very important. I would just like that confirmed, but as it stands I really cannot see my supporting even the principles. Thank you, Sir.

5.1.12 Deputy R.G. Le Hérisier:

There is no doubt if you want to sound serious and profound about government you give yourself the label of being a statesman and that you are talking about statesmanlike or constitutional issues as opposed to political issues. You mix the 2 in together. I think that is what is happening. I totally agree, Sir, with Deputy Duhamel that it is a great pity now that the threat of change has reached them, albeit in a rather rough and ready fashion, that the statesmanlike behaviour and womanlike behaviour we would have expected from that group has been sadly missing. I find it is very sad that it has all fallen, as this whole debate has fallen over the years, into various degrees of self-interest. On the point, Sir, that Deputy Martin of St. Helier has raised, she says let it bed-in. The problem is the public are bored silly with the machinery of government. We are bored silly with it. I may be meeting over-excitabile people on the streets or may myself be becoming over-excitabile: people are saying: "You are operating in a totally disconnected way from us, the electorate. We cannot change the way you operate." The logic of that position often is, well, bring in parties. They do not want parties. There are ways of dealing with it, but I have not quite worked out the ways that could guarantee a much better connection with the way they want to vote, the way they want to shift the current group out of power and bring in a group who they find more to their liking and who will reflect different values. There is nothing revolutionary about this, Sir. This happens in all political systems. You change, people get fed up, people stagnate, people get tired of governments, they move on to new governments. As somebody said, with Deputy de Faye's proposal we can guarantee stagnation for ever. It is a brilliantly conceived proposal in that regard and I do congratulate him. There will be no change for ever. Deputy Baudains said that the problem with the Chief Minister was that he did not understand. He perfectly understood. He knows the politics of this situation brilliantly. He knows that the current situation is ideal in terms of guaranteeing him a fairly permanent voting bloc. I would say to the Chief Minister: "Fight to keep the situation for ever. Pretend to be statesmanlike, talk in deep, profound, statesmanlike terms, but do fight to keep this situation but do not make your motives too clear." I do commend him on that; I think that is excellent. It goes totally against his usual mode, which is that of action man. Here we have, Sir, yet another Committee of Inquiry. What a fuss. The public think, and we think, we have totally messed up Clothier. It did get off on the wrong foot, as Senator Kinnard said, by having closed hearings, but that is a minor issue, quite frankly, in the fullness of time. That is a minor issue. The public think we have copped-out big time and yet we want another inquiry. This is going to make us look absolutely stupid, Sir, absolutely stupid. Quite frankly, I do agree with some of the sentiments that this is a rescue operation. Despite the good speech of the Deputy of St. Mary, I should add she was given, or her Committee was given, the mandate by the States. Okay, they let the Senator thing creep in, but they were given the mandate to try and cobble all this together in some kind of coherent sense, given the previous disasters, and I do not see how she can stand up there and in a sense abdicate this mandate that she was given from the States. The other thing I would mention, and Deputy Baudains mentioned it and Senator Walker should have

appreciated this, one of the most difficult tasks for the 2 groups that have tried to bring this forward is the incredible necessity to come up with a coherent thing and how, rather like building Lego as a kid, if you take one piece out, it starts collapsing. There is an incredible balancing job to be done. Both the groups who have looked at it have tried to work out all the implications and work out the balanced job, and it is enormously difficult. There have been certain principles - and I know the Committee said it in its report - that have been put forward. One was the general election, and the reason the general election was put forward was to give the public a chance to change the group of people in government. They believe we have a system which is immobilism personified. They want that, and there is nothing desperate about that. That is normal politics. That is normal politics that you offer people that chance, but we seem to be so afraid of it. We seem to be so afraid. They asked for a general election and, yes - and this is where maybe things are irreconcilable and the Chairman may talk about this - they did ask for an all-Island group upon whom they could vote. So there is a grave difficulty. But if you want a general election you have to have broadly similar terms of office. It is the only way you can work it. That means somebody along the way has to make some kind of sacrifice, and at the moment the great sacrifice is being called for from the Senators. That is what I think will happen. So, it is not satisfactory. I do not agree further study, as suggested by the Chief Minister or the Deputy of St. Mary, will get us anywhere. We have an almost visceral inability to face up to change. We do not want to face up to it. We want to protect all the different self-interests that go to make up this Assembly. Although it is not satisfactory, I do commend P.P.C. for rescuing something. Quite bluntly, probably the simpler the thing they can rescue, the more politically acceptable it is, given that all the coherent proposals have got precisely nowhere. So, I will be supporting it.

5.1.13 Deputy G.P. Southern:

I am reminded of 6 years ago, January 2002, when I first stepped into this House. One of the first items early in my stay was Clothier. There it was, up and fresh, still fresh. I wondered why Sir Cecil Clothier had warned us not to cherry-pick. How wise he was. He obviously knew something about the political process. Well, of course, we did cherry-pick it. We cherry-picked the Ministerial system and bolted Scrutiny on to the end of it, and we cherry-picked that. What did we proceed to do with the rest, the constitutional reform? We proceeded to dismantle it and wreck it with a sledgehammer bit by bit for vested interest. Whereas the previous speech from Deputy Le Hérisier talked about the public thinking of us as stupid and he talked about us being bored and the public being bored with this debate, I think I would pick a different analogy. I did not realise 6 years ago that I would end up in the equivalent of bedlam, but that is what it feels like. It feels like we are in a completely mad world. I feel like Edvard Munch's *The Scream*. Inside, that scream is taking place. This is sheer madness. Here we are, we are proceeding with piecemeal change here, piecemeal change there, which does not fit together with anything. P.P.C. have come together with the consequences of 2 previous decisions: "Well, there is a consequence on that. The best we can do with it is this on the Senators," but even that removes the entire motivation for being a Senator and renders the whole thing unworkable. That is unworkable, that is unworkable, that is unworkable. Are we mad? Surely the public would consider that we are because we are discussing unworkable solutions because, as the Irish would have it, if you want to get to a solution it would not start from here. We would not start from here. So we have the Constables extending their own mandate to 4 years - I voted against that - followed by the Deputies. I voted for the Deputies. Thinking about it, was I mad at the time? Was I miffed that the Constables had just got away with 4 years so, therefore, we should do 4 years to match them? It seemed to make sense at the time, but I must not have had my brain engaged properly to vote for it because it had consequences that I think I did vaguely hint about, and the whole thing is going to come crashing down. The fact is yes, the public out there do want a general election and they do want to be able to feel that their vote can make a change, but the precursor to that, if we are to have a general election, is that like Sir Cecil Clothier said, we must have one class of Member. That is the way to arrive at that situation. Yes, it was radical. It still is. We refused to bite that particular bullet for a variety of

reasons and as a result we are in this madness. What is before us today provides absolutely no solution whatsoever. We must vote it out. I will vote it out if I possibly can.

5.1.14 Deputy C.J. Scott Warren:

I agree with the comments made by my colleague Deputy Duhamel. I believe that there was merit in the proposition which gained the House's support for a 4-year term for Connétables. I think that makes sense. It is a much better length of term than 3 years. Similarly, I believe that is the same situation for Deputies. I know that all along the period of reform there has been the problem of making a worthwhile situation for Senators if you reduce the term of office of Senators to 4 years. This, I believe, has been the problem right from the time we started to talk of reforms. I do believe this issue of the Senatorial role does need further investigation, but I agree with my colleague to my left, Deputy Le Hérisier, that we do not need a Committee of Inquiry. I apologise if I am wrong, but I certainly have the feeling that Privileges and Procedures have intentionally muddied the waters by attempting to change the number of Senators when bringing forward the change to terms of office for Deputies and Connétables. I would go so far as to fear this may have been - and I say only may - to deliberately scupper the process of reform. In fact, Sir, regarding the possibility of a Committee of Inquiry, my own feeling is, and consultation that it has been said we should have more of, that the people of Jersey have been "consultationed out". I am certain that the boredom factor for them kicked in some years ago. So, I still support the 4-year term of office for the Connétables and for the Deputies. I do not believe there has been consideration even given to the Senators fully about reducing the number of Senators. I am sad that the proposition as it stands means that it would appear that unless we accept the whole scale, the whole proposition before us, amended or as it is, the reforms for the Connétables' and Deputies' terms of office will fall away. I am very sad. I do say that I feel, whether deliberately or not, this proposition has scuppered the 2 worthwhile reforms that this House made decisions to implement. We did have decisions there. I do appreciate the Senatorial position of a 4-year term is a major problem in the reform process. As I say, I think the Senatorial role and the Island-wide mandate which people wanted to keep, that role for them in a 4-year term is a major sticking point about who would put themselves forward as Senator. That has not been sorted out, but I am very sad that after so long we made what I believe were 2 good decisions which I now cannot see how they are going to be able to stand unless we carry on with something that is not right. Yet part of me would like to support this proposition to feel that we do not just throw away what we have made decisions on after many, many years. I think it is very sad because I think the Connétables made a brave and good decision last year and I think the Deputies made a good decision, as has been said by Deputy Duhamel. I would like to save those decisions. I find this is a very, very difficult situation.

5.1.15 Senator S. Syvret:

When he was speaking, Deputy de Faye asked: "Are general elections really the best way of changing governments." Well, in many respects no, that is why I have ordered a couple of crates of A.K.s (Kalashnikov assault rifles). I did cause some problems to the website of the Jersey Legal Information Board when, having got to the bottom of the filling-out of the requisite log-in system, there was a box that said: "What is the purpose of your access to this site?" and I put: "Overthrow of the State." This did cause them some problems, I understand, in the categorisation section. It is another one of these debates and I just really look back upon the days of the work of the Clothier Panel and, indeed, the debates that established the Clothier Panel, and I just really, really wish so strongly that the report they produced was not the absolutely hopeless steaming pile of garbage that it was. It was simply a replication, half-baked at that, of the Local Government Act 2000 copied from the United Kingdom. Now, by modern standards - modern western European standards - is the United Kingdom a particularly good example of modern, functioning democracy? No, not by any stretch of the imagination: falling voter turnouts, disillusionment with politicians, disillusionment with the whole political scene, scandals over party funding, individual campaign funding; frankly a totally anti-democratic voting structure which means that a party can get 33 per

cent of the vote and 100 per cent of the power so all of the other voters who might have absolutely hated that party have been completely disenfranchised, although they may have been in the clear majority. It is not a good, functioning and workable system. I really wish the Clothier Panel had come up with something that was modern and fit for the 21st century and, rather than looking at the U.K., they had looked at France or Germany, countries of that nature - Switzerland perhaps. A report on the machinery of government or a set of proposals to improve and bring forward our machinery of government are only going to be truly effective and focused if they start from the very fundamentals, which has to be an analysis of power in the Island, how it plays out, who holds the power, on whose behalf is that power exercised and used, what are the realistic options for the public getting a decent say in the control and direction of that power. These are the kind of questions that you have to begin with before you then set about building your structure to deal with that system. The Clothier work did not for one instant address any of these kinds of fundamental issues, which is why I always opposed it. The *Clothier Report*, you see, made the disastrous mistake of falling completely between 2 stools, as far as I was concerned. On the one hand I wanted and still want reform of the political environment in Jersey; not just this Assembly, reform of the political environment. But I was not going to vote for the Clothier Panel because I wanted something far more radical and more effective. By recollection, I think it had one and a half lines in the entire document, and even that was a passing reference to something as basic as freedom of information. It just was not a serious document. I wish it had been. I would have liked to have supported something like that. I think I am tempted to even vote for the proposition today because one of the things that is notable about all of the machinery of government debates we have had over the last 7 or 8 years is the delusion, I think, that gripped what we might call the establishment that if they changed the existing structure - got just one category of Member, as Senator Walker supports, and had massively increased voter turnouts and had a one-day general election - I think the people driving those plans forward believed somehow that would further entrench the power of them and their peer group and their milieu when, in fact, had we gone to that kind of system the complete opposite would have happened. It would possibly have led to the first time ever in the Island's 800-year history to a time when the ordinary people of this Island had power. Because if you look at the history of Jersey, it is quite remarkable: there is not one period in that 800-year history when one faction or another of the local entrenched ruling elites have had complete control, with the exception of the Nazi occupation. That is it. There has not been the equivalent of a Labour Party that has come, a popular movement that has taken power away from the traditional landowners, merchants, lawyers, traditional elites, people of that nature. I think if we go down the path - and I do hope we get there eventually - of having one category of Member, a general election on one day, I hope we get there because it will mean the end, the finish, of that 800-year grip on power of the Jersey establishment. I do not think a lot of the people who were driving forward the proposals in the early days fully grasped that fact, but I get the impression quite a few of them now maybe are just beginning to have twigged that if you gave the public that kind of opportunity the consequences could be far-reaching. I hope that we do get there one day. I hope that we do have the evolution of political parties, because again, when you are dealing with power, the people of Jersey, the ordinary voting public out there, are never going to have power over the direction in which their government takes this community unless they have parties they can choose among at election time, parties with different political philosophies, different programmes and policies, where they can say yea or nay to this party or that party through the ballot box. The public would then have some direct democratic control over the policies and the laws by which they are governed. The public in Jersey at the moment do not have that power. They are disenfranchised. Their democratic right to vote is rendered greatly ineffectual by the absence of political parties, so I hope one day really we will get to the point where we have political parties. But before I am going to vote for us to go down that path, there are some key foundation stones that need to be put in place first, such as an independent electoral commission, limits on campaign funding, limits on election expenditure, declaring it illegal to take what one might call donations or support or whatever assistance, sponsorship for your election campaigns. I and a lot of people out there would

call it straightforward bribes. I think we have to get away from a situation where people can buy their way into office just by spending huge sums of money on their election campaigns. There has to be transparency in it. We have to look at proportional representation, and a system such as S.T.V. (single transferable vote) would lend itself well to the Jersey system. Once we get down that type of path, once we evolve in that direction and we have some basic safeguards like that that you would expect in a modern functioning democracy, which we do not have in the United Kingdom, once we have those kind of systems in place, then I will support the kind of reform that Deputy Le Hérissier always supports. He questioned the motivation of the Senators in this debate. Well, it is easy to throw around those kinds of allegations. I could say: "Look at the motivation of some of the Deputies." Some of the Deputies know that they are unlikely to ever become Ministers or anything of that nature unless they have an Island-wide mandate. They are a bit nervous, perhaps, about going for an Island-wide mandate and so, to suit their ambitions, the best solution is to get rid of the Island-wide mandate and whittle away at it until it falls into decay. Then it is no longer an issue. I do not want to see that happen, the Senatorial position - the Island-wide mandate - go or be whittled away until we have the kind of properly functioning, modern, democratic party political system which I have described. The reason for that is because this proposition is clearly a big leap down the path towards getting rid of the Island-wide mandate but without the other structures, the safeguards, the modernisation I have described. If we went down that path we would find ourselves in a situation of rotten boroughs. You would have people nicely entrenched in their own little Parishes or districts, parts of Parishes or whatever, sometimes might not face an election, sometimes might face an election and maybe have 400 votes, 500 votes or whatever. They then become Chief Minister, Treasury Minister responsible for the Island's taxation and spending. What kind of mandate did they have from the broader Island to wield such power? None. They have none. The only solution to giving the democratic mandate for that kind of power on the basis of a constituency M.P. (Member of Parliament) - let us use that word - is, of course, through a party political structure because then you have the collective vote for that party, that political philosophy, and the public go to the ballot box knowing that the leader of that party will become Prime Minister or Chief Minister, whatever, if they win a majority of seats. So I do think it is all or nothing. We have to embrace proper, civilised, non-sleazy campaigning practices. We have to move towards proper democracy such as single transferable votes. We have to get in place, I think, and make it much easier for the evolution of political parties to happen. Until we get into that stage, I find the safeguards that we have in the current system to be less bad than the kind of system I think we are in grave danger of ending up with.

5.1.16 Senator W. Kinnard:

I have, of course, distanced myself from the earlier comments made by Senator Syvret, but I agree with quite a lot of the analysis in the latter part of his speech. The concern that I have had throughout this debate is, firstly, with the level of the debate. I think that there is a certain amount of baiting across the House of the Deputies of the Senators and perhaps the Senators of the Deputies and I do not think that is at all helpful. I think we have to raise our eyes above that and accept that we all in this House when dealing with these types of issues are trying to make the best decision that we can for the whole of our community, and not according to vested interests. Certainly, in terms of the Senators, quite a number of Senators have already said that they will not be seeking re-election next time round and, of course, I am one of those. So I would like to say that the comments that I make, I make - I hope - about the general office of Senator and not according to any interest that others might seek to impute towards me. Deputy Baudains said early on that what this is all about is low voter turnout. Deputy Duhamel said that this is just about stepping in line. Well, it is not about either of those things. What we are talking about here is fundamental civil and political rights. I think we began to see that yesterday when we saw that not all issues should be treated on the same level and that the idea of the constitution speaks to us not just at an individual level but also it speaks to nations at one and the same time. I think we are very aware that there have been whole communities that have fought and, in fact, died to have the right to self-

determination and to choose their own constitution and the make-up of their government. So changing the constitution is something of very great significance and should not be taken lightly and should certainly not be taken in a piecemeal fashion. Senator Syvret talked about a number of unintended consequences by the fact that really Clothier never got to grips with discussing the nature of the operation of power in society. If any Members are minded - and perhaps Deputy Le Hérissier might be - there is an excellent analysis of the operation of power in society by Dr. Steven Lukes. I think this is what we have been missing. This is one of the reasons why I would support some form of Committee of Inquiry looking at some of the higher level manifest issues like the size of constituencies and so on, but I would also like them to look at the analysis of how power works in our society, particularly, for example, the effect if we were to see the demise of the Island-wide mandate, what effect that has in terms of allowing minority representation to be heard in this House. It seems to me that we have fewer women for a start than we have men, but it does particularly concern me that we have a great absence of those from some of our ethnic minority communities represented in this House. Those who have any interest in psephology, which is the study of voting, will know that people who come from often minority communities, the likely support that they have is likely to be very thin but widely spread. They are unlikely to be elected in a small community or small constituency because there will not be sufficient concentration of their support to enable that to happen. I think that this is a serious issue because one of the things that I am very keen on is that, going forward with any changes that we make to our constitution, it should be a widening and an enfranchising and positive experience for our community and not one which I fear could end up potentially with a negative and exactly opposite effect. I think that we would certainly need on this commission people with the necessary academic background to be able to give real true analysis to the kind of point that I have just made, because I cannot say, standing here, whether I am right in that assumption and I do not think any other Member in this House can either. Certainly, those who make a study of this area would be able to give us some pointers, I think, as to whether or not my fear is really one with some justification. I think that is a small point perhaps to some, but I think it is a very big point in terms of thinking about the kind of community we want to be in the future. This is why I for one have grave concerns with the way in which these constitutional tinkering are coming forward from both individual Members and also from the Privileges and Procedures Committee. I do not criticise Privileges and Procedures as harshly as perhaps some have done because I think they have often been given a nigh on impossible task in having to make some sense out of a myriad of unconnected propositions that have come before us and have been on some occasions, I fear, voted for - as perhaps Deputy Southern was man enough to admit - on a wave of emotion and, to some extent, self-interest. Perhaps with calmer reflection they might have voted another way. I have to say that we must get away from this trying to impugn improper motives. I do not think it helps the level of debate or the quality of our decisions. It is also a matter of balance in the States in terms of the form of representation because we have not grappled with this idea of whether or not we have one category of Member. Again, I believe that if we are going to go to that, we have to grapple with some of the underlying issues about the wider political system and not just those issues which we tend to focus on, which are the obvious political issues, meaning the way in which politicians act or the way in which elections are controlled. When you do the study of politics that is only the very tip of the iceberg of what politics is about and the way in which politics operates in society. I think that it is very important that as we have not made those reforms, that we have agreed to keep the 3 different types of representation, I think there are good arguments, personally, in favour of keeping those because I do think that they do reflect very different interests in our community, all of which are valid interests and need to be reflected. I for one do not have a particular problem and, in fact, can see very positive reasons why at the moment, certainly, we should stick with the 3 categories of Member. The difficulty is that with the proposals being put forward by Privileges and Procedures, it will in effect, by stealth, get rid of the Senators. It will do that quite simply because there is just going to be no way in which there is going to be an attractiveness to the post. Let me tell you, going round the 12 Parishes, going round the schools, *et cetera*, is pretty hard work. If there is not going to be as a result of that

a longer period of time, that you are going to have to face that again in 4 years' time, it is not going to be a particularly attractive position. Yet it is the position which the community has told us they particularly value. I believe it is the position which is a great testing ground because you really are tested on your feet in that particular environment. For anyone who is going to take on a major position in government, I do not necessarily say you have to but I think it is incumbent upon individuals to put themselves forward to the Island in that way because you will wield an awful lot of power, particularly as a Minister. I think that even if you think that I am being too scaremongering, that perhaps the Senatorial benches will not be depleted so quickly by stealth, we still then have the problem of the balance when we are going to reduce the number of Senators down to 8. I think that we already have seen that there is really no justification for just deciding: "Well, we are going to just reduce the number of Senators." Why not the number of Constables? Why not the number of Deputies? It has not really been thought through and it has not been thought through, I do not believe, in terms of the consequences, again, about how we get all of the people who need to be represented - all of their needs - how can we get them represented in this Chamber? As I say, my grave concern is that there are particular people out there with particular interests which are not heard in this House as often as they should be. Their greatest chance of getting them heard is probably through the Senatorial seat at present, or maybe in a St. Helier one. I would say it is certainly most easily through the Senatorial seat, and certainly most of the study that I have done in this area indicates that that is the case. The Committee of Inquiry as well, I think, would be of value because I think poor P.P.C. have probably had it up to here with being sent back time and time again and whatever proposal they come back with unfortunately never seems to quite find favour. I can see that very quickly we could find that very few people would wish to serve on P.P.C., frankly, if they are going to have to do this. I think it does need a fresh pair of eyes and a fresh enthusiasm for the topic. I say that as no criticism of P.P.C. whatsoever, but perhaps, I say, to the criticism of all of ourselves in that we have not given them an easy task. When they have come back trying to fulfil the tasks, we have told them they have not done it well enough or not exactly how we sent them away to do it. I do not think we are ever going to get out of that cycle. That, again, is why I think we need a fresh look. That fresh look needs to be completely open and transparent. One of the concerns that I had with the Clothier Panel was that it sat behind closed doors. The problem with that is that you never get, then, to hear the detailed arguments or the detailed analysis of the "what ifs" or the unintended consequences, is the way that I have described it. I think that now we have got to such a level where the public really is completely fed up with the whole topic of reform and certainly fed up with any idea that we can reform ourselves. The only way I think we are going to get the public at all interested in this issue again - and they must become interested in it because it is their constitution - is if we have a fresh objective look which again, as I say, must be open and transparent. That, I think, is the only hope we are going to have of getting this job done. I will not be here, I do not think, because I am not standing again. No, it is not a change of mind. No, what I am going to say is that obviously the decision may be made today to go with this, but I am hoping that the decision will be not to go with this today, and so I will not be here when the final decision is made about the constitution. I could just sit here and say nothing today, but I feel so strongly not about the Senators as individuals - not about my own particular position - but I feel very strongly about those groups of people out there in the Island who are not represented in this Chamber. My grave concern is that the changes that we are being presented with today will not improve their chances of having their voices heard in this place. I strongly say that Members should not support the P.P.C. position. Thank you, Sir.

5.1.17 The Connétable of St. Mary:

I did try and draw your attention before the last speaker, but I certainly will not be long in that respect because I think I endorse most probably totally what she was saying. I was pleased that I am following her in that respect. I think I really was just trying to defend, being as I am a member of P.P.C., and there have been a few good words said about us and a lot of other words. I do not speak very often, as you are well aware, and I think one of the last times I spoke to any

considerable time was to do with this very same subject when everybody says: "Let us leave it to P.P.C. They will sort it all out. We will leave it to them." Every time we do and come back forward, then it is P.P.C.'s fault. It is never the own Member's fault. It is all your fault, you folks, to be honest with you. I do not know why you are trying to get away with it all the time. It really is. Just to put a few things into context as well, it was asked originally for this to be looked into so that the electorate and the election would grow in numbers and there would be more enthusiasm, get people to the polling station. That was where it originally started from. I can well imagine, I would think, that we could do with a Commission of Inquiry, not the same as the *Clothier Report* because although the *Clothier Report* had said: "Yes, what a good idea it was. Now, do not piecemeal, do not pick at it" and such like, I think that was a whole new reform of the actual States Assembly, not just the electoral reform. I think now might be the time to look into it a bit further. On the other hand, depending on what they come back and decide upon, there will not be any agreement either because everybody is, let us be fair, thinking of themselves, thinking of the Island tradition, thinking back over so many years and do we really need to upset everything. The electorate do want an Island-wide mandate, as they say, and it has been pointed out to them on many occasions, really, although, there again, they have not taken into account - certainly P.P.C. have taken it into account many times - the difficulty of having an actual Island-wide mandate. Clothier came up with a suggestion. It was not an Island-wide mandate. They did not come up with an Island-wide mandate at all. They came up with one Member that then would be split into larger constituencies. That was not an Island-wide mandate either. This is the problem that we would get on an Island-wide mandate. Just think about it. Yes, you can have your larger constituency and you can have a one-Member-only, but we have to look into it and think of the whole constitution of the Island over many years and whether you would want to go down that route as well. I am not saying you should or should not. The Deputy of St. John decided several months, 6 months ago or something, let us get somebody in from the outside. All I heard was people saying: "We do not want anybody to come in from outside. Why would we want them to tell us how to do it? We have been functioning for 800 years. We do not want anybody to come from outside the Island and tell us how we should run our own House." But this is the situation that we have. You have to have somebody with an outside view, not necessarily that you could agree with, but to bring perhaps different ideas to it. I think this is why I was pleased that I am following Senator Kinnard because she has another year nearly to go - an outgoing Member - and is coming with these ideas to say: "This is what you have to do." This is what we have to do. It has been said that P.P.C. have been doing it in a piecemeal fashion. We originally came with a complete package. You tore it apart; all of you. You fought hard to amend this; you tore it apart and decided to do it piecemeal. It was not P.P.C. that did it piecemeal. We came to the package on what was the requirement of the electorate and that is where we started; it was for the electorate to come forward to make it more interesting to vote. You can make it more interesting to vote by lots of other ways and have huge big prizes for anybody who comes to vote, and things like that, but you have to have it in a structured manner. I think this is the way I say it was. There is a difference between doing it piecemeal, or doing it in a structured fashion. This is what has happened: it has and is at the moment in a structured fashion. Now we have a certain situation where another decision has been made; there are 2 or 3 of them already been made seeing it is quite good. We have come to another structured situation; we are here at this moment in time. Now if we go forward and vote, as I am sure you are all going to vote in favour of the P.P.C.'s one because nobody else has come up with anything better. Nobody has come up with anything better. You have piecemealed it all. We have been doing it in a structured fashion. Therefore, if you vote in the way P.P.C. are at the moment, you can do a further structuring of the situation later on. You can do it in a year's time and decide: "No, perhaps this is not right; perhaps that is wrong" and you can do it. We have the elections coming up at the end of this year, so let us move forward. Let us move forward to a certain amount of structured thought, that has a lot of thought been gone into it over the last couple of years. It might not be the true answer; the correct answer that everybody is looking for, but then how can you please 53 people all with your own minds and ideas? An

impossibility. We do not only have 53 Members; you have possibly 95,000 people out there all with different ideas as well. They have their own ideas. How can you put all those into one box and then come out with the answer? You cannot. So it has to be in a structured fashion, which is what has been going on. Not piecemeal. It is not piecemeal. It is within a structured fashion of what you wanted as the progress has gone through. Because, unfortunately, there has been none of you or none of us on P.P.C. who could foresee all the situations that possibly could arise. All the people out there have seen it. There are 90,000-odd people out there who know all the answers. If you put them in varying places, not at the same time, they will not come up with the same answer. But if you get them all and put them in a box and siphon them down and you say: "Well, that is 52 per cent and not 48. That is an idea." This is what P.P.C. did. So, I think, at this moment in time you should not be frightened of the future. Let us go to the future, do it in a structured fashion in its own way. This is at the right place at the right time, and then we can move on. At the next election everybody will be elected, voted in, and then do another structured fashion as well. Certainly, get your Committee of Inquiry going and looking into it and seeing whether there is some way, and some other alternative, but do remember you have all those people out there which you are doing it for their sake. They are very angry at the moment, are they not? Well, certainly 19,500 of them are. They are all sharpening their swords when it comes October and November - no, not for you, because you are packing up as well. You do not have to worry. **[Laughter]** But they are all sharpening their swords for that time, so they are all waiting, so how can you please them all? You cannot even please 19,500 people, so how are you going to please 90,000? But, certainly, let us move forward in a structured position as we are at the moment. Not picking it out piecemeal, but in a structured way and then move on to the next situation which all of us, or all of you, will be able to decide in the future for the next structured situation and move away, rather than have a situation where everything is exposable at the same time. Let us move forward.

5.1.18 The Deputy of St. Martin:

I really feel it is another bad day at the office. What a depressing day again, and I really feel we are getting right down to the pits as being someone who has been a real keen mover for changing the machinery of government and for government reform, I was there at the outset and I took myself out of the box and I looked to see how we could do something better, something more radical, and I allowed myself - I have to say this - to be persuaded to vote for change. I wish I had not. Honestly, the mess I think we have got ourselves into, I think we were better under the old Committee system. In actual fact, seeing Senator Vibert there, can I say it might have been better had I voted for what you were suggesting, Sir, when he was talking very much of a Committee system, but much more reduced, but I think you would have had a better structure. Because what we have now is a right mis-match. When Senator Walker talked about a mess, I do not think he was talking about the mess we have here; what we are going to vote for today, but the mess I would like to think about the way in which we have arranged our lives, the way we have arranged our form of government whereby I do not think we have a proper Executive and I do not think we have proper Scrutiny. But what I would not say, I welcomed the pragmatic approach from P.P.C. and I was going to commend them for bringing it here - in fact, I will commend them for bringing this proposition forward, because it is just another step. I have realised myself that the only way we are going to get any form of reform is a one-step approach. We have taken one step; we have taken a step to get the Constables for 4 years. We have now taken a step to get the Deputies into 4 years, and I was hoping we were going to get the Senators into 4 years but, quite clearly, it appears we are not. When I said I welcome P.P.C.'s proposition, the curious thing I have found sitting here is wanting to know who on P.P.C. is supporting the proposition. **[Laughter]** Because I know Senator Vibert is on P.P.C. and he did not appear to be speaking in favour of it, and I was not quite sure if the Deputy of St. Mary was speaking in favour of it. Not being unkind about the Connétable of St. Mary, but I was not quite sure which way he was going. He is putting his hand up saying he would support it. Well, that is great, maybe we will hear from the other members of P.P.C. and see if they are going to be more positive in their support for it. Because I hope they will be supporting

it. But having heard from Senator Walker and, again, I am going to say that I was disappointed in his speech, because I really thought he was going to be looking forward, and for us to go back to another Committee of Inquiry, and for us take no notice of it, what good is that? If we cannot take notice of what we are talking about, why should we take any notice of what people outside are going to talk about? But the one thing I was really disappointed was to hear from anybody to tell me why Senators should have 6 years, and the closest we have come to it, and I am grateful to Senator Kinnard, because Senator Kinnard is the only one really who has mentioned anything about it. But at the same time, I cannot really support her reasons for it, because she said the reasons why it is so hard - you need 6 years - is because it is such a hard time going around every 6 years and sitting in front of possibly 15 occasions, you have your 12 parishes and 2 or 3 others, and answering 2 or 3 questions. Well, it may well be much nicer possibly, I know the Senator has not experience of it, maybe to go around knocking doors in the early November, mid-November time in the dark, knocking at doors, after the Senators have had 2 bites of the cherry. Now that is much more hard work, Sir, and maybe I could recommend some of the Senators do that. But, Sir, I think what we have to do here is that we have a proposition which is going to bring the States more into line. Any government should be looking for at least 4 years: 6 years is too long and 3 years is too short. Here we have the opportunity, that one-step approach. We have done the Constables; we have done the Deputies, let us do the Senators. All 4 years we have one cycle, a 4-year cycle of government. This is our opportunity. If we want to throw it away, well vote no. Vote contre. But I would urge everyone: be positive, vote pour and support P.P.C., all those members of P.P.C. who are supporting it.

5.1.19 Deputy S. Power of St. Brelade:

I will be brief. I feel sorry for P.P.C. because they are really in no-man's land and it is not their fault. It really is a situation where they have brought proposition after proposition after suggestion to this Chamber and every time a small section of this Chamber agrees with one little bit of it, and another section of the Chamber throws it out. So, P.P.C. is almost a mission impossible right now in terms of electoral reform. So my sympathies are with P.P.C. I would say to P.P.C. today that if this does not go through - and I am supporting you - please, please park it, because it is not so much a question of us wasting our time, or this Assembly wasting this Assembly's time, it is a question of the amount of damage that is being done to this Assembly outside this Chamber. It is like a never-ending circle, a never-ending series of discussions, and a never-ending series of time-wasting debates. We spend hours and hours and hours, gazing eternally at ourselves and we never come to an agreement. Because some of the Assembly wants change; some of the Assembly does not want change and we never seem to get anywhere. So, if we cannot agree anything on this, then we just park it and move on, and I suggest P.P.C. find something else to do. I want to pick up on some comments that some Members have made this afternoon, because I feel that some of it was unfair to P.P.C. First of all, this all started with Clothier and the subsequent clamour. The Chamber itself, as I have said, has discredited itself, so if the Assembly will not accept Clothier, and we cannot agree on ourselves, please let us close down the clamour and move on. I say that because in the 2 years that I have been a Member for St. Brelade, I have not had one phone call. I have not had one phone call on this subject. I have not had an e-mail on it, and it has never come up in any Parish Assembly that I have been to in 2 years. So where is the clamour coming from? I do not know where it is coming from, but we keep talking about ourselves and it is hacking those members of the public off out there. So let us park it. I want to pick up on some comments that Senator Walker made and Deputy de Faye made, if I can find them. I found Senator Walker's speech very negative and depressing, and I think for the Chief Minister to suggest that we have another Committee of Inquiry, or we do another in depth Clothier, or another form of that, is just unacceptable. It certainly would be unacceptable to me and I hope it would be unacceptable to States Members, so please can I suggest that we do not consider a long, drawn out Committee of Inquiry commitment of taxpayers' funds which I do not think is needed. Deputy de Faye referred a number of times to the fact that some of the Members of this Assembly were born in different places - I certainly was.

I worked out 12 Members of this Assembly who were not born on this Island, which works out at almost 23 per cent. I come from a background of general elections, political parties, and proportional representation. I have one experience of an American presidential election and that was the Al Gore one in 2000. My experience of Ireland and the U.S. is that I left them. I left them over there. I did not want to import proportional representation, general elections, political parties into my adopted home, which is Jersey. Next year I will have spent almost as much time in Jersey as I have spent in my home land. So, I come from another background, another political background, and another government structure background, a constitutional background, and I have absorbed 100 per cent the way this Island governs itself. Jersey has a unique way of governing itself. It is steeped in history, tradition, its own language, culture and, above all else, self-determination and loyalty to the Crown. There is a saying that is often quoted which says that if it is not broken, do not fix it, and we have to be very careful how we tinker and how we tweak our electoral system. I am a tremendous respecter of the way this Island has been self-governing and self-determining over the last hundreds and hundreds of years, and I personally would be very slow to change what works. There are funny little idiosyncrasies that are Jersey's political system and Jersey's electoral system, and I will give you a few examples. For instance, 24.5 per cent, one in 4 of everyone in this Chambers was unopposed. I will just run down and just remind Members what that means by Parish. St. Brelade: contested election for Deputies and Constable. St. Helier: contested elections for Deputy and Constable. Grouville: contested election for Deputy and Constable. St. Saviour almost got there: one uncontested Deputy and one uncontested Constable. St. Clement: one uncontested Constable. Likewise, St. Mary: one uncontested Constable and St. Lawrence: one uncontested Constable. St. Ouen, a very happy Parish, no contest for a Constable or a Deputy. St. John: one unopposed Constable. St. Peter, a happy Parish: one unopposed Constable and one unopposed Deputy. Trinity, likewise: one unopposed Constable and one unopposed Deputy. St. Martin: one unopposed Deputy. Now what does that tell us? It tells us 2 things: by and large people are quite happy with the system. People are quite happy to have those representatives, those public officials, those members of those Parishes to stand forward and allow themselves to be nominated for election, and in those positions where there was not a contested election, they were elected. So, one in 4 of us in here, the indicator to me is that people are happy out there, and I go back to what I originally said: that by and large the clamour is coming mostly from within this Chamber and from a very small vociferous minority outside this Chamber, which was kicked-off by Clothier. So, I am going to support P.P.C. because they have made an effort and I believe that P.P.C. in some way has done a lot of work and they should be supported. **[Laughter]** It may not make a lot of sense right now **[Interruption]** it is a bit like Euro-English. **[Laughter]** Can I make one final point: Deputy de Faye said that there would be absolute chaos if we had elections for Deputies, Constables and Senators in a very finite period of time. Well, I can tell you that in St. Brelade this coming autumn, we will have an election for Deputy, Constable and Senator within a very finite 30-day period. We elect the Senators, we elect a Constable and then we elect Deputies. I think it is in that order. Yes, it is. I can tell you that ...

Deputy G.W.J. de Faye:

If the Deputy would give way. I am not quite sure how he has got this idea. I did not say anything of the sort. In fact, I said completely the reverse. I see no recipe for chaos under any circumstances. I am quite satisfied that the Jersey electorate is competent to handle all of them. If they can handle 3 sorts of elections: Deputies, Senators and Constables, then I see no formula for achieving chaos.

Deputy S. Power:

I understood the Deputy to allude to the fact that there would be chaos if there was - you used the word "chaos", Deputy. Anyway, what I wanted to say before the Deputy interrupted was that we do have elections for Deputies, Constable and Senators in St. Brelade in one finite 30-day period, and in the third series of elections in St. Brelade the turnout was 40 per cent for Deputies, having

voted for Senators and having voted for a Constable. So, I think that that is an indication that you can have multiple elections over a period of time. It is up to this Assembly to decide what it wants to do. It is obviously sending out confusing signals to the public, and we are sending confusing signals to ourselves, and I am not quite sure how we deal with it apart from park it. So I say 10 out of 10 to P.P.C. for trying. It may not be going in the right direction, but I will support you today.

5.1.20 Deputy A. Breckon:

I think it was the Deputy of St. Martin who said about P.P.C. and he was looking who the members were and what they were saying and whether it was full-blooded support for the proposition, and was reminded, Sir, of a story from a few years ago when there was a particular Committee which took something that was a little bit contentious to the House. Some of the Members felt the mood of the House as the debate was going and they were passing notes to the President: "I have changed my mind" and the last one who passed it said: "You are on your own on this one, President" so that is really how that developed. I am not sure how the Chair of P.P.C. feels on this, but I think it might be akin to that. The other thing I was reminded of, Sir, do not ask me why, but a number of years ago I got involved with the legislation covering Sunday trading. The reason I say that is that everybody said something must happen, things must change, but when you made the suggestion they said: "But not that." I think we are in the same situation with this. Everybody would agree that Sunday trading legislation, if you look at it, and please do not ask me to, it does not work, it is not policed, it is too old, it needs modernising, but when you say what you should do with it: "But do not do that." As I say, do not coming knocking on my door. I think with this, Sir, what we have is we are trying to be - or P.P.C. are trying to be - consistent in that this House have said that Constables would have a 4-year term, Deputies would have a 4-year term, and what they have tried to do, I think, in their proposals is to do a tidying-up exercise and bring something forward that is a bite-size chunk as opposed to the larger doses that Members have said, in effect, there has been wrecking motions that have taken and dismantled it. So it is a case of 2 down one to go, and perhaps they think they are there, I am not sure, Sir, but I will personally be supporting this. Deputy de Faye mentioned, among other things, chopping Senators in both number and length of office. But I would suggest, Sir, that they do have perhaps a double term in proportion to the rest of us in having a 6-year term. Also Senator Norman mentioned that he agreed with P.P.C. but this will be defeated. So I am not sure, I think he is probably saying he will support it, but not with the confidence that his vote will carry the day. But I think in general terms, the public, in my opinion, seem to be leaning towards those with, or seeking responsibility fairly close to, the ballot box, so that they can express an opinion if candidates say to the public how they feel about a particular issue. Deputy Baudains mentioned this when he hinted about reconnecting with the public, and I think this was what some of this should be about, and I hope Members will bear that in mind when they reach their final decision and vote. Because I think Senators on a 6-year term perhaps have a comfort zone. The other side of that I think, with some of the public, is a discomfort zone that goes with that, because 6 years is a long time and in the second part of that term then perhaps the public are not convinced that that is the same Senator doing the same things that they thought they would when they first voted for them or otherwise. So I think the public perhaps want a chance to express an opinion more often and to try to make a difference. I just want to explain a little bit about that, Sir, in a minute or 2. The other thing, Sir, I think some may see Senator Vibert's proposals yesterday as really a master stroke of stealth. Because even if a majority of this House approve this, unless it is as we agreed yesterday, then it goes nowhere again. So it is a second bite of this particular cherry. I would not necessarily say that that was a self-interest, but I would say it is tactically a fairly smart move. Having said that, Senator Vibert did make a short what I would call a "turkey" speech as opposed to a Christmas one, and Senator Vibert is indeed one of those Senators who is up for election this year. If we think of this in real terms, Senators Kinnard and Walker have both said that they are not standing and Senator Norman has done the hokey cokey [Laughter] or is reported as doing the hokey cokey, so I do not know. Senator Routier is not here, Senator Ozouf and Senator Vibert. Now if we take 4 Senators and then supposing they stand, and

we have only 4 seats, then maybe, just maybe, the public have got what they want. They can vote for them, or for others, and make a difference. Maybe, just maybe, the public who Senator Walker said had not been consulted, will be able to undertake a major consultation exercise and vote as they see the candidates, sitting Senators, and others, in a particular light, about Christmas bonuses for pensioners, heating allowances, growth, the Waterfront. Some very topical issues and the public will be able to make a difference. Perhaps that is what they want, and perhaps that is how all of us should be. I said before that perhaps Senators in a 6-year term had a comfort zone and the public had a discomfort zone, but it is the other way around if that happens. Those particular 4 Senators might be in the discomfort zone, because then they become very, very accountable, and is that not, I would ask Members, how it should be? You probably cannot be more accountable than that. Recent policies, going to the public, elected for a 4-term, so if you say something, or you promise something, or you have something, you come back again fairly quickly. Perhaps that would give people that interest that we have talked about: are they voting; what is it? I think people have been surveyed to boredom on some of these issues, and they are fed up. So I think Senator Walker had said about maybe the public being fed up, and about the consultation, but I think that might sharpen the focus and I think it would give a great deal of thought to all of us really, and that is really what it should be about. Regarding a Committee of Inquiry, I was prompted by something the Constable of St. Mary said when really we do not need anybody from outside the Island to get involved. But again I would ask the question: who inside the Island would want to get involved when they know that the contempt that we treat some of the findings that we are given with, and we say: "Mm ... yes. Oh, no, we do not like that bit" or: "We will delay that" or: "We will give it to somebody." I can well understand the frustrations of P.P.C. because they have been given the task, and I can see the tension between some of the members. I must have a look at some of their minutes. There is probably some interesting discussion that has taken place to get there, but I think they are doing the right thing and, as I started by saying, Sir, they are making the best of a bad job. But it is, in my opinion, some progress. I think it would test the system, it would test some people, and it would test us, and that is what it should be about. Because otherwise we are in here navel-gazing. We must get out there and let the public express an opinion. If it does not work we can always come back again, or somebody can come back again with something else. But I think this is a proposal from P.P.C. and I think, I am ashamed to use the "G" word, Sir, but there is a place not far from me who sometimes have been bolder than us in making change. Not very far from here. I do not think they are suffering for that. They are still learning from that, and I think we do not necessarily look there, but we could perhaps be bolder with change. This is not a great leap of faith. I do not think it is a system that we are still testing, we are still getting familiar with, Sir, and I think what P.P.C. are proposing is workable and I hope Members will give it due consideration when they vote, but in my opinion, Sir, it is certainly worth supporting. Thank you.

5.1.21 The Deputy of St. John:

I was not going to speak, but I was inspired by the Connétable of St. Mary. I thought his words were, if I could say, inspirational. I then thought that Deputy Power's speech was going to be one of the best speeches of the day, and then he ruined it at the end. So, some interesting words coming out on this issue, as there always is, because people feel passionate about it, as we work in it, we absorb it, we live it, we breathe it. But, unfortunately, the public do not feel the same, and I think the Constable of St. Mary articulated that rather well. There are Members, of course, that are getting increasingly frustrated by the whole issue, and that is why Members such as Deputy Troy have brought forward propositions, quite bold ones, to move things forward because of frustration; things not happening and moving as quickly as perhaps some people think they should. I was quite involved with the Clothier review from the outside of this House, and made lots of comments from the body that I was representing at the time. I was inspired by that particular document as well. It was not perfect. Jersey is not unique with reform. If you read about it, and I am sure many of you have, reforming parliament is probably one of the most difficult things to do, because it is quite often done by the Parliament itself. That is very, very difficult to do and that is why so often

constitutions and parliaments are very slow to change the way they operate, because they find it very difficult. The ones that do change tend to be either blank sheets of paper, or people that bring in, dare I say it, consultants. Now, the States of Jersey brings consultants in for virtually every other process and management issue that it has. But for this one: “No. No, we are not going to do that.” They do it for everything else, but reforming, the structure, and the management, the process of our own Parliament: “No, we are not going to bring a consultant in to do that. No, we can do that one ourselves. We are experts in that.” Well, the cycle of change in this House is that none of us are really experts. There are some here that have been here a long time and I think are wise as a result of it, but none of us are really expert in running parliaments. But there are people out there that are though, and we have never really consulted with them. We have made one attempt with Clothier and we used somebody that was responsible for the local government review in the U.K. and some would say that that was a good review; some would say it was not, because in policy everybody has an opinion. That is why it is so difficult to reform a government - a parliament - from within. The paper that P.P.C. has produced I think is an interesting read, and it shows that they have done an awful lot of work on this, and I think they should be commended for that. But it is still, although they are saying that it is not, and the Connétable of St. Mary has said as much, in my mind a piecemeal approach. I am not comfortable with that, and I am sure other Members are not, and I think the Chief Minister articulated that quite well too. He is suggesting a review. He is calling it a Committee of Inquiry. I could support that, provided it was an independent inquiry; it was done by a committee review that was independent of this Parliament: in other words, if we perhaps brought in some parliamentary experts. We are members of the C.P.A. (Commonwealth Parliamentary Association). We never consulted them, I do not think, about how a parliament should be run. You have people in that organisation that have been involved with parliaments across the world for decades. Have we ever spoken to them? I do not think we have. Now, if the Chief Minister was serious about this kind of review, and he has called it a Committee of Inquiry which sounds to me always expensive, but maybe there is a way of doing this so that we can make it independent. I keep using this word “inspired”, but I was. I was inspired by P.P.C.’s last proposal, which was a sensible proposal: some liked it; some did not. But one of the things it contained that nothing else has contained so far with regard to this subject, is the opportunity for the public to have a say, in the form of a referendum. Some people...

The Deputy Bailiff:

I am sorry, we are having difficulty again. Can I please ask the Senators to speak quietly? Two particular Senators.

The Deputy of St. John:

Some have discarded that idea as something which we should not do, but the public were consulted during that process. You had a reasonable amount of feedback, you put that feedback into a document, and you produced a proposal. The sensible thing then would have been we had to have a referendum. But, again, we then had the different sectors of the House voting in different ways against and for that proposal. The main reason I could see as to why it did not go through, is because the Constables - in good faith to be fair - were worried about the Parish system being eroded because of the super-constituencies. It was also, of course, in Clothier. As a result of the Constables voting against it, it did not go through, the public did not have their say in a referendum, and I think that was a real shame. Even though it was not a perfect proposal, the public could have had their say. They could have said yes, or they could have said no, and at least we would have done something, achieved something through referendum. We have not done that and I thought that was a sad day for P.P.C. That was the best proposal I had seen so far, but I do not think that decision should be mine, or anybody here. I think it should be the electorate; I think it should be the public. I would hope that P.P.C. one day would bring that sort of proposal back again which will include a referendum. But I cannot support this, I am sorry, Chairman of the P.P.C. because, again, it is piecemeal to a degree. I think we need to wipe the slate clean completely as the Chief

Minister was suggesting, as horrific as that may sound to some - Groundhog Day I hear some probably say - but I think that is what you need to do. It has been muddied so much, by so many papers coming through like this from private members, from Committees and now the Chief Minister is suggesting an inquiry. I think he is right. I think we need to start again, otherwise we are going to get nowhere because none of you will ever agree that this is the right way or the wrong way. It is impossible, I would say, from what I have seen of the States working it in the last 2 years, it seems impossible for you to come to a decision on this, you as Members of the States.

The Deputy Bailiff:

All Members.

The Deputy of St. John:

All Members, sorry Sir. It is a difficult thing to do. I think we need to start again, and I would support the Chief Minister's suggestions on that. I am sorry, P.P.C. have put a lot of work into this. I think it is certainly a good document, but it is still piecemeal. I am sorry that I would find it very difficult to support it. Incidentally, I just wanted to also mention Deputy Power. Deputy Power talked about electoral fatigue by having too many elections. He felt that that was not a problem; the Parish of St. Brelade turned out in force: 40 per cent. In the Parish of St. John we have not had an election for 12 years, which is what Deputy Power also suggested was something which should not happen. But we had a 63 per cent turnout. So you can work this any way you like. You can come up with a figure, and a reason, and a justification for doing it one way or another. We will all have ideas on it, and that is what makes it so difficult. I think that is a stark example of the sort of figures you can come up with. Thank you for listening to me, and I am sorry, but I cannot support this proposition. Thank you.

5.1.22 Deputy S.C Ferguson of St. Brelade:

I sometimes look around the Chamber and wonder if the structure as devised in 1948, I think it was, was devised to occupy all the seats that existed in the Chamber before the reforms. **[Interruption]** The Constable of St. Mary mentioned the 19,500 people who were severely discontented. I do not think that they were angry about the electoral system. I think they were angry because there were higher taxes being imposed on the population while the States did not appear to be controlling expenditure. Yes, I do support changes, but I do not think these sort of changes are the most important changes we should be looking at. I think our primary attention should be to the level of States' expenditure that the Island should support. This will require hard decisions as to what level of services the population is prepared to pay for, but we need an open, transparent discussion about it. I think that is where we have to start. At the moment, we are just rearranging the chairs. Once we have sorted out what expenditure levels should be, then you start looking at the expenditure perhaps that we should have on the Assembly, which will then modify the structure. I have no problems with this proposition. It is a rearrangement; it is not reform. The reform that is required is that of the working of the Government. For example, we need to review collective responsibility again. That is essential. We need reform as a control of States' expenditure. I think these are far more important. This has been a diversion; the main work is outstanding. After all, if we pass this and Deputy Troy's amendment, then we have almost the *status quo*, but with a 4-year term for everyone. This is a rearrangement. I will support the proposition, but I will be evangelising on the other reforms.

The Deputy Bailiff:

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

5.1.23 The Connétable of St. Clement:

Unlike quite a few other speakers, I do intend to be brief. I would like to thank all the speakers. We have had a very informed debate, rather a long one, but a very informed debate, and I rather

feel that most people now have made up their mind. I am not going to persuade them one way or the other. Just one or 2 points I would like to make and that is if this is to go through, I think Deputy Martin asked this question, it will need 27 votes in favour. The other point I think I would like to make was I think the Deputy of St. Martin asked about the device, the various opinions on the Committee probably not supporting, but I would just like to quote to him my opening words. I said that in our opinion the matter should now be left for an Assembly elected in 2008 to decide upon the issue forward. I think that is summing-up the opinion of the rest of the Committee. Nevertheless, it is a way forward. It is a pragmatic way forward. It is not the ideal solution. We have been asked to give 4 years to the Deputies and 4 years to the Constables. We, as a Committee, did not think that we could leave the Senators out of it, and so we have included them as well. So, I hope you have made up your mind and will now vote in favour of this proposition. I ask for the appel please, Sir.

The Deputy Bailiff:

The appel is asked for and the matter before the Assembly is for or against the principles of the Draft States of Jersey (Amendment No. 5) Law. I invite Members to return to their seats, and the Greffier will open the voting.

POUR: 22		CONTRE: 26		ABSTAIN: 0
Senator L. Norman		Senator S. Syvret		
Connétable of St. Mary		Senator F.H. Walker		
Connétable of St. Clement		Senator W. Kinnard		
Connétable of Trinity		Senator T.A. Le Sueur		
Connétable of St. Brelade		Senator M.E. Vibert		
Deputy R.C. Duhamel (S)		Senator P.F.C. Ozouf		
Deputy A. Breckon (S)		Senator T.J. Le Main		
Deputy of St. Martin		Senator B.E. Shenton		
Deputy G.C.L. Baudains (C)		Senator J.L. Perchard		
Deputy P.N. Troy (B)		Connétable of St. Ouen		
Deputy C.J. Scott Warren (S)		Connétable of St. Lawrence		
Deputy R.G. Le Hérisier (S)		Connétable of Grouville		
Deputy J.B. Fox (H)		Connétable of St. Martin		
Deputy S.C. Ferguson (B)		Connétable of St. Saviour		
Deputy of St. Ouen		Deputy J.J. Huet (H)		
Deputy of St. Peter		Deputy J.A. Martin (H)		
Deputy J.A. Hilton (H)		Deputy G.P. Southern (H)		
Deputy P.V.F. Le Claire (H)		Deputy P.J.D. Ryan (H)		
Deputy J.A.N. Le Fondré (L)		Deputy of Grouville		
Deputy S.S.P.A. Power (B)		Deputy G.W.J. de Faye (H)		
Deputy K.C. Lewis (S)		Deputy D.W. Mezbourian (L)		
Deputy I.J. Gorst (C)		Deputy of Trinity		
		Deputy S. Pitman (H)		
		Deputy A.J.D. Maclean (H)		
		Deputy of St. John		
		Deputy of St. Mary		

The Deputy Bailiff:

Very well. That brings debate upon the Draft States of Jersey Law - Projet 183 - to an end.

ADJOURNMENT PROPOSED

Senator S. Syvret:

That might be an opportune moment, Sir, to propose the adjournment and to ask through you, the Chair of P.P.C. whether the other items are worth returning for tomorrow.

The Deputy Bailiff:

Yes. Chairman, outstanding is the Connétables (Jersey) Law and then there are 2 matters, I do not know whether they are very short or not: Projets 186 and 196.

Senator W. Kinnard:

If we are coming back tomorrow, that is fine, but if we are not, I would perhaps quite like to take P.196, because it is the appointment of members of the Police Complaints Authority and their term of office came to an end on 31st December.

The Deputy Bailiff:

Can I just ask, Chairman, I am sorry, the Connétables (Jersey) Law is that in any way affected by the vote that was just taken, or not?

The Connétable of St. Clement:

I think it would be best if it was dealt with tonight, Sir. **[Members: Oh!]**

Deputy I.J. Gorst:

Standing Orders do say it is a Wednesday, it is 5.30 p.m., we should adjourn and we should have States day tomorrow, Sir.

The Connétable of St. Clement:

I support that, yes.

The Deputy Bailiff:

Very well.

Deputy I.J. Gorst:

Can I make that a proposition if necessary?

The Deputy Bailiff:

So it is the wish of the Assembly then to return tomorrow morning to conclude the States business.

Deputy R.G. Le Hérisier:

Can I ask the Chief Minister: there is a seminar scheduled tomorrow?

Senator F.H. Walker:

May I, Sir?

The Deputy Bailiff:

Yes.

Senator F.H. Walker:

Yes. I was rising to my feet when Deputy Le Hérisier rose to his. Sir, I took a decision about an hour and a half ago that we were almost certain to be back tomorrow, and because of the need to cancel catering arrangements, and so on, I have postponed tomorrow's conference, sadly, but I will be in touch with Members, or my department will be in touch with Members, very shortly to propose an alternative date. Sir, can I just make one comment: it has been known that tomorrow's very, very important meeting was to take place now for some considerable length of time, and yet only half the Members of this House have indicated they were going to attend, and I think that is a very sad attendance for such an important issue. I very much hope that when the date is re-set, re-agreed, that there will be a much better turnout than that for such an important topic. Members say

they are not kept informed and not involved enough, and yet when they have the opportunity to take part in the first ever constitutional conference of its type, only half indicate their intention to do so. I think that is sad, and I hope we will do better when we finally get around to arranging it.

The Deputy Bailiff:

Very well. So the Assembly stands adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT