

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 20th FEBRUARY 2013

PUBLIC BUSINESS – resumption	4
1. Draft Referendum (Reform of States Assembly) (Jersey) Act 201- (P.5/2013): third amendment (P.5/2013 Amd.(3)).....	4
1.1 Deputy T.M. Pitman of St. Helier:	4
1.1.1 Senator P.M. Bailhache:	7
1.1.2 Deputy M. Tadier of St. Brelade:	8
1.1.3 Deputy G.P. Southern of St. Helier:	10
1.1.4 Connétable L. Norman of St. Clement:	12
1.1.5 Deputy G.C.L. Baudains of St. Clement:	12
1.1.6 Deputy J.A. Martin of St. Helier:	14
1.1.7 Senator F. du H. Le Gresley:.....	15
1.1.8 Connétable P.J. Rondel of St. John:	16
1.1.9 Deputy T.M. Pitman:	17
1.2 Draft Referendum (Reform of States Assembly) (Jersey) Act 201- (P.5/2013): fourth amendment (P.5/2013 Amd.(4)).....	19
1.2.1 Deputy J.G. Reed of St. Ouen:	19
1.2.2 Senator P.M. Bailhache:	20
1.2.3 Senator S.C. Ferguson:	22
1.2.4 Deputy G.P. Southern:.....	23
1.2.5 Deputy J.M. Maçon of St. Saviour:.....	24
1.2.6 Senator P.F.C. Ozouf:.....	25
1.2.7 Deputy T.M. Pitman:	26
1.2.8 Senator A. Breckon:	27
1.2.9 Deputy J.H. Young of St. Brelade:.....	28
1.2.10 Deputy R.G. Bryans of St. Helier:	30
1.2.11 Deputy R.G. Le Hérissier of St. Saviour:.....	31
1.2.12 Deputy M. Tadier:.....	31
1.2.13 Connétable J. Gallichan of St. Mary:	33
1.2.14 The Connétable of St. John:	33
1.2.15 Deputy J.M. Le Bailly of St. Mary:	34
1.2.16 The Connétable of St. Clement:.....	35
1.2.17 The Deputy of St. Ouen:.....	35
LUNCHEON ADJOURNMENT PROPOSED.....	37
LUNCHEON ADJOURNMENT.....	37
1.3 Draft Referendum (Reform of States Assembly) (Jersey) Act 201- (P.5/2013): second amendment (P.5/2013 Amd.(2)).....	38

1.3.1 Deputy T.M. Pitman:	38
1.3.2 Senator P.M. Bailhache:	40
1.3.3 Senator B.I. Le Marquand:.....	40
1.3.4 Deputy M. Tadier:	42
1.3.5 Deputy G.P. Southern:.....	44
1.3.6 Senator F. du H. Le Gresley:.....	45
1.3.7 Deputy P.J.D. Ryan of St. John:.....	46
1.3.8 Deputy J.A.N. Le Fondré of St. Lawrence:	48
1.3.9 The Connétable of St. Mary:.....	49
1.3.10 Deputy J.H. Young:	51
1.3.11 Deputy J.M. Maçon:.....	51
1.3.12 Deputy T.M. Pitman:.....	52
1.4 Draft Referendum (Reform of States Assembly) (Jersey) Act 201- (P.5/2013): fifth amendment (P.5/2013 Amd.(5)).....	54
1.4.1 Senator L.J. Farnham:.....	54
1.4.2 The Connétable of St. Mary:.....	56
1.4.3 Deputy C.F. Labey of Grouville:.....	57
1.4.4 Deputy M. Tadier:	60
1.4.5 Senator P.M. Bailhache:	61
1.4.6 Deputy G.P. Southern:.....	62
1.4.7 Senator P.F. Routier:	62
1.4.8 Senator L.J. Farnham:.....	63
1.5 Draft Referendum (Reform of States Assembly) (Jersey) Act 201- (P.5/2013) - resumption.....	65
Senator F. du H. Le Gresley:.....	65
1.5.1 Deputy A.K.F. Green of St. Helier:.....	67
1.5.2 Deputy G.P. Southern:	67
1.5.3 Deputy S. Pinel:.....	68
1.5.4 The Deputy of St. John:	68
1.5.5 Deputy M.R. Higgins:.....	68
1.5.6 Deputy K.L. Moore of St. Peter:	69
1.5.7 Deputy M. Tadier:	69
1.5.8 Senator L.J. Farnham:.....	71
1.5.9 Deputy S. Power:.....	71
1.5.10 Senator S.C. Ferguson:.....	72
1.5.11 The Deputy of St. Ouen:.....	73
1.5.12 Connétable J.L.S. Gallichan of Trinity:	73
1.5.13 The Connétable of St. Clement:.....	73
1.5.14 Connétable D.J. Murphy of Grouville:.....	75
1.5.15 Deputy R.C. Duhamel of St. Saviour:.....	76
1.5.16 The Connétable of St. Helier:	76
1.5.17 Connétable D.W. Mezbourian of St. Lawrence:.....	77
1.5.18 Deputy J.A.N. Le Fondré:	77
1.5.19 Senator B.I. Le Marquand:	78
1.5.20 Deputy G.C.L. Baudains:	79
1.5.21 Deputy T.M. Pitman:.....	79
1.5.22 Deputy J.H. Young:	81
1.5.23 The Connétable of St. Mary:	82

1.5.24	Connétable M.P.S. Le Troquer of St. Martin:	83
1.5.25	Senator F. du H. Le Gresley:	83
1.5.26	Senator P.M. Bailhache:	83
2.	Jersey Financial Services Commission: appointment of Commissioner (P.8/2013)	86
	[Debate proceeded in camera]	87
	ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS	88
3.	The Connétable of St. Helier (Chairman, Privileges and Procedures Committee):	88
	ADJOURNMENT.....	88

[9:30]

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

PUBLIC BUSINESS – resumption

1. Draft Referendum (Reform of States Assembly) (Jersey) Act 201- (P.5/2013): third amendment (P.5/2013 Amd.(3))

The Bailiff:

We return to the debate on the Draft Referendum (Reform of States Assembly) (Jersey) Act and the next item on the running list is amendment 3 lodged by Deputy Trevor Pitman. I ask the Greffier to read the amendment:

The Greffier of the States:

Page 19, Schedule. In the Ballot Paper in the Schedule for reform option B substitute the following option: “Reform option B Parish Constables will continue to be Members of the States. There will be 46 States Members: 34 Deputies and 12 Parish Constables. There will be 6 large Districts, each choosing 5 Deputies, apart from St. Helier Districts 1 and 2 which will each choose 7 Deputies.”

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

Thank you. In making this amendment I should highlight straight away that the only reason I am doing it is because of the issue of fairness. I did not want to bring an amendment and I hope Members accept that. I voted for an independent commission, I am disappointed with what has been put forward, very disappointed. So as a representative of St. Helier, which is a third of the Island’s population, I honestly felt I had no other recourse than to do so. In fairness, as I say, that is my only motivation. With regard to that I hope Members have read the report because the figures in there are quite important, but I would also draw Members attention to the written answer to question 24 because when the possibility of this unamended version of option B was talked about many months ago, I was quite clear, because there are members of the public who had spoken to me about their concerns about the unfairness to St. Helier, the potential is there should that ever be put forward unamended to become law then it will be challenged with the Privy Council simply because of the fairness. Not on the issue of the Constables but it does disenfranchise St. Helier hugely and, to be honest, I do not think any St. Helier Deputy would be doing his job if he did not take up the cause for those people who have elected them. So, as I say, it is definitely not about the Constables personally. Everyone who has been here for any length of time knows that I do not believe the Constables should remain in the States and that is simply because I believe of one type and one class of States Member is the most efficient and it will be the most accountable and transparent. I have got nothing personal against the Constables, I talk to all of them, I even like a few of them, and the worst bit - and I am only saying this because I know nobody is listening - I know that a couple like me. **[Laughter]** I will not name them because it could be curtains for them. I will have a drink with a couple of them ... we will not go there. So there it is, it is not and this cannot be about individuals, it has to be on the issues and it surely is as far as I am concerned. I brought this because the option B put forward by the Electoral Commission, does discriminate, as I say, against the population of St. Helier, it does make the weight of vote far inferior for those people than country-based Districts. It does mean that if accepted today and it comes to law they will be effectively second class citizens. Now, we will probably hear some speeches trying to argue that is not the case, but if Members look at the figures it is quite clear. But I also have to be quite up front. My amendment is not perfect, my amendment would still fall foul of the Venice Convention - I always want to call it commission - and that is because of District 5. District 5, of

course that is St. Lawrence, St. John, St. Mary and St. Ouen. Even with what I am proposing, and I have used what should have been done with the full population figures instead of eligible voters, which is obviously already out of date, District 5 will be over-represented and the only way I could or any Member could bring that into line of what the Venice Convention says would have been to remove a couple of Deputies, which I did not think would be politically acceptable and I certainly did not think there was any chance of it getting through this Assembly. Now, maybe I am wrong for taking that approach but I have done that. What I would say to Members, why is it though that the commission feel it is okay for District 5, 4 country Parishes, to be over-represented yet from what I am hearing from a number of people it is okay for St. Helier to be massively under-represented. Now, I am often critical of the *J.E.P. (Jersey Evening Post)*, I do not know why but I am, I think it was Lucy Stephenson, she wrote a good piece, a fair piece on my amendments but I was disappointed with the headline, which obviously the journalist will not have written herself because it said about more seats for St. Helier. You can say that is true but it is actually about fair seats for St. Helier. Now, I repeat again, I do not believe the Constables should be in the States but it is a completely valid and sustainable argument to say the Constables should be in here. Anyone who tries to argue against that is living on cloud cuckoo land quite frankly. It is a viable argument but I hope the Constables agree with me that their remaining in the States should not override fairness, and that is at the core of what I am saying to people. Now, I made - I have notes here but I am not really using them which perhaps I should be - 2 submissions to the Electoral Commission and I am quite happy to accept the number in the Assembly can be reduced, indeed I have tried before myself, tried to reduce it to 47, which I think had the most votes last time but still not enough. I felt that the Assembly could be reduced perhaps between 42 and 44, well I did veer towards the 44. My only concern with what we looked at yesterday is this issue of the Troy Rule, which I believe is very, very important and was discussing this with Deputy Le Fondré. Another Member that I do not agree with everything he says and nor he me but we both recognise the huge importance of this. Now, of course, 42 you have to say, whether it is an option A or an option B, I think the reality of whether the Troy Rule can be protected with all these new Ministers being talked about has to be very, very questionable. So, 46, that was the reason for coming up with 46, it allows comparative fairness. As I say, I was very unhappy when I looked at the figures and I saw that eligible voters had been used. Of course, that is on the census for 2011. As we all appreciate, they are already out of date, I spoke to a couple of young people the other day and they have turned 16 since then, they will be able to vote. There are many people who will have fulfilled their couple of years in the Island, hopefully they will vote because we need everybody to vote, do we not? My biggest concern with what I felt was almost the massaging away of people by using those eligible voter figures was that almost 7,000 people had disappeared from St. Helier. Almost 7,000, 6,632 I think. I think it is engraved into my brain now. As I said yesterday, surely all those people are worthy of representation. They might not be able to vote yet; I suppose it depends on one's political philosophy. But if Members do look at the figures that I have used in the report you will see, and it is such a stand out example, District 1 that the commission has proposed, population 17,543 yet the commission are saying they should only have 5.5 representatives. Now, we can joke, and we did yesterday, about cutting the Constable in half and perhaps it is quite desirable, I do not know. Sometimes I feel it would be, sometimes I do not.

[9:45]

But that would give a public representative of 3,189. Just compare that with District 5. Even with the 4 Parishes taken into account, population 14,178, 9 representatives, only 1,575 per person. We can have the argument that, of course, 3 of those are Constables ... let us take St. Mary for example, because I am going to use it, it always gets used, nothing personal again but it is a smallish Parish. St. Mary will be able elect one Constable, whether it is the charming present Constable or a successor, and they will be able to elect 5 Deputies. They have a population almost exactly 10

times smaller than St. Helier No. 1 District; 1,752, yet they are going to have more representatives than St. Helier No. 1. How on earth did we reach this point? Now, my background is in education. We have a lots of different backgrounds of people, different businesses and health services, *et cetera*, but everyone knows when you do your research your conclusions, your recommendations, should flow from it. Like just about every other person I speak to, nobody can imagine where these recommendations came from. They just do not make sense. You just go and look on the website at what people have said. It is utter nonsense. Reform is about making things better, it is about making things fairer. The commission even have that lovely saying, which I think Deputy Southern quoted yesterday, it is the cornerstone of reform. So what I am doing, I am asking that the States consider amending this. Increasing the number of Members that are left in the Assembly to 46, as I say, and those 4 would be distributed between the 2 large St. Helier constituencies. They would have comparative parity with everywhere apart from the special case of District 5. We heard yesterday that we all have to have compromise. I am compromising because I am saying: "Okay, I am not going to make a fuss about that", the young man, Sam Mézec who did all the figures, and did a great job doing all the figures, he picked up straight away on No. 5. It is an anomaly and really if we were serious about parity, about equality we would have to address it. But I am willing to let that go. Forty-six, is it that much of a problem? Where did the magic figure of 42 come from, I say? Forty-six certainly protects the Troy Rule unless there is going to be even some more currently unheard of Ministries proposed, possibly there will be. It also provides the option, and obviously this is a big topic, another big topic, and lots of people do not like to even talk about it, but I completely believe that within time complete separation of powers will be imposed on us so we will have to come up with a solution about who is the speaker in this Assembly. Maybe it will be someone independent from outside, maybe it will be one of the present incumbents who changes their job and decides: "Well, actually, I am more interested in being speaker of the Assembly than a judge." But it might have to be like the U.K. (United Kingdom) where one of us does it. Whether that would be a sought after job I would not like to hazard a guess. Perhaps it could be on a rota system, at least we could all not use the excuse any more that we do not understand Standing Orders when we want to make points of order that perhaps are not right points of order. But it certainly offers that potential, does it not? Let us just also consider that if we reduced the Assembly to 46 and you compare it with the election of 2011, we will still have stripped away 7 Members. That is a saving of what, £300,000 or a bit more. Is that to be sniffed at? Again, I refer to something else here on this issue of figures because I rarely agree with the *J.E.P.* but as they are saying: "Is numbers, our numbers, the overriding factor?" We do not want to reduce numbers just for the sake of it and it is very easy to say: "Let us have less" but if you are going to have less you want it to be for a reason. I cannot see where the figure of 42 has come from and many people I speak to cannot see where that has come from. Yes, you do not want surplus numbers but you do not want to be in the position where you find there is some unforeseen impact of what you have done. It will be too late, will it not, if the Troy Rule cannot operate, if we decide we have made a bit mistake? So there we go, that is my reason for doing this. Fairness. I am asking Members ... and I am particularly appealing to the Constables ... well, I have never been appealing to Constables much in the past but I am asking them to put fairness first, argue their case, fight their campaign to retain their seats, it is an entirely valid position to take, as I have said. The funny thing is, and I got criticised by a few of my supporters about this, who said: "You are putting forward a proposal that might put the Constables in the strongest position to maintain their seat." I have to say that they are right because much as I supported Deputy Southern, because I believe a referendum should be just a simple yes/no in or out question, we have got to the stage where we are going to have 2 options, or hope it will only be 2 options or say: "None of the above." But for me, committed as I am to a one type Member States Assembly, if my amended option B goes forward and the people vote for it, I have to accept it. I cannot moan about it because my issue with the Constables being in has always been the unfairness and, like I said, I have still compromised, I have done nothing about

District 5 being over-represented, I have compromised, I have accepted that and I would ask the Constables particularly, because those 12 votes ... you know, we joke about the block vote but we saw it yesterday and I do hope the Constables will vote for this and put fairness first because it still gives them that right to argue their case and make their points but it does not penalise nearly 34,000 people in St. Helier who if we go with what is before us now, the commission's option B, will be hugely disenfranchised. As I said, and it is not a threat, it is just reality; there is the answer in written question 24. It can go to the Privy Council and it will be because not one of us ... we are very different people in St. Helier, the representatives, I do not agree with everything that Deputy Hilton says, she does not agree with everything I say. I do not agree with everything Deputy Southern say, I do not agree with anything at all that Deputy Rondel says and I tried to tell him what he should say but he does not listen much. But the fact is all of us have to stand up for those people who we represent. I would have to say to 2 out of the 3 members of the Electoral Commission, the political members, I have had it said to me: "I wish the Senator and Deputy had said to me when they asked for my vote in 2011 that they were going to be happy for something to go forward which would disenfranchise us." You have to say, those people have a fair point. I could not stand on the doorstep next time, if I stand again, if I am able to stand again, if I was supporting allowing them to be second class voters. So I do hope all the St. Helier representatives at least will be supporting me. I am going to end again by appealing to the Constables because their 12 votes are very important here. This option can allow them to argue their case, as I said, fight their case, and know that they are not making anyone else suffer by their position. Actually, sadly I might say because of my beliefs on the one class States Assembly, if this went through and succeeded it may put the end to all these arguments and debates, would that not be a terrible thing? With that, I will make the amendment.

The Bailiff:

Is the amendment seconded? **[Seconded]** Senator Bailhache.

1.1.1 Senator P.M. Bailhache:

Deputy Pitman is partly right but in my view mostly wrong. Where he is partly right is that reform option B creates greater voter inequity than we have at the moment and the Electoral Commission has made no secret of that. It is in the final report and it is a fact. So in that respect Deputy Pitman is right. But he produces a solution to the problem that is distorted and biased against reform option B. He does that because the amendment confuses 2 separate issues, voter equity on the one hand and the link with the Parishes on the other. They are apples and pears. You cannot have voter equity if the Constables remain in the States, the commission has conceded that, but equally you cannot have a constitutional link with the Parishes if you have an Assembly composed only of Deputies representing large Districts. So which is the more important? That, the commission says, is the issue for the electorate; it is for the people to decide. The amendment assumes that one can add the Constables to the Deputies and arrive at a total number of representatives for the District but that is incorrect. The Constable of St. Lawrence is not the representative of voters in St. John, St. Mary or St. Ouen. She is not elected by them; she is not answerable to them. If an elector living in St. Ouen were to telephone the Constable of St. Lawrence, assuming the reform options came into effect, about some political problem, I shall be very surprised if the Constable did not say: "Get in touch with your own Constable." The Constables are Parish representatives. It is only the Deputies who are District representatives. Constables do not represent electors in any Parishes other than their own. So what is the logic of this amendment? It is based upon the premise that Constables are District representatives and so Deputy Pitman arrives at the conclusion that the voters in District No. 1 only have half a Constable. That is absurd. Do they only telephone him on 3 days a week; do they only get half his attention? That is nonsense. **[Laughter]** The Constable gives the whole of his attention on all occasions to all his parishioners. So where does the

amendment lead us? We have at the moment in reform options A and B 6 Districts with almost equal populations and eligible voters, but 2 of the Districts will then have 7 Deputies and the rest of them will have 5. Where is the logic of that? Where is the offence? What about the other semi-urban Parishes that only have one Constable, St. Clement, St. Saviour, should they have some kind of compensating allowance because the Constable has more parishioners than the Constable of St. Lawrence or the Constable of St. Mary? The argument is not logical because the Constables are not District representatives, they are Parish representatives. Even if one looks at St. Helier as 2 Districts, at present it has one Constable and 10 Deputies. How many representatives will it have if reform option B is the favoured option and succeeds?

[10:00]

It will have one Constable and 10 Deputies, exactly the same. I refute therefore the suggestion that parishioners in St. Helier are second-class voters. They, in fact, will be better off proportionately in an Assembly of 42 than they are at present. The Deputy sets out in his report a number of additional benefits but none of these additional benefits will apply if the public supports reform option A, which is, in fact, Deputy Pitman's favoured option. If reform option A wins, there will be 42 Members which he thinks is sufficient because he is supporting reform option A but if, under his amendment, there are 46 Members in reform option B, what is the logic of that? I will say that there is a hidden advantage and I said at the opening of my remarks that the amendment biased the question against the Constables. There is a hidden advantage in the amendment for reform option A. We know that the vast majority of members of the public think that there are too many Members of the States and they want a reduction in the number of Members. They will be presented, if this amendment goes ahead, with 2 reform options. Reform option A will offer them 42 Members; reform option B with the Constables will offer them 46 Members. It will be biased against the Constables remaining in the States. I think that creates an unfairness and I ask Members to reject the amendment.

Deputy T.M. Pitman:

I am sure the Senator did not mean to mislead but I said I support a one Member Assembly and I said I had real concerns about 42 so that is what I said. I do, of course, support a one type Member as the ideal but it is not there for us.

Senator P.M. Bailhache:

I am sorry if I misread the Deputy's favoured option.

1.1.2 Deputy M. Tadier of St. Brelade:

It may be a difference of opinion, it may be a difference of fact, but I believe that I need to correct something Senator Bailhache said. He said you cannot retain the Constables in the States and maintain voter equity but that is not true because about half a day before I went to see the Electoral Commission, it was during the lunchtime, I had done my submission, a fairly lengthy one, which was my official submission and at lunchtime, I sat down in the States computer room and within an hour, I came up with a model whereby you could maintain the Constables in all the Parishes and you could have voter equity so long as you were willing to be flexible on the number of States Members and if you based it on single seat constituencies with, I would recommend, a transferable preferential voting system to stop incumbency. The way that that would be achieved is that you take the smallest District, which is St. Mary currently, you respect the Parish boundaries, you use that as the basic unit and you say: "We keep the Constable of St. Mary. Because it is so small we get rid of the Deputy of St. Mary." We give St. John one Deputy and one Constable and you replicate that throughout the Island and to achieve perfect statistical distribution, you would have to have 55 States Members but you could also achieve it with fewer and obviously the fewer States Members you have, you get further away from voter equity. But with around about 45 to 50, you

can maintain the Constables so this myth must be disbanded and I put that in deliberately. You will remember, those of us who were here in 2009, I lodged a proposition to say let us ask the people whether they want to keep the role of the Constable because that is the fundamental issue that we always come back to time and time again and we have been told by this Electoral Commission that that is the sticking point. They are traditionalists out there, some of whom want to keep this very what they see as a vital role and a vital link to the Parish, others who do not necessarily think of that in the same way and until we resolve that problem, unfortunately we are not going to be any the wiser and that is why it would be very good to have a steer from the public on that one single issue. Then we could have gone away to the drawing board and designed a system around that and also designed a system around the number of States Members but we refused to do that and that is why I think we are in this difficult position of trying to guess what the public want and trying to make a system around it with far too many variables. I say that just to put that in context. There are 2 reasons why I will not be able to support this amendment and it is often said that there is a solidarity between left and right and if perhaps Senator Bailhache is not going to support this, and I am not supporting it, it sends a message out to other Members that we must both be wrong and therefore you should support that perhaps by some somersault of sophistry. There are 2 reasons that I cannot support this personally. The first is that I subscribe to the Reform Jersey principles, 3 of which were laid out very early on and which seem to have been adopted by the Electoral Commission as part of their guiding principles. They state that every elected politician should represent the same number of people as a basic principle, give or take. Any new system should be simple and user friendly and every voter should have the same number of votes no matter where they live in the Island, and it is part 3 which I think is key. Whether it is one man, one vote, one Deputy or whether it is everybody in a District gets 5 or 7 votes, it should be the same throughout the whole Island and option B does not provide that. Of course option B in its current format does not provide all of those other points either. You will hear a lot more about Reform Jersey because, as far as I know, they are the only cohesive group which will be campaigning when it comes to the referendum unless there is, of course, an *ad hoc* lobby group which campaigns to keep the status quo and keep the seats for the boys and girls. There may be a States Members group which says: "We do not want any change because we want to get re-elected at the next elections. Do not change anything please; we are quite happy as we are" and maybe that group can apply for funding from P.P.C. (Privileges and Procedures Committee) if we are minded to give any funding for this but you will hear a lot more from Reform Jersey. By extension of that, I will be campaigning actively for option A and I hope we have a good debate around the reform issues. That leads me to the second point why I cannot support this is because this amendment makes option B more viable. Deputy Pitman was quite correct that if we pass option B, there is a risk that when the voters in St. Helier turn up to vote, they may vote for option B. When I knock on the door and I try and explain that option A is the only sensible option and option B, as I have written here, is outlandishly ridiculous and blatantly gerrymandered and it is a testament to the group think folly of the Electoral Commission which has allowed itself to be persuaded by prejudice of the 3 elected States Members, when I try and explain that to them and say: "Oh, yes, but option B gives us a couple of extra Deputies, it represents us", it is much more difficult for me to try and explain that sentence that I just read out to them on the doorstep. There is a risk they might vote for option B and there is a risk that we may not achieve one type of States Member which is what I essentially have been campaigning for for years now. So this is the reason we must reject option B. It makes it more viable. It does make it fairer but I was quite astounded that we have the Chairman of the Electoral Commission who stands up without any kind of shame, tells us publicly that option B creates more voter inequity and that they have never been ashamed of that. That is a remarkable position to even put something on the table which creates even ...

Senator P.M. Bailhache:

I have never said that I was not ashamed of that. I made no mention of shame whatsoever. I merely pointed out, as a matter of fact, that the Electoral Commission had made it clear that reform option B created greater voter inequity than there is at the moment.

The Deputy Bailiff:

I think the Deputy's point, Senator, is that you should be ashamed. I think that is it. [Laughter] Whether Members accept that or not is a matter for them.

Senator P.M. Bailhache:

If that is what he means, that is what he should say.

Deputy M. Tadier:

I do not usually accept those kinds of interventions from the Chair but in this case, I think I will ...

The Deputy Bailiff:

It is called impartiality, Deputy. [Laughter] [Approbation]

Deputy M. Tadier:

That is right. When it underlines the point I am trying to make, it is definitely impartial. That is what I would agree with. But the point is, the Senator stands up quite rightly, it is a fact the Electoral Commission have put this option on the table and obviously when I make an observation, which is my opinion, that he is doing so in an unashamed way, if one is to present something, you would presume it would be done in such a fashion. The point is, why is the Electoral Commission even putting something on the table when their guiding principles are to have equal representation wherever possible and I read those out yesterday, I do not need to repeat them. One of the guiding principles was never to take into account the traditions of Jersey and to take into account the importance of the Parish system and its representation within the States of Jersey as an Assembly. That was never one of the guiding principles. If it was meant to be, it should have been written down there in the first place. So I have made those 2 points. I cannot vote for option B because I would be hypocritical as it does not maintain all of the things that I think are basic to the democratic process and we cannot vote for option B because it makes it more viable and people in St. Helier are more likely to vote for the retention of the Constables in this format which I do not think would achieve a sensible position.

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

I have been looking forward to the remainder of this debate since I lost the vote yesterday because here we are attempting desperately to make something out of what is a bad deal. We are trying to stitch together a silk purse out of a sow's ear. The faults that I complained about yesterday with the mechanism with 3 options and 2 votes as being skewed towards one outcome are still there. I am tempted to vote for this amendment because it does stick to the principles outlined by the Electoral Commission when they started which were all electors should have the same number of votes; constituencies should, as far as possible, be of broadly equal size; candidates should generally require a significant number of votes to be elected to the Assembly and the Constable of St. Mary, how many votes does that count? The electoral system should be simple, fair and easy to understand and here we are trying to mess it up. We might go to that position better if we accept this amendment but yesterday I was attempting to be as polite as I could because I had an amendment to win or lose but when I started talking about the faults, the mistakes that were made early on with the Electoral Commission, I did not really go to town on it. Today I can because not only was it absolutely a mistake to appoint Members to this Electoral Commission which automatically then says: "Hang on, is there not some conflict of interest there in some way whatsoever?" and there is. Not only that, but this House chose a recently elected Senator, one of

the few to stand on a clear platform of he knew what to do with electoral reform and lo and behold, he told us before this and we elected him to the chairmanship of this when he said: "And my solution would be 42 Members, including the Constables." A number of people in this Chamber who have some experience and long experience of how the Chamber works, groaned and had their head in their hands. What a recipe for bringing government on this Island to a complete halt. Let us look at the analysis of what the Constables do and let us not beat about the bush. Do they have 2 responsibilities, one to their Parish and one to the States? Do the vast majority of them, including those recently elected, say: "And when push comes to shove, my duty is to my Parish. That is where my heart is, even when I am in here." In general terms, do the Constables hold as many positions of responsibility? Are they as active? Do they bring propositions? Do they bring amendments like others do at the same level? A brief look at the record says by and large no and yet this proposition option B does not place less control and power in their hands. It increases their proportion, 12 out of 42 people in this House and what does that do to the Troy Rule? I think the Troy Rule has gone if we vote for this. It may just be viable.

[10:15]

The machinery of government may not come to a halt with a few more Members. Where should those Members be? The figures show that they should be in St. Helier and here we are. This is not new. This is a repeat time and time again of not just the last 50 years or the last 100 years. This argument between St. Helier and the country Parishes has been going on for some 200 years now. The fight for control of politics on this Island has ever been thus, between the country Parishes, the northern Parishes and St. Helier and here we are repeating it once again. In an attempt to get a reasonable balance and a proportionate control to St. Helier, we have got this amendment. Can it be made to work? Can we create the silk purse? I do not think so because we start from a fundamentally flawed position, an unworkable position, one which contains bias to the Constables. As Deputy Tadier said, this in fact will make it easier for those with problems about the overall package voting for reform like Deputy Le Fondré, whom I mentioned yesterday, who had an objection to 42, this piles perhaps one more vote in there when what we should be doing is saying we have to bite the bullet. This is an opportunity. We have to and what we have to do, as a matter of principle and as a matter of effectiveness, is to bite the bullet of what is the role of the Constables. It is dual and they are, whether we like it or not, less committed to this House than the rest of us. That is the reality and I know the Constables are shaking their heads. They do not like to hear it. They do not like to hear it but that is the bald truth and until we answer until this Commission ... this Commission should have proposed that and said to the electorate: "Do you want this or not? Let us decide one way for all" but they did not. They ducked it. They produced a scheme starting with the principles which ended up without the Constables. It was option A. That is why it is called option A. That is where they arrived first surely but that was: "Oh, that was led by a Senator who recently stood and said I will keep the Constables with 42." As I said yesterday, I do not know how they arrived at this solution. I wish I could have been a fly on the wall. What were the arguments? They must have been very heated but what we have got is a compromise that does not work. We set out to produce the thoroughbred racehorse and we produce - sorry for the cliché - a great big camel. That is the reality. Deputy Pitman says: "I can still race the camel. Give me a saddle. I will fix the shape of the saddle." The reality is we are starting in the wrong place and we are trying to amend it. This is a minor improvement and it does not deal with the fundamental flaw in this proposition. I will be voting for this amendment because it does stick to the principles of the equal vote that is essential and is recognised internationally, the Venice Commission, recognising internationally that that is the way to go. It should be equal votes with equal weight. As soon as you stick the Constables back in that, that goes out the window so we are seeing the true colours of the chairman of this commission. When push comes to shove, and he says: "Yes, here are the principles of equal votes with equal weight but as soon as it comes to the

question of the Constables throw that out because that is more important.” This chairman was not independent. He had his conflict of interest. He committed himself to the Constables and that is what he has delivered and that is why this referendum is completely flawed and lots of people out there know it. We know it, you know it, Members, electors know it. The danger is that we will get nowhere with this because of the flaws.

1.1.4 Connétable L. Norman of St. Clement:

Despite my lack of commitment to this Assembly, I should like to make a short and modest contribution to this debate. What I wanted to say was that like the Deputy of St. Martin, I shall be voting against all of the amendments, not because some of them do not have a certain amount of merit, not this one, but some of them do have a certain amount of merit. If I had been so inclined, I might have brought an amendment myself because it has always been a huge disappointment to me, and I mean this sincerely and honestly, that the Clothier proposals were never put to the people in a plebiscite or referendum because the Clothier proposals have so much to commend them. It would resolve the issue of Constables who would no longer be in the States as of right but would retain their right to stand for election to the States in their Parishes. The Clothier proposals would ensure a true general election. It would ensure, as near as makes no difference, an equality of votes and representations. It would remove the lottery that is caused in elections when you have 5, 6 or 7 seat constituencies. Sure, it does not meet the criteria of the Venice Convention, something we only found out about in the last few months, but I say, so what? The Clothier proposals would work and would suit Jersey and perhaps one day we will come back to those and recognise the fact that that is the best solution for us. I turn to Deputy Pitman’s speech and he used St. Mary as an example and said that St. Mary would be electing I think he said 5 Deputies to the States. Not a chance. It is possible; it is possible that that could happen but the reality is if the Constables remain under proposal B, they will elect one because St. Mary is amalgamated with St. Lawrence, St. John and St. Ouen so by sheer weight of numbers, the people who will be electing St. Mary’s Deputies will be living in St. John, St. Ouen and St. Lawrence. By sheer weight of numbers, they will decide who represents St. Mary. The Deputy, and indeed Deputy Southern, spoke about the Troy Rule and how important it is that that is maintained and yet in other debates and in question times and at other opportunities, both of those Deputies will complain about the lack of inclusivity in this Assembly, that not enough people are involved in the government of this Island. If the Troy Rule continues to exist as it does at the moment, then inevitably more than half of the Members of the States are excluded from being in government because the rule says you can only have half less 10 per cent effectively in government so you have got a built-in lack of inclusivity. I could go on for ages but because of my lack of commitment to this Assembly, I will now stop. I will now stop and confirm that I will be voting against this particular amendment because it has no merit and against the others because we made the promise to the public that we would put the recommendations of the commission to a referendum and I think we must maintain that commitment. **[Approbation]**

1.1.5 Deputy G.C.L. Baudains of St. Clement:

I will forgive my Constable for his lack of commitment to this Assembly. I must admit I had not noticed and I was a little concerned about the previous speaker. Deputy Southern’s blood pressure, I thought, was getting slightly out of control and I have to say while I was slightly hard of hearing when he started, I am now almost completely deaf. **[Laughter]** I would also advise Members that if this debate runs into Thursday afternoon, which it looks like it might do, I am afraid I shall not be here as I have a longstanding appointment related to States work which I really cannot defer anymore. I also intended, as one or 2 other Members said yesterday, to speak only once so I thought this would probably be an appropriate moment as this amendment deals with both the number of 42 and the super constituencies. Yesterday the commission was critical, as other Members were, to people producing amendments to it and thought that it should not be interfered

with. But it seems to me that what these Members do not understand is that these proposals are basically seriously flawed and it seems to me they are producing basically 2 options and most of the amendments follow in that vein and that is reducing the numbers to 42 or keep numbers at present. Of course, the question of Constables was inconvenient so the first question was split into 2. I have an answer to that. Just let us have half the Constables, maybe on a rota basis, I am not sure. Seriously, the number 42 to me is a serious issue because despite the commission's view that they have done a lot of work in this area, I do not think that they have done sufficient because they, in my view, have failed to justify the number 42. As a previous Member of the Privileges and Procedures Committee, I spent 3 years working on this subject and I do know a little bit about it. We carried out more consultations than you could shake a stick at. We even held a Mori Poll and yet we did not succeed in getting change. So why should the commission expect to succeed with only a fraction of the work? I ask, how was 42 arrived at because I really do not understand. Where was the analysis to arrive at that number? As far as I can see, the commission started out with 42 and then attempted to justify it and failed. I believe the reason for that is that the commission started at the wrong end. If somebody asked me how many staff I thought perhaps would be appropriate for B&Q or Normans or the J.E.C. (Jersey Electric Company) or any other company, I would have no idea. I do not work there. Why, then, should a member of the public know the most appropriate number of States Members for efficient government? The truth is they do not and what the commission has failed to understand and, I believe, some of the amendments, is why the public or at least some of them have said they want a reduction. It is not because they know exactly how many are needed for efficient government. It is because they do not like politicians so they want less of them. What I found when speaking to members of the public holding this view is that when I have explained the ramifications of a reduction to 42, they have, without exception, changed their view because what had escaped them is that when we changed from the committee system of government to the present Ministerial one, we needed more Members not less. The reason for that is now less than half of States Members are running the Island. The others are watching over them to see what is going on. They are the checks and balances. This is what happens when you try to fit Ministerial government into a non-political party jurisdiction. I believe that in this regard, the commission's work is premature. What we should have been doing is first of all deciding what the structure should be. That would dictate the most suitable number of Members required to do the work efficiently and to do it the other way round, especially without defining the ramifications, is doomed to failure. That is why we have so many amendments before us. The Commission did make a reference to having to do away with the Troy Rule and I am concerned about that as I explained to members of the public who thought 42 was perhaps an appropriate number.

[10:30]

Where would you make the reduction? You cannot really reduce the number of Ministers. In fact, there is an argument that perhaps we need one or 2 more. It was only yesterday that we approved the possible creation of another Ministry. Assistant Ministers are, in the main, already fully occupied so where would the reduction come from? There is only one place left and that is Scrutiny where all our checks and balances are. I sincerely believe that those members of the public currently asking for a reduction in the number of Members would be the first to complain when they found the outcome was a *de facto* dictatorship, there was no control and checks and balances. The only way a reduction to 42 would work democratically would be by returning to committee government where all Members are in the Executive. I would have no objection to that. In fact, having been a States Member in both committee and Ministerial government, I believe the committee system was more efficient and made better decisions. However, analysis shows I am in the minority and that the chances of a return to the committee system are remote; 42 will not work without emasculating Scrutiny as I said a moment ago and we cannot afford to do that. Secondly,

the issue of super constituencies, which is carried forward in this amendment. When I was a member of P.P.C., we brought that very option to this Assembly and it was roundly rejected and the reason for that is because it is impractical. To take an example, the proposed St. Clement, Grouville and St. Martin constituency. How would the parishioners of St. Clement feel - and I believe my Constable touched on this - if all their representatives were from Grouville or from St. Martin or any similar permutation? Would it marginalise Parishes because at the present time, most parishioners enjoy the attachment they feel to their Parish? Most seriously of all, what would it mean at election time? At present, it takes me about 3 weeks to canvass St. Clement. Our Parish is not divided into Districts. Neither is Grouville or St. Martin so that if I was standing for election in a super constituency, the idea of canvassing those 3 Parishes is a complete non-starter. I would not even think of it. So how would electors get to know the candidates? Certainly not by meeting them at the door. How about at the hustings? Well, again, at present, St. Clement has 2 Deputies and has normally 4 or 5 candidates so with 4 or 5 candidates on the stage, the electors have a reasonable chance of questioning them and finding out a fair amount about them, they have a reasonable chance. But if you have got 6 or 7 positions to fill, you are going to have 12, 15, 18 candidates so what you end up with is, as we have seen on senatorial elections, with half a minute to ask a candidate and by the time the question gets to candidate 8 he says: "Oh, well, the answer that 2 gave did not go down too badly. I will give that as well."

The Deputy Bailiff:

Deputy, I am sorry to interrupt you but both under the main proposition and under the amendment, there are the super constituencies and therefore a speech on whether there should or should not be super constituencies is not a speech which is related to this amendment. It is quite important not to debate the same matter 6 times or 5 times so if you could contain your speech please to the amendment, that would be helpful.

Deputy G.C.L. Baudains:

I appreciate your advice, Sir, but as I did say at the beginning, I am not going to make the same speech 6 times. I intend only speaking the once.

The Deputy Bailiff:

Unfortunately you cannot make that commitment for your colleagues.

Deputy G.C.L. Baudains:

If I were to support this amendment, I would be supporting super constituencies. I am trying to explain why I would not but I am nearing the end of that particular part because what I was going to say is that the senatorial election is different from a super constituency election inasmuch that usually, certainly in the past, the candidates were usually known to the electorate beforehand because they were either sitting Senators or Deputies seeking to step up. So in conclusion, I am unable to support a reduction to 42, certainly at least until an analysis of the ramifications has been made. I am unable to support the creation of super constituencies for the reasons that I have just given. As Members will therefore realise, I am struggling to find any benefit in either the main proposition or most of the amendments. I am beginning to think the answer is to glue down my contre button and attend to the outstanding work in my office.

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

I will try to avoid the super constituencies and stick to the amendment but it is very hard when we are facing an amendment that is trying to put St. Helier into an even position where I have always argued it is us and them, one Parish against the other 11, normally when there is building, when is this going to go on, when Crabbé could not do the green waste any more overnight, when in St. Helier and now we have got to work ... we are where we are but, you know, St. Helier does have

good representation. No, it does not. I really get confused when I listen to Senator Bailhache and he has been in this House and he has been in the Chair and he is back in this House and he does not seem to understand how people vote. In the executive summary on page 6, it was very, very grey before they went back out to consultation. In fact, it was said at the Town Hall this absolutely puts St. Helier out there on a limb against teaming up the country Parishes, 4, 3, 3 and 2 and 2 and there is St. Helier. The commission and the people on the commission said: "Oh, no, no, you do not understand. Those 4 Constables will not be working together." Well I am very sorry. They have now got it into ... now we have, you know, the single Deputies have said to me: "What Parish Assembly do I attend? You listen to Senator Bailhache and you read this and it says Deputies might live in the same Parish and they might want to attend a representative Parish Assembly but the Constable or other members of the municipality of a Parish or a Parish volunteer shall deal with Parish problems." When someone rings me up, what is the Parish problem in St. Helier or what is the Parish ... and in the big Parishes, I do not know, could you have voted ... "Well, I voted for you" but everyone is going to vote for me, it does not matter where they live. I mean, yes, we all know that because you know it does not matter. It is not statistically possible but they did so you never argue. You just get on and do and if you need the Constable to help you, you do. So not content with that, if you really do not think that the 4 Constables ... you will have in St. Clement you will have your 5 Deputies working with 3 Constables in St. Clement, Grouville and St. Martin and in the back now they are even going to change the Electoral Law rights of Deputies to speak at Parish Assemblies only if you want to. You can vote for Honoraries and the Constables will have to work together to make sure this is rotated so you do not have to be in 3 places at once or 4 in some Parishes so of course you are not going to get the 4 Constables in that District, the 3 and the 2 working together. Of course you are. So St. Helier would definitely be under-represented. Saying that, and I can see where the Senator is coming from when he says: "If you are a thinking man and you do not want any more States Members, you are going to look at the 2 options. You are going to say if you keep the Constables, you are going to need to have 46 States Members but get rid of the Constables and you only need 42" and out there where that is disliked, you could call us chickens and they would say: "Right, there is only going to be 20 of them and I am going to have 20 chickens to represent us so that would be very good." I am probably finished speaking on this absolute shambles. I am not supporting ... it does not improve it. It does not make the question going to the public fair. It does not help St. Helier really. It is all a fudge because we had the answer yesterday to say yes or no. I pick up on what Deputy Southern said. I mean I think he absolutely over-egged it about the Constables are not committed to here. We have heard it too many times. The Constables, and rightly so, have their Parish first. Last time we lost a Constable who happened to be a Minister. Was it because he happened to be a Minister or was he not a good Constable? I do not know. We have had people resign because the workload of the Parish is more. Can we have 42 Members and 10 Ministers, 12 of them being ... I mean 12 Constables who then draw back and say: "I can only do a little bit of Scrutiny. I cannot be a Chair, I cannot be a Minister, and I cannot be an Assistant Minister." You have got to add all this up so I really cannot ... as a representative of St. Helier, this is not right. We had one chance yesterday and looking at it, I think Deputy Southern did miss the trick. He should have brought the question B but even then would the Constables have gone with it? Did anyone vote with it? Is it too much to ask ... and it should be. We have got to clear up straightaway do the public want the Constables in the States, yes or no. Let them decide and this is what they should have done. This is a fudge. We will get an answer. My worst dread is we will keep the status quo come 2014 when we have got to elect 8 Senators. We will get chickens coming in at 6, 7 and 8.

1.1.7 Senator F. du H. Le Gresley:

That is quite well timed really as I am a Senator. I have a lot of passion for the parishioners of St. Helier and why have I got that? Because in the last 2 senatorial elections they placed me at the top

of the poll. That may surprise some people. They did not know that but a third of the population live in St. Helier and they chose me as their Senator to top the poll. I am delighted with that and therefore I am very minded to support this amendment from Deputy Pitman and he has made a good case but I do not think his heart is in it. I think Deputy Tadier has hit the nail on the head here. We had the main debate yesterday, let us be honest. We had the debate yesterday. It was a very close call. I call it a close call because there were 19 votes in favour. Deputy Le Fondré did not vote. He did not abstain but he did not vote and we know why he did not vote, because he said he would have gone with that except it left 42 Members and he thought there should be an odd number, which is a fair comment, and I probably agree with him, that 42 is not the right number. So he did not vote but his heart was with that amendment. So we would have had 20 votes in favour, 20 votes against who were not Constables and 10 Constables who voted against. I have no surprises there. We had a tied vote yesterday.

Deputy M. Tadier:

Will the Senator give way? I think there were 11 Constables who voted in favour, one was away.

Senator F. du H. Le Gresley:

That is not what I wrote down from the Greffier when he read out scores. So we had a tied vote yesterday and we are exactly where the public are. The public are divided between do we keep Constables in or do we have an Assembly with all Deputies which, of course, the Constables could stand for election as a Deputy if they so desired. So that is where we are. When it comes to having 46 States Members, the report from the commission and their expert, Dr. Renwick, hypothesised on page 18 that: "The membership of the lower chamber of a country's national Legislature tends to be roughly equal to the cube root of its population" is accepted. In Jersey's case, this would imply a Legislature of 46 Members so, in a sense, Deputy Pitman has got it right; 46 Members is correct based on our population but I think we are at a situation where none of the amendments left now are really worth spending any time on. We have to accept that we lost the vote yesterday. Senator Bailhache, as chairman of the commission, has stated publicly, and it will be on Hansard, that option B creates greater voter inequity than we have at the moment and we cannot have voter equity if the Constables remain in the States. He has said that, those are his words. It will be on Hansard and that will be recorded by the public when they come to look at option B because the chairman of the commission says it creates voter inequity greater than we currently have in this Assembly. So really anybody who thinks that A and B are going to be the 2 prime things that they campaign about to the public, we should always remember that the chairman, and I will repeat it again, the chairman of the Electoral Commission said that option B created greater voter inequity and therefore I suggest to Members that all these other amendments are a complete waste of time. We accept now we lost the vote yesterday. We accept the Electoral Commission's recommendations and let us see what the public decides and, as Senator Bailhache said, it is for the people to decide, not this Assembly.

[10:45]

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

I was listening with interest to the comments made by one of the St. Helier Deputies about the work done by Connétables and Members of this Chamber. I have given many years in the Benches across the other side of the Chamber. I am doing as much work now as I did then, maybe in a different format, but I am still doing as much for the Island as I have ever done and for the Parish as I have ever done. That said, what really concerns me, something like in excess of 25 per cent of the elected Members of the Parish of St. Helier do not stand on standing panels or Ministries and therefore are not doing the work that others are having to do. That is of concern. It is all well and good that 25 per cent or thereabouts of the elected Members of one Parish are not doing the work

but other people have to carry them. I was minded, and I still am, of supporting Deputy Pitman because I think 46 is probably the right number and Senator Le Gresley is absolutely right. In the commission, in the expert's report, he did say 46 was the right number. That said, I am going to listen to the Deputy sum up and see how he pulls it all together but it would have been remiss of me not to defend the corner of this side of the House when I hear a Deputy who, to my knowledge, does not sit on any panel or Ministry criticising other people. He may do but he will, I am sure, come and tell me which one he sits on in due course but for many months he did not if he does now. So therefore it is important that everybody pulls their weight in the Chamber, whether they are Senators, Deputies or Connétables so that we are all doing something but when somebody gets up to criticise who I know for a long period of time if he may have taken something recently, did not sit on any panel and/or ministry.

The Deputy Bailiff:

Does any other Member wish to speak? If not, I call on Deputy Pitman to reply.

1.1.9 Deputy T.M. Pitman:

I am not going to take that long. There have been some good speeches and I think there have been a few instances, perhaps not surprisingly, where we have gone a bit off track. I am not going to go through what everybody said because I have listened with respect to what everyone said, whether I agreed with them or not, and nothing changes. The key issue of what this all comes down to is fairness and I would just ask Members who are considering voting against this, stop and think a minute. Really Senator Le Gresley touched on it. If you are saying that this still is not fair, remember I hold up my hands. It is still not fair. As someone said, I am only trying to make things better and this amendment does make things better. So if you vote against this amendment, you are going to just be supporting something even worse. Where is the logic in that? Where is the logic in that? Now it is a shame that some of the things got a bit personal and defensive and I understand that because we all like to think that we do our job. I point out that it is a bit unfair to Deputy Southern and perhaps he was a bit unfair on some of the Constables but Deputy Southern's record on Scrutiny speaks for itself, as does his constituent work and I can say I was one of only 11 who saw Scrutiny through. I can also say that I have got a lot bigger constituent base than just about all of the Constables and indeed I have got cases in every Parish, even little St. Mary, that I have taken on. I would just like to have a thought for my good friend the Constable of St. Clement, but I think he misunderstood the 2 issues of the Troy Rule and inclusive government. All that people say when they are complaining about lack of inclusivity is that people are excluded because of who they are, not because they do not have ability and we all know that is the reality in this Assembly. There are 5 or 6 of us that will never get asked to be on Ministries, not because we are not intelligent, not because we have not got things to offer or work hard. That is not the same issue as talking about the Troy Rule. The Troy Rule is important, and that has been a key factor in what I have tried to do here, 46, because every strong democracy needs checks and balances. Now we have not got party politics here so that is why the Troy Rule is so important. You need that check and balance of people who are not on the Executive. I have gone slightly off track but I want to bring it back and quickly round up and say this just makes things better. Yes, Deputy Southern is quite right when he said about making a silk purse out of a sow's ear. I used that on my blog. I think he has been stealing my material, especially when he said about the bald truth. But it is a fact it is not perfect, and I have said that to Members. It is not perfect but it does concern me deeply that Members seem to be finding a big excuse not to vote for something on grounds that just do not stand up to analysis. This makes a very flawed option better. I am not claiming it is perfect. It makes things better, it makes things fairer, and I am not even going to go into some of the arguments trying to dismantle the figures I have got because they speak for themselves. The people of St. Helier are being disenfranchised and it will go to the Privy Council and these arguments will

carry on, and I do not think any of us here want that. I accept what Deputy Tadier says. I am putting something forward that makes keeping the Constables fairer and more palatable to voters. I will get criticised. I have been criticised by people who know me already but I have got to do that because I am still trying to make things fairer and I am succeeding in making things fairer. So please Members, if you are going to vote against it, just be willing to stand up and say the truth. You will have voted against something that made things better and you are going to be supporting something that makes things worse, worse than they are now, worse for a third of the population and with that, I will thank everyone who spoke. I hope people appreciate I have not taken hours to wind up, probably because I am back on next and please do try and see your way to voting for a fairer option B. It is not perfect, it is far from perfect, and it may be that it comes to the end and you still do not want to vote for the whole package but at least this is a small step in the right direction towards equality and parity and the people of St. Helier certainly deserve that and I would really be saddened and shocked if all the St. Helier Deputies did not support me. So with that I say thank you to Members and call for the appel.

The Deputy Bailiff:

The appel is called for. The vote is on the third amendment to the Draft Referendum Act as proposed by Deputy Trevor Pitman. I invite Members to return to their seats and ask the Greffier to open the voting.

POUR: 12	CONTRE: 33	ABSTAIN: 1
Senator A. Breckon	Senator P.F. Routier	Deputy T.A. Vallois (S)
Connétable of St. John	Senator P.F.C. Ozouf	
Deputy R.C. Duhamel (S)	Senator S.C. Ferguson	
Deputy R.G. Le Hérisssier (S)	Senator A.J.H. Maclean	
Deputy J.A. Martin (H)	Senator B.I. Le Marquand	
Deputy G.P. Southern (H)	Senator F.du H. Le Gresley	
Deputy J.A. Hilton (H)	Senator I.J. Gorst	
Deputy S. Pitman (H)	Senator L.J. Farnham	
Deputy T.M. Pitman (H)	Senator P.M. Bailhache	
Deputy M.R. Higgins (H)	Connétable of St. Helier	
Deputy A.K.F. Green (H)	Connétable of Trinity	
Deputy J.M. Maçon (S)	Connétable of Grouville	
	Connétable of St. Clement	
	Connétable of St. Peter	
	Connétable of St. Lawrence	
	Connétable of St. Mary	
	Connétable of St. Ouen	
	Connétable of St. Saviour	
	Deputy of St. Ouen	
	Deputy of Grouville	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy M. Tadier (B)	
	Deputy E.J. Noel (L)	
	Deputy G.C.L. Baudains (C)	
	Deputy of St. John	
	Deputy J.P.G. Baker (H)	
	Deputy J.H. Young (B)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Mary	
	Deputy R.G. Bryans (H)	

		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		

1.2 Draft Referendum (Reform of States Assembly) (Jersey) Act 201- (P.5/2013): fourth amendment (P.5/2013 Amd.(4))

The Deputy Bailiff:

The Assembly now moves to the fourth amendment lodged by the Deputy of St. Ouen and I ask the Greffier to read the amendment.

The Greffier of the States:

Page 19, Schedule. (1) In the Ballot Paper in the Schedule, for the words beginning “The Electoral Commission has put forward” and ending “6 large electoral Districts” substitute the words “Having considered the recommendations of the Electoral Commission, the States Assembly has put forward 2 ways of changing the system. Both reform options would reduce the number of States Members to 48 and introduce 6 large electoral Districts”. (2) In the Ballot Paper in the Schedule in reform option A (a) for the words “42 States Members” substitute the words “48 States Members”; (b) for the words “7 Deputies” substitute the words “8 Deputies”. (3) In the Ballot Paper in the Schedule in reform option B (a) for the words “42 States Members” substitute the words “48 States Members”; (b) for the words “30 Deputies” substitute the words “36 Deputies”; (c) for the words “5 Deputies” substitute the words “6 Deputies”.

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

I have just realised that there is a disadvantage to coming way down the list regarding the amendments to this particular proposition and I acknowledge that individuals have already raised matters regarding the number of States Members. However, I would like to briefly make some additional points regarding my proposed amendment. When the States agreed to establish an Electoral Commission, the terms of reference were also agreed by this Assembly. Paragraph 4 of the commission’s terms of reference states: “At the conclusion of its investigations, the Electoral Commission shall present a report with recommendations to the Privileges and Procedures Committee to enable that committee to present the commission’s proposals to the States for approval” and I repeat: “for approval prior to submission of the proposals to the electorate in a referendum under the Referendum (Jersey) Law 2002.” Therefore, this is our only opportunity for the States to approve the commission’s proposals prior to the submission of those proposals to the electorate. Since I entered the States, many attempts have been made to reform the composition of the States and although the public have been widely consulted and changes implemented, this is the first time the public will be asked to indicate their preferred option by way of a referendum and I for one am not prepared to second-guess the outcome. However, the choice, as we have already heard, is not going to be an easy one and many would argue that some matters cannot be answered by a simple yes or no. We will be asking the electorate to decide not only whether the Constables remain in the States but whether we should get rid of the Island-wide mandate, move to 6 electoral districts and reduce the number of States Members to 42. These questions are not new and the States have over the years spent many, many hours considering and debating these exact same issues. In fact, it is true to say that in the past, the States have on a number of occasions chosen not to support reforms similar to that proposed by the Electoral Commission and it will be interesting to see whether the electorate comes to that same conclusion. This is not to say that the reform option should not be put to the electorate.

[11:00]

However, we must be mindful of the changes already agreed and put into action by previous States Assemblies. Following periods of major consultation, the States have already decided that Constables should remain in the Assembly, to retain the Island-wide mandate, have one general election, move to a 4-year term and reduce the number of States Members from 53 to 49. Due to the complex nature of the changes proposed by the Electoral Commission and if the electorate are to make an informed choice, it is essential that robust and reliable evidence is available to support all of those proposals. My primary concern is the assumption made by the Electoral Commission that the number of States Members should be reduced to 42 and why this figure is included in both reform options. Let us not forget that although the terms of reference agreed by the Electoral Commission included the number of States Members, the States separately decided to ask the Privileges and Procedures Committee to review the machinery of government. This work is still to be completed and it is not clear whether a final report will be available before the referendum is held. It is therefore surprising that the Electoral Commission has come to the conclusion that 42 States Members would be able to perform all functions of Government and of Scrutiny more effectively and efficiently than a larger number. I ask: "Where is the evidence?" Why would we or the electorate want to support a proposal to reduce the number of States Members to 42 before everyone has had a chance to properly consider the impact that any potential changes may have on the present structure of Government? Yes, as the Electoral Commission clearly point out, 42 can conveniently be divided by 6 to give a round number. So can 48. However, this on its own should not be the deciding factor. Of more importance is whether the Executive should remain in the minority as advised by Clothier and others. This is a fundamental issue which cannot simply be brushed aside or left to be addressed at a later date as suggested by the Electoral Commission. Surely the public would be better served if these questions were fully answered before a proposal to reduce the number of States Members to 42 is taken. Finally, I think it is disingenuous for the Electoral Commission in their report to suggest that currently 12 Members of the States are not serving a useful purpose in the Government of this Island. I do not hold with this view and look forward to hearing not only from Members who may fit this category but also why some States Members, including indeed the chairman of the Electoral Commission, would believe this to be the case. I want deliverable reform options to be put to the electorate but without strong evidence to the contrary, it would be wrong to put forward proposals that could not be achieved or have a negative impact on the ability of this Assembly to restructure the current system of government. I ask Members to support this minor amendment.

The Deputy Bailiff:

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

1.2.2 Senator P.M. Bailhache:

The Deputy of St. Ouen suggests that there is a distinct lack of evidence for the figure 42 and he suggests by implication, I think, that the figure has been plucked out of the sky or taken from *The Hitchhiker's Guide to the Galaxy*. It was a figure that the Electoral Commission arrived at after long consideration of a number of different factors. First, the commission carried out research into the size of Parliaments and Legislatures throughout the Commonwealth and, in particular, looked at the size of Parliaments in small Commonwealth countries. The commission found that many countries had Legislatures that were smaller and in some cases significantly smaller than the States Assembly in Jersey. Secondly, the commission took account of the views expressed by the vast majority of members of the public in the submissions that were made, both orally and in writing, that there were too many Members of the States. We have treated that view with caution, as is made clear in the report, but nonetheless that was the clear and unambiguous opinion of, as I say, the vast majority of people who took the trouble to make submissions to the commission. Thirdly, while, as I have said, one must obviously pay respect to the feelings expressed by the public in their

submissions, the commission wanted to ensure that the processes of Government and of Scrutiny could operate with a lesser number. In paragraphs 43 to 45 of the final report, there is an analysis of the numbers necessary to perform the functions of Government and of Scrutiny under our current system. The Deputy suggested that the commission had said that 12 Members of the States were not serving useful functions. That is not what the commission said. What the commission said was that the relevant number of States Members required under the current machinery of government is therefore estimated to be 42 and the conclusion of the commission was that it was not sensible to have more Members of the States than were necessary for the legislative and critical functions of the Assembly. Fourthly, the commission took into account the conclusions at which the Clothier panel had arrived after again very long consideration and taking into account submissions from a wide range of people. The Clothier panel recommended that if the Assembly were to move to Ministerial government, which it has, the number of Members ought to be reduced to between 42 and 44. Fifthly, we in fact have only 39 Members engaged at present in the functions that we identified as making up the essential functions of Government and of Scrutiny and for all those reasons, and not because we plucked the figure out of the sky, the commission arrived at the conclusion that 42 was the appropriate number. The Deputy of St. Ouen made no submissions to the Electoral Commission. Even when the interim report had been published with the provisional conclusion that the number of Members should be reduced to 42, no approach was made by the Deputy to the commission to ask it to rethink or to reconsider on grounds that the Deputy has put before the States today. The Deputy will correct me if I am wrong but I think that his suggestion of 42 Members of the States comes, so far as the Electoral Commission is concerned, entirely out of the blue. That is in my view a pity. The Electoral Commission wanted to hear all views before it arrived at its final conclusion. I do not think, to be fair, that it would have changed the provisional conclusions but it would have been more satisfactory to have been given the opportunity to think about the Deputy's views and concerns. If he had come to see us or expressed his concerns in writing, we would have been able to discuss with him the advice that we had from our expert adviser, Dr Renwick, at a very early stage, that there was a limit to the number of choices with which the average human brain can cope. We were advised that a figure of between 5 and 7 was the accepted limit. When the amendment of the Deputy was lodged, the Greffier, at my request, referred the amendment to Dr Renwick and his advice on the amendment is as follows: "The evidence we have on exactly how much choice voters can deal with is not fine-grained. The general view among political scientists has, however, been that Districts of around 5 to 7 Members are best in a system where voters choose among individual candidates. Electing 8 Members would not be impossible but it increases the likelihood that some voters would cast votes not reflecting their actual preferences." If this amendment is successful, there will furthermore be a disconnect between the summary of recommendations sent out to every household in the Island and the referendum question and if I may refer to the summary that was sent out to every household, the document contains the heading: "Four recommendations. 1. The number of elected Members of the States Assembly should be reduced to 42" but the ballot paper will contain the figure 48. This comes back to the point eloquently made by the Deputy of St. Martin at an early stage of the debate on Deputy Southern's amendment that there ought to be a simple continuous flow. The States set up the Electoral Commission. The Electoral Commission makes its recommendations. The recommendations are put to the public and it is up to the public to decide whether or not to accept them. I ask Members to reject the amendment.

The Deputy of St. Ouen:

Sir, could I ask your ruling on the statement that the Senator has just made because it is contrary, I believe, to the terms of reference that were agreed by the States and the process which was required to be followed to arrive at the agreeing Referendum Act.

The Deputy Bailiff:

Sorry, Deputy, you have to say what statement you are referring to because there have been a number of statements.

The Deputy of St. Ouen:

The last statement that the Senator made regarding the fact that it was the Electoral Commission's responsibility to bring the proposals to the electorate and not for this States Assembly to approve them.

The Deputy Bailiff:

It is clearly a matter for the Assembly to approve the Electoral Commission's proposals as put through the Privileges and Procedures Committee or not as the Assembly thinks fit. I did not hear the Senator suggest anything contrary to that.

1.2.3 Senator S.C. Ferguson:

Senator Bailhache has expanded at length on the question of evidence and, inter alia, he said that the commission looked at smaller countries. Indeed, I think there was a trip to Barbados in all that, was there not?

[11:15]

Do the commission really consider the work done by Scrutiny or did they consider the work done by Scrutiny? I do not think so. I did not see any of the commission present at any Scrutiny hearings or meetings. It is not possible to look at the number required without proper consideration of the work being performed. Now the Senator is well aware that there were queries as to the numbers. I asked one half of the commission at the St. Brelade meeting and the other half of the commission at the St. Peter meeting and then I sent an email directly to the Senator as chairman of the Electoral Commission asking what was the basis of the number 42.

The Deputy Bailiff:

Senator, excuse me. Could I ask Members to keep their whispering down to a whisper? It is becoming a babble which is interfering with my listening to the Senator and I am sure it is likely to upset her as well.

Senator S.C. Ferguson:

I asked, as I say, where the number 42 came from. Is the number congruent with the number of jobs we are required to do as States Members? Clothier did say 42 to 44 but he was working on 3 or 4 Scrutiny Panels and a P.A.C. (Public Accounts Committee). His division was 15 to 20 Members of the Executive and the majority not in the Executive. Clothier himself said that the number of Members should be sufficient to do the jobs required. If we have 42, then on present counting, there are 22 Ministers and Assistant Ministers and 20 in Scrutiny and, as I say, Clothier required the Executive to be in the minority because we do not have any overt political parties. If there are 12 Connétables still in the States, then there will be problems having Members multitasking to do Scrutiny. Most of the Connétables do pull their weight and that can be a pretty substantial weight too with respect to the Connétables. **[Laughter]** They were a little slow on that one, Sir. But I must emphasise that I do appreciate the Parish link and the good sense that they bring to the States. So obviously the underlying intention of the commission is to repeal the Troy Rule which will give the Executive a permanent majority which, in view of our lack of political parties, could be extremely dangerous. I am sure it could not possibly happen with the current Assembly but there is a real risk of a self-perpetuating oligopoly. The problem with 48 as an even number is understood but it does equalise the number of additional representatives across the proposed 6 large Parishes. However, I think that the whole ethos of 42 ignores the needs of Scrutiny. I can understand this to some degree as the commission have not looked carefully at the

work done by Scrutiny. We get back to the point again, the first question is what is the work that the Assembly is intended to do? Once you have sorted that out, then you can start looking at numbers. I have no evidence that that work has been done. Clothier came up with the 42 but he was basing it on 7 Ministries and 3 or 4 Scrutiny Panels and a P.A.C. I am inclined to say that no one in this Assembly should be in the Executive without spending time in Scrutiny because it is a great deal harder work than being in the Executive. It is a bit like it is always good if you have political parties for the Executive to spend some time in opposition. For these various reasons, I would support this amendment. There has been no evidence that 42 Members is sufficient to provide for the work required and sadly insufficient attention has been paid to the requirements of Scrutiny.

1.2.4 Deputy G.P. Southern:

The last chance, I think, possibly to cobble together something which might be workable. In my mind, there is no doubt that the 42 is an unworkable number, given the load and particularly the task that Scrutiny has to perform at present. The proposer of the main motion, the Senator, was quick to jump on the lack of evidence claimed by the proposer for the number 42 and he talks about we did plenty of research, we looked elsewhere and we found that there were many places where there were fewer members per head of population than our own. Of course that ignores the cube root of population calculation which is the rough and ready average which turns out to be 46 not 42, substantially below the average. It also ignores the fact that almost universally, everywhere else in the world has got a party political system where the party does a lot of work independently of what goes on in the Chamber and that things get done because of the party affiliation and alternative policies get drafted, *et cetera*, a tremendous amount of work that everybody else relies on, on the part of the political system. We do not have that so that comparison saying everybody else is different, they are different, they are a party political system, so that comparison does not work, I do not think. There is not a justification. He then said that they treated the numbers with caution and I would argue with that. The Clothier Report itself, when it was talking about 7 to 9 Ministers, 7 Ministers in fact, 7 Ministerial positions, came out with a figure 42 to 44, a little bit of flexibility. The average was he said the cube root rule says 46 so rather than treat this with caution, 48, 46, 42, they have gone to the extreme. It is not a cautious estimate. It is the very bare minimum the commission thinks we can still function on. He then says that we have done this research and it is summed up in parts 43 to 45 in their report. Just take a look at some of the comments here. It says: "The Clothier panel concluded in 2000 that the Assembly should be between 42 and 44." It then goes on to say: "The Council of Ministers comprising the Chief Minister and 9 Ministers, 12 positions of Assistant Minister although under the current proposals this is reduced to 11 from 2014 when a reduction in membership to 49 takes place. One chairman and a variable number of members of the Public Accounts Committee. Five Scrutiny Panels each comprising of a chairman and up to 4 other members." Members are allowed to serve on up to 2 panels and indeed, as many people will discover or have discovered, serving on 2 panels is an onerous task indeed and many abandon it after valiant attempts to fit more than 24 hours into the average day. Then they talk about the Privileges and Procedures Committee comprising a chairman and 6 other members, it says: "All of whom can serve in some other capacities although the chairman may want to be chairman of P.P.C. only" so a doubling up recognised there. Members also serve on the Planning Applications Panel and I know certainly, not from experience but from talking to people, that that can be a very heavy onerous load indeed. The States Employment Board, so need some people to double up there. Jersey Legislation Advisory Panel, Jersey Overseas Aid Commission but membership of these does not prevent a Member serving in another capacity. It simply loads them up with one other task while they are doing other work. Then goes on to say that in addition, the Comité des Connétables and the Chairmen's Committee are bodies that bring together respectively the 12 Constables have a workload and the P.A.C. and Scrutiny Panel Chairman in an *ex officio*

capacity and these are not therefore considered relevant for the assessment. So what we have got is not evidence. We have got the drawing together of a few strands which fit the number 42 and what we have got is table 3 says Ministers 10, Assistant Ministers 12, Public Accounts Committee allow 4 doubled up on to Scrutiny elsewhere. Scrutiny Panels allow 15 doubled up on to other Scrutiny Panels and elsewhere, chairman of the Privileges and Procedures Committee, only one despite the fact there are 6 other members 2 of whom must be non-Ministerial and what you have got there is a figure 42, which barely scrapes over the Troy Rule boundary. So what you have got there is a convenient piece of so-called research which plays with the numbers and says: "We do not count this, we do not count this, and you can double up there, and you can double up there, and you can double up there and look, the whole thing works and it is 42." It is not evidence. It is a case of producing it based on doubling up that does not count and that does not count. Then, as the Deputy of St. Ouen noticed, an outrageous statement: "We could not possibly change our minds at this point because the commission has already sent out a leaflet saying there will be 42 Members and this is going to confuse the electorate." Hang on, hang on, where are the terms of reference? "At the conclusion of its evidence, the Electoral Commission shall present a report with recommendations to the Privileges and Procedures Committee to enable the Committee to present the commission's proposals to the States for approval." This body for approval, not to send out its conclusions to everybody, every elector on the Island, before bringing it to the House but terms of reference to bring it back, to present it to P.P.C., to bring it back for approval to this House. So to argue we could not possibly change our minds at this stage is to pre-empt the value of this House. That, whatever else we think, should not be allowed to happen. Yet again an erosion of the control that this House has over what we do in the name of governing Jersey. So an absolute no-no and certainly not a valid argument to say: "We could not possibly change our minds at this stage." That is what we are here to decide. Is 42 the right number or 48? So I think 42 is unworkable and I have had extensive experience of Scrutiny and the workload that that causes - I am sitting on 2 and when I used to, attempting 3 Scrutiny Panels from time to time - and the workload in general you cannot make a number 42 and then say: "But those do not count and those positions do not count and people do this in their own time." There is no such thing as your own time when you are a States Member. So 42 is not justified and 48 may well be workable. I do not believe 42 is. We should support this proposition.

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

Very briefly, I would just like to add to the opening speech of the Deputy of St. Ouen in that he talked about the different aspects that people will have to consider when the referendum goes out about the role of Senators and Constables, one which has slipped under the radar and which I just want to emphasise is how we will not have Deputies anymore. This might confuse people. You will have the title of a Deputy but what a Deputy is now and what a Deputy will be under the super constituency system is a different creature.

[11:30]

It is a hybrid between a Senator and a Deputy. It is not as a Deputy is now and that is something which has slipped under the radar, I believe, because it is using the same title but I just want to point that out because it will be a different creature even though it will have the same name. I think that is important to consider as well. I just want to thank Senator Ferguson for her speech because she made her points very well about what was considered under the Clothier system and the number of Members that go along with that but there is just one point I want to add, Senator Bailhache, which was that Clothier said that if you take this package, you take everything all at once because that is how the system works. If you just take these pieces and do not take the other pieces, it is not going to work properly. Again when you are arriving at the numbers and you are looking at these things, you have to look at the whole package in its entirety which is 42 or 44

Members of which you did not have Constables so you did not have that division of commitment, which again you have to look at it all as one big package that fits together. So this is very important when you are looking at the numbers. When Senator Bailhache spoke about there are 39 Members sitting in different positions at the moment and we could have up to 42, you have then got the issue of just because someone comes into the States does not mean that they should necessarily get a seat somewhere, they should have a title somewhere, and I would like to think that there has to be some sort of merit in that. Is there an advantage to having a pool of people who do not necessarily have a title when you are looking at the mechanisms of votes of no confidence, when you need to have a change somewhere? Do you need to have another pool of people that you can bring in rather than having everyone who is elected because you have got 42 seats, you need 42 positions to fill, and there you go? I think there is merit in having a larger pool of people so that when the practicalities of the system start happening, there is that ability to be able to change people, and that is why again I find it very difficult to accept the number of 42. Also Deputy Southern did make the point that when you are looking at other jurisdictions, again not to be comparing apples and pears. If you have got an official party political system operating in the different jurisdiction, then you do have the machinery of that party or opposing parties of doing also a lot of the work, a lot of the policy development which we have to do and then that is why I do not believe you can compare our system to these other systems because they would be doing different functions and again, also in other jurisdictions, you have got the complication that you have got layers of government which we do not necessarily have here. So, for example, there is often the argument which is made by the public, why does Jersey have so many States Members, when if you take an equivalent position in the U.K. you have only got one M.P. (Member of Parliament)? Of course the answer is yes, you have only got one M.P. but you have got councillors, you have got different layers of administration going on within that jurisdiction and in Jersey again we are a hybrid system where that is all wrapped up into what States Members do, whether that be the kind of mayoral role that the Connétables fulfil which would be different in France all these different tasks are done by the councillors or the mayors such as the Mayor of London in those jurisdictions. So again it is all about looking at how these jurisdictions compare with each other and when you are looking at the numbers you cannot do that comparison, and I think that Senator Bailhache did acknowledge that but again I just want to emphasise those points and explain why I am struggling to be able to support the number of 42 in the lack of evidence which has been produced and with all the other mitigating factors that we have already discussed. So I am leaning towards supporting the Deputy of St. Ouen.

1.2.6 Senator P.F.C. Ozouf:

Like the Deputy of St. Martin, I am going to be voting against all the amendments and I am going to keep my remarks throughout the amendments limited but I do rise to speak on this amendment partly because I think something needs to be said about the financial considerations of it. I will not rise to the bait laid on my side by Senator Ferguson when she says that she thinks that non-Executive Members work harder than Executive Members because I just do not think that that was ... the Senator did say that and Hansard will say that, it will repeat that. I will want, however, to challenge apparently the new position that the Senator has in relation to cost savings. I am confident about Jersey's future. However, I am absolutely clear that the public sector has to become more efficient. We need to do more with less or at least the same resources and I believe the public strongly supports the drives for efficiency that we are putting forward across the public sector to deliver more. We need to become more productive. Last night, I listened to the closing remarks in the Isle of Man Parliament budget debate. They have a Parliament of 24 Members. Is that a system that does not work? Are we really saying that we cannot run a system of parliamentary democracy with 42? I have heard Senator Ferguson on many occasions lambaste spending and other financial considerations. I hear her regularly say that we need to cut our coat

according to our cloth. I believe that we can run a system of proper parliamentary democracy with Ministers and Assistant Ministers with 42 that is going to be delivered at a lower cost. We have some difficult decisions in the years ahead in terms of dealing with efficiency and the economy and I think this Assembly should send out the message that we are going to work within a constrained set of resources. I believe that 42 Members of this Assembly can deliver an appropriate check and balance with Executive and non-Executive and I am not going to be supporting the Deputy of St. Ouen, who has also said over the years an awful lot about the cost saving and efficiencies. Do we really have the evidence that we need to change the Electoral Commission's recommendations that we cannot run a system on 42 Members?

1.2.7 Deputy T.M. Pitman:

Just a few points. I was minded not to support the Deputy of St. Ouen but even if that had been the case, I think I have changed my mind to support him. He certainly should not be criticised because again, like the rest, like Deputy Southern, like myself, like Senator Farnham, later on if we get that far - which I hope we do not because I have got another amendment - we are just trying to make things better of what has rightly been called an absolute shambles. Now, I am going to save most of those comments for if we do get to the main debate because it is an absolute shambles and when we are talking about the public, if Members had taken the trouble to go up to the public sector rally last night which only 5 of us did, 5 people out of 51, this shows how much people really care in here about the public and it was said again and again last night, and indeed the Chief Minister was quoted by a member of the public who said: "The Senator said there was no point in going" and that is the attitude. That is the attitude I believe most people feel informs this whole referendum and the way it was hijacked. It is basically about retaining power for a certain group. It is just the number is pretty much of a red herring. Nobody wants to have 10, 20, 30 more Members than we need. Is it not funny how we have sailed along for all the decades that we have with 53 Members, now 51? Suddenly we have got too many. Is that true? I am happy to stand on my record on something that is not taken into consideration with the commission's recommendations that the Deputy of St. Ouen, like others, is trying to amend. People just have not got any understanding of the work of an urban Deputy. They have got no idea. In fact, I doubt some of them could do the work to be quite honest. Time just is not your own, as Deputy Southern said, and okay, maybe I am flawed in my approach because I take on cases all over the Island so, in that respect, I play into the hands of people who say Senators are a thing of the past because I may as well be one. I take on cases everywhere, probably like a lot of others. I have got a social work/youth work/education background. I could do with being a lawyer. I could do with being an advocate. I could be doing with a half a dozen skills that I would never claim to be professionally but I still have to try to do them as other urban Deputies particularly. It is a different ballgame in the country Parish. Let us not kid ourselves. It is different and it has to be. It goes with the territory and that has not been considered by the Electoral Commission, so again the Deputy of St. Ouen is just trying to make things better; 48, it certainly does protect the Troy Rule does it not? Again this is going to be opposed because some people do not want the Troy Rule and if we do not have that and everyone has got some type of meaningless title, all it will mean is there is this perpetuating cycle of ... well, we might as well call ourselves the politburo or something similar. If we progress to see a Chief Minister with the sole power to hire and fire, we will just have a legal dictatorship. That is the reality. That is all it will be. So these are the issues that have got to be put across when we campaign. I am going to support Deputy Reed. I do not think he appreciates that 48 with option B would make it even worse in times of unfairness, perhaps he does appreciate that option A would be fairer, but ultimately numbers are not the be all and end all and to hear the Minister for Treasury and Resources try to link this in to public sector pay I think is really to stretch one's credibility, one's belief beyond all possible comprehension. It is just ludicrous. People just want the Island run the best they can, maybe at 48 Members, there is certainly more argument than that in 42 as 42

does leave us very much ... I would say on that line it might not function. So I think the Deputy of St. Ouen would say quite openly that this is not perfect. It is not perfect. He is again, like the 2 previous amendments, trying to make that silk purse out of a sow's ear so I think he deserves not condemnation but support and although it might not be perfect but it is better than the absolute mess that has been put before us, I am going to support him.

1.2.8 Senator A. Breckon:

Regarding the number of Members, I think if you ask the public: "Would you like less politicians?" the answer would be yes and they would probably see that as damage limitation. Then if you ask them: "Can we pick them?" well the answer to that is yes and no. Some of them you can and some of them you cannot. The reason I say that is other Members have mentioned Clothier but what they have failed to mention is Clothier put in some checks and balances, talked about a Public Sector Ombudsman, which we do not have, making it easy if people have a dispute. Many of us spend lots of time with individuals on individual cases querying decisions and that can in itself be very time-consuming. Clothier also mentioned freedom of information. We have had umpteen questions in this House because, as Members of this House, we cannot get access to information. One of the things that was envisaged, and I have seen it recently, it happened in Westminster in the House of Commons when the Environment Secretary, when there was all this thing about the horsemeat in the food, he did not make a statement to the media, he made a statement to the House of Commons and was questioned on it and we still do not do that. Ministers, if we look at how many statements are made, not many are made and the check and balance is that we have 10 minutes to ask questions on that and we can extend that and we have done that in the past if it is not satisfactory. We do not do that so where are the checks and balances? Now, individual Members, and some regularly do, have a number of questions because they cannot get access to the information they want and even that the process has a check in that the question must be vetted but the answer is not and I have seen a question that was asked a number of times and still has not been answered. So the question, as I say, is where are the checks and balances, and more Members, in my opinion, would give checks and balances. If we look at Scrutiny, people mention well, they have sort of shooed that away but I know because I did it for a while, I was chairman of the Health, Housing and Social Security Panel and even ... I know because I am doing some work with the current panel with a sub-panel, it is a vast area to look at and we have a number of officers and a small budget to look at. If you look at the area of Health, it is very, very difficult to get down into the detail because it is just not resourced to do it.

[11:45]

It is not and that is a fact. The other thing is that Clothier did not say that we would have unelected Assistant Ministers so you know there is a system of support but that has happened and I worked with Deputy Vallois and formerly Senator Le Sueur. We did a lot of work on possible reform and the idea was to have greater inclusivity so Members could have various responsibilities under the system we have got because nobody has said and nobody has asked the public: "Do you think Ministerial government as it is now is right for Jersey and it is working and it has got checks and balances?" Ask the public that and see what they say. The reason I say that is when we had some of these earlier debates about setting up this, what we have done is, the Chief Minister described it as one word, "cherry-picking". We did that with Clothier and this is where we are. So what is the ideal number and that has not been proven and I understand that a working group is still looking at this, what that might be, and how they see that under the machinery of government. There are reports, I have got one that goes back to 1987 that was done by a consultancy firm about the machinery of government and again it was saying things about property, about other things that we do not do very well and some of these things are as relevant today as they were then. The other thing is Members' workload. What we have done recently is we have set up a number of boards

whereas in the past with Tourism or Harbours and Airports, Members might have been involved and many still are with things like school governors in the community and that is good and healthy. That is some of the areas where we should be. Now, if there are less of us, then people cannot be involved and I think that some Ministers have got some very, very big portfolios. I mentioned Health and Social Services but we cannot expect the Minister to be everywhere and know everything. It just cannot happen and even with Assistant Ministers, it is still difficult. I think some of this could be made up in a different way so that some Members of this House have some responsibility and I am looking at Deputy Le Hérissier now. I just got an email today saying he is responsible for sport. Now, you would not think it [Laughter] but that is where we are and he is going to tell us all about it in the next couple of weeks and he has done that already. The reason I say that is it is important to the many people who are out there in the community doing things that they think that we have some interest and involvement in what they are doing and this is exactly the sort of thing that we used to do. Now through the Constables, we have kept contact in many areas in the Parishes, with the schools and the community groups. Without that politically we had lost some of that and if we go down in numbers, I feel that that will happen again because that is the reason I will support this amendment for now unless somebody can tell me that 42 is the right number and exactly why because I do worry that if there is less of us then there is less possibility of checks and balances. When we get that right, okay, if it needs to come down ... and I voted for the reduction in Senators. People say to me: “Why did you do that?” and I did that because people have said out there: “We do not need so many of you.” Okay, where are you going to cut it? You cannot have 8 Constables or maybe you can or 4 Constables or less Deputies. We have seen there is some inequity in some of the Parishes with St. Peter, Grouville and St. Lawrence where there is the same thing, where there is 2 Deputies in one and one in the other 2. So some of these things could be still looked at and we have had discussions and debates for many, many years and I can understand why the Electoral Commission have put a number in but the only thing is when you do that, when you put a number in and say it is a good idea to have a number but that is not the right one. I think that is where the Deputy of St. Ouen is coming from and he is coming from his experience as well, because with Public Accounts, with Scrutiny and with being a Minister, I do not think anybody else in this House, I might be wrong, is in the same position. I do not think anybody else has done that so it comes with an all-round experience and seen it in the committee system as well. So I think he is well positioned to make this amendment and that is why I will be supporting it but I would ask other Members to do the same because okay it is to go on a referendum paper so it is not the end of the matter as it were but I think it would give some indication to the public okay, we are reducing and how that will be done would be down to the discussion of the detail but I think for now it is a safeguard and it is a safeguard I think we should have because I see the dangers in 42 and I say “dangers” because one of the questions I asked about the Ministerial government was: “How do we make everybody accountable in the system?” People will delegate power but what has happened is, and we have got instances where we have seen that, is we have taken ... politically we have taken our eye off the ball and then we only find out when situations get very serious at senior level within departments and that worries me when people could get their jackets off and they could be working in specific areas and working not just for us but what it is really about is for the benefit of the people and that is what we are talking about. We are talking about a government that is fit for purpose and serves the people and we do not have people who are seen as outside the system. It is inclusive to the extent that people can make a positive contribution and we can still scrutinise. I suggested a way of doing that. It could be specific to a topic and I still think that is the right way forward. It would include people from across the Benches of this House and it would benefit the community, and that is the reason why I will be supporting this amendment because I think that the number gives us an element of safety for now and it could be reviewed again in the future.

1.2.9 Deputy J.H. Young of St. Brelade:

This proposition raises really important subjects of how our machinery of government works and that gives me a problem because before my election, I signed up to the popular belief of too many States Members. That was the reason why government does not work. So since I have been in office, I have found my experience has tested that for all the reasons that Members have spoken about in detail. I have seen how Members of this House work really hard to do their best to make up for the shortcomings of the system, how they take on casework. They may not all sit on Scrutiny Panels but I do not see people sitting as passengers, people trying to make the system work for the public of the Island. It is an inefficient system, it desperately needs improvement. When the Electoral Commission's proposals appeared, I was struck by an article in the *Jersey Evening Post* by a respected journalist, Peter Body, if I may mention him, and his article praised the commission, and they have to be praised, I think, for working hard to try to come up with viable solutions to seemingly intractable problems. They are intractable problems and full marks for the work that they have done. I do not think anybody is disparaging it but what we have got are really, to put it politely, far from perfect proposals and there are some real risks in there which, if the proposals go forward, the public, I think, should take note of in how they decide to vote. Mr Body's article says: "It will not have any appreciable impact on the way we are governed. The real problem is that there is very little cause and effect between the electoral system and good government." You can have the most democratic and fair electoral system in the world and still produce a Government incapable of dealing with the many challenges that the Island faces. It is the quality of the Government that we should be worrying about, not the quality of individual politicians. I think just looking, I listened, I checked carefully, I attended the meetings of the Electoral Commission to look at the rationale for the proposal to reduce to 43 and I think there were 2 clear driving forces that I heard. One was Clothier, no question; the numbers of 42 to 44 have been in circulation in the Island for over a decade. We can hardly be surprised that that has sunk into the consciousness of the public of what we should be seeking to do because everybody knows that Clothier was a fantastic report that the States cherry-picked and messed around with and brought us to the government machinery that we have got now. Of course, the other part is that the populist belief, which I shared and I know the community shares, and to stand here and say: "Are there doubts?" is a high risk thing to do as a Member but I feel obliged to point out for the public where these risk areas are. When I looked at Clothier, I looked at what were the underlying assumptions of Clothier, which led them to the 42 to 44. Yes, there were statistical comparisons and so on but the first was that the Constables would no longer be *ex officio* Members of the States. They would be able to put themselves forward to be Members of the States but they would not, as of right, take that position and I think nice things were said about the Constables in Clothier and if you read them and I reprinted it off yesterday and read them in full and they are not about the Constables not committing but they are recognising that their primary focus is to the Parishes and that is absolutely right because the Parishes are the cornerstone of Jersey. No denigration of that. So if they have to make choices on practical matters, how they spend their time and allocate their work, it is bound to be that the Parish work will take priority. Secondly, Clothier convinced themselves that we would have only 7 ministries. We have got 10. Clothier convinced themselves that there would be full-blown scrutiny functions with adequate resources and there would be equivalents of Scrutiny so as the Ministers would be kept absolutely accountable, information access, *et cetera*. They did not stop there. We were going to have an ombudsman. How many societies with that sort of Government have no ombudsman and we know that Members here have to fulfil that role and of course do we do it efficiently? I am sure we try but we do not. We will not be doing it as efficiently as a proper ombudsman service would do. Now all that impacts on Members' time, impacts on the procedures and ministry of government and impacts on the Ministerial system. So I think where we have got to, there is a subcommittee that is looking at this. It has done a lot of work but that work has not yet reached its conclusions but some principles are. I think there is clearly evidence, and I think the Electoral Commission are aware of this, is that

there is a need for a review of the machinery of government particularly to strengthen accountability in governance. All the sorts of things that Members have said, there is that need to do so and there are alternative ways of doing that and as yet, there are tentative possibilities but no conclusions have been reached but we have been overtaken by events because the Electoral Commission, by necessity, because this House gave them the terms of reference that did not include the machinery of government so they cannot be faulted for that ... we gave that Commission the job and they have done it to the best of their ability and made their best effort. But of course what we have got is a couple of options which are a kind of a ... I was looking for words how to describe these. There is a jumble of assumptions within each so you are not asking the people: "Are you going to vote to 42?" You are not saying to the people: "Are you going to vote to get rid of Senators?" You are not saying to people: "Are we going to have super constituencies so shall St. Brelade join in with St. Peter?" There are half a dozen in each and it is almost ... I looked up the dictionary to see if I would be allowed to use this word, it is almost a "ragbag" of reforms in each of those proposals that we are asking the public to make a decision on. I am being offered other words, Sir, I will withdraw that word. I kind of think what position do they put me in regarding the 2 options in the amendment. One is really tempted to say: "Yes, let us play for safety and let us go for the other 6 Members in the amendment on both." Unlike the earlier one, this is much fairer, if you like. We get what is potentially a neutral adjustment between the 2 options.

[12:00]

But that ignores the fact that I feel more confident that a government that is closer to the Clothier proposals, properly implemented with all the elements, which I think is implied by option A, could be made to work whereas I am absolutely convinced that if option B is chosen by the public, which retains the Constables, I really cannot see the system working viably when 12 out of the 42 Members have got day jobs and their priorities are not focused on the work of this House and the machinery of government. But their day jobs are vital; we have to have those day jobs, it is not denigrated but, in my experience, having had to carry out 2 jobs in life at the same time, it often happens when people leave and the boss says: "Oh, would you mind covering this role for a few months?" it turns out to be a year or even more. What you end up doing is falling between 2 stalls and not doing either job properly. That is the reality of it. The reality of it is you have to make a choice. My worry, if the public, because they absolutely have got the right to make the choice here, opt for option B, I really worry: goodbye Scrutiny. So I thought: "Well, what are the implications of that?" well, in the U.K. although Clothier chose Ministerial government for us, the Coalition Government has introduced the Localism Bill for English local authorities who are allowed now to dispense with Ministerial government. It was one of the options that populations over 100,000 were allowed to choose, and in fact it was one of the preferences, I think, from the Government of the day, and it may be that some of the Clothier experts reflected that view, I do not know, that is speculation. But I do know that in Cornwall, for example, they have reviewed their executive system and introduced a hybrid system between the Ministerial system and the committee system. Now, I think Deputy Baudains earlier spoke about the committee system; it is an option. But what I am sure of is that it is going to be very difficult for the machinery of government to be made to work under option B. So I am really in 2 minds here: my head says to me: "Support the amendment because it gives us more safety, it is more likely we will be able to solve these problems", but my heart says: "The public wants this down to 42" and it says: "Well, okay, the public want that, trust them and then choose the right option when it comes to the referendum and we will then sort it out." So I am going to be listening to what other Members say, listening to the summings up and then make my decision finally on the vote later.

1.2.10 Deputy R.G. Bryans of St. Helier:

I will be heading off to the lunchtime shift, so I will be brief. I think the key word here for me is reform. Deputy Southern said earlier the question was about the Constables. I do not think it is just about the Constables, as was already said by Deputy Young, it is about the number. In fact, Deputy Pitman convinced the Assembly to celebrate this year last year by creating a reform day; in fact, he defined it for us, he said it was about making people's lives better, and I think he is right. The Electoral Commission has produced an evidenced proposal in relation to reform and the crucial factor is this number 42. The reform here that the public is expecting is to carve back what they regard as ballast. I think the people want a leaner, meaner, more effective Government, and I think Senator Ozouf is right to bring in the public sector reform, because I think if we channel that alongside with what we are attempting to do here, we will have something that is profoundly different from what we already have. The choices offered on the referendum are focused on achieving that, so I will not be supporting this proposal.

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

As a result of the tour de force of Deputy Young, I am going to need to reply to Senator Breckon. I was not going to speak because I thought he did a very good job, but I thought the one thing Deputy Young omitted which Deputy Bryans has now mentioned, is the public service. All I would say is rather than have these never-ending Jesuitical debates about: "Should it be 42, 45, 48?" or whatever, although I do see the general principles behind them, I think what we have missed, to reflect what people have said, is Clothier took a step back, it looked at the whole system and it asked fundamental questions. It did not go in for: "Let this be a battle between the traditionalists and the modernisers to the bitter end" where you have to, sort of, use spurious arguments to justify each side. It said: "What is going wrong with the system and how can we improve it?" As I recall, it said 2 things: it is not representative in a proper sense and the executive side of government is not working. The problem was it was a major assumption in Clothier the 2 could only be melded together if there was a party system to provide the kind of discipline that would lead to accountability. I do not think the public goes home at night and says: "Oh, will it be 42 or 45?" they go home at night and say: "This system is not working and can someone please come up with some credible answers, options, to demonstrate how the system could work better?" We see a system which financially is out of control, we see spending projects out of control, we see, in their view, the civil service ballooning in size and we see both politicians and senior civil servants not able to offer accountability. Quite frankly, and there was a classic case in Guernsey when they had the hospital build issue revolving around the Falla Construction Group, and, of course, Falla was a prominent Deputy also at the time, and the Welsh Audit Office reported, and it said: "Oh, the system needs accountability" but it could not come up with a mechanism because to do it - I think, at that time they had about 57 people - with 57 individuals was ultimately unworkable. I am sorry to pose the problem without necessarily posing the answers. Clothier thought we would gradually shift to party politics, but I wish we would spend more time, and it sounds futile in a way, rather than these Jesuitical arguments, 42, 45, 48 or whatever, saying: "What do we think is wrong with the system and, therefore, what do we suggest can be put in place?" Sadly, as Deputy Young mentioned, that was not the remit of the Electoral Commission, unfortunately. That is what the public is thinking: we do not work, we do not give them proper options of reform to move forward and to improve the situation. Until that happens, they will see us as a bunch of self-serving individuals, I am afraid.

1.2.12 Deputy M. Tadier:

If Deputy Young thinks that the term "ragbag" is an offensive term, he should have attended the union rally last night at Fort Regent. The colour red is usually associated with the unions, but certainly, if you looked at the air, it had a tendency to turn blue at times, such was the strength of feeling from members of the public. There is a link because there is a strange parallel in the sense

that last night the talk was about terms and conditions and modernisation, and they felt that there was a modernisation programme which was being forced on them. Their concern was not really ... well, it was partly about how it would affect them, but it was partly about how it would affect the public services that they are able to deliver, because they see it is more work under worse conditions with the same pay. I think that there is probably a little union forming in the States today who are using the same arguments: they are fearful that too much of a reduction from currently 51 to 42, will mean more work for States Members, necessarily, possibly under worse conditions with the same pay, although that remains to be seen. I am sure there are plans there to hike the costs of wages for Ministers who already have great Ministerial teams to assist with much of their work. I would also probably say at this point that I am sure the Constables can juggle both jobs presently, because they have great secretarial staff in their Parishes. You have a great Parish secretary in St. Brelade, I am sure you all do, and you have a great team, which perhaps begs the question as to why we do not elect Parish secretaries instead of Parish Constables. I will leave that as a thought. There is an underlying question, of course, about how we resource States Members to do the job, and I will simply say, because obviously we are looking at this as a machinery of government review, which is perhaps unfortunately concurrently looking at issues which overlap, and we will be put in a position after the referendum to know what we are finally dealing with, which would have been helpful at the beginning. That notwithstanding, if we do go down to 42, we have to be aware that there may be other implications. An ombudsman was already mentioned by my St. Brelade colleague, and quite correctly. A lot of the work we do in Jersey as a Deputy, Constable or Senator, is work that we would not necessarily have to do and we are not in an optimum place to do elsewhere. You would obviously have a party system, but you would also have, perhaps, a parliamentary ombudsman elsewhere to pick up those issues as well as your own secretarial staff. That is not something that is always appreciated by the public. The question of what is the optimum amount of choices that members of the public can make is an interesting one. I would tend to agree that towards 6 to 8 is certainly, though not the optimum, it gets difficult after 7, I would suggest. If that is true and if we accept that logic, and I think it is probably less, which is probably by the Koran permits up to 4 wives in a marriage rather than necessarily 8 **[Laughter]** and it is not because a man cannot handle 4 wives, it is because he cannot handle 4 mothers-in-law. **[Laughter]** That is the real reason, they learnt very quickly that one mother-in-law is often more than enough, I am told. If 8 is really too much, and it has been suggested by the chairman of the commission that 8 is too much, 7 at a push you can deal with, 5 certainly can be coped with, and we know currently under the senatorials in the past, we have had 6 options. The average votes used are 4.7, but that is, of course, because many people plump, and most people will use their 6 votes or 5 votes, others just use the one, and that brings the average down to 4.7, if not the mode, which I would expect to be at 5 or 6. But, notwithstanding that, why are we suggesting then in option C that we have 8 Senators, because there is a mixed message going out here. We are saying that 8 is too many but we are willing to elect 8 Senators. If things do remain as the status quo, if no reform happens, at the top of the ballot paper it says: "From 2014 the States will have 49 Members elected in 3 different ways." Well, we will not, of course, if we have reform, and we will be electing 8 Senators, and that does not seem to be a problem, we are saying. So I would suggest we cannot have it both ways. You cannot say that you cannot have 8 Senators being elected in an Island and you cannot have 8 Deputies elected in a District if we are to go with option C. If we do think that 8 is too many to be elected, then in the next proposition we have to get rid of C and have another option there because we have already decided that 8 is too many to vote for. I simply say that in as neutral a way as possible, because I am not entirely sure if I will support this. I do have some concerns about the numbers, but I take a different approach. I do not think the numbers are all-important. I would ask in a one-party state, does it matter whether you have 42, 49 or 51 Members in your Assembly, and which has the better accountability, scrutiny, checks and balances: a one-party state with 42 Members or a one-party state with 48 Members? We have got a curious

situation where we have a minority government, and it has been referred to as a Coalition Government, which has to have the confidence of the majority of the Assembly. It is called consensus, essentially, and it is this kind of politics which does not work. I was talking to my colleague a moment ago. All forms of politics have to have party politics, it just so happens in Jersey there is only one party and they keep it very secret. As long as that party has the confidence of the majority of the Assembly, talk of the Troy Rule, it is really academic, you could argue, because if they lose the confidence then we have a different Council of Ministers, as long as they maintain the confidence of the Assembly, then they can do whatever they like. That is the fundamental issue. I would not get too hung up on numbers and so my personal instinct is that I would be happy to support 42 if it achieves reform, rather than 48 or 49 and no reform to be achieved at all.

The Deputy Bailiff:

Does any other Member wish to speak? If not, I will call on the Connétable of St. Ouen to reply. There is a flash of light. The secretary ... sorry, the Connétable of St. Mary. [Laughter]

1.2.13 Connétable J. Gallichan of St. Mary:

What an absolute, Sir. Thank you. Just very briefly to touch on it, because Deputy Tadier has raised a valid point that under the current reforms that we have already passed by this Assembly, we would move to 8 Senators. I agree that would not be ideal, but it was felt at the time, and research said it might just be possible to do that, because we started, of course, with 12 and we were reducing over time and we had got to 8, and that is why.

[12:15]

Had we been starting and trying to build an election, we certainly would not have gone to 8. That is the reason that it worked that way. That was really the purpose of rising now. Sir, in your invitation to speak you made that Freudian slip about the secretary; the answer to Deputy Tadier's other point is that in St. Mary we often do elect our secretary, I being the second Parish Secretary to have been elected to the Assembly, first as Deputy, of course, and then as Constable. I can say that the Constable's position is as head of the honorary system, and it is very important to remember that. I do not consider being Constable to be my day job; I am a fully paid-up Member of this Assembly and in a former life, as Constable, I for 3 years held down the responsible position of chairman of the Privileges and Procedures Committee and I did that without any compromise. The current chairman of the Privileges and Procedures Committee is the Constable of the largest Parish, and I believe he does that without any compromise, although not without the occasional sigh. So it has also got to be remembered that there is absolutely nothing in the States of Jersey Law or Standing Orders that prohibits any Member of this Assembly from having a day job. We are not talking here about a lack of commitment, we are talking about the ability to manage, and that is something you cannot judge, except on an individual case-by-case basis.

Deputy T.M. Pitman:

Can I say there is a slight discrepancy there because some of us were forced out of our jobs when we stood.

1.2.14 The Connétable of St. John:

Once again, I am not sure where I am going on this particular one. I will be waiting to hear the proposer sum up. A lot has been said about Clothier today and, having been in the House when all this was debated and having asked Senator Horsfall who brought it to the House to have all the meat put on the bones before adopting Clothier, it was passed in principle and we were told that the meat would be put on at a later time. That is what is worrying me here today, because yet again we see the commission who brought this to the House ahead of the work that is being done by the

machinery of government, in other words, the meat on the bones, and we have not got that meat on the bones. We are running ahead of ourselves. I would have liked to have seen the report on the machinery of government. Only approximately a month ago the Machinery of Government Panel came to see our panel, the Environment Scrutiny Panel, to ask questions and interview us, *et cetera*, and take evidence, but that report has not been forthcoming. We are doing things back to front yet again. I will say it now, because the original committee system may have been slow, but it worked and it was done in an honorary capacity. We all were doing the job in an honorary capacity and we all had day jobs. Now there are very few Members who have day jobs, and we have managed to run this Island very successfully for generations, hundreds of years, in that particular way. We may only sit on occasions - and it has happened under this House - for a morning, and we will do the work here, but there are all the committees. Historically, we do not have to meet in the day time, we could have our committee meetings in the evening. But, no, we want it for our leisure. But at other times they would meet in the evenings. There are ways, and if we were to return to an honorary system, that is what we would have to do. We would have to make our time work, not come up with a lot of zany propositions which we spend a lot of time debating and only finish up with a handful of votes. We do an awful lot of that, navel-gazing, and really we need to get our act together. I am sorry, but I have got real concerns that the commission has missed the boat on this one, I am sorry, because I think we need the meat on the bones to go forward so the public know. So I listened to Senator Ozouf saying that the Isle of Man had 24 Members in their Government. They do not. They have a House and then they have an Upper House; that is 36 Members for a population of 60,000 ... 83,000, right. But I have seen something that said 60,000. So whatever the population is, so if it is 60,000 and we have got a population of 97,000 point something, the 48 that is being proposed by the Deputy of St. Ouen would be about right, or the 49 that was proposed by this House on an earlier debate with keeping our Senators in at a number of 8 would be 49. That would be right. So that is the kind of number that we must be looking at. In fact, in the Commissioner's report, they mentioned 46, that is what the expert says, yet we come up with 42. We are holding things far too tight. I think Senator Bailhache has jumped the gun by bringing this to the House early because they wanted this date, 24th April, for the referendum. That date should have come out after this debate, not beforehand. We seem to put a lot of things in the wrong order. I must take issue with Deputy Young and his comments about whether it is the Constables or whoever. Deputy Young has got a heavy workload, and it is noticeable right across the membership, because he is a former senior planning officer, or C.E.O. (Chief Executive Officer) of the department, and he has taken on the baggage of the whole Island to try and do reforms within Planning. I do not blame him, that is an area he knows well, like me with drains and roads **[Laughter]** it is an area that I know well, so it is good, but you have to run that alongside any panel that he may be running. But to turn round and say that possibly the Connétables do not put all their weight into the system is wrong. We all take on the baggage we wish; in this case Deputy of St. Brelade, Deputy Young, I think has taken on an awful lot of baggage from right across the Island, and he is doing some sterling work there. But that aside, we are all doing sterling work in our own fields, whether it is the Deputies of St. Helier that I commented on earlier, they have big constituency work, as do I in St. John, whether it is for the whole Island because of our drains issue, or whatever. But we take it all on, our doors are always open, and that is what it is all about. I have got concerns, and I am not 100 per cent sure that I am going to vote for this, I am going to wait for the summing up, but I hope Senator Bailhache could wait and let us have the meat on the bones before we go to any referendum. We need to get all the facts out. I know the commission has done excellent work, but to come up with 3 options and then we do not have all the facts from the work being done by the Machinery of Government is putting the cart before the horse.

1.2.15 Deputy J.M. Le Bailly of St. Mary:

It is difficult not to echo any previous speakers' comments. I do not believe that the commission is asking the public the right questions, and that is what the public is now stating. There is great concern with people not wanting constituencies but they are not being given that choice. That question is not asked; it should be. There is a cloud over the magic number of Members being reduced to 42. Will 42 Members really be able to cope with the additional workload of a reduced Assembly? The public also needs to be asked if it wishes to retain Constables in the States, and that should not be decided in this Assembly or by the commission. Perhaps they should be replaced with extra Deputies and, instead of dismissing the Senators without any consultation with the public, why is the commission not asking if the public wishes to retain some Members with an Island-wide mandate? These Members elected on an Island-wide ballot are available to represent all of the electorate, regardless of which Parish they live in, but the choices are, indeed, flawed. It is not possible to answer the questions without accepting an answer already conceived by the commission. I am glad indeed that there is an option C. A proposition for the commission to revise these questions to the public would have been a good idea, and I regret that I did not bring such a proposition. For that reason, I shall be voting to leave the system exactly as it is, then I will have a choice. We do, after all, have a system that works and I seriously question the amount of time that we waste in this Assembly on this type of self-indulgence instead of confronting the more important issues that we were all elected to attend to.

1.2.16 The Connétable of St. Clement:

There is no question in my mind that this Assembly could, if it really wanted to, work very effectively and efficiently with 12 Members [**Laughter**]; probably not the 12 that Members think I mean, but it could also run effectively with 20 Members or 30 Members or with 42 Members. The real problem is what has happened over recent years, the more Members we have, the more jobs we create to keep those Members busy, involved and included. What we do not think about is the more jobs we create in the Assembly, the more jobs we create in the public sector, so the whole thing becomes self-perpetuating. If the Deputy of St. Mary has not read and studied the Clothier Panel's report, I suggest he really does so, because it answers so many of the questions that he posed this morning. But this amendment is one of those, in my view, that does not have a lot of merit because it puts the cart before the horse. We should not be deciding how much work we want to do in fixing the number of Members that need to do it, but rather we should be deciding what is the appropriate reasonable number of Members of the States to represent the population, and then organising the machinery of government around that. One of the things that is quite clear, if we reduce the number of States Members, then we could afford an ombudsman and an office of the ombudsman to do much of the work that we very inefficiently try to do ourselves. I believe, quite honestly, there are too many Ministers and ministries, but that is a personal view and is no more or less legitimate than anybody else's. But what is for certain is that we do not have enough elected Members involved in the positive side of government trying to improve the life and lot of Jersey residents, so my mantra is quite simple: reduce the number of Ministers, reduce the number of Members, remove this ubiquitous Troy Rule to improve inclusivity and get more people involved in the positive side of government and, if we manage to do that, then the future indeed will be brighter.

The Deputy Bailiff:

Does any other Member wish to speak? If not, I call on the Deputy of St. Ouen to reply.

1.2.17 The Deputy of St. Ouen:

I think I have made my point just by listening to this debate, because it is clear that even States Members who are actively involved in government cannot determine how many would be the appropriate number to serve this Island most efficiently and effectively, and that is sad, and yet we

are suggesting today that we put a number to the public which they are going to expect us to be able to deliver upon. How ridiculous is that? We hear that “putting the cart before the horse”; absolutely, I agree with the Constable of St. Clement, the only problem is you have got it the wrong way round. **[Laughter]**

[12:30]

The Electoral Commission, I believe, has overstepped its remit - and it is the remit that we set, I hasten to add - in believing that they can make a determination on the machinery of government when we have tasked somebody else for the job. Sadly, the committee that is bringing forward these proposals which the Electoral Committee have produced, say nothing. Where are the comments on the amendments? Where are the comments on the number of States Members? I think that is sad because they, and they alone, have been tasked, as we tasked the Electoral Commission, to look at the machinery of government and to report back. I have seen the interim report and, in fact, Senator Bailhache, although I might not have submitted my views to the Electoral Commission on the number that I believe would be appropriate and my concerns over a restructuring of machinery of government, I have submitted them to the relevant body twice and I will have further conversations with them as those are developed. I have seen the interim report, which contradicts everything and all the evidence that the Electoral Commission have presented and relied upon. Have we heard that in this Assembly today by those responsible for overseeing that job? No. Why, I ask, because we have all seen it, we are all able to consider it. Yes, it is an important piece of work; yes, it may be that we need to reduce the numbers of States Members, but we cannot come to any conclusion now, so why go to the public and tell them we can? I also accept that certain members of the public may wish to see less States Members but, more importantly, they want to see effective government, they want to see a government that is positive **[Approbation]** and I am part of that positive government. I might be on 2 Scrutiny Panels at the moment, but I am part of, and proud to be part of, a positive government that believes that we need to work for the people and provide the best that we can for them. It is not a case of just because you happen to be on Executive you are on the positive side of government and just because you are on Scrutiny you are not. **[Approbation]** Please. That is the problem: we have got a lot of Members in this House that do not fully understand how the current machinery of government operates and the role that everybody plays in delivering that. Why do you think the public is so fed up? Because we keep talking it down, and I am not suggesting following the performance of certain Ministers in talking things up all the time, I am saying let us tell it as it is. Let us be honest, but let us be positive. No wonder they struggle at times to trust this Assembly. I have got to come to Senator Ozouf; he did bring a smile to my face when he raises the issue of the financial implications related to actual States Members. This is the Minister that I believe, and he may confirm if he wishes, who has increased the number of employees within his department significantly over the last 3 years, mainly at the top management level; quite appropriately, maybe, but that is the case. He is also the Minister, as others, that has continued to promote what: additional boards to support government. Who goes on to those boards? Who takes part on those boards? Are they elected or selected? They are selected. You tell me what the public would prefer: an individual that they can fully hold to account because they are elected or someone that they cannot because they have been selected? We have got tourism boards, we have got boards to manage our airport, the list is endless. By the way, they do get paid, some of them. But we are still suggesting that you get rid of a few States Members and it will make a saving. Please. I think I will end by saying this: why restrict the options to improve governance and limit the choices available to improve the working of government before these matters are fully addressed? With a membership of 48, the Executive will be 22 under the Troy Rule, with 26 Members available for Scrutiny and the P.A.C. If, following the machinery of government review, it is decided to change the structure and have the number of Members reduced, it is relatively simple for the States to do

just that. Therefore, rather than try and second-guess the outcome of the review, I would ask States Members to support my amendment, and I ask for the appel.

The Deputy Bailiff:

The appel is called for and I ask Members to return to their seats. The vote is on the fourth amendment lodged by the Deputy of St. Ouen and I ask the Greffier to open the voting.

POUR: 16	CONTRE: 31	ABSTAIN: 1
Senator A. Breckon	Senator P.F. Routier	Deputy M. Tadier (B)
Senator S.C. Ferguson	Senator P.F.C. Ozouf	
Connétable of Grouville	Senator B.I. Le Marquand	
Connétable of St. Lawrence	Senator I.J. Gorst	
Connétable of St. John	Senator L.J. Farnham	
Deputy R.G. Le Hérisssier (S)	Senator P.M. Bailhache	
Deputy G.P. Southern (H)	Connétable of St. Helier	
Deputy of St. Ouen	Connétable of Trinity	
Deputy of Grouville	Connétable of St. Clement	
Deputy S. Pitman (H)	Connétable of St. Peter	
Deputy K.C. Lewis (S)	Connétable of St. Mary	
Deputy T.M. Pitman (H)	Connétable of St. Ouen	
Deputy M.R. Higgins (H)	Connétable of St. Brelade	
Deputy J.M. Maçon (S)	Connétable of St. Martin	
Deputy J.H. Young (B)	Connétable of St. Saviour	
Deputy of St. Mary	Deputy J.A. Martin (H)	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy E.J. Noel (L)	
	Deputy T.A. Vallois (S)	
	Deputy A.K.F. Green (H)	
	Deputy G.C.L. Baudains (C)	
	Deputy of St. John	
	Deputy J.P.G. Baker (H)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy R.J. Rondel (H)	

Deputy T.M. Pitman:

Can I propose the adjournment, not the amendment this time, Sir?

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

The adjournment is proposed. Very well, the States now stand adjourned until 2.15 p.m. this afternoon.

[12:37]

LUNCHEON ADJOURNMENT

[14:16]

1.3 Draft Referendum (Reform of States Assembly) (Jersey) Act 201- (P.5/2013): second amendment (P.5/2013 Amd.(2))

The Deputy Bailiff:

I might just ask any Members who are outside in the ante rooms to come into the Assembly. We are not currently quorate. Very well, we now return to the debate on the amendments to P.5 and we come to the second amendment lodged by Deputy Trevor Pitman. Can I ask the Greffier to read the amendment in accordance with the practice which was adopted earlier. Since it is quite a long amendment, I will only ask the Greffier to read page 19, dealing with the schedule.

The Greffier of the States:

Paragraph 8 of the amendment, page 19 schedule. In the Ballot Paper in the Schedule – (a) for the words “Please write the number 1 next to the option that is your first choice and 2 next to your second choice: (You do not need to use your second choice if you do not wish to do so)” substitute the words “Please place a cross against one of the options below.”; (b) delete the words “Write 1 against your favourite option and 2 against your second choice”; (c) for the words beginning “No change: option C.” to the end of the Ballot Paper substitute the words – “Option C. Neither of the above options.”

1.3.1 Deputy T.M. Pitman:

Thank you and I thank the Greffier for explaining that, because I was dreading doing the long version. I am going to have to come back to the same ... I do not want to say “excuse” because it is not an excuse, it is fairness. It is what I talked about in the previous amendment that I brought. “None of the above”; well, it is something that I think most of us think should be on all ballot slips when we all stand for election, especially seeing some of the comments I have seen in the past written on ballot slips, which are not-so-polite versions of “none of the above”. But the reason I am doing this, and I have discussed this with the chairman of the Electoral Commission, is because my fear in speaking to many people I have, like I am sure you will all have done, is that this option C will make a bigger mess of a result than doing nothing at all. So let us look at that option C. I know Senator Farnham has got a very similar version of this and we are both coming from the same place, and I would say now that if this is not successful - and I hope it is - I will be supporting him. I just think mine is better because it is clearer, rather than giving people essentially 4 options. So what can you say about this transferable vote situation? I think it is very unfortunate that we heard from the chairman the suggestion, I think it was in Deputy Southern’s amendment yesterday, that by criticising this we are in some way saying the public were ignorant and could not understand. That is not true at all. The way I look at it, it is no different to people who are completely confounded when they go to court and they find that the law is written in a language that is not even in their Island’s native tongue and they cannot understand; in fact, they probably need to go and get a lawyer then just to try and translate it, who then probably will not be able to translate anyway. People are not ignorant because of that, but it is alien to them, and this is what the people in Jersey largely, the vast majority ... transferable voting is alien; when has one ever happened? I cannot recall one at all. So I have got that concern of the confusion issue. Putting it together, I found in speaking to the people I have, that there are 2 views on how this is going to be brought in front of us: you could say that at best option C is a clumsy and wholly unnecessary vehicle for voters to express that they want neither of the 2 options that we are now going to get, the 42 just Deputies or the 42 with 30 Deputies and 12 Constables. At worst, and I must report here that this certainly is the view taken by the vast majority, certainly the 90 per cent-odd that I have discussed it with, they do think that it is just callous, that is the term that has been used to me, and certainly a deliberately loaded attempt to ensure the retention of the Constables. After all, you can do what you like with statistics, you can lean to the right, to the left, stand on your hand, but the fact is, and

many Members, I am pleased to say, have picked up on this, you cannot get away from the fact that this referendum questioning, the way the questions have been put out, does definitely give some bias to one particular outcome, that of keeping the Constables. That is not the Constables' fault, of course, well, I can say it is one Constable because there was one Constable on the commission, but I am not going to blame her just for that. **[Laughter]** Or should I? It is all your fault, Constable. The Electoral Commission has, in the eyes of most people, I believe, been seen to fail, and fail spectacularly, but we will probably save my thoughts on that for the main debate. If you take out option C, which really does not need to be there if all you want is the status quo, you know, if you do not want A and you quite like B, but even that is not perfect, you could have a "none of the above", that is a way of expressing that you do not want either. What this transferable vote does, the way it has been set out - and I think the chairman will probably concede this; we had a chat after we had been on Channel the other day - is, I believe it will cause a fudged outcome that a lot of people will not be particularly happy with because B is definitely not the same as C. I do not think anyone could dispute that. The only similarity is it keeps the Constables. Now, the Senator said to me that he felt getting an outcome was a positive because it moved things on. I would have to differ with him there because I do not think it would move us on at all, I think what it would do, if it is not a clear result in the likelihood of A, B or C coming out with a clear majority, which I do not think is going to happen, I think what it will do is cause further resentment, unhappiness and whether it is the people who want the Senators in or the people who just want the Constables out, of the ones I can remember, these debates are going to come back and come back and come back. We know it happens, does it not? I was interested to hear the Constable of St. Clement earlier say how Clothier should have been put to the people. Well, Deputy Shona Pitman, who is not here at the moment, did bring a proposal on that, did she not? How many Members supported it? Why could we not have Clothier put to the populace? It never seems to be the right time; that is always the excuse. So what I am basically saying to Members is if you want a clear result and accepting that this is not the ideal referenda question, it is not a simple yes/no, in/out. There are 2 options on the table; we do not need that third to muddy the waters, and it will muddy the waters. As we saw on TV ... now, people might be unkind about journalists and say they are not surprised that within 30 seconds, the journalist had to say: "Hang on. I am confused already." People are. It does not mean they are ignorant, it is just a clumsy thing that has been put forward and it is an alien system to them. None of the above gives those people who basically want to say: "No, it is all rubbish what you have put to us. I do not want A, I do not want B. Go away and come back with something better." It gives them that option and it gives people the option to say: "No, I do not want A or B, what we have got now is perfect." We do not need for it to be written the way it is in the current C. So that is the gist of it. Senator Le Marquand was very kind to me before, he will not mind me saying, he said as long as I was not naughty, he was going to give me 10 out of 10 for the amendment. I have not been naughty yet, so I hope I have not slipped down to a 9. There are some people who I know want to speak about what they see as being slightly misled, not on purpose, of course, about the similarities with the London Mayor's election and the way this all fits in, but I am going to leave that to them. For me, it just comes down to that issue again of fairness, clarity and letting people say what they want clearly or rejecting what they do not want clearly. A fudged result, which is what I think the present C will give us, is a negative in my view. I think what the ultimate result will be, and I was speaking to one of the other non-political members of the commission earlier, and I said the likelihood is he is going to be back here for Electoral Commission mark 2. I think from the look on his face, that filled him with dread, it probably fills all of us with dread and I am sure it fills the public with dread. So there you go, none of the above. Please support it. It is a commonsense approach. I am not saying it is perfect again, but all we have done with these amendments is trying to make what is not perfect a bit better. I hope Members support it. If they do not, then I would still urge them to support Senator Farnham after me. I will make the amendment and hope that someone seconds it.

The Deputy Bailiff:

Is the amendment seconded? **[Seconded]** Senator Bailhache.

1.3.2 Senator P.M. Bailhache:

As I mentioned during the debate on one of the amendments this morning, the Greffier, as I requested, referred all the amendments which have been lodged to the Referendum Act to our expert adviser, Dr. Alan Renwick, and he has given a comment on each of amendments, and his comments on this particular amendment are particularly relevant, I think, and I would like to read them out. But because they are quite lengthy, I wonder if I could ask whether the comments could be distributed to each Member so that they can have the opportunity of seeing them

[14:30]

If Members now have the comments, perhaps I could read out the comment on the second amendment: “Renaming option C as ‘neither of the above’ is misleading as it says nothing about what the practical implications of victory for this option would be.” It is a basic principle of question wording in referendums that voters should know what they are voting for. If option C wins the referendum, the status quo will be maintained; that is the case irrespective of the label given to that option on the ballot paper. The wording should, therefore, make this explicit, which is what the Electoral Commission’s proposal does. Removal of the preferential voting element is much more significant. This would diminish the likelihood of a clear result, bias the outcome and give no compensating benefit. The report section of the second amendment states that the inclusion of 3 options, 2 of which retain the Constables, biases the outcome in favour of retaining Constables. This is incorrect; the majority of votes will be cast for the options that retain the Constables only if this is the outcome that the majority of voters prefer. Given the preferential voting system, the number of options is irrelevant here. The removal of preferential voting would, however, produce a strong bias against retention of the Constables. It would be possible in that case for a majority of voters to want the Constables to remain but for the split in their votes to allow the minority in favour of removing the Constables to win. If the goal is an unbiased result, this amendment should, therefore, be rejected. That really encapsulates what I want to say in response to this amendment. The revised wording put forward by Deputy Pitman would create uncertainty in the mind of the voter as to what would happen if he voted for neither of the reform options. In fact, if the voter did not like both the reform options, he or she would be voting for the status quo. If I may, I would refer to the report in Deputy Southern’s first amendment to the proposition. Halfway down the first page, he refers to the U.K. Electoral Commission’s guidelines on structuring referenda. He emphasises, and I quote: “That a question should be clear and simple, that is, easy to understand, to the point and not ambiguous.” The revised wording would create an ambiguity. What happens if the voter does not vote for the reform options? It is not explained. The existing wording in the proposition of the P.P.C. makes it perfectly plain. Just as importantly, the removal of the alternative voting, preferential voting, will remove the certainty of a result. By removing the preferential votes, it will be possible for each of the options, reform option 1, reform option 2, and the status quo, to get less than 50 per cent and, after all this effort and all this time, we will be no further forward. I ask Members to reject the amendment.

1.3.3 Senator B.I. Le Marquand:

I have delayed making a speech until this point because I did not want to disturb the questions in terms of the 2 options which were produced by the worthy group, whose name I have totally forgotten ... Electoral Commission, to be changed. I wanted that to be persevered but, in reality, I think there are 2 approaches that can be taken to this whole debate: the first is that we should put before the electorate what the Electoral Commission has asked us to put, end of story. That view was expressed by the Deputy of St. Martin and by the Connétable of St. Clement. The second view

which I support is that we have a duty to ensure that what is put before the electorate is a fair and reasonable set of questions which will give a clear indication of the mind of the majority of the public. I have absolutely no doubt that we have that duty and we must not shirk that duty. We owe it to the public to put something fair and sensible before them and we have to get it right this time. If this referendum ends up as a shambles, then we will not be able to go back to the public for years and the reputation of this Assembly will be damaged. You will be pleased to know that I am not going to speak about the merits of different schemes of Connétables or Senators or super constituencies or 42 Members, because I believe that this is irrelevant to this particular amendment debate. I am going to speak about the fairness and the reasonableness of this scheme. I have 2 major concerns: the first is in relation to the concept of a transferable vote. I am amazed that this is being suggested, and the reasons for that will become apparent shortly. A single transferable vote is a mechanism for ensuring that somebody ends up with a majority of the votes, it is as simple as that indeed, and it is very clear in the Professor's report. One of his objections to this is that somebody might not end up with a majority. I am going to demonstrate arithmetically in a moment that someone might not end up with a majority of the total number of votes cast. A single transferable vote may well be appropriate in an election for office (although it is not used in Jersey) but it does not ensure that the winner has a total majority of the votes cast. Here is an example: let us say hypothetically that in this hypothetical example A got 35 per cent, B got 35 per cent, C got 30 per cent. C drops out of the system, and then we look to see what has happened in terms of the C votes. But let us say that half of the C votes have not decided to go for the second preference, and I will deal with a specific case in a moment, a real live case for myself, where that could occur. Let us say that 10 per cent of the 15 who do exercise that, exercise in favour of A and 5 per cent in favour of B. Who has won? On the transferable vote system, on the original votes, A then has 45 per cent of those who cast their votes originally, B has 40, but A has won because it has nine-seventeenths, 53 per cent, against eight-seventeenths, although it still did not have a majority of all those who voted. Not only that, you could have a situation where pretty well all of the Cs wanted to keep the Connétables, so that would create a bizarre situation in which the Connétables who dropped out would have won, although there could be 65 per cent against it. That is good arithmetic and that is a bizarre consequence. Let us consider the situation of the C voter. He does not know whether or not he is going to drop out after the first round, so what does he do? Let us say we have a C voter who wants the Connétables but really seriously dislikes the 42 or the super-constituencies or whatever, what does he do tactically? If he wants to keep the Connétables that strongly and he votes B as his second option, he could inadvertently create a situation on the second round in which 2 of the things that he strongly dislikes, namely super-constituencies, and he might also want Senators, of course, the impression is given that he is in favour of B whereas he is not in favour of B, it is just he wants to avoid A. This is utter nonsense, this is utter arithmetical nonsense. Why should the C voter in that situation, which may well be me, be put in this ludicrous situation of having to choose whether to exercise his second vote or not, not knowing what effect that second vote will have. This is totally unsatisfactory. **[Approbation]** But then there is another issue that arises: we will simply not know, when a second round vote is cast, what the motivation of the person was in casting that second round vote. Was it defensive? Was it positive? Was it negative? What was it? As a result of that, unless we have got an absolutely clear-cut result with somebody having more than 50 per cent, we are going to spend ages and ages arguing in this Assembly what these transfers meant, why, what was the motivation, *et cetera*. This is completely unsatisfactory, in my view. I must say that I totally and utterly disagree with Dr. Alan Renwick's comments, I think they are nonsense here; he has not considered these options in the way that I have just defined them. I totally disagree. He clearly is set on producing a majority result for something, as I say, which could happen with less than 50 per cent support, which is also totally unacceptable. But there is a second problem: because unless ... and I break off to say that I do give 10 out of 10 to Deputy Trevor Pitman for this amendment because he has hit both my areas of

concern and he did not lose any marks for naughtiness during his speech so he gets the 10 out of 10. Can I say that a day upon which myself, Deputy Pitman and the editor of the *J.E.P.* all appear to agree, is a rare day indeed. **[Laughter]** The second problem: because not all the options are available to the public. That is the point of Deputy Pitman's amendment; that is the point of Senator Farnham's amendment. They have both seen clearly that there will be a whole slice of voters who may not want A, they may not want B and they may not want C, because they want some reform but not any of those packages. Now, what are we doing with this referendum if we do not agree to Deputy Pitman's amendment or Senator Farnham's amendment? What are we doing to this whole slice of voters? We are disenfranchising them. They cannot vote anywhere because they do not agree with any of these and so, if we are going to have a meaningful, overall exercise, we have to have all the options in place. A fourth option, which is neatly covered by Deputy Pitman's amendment because he rolls in the third and the fourth together, or Senator Farnham, covers all those options because otherwise, you are going to get a lot of people who are not going to turn up. They are going to say: "I do not like A, I do not like B. Why should I go?" The former rector of Trinity wrote a letter to the *Evening Post* some weeks ago saying exactly that, that he would turn up and he will spoil his paper as a protest because he did not like any of these packages. Now, unless that is available, we have not got all the options and that is a fundamental flaw in relation to the process. In my view, a sensible and reasonable multi-option question must include all the options. Before I sit down, I wish to send out a rallying call to the despondent Senator Le Gresley and to any others who are becoming despondent in relation to this debate, simply because it has gone on for so long and: "Oh, we have not succeeded with what we really wanted", *et cetera, et cetera*. I address those both in French and in Latin: "*Courage mes braves*". **[Laughter]**

[14:45]

I am not quite sure I have got the Latin right because I only did it for 2 years at Victoria College: "*Nil desperandum*"; do not despair. Do not give up yet. Join me in ensuring that the improvements, which are suggested by Deputy Pitman, are made or alternatively, Senator Farnham's, although Deputy Pitman's is better in the sense that he gets rid of this transferable vote as well. If they do not happen, then join me, have the courage to join me by voting against the whole thing. **[Approbation]** It is not right that we should send to the public something which is deeply flawed in the way that this is. It will only bring us into further disrepute, raise expectations with the public which cannot be realised and we will be back here arguing over the same grounds again. I therefore support the 10 out of 10 amendment.

1.3.4 Deputy M. Tadier:

I can agree with part of that, and part of the logic does not follow, in my opinion. That is the problem: even at this late stage, we are still going on opinion. Statisticians: while statistics can be used to lie and to say whatever we want, and while it has also been said that lawyers give opinions which are not objective facts, with statistics, there is no grey area. There is none of that. It is not like quantum mechanics where there are grey areas. Statistics are "Yes" or "No". I mean, it is unfortunate that we do not seem to have that agreement in the States Chamber and that is because statistics are often more difficult than first meet the eye. I have a question for you, as Chair, because I think there is part of this proposition which I think is correct and I think there is part of it which I have problems with. So the question I would be asking is can part (c) of the amendment, which says no change to option C, be taken on its own without options (a) and (b), to delete the words of your favourite option? Can that be taken separately, Sir?

The Deputy Bailiff:

I am sorry. Would you repeat that?

Deputy M. Tadier:

I am looking at page 3 on Deputy Pitman's amendment and it is part 8. It is listed as (a), (b) and (c) and I am just asking if option (c) can be taken on its own because I would certainly like to support that and speak in favour of it but I cannot do that for (a) and (b)?

The Deputy Bailiff:

I do not myself, Deputy, see that as being possible. This amendment is an amendment to a proposed Act of the States and the States will be asked to adopt or not adopt the Act in due course and therefore, the amendment is in respect of the various parts of the draft Act which are referred to. So it does not seem to me that it is possible to separate option C and take that separately.

Deputy M. Tadier:

Okay, and there is no procedural way in which Deputy Pitman, if he were convinced, could drop the wording for (a) and (b) and then only leave (c) to be debated?

The Deputy Bailiff:

I do not see that as being possible.

Deputy M. Tadier:

Okay, thank you. I just needed the clarification. In that sense, I will be permitted to use some French and say "*quelle affaire*" because I think we are in a really difficult position here. Option C should read logically: "Neither of the above or an alternative" but the reason for that is, Senator Le Marquand is correct. When you are giving the public a multiple choice, as we have, rather than a binary yes and no decision, there is a precision of multiple choice and anyone who devises questionnaires will know that you should be giving the public all the options that they would want to answer if they had their own freewill, rather than pre-determined outcomes. We have given them A and B; C is no change and I have already explained before that, nobody wants C. Certainly, the Electoral Commission does not want C. So what do you do if you are at home and you want States reform but you do not want the States reform that is being proposed? You cannot vote for option C and this suggestion that people will come out in their hoards and vote for option C which says: "No change", is a complete nonsense. People either will not go out or they will come out to spoil their paper but I do not see hoards of people coming out just to spoil their paper, the present rector excepted, because their option is not on the table. There are lots of people out there who I know who want reform and they might want Clothier. We have already heard that from the Constable of St. Clement. They want single seat constituencies with one type of States Member. There are others who want to retain the Senators and they will be quite happy to have 30 Deputies with 12 Senators, or 38 Deputies with 6 Senators. They do not have an option on the table. Their vote does not count. They will stay at home and only those who are keen enough to come out and vote for these will have an option on the table, so I think he will simply think it was an oversight on the part of the Electoral Commission. They put the wrong option in for C. They do not want the status quo. They should have had neither of the above which would send us back to the drawing board which is looking increasingly likely, incidentally. The problem is though, is that simply having an "X" against your 3 options does not produce, or runs the risk of not producing an absolute majority. So what happens if we have 35, 35 and 30 for C or if we have a 40 per cent vote for B, 30 per cent vote for A and C? How do we interpret that? Do we say that B won? Because it is completely meaningless. We do not know how those voting for C, if they would have voted for A or B as their second choice. That is why it is important to have second choices and this is where I disagree with Senator Le Marquand's analysis because if what he is saying is that there would not be 100 per cent to divide to find out whether you get 50 per cent, well, you would. In the scenario of A, B, C which he said 35, 35, 30, and half of those let us say for C do not vote in the second round, and the half that do, you end up getting 45 votes for A for example and 40 for B, although it could be the other way round. What that means is that you have got 95 votes; 45 is more than half

of 95. The total amount of votes you have is 95 and then the one which surpasses the half, of course you have 100 per cent. You are never going to have less than 100 per cent. So that argument does not stack up. The real issue I have is that I believe firmly that option C should read: “none of the above”, “neither of the above”, “alternative: please go back and rework it.” But it cannot work if you just have a simple “X” being put and this is a problem of process we have had. The Referendum Act, because it is an Act, not a normal proposition, we only have one week lodging period and it means States Members have lodged amendments which are partly correct in their intent but do not necessarily do what they say on the packet. We have not had time to go in there and to review them so we are left in this unfortunate position, and it is no disrespect to the Deputy because I think he has done what he thought was right. I have difficulty in supporting this without the preferential voting system. We need the preferential voting system if you are going to have 3 options. You cannot have simply one vote. Similarly, C has no place being in there which is why we should have agreed to remove it in the first place. We are in a very difficult position now because no matter what question we put to the public, and I say this as somebody who wants desperately to have a referendum, and who wants to be able to campaign for reform, we are in a very difficult position because we will necessarily be putting a question to the public that is flawed. What do we do about that now as a States Assembly? I do not know what to do about that. I certainly cannot wholeheartedly support this amendment. I may have to. We are in a very difficult position. The other thing, and I may refer to it in passing, we are trying to use this decision-making process and this is where I partly part company with Dr. Alan Renwick, humbly, is that we are not simply asking 3 options: Constables, Constables, not Constables. That is not what we are having on the table. If that were the scenario, then the transferable votes, the A.V. (Alternative Voting) as it actually is, the alternative voting system, where the least popular is redistributed, that would not be an issue. There would not be any bias in there. It just happens that the Constables is just one simple factor in that whole package of variables that I have been talking about and people will be going out there, as I have said, not voting on the basis. They will be voting on the basis of 42, of not having 42, of having super constituencies versus not having super constituencies and they will be getting things consequentially that we are trying to read into that. That is not the basis to do that. If you want to devise a question, I would say to the Electoral Commission, to decide whether or not the public want to have a single class of States Member, or if they want to have Constables in the States, you simply ask them: “Do you wish to have Constables in the States?” or: “Do you wish to have Deputies who can then stand for Constables or vice versa?” if they want to. That is the question we need to ask and no amount of fudging around the issue is going to resolve that so we are now left in the unfortunate position of having a question which is not fit for purpose. It does not do what it says on the tin, and there is a strong risk either that we do not have a reasonable outcome if we remain with the “X” or if we go with the preferential system but keep option C as it currently is, we do not give people the options to indicate what they want. We are between a rock and a hard place, I think.

1.3.5 Deputy G.P. Southern:

Oh dear, oh dear, oh dear. How did we end up here? Increasingly, I am hearing concerns about this whole process and I will come back to the fact that we started from the wrong place with the 3 options, 2 votes issue. I am feeling increasingly that whatever people’s opinion about which way they are going to vote, they echo to some extent or other the words of Senator Le Marquand when he said: “This is deeply flawed and I will be voting for this proposition and please join me in voting down the main proposition if this does not get through” because this is the only thing that makes sense to him. I feel the confidence in what we are proposing seeping, slowly, out of this Assembly. I simply cannot believe the words I see in the advice given by Dr. Renwick and I missed when this was produced. It has just been put on our desks now at the end of a long debate. Has it been around for a few days? [Aside] Since yesterday. How nice it would have been to have these

comments when we first started this process and that is what should have happened. It is like a trial where only the prosecution or the defence has the evidence and they do not share it. I think that is, quite frankly, a dirty trick, because ...

Senator P.M. Bailhache:

Will the Deputy give way? I am surprised that the Deputy has been allowed to get away with saying that was a dirty trick. It was not a dirty trick. The amendments which were lodged, were lodged only a very short time ago. They were sent to the expert adviser who has many other things to do, but who dealt with them as quickly as he could. He gave the advice and the advice was given to Members at the appropriate time. It is not a dirty trick at all.

Deputy G.P. Southern:

They arrived yesterday, the Senator has just informed us. Yesterday. Then why were they not put on people's desks yesterday? Whether that was the beginning of the whole debate or whether it was in time for this morning, it might have been useful. It would have been spectacularly useful to have the first sentence of this advice when I started yesterday: "There is nothing procedurally problematic in this first amendment." How refreshing that would have been to hear as if from the lips of the commission's adviser. There is nothing, was nothing problematic in the first amendment and what it kept to was the principles of referenda which is a simple question, straightforwardly asked, a single question straightforwardly asked, that could be answered in principle "Yes" or "No". We came away from that because the commission lost sight of its principles and here we are in what is, I believe, quite a deep hole and we are probably going to keep on digging. But then he talks about, in the second amendment, this amendment, saying: "This is incorrect. The majority of votes will be cast for options that retain the Constables, only if this is the outcome that the majority of voters prefer" albeit it might be their second preference, and therefore does contain bias, as I keep on saying and Members either acknowledge or do not. But then he goes on to say: "The removal of preferential voting would however produce a strong bias against the retention of Constables" and without his presence here, I cannot question him about what the logic of that is, but I consider myself a fairly logical person and I cannot see that logic at all.

[15:00]

I would be grateful, except we have not got the rapporteur who has already done his speech, it would be nice if the rapporteur could point out to me where that logic comes from and what the reasoning is that says that, in itself, produces a bias against the Constables when effectively, you have got 2 choices and none of the above. That is simply, I do not understand and I wish it could be explained to me. So here we are, an amendment that gives some people the opportunity to vote against the particular options that have been presented because either they do not like part of those options, whether it is 42 or 46 or the Constables or no Constables, or they have in their head a better version, for them, of what the reforms should be and therefore, do not want to vote for either of these because that will be the end of the debate. I believe it is useful to give the electorate that particular option which says: "Keep it as it is" which is again, a positive statement, but: "not these changes" which implies change but not these particular changes. That option, holding open the gates for further reform, is something that many voters I feel might appreciate and therefore, I will be voting for this amendment but, like Senator Le Marquand, I despair if we let the main proposition go through and this is not passed.

1.3.6 Senator F. du H. Le Gresley:

As I was sitting listening to the last couple of speakers, I thought: "What are we doing here today?" [Laughter] The answer is we were debating the Draft Referendum, (Reform of States Assembly) (Jersey) Act. Did anybody realise that? Up in the gallery is the vice-chairman of the Electoral Commission. He must be horrified at what is going on down here. He must have thought that this

would be a simple matter. The Commission would submit their findings, their recommendations and the States would quite naturally accept them and we would all go home and in fact, we would not be sitting here now. But this is Jersey and this is the States of Jersey and I have to say that I think the P.P.C. have got it wrong. They should not have ignored paragraph 4 of the commission's terms of reference which, for those of you who do not remember them, they are on page 3 of the original proposition in the report and it says: "At the conclusion of its investigation, the Electoral Commission shall present a report with recommendations to the Privileges and Procedures Committee - not to the States of Jersey; to that Committee - to enable the Committee to present the commission's proposals to the States for approval prior to the submission of the proposals to the electorate in a referendum under the Referendum of Jersey Law 2002." Now, what is missing? We have not had the opportunity to discuss the proposals before, as Senator Bailhache has said. Everybody, the public, has had this through the letterbox. You read this document. I am sure you have read it, Sir. Nowhere in there does it state that these recommendations are subject to approval by the States. So inevitably, the public think this is all done and dusted. What are the States spending all their time arguing and talking about? But we have not had the discussion and this is what we are doing today. We should not be debating the Draft Referendum (Reform for States Assembly) (Jersey) Act 2001 because we are not debating it. We are debating the proposals of the Electoral Commission and that is where we are all going horribly wrong because quite naturally, people are saying: "Well, we have only had a week to lodge our amendments because it is a Draft Referendum Act." It is not a debate about the commission's proposal which is what it should have been. So P.P.C., I am sorry, but you have got this wrong and that is why we are having this awful situation where I am getting, sort of thinking: "What on earth are we doing?" and then Senator Le Marquand who is unfortunately not here, says: "Do not lose faith [**Laughter**], try this pill" and this pill is Pitman number 2, is it, or 3? I cannot remember. Pitman pill 3: "This will solve our problems and if that does not work, we will have Senator Farnham's pill number 5." I mean, how ridiculous are we? That is so ridiculous, I am lost for words and I know I am supposed to make a speech but at the moment, I am lost for words on how ridiculous we have got with this debate. Quite honestly, I am very minded to bring a reference back on this because [**Approbation**] we have just got it so wrong. I mean, there is a clash here between the P.P.C. who have not done what was set in the terms of reference and, I have to say, a slight arrogance that we were going to roll over, States Members, and say: "Yeah, this is fantastic. Go out there and get all this voted in and ..." We are here because we are elected by the States, by the people of Jersey to make decisions and we want to have a decision on what should be in the referendum. We are not going to just accept, particularly with all the concerns that everybody is expressing, that this is right. I mean, they have done a good job; I am not denying that the Electoral Commission have done a good job but what a mess we are in now with the proposed wording of the referendum. So, I really do not know what else to say except that if this carries on, much as I do not want to do it, I will be bringing a reference back proposition during this debate because it is just getting ridiculous. I am minded to vote for this current amendment we are talking about because it is probably the best of a bad deal. But what a terrible position to be in, to have to choose the best of a bad deal and I will leave it at that.

1.3.7 Deputy P.J.D. Ryan of St. John:

Well, I was going to wait until the next amendment before I made my speech but following Senator Le Gresley's contribution just a moment ago, I have made the instant decision that I will speak now because it is a lot of similarities between what I am going to say and what he has just said. But I would like to make it clear from the start that unfortunately, I will not be voting in favour of this amendment because if this amendment goes through I will not have the opportunity to speak for Senator Farnham's amendment which I would be voting for. I would like to just say and start with if one goes back into the decision-making process, a basic premise might have been that it was

necessary to reduce a complicated 3-tier system by at least one class of Member, and for many people, preferably a reduction of 2 classes, to leave a simple system with one class of Member in the States. If we were a constituency of the U.K. with about 100,000 people, maybe we would have a single Member of a single class of M.P. attending Parliament and then we might also have a local council of what, 15 to 25 Members of that order. The States of Jersey has to cover both local and all functions of Central Government other than arguably defence and foreign affairs. However increasingly, we have to cover elements of foreign affairs as we become more independent in nature as a jurisdiction and similarly, perhaps, we have to look after some elements of defence as well. The combination of local and Central Government might give a clue as to why we find collectively some difficulty with the issue of the Constables, whether or not they are to be in the States, because Parish affairs are in many ways similar to local government in the U.K. The 3 classes of Member alone defines the multi-layered complexity of getting electoral reform agreed in this Assembly and it is further compromised by at least 2 or 3 classes of Member finding some difficulty, yes, at least some difficulty, with personal confliction, with their own personal political future prospects and ambition in addition to their genuine conscience-driven responsibility to support what is right and in the long term, democratic interests of the people they represent as well. We are inevitably, to some degree, conflicted. You would not be human, we would not be human if we were not. Leaving the conflicts aside, when faced with multi-layered complexity, the need for clear thinking and logical decision-making forces people to slice up or separate out the problem into bite-sized pieces that they can cope with. Computer programmers learn to do this at an early stage in their training because each element of code in a program can only be resolved with a yes/no result. This is the essence of binary arithmetic upon which electronics in essence is based. A series of yes/no progressions, often with the person using the program making a choice through interaction with the keyboard, the mouse, the touchscreen, leads to a finally, ultimately logical result. I would summarise my feelings as follows and, overall, I think there is ample evidence to suggest that large sections of the public want (1) to reduce the overall numbers in the States; (2) they want a single election day. Those are the top 2 priorities in my view. Marginally less of a priority but still firmly on the wish list is (3) they also want to keep the Island-wide mandate in some form; (4) they either want or conversely firmly do not want to keep the Constables in the States, one or the other; and finally, and if possible, at the end of the list, is to fix the inequities that arise with the different sizes of electoral lists in the current electoral, in the current Deputies' constituencies. Now, it would be nice to think that we could simply test the level of support or not for each of these items through a yes/no referendum. The problem with this is that many people believe that at a practical level, some of them are mutually exclusive so therefore which priority should be attached to each of them so that one or more of the others would simply fall away. And the general feeling is that you cannot have more than one referendum on this subject at this time anyway. The selection of the question or questions to be asked in a referendum is itself, in itself, not a problem provided clear and convincing evidence is presented in support. The commission needed to not only show that the choice of referendum question genuinely mutually excludes the asking of a different question but also they needed to present the even more essential evidence to show that the public clearly rate the importance of making a decision on the issue highlighted by the choice of question significantly ahead of the other mutually excluded option. Now that sounds convoluted but in simple terms I will condense it. Is it so important to the public that we resolve the issue of Constables in or out that it does not matter if we lose Senators along the way? At section 1.11 of their report R2/2003 the report that underpins this proposition, they say that the adoption of a single election day is inconsistent with the office of Senator and the Island-wide mandate. So Senators are toast. Unless, of course, a majority vote for no change. Now, to me, that is a highly unlikely and perverse outcome. I might just about, but only just about, be able to concede that there may be evidence that the public rate a single election day ahead of retaining Senators. But let us look at the assumption that the 2 are mutually exclusive. Where is the hard

evidence for this? I do not see it. Certainly, there is evidence that electing say 12 Senators at once in a non-party system or even more Senators would indeed be inconsistent with a single election day. But we are talking about 8 at the moment and what about 6 as it always used to be? And then the commission further undermined this assumption by proposing that 7 Deputies in an election in a super constituency is okay. I ask, other than the number of one numerically, what is the practical difference between electing 7 Deputies in each super constituency and 8 Senators on an Island-wide basis?

[15:15]

Very little, I suggest. Are you likely to get more candidates standing in an election for 7 Deputies or 8 Senators? I suggest the former and my evidence, for what it is worth, is simply that it would cost less and be easier to canvass a super constituency and have more chance of hard work leading to success for a serious candidate in a super constituency Deputies election than it would be in an Island-wide Senators election. So that would mean that you would likely have fewer candidates in a senatorial. If experience showed also that an excessive number of frivolous candidates were to stand for Senator because of the enhanced publicity perhaps, then there is always the option of introducing some kind of deposit in the future. And then finally there is the assumption that the question of Constables in or out should be the main focus of a referendum and that that issue, in isolation, is sufficiently important to justify scrapping Senators by default. My problem with the conclusions of the commission is that right at the start of the process they made an assumption from which a choice flowed that I do not agree with. I might have agreed with it had they offered me some convincing evidence to back up that assumption and choice, but I do not see it. The choice they made was to abandon Senators and the Island-wide vote as one of the 3 classes of Member to be culled, right at the start. A referendum choice of opting to retain the status quo is inconsistent in itself when clearly the case and evidence for some kind of reform is overwhelming. I had considered, like Senator Le Gresley, a reference back, but on what basis of further information could that be realistically brought? So, if I am given the chance, I will support Senator Farnham and that would be purely as a default position in case the main proposition is adopted and because this is the only amendment that might give the public the power to keep the pressure upon the commission, P.P.C. and the States to think again but to continue with the reform process. Let me make it clear though, that I think it would be damaging if a referendum would be held with a possible 4 choices, and I very sincerely hope that it will not take place in that form. So in this respect, it is the closest thing to a reference back without proposing a reference back that I can think of. When it comes to a vote on the main proposition in either its current or amended form through this amendment or Senator Farnham's amendment, I will be voting against it. As a resident in St. John I currently vote for 12 people in the States. Some of them I want exclusively to concentrate on a Central Government role and some on a local government role or a combination of the 2. I like that. It is very democratic. I do not mind reducing it a little, consistent with reducing the total number of people in the States, but I see no reason to reduce that to 6 or 7 particularly when it is not really necessary and what happens if there are no candidates that I value highly enough in my constituency that might happen in the future for a Central Government role and in all likelihood to become Chief Minister? The question of a Chief Minister's Island-wide election is another glossed over issue with lots of conflicting pros and cons and elements attached to it. But at least by retaining Senators we stand the best chance of attaching as much democratic accountability to that office as possible under our constitution. There is no reason why Senators and the Island-wide vote cannot be retained as part of electoral reform. People value Senators. They make a very significant contribution to democratic accountability through the likelihood that a Chief Minister will have declared his intention to stand for that office and to be among their elected ranks and they are essential to the link between our versions of local and central governments. Thank you.

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

I was inspired by the fact that we have had 3 Ministers standing up, not that it is relevant to the debate, echoing a lot of thoughts I had had on the whole matter and particularly ones who are not renowned necessarily for always speaking on every matter. The only reason I stood up at this point was because the Deputy of St. John made reference to the issue about Senators which has been yet another elephant in the room which we have been ignoring, which I was going to save those comments for when we got to the main point. I am in the same position as the Deputy of St. John. As I said yesterday, I will not be supporting the main proposition. But what I did want to say almost in support of what the Deputy of St. John has just said, is if we look on page 20 of the main report, paragraph 5.2, the question makes some justification for not incorporating Senators and the only reason I wanted to pick on it while it is fresh in people's minds. They say of the submissions received by the commission, which as we have always been told, is a self-selecting model, it is not a statistically representative thing because of people writing in, 42 per cent thought the Island-wide mandate should be abolished. However, they then split down the people who wanted an Island-wide mandate of different categories, whether it should be increased, stay the same or some form, they add all that lot up together in favour of the Island-wide mandate, from that self-selecting survey as it were, I think is 58 per cent. Because it is 32 per cent wanted to retain, 22 per cent were keen for number of centres to be increased and 4 per cent wanted to retain the Island-wide mandate; 32, 54, 58. And yet it may not be possible but I think you need a lot more justification, and really that is just what I want to say at this stage, that the issue of Senator ... I voted to reduce Senators, I was persuaded that that was a good way if we were going to do change. I cannot vote to remove Senators and I believe that is again a huge issue in terms of the Island of residents. I really just want to say those comments immediately following on from the Deputy of St. John because again I think it is another issue at the moment that Members are overlooking at this stage.

1.3.9 The Connétable of St. Mary:

Some Members seem to be unclear on what the purpose of this commission has been. They seem to think that we were charged to devise the basis for an opinion poll to be conducted rather than to come up with a package, an option for reform which could then be put to the electorate in a referendum. And incidentally, it is my belief that we are following exactly the right procedure that was set out in the proposition that established the commission. The commission did what it was supposed to do, it produced a report. The report was published as was everything else the commission did and the report was handed over to the Privileges and Procedures Committee who are taking this opportunity through this Act, through this Projet to hear what the States have to say about that. I do not understand Senator Le Gresley's confusion; we are doing what we were charged to do. The Privileges and Procedures Committee has picked that up. So the commission had to receive the submissions, we put out lots of advertisements, we heard from a great many people and I completely acknowledge that only people who wanted to engage with us did. Everyone else gets their chance to engage with the vote. But the chance, the invitation to engage, was extended to everybody and I think we would have gone on taking evidence had there been a rush, but we had a sustained and balanced set of submissions, all of which again were published. In formulating our option it is inevitable that there would be people who had made submissions who would be disappointed that their own preferred scenarios were not included in our package, and obviously that is the same for States Members as well. People have widely-held views, not all of them could be incorporated. What the commission did, and let me be quite clear about this, is that we came up with a unanimous outcome for what should be done; that the number of Members should be reduced, and that the larger electoral district should be created, and we were quite open and honest when we said we could not make a decision about the Constables, and we believed that that should go to the electorate. That was made public in our first report, our interim report. It was promulgated at all the Parish meetings that we went to and it received a good deal of support. So that is why there are 2 options. What we have here are 2 options for reform. Reform with the

Constables, reform without the Constables. What we are asking people to do is to choose which of those options for reform they want. And if they do not want either of those reforms then we are asking them just to signify that by saying: “Well, what I want is what we have got” over and above the reforms. It is not saying it is ideal because we know, and I have heard what the Deputy of St. John has said and of course he was not in the Assembly when the position of the Senators was discussed at length on a number of occasions, and it is understood the difficulty that we have now with the senatorial election being sustainable, is the fact that how inviting is it to go for a senatorial position when it is the same mandate? We knew and this Assembly was advised through all the reports that were done, of the difficulties of maintaining sustainability of the senatorial election but the decision was made at least twice with an absolute majority and the decision was made on the future of the Senators with the absolute majority of this Assembly. I acknowledge that the Deputy was not in the Assembly when that happened but nevertheless it has been done. But the option to retain the Senators as they are is there in the status quo. The Electoral Commission took a view, it considered all of the submissions and it considered the options that were available and our recommendation is that the role of the Senator does not go forward in our choices for reform. Now you either think that is a good idea, in which case you support reform or you do not in which case you select section C. There may be people, which nobody seems to consider, who believe that reform, either reform is better than what we have now and they will have the opportunity under our substantive motion to exert that influence. They can record their preference and that is why it is so important to keep the question as it is designed. It allows us to judge whether reform at any price is what people want or whether only a certain kind of reform is what people want. But this is not an opinion poll. It is not a question of putting every question that we could out there to see what people think about it, we have passed that stage a long time ago and yes, we did have the response that people wanted, the general election, the single day election and that was very, very well received and that is one clear reform we got. So I am at a loss as to what Senator Le Gresley is confused about with the process that we are following. This is the right place to be discussing this and frankly I am also quite confused especially in the light of the comments that we have seen from our expert, what the difficulty is in understanding why this 3-way vote should be as it is on the substantive motion and I urge Members to follow this through. Thank you.

Deputy G.P. Southern:

May I ask a question before the ...

The Deputy Bailiff:

The clarification you are seeking?

Deputy G.P. Southern:

It is the clarification, I asked half of the rapporteur about the statement that was just produced, the removal of preferential voting would however have produced a strong bias against retention of the Constables, I asked because somebody explained to me how that is logical and how that works. I cannot ask the rapporteur, I do not think, because he has had his speech but I could ask the other Member, this member of the commission, as to what is her interpretation of how that works.

[15:30]

Senator P.M. Bailhache:

If the Chair will allow me, I am happy to ...

The Deputy Bailiff:

No, Senator, I am not going to allow you to, you have had your speech, you have spoken on this particular issue already. The justification for the statement is, for me, to be in what follows the

statement you have requested, Deputy. Whether you accept it or not and whether Members accept it or not is a matter for Members and that is the document that is being put before the Assembly. Unless the Connétable of St. Mary wants to expand on it now and she has indicated she does not, then you have to make do with what you have got. Otherwise we will have second speeches *ad infinitum*. Does any other Member wish to speak? Yes, I have Deputy Young.

1.3.10 Deputy J.H. Young:

I will try and be brief. I just want to try and bring the debate back to the amendment, obviously we have had a very wide-ranging debate but I think the choice before us is whether to go with this amendment or not. When I first saw the Electoral Commission's recommendations I was very surprised with the inclusion of the preferential voting system. Obviously this is untried, untested. One feels somehow that there are improvements potentially there against the first past the post system so one feels generally warm towards that, but I certainly am starting to ask my questions, well, how will this work in this context? And clearly it does work in other places and it works when one is selecting people for roles. It is a very clear decision, individual A over B over C over D and so on. It is very clear cut. But of course in this case we are putting options in front of the public that are not just as one might think, just following this debate on the amendment about whether Constables remain or not, it is also the options before that include whether there are 42 Members, whether there are no Senators, and whether we have super constituencies, 4 elements in there of which people will be thinking when they choose those options. So yesterday when I read the Electoral Commission paper, it said, I did not use the word, but I looked it up on Wikipedia, I think it is what is called an alternative vote system when the option with the fewest votes drops out and the second preferences are reassigned. And I think that is what is intended in the Electoral Commission's proposal. Of course, it was explained in the debate that there was a parallel there with the way we elect Ministers, but I think that was dealt with very well by Senator Le Gresley yesterday who advised the House, of course, that was not the case because there is a fresh round of votes. So I think it was also said that this is the system used in London and this is where I am quite puzzled because when I looked up the London Assembly arrangements, it seems that the system used there reallocates the second preferences to the first and second candidates, not the lowest but the first and second. So I started to read about this and it seems that there are clearly alternative preferential methods of doing preferential votes. My worry is, is it right to put before the public an experiment on such an important matter when these options are not single choices but in reality a whole hotchpotch of choices. I fear not and therefore I am very encouraged, I think the only option we have got, the best one, the one that gets rid of it is Deputy Pitman's amendment. It is straight from the others but I think we are trying to make what is sensibly really high risk and not particularly well thought through set of options into something we can put to the public. So I think, for no other reason I am going to support the amendment but I still feel extremely uncomfortable about where we have finished up and what the end result is going to be.

1.3.11 Deputy J.M. Maçon:

Much like Deputy Young, I want to bring us back to the amendment which is before us, which is neither of the above options. And we have to compare and contrast that to other options we might have and how that is different to what the Electoral Commission proposes, and I said this 2 weeks ago that there is a difference between my preferences for the current system, to saying: "I reject the options that you are putting forward" the importance of saying "No" and unfortunately if we stick with what the Electoral Commission has proposed, you do not get the option to say "No" because an endorsement of the current system is not the same as a rejection of all the options and it comes back to the argument I made when we started off, it is being able to prepare for it, the results, because that is what it is about, it is having a result that we can interpret and go forward from. That is why I feel this option is very important to support, although I think in the arguments made by

Senator Le Marquand he made a very good argument why you should have a yes and no vote because of the clarity that it gives you rather than what we have got here. But that time has passed and you have got to accept the democratic decision. The only other point I want to make is that the Deputy of St. John has made and compare that to the advice of Dr. Renwick, which is in Senator Farnham's amendment, and I know I should not go there but I do feel I have to compare and contrast in that there is a duplication of the same option in the sense the same type of option twice. You get the option for 2 status quos in that one which can divide the same interpretation of the result, whereas this one it is only in one which is none of the above. And I hope Members understand the statistical importance of not duplicating what can be seen as the same result and how that can be divided and skew the interpretation of results. So that is why I feel that this option is better in the sense than perhaps some of the following amendments and that is why just go with the Deputy of St. John and I can explain why this is my own reasoning.

The Deputy Bailiff:

Does any other Member wish to speak? Then I call upon Deputy Pitman to reply.

1.3.12 Deputy T.M. Pitman:

Would it be permissible before I sum up to just leave the Chamber briefly to scream or cry?

The Deputy Bailiff:

Well, you may find the vote is taken in your absence. **[Laughter]**

Deputy T.M. Pitman:

It sounds quite appealing. I thought gloom and doom were the 2 Constables sitting either side of the Constable of St. John, but dear oh dear. I have shown my age, but this needs a debate, I cannot help remembering a programme I used to watch as a child and I think it was Private Fraser who said: "We are all doomed." We are; if this is the way we are going, despair. You know, Deputy Tadier says that sometimes people think we are interchangeable, well we are not, for a variety of reasons I will not go into. However, when I hear the argument I can only put it like this - and I am not having a go at the Deputy because he is a good friend and he is a good politician, *et cetera, et cetera* - it is like saying: "What you are doing, you are in a boat, there is a big hole in it, now you are only filling that hole three-quarters, you are not filling completely so, do not care, I am going to vote to stick with the big hole even though it is going to make us all drown quicker." That is the way I look at it and we have seen this before. We saw it with my last amendment. When I heard in that debate Constables who had come up to me and said: "Yeah, what you are offering is fairer" and yet they voted en mass for something they knew was less fair than mine. Crazy. What are the public meant to make of all this, and the Deputy of St. John, well he made the best speech, the best speech in support of why we should have stuck to an independent Electoral Commission ever. Because we have ended up with a complete ... well I am not going to say the 2 words I am tempted to use because I would be in trouble, but it is true. Do not criticise people for trying to make it better. I lost the will to write down people's thoughts after a while, I was so despondent. But one thing I have always said in this Assembly and no one can question it, I have always said that Senator Ian Le Marquand - always said - absolutely brilliant, clear to the point things and he was always right. I have always said that, have I not? **[Laughter] [Aside]**

The Deputy Bailiff:

I thought he was threatening a vote of no confidence yesterday. **[Laughter]**

Deputy M.R. Higgins:

No, Sir, I tried to.

Deputy T.M. Pitman:

And I could almost forgive the Senator all the sins of the past since we have been in the States because today he did hit the nails on the head. And Deputy Maçon in a perhaps more concise form, he really sums it up too. You know, people have been saying: “This would be nice to have, these comments” and it would have been, but I tell you what, it would not have made any difference to get an explanation for how this would lead to apparent bias against the Constables, because it is a complete load of utter nonsense. Nobody can work it out. When I changed my career many years ago, one of the things I learned at university was that they said: “Beware of experts, beware of experts and people who claim to be experts because you will naturally trust them because they say something.” Well, I could produce another expert who would say an exact opposite and there is no disrespect to that gentleman, he is entitled to his opinion. There is no bias in there that is going to be towards excluding the Constables. I almost do not want to say any more, I just ask Members to cast their minds back to what Senator Le Marquand said and we are in a mess but this makes the mess a bit better. It certainly makes the mess clearer for the public to see and they probably will not just say: “None of the above”, they will say: “None of you who are in there now” quite frankly. “None of you, go, never darken our doorway again, please.” Right now, as things stand, we could go an option A: option A, no Constables; go an option B with the Constables. If you are not happy with either of those for a variety of reasons you should be able to vote neither of the above. That may be to say, as I have said, that you are not happy, you want us to go back to the drawing board, Electoral Commission number 2, or you are just happy with the status quo because again, and I thank for that prompt, but I go back to my point, what we are doing if we do not accept this amendment? Senator Farnham is after this and I pity him having to make a speech. What we are doing is we are going to say that coming up with some decision, even though it is going to be terribly fudged or unclear, is better than being honest, accepting that the public do not want what we have come up with and go back to the drawing board. So I would just implore Members, please support this amendment. Without this amendment I am certainly going to have to follow the growing numbers who are saying that: “I am going to vote against the whole thing”, and I do not want to do that, if only for the fact that I can see us debating this for the next 10 years. So, please, Members, please do go for the sensible option. The alleged statement, well, it is not alleged, it is a statement from an expert, is wrong, it is misleading. Neither of the above is the sensible option to get a clear result that means something, and I cannot argue any more than that so please vote quickly before I cry. Thank you.

The Deputy Bailiff:

The appel is called for and I invite Members to return to their seats. The vote is on the second amendment of Deputy Trevor Pitman and I ask the Greffier to open the voting.

POUR: 17		CONTRE: 30		ABSTAIN: 1
Senator A. Breckon		Senator P.F. Routier		Deputy M. Tadier (B)
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Senator B.I. Le Marquand		Senator A.J.H. Maclean		
Senator F.du H. Le Gresley		Senator I.J. Gorst		
Senator L.J. Farnham		Senator P.M. Bailhache		
Connétable of St. Lawrence		Connétable of St. Helier		
Connétable of St. Brelade		Connétable of Trinity		
Deputy J.A. Martin (H)		Connétable of Grouville		
Deputy G.P. Southern (H)		Connétable of St. Clement		
Deputy J.A. Hilton (H)		Connétable of St. Peter		
Deputy S. Pitman (H)		Connétable of St. Mary		
Deputy T.M. Pitman (H)		Connétable of St. John		
Deputy T.A. Vallois (S)		Connétable of St. Martin		

Deputy M.R. Higgins (H)		Connétable of St. Saviour		
Deputy A.K.F. Green (H)		Deputy R.G. Le Hérisier (S)		
Deputy J.M. Maçon (S)		Deputy of St. Ouen		
Deputy J.H. Young (B)		Deputy of Grouville		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy E.J. Noel (L)		
		Deputy G.C.L. Baudains (C)		
		Deputy of St. John		
		Deputy J.P.G. Baker (H)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		

1.4 Draft Referendum (Reform of States Assembly) (Jersey) Act 201- (P.5/2013): fifth amendment (P.5/2013 Amd.(5))

The Deputy Bailiff:

Very well, we now come to the fifth amendment lodged by Senator Farnham, and as was the course followed on the last occasion I shall ask the Greffier to read paragraph 7 which encapsulates the purpose of the amendment.

The Greffier of the States:

Paragraph 7, page 19 schedule. In the Ballot Paper in the Schedule – (a) after the words “(You do not need to use your second choice if you do not wish to do so) insert the words – “Alternatively, if you do not wish to vote for any of options A, B or C, place a cross in the box opposite ‘None of the above’.” (b) at the end of the Ballot Paper add the words – “None of the above”.

1.4.1 Senator L.J. Farnham:

Can we go straight to the appel, please, on this one? I will take that as a no then, I will deliver my speech.

[15.45]

The Deputy Bailiff:

I mean before or after you deliver your speech.

Senator L.J. Farnham:

I was going to withdraw it then but Senator Routier’s comment made me carry on. I just very briefly want to explain the subtle difference between my amendment and that of Deputy Trevor Pitman’s. Although they are similar, the subtle difference is that if we had supported removing option C and replacing it with a “Neither of the above” option it could have indicated that the electorate who supported the “Neither of the above” option might have been happy with the status quo, whereas my amendment, “None of the above” would clearly indicate that they are not in favour of either A, B or C. I just want to briefly comment on the comment Senator Bailhache handed out earlier. It is a slight shame we did not get these yesterday because I could have incorporated these into my opening comments but I will attempt to address them now. I am looking at the fifth amendment comments and I am not sure how to really respond to the first claim

that this amendment would be dishonest. How on earth would this be dishonest? In my opinion it would be dishonest to deny a proportion of the electorate the opportunity to say: “No, thank you”. I am not sure I understand. I am sure Senator Bailhache will attempt to explain why my amendment is dishonest. A vote for “None of the above”, it goes on to say, would effectively be a vote for the status quo which is already an option ...

Senator P.M. Bailhache:

Will the Senator give way, just to deal with that point?

Senator L.J. Farnham:

No, I will not give way so the Senator can add ... not just now. A vote of “None of the above” would effectively be a vote for the status quo which is already offered as option C. Well, “None of the above” in my amendment clearly means no to A, B or C. Voters might vote for “None of the above” hoping to signal that they reject the status quo as well as the reforms that have been offered but that is not the effect such a vote would have. Well, I again, tend to disagree with that. Think that it would be confusing. Well, it would not be confusing. What is confusing about giving somebody the option to say no by putting a cross or tick in the box that says: “No, thank you”? What is confusing about that? We are getting this red herring thrown at us all the time. Really, it is not right to say that. The number of accidentally spoilt ballot papers would in all likelihood be increased. I cannot make logic out of that either, why would the option to say no increase people to spoil their ballot paper? Not having the option to say no, would it encourage people to spoil their ballot paper? A number of people have already stated publicly they would do that. Third, it would diminish the clarity of the result. Now, we see why there is concern. One of the reforms options might win the majority of the preferential votes but not the majority of all votes. Could this be taken as showing majority support for the change? Well, no, it is quite clear. My amendment is quite clear. This is why I hope Members will be a little forgiving insofar as my amendment does not interfere with the single transferable vote of A, B or C, it lets that carry on but it will signify the number of the electorate that are not in favour of that. I am sorry if that was a ... I did that on the hoof, those comments. I hope Members understand. I will briefly give way now if Senator Bailhache would like to attempt to answer why my amendment could be deemed as being dishonest.

Senator P.M. Bailhache:

Thank you to the Senator. I wanted to say that this document was put before the Assembly because it was the document which the commission received from our expert adviser. It is not part of my case that the Senator’s amendment can be described by the epithet used by Dr. Renwick, and for my part if Senator Farnham had not used the word I would not have referred to it at all. I prefer to use the word “misleading” and that is the word that I will use when I address the Assembly.

Senator L.J. Farnham:

Thank you, that is most gracious of Senator Bailhache. I will continue and I hope my short speech will not mislead you, I hope it will clarify matters. I hope it will not wreck ... my amendment is not meant to wreck anything as it has been accused of it might be wrecking but is meant to rescue this and I hope I can persuade Members as this is now, I think, one of the last lines of defence. I ask Members to cast aside, just for one minute, their views on the 3 reform options. I also respectfully remind Members that we are not here to second guess what the electorate might vote for or how they may allocate their votes. We are not even here to look to the future and try to reconcile now how we might deal with the various possible outcomes from the conclusions of the referendum. We will cross that bridge when we come to it. We are here to ensure that this referendum gathers and records the views of the public accurately, fairly and democratically on the 3 reform options as presented by the Electoral Commission. This means that in order to deliver the

right electoral reform for Jersey, this Assembly must obtain a clear understanding of public opinion in relation to the 3 reform options. But it also means that we must obtain an understanding of public opinion from those who do not want to support the 3 proposed options. Senator Bailhache said, in his opening speech yesterday, that the electorate could reject the reform options. I ask: how can the public reject the reform options? Maybe the Senator would like to ... I will give away again. How can the public possibly reject the reform options?

The Deputy Bailiff:

No, Senator, you must make your proposition otherwise we are in danger of having a number of speeches from Senator Bailhache.

Senator L.J. Farnham:

How can the public reject the reform options the way the referendum is currently proposed? The Senator had suggested to me earlier that they could do this by voting for option C. But how could we seriously ask the public to reject the proposals by voting for one of them, and what is more, according to the Electoral Commission, option C is flawed in many ways and not really fit for purpose. It is referred to as the status quo but yet they are prepared to offer it as an option. It has also been suggested that if a member of the public does not support any of the 3 options they could simply choose not to participate in the referendum. This has been said to me by a number of Members, a number of senior Members. However, it is completely unacceptable, neither is it democratic to expect a member of the public to abstain from voting or be forced to spoil their paper should they not be in favour of any of the 3 options. What do we say to the people who want to vote against all this? Do we just exclude them? We must remember that we are trying to include people in this process and this process must be as inclusive as possible. Should there be a low turnout or a turnout of less than 50 per cent of the electorate, which is possible - in my opinion it is likely - then it would be difficult to differentiate between voter apathy and those not participating because they do not wish to support either option A, B or C. In fact, I pose the question, what would the conclusion be if there was a low turnout of, say, 30 or 40 or 40-something per cent, would this Assembly then have to assume that the majority were against the reform options? If accepted, this amendment can help the referendum, it could lead to the confirmation of the numbers of those who do not favour any of the 3 options, which would in turn protect the integrity and accuracy of the referendum and provide useful information for Members of this Assembly at the next stage of the process. I cannot see what is wrong with gathering that information. I would like to make it clear that when presenting this amendment I remain very mindful of the fact that when the States established the Electoral Commission they also agreed, as part of that decision, that the recommendations of the commission would be put to the people of Jersey in the form of a referendum. The members of the Electoral Commission and the 3 non-States Members in particular who have given many hours, it is acknowledged with gratitude, of their time on a purely honorary basis are clearly looking to Members to honour that previous decision and not to seek to change the reform proposals. A number of Members have quite rightly alluded to this in their speeches. But I ask the Assembly, and those Members in particular, to note and accept that this amendment purposely does not seek to change the reform proposals as it allows all 3 reform options to be presented as proposed by the Electoral Commission. I believe that was a hurdle for a number of Members. It does not produce a compromise; it does not complicate the issue. It simply aims to provide for a fairer referendum which allows members of the public to vote for the reform option in the prescribed way or simply say: "No. No, thank you, please keep trying."

The Deputy Bailiff:

Is the amendment seconded? **[Seconded]** The Connètable of St. Mary.

1.4.2 The Connètable of St. Mary:

Members will know that I have, myself, some experience in bringing reform propositions to this Assembly in, as a dear colleague used to say, a former life. These propositions were not always won, not often won, and even after a successful debate there were sometimes challenges. Sometimes repeated challenges. So I am no stranger to controversy and I am certainly not one to shy away from a robust political argument. However, one theme that I have consistently maintained throughout every proposition that I brought on behalf of the P.P.C. and every speech I made on amendments and on independent propositions is that whatever we do, we must be clear on the outcome and therefore on the possible consequences and, above all, we must at all times ensure that the function of our Parliament and Legislature is not impaired. We must, in short, have certainty and also a confidence as we go forward. This final amendment is perhaps, and may appear to be, almost harmless but in fact I would say that it is really like the smile on the crocodile. The innocence is deceptive. The substantive referendum question allows voters to endorse or reject the major reform options proposed by the Electoral Commission with the reduction in the number of States Members and the creation of large electoral districts. It also allows the public to decide on the relevance or otherwise of maintaining a Parish link in the Assembly. Crucially, in the context of the current amendment, it allows for the rejection of both options and for the Assembly to continue to be constituted as previously agreed. I think it would be regrettable if, after all the interest shown by the public, this were to be the end result of the commission's work. But it would certainly be possible for the Assembly to be constituted after the 2014 elections and for it to function, although as I have said, I personally believe that long-term the position would not be sustainable. There are, it is true, 3 options but in fact there are not 3 options for reform because option C is the reform we have already chosen. That is already set. It is not debatable. If we do not accept one or other of the reform proposals we will be left with what we have already undertaken to progress. So the function of this amendment if we were to allow it, if we were to adopt it, is that there is a possibility that we could be left without a real outcome. We would not know what people wanted, we would only know that they had rejected all the options. So there would be nowhere to go. We would in fact be looking at no possible reform before the 2014 elections and we would be looking at going into an election knowing that we were going to form a Parliament, an Assembly, the makeup of which did not have the endorsement of the people but we would not be able to do anything about that. That, to me, is uncertainty. That, to me, strikes at every alarm bell that I ... I feel it would be, as far as I believe, the simplest way to disengage almost completely with the electorate, and for a Government, a Parliament, an Assembly that has said it is committed to increasing voter participation, that would be a frightening outcome. For those reasons alone I would urge Members not to be seduced by this seemingly innocent amendment. It could in fact lead to the worst of all possible outcomes. Thank you.

[16:00]

1.4.3 Deputy C.F. Labey of Grouville:

I have resisted speaking up until now and I will only be speaking once so please forgive me if I stray just a little. I, like, Senator Le Gresley yesterday felt that this was a bit like States Members contributing to the reform debate ... not the reform debate, the commission's analysis would be a bit like turkeys and Christmas, and the point of having a referendum was to put to the public to try and gauge what they wanted. What has been brought forward is, as the Constable of St. Mary said in a previous speech, is a package and I think that is the wrong way of going about it. I was very sorry that Deputy Southern's amendment was lost because I feel that before the commission had any right to give a package for reform they needed to establish a few fundamental facts. Fundamental facts like, would you like to keep the Constables in the States? Would you like to retain the Island-wide mandate? Do you want transferable votes? Would you like to have a say in who is the Chief Minister, or at least have some input in the voting for a Chief Minister? I also feel that this whole thing being brought about now in the time of recession, housing, hospital crisis and

issues, is completely the wrong time because I have never been convinced that our system is so broke that we have to be spending all this time and money now on this issue. I did feel that once we had established those facts then it would be up to the commission to go away and then, if they like, bring forward a package based on those fundamental choices that the public had made. But instead we have been given this rather hotch potch couple of options which, to my mind, are very flawed, double guess what the public think, or try to double guess, for an apparent broken system. We have some ... over the past couple of days I have heard during the speeches some things that just do not make sense to me. We heard from Senator Bailhache in his proposing speech that the population has doubled in the past 65 years, yet the commission's response to that is to reduce the number of representatives to 42. There is an absolute fixation with this number, 42, and I do not know why. I do not understand why 42 but the arguments for that have already been well rehearsed. But Deputy Baudains, to my mind, hit the nail on the head this morning when he said, you know: "Surely we decide all jobs that have got to be done and then see what number we end up with." We do not have this fixation with a number. The parity of voting numbers has also been made an issue. In the past 10 years or so that I have been in office, I have never been approached by a constituent concerned that St. Lawrence are more represented than the constituents in Grouville. Never. It is not an issue. It is not an issue to the public but these are the sorts of anomalies that we could improve without changing the system wholesale. So the parity of voting numbers was made into an issue, and yet one of the options being brought forward is, as Senator Bailhache claimed this morning, inequitable. It just rides roughshod totally over this. We are setting up these super constituencies, bringing down the Parish boundaries, and yet in option 2 we do away with all the arguments for putting that in place by leaving the Constables in place. Do not get me wrong, I am in favour of the Constables staying just where they are. Oh, well, you do not agree, tough. Senator Bailhache claimed that he was embarrassed or there was some embarrassment about our system because it was too complex for the public. Well, I am sorry, I do find that quite insulting to the public but it is no more complex if it is explained. I go into some of the schools, not all, and the schools could do an awful lot more, let us face it, to try and teach students how our system works because some of them have been brought up with parents who have come to the Island and to be honest are not in the slightest bit interested in politics, in voting or anything else. It is not a question of the system being too complex; life is too busy, they are not interested, it is good enough for them so they do not. But in the U.K. we have Parish councillors, county councillors, Members of Parliament, M.E.P.s (Member of European Parliament), mayors, all these different people that we can vote for. I would suggest that our system with the 3 different types of Member is no more complex than that. But probably the most astounding revelation in the proposer's speech yesterday was his claim that the Island-wide mandate is built on nostalgia. The most democratically elected seat in this Chamber is that of Senator, yet the Senator claims the commission's proposals are built on democracy, so that is flawed. But in the same swipe as we destroy the Parish system, we extinguish the most democratic seat in this Chamber. The electorate may like to have some input in voting for those who hold Ministerial office. I have always believed, and I know this is something that could be changed any time, but I have always believed that the Ministerial posts should be derived from the Island-wide mandate and that is the difference because I know Senator Bailhache was concerned with what is the difference between the Senator standing for an Island-wide seat, spending all that money on the election, when I can stand in Grouville and spend, I do not really know what they spend in the senatorial elections. Yet you come into this Chamber and you have got the same vote. Well, like I say, I would suggest that the Ministers, the office of Minister, come from the senatorial benches of the Island-wide mandate so that everybody has a say in who heads up these departments. But obviously, and this is why I do not agree with, necessarily now, as many people will know, with the third option because the office of Senator was eroded quite considerably by one of the commissioners who ... well, by this Chamber but one of the commissioners obviously led the charge on that issue. Why do proposals A

and B raise the standard of debate as suggested by the Chair? The Deputies serve in their Parishes or Districts, the Constables may or may not be there. So is he suggesting the senatorial benches somehow lower the standard of debate? I do not understand why, with super constituencies and Constables or not, the standard of debate will be raised, or is he saying that the Deputy of the sort of county councillor, grass roots work is not to be considered or we should not be bringing things forward of concern. So when I am dealing with the lady in Gorey Village on a grass roots level I should really be dealing with protocol 3 or some high office type thing. But who is going to deal with that, or are the Constables meant to deal with all the Parish work? As Deputy Martin said yesterday: "I am afraid the commission simply does not understand. If you have people ringing you, you deal with them." I have still not been convinced in any of this argument how we are improving democracy. We currently have 3 different types of States Member with States duties in here, with whatever jobs we do, Ministers, Assistant Ministers, Scrutiny, important job, and we also have our duties that come with our role of office. We are different animals, there are different issues and they are dealt with and they should be dealt with, differently. I know it has got foggy over the years and I would like to see far clearer lines of definition with these roles. I think that is where we have lost our way. Again, with this claim that we are going to improve democracy, with what is being proposed my constituents are losing votes. In Grouville currently we will have the opportunity of voting for 8 Senators, one Constable and one Deputy so we have the opportunity to vote for 10. We used to have 14. Option A will give us 7, and B 6 plus a Constable. It is claimed that the rotten boroughs will be eliminated and somehow I felt yesterday that those that did not have to face an election, this was something to be shamed. I am sorry, it is not. If somebody does not stand against you that is a choice in itself. The people must be happy with you or if not they would put somebody up against you, so there is this assumption that there are these rotten boroughs. But also if we have 6 super constituency places, we might get 6 candidates, so nobody knows if that is going to happen or not. But what I felt with all these proposals is what we have here is all our roles for these super constituencies, the Parishes will be diluted whether the Constables are in this Assembly or not. The Parishes will be diluted somehow and if the Constables feel comfortable even if they are voted back in, I would suggest it will be a maximum of 5 years before somebody comes along and removes the Constables and that is it, the Parish system has been lost for ever then. I would also like to know how my constituency work is to work in practice. Currently I attend all the Grouville Parish Assemblies, I am involved in community, different associations, what have you. Am I meant to attend those times 3? 3 Parish Assemblies, 3 lots of associations or maybe do none of that.

[16:15]

Maybe we are just meant to sit in an ivory tower and deal with high office-type work. I think I have made my point. I would just possibly like to ask the proposer when he sums-up, and explain very clearly, how do my constituents vote for an Island-wide mandate in his proposals? How do my constituents vote to have a transferable vote? How do my constituents vote for Constables to be retained without super constituencies?

The Deputy Bailiff:

You are referring there to the proposer of the main proposition, Deputy, I think.

The Deputy of Grouville:

Yes. Sorry, I said I would stray.

The Deputy Bailiff:

It would be helpful if you could try and keep it in the ...

Senator L.J. Farnham:

I am very pleased to hear that.

The Deputy of Grouville:

I think they know who I am talking about. How will the 2 options put forward improve democracy and raise the standard of debate? When these proposals are put to the public in referendum, this package, is there going to be any requirement of a particular number of turn-out to make them viable? I would also like it explained what is so badly broken about our system that we should be spending time and money on this issue now?

1.4.4 Deputy M. Tadier:

I try not to get drawn into those comments because they are general. Of course, I will only say that in the U.K. where they have M.E.P.s, M.P.s, councillors and mayors, they do not all sit in the same Chamber; that is the only thing. They have very distinct places where they do their business but I am looking forward to engaging when the referendum does happen, and it is looking increasingly likely, with this proposition. I was very enthusiastic when I heard that Senator Farnham was lodging this amendment before I read the fine detail, I add, which the penny is starting to drop now. I think the principle is absolutely correct. As soon as you have had the third option on the table which is option C, keep the status quo, you have to have an option D which is an alternative reform option which says: "We do want reform; we do not want your reform, thank you very much. We do not want any change, thank you very much, because I am coming out to vote and I expect something to be done about it." The question now is, and I was mindful of the comments of the Constable of St. Mary, is this amendment benign or is it nefarious? I use the word "nefarious" in a sense inadvertently, because I do not think the intention is for it to be nefarious, or does it hinder what we are trying to achieve is perhaps a better way of putting it. What I would like to see for this referendum, if and when it happens, and I hope Members can share in these aspirations, is a high turnout, before anyone laughs I still remain optimistic, I would like reform to happen at the end of this process and I would like the public to engage with that. The problem with this, as I have seen it, is that why is the "None of the above" option separate? It is like hermetically sealed from the rest of the other options. I can vote for option 1 and 2. If I really want to vote for option A, I am not allowed to vote for "None of the above". If I want to vote for "None of the above" I am not allowed a second choice. I am being disenfranchised as a voter potentially. What I would like to do is vote for option A and then vote for option "None of the above" as my second option, so I would have liked that to be a second option. So, in one sense, you could argue: "Let us adopt this amendment because it does not do anything." It is going to be an interesting little sideshow. I am not sure who is going to be leading the sideshow, maybe the Senator or maybe somebody else. We joked about this, did we not, what was that programme, "None of the above", Brewster's Millions where he is trying to spend, I think, £30 million in a month or something to that effect? He gets to waste as much money as possible, he runs a campaign saying: "None of the above" with no intention of getting elected just so he can spend lots of money in a legitimate way in order to win his ultimate prize which is a lot more money from an inheritance. So what we will see, we will see a campaign which says: "It is really important that you vote. Come out and vote for 'None of the above'" and we may get 10 per cent who vote for "None of the above". Okay, what impact will that have on the other 3 options? All of those people who voted for "None of the above" will not be having a say on the substantive reforms that are being proposed. Now that is fine if those people would not have come out normally. We have an extra 10 per cent of the population potentially engaged in the electoral process but they are not having a say on where the mature voters are going to come out because I seriously do not think any self-respecting voter is going to come out just to vote for "None of the above". They may do and they would have done if it had been given a preferential voting option, in fact, to the point where it could have succeeded. I am sure a lot of the option A and B votes would have gone to "None of the above" as their second option and if "None

of the above” were unsuccessful, those votes might have gone into a different option, option A or B. This is the big problem I have with it. Just to critique perhaps some of the comments from Alan Renwick. We are told that a vote for status quo is a vote for status quo. That is what the Electoral Commission have given that option. If you want the status quo, you vote for status quo. The problem is, as has already been explained, if you do not want the status quo and you do not want the other 2 options, what do you vote for? You do not. You stay at home, mate, you are not allowed to vote. We are not interested in what you say; you are not part of our thinking. You can stay at home; you will not be involved. So you do need that but not with this single vote and that is true. So I think it is true that it would be confusing to combine the preferential and non-preferential voting systems. “The number of accidentally spoilt papers will in all likelihood be increased.” Well, would they, or would they be decreased because you do not have to turn out? Now, if you do not like the options, you turn out deliberately to spoil your paper. If you are that motivated to do so you can go. We have heard that one of the rector is going to come and spoil his paper but now he does not have to spoil his paper, he can vote for option “None of the above”. So there should be fewer spoilt papers from people who do not need to spoil their papers to make a political point. So I think that one can be argued both ways. But the fundamental point is how do the “None of the above” votes fit into the overall process? They get 15 per cent of the population come out saying: “We do not any of the above.” “Thanks for that, that is fine”, and one of the other 3 options will win automatically. It does not make sense and this is why the process has been so frustrating because I think the Senator, and I agree on this, there should be an option D but it should not be done in this format. Again, I am not sure where we go with this option. I am not sure if it is going to enhance anything. You could vote for it on the basis that it is going to be benign but I am worried that some of my work, when I am campaigning, people will be attracted to vote for “None of the above” when they should be voting for A, B or potentially C.

1.4.5 Senator P.M. Bailhache:

This is perhaps a seductive amendment for some because it purports to leave the commission’s referendum question untouched while adding another option for the voter. But it is, and I am sorry to say this of my good friend Senator Farnham, a wrecking amendment. I am sure that that is not what he intends but that could nevertheless be the effect of it. The reality for the next elections is that there are only 3 possible options available. There are the 2 reform options if either is adopted and there is the status quo. As I have already said in the context of another amendment, absent any reform, we will have the status quo for 2014 whether we like it or not. A vote for the status quo is, and was intended by the commission, to be a negative vote in relation to the reform options. It was not necessarily intended to be an endorsement of the status quo because the commission has made it clear that it does not like the status quo but it is the only other option available. The Deputy of St. John, he is not here, but he rather puzzled me by saying that he did not think that 4 options should be put to the electorate but that he was going to support Senator Farnham’s amendment which contains 4 options. So why is it a wrecking amendment? It is a wrecking amendment because it has the capacity to destroy the value of the referendum and to put us into a complete and utter mess. Politics is about making difficult choices. Do we want to enact this law? Do we want to adopt that policy? It is not about negativity and this amendment is negative. “None of the above”: “I am not going to tell you what I want but it is none of the things that are on offer.” In the unlikely event of the majority voting in favour of “None of the above”, where does that leave us? The reform options have been rejected but, as the Constable of St. Mary said, so has the status quo. The Senator says in terms of: “What is wrong with that?” The answer is that the public does not like the way that we are nor what was proposed but has not told us what it wants. What a recipe for chaos. What a recipe for endless wrangling about whether the vote was in favour of Senators and, if so, for how many? Or in favour of small constituencies or just a general protest vote about politicians in general. As an Assembly we have a responsibility to the electorate and to ourselves,

not to allow the States to get into that sort of mess. After all these years of inconclusive argument, are we really going to risk putting the Assembly into that kind of morass? As the Constable of St. Mary again said, we have a duty to produce certainty and confidence in the Assembly. Deputy Southern drew attention in his report, and I have quoted it already, to the guidelines from the U.K. Electoral Commission in structuring a referendum: "... a question should be clear and simple, that is, easy to understand; to the point; and not ambiguous." People will ask: "What is the difference between the status quo and voting for 'None of the above'?" We, as an Assembly, through our officers in the Greffe, have a duty to answer that question in information to be put to the electorate at the time when practical information is circulated about the referendum. The status quo is clear, we all know what that means. But what does "None of the above" mean? What will you get as a voter if you vote for "None of the above"? In the immediate future you will get the status quo but after that nobody knows. It is ambiguous, it is hopeless, it means what the voter intends it to mean but no one knows what the voter intends. Deputy Pitman made the suggestion, I think tongue in cheek, that perhaps we should have an extra name on the ballot papers for senatorial elections: "Mr. None of the Above." He might do quite well but would that help the democratic process? The additional question would be a drag upon the referendum. A great negative force appealing to all those like the Senator, who conscientiously would prefer some other solution, although he has not been good enough to tell us what it is, but a feeling also to others who cannot be bothered to think things through or who are generally anti. There would be no second preference, as Deputy Tadier points out, to the anti vote. No means of discovering what other preferences they might have. Either reform option A or reform option B might be the beneficiaries but more likely we would all be the losers because the anti vote would have the capacity to weaken the legitimacy of the result of the referendum. If you do not like the reform options your remedy is to vote for option C because that is what we will have at the 2014 elections. The status quo, in the view of the commission, is not a viable option in the long term or even in the short term but option C allows the arguments to continue as to how we should reform ourselves. I ask Members to vote against this amendment.

[16:30]

1.4.6 Deputy G.P. Southern:

I will be brief. I do believe the Senator is right in his argument. He has asked Senator Farnham to come clean: who is likely to take the option "None of the above"? Why, those people who wish to preserve the Senators and that is where they will cast their cross. I believe that is the agenda on which Senator Farnham is working and I for one cannot vote for that. I shall be voting against it.

1.4.7 Senator P.F. Routier:

Nineteen years ago I got elected to this Assembly and I stood because I wanted to use my time serving the public and providing services and ensuring that we have a good Island to live in. I did not want to spend 19 years deliberating over government reform. I have spent far too much of my time doing that and we seem to be going along that route, yet again. I do have quite a bit of sympathy for Deputy Pitman when he said he wanted to go outside and scream and cry because it has been, I have to say, a debate which I have found very, very difficult. But I have to say I am very grateful to the commission for having carried out the work that they have carried out. They have done a job and they have come forward with options. With regard to this particular amendment, I am afraid this, as has been quite eloquently said by the previous speaker - I could not have said it as well as him, but in my simple way - is just kicking this into the long grass. It is not something which we should be doing, putting in this other option, because if that was to be the overriding wish of the electorate that it was "None of the above" we would be faced with a situation in 2014 of electing people in that current situation. So it just does not achieve anything really, except to kick reform into the long grass. What was for my mind a very powerful comment which was made by the proposer of this amendment, his final words were: "Please keep trying."

But I think we have done enough of trying. We need to get on and have some reform so I ask Members to reject this amendment.

The Deputy Bailiff:

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

1.4.8 Senator L.J. Farnham:

Can I start by thanking all Members that have contributed. Thank you for speaking on this amendment but it is, I suppose, typical of the nature of this beast, being the States Assembly, that there is no real understanding or acceptance from the Electoral Commission of any of the amendments placed to their proposition. They have been not really seriously considered. They have been disregarded; I do not think they have been given serious consideration. In the comments we do get, they have attempted to despatch the arguments with their own arguments that themselves are often inaccurate and questionable.

Deputy S. Power of St. Brelade:

Will the Senator give way? It is not the Electoral Commission that has rejected the amendments, it is this Assembly.

Senator L.J. Farnham:

Yes, the Deputy is correct but I mean the Electoral Commission, represented by Senator Bailhache, has been robust in all of its opposition to all of the amendments. I appreciate the Assembly has supported that but there was no real opportunity for reconciliation or discussion, and I think I really knew that. I am sure Senator Bailhache will not mind me sharing this, but when we were being sworn in as Senators, we were standing there waiting to take the oath, and very proudly to take the oath, and Senator Bailhache said: "We could be making history here. We could be the last Senators to be sworn into office." I cannot remember what I said. I think I said ... **[Laughter]** I think I said: "I do rather hope not, Sir Philip." I said something like that. Here we are, his words are proving to be provident, I think. I am going to start with Deputy Southern who accused me of using this as an option to maintain the Island-wide mandate. Well it could be seen as that because the majority of people - I believe it is a majority - who might want to retain an Island-wide mandate, what do they do under the referendum? Nothing. The Constable of St. Mary said: "We felt it absolutely vital to put the question on Constables to the public." But what about the question on the Island-wide mandate? That has been ignored; that is gone. Deputy Southern, just as he said, this is an opportunity to retain the Island-wide mandate. Well it could be. Yes, if people want to retain an Island-wide mandate or an element of it, the only option they would have would be to vote for "None of the above". Deputy Southern, everything he says and does in relation to reform, in my opinion, is only angling at improving his chances of being re-elected. **[Members: Oh!]** I am sorry, I stand by that. It is very, very obvious. It is very obvious and that is what is wrong with this whole process.

Deputy G.P. Southern:

I believe that may be very close to impugning my motives and I wish the Senator to withdraw it.

The Deputy Bailiff:

Deputy, are you putting that to me formally? This is a robust Chamber for political debate.

Senator L.J. Farnham:

Sir, I am happy to withdraw that.

Deputy G.P. Southern:

Thank you.

Senator L.J. Farnham:

I just wanted him to come back and sit down and listen to me. **[Laughter]** The Constable of St. Mary spoke about the office of Constable and why they had to be put to the public but not why the office of Senator did. My track record, and this is well known, I am not a die-in-the-ditch supporter of the Island-wide mandate but I am a die-in-the-ditch supporter of making sure that all or any reform has the support of the majority of the people. She said my amendments were deceptive. I do apologise if she feels an attempt of seduction coming on from the amendment. I apologise if any Members think that is what it is attempting to do. But what do people do? What do they do if they want to say no? What if they do not want A, B or C? Just please think about it. What do they say? Well they do not participate, I think, would be the only answer. The Deputy of Grouville explained her very real concerns over the whole thing and the whole issue. I would say that therefore this amendment offers the only way left now for the electorate to protect the Island from being boxed in with the choices she clearly lined in, because I feel like we are being led into a little bit of a trap here. We only can vote for A, B or C. Moving to Senator Bailhache's comments about this being a wrecking amendment, I do not see it as that. I see it as being a bit of a rescuing amendment. Because why should we have to rush this reform through by the next election? When the Island was last reformed in 1948, well with some slight evolution of that, it lasted for 60, 70 years. What we do now could last for decades. It could last for 40, 50, 60, 70 years. Why does it all have to be done in a year? I think it might be worth taking 2 or 3 years to get this right. Everybody said: "Oh, yes, but let us just rush it through. We cannot waste time" and so on and so forth. But it has to be right because what we put in place I think will be here for a long time to come. But hopefully the future States Assemblies will be wise enough to keep electoral reform and the machinery of government process evolving regularly. Senator Bailhache also said that I had not been good enough to make public my own preference. Well I have if he took the time to look at my written and verbal submissions, I think they were fairly clear and I hope he accepts that. I have been very public and very clear about my preferences but I have not been clear on whether I am going to vote for A, B or C because if there is no option to vote for "None of the above" I will have to decide on A, B or C. I wish to participate but I have not decided yet. I feel the Electoral Commission and the Assembly have been not fully considerate of the needs of the electorate on this whole issue. However, it will be, in my opinion, a sad day for this Assembly if we do not allow the people at least the option to say no. I am sorry, I missed out some very valid points made by Deputy Tadier. He said: "Will this amendment hinder or help or be benign?" Well I think it can help because it does give that missing link; it does mean that more people can participate in the referendum. Why I tabled the amendment as I did to create this "None of the above" option as a fourth option outside of the 3 options laid down by the Electoral Commission is because I was, as I said in my opening speech, mindful of the fact that the States agreed not to tinker with the reform options that the Electoral Commission put forward. So, in my mind, the public could still vote with the single transferable voting system on those 3 options and produce a result. Those 3 options could be produced and voted upon in order but we would then be able to gather information that this Assembly would find useful in the future when dealing with the next stage of the process. It would have a good understanding of how many people did not want any of the reform amendments and I felt that would be the better way. Because if you look at S.T.V. (Single Transferable Vote) on Wikipedia there are pages and pages of examples how it can be conducted and I do think it is fairly confusing. It is not terribly complicated but I thought that a fourth option in the single transferable voting system, although it may, as the Deputy said, have been more beneficial for the option "None of the above", I felt it was better to table it the way I did. I may have been wrong but I do appreciate the Deputy's comments on that. So I will just ask Members now in summing-up, please just think about this before you press your button. Do you want this referendum to disenfranchise a

significant proportion of the electorate? Because whatever we agree with or disagree with, whatever we all want by way of electoral reform, if we do not allow for this option we will disenfranchise a significant number of the electorate when it comes to the referendum. I thank you, Sir, I thank all the Members for participating. I make the amendment and ask for the appel.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on the fifth amendment lodged by Senator Farnham and I invite the Greffier to open the voting.

POUR: 13	CONTRE: 35	ABSTAIN: 0
Senator A. Breckon	Senator P.F. Routier	
Senator S.C. Ferguson	Senator P.F.C. Ozouf	
Senator B.I. Le Marquand	Senator A.J.H. Maclean	
Senator L.J. Farnham	Senator F.du H. Le Gresley	
Connétable of St. Brelade	Senator I.J. Gorst	
Deputy of Grouville	Senator P.M. Bailhache	
Deputy S. Pitman (H)	Connétable of St. Helier	
Deputy T.M. Pitman (H)	Connétable of Trinity	
Deputy T.A. Vallois (S)	Connétable of Grouville	
Deputy M.R. Higgins (H)	Connétable of St. Clement	
Deputy G.C.L. Baudains (C)	Connétable of St. Peter	
Deputy of St. John	Connétable of St. Lawrence	
Deputy J.H. Young (B)	Connétable of St. Mary	
	Connétable of St. John	
	Connétable of St. Martin	
	Deputy R.C. Duhamel (S)	
	Deputy R.G. Le Hérisssier (S)	
	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy of St. Ouen	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy M. Tadier (B)	
	Deputy E.J. Noel (L)	
	Deputy A.K.F. Green (H)	
	Deputy J.M. Maçon (S)	
	Deputy J.P.G. Baker (H)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Mary	
	Deputy of St. Martin	

1.5 Draft Referendum (Reform of States Assembly) (Jersey) Act 201- (P.5/2013) - resumption

The Deputy Bailiff:

The amendments, having been considered by the Assembly, we now return to the main proposition...

Senator F. du H. Le Gresley:

I am sorry to interrupt you but I am proposing to use Standing Order 83 to bring a proposition to refer this back to the Privileges and Procedures Committee. **[Approbation]**

[16:45]

The Deputy Bailiff:

For what purpose, Senator?

Senator F. du H. Le Gresley:

Well there are a number of reasons. The Standing Order allows for me to do it on 2 bases: further information and any ambiguity or inconsistency in information relating to the proposition which has already been provided to the States to be clarified. Could I expand on that? In relation to the second part (b), I am firmly of the opinion that we have not had clarification on the use of the preferential voting system and therefore the schedule at the end of the law, or the Act, needs clarification because it is ambiguous and inconsistent with a fair system. Additional information I would require to be brought back to the Assembly is information on clarification of the degree of consultation that took place with the Machinery of Government Review Panel, consultation with Jersey Statistics Unit and any other relevant authority to assess the statistical validity of the proposed preferential voting system in relation to the 3 options, an assessment in detail of the function of the Troy Rule in relation to A or B of the referendum and further consultation, if possible, with the Venice Commission to advise on the variation in the balance contained in option B in the light of their guidelines. Those are the reasons.

The Deputy Bailiff:

How long do you anticipate the Privileges and Procedures Committee will need to fulfil this function?

Senator F. du H. Le Gresley:

I would hope they would be able to do that within 4 weeks.

The Deputy Bailiff:

Standing Order 83 says: "A Member of the States may propose without notice during the debate on a proposition that the proposition be referred back in order that (a) further information relating to the proposition can be provided to the States; or (b) any ambiguity or inconsistency in information relating to the proposition which has already been provided to the States be clarified." Members have heard the basis on which the Senator proposes the reference back. I am not sure that I would consider that the proposition fell within 83(1) in any event but in the light of paragraph (2) it seems to me that I cannot allow that proposal to be put. Paragraph (2) of Standing Order 83 says: "The presiding officer shall not allow a proposal that a proposition be referred back if the effect would be to prevent the debate on the proposition resuming at a future meeting." Now the Senator says that his estimate is 4 weeks. I would understand it if P.P.C. came up with a longer period for the consultations which he has been requesting, but 4 weeks would mean that the debate could not resume until 17th March. Now the Draft Act requires the referendum to be held on 24th April. The period of time between 17th March and 24th April is such that I do not consider it would be practical to have the debate on the proposition resuming at that time because it would not be practical to have all the arrangements made for, not only the preparation and publication of ballot papers, but also for the necessary campaigning to make a vote on such a referendum a sensible vote. In those circumstances, it seems to me that it is wrong to allow the proposal for reference back and Members will be able to take into account the absence of the information which the Senator has referred to in deciding whether they wish to propose the proposition which is being

made to the Act or not. So I disallow the proposal for reference back on that basis. We then go back to the debate itself, does any Member wish to speak? Deputy Green.

1.5.1 Deputy A.K.F. Green of St. Helier:

I have not spoken before, I kept my powder dry, if you like, but I think it is a shame really that we did not have the opportunity to debate the reference back. I am now going to urge Members to reject this outright and I will explain why. I feel sorry for the commission who I think have done a sterling job but have fallen at the last fence. What I think they have tried to do, and people have referred to this time and time again, they have put the cart before the horse. Because until we can start to look at what the public want around whether the Constables should be Members or not, I do not think you can do any other work. So a straightforward referendum which is what I was going to suggest that the commission and the P.P.C. look at under the reference back, a straightforward yes or no referendum: "Once and for all, let us get it clear, do you want Constables, members of the public, to be Members of this Assembly or do you not?" Once we have a clear answer to that without any messing around as to whether there should be Island-wide mandates, whether there should be super-constituencies, the commission then, using all the valuable information that they have gathered and all the work they have done, could have brought something really meaningful back to this Assembly. As it is, I do not think I can support it and I think it is a shame because I think we have fallen at the last fence.

1.5.2 Deputy G.P. Southern:

I too regret the absence of an opportunity to refer this back because as various people around this Assembly have noted, an increasingly, towards the end of this debate ... and it is not just because of tiredness and they are sick to death of hearing about it, it is because people have serious concerns about various aspects of what is being proposed to go forward. What it seems to me that we are doing is putting forward something that is not fit for purpose in order to meet deadline. We are acting in haste and I think we are going to regret that for many years to come. Because the amendments, by and large, have been attempts to try and correct things that are flawed. The fact is that mistakes have been made from beginning to end of this process (a) letting it become politicised and (b) the commission abandoning its principles and moving into a mish-mash, a mix, a fudge of a variety of things. The Privilege and Procedures Committee, I heard the chairman say only 2 days ago: "We hardly looked at this, we just processed it through." I do not think that is a responsible thing to do because there are consequences to what is proposed that are not fully explored here. The P.P.C. have failed to consult properly with their own Machinery of Government Review Panel which has assessed some of these issues and it has made some progress but they have not been consulted on it. The reservations about the statistics of 3 into 2 still remain and 19 people in this Assembly said that we suspect there is a problem there. Nineteen is a significant number and I think those 19, and possibly more on this final vote, will put the question marks under the whole process before it goes out to the public. We have had time to look at it in detail and we have come up with a number of reservations. Different reservations from different areas in this Chamber but nonetheless serious reservations. One of those, and perhaps the one that has come most recently to our attention in debates about the fourth and fifth options, was the effect of 42 Members on the Troy Rule and on Members' workload. I think we have not properly explored that. The 2 or 3 paragraphs in the report were very slim and, I believe, were made to fit the number 42; they think of the number they first thought up. Then we have this abandonment of principle, equal votes of equal weight, halfway through the report, which then turns into: "Yes, but we want to include the Constables and those numbers just go out the window." Now that has serious consequences and the Venice Commission have a set of guidelines which say that in an ideal world a 10 per cent variation in the number of votes you have or the power of your vote is maybe acceptable but 15 per cent is the limit. Now what we are proposing here goes way beyond that and I think the reservations that

various people have about this particular proposition and the way it is formulated are sufficient that I believe it would be wiser. I know that people will say: "Oh, well, we always do this, it puts off making decisions." It would be far better not to present this to the public than to present what is a mish-mash to the public which will not address the issues. So I too will be voting against progressing this because I think we have gone way off beam and we are wrong if we proceed in haste to regret at our leisure. I will be voting against. I urge anyone with reservations about what the end package has turned out to be completely unamended, to vote against it also.

1.5.3 Deputy S. Pinel:

I like others attempted to join the crying and screaming club. I am not an advocate of repetition, however, I would like to endorse the opinion I gave when interviewed last week. We, the States Assembly, have appointed an Electoral Commission to propose changes for reform of government. Included is the suggested form of a ballot paper for a referendum. We live as a democracy. Every States Member has a right to submit an amendment to which we have listened, debated and voted. While all Members may not be of the opinion that the conclusions of the Electoral Commission are perfect, neither is the subject matter, nor the world in which we live. Joining this esteemed Assembly has been a steep learning curve and one of the many observations is that nothing is black and white or yes and no. A single transfer voting, while new to Jersey, is a trusted method of realising a result elsewhere. However, I would ask that the Electoral Commission make it clear to the Assembly before the debate of the results on the Referendum Act, what the situation would be in the unfortunate situation that there is a low turnout and the total percentage vote after S.T.V. was less than the 50 per cent of the total Island's electorate. Would the Assembly have the mandate to vote on the opinion of less than half of the population? This said, I applaud the commission on the vast breadth of their research, analysis of submissions and evaluations of expert witnesses. Let us please be progressive, accept the recommendations of the Electoral Commission and allow a well-informed and intelligent public to make their decision. Thank you.

1.5.4 The Deputy of St. John:

I am not going to go through the speech that I made about half an hour ago except to just refer [**Approbation**] to 3 sentences and it will take less than one minute and then a couple of comments on that. I said I had considered a reference back but on what basis of further information could that be realistically brought? If I had been Senator Le Gresley I think I would also have referred to the extra information that could be provided to support the commission's statement in the report R.2/2013 when they said that the adoption of a single election day is inconsistent with the office of Senator. I do not see that and I would have asked for that during a request for a reference back. I also said, in the same light, other than the simple number of one numerically, what supports the statement that a single election day is inconsistent with the office of Senator when in effect there will be an election, or could be an election, for 8 Senators, when in fact the commission is suggesting that we would have 6 elections for a similar number of Deputies all on the same day? Where is the consistency? I am going to conclude there. I will be voting against this and I am sorry that we do not have the reference back that Senator Le Gresley attempted to bring. Thank you.

[17:00]

1.5.5 Deputy M.R. Higgins:

I believe that we have now come to the stage where we are reaping the consequences of the change of the new House when they overturned the original intention of the Electoral Commission which was to have an independent body not involving politicians. Unfortunately, we had 3 politicians involved who had very strong views about what they wanted. From what I can see, there has been nothing that has turned them away from it and the other 3 have gone along with them. Now

whether that is right or wrong an opinion, the truth of the matter is we are in a situation now where I do not think this House will be pleased with the result. I think we are going to get into a real mess when it comes to going to the electorate. I do not think we will be pleased with the result, any of us, perhaps. I also agree with the others who said at the beginning that we should have decided the issue of the Constables as a straight yes or no. That was the starting point. The Constables could have gone out there and fought their battle, those who do not believe they should be in the States could have fought their battle and then we could have started with a piece of paper knowing where we stand, so the public should have had that view right from the very start. I also happen to believe that we should have taken account of Deputy Tadier's Machinery of Government Review because that is going to have a major impact on the way the States works in the future as well and that should have been integrated into what is going forward. I also happen to believe that the options contain too many variables: super constituencies, whether they should be all Deputies in the House or whether they should be a mixture of Deputies and Constables. We do not know what the public are really going to be voting for. They will like some elements and will be voting against others. I also happen to believe that there will be a very divisive campaign because those who are not happy with the result will go out and campaign for their view with the public. I think that we will end up pitting town and country against one another and one Member against one another, unlike, I think, no other period in recent history. I think it is going to be a very divisive thing which will rule the day, so I shall be voting against this proposition.

1.5.6 Deputy K.L. Moore of St. Peter:

In my mind the whole idea of a referendum is to prevent the ubiquitous "turkeys voting for Christmas" situation and I really feel that that is what we have seen over the last day or so. An eminent group of people have conducted this commission and we most certainly have a plan that is fit for purpose and it certainly is not a mish-mash. It is just that not everybody is going to agree. That was never going to happen. At some point we all have to achieve compromise to move forward and that is what the public would like us to see and we must remember that when we are voting today. I would like to mention quickly the argument about the new role of the Deputies. The greater constituencies is going to lead to a higher level of debate, that is the whole idea. Candidates should be of senatorial calibre across the Island and that, therefore, has an impact on the Troy Rule argument which means that a better quality of Deputy would lead to more expedient, decisive and focused debate here in the very Assembly. Therefore, we should be able to conduct our business with the suggested number of 42. We also would continue to conduct our constituent work, of course. Parishioners would have a greater choice, however, as they would have a larger district with a greater number of representatives offering perhaps a greater spread of political view. Therefore, they would find somebody that they could align themselves with and feel confident in speaking to as well. The Constables, I think it is an inspired decision of the Electoral Commission to offer the public the choice on this very important and divided matter, and I think it is definitely the role of the public to make the decision and not the role of this Assembly. I urge you all today to be progressive. What we should now concentrate on is enthusing ... yes, thank you, Deputy Trevor Pitman, I know I have used one of your favourite words. What we ought to concentrate on is enthusing the public to take interest and to participate in this referendum.

1.5.7 Deputy M. Tadier:

We are in an interesting position here, are we not? I have used part of my speeches to highlight what I think have been some of the inadequacies of the recommendations. I am now in a position, as I expected to be, where all the amendments have failed. I supported one of those amendments which was the first one, which I thought was the right amendment to support, which was a clear yes and no question on option A and that still would be my preference. We all have different models, have we not, about what we think reform should be - those of us who want reform - of course? We

have heard at least 2 speeches who said that the current system is absolutely fine: "I got elected under it, did I not, therefore it must be all right." That was the subtext I think. Or maybe not. So there are clearly Members in the States, and this is not my first reform debate, who do not want any change, and so what do we do? We use any mechanism we can to store that, whether it is a reference back or whether it is just kicking it out altogether. Because we do want reform but we do not want this type of reform and if we kick it out now, it is not going to happen in time for 2014 and that is the political reality of it. It is unfortunate that we have been put in that position. I would like there to be different discussions. I personally think we should have asked a different set of questions to the public. We should have established the fact, and I think it has already been said by others, what do they think about the Senators, what do they think about the Constables, what do they think about super constituencies and what do they think about small constituencies? My personal preference would be probably similar to that of the Constable of St. Clement, to have 6 small constituencies, each electing one Member, or possibly 2, with the transferable voting system to reduce incumbency. But we do not always get what we want, do we? First and foremost, when I stood for election and campaigned in 2008 and before that, with Time for Change, I stood on the basis of wanting reform and nothing kick-starts reform like reform. If you are serious about having a reformed States Chamber, and I may disagree with the desired outcome with the 3 members of the Electoral Commission, but we all agree on the symptoms of what is wrong with our current system. We all agree that it cannot stay as it is and indeed our Machinery of Government Review will proceed with its work. I am not sure how we will do that. We may have to wait until after the referendum to see where we are but we will proceed with that because we have identified symptoms of a system which needs to be changed both internally and in terms potentially of the composition in the way we elect our States Members. I think what is happening here is that there is an alliance going on between those, as I have said, who have no interest in reform. They just want to keep the status quo and wreck anything that comes to the House, and those who just like to put one over the Council of Ministers just to give the establishment a kicking which is a good old Jersey trait, is it not? But let us not throw the baby out with the bathwater. I think we have a very exciting opportunity after years of stagnation where we have a very real possibility, a 2 in 3 chance, if we take it purely statistically, without the bias of having some kind of reform by 2014. That is either with or without the Constables and with new reinvigorated super constituencies. It is not going to be all singing and all dancing; swings and roundabouts. You will lose your direct contact with your Parish Deputies which had been understated up until now. We have lots of talk about the importance of Constables and Senators, and quite rightly, but many people appreciate the first person they pick up the phone to in some cases often is one of their Parish Deputies or their Parish Deputy. That is going, but it will be replaced with a small senatorial election in every super constituency potentially which, again, should reinvigorate debate and, who knows, could lead to the formation of alliances and coalitions throughout the Island and joined-up campaigns and joined-up policies before people get elected, not simply afterwards. That is very exciting; it is a very exciting prospect. If that does not work, if after 10 years it needs tweaking, then we have a States Assembly, either with one class of States Member or 2, which get together and say: "Look, this is not really working. The super constituencies are not working. Let us go back to small constituencies but in a very revised form" and we would have learnt the lessons. Or maybe we will find out that it works fine because it is not about simply the mechanisms by which people get elected, it is also about the way we work as an Assembly. I do think that the processes are very important. We had earlier in the debate Deputy Young who was quoting from Peter Body and saying: "Just because you have got a system which is revised and seems equitable does not mean you are going to get perfect politics." Absolutely true. But if we have a system which is inherently flawed and inherently undemocratic, then you are much more likely to get unrepresentative government. I think that is what we have got partly at the moment, and that is not a criticism of any of the individuals, but if the system is not representative, we cannot expect our Government to be

representative. You need to get the basics right before there is any potential for any representation there. So I would encourage Members to be positive. I know there is a tendency to want to kick this out for different reasons. We have had our say on the pros and cons and I for one cannot wait to start campaigning, but for reform. I will have my own particular angle that I am going to take which will be option A and I know that there are members of the public who are ready and willing to start campaigning on that. We want robust discussions. Hopefully the Parish Halls may be opened up to us so that we can have real discussions about the reform options and what this means to Jersey. But the underlying issues going forward of course are the economy, jobs, housing, *et cetera*. Those are the issues which, once we have dealt with the electoral reform, we can all sit down and start to deal with. Reform is an important issue; it is not something that I want to be debating potentially again after 2015.

1.5.8 Senator L.J. Farnham:

Can I just start by publicly acknowledging the good and large amount of work done by the Electoral Commission despite the comments I made and my amendment. I do recognise and thank them for doing that. It has been a long task and they have dealt with it thoroughly. Can I also just thank Deputy Power for bringing me back on track. I did not mean to be disrespectful of the Assembly with the comments I made and that, of course, I do recognise it is the Assembly that makes these decisions. I accept all of the amendments; I might have been soundly defeated and I recognise the Assembly made that choice. Of course this Assembly is bigger than any one of us, it is bigger than any faction and it is bigger than any Council of Ministers and we should never forget that. I would like to say as well that if the Assembly supports the proposition of P.P.C. to hold the referendum in this form, then I will of course promote public participation and support the process as much as possible. I would like to just ask a question of Senator Bailhache though and that is something that the Constable of St. Mary alluded to and that is the offer of the public and how important that P.P.C. and the Electoral Commission felt it was to offer the public the opportunity to vote for the retention of Constables. I want to ask the Senator why they did not offer the same for the office of Senator. I do not mean by keeping the office of Senator in the status quo. Why did they not offer the opportunity for the public to vote for retaining the Senator within a new reform package, for example, 30 Deputies, 12 Constables and 6 Senators?

1.5.9 Deputy S. Power:

Members will have noticed that I did not speak on any of the amendments and I voted against all of them. I followed the Deputy of St. Martin at the beginning of this debate, who got in before me. Then I followed the Constable of St. Clement. I had made my mind up weeks ago as to how I was going to vote on this. Before I get into any detail, I draw Members attention, for the last time probably, to the back of the Electoral Commission Report and to Appendix D, which indeed are the written submissions and the oral submissions. It gives you an extent of the amount of work that has been done by this Electoral Commission over the last 11 to 12 months. It has been honest, it has been open. It has held its hand out to the public and it has asked the public of the Island of Jersey to let the Electoral Commission know as to what should happen in terms of reforming this Assembly. Of the speakers who spoke negatively about the Electoral Commission and its work yesterday and today, I notice 6 names in my vote who spoke strongly against the report and proposition. They are Senator Le Gresley, Senator Le Marquand, the Deputy of St. John, the Deputy of Grouville and the Minister for Housing, Deputy Green. If one looks at Appendix D and the written submissions, none of those Members made any form of written or oral submission to the Electoral Commission. I find that sad that we have Members who spoke strongly against it, we heard all sorts of theories, personal theories, mathematical theories, yet they did not choose to take their place with the big list on page 47 of 48. I am glad to hear the Deputy of St. Peter say what she said.

[17:15]

I am glad to hear Deputy Tadier say what he said. I am going to support the Electoral Commission. Surprise, surprise. I have listened for the last 2 days to a litany of personal shopping lists and wants as to how the Electoral Commission should have come to their conclusions. I have listened to St. Helier Deputies saying that they would be unrepresented. I have listened to Senators saying that there were issues with the way it had been drafted together. I have listened to Deputies from all over the Island who have their own shopping list. I have heard the mathematical analysis of a single transferable vote by Senator Le Marquand. I have tried to understand and in my view, having experienced S.T.V. in my previous life, I think it is appropriate to this referendum. So, why, oh why, oh why is this electorate trying to interpret and second guess for the public of the Island of Jersey? Why is this Assembly trying to interpret what would be a situation of best fit, when we have an Electoral Commission that has done all of this work in the first part of this term of this Assembly? I heard all the monologues today and yesterday. I heard all the theories. I heard all the thoughts and all the preferences, personal and otherwise. These monologues reminded me of a book I read in South Africa about 3 or 4 years ago. I was wandering through a second-hand bookshop. I was determined to buy a book written by a South African. I bought this book called the *Angina Monologues*. I have to say that some of the speeches I have listened to in the last couple of hours have been angina inducing. **[Laughter]** I have heard arguments against the wording of the ballot paper. I have heard arguments against the role of the Electoral Commission. It was appointed by this Assembly. I would suggest to Senator Bailhache that nothing that he and his commission could ever design, suggest or propose will be acceptable to this Assembly. I am afraid I should suggest to the Senator that he took on what I would regard to be a mission impossible, absolutely impossible to ever get approval from this Assembly on what might be acceptable to this Assembly. We must let this go to the public without trying to tweak it, change it or have our personal agendas. I have a fairly simple brain **[Approbation]** and it must be that it operates differently to the brains of other Members of this Assembly, but in actual fact I am glad of this brain, because I did not have the anguish that appear to be the case with Members trying to interpret the work of the Electoral Commission. I am reminded of the words of George Bernard Shaw, if I may be allowed to say it: "The reasonable man adapts himself to the world. The unreasonable man persists in trying to adapt the world to himself. Therefore, all progress can depend on the unreasonable man." I think we may be there today. We have a number of States Members who do not want to accept this work by the Electoral Commission, for whatever reason, and I have to say that I congratulate my political colleagues on the Electoral Commission and I congratulate the non-political members of the Electoral Commission, including the vice-chairman (who has been sitting up in the gallery, I believe, I cannot see him from where I am sitting) and congratulate him for his patients and his endurance **[Approbation]** to have to have gone through this for the last day and a half. I hope he has not read the book called the *Angina Monologues*. I am wholly in support of what the Electoral Commission has come up with. I think we can be too negative in this Assembly about lots of things. I hope that colleagues will at least give it a chance and do not underestimate the public, do not second-guess the public and let the public make their mind up. Thank you, Sir.

1.5.10 Senator S.C. Ferguson:

Was George Bernard Shaw not a support of eugenics as well? I just throw that in for information. This is not a referendum. Referenda are yes no questions. To give us 3 options, plus a single transferrable vote is not a referendum. In fact, I am not sure what it is, possibly a real hotchpotch. In concept, Deputy Southern was correct. But I could not agree with the magic 42 number. I suppose at the end of 12 years this is beginning to feel like reform for reform's sake. It is not the first item of concern of the electorate. It is time to concentrate on the economic realities which are hitting people. Frankly, I do not feel this is fit for purpose. I know everybody has laboured long

and mightily over it, but I really cannot support it. One appreciates the amount of work they have done, but I shall be voting against it.

1.5.11 The Deputy of St. Ouen:

Certainly Members will be aware that I have extreme reservations about the reform options brought forward by the Electoral Commission, but there is a big “but”. I would like to appeal to all States Members that we made a commitment to allow proposals to be brought forward to the electorate in a referendum. I believe that voting against this Act will stop that opportunity being provided to the electorate. I also firmly believe that the electorate are able to determine what their preference is. I think that as long as we can interpret the result properly and that we do not use a manufactured system to create a majority then I do think we should support this Act. Thank you.

1.5.12 Connétable J.L.S. Gallichan of Trinity:

It is like everything else, there are Members who have been here who have been through these arduous debates and they are arduous really, to be fair. The one good thing I would say that is coming out of this referendum is that once and for all there is a vote in there as to whether the Connétable should still be in the States. Over the years, it has always been a vote taken in here and we have always had strong support, but it has never been out to the general public. I think it is time that we do give the general public a chance to air their views. I thought the speech this morning of Senator Le Gresley was very good. He spoke about the senatorial elections. I know there is a lot of concern about the St. Helier Deputies, but he was correct in what he said. When you go for a senatorial election you can be way behind in the country, but when you hit St. Helier, if you have the support of St. Helier, that completely changes the result. I would say to those Deputies of St. Helier, if your preference is preference A and your parishioners turn out, as they should, not as they are now, pretty pathetic and lethargic at coming to the poll ... it is true. I would say you would be lucky to get 20 per cent of St. Helier to turn out in this referendum. Get them to turn out, A will win. There is no question about it. You have the voting power in St. Helier to get A through. Do not just say, because it looks weighted for the Constables ... maybe it is. At the end of the day, if people want to vote for the Constables in his Assembly, they will. I am pleased to hear the Deputy of St. Ouen change his tune from this morning. Because it is true, we cannot keep on fudging this and not going out. Irrespective of what the result is, I am sure, I guarantee you, 20 per cent turnout, it will come back here, and we will debate it again and say we should not take any notice of the referendum, because it was such a poor turnout. At least let us go out and try and see what the general public say. I will be supporting this Act. **[Approbation]**

1.5.13 The Connétable of St. Clement:

I have to confess I am absolutely astonished that there are still some people in this Chamber who are going to vote against letting the people have their say. We are representatives of the people who have elected us. For the last day and a half we have used our voices to argue, we have expressed our opinions, we have made decisions. Now, surely, it is right that those people who put us here, those people that we represent should have their voice heard and have their opinions expressed in a formal and proper way. If we reject this proposition, if we reject this Act, I promise you, I can see the media, I can see the letters, I can hear the phone calls and we are going to get some stick. We are going to get a lot of stick. If we reject this Act, if we reject this proposition, we will deserve every little bit of stick we get. This is where I agree totally with the Deputy of St. Ouen, because effectively when we set up this commission, we promised to give the people a voice by putting the commission’s recommendations to the electorate. We did not say: “We will put the commission’s recommendations to the electorate providing we like it.” No, we said we will put their recommendations to the public. If we do not do that we will be letting the people who elected us, the people we represent, down in a very big way. One of the reasons for that is because

whatever the result of the referendum, whatever the turnout, it will be solely advisory. In the final analysis later in the summer, the States will have to decide really what sort of reform we want, if any, with the knowledge of what the electorate have said. Whether that is clear or not, whether that has a majority or not, whether it has been a big turnout or not, whether the result of the referendum is clear or whether it is inconclusive. It will come back to us and we will have that information to use when we come to make the final decision. I am absolutely convinced that those who want to vote, who have indicated they are going to vote against having the referendum, are surely voting to say: "I do not want reform whatever my electorate, whatever the people who put me here say." There are one or 2 novel excuses I have heard already. Senator Ferguson does not believe this is a referendum. Article 2 says this is a referendum. **[Laughter]**. That is right: "The States resolve that a referendum shall be held." It is a referendum, Senator. Deputy Green thinks that we should get the people to decide on whether they want the Constables in the States or not before we have the decision on reform. That does not make sense either if he stops to think about it. My position has always been consistent. I do not think the Constables should be in the States as of right, providing that the constituencies for States Members are based on Parish boundaries. The moment you have super constituencies my view changes and I think the Constables have to remain in the States otherwise several Parishes will not have any representation whatsoever. We have to decide on how the constituencies are going to be based before we can make a decision on the Constables. That is my view. It is not one that everybody agrees with. I accept that that is my view and one I will stand by. Quite simply, what I am saying, even to people like Deputy Higgins, Deputy Green and Senator Ferguson, for heaven's sake after all these years, let the people have their voice in a formal and organised way, listen to what they are going to tell us. Even if we do not like the answer that we get at least listen to what they are going to say. When we have the result of that, we can continue the reform debate armed with the knowledge that we gain from the referendum.

Deputy J.A.N. Le Fondré:

Propose the adjournment, Sir?

[17:30]

Deputy J.M. Maçon:

Sir, can I propose that we carry on until we finish this item? **[Approbation]**

The Deputy Bailiff:

Is that is the mood of the House? It appears to be.

The Connétable of St. Mary:

Can I just say, we always come down to a set timetable for debates, we know what time we like to finish, we know the dates that are set aside. I feel that we will be crushing in at the last minute on something that we have taken a day and a half to get to. I really believe that I would like to oppose that motion. Sir, can we put it?

The Deputy Bailiff:

I take it Members do not wish to debate it. So, it is the simple question of whether Members wish to continue now. That has been proposed. **[Seconded]** The appel is called for. The vote is whether to continue the debate tonight. I invite Members to return to their seats. You vote pour if you wish to continue tonight. You vote contre if you wish not to continue now and to come back tomorrow. I ask the Greffier to open the voting.

POUR: 37		CONTRE: 12		ABSTAIN: 0
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Senator S.C. Ferguson		

Senator A.J.H. Maclean		Senator B.I. Le Marquand		
Senator F.du H. Le Gresley		Connétable of St. Lawrence		
Senator I.J. Gorst		Connétable of St. Mary		
Senator L.J. Farnham		Connétable of St. Brelade		
Senator P.M. Bailhache		Deputy J.A.N. Le Fondré (L)		
Connétable of St. Helier		Deputy S. Pitman (H)		
Connétable of Trinity		Deputy K.C. Lewis (S)		
Connétable of Grouville		Deputy A.K.F. Green (H)		
Connétable of St. Clement		Deputy G.C.L. Baudains (C)		
Connétable of St. Peter		Deputy of St. Martin		
Connétable of St. John				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

I call on the Connétable of Grouville.

1.5.14 Connétable D.J. Murphy of Grouville:

Firstly, I am going to be very quick because everything has really been said. I want to thank the commission. I think they are doing a terrific job. We asked them to do a job, they have come back, they have done it and let us accept it and let us get on with our lives, please. Let us not have any more arguments, let us not have any more nonsense, we are now committed to a referendum. So, just let us get on with it and do it in the best way we can, in the best humour that we can. I have to say that when this started out, I determined in my own mind that I was going to vote against all of the amendments. However, the Deputy of St. Ouen put out such a sterling, Oscar winning performance [**Laughter**] that I had no choice but to vote for him, basically because of his attitude towards Scrutiny, which was going to suffer. It is going to suffer. We serve on the same panel, so I do understand where he is coming from on this. The last point I would like to make, Deputy Pinel mentioned it in her speech, is that we need some guideline on the percentages that we are going to accept as being a referendum result. I, in my own mind, had that I shall be either abstaining or voting against it if it is a very low turnout. I would ask the commission, if it is still their job to do,

to give us some guidelines on what they think a proper percentage result would be at the end of the referendum. Thank you, Sir.

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

I think it goes without much further statement that the work undertaken by Kenneth Arrow in the 1950s on the mathematics of voting systems, for which he won a Nobel Prize in economics in 1972, where he showed categorically - and if people are interested in proof, I am happy to explain it to them - of the inherent unfairness of the rank systems that are being proposed. That suggests that I should not be supporting the proposals put forward by the Electoral Commission. However, if indeed the proposal is accepted, all I can say is a message to all in the Island is that if you want a change in the big house you have to vote A and make sure you do vote A, because that is what I will be voting for.

1.5.16 The Connétable of St. Helier:

Just to deal with a recent question, of course, the commission's work is done and it will fall to P.P.C. to bring forward proposals in respect of voter turnout and indeed how the results of the referendum will be interpreted and put into a proposition to come before the Assembly. While the Electoral Commission's work is done, P.P.C.'s work is not, of course, done on this matter. The Committee is also, of course, very interested in galvanising our public interest in the referendum now we know what the vote is about. I am very grateful to a number of Members who have indicated already, even from some quite unlikely quarters, that they are raring to get on with the business of galvanising interest in the referendum. I want to just tackle a couple of comments that were made earlier in the day. Deputy Higgins expressed surprise that I did not support Deputy Pitman's amendment to increase the number of representatives in St. Helier. Yesterday I explained why I did not think we should be tinkering with the proposals brought forward by the commission. I believe that is a view that has been shared by many Members. Of course, Constables cannot win. We are criticised if we vote in a parochial manner. We are criticised if we do not. Interesting, Deputy Tadier's comments on that amendment indicated that he believes that reform would have been less likely if Deputy Pitman's amendment had been approved. In his speech on the proposition as unamended, Deputy Southern said that the Electoral Commission had abandoned its principles. I think that is extremely harsh and unfair. The commission members can speak for themselves, but it does seem fairly obvious to me that they have held 2 very important principles together. One is the importance of Parish traditions and the attempt not to lose the continuity of the Parishes in the Assembly. The other principle is voter equity. Those are the 2 principles that they are putting to the public in the referendum. The public will decide which of those 2 principles is more important. He also said that P.P.C., according to me, hardly looked at it. I do not know if those were my exact words, but that was what the States asked us to do, in effect, to receive the proposals from the commission and to bring them forward to the Assembly, which is what we have done. We have effectively been a midwife to this. It is proving a difficult birth, but we are getting there. Indeed, the father of this, if I can continue the analogy, listening from St. Mary, no doubt, the former Deputy of St. Mary must be enjoying the fact that we are sitting through a very long debate to do that because, of course, he was a great lover of long debates. **[Laughter]** I want to finally just make a couple of further points. Deputy Tadier I want to thank as the vice-chairman of P.P.C. who, in a rare moment (I should say), has stood by his committee and has really come out fighting. He clearly cannot wait to get on the referendum bandwagon and to start working for option A. I want to say on option A, and it has not really been said enough and it is not said on the ballot paper, probably for obvious reasons, that it gets rid of the automatic right of the Constable to sit in the States. It does not preclude Constables from standing as Deputies. I think that message needs to get out a lot more if option A is to stand a real chance. It is good to hear from my neighbour, the Constable of Trinity, that he believes that if St. Helier comes out and vote then

option A has a very good chance of getting through. I look forward to seeing the Constable of Trinity supporting Deputy Tadier **[Laughter]** as he works on option A. Clearly I am not going to have a chance to do it afterwards. I do want to thank the rapporteur of the Privileges and Procedures Committee, Senator Bailhache, for the work he has done in getting this far. It has not been easy. He has had to put up, I think, with some unjustified and personal attacks. I think he has done a great job in getting us this far. I look forward to working with him on P.P.C. as we take this to the next stage. Finally, like other Members, I want to thank, once again, the commission for their work. Let us not forget they did have an interim report. Of course, it has been mentioned that some of the loudest critics of the proposals were noticeably absent at some of these presentations when the commission took time to present their proposals to the public. Perhaps some of these ideas we have had today and in the last week and amendments should have been brought to the commission a bit earlier on, so they could have had more time spent on them. But, I thank the commission for their work and I look forward to seeing the outcome of it.

1.5.17 Connétable D.W. Mezbourian of St. Lawrence:

This is the first time that I have spoken over the past couple of days. I voted only with the Deputy of St. Ouen's amendment, which was to increase the number of States Members. That is because I believe 42 Members is not workable with the Ministries that we have at the moment. So, I do not support 42 States Members. I do not support large electoral districts. I do not support the removal of the Senators from the States. I certainly do not support the removal of the Connétables from the States. However, those are my preferences and I am supporting the main proposition proposed by Senator Bailhache, because what I believe does not really matter. I am not going to be in the Chamber for the next 20 years, but what we are looking for with the referendum is a decision from the public of Jersey that will affect all of us for the next 20 years and beyond. So, my opinions in this case, I believe, do not matter. I am, therefore, going to support this main proposition. One day none of us will be in here and I think we have to remember that. Thank you very much, Sir.

1.5.18 Deputy J.A.N. Le Fondré:

I am glad to follow my Constable. I wish to commiserate with her. I am sure she will be here in 20 years' time. As I said, I am going to vote against this proposition. I want to reiterate some of the reason, additionally, again. One of my concerns is that everyone is saying: "It is a referendum. We are going to have a decision." It is the Pied Piper of Hamelin leading us down a particular path to the promised land or something along those lines, to mix all sorts of analogies. I want to pick up on the Constable of St. Clement who now is not here. Just because I am voting against it, is not because I am against reform. In fact, as an individual ... as I have said before, I was the one who brought the amendment to get it on to a single day election. I brought other bits and pieces in favour of reform. That is not a valid accusation to be made against myself, as far as I am concerned. Yes, we are going to get a lot of stick either way, because in my view, as I have said previously, and just go back to the 42, to the even number, to the fact that it sets us up for a hung parliament on any close debate going forward. Why do we go to the Assembly, as I think Senator Le Marquand made the point, I think it was earlier today, it feels like we have been in a bit of a time warp ... why am I transferring responsibility for what I think is a mess, I am afraid, to the public to sort out. That is not a responsible role for a politician, I am afraid. By that I do not wish to denigrate the work of the Electoral Commission. They have done an awful lot of work. But, if you are coming down to something where it has, in my view, got some flaws there, and the 42 is one of them. How do you justify that? How do you justify that in relation to the machinery of government and all that sort of stuff? Then to me you have to get that sorted out in order to go back to the public with a credible set of options. I am thankful to Senator Bailhache, I think, yesterday drawing my attention - I was away last week or so - to the leader in the *J.E.P.* The last paragraph is certainly relevant in my thought process. They said: "Perhaps the real position is this,

the Electoral Commission should be thanked for many months of complex deliberation.” I agree with that: “But advise that nothing that they are currently offering is likely to improve the quality of Island democracy and that, all in all, it would be better to go back to the drawing board.” That is a dose of cold water, I am afraid, to some of the comments that have been coming out here. The panacea of a referendum ... I agree entirely with the Constable of Trinity’s view, in a way, from the point of view that at least it does give the issue about the Constables to be considered. But, again, it is only really if we get a significant turnout. I think we are going to get a low turnout. It is not part of the normal election process. I would be delighted to be proved wrong. Then we are going to be back into this position, as iterated by the Constable of Grouville, where we are going to be then arguing over the nuances of whatever those results are. Again, to reiterate, I have always said I support the Parish system. That is the backbone of the Island and all that type of thing. The super constituency argument, as far as I can see, particularly if the Constables do not end up in there, is a real risk of damaging that. I can see it being reduced. I did have a little dig around and here is a quote from the Electoral Commission Report: “In Guernsey where the Constables ceased to be Members of the States many years ago the Parishes have become a less important institution than in Jersey.” Now, I stood very firmly on the 2 contested elections I have faced, and obviously last time when I was not contested, very clearly in favour of the Parish system. I am not going to support something that is a personal view, I suspect, to go along with the Constable, which risks in the medium term damaging that Parish system. I do not want even to start down that road, I am afraid. That would not be representative of the views of the electorate that voted me in. The Senator issue, I suppose, again, this is a personal view on the referendum. The super constituencies argument takes away the Island mandate.

[17:45]

Senator Farnham is absolutely correct. As I said previously, I could support the reduction in Senators, but not the removal. What we have not addressed is the Chief Minister role. At the moment it is likely the Chief Minister will come from Senators. It is likely they will have faced the public mandate immediately before their election. If we go to this system five-sixths of the Island will have no influence on who is going to be Chief Minister. Going back to the wording of this particular issue, if you look at option C I think it refers to no change. Option C, the current system will remain. The current system is 51 Members. That is what we have now. The agreed future position is 49. So, there is some terminology in there, which I think, again, has potential for confusion. Where are we going? What have people experienced? Again, I think the key issue to me is this issue around how do you justify the 42. If we do not think that that 42 is correct ... I said an even number very clearly in my view and views expressed by parishioners is not a good position to start out with. Then, I do not think taking that to the public is responsible. What I was going to say is there has been a lot of talk about compromise. It is interesting ... just to finish off with some possible quotes to make people think: “Between 2 evils, chose neither.” In other words, if you are not happy ... compromises are all very well and they are great, but it depends what you are dealing with. There is a lovely one - I am not too sure about quoting Margaret Thatcher in this Chamber - but it says: “If you just set out to be light, you will be prepared to compromise on anything at any time and you would achieve nothing.” “Compromise is but the sacrifice of one right or good in the hope of retaining another and too often ending in a loss of both.” That is why I am very concerned about what path we are starting to go down. I am stopping there. It is very late. We have had a very long debate on this. I join the people who suggest that voting against this is the right way to go. I would be much happier with the reference back. Thank you, Sir.

1.5.19 Senator B.I. Le Marquand:

I want now to thank the members of the Electoral Commission for their many hours of hard work. I did not do so in my first speech. I always intended to do that. I do genuinely wish to thank them.

However, in my first speech I made it clear that if we ended up with a transferrable vote situation and with provision for those who did not like A, B or C being effectively disenfranchised, then I would vote against in the final vote. That is what I am going to do. I do so because I believe that this process is fundamentally flawed. I gave detailed reasons for that in my first speech, including some interesting arithmetical calculations. I will not repeat those in detail. This process of a transferable vote is designed to produce an apparent majority. It can do so, as I demonstrated arithmetically in my previous speech, even when there is not a real majority, even with those who vote on the occasion favouring a particular position. We are going to be left arguing over what it means, why did people who voted in the first round not vote in the second round, what does their vote mean, *et cetera, et cetera*. That is not satisfactory. It also does disenfranchise those who want to change, but not in the particular forms. I regret that both the amendments of Deputy Pitman and Senator Farnham were lost. I predict that the outcome will be unsatisfactory and inconclusive. I also predict public disillusionment with the process and with the result. You may wish to call me Jeremiah for so doing, the prophet of doom, as it were, who predicted things. He was right. If you read the latter chapters of the book, you will find that he was absolutely right. We have, as I said at my first speech, one chance to put these issues in a referendum to the public. This is not it. This is going to prove to be a failure in a number of reasons. So, I cannot support it. I regret that, because of the hard work that was done. But, that is, and remains, my position.

1.5.20 Deputy G.C.L. Baudains:

As you know, I had not intended to speak on this proposition, but I have been slightly surprised by the number of Members who now seem to endorse this proposition who during the debate on the amendment appeared to find that there was not much that could have been done better. For example, I will be very brief, if members of the public want, perhaps, to get rid of the Constables, they have to accept getting rid of the Senators, they have to accept super constituencies and 42 Members as well. Perhaps they do not want that package, but they do not have much option. The only option they do have is to vote for option C, basically, no change. It does seem to me that quite a number of the members of the public who do want change will feel that they have been cheated, because they will not be able to vote for change, they will have to accept the status quo. On top of that, we do not know how the voting system is going to work so how will they. I believe if we put this to the public we will be open to justifiable derision. I think, in fact, we will be insulting the public by putting this to them in its present form. I am not opposed to reform, but I cannot endorse this proposition as it is. I do not do populist politics, I prefer responsible action. I shall, therefore, be voting against the proposition.

1.5.21 Deputy T.M. Pitman:

I almost feel like being a bit naughty now, it has been such a long day. But I will not. I just think, what would the public who have heard this debate think? What would they be surprised at? One thing I think they would immediately notice: "Hang on. There are an awful lot of Constables talking." As we know it is a fact the Constable are never as vociferous as when it is about them. Because, with some honourable exceptions, most of the time they just sit there and vote in support of whatever the Council of Ministers say. That is a reality of the voting record previously. I think what gets to me a bit is I look at democracy from this perspective: "What can me being in government do for the betterment of the majority of the people?" I think the people who understand what is going on today will look at it and think: "Well, there are far too many people in the States who look at: 'What can my being in Government do to protect my own interests?'" That is not what government is meant to be about. I really have to thank the Deputy of St. Peter, because she gave me a wonderful little chuckle to myself when she said you all have to be Senator standard, unprogressive Senator standard. Well, I wish she would have explained that. With due respect, I would only vote for 2 of the Senators on their ability. One is on the left and one is on the right. We

have nothing in common politically. I will not name them to embarrass them. But am I any less capable than any of those? Absolutely not. I back myself against them any day of the week. That is not ego. That is not arrogance. That is just fact. One of the reasons government is a mess is because the worse people - I do not mean that as in the worst "nasty" people - people with the least ability, who will not even hold to what they say at election time, keep filling these positions. It is relative. I would say look no further than the succession of the Chief Minister's we have had. They have been appalling. Sadly, I voted for one of them. There we go. I regret it, deeply. I must thank for the next chuckle that the Constable of Trinity gave when he was lambasting the people of St. Helier for their low turnouts. I wish they would come out more. They should. But, the Constable should recognise that there are some different issues in St. Helier. Whether people do not know or they are so apathetic and turned off by government that they do not even know they can vote, *et cetera, et cetera*. They see that there is no influence. I just put it to him, when was the last election when the people turned out in Trinity? I do not think I can remember that one, must have been quite a while ago, I probably still had hair. When was the last election for a Constable in St. Ouen before this one? I think we had not fought World War 1 yet. I think Napoleon was still worrying the islands. When I went to university, one of the things that was considered important to us when working with young people and their issues was what they called "guilt projection". I have listened to so much of it in this closing debate, where suddenly the reformers are being made out to be the ones who want to stand in the way of progress. There are not many reformers over there. Do not kid yourself. Most of the reformers are here. We fight it constantly. I fought 2 elections and I am pleased I got elected on a social justice and reform package. How many reformers are over there? Really? What people are going to take out of this today is that the Constables put their own interests before fairness and democracy. It is fact. The pretend Chief Minister is shaking his head there, but it is a fact. I offered them an alternative with option B, to keep their place in the States, but be fair to a third of the population. They rejected it. The Constables say ... he said: "Yes, what you have done is fairer." Why did they not support it? Because the Constables ... this is the big question, okay? I do not have much more to say. I am going out to cry in a minute. The people will ask: "Why are the Constables and the Senator who led the ship so terrified of fairness and democracy? What is it?" My only problem with this process, which has turned into a shambles, is the fairness issue, because now what we are going to be left with is A, which is fine, but some of us have real concerns over the 42 Members and the impact that that might have. We are going to have option B, probably, if that goes forward, which is so blatantly discriminatory against the people of St. Helier, it will be going to the Privy Council if that is put forward. What a place to take us. So, this is not over. It is not over by a long shot. What else do I want to add here? I think Members should certainly remember the words of Senator Le Gresley. I felt he really summed up a lot of what has gone wrong with this process. I wish people, more than just 5 of us, had turned up to listen to the people last night at Fort Regent. They are the people who put us here. Politicians do not care. Well, it has been demonstrated that too many politicians here do not care about ordinary people. They do not want fairness. They want to look after themselves. They want to have reform, but only on their basis. That is the sort of thing that happened in Sark. We saw it when the Barclay brothers did not get what they wanted, suddenly they did not like democracy any more. Is that the way we want to go? If we fight a fair campaign with 2 options that are completely fair, I will have no argument with whatever wins. I said that earlier. But, too many people, as I said, just want to take the easy way out. This is, I am afraid, an utter shambles. We have had people talk about Clothier. Well, hang on. The Deputy in front of me tried to bring a referendum on the Clothier principles. How many people here all voted against it? What was said all the time? "Oh, the people will not understand." This Assembly just plays lip service to democracy all too often. People are sick and tired of that. What we are going to offer them is just more gunpowder to be more and more disillusioned with us. I will end on this: because I have to say what on earth will happen if option A comes out on top? I look forward to all

the excuses from the Constables' benches as to why we must not listen to it. Yes, I tell you they will never have been so vociferous. Constables only speak generally when it is about them and protecting their interests. Sorry, that is not meant to be personal, but it is true. I will say that. I am not supporting this, not because I am not a reformer, I clearly am, I am clearly up for a fair debate, but I think this went wrong the day we went back on what Deputy Daniel Wimberley, the Deputy of St. Mary has done when we had an independent Electoral Commission. What does it say when people who are as politically different as myself and Senator Farnham ... he was on the radio the other day. One of the things he said was: "Oh, we might end up having to have some kind of independent Electoral Commission." I do not know which way he voted that time, whether he was going to agree to it being hijacked by the States Members. But this is just going to happen all over again. It is thoroughly depressing. I will leave it at that and go and have my sob in a minute. Thank you.

1.5.22 Deputy J.H. Young:

I will be brief. I came into the States in October 2011, pledging for reform. I followed the debate closely and the Electoral Commission's recommendations. Throughout I have been concerned with over emphasis on personalities.

[18:00]

Talk of getting a better quality of Member and so on I think has been thoroughly wrong and unhelpful. I think what matters is does the makeup of this Assembly reflect our community. That means all of us with our own strengths and weaknesses. I do not think for one minute that the new Assembly will be any different in terms of that reflection, a mix of people, than it is now. I think that is really important. Anybody who thinks that somehow we are seeking to find some kind of super brainbox or some kind of ... it is about representation of our community. We are a small community and we have to live within our means and enable people with the skills to come forward. I have been concerned about that. I have always wanted to see more emphasis on organisation, structure and the machinery that we use. Throughout this debate, I have tried not to speak too much, but I have supported several amendments, which I believed would have significantly improved the question that was going to the electorate, to help give the electorate the choices that I think are there, that they have in their head anyway, and to help us with what happens when the result comes back. Those debates have been lost and that is behind us now. So we have to make the decision on the substantive proposal. I am extremely disappointed that a reference back to address unanswered questions was not permitted. I understand that the reason for that is clearly the timescale of the reform that is being imposed on us. I am not quite sure why that is. Whether it is this House that has done that or whether it is the Electoral Commission or what. But, we have been faced with a timescale, which is imposed, which we do not have the opportunity today to vary and we do not have the opportunity to look at the various matters that Senator Le Gresley summed up for us. What is going to the public will include, and there is no doubt in my mind, distortions, which will be possibly as the result of the transferrable vote arrangements, which I am very, very far from clear about. The proposition I am asked to approve is not as I would wish. But the choice I have to make is for me, faced with the choice of denying the public the referendum that they have long desired. I cannot do that. I think that we now have to live with this referendum, warts and all, interpret it as best we can when the results come back. Those who have firm positions on different options will obviously campaign for those and to make the implication of each of those known. That is good that there are arrangements proposed to do that. I am usually a positive person and I hope there is a decent enough turnout in order to be able to interpret the result with some sense, because if there is a low turnout, I think, as other speakers has said, we will come back dealing with what on earth we do with a low turnout and if there is ambiguity. Maybe the message is that those going out campaigning should do so clearly and make sure that the turnout

is good and that we do not have an inadequate result to have to deal with. I think this is now time to trust the public. We have had a good attempt to try and improve. None of those criticisms I have made are faults of the Electoral Commission, because they were all inherent in the terms of reference and the procedure that we set up. No criticism implied of members. They have done a good job. In fact, throughout this debate I have re-read their full publication and their leaflet and they do explain their reasons and they make absolutely plain that it was impossible for them to find a set of questions which would deal with all the issues adequately. I suggest to Members who are still thinking about voting against, read the back page of the short version and you will see on point 5 there the Electoral Commission's reasoning for having to come up with the questions they have. They would not be the ones I would have chosen. But, as I said, I think I have come to the point now the debate is over I am going to support this with all those reservations.

1.5.23 The Connétable of St. Mary:

Just very briefly, because I think it is worth saying again, being on the Electoral Commission was a very interesting process, very time consuming and certainly very taxing, but very interesting. Just to say, despite everything that people have wished for, we all have our individual wishes of what we would like to see, I have always maintained that the reason reform is so difficult to achieve is that every new intake of States Members simply cannot believe that there is a simple answer that will work but just has not been put to the Assembly yet. Having seen all the submissions ... and I have to reiterate, we did not only look at this Electoral Commission's submissions, we did not necessarily only look at what people have said, we had all the wealth of all the work that had gone before. So, when people say: "Did you look at this or did you look at that?" The answer is yes, because we built on the work that had gone before. We considered all those documents way back beyond Clothier even. We took all those propositions that we have had. We were informed by what had gone before. So, it really was a big piece of research. We felt at the end of it that we could come up with a reform option. As we know, I will not go through it again, why that turned into the 2 options. They are the 2 changes that we consider to be practical, that can be chosen. The reason they are there, we have gone through before. I have had the benefit of all of that and a lot of you here ... although I am sure you have all read the reports, at least the condensed one, but I am sure you have all put a lot into this. I have seen everything and I know what the choices were. We still had people even in the summing up saying: "Why did we not do this? Why did we not do that?" We considered everything. The Deputy of St. John is so concerned about why Senators cannot be valid. Well, it is a completely different thing to have a senatorial election Island-wide in a context of other elections going on. The senatorial election that will take place in 2014, if there is no change, will not have the benefit of the extra term and will not be on a different basis to that of the constituencies. That is the key difference. We are not comparing the same kind of election now. We have a Deputies election in Parishes or Districts and we have a senatorial election Island-wide. You cannot compare that with what would happen if we went to a large district or even if we continued as we are. There is a change. It has all been documented before. I do not see why we need to bring it through again, but it is all there if you want to read it, in what happened in the debates 18 months ago or so. We have considered every option. Again, why were some options for the amendments rejected? Why do I think that extra representatives for St. Helier was a step in the wrong direction? We are not going over that. That is past. The fact is that the only time, no matter whether it is option A or option B, if we have a reform package and I stand in an election, which I do not know whether I will or how I will stand or what I will do, if I do go to the electorate, I can say to the people in St. Mary for the first time ever: "You have the same number of votes as every other person in this Island, every other member of the electorate." Under the amendment I would not have been able to do that. So, there are inequities for one way or another. You take your point of view and I can understand that every Member here has one. I have lived with this. I am relieved that the recommendations of the commission are now going through intact, unamended, I

have the trust, the faith, in the people of this Island to make a decision that is meaningful. I think it is jolly well time that we gave them the choice to make that decision. I will be supporting this, naturally. Thank you, Sir.

1.5.24 Connétable M.P.S. Le Troquer of St. Martin:

If I could just speak briefly, I know Deputy Pitman has now left the Assembly, but he mentioned last night where were people at the Fort Regent. I was with parishioners, volunteers in the Parish of St. Martin who want to help, as a support team, to help the public. Tonight: further things in the Parish of St. Martin, a Parish Assembly. Tomorrow night a charity function. We cannot go to every function that the Deputy was alluding to. We do care for other people in the Island.

1.5.25 Senator F. du H. Le Gresley:

I realise everybody is getting very tired and I am going to be brief. Sir, I was disappointed that you would not allow the reference back. I respect your decision on that and I will not say any more, but I am disappointed. I have been criticised by Deputy Power for not making a submission to the Electoral Commission. I stated in my very first speech, which was yesterday, that I purposefully did not make a submission because I thought it was for the public to make their submissions not for interested parties like States Members. That is why I did not do it. However, be that as it may, what I want to say is I have always trusted that the Electoral Commission would come forward with proposals that I could accept. I have always trusted that. I just wanted to refer Members to what the commission said. They said: "If, however, the public is to have the opportunity of giving proper consideration to our recommendations it is important that the States does not seek to alter our suggest package of reforms nor to amend the referendum question." Now we clearly have had amendments. Because we have had amendments that is the only reason I have spoken, quite honestly. If we had not have had amendments I would have supported what the Electoral Commission came forward with because I do believe that we have to put this to the public. So, if I have spoken and people have interpreted what I have said as being totally against what the Electoral Commission has put forward that is not true. I have spoken because there have been amendments which I thought improved the referendum questions. But we are a debating Chamber. It has taken us a long time to get where we are tonight. We have had the opportunity, we have lost all the amendments and we must be brave and understand that we have lost and we must move on. So I am going to be in the same camp as Deputy Tadier, the Deputy of St. Ouen, and Deputy Young, to say, yes, let the public decide. We have aired all the views, we have lost the amendments, we need to now support the Electoral Commission with their recommendations. We have not tinkered with them, let us now put it to the public, and I say that those in doubt, I would urge you to vote for the main proposition.

The Deputy Bailiff:

Does any other Member wish to speak? If not, then Senator Bailhache will reply.

1.5.26 Senator P.M. Bailhache:

I shall be relatively brief but this is an important debate and some points have been made which ought to be answered. I am grateful to all Members who have spoken in the debate, which has I think been a microcosm of all the debates on constitutional reform which have taken place during the last 8 years or more. It is absolutely clear to me, and I expect to many other Members too, that if the States were left to resolve on their own the questions around how to reform the composition of the Assembly we would never reach a consensus. Deputy Power referred to the litany of personal shopping lists that we have heard during the debates on the amendments. That is true and it has been the duty of the Electoral Commission to consider all the myriad options that there are and to try to make sense of them. The notion that the public should be asked in a referendum for their views was very sensible because, whatever the outcome, there will at least be some fixed

points against which future decisions can be made. The Constable of St. Helier made the fair point that there would still be room for argument after the referendum as to what legislative changes would be made. But I am sure he would agree that if the public express clear support for either of the reform options, it would be a brave politician who stood against the popular will.

[18:15]

Deputy Pinel asked what the majority or percentage of the referendum would need to be to ensure reform and I think that was essentially answered by Senator Farnham. There is no fixed percentage in the Referendum Law and ultimately it will be a decision for the Assembly to give such weight as the Assembly thinks fit to the expression of the popular view. I am sorry that many Members are clearly disappointed with the commission's final report. The trouble with compromise is that you risk disappointing everyone in some respect, but compromise is the only way to make progress. Some people want to keep the Senators, but if Senators have exactly the same functions as Deputies will Deputies seek promotion to the senatorial rank, as they used to do in the past? I doubt it. Only one Deputy stood in the last senatorial elections, namely, our Chief Minister. Deputy Southern, if you will allow me to use him as an example of a senior Deputy who has stood for senatorial office in the past, he did not stand in 2011. Why not? I suspect that he sensibly judged that his chances of election in St. Helier where he was well known were better, and it made no practical difference whether he was a Deputy or a Senator. Why should a senior Deputy in the future take the risk of standing for election as a Senator? If we look beyond 2014, as we should, and once my current senatorial colleagues have grown old and gone, who will stand as a Senator? A host of newcomers? Candidates who do not think they would get elected as Deputies? I make the point only to emphasise that the old order of Senator, as a senior and respected member promoted, as it were, from the Deputies ranks has gone. Killed by the single election day. That is why there is no Senators' question on the ballot paper and I hope that answers Senator Farnham. We have to find a different system. The Commission has come down on 2 alternative reform options based on large constituencies. The advantage of large constituencies is that they replicate, at least to some extent, the senatorial seat in the sense that a candidate will need a large number of votes to be elected. Not as many as a Senator, but a significant number. We could have gone for the Clothier option of small constituencies, but that would have meant the possibility of candidates being elected unopposed and would also have risked a continuation of Deputies being elected on narrow parochial issues rather than the larger issues upon which Members should be focusing. As Deputy Tadier said, if the public wanted Constables to stay we would have had an Assembly of 55 at least. I want to come back briefly to the question of alleged bias which has troubled Deputy Southern, Senator Le Gresley, Deputy Hilton, and perhaps others. There is no bias in the question, either in favour of Constables or of large Districts, nor is there bias against Senators. That is the expert advice that we have had from Dr. Renwick. I understand the difficulty that some Members have had with the alternative vote system and indeed I confess it took me some time to get my head around it. But I should like just briefly to try to explain it again. Perhaps the starting point is that electors only have one vote, they have 2 preferences but only one vote. They cannot use options B and C to advantage the Constables. It is good to keep in mind, I think, the mental image of 3 piles of ballot papers on the table representing the voter's first preferences. Can I give Members one example which results from a discussion with Senator Le Gresley. It was suggested to me that tactical voting might take place and that voters might - anticipating that option C might attract the lowest numbers of votes - vote for option C with option A as a second preference. But how would that help if your real preference was option A? If your second preference vote is to be transferred from the C pile to the A pile - the C pile having been eliminated - why not put your ballot paper on the A pile in the first place? You have only one ballot paper on the table and it is in one of those 3 piles. The effect of the second preference is to move your ballot paper from one pile to another if your first preference is eliminated. The misapprehension is that you get 2 votes. You do not. The

second preference is to allow your vote to count if your first preference is eliminated. So if you are an A voter, like Deputy Martin or Deputy Southern, you should ask yourself what you would like to happen in the unlikely event that the A vote comes lowest in the poll and is eliminated. It is probably not very likely but I assume that such voters would ask themselves which was the lesser of 2 evils, the B option or the C option, the status quo, and that would be the second preference. If they felt genuinely that they could not vote for either then that would be their position but that would be surprising, considering that the status quo is what we have at the moment. The pro-Constable lobby would be in the same position. But I think it is a mistake to believe that the Constables issue is the only important one. Some voters might like the idea of larger constituencies and might vote for option A with option B as a second preference, or vice versa. At the end of the day, however, only one vote counts. So the Constable of St. John, and Deputy Baudains, and others, suggested that we were doing things backwards, we should first have sorted out the machinery of government and then the number of Members of the Assembly. The commission was putting the cart before the horse. But the commission is only doing what the States have mandated in order to get a system in place for 2014. It is not the cart and the horse, it is a chicken and egg situation. It is a tenable argument to sort out the machinery of government first but we have no time. The Constable of St. Clement explained very well why the way in which we are doing things is better. If we decide how much work we want to do or how many jobs for the boys in the Assembly that we want to create, there is almost no limit to the number that we can create. The better approach, I suggest, is to ask ourselves what is the lowest number of Members that will provide an efficient system of Government and effective scrutiny, and the commission says that number is 42. Some Members asked why the commission did not recommend a referendum on the Constables, and Deputy Green suggested that was where we had fallen at the last fence. Sort out the Constables first, he said, and the rest will fall into place. That was an option considered by the commission but as I think it was Senator Farnham again who said the trouble is that many people want to know what kind of an Assembly it will be before deciding whether or not the Constables should remain. If the constitutional link with the Parishes is important to you, you want to know what the position will be, whether there will be large Districts with no parochial representation before you make a decision on the Constables. These are difficult, intertwined issues over which the commission has argued and wrangled for a long time, as indeed we have over the last 2 days. The recommendations of the commission do give the public a clear choice between reform options and the status quo, and the opportunity as well to resolve once and for all the question whether the Constables should remain in the States. Reform is urgent. With the fading away, as I suggest, of the Senators' star, we need to put something else in place. I think that the Assembly has dithered long enough. I ask Members to give reform a chance, to respect the promise that was made to the electorate when the Electoral Commission was established, and to vote for the referendum.

The Deputy of St. John:

Can I seek a clarification from the rapporteur? When he was talking about the number of Deputies that stood in the senatorial election at the last election, I would ask him if he could remember how many senatorial seats there were available and how many might be available at the next senatorial election, and if there is a difference?

Senator P.M. Bailhache:

The Deputy knows the answer to those questions very well and I maintain my position that the likelihood of Deputies risking safe Deputy seats to stand in the senatorial elections is not high.

The Deputy Bailiff:

The appel is called for and I invite Members to return to their seats. The vote is on the proposition to adopt the Draft Referendum (Reform of States Assembly) (Jersey) Act and I ask the Greffier to open the voting.

POUR: 37		CONTRE: 12		ABSTAIN: 0
Senator P.F. Routier		Senator S.C. Ferguson		
Senator P.F.C. Ozouf		Senator B.I. Le Marquand		
Senator A. Breckon		Deputy J.A. Martin (H)		
Senator A.J.H. Maclean		Deputy G.P. Southern (H)		
Senator F.du H. Le Gresley		Deputy J.A.N. Le Fondré (L)		
Senator I.J. Gorst		Deputy S. Pitman (H)		
Senator L.J. Farnham		Deputy T.M. Pitman (H)		
Senator P.M. Bailhache		Deputy M.R. Higgins (H)		
Connétable of St. Helier		Deputy A.K.F. Green (H)		
Connétable of Trinity		Deputy J.M. Maçon (S)		
Connétable of Grouville		Deputy G.C.L. Baudains (C)		
Connétable of St. Clement		Deputy of St. John		
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Brelade				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

2. Jersey Financial Services Commission: appointment of Commissioner (P.8/2013)

The Deputy Bailiff:

The vote that we had earlier was to take the last matter to its conclusion. We have only one item left on the agenda which is P.8 in relation to the appointment of a Commissioner to the Jersey Financial Services Commission. I am not clear how controversial that is but I wonder whether Members would find it convenient to deal with it tonight. Very well, this is a proposition which needs to be taken *in camera* but the Greffier, in accordance with Standing Orders, will first read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion in pursuance of Article 3 of the Financial Services Commission (Jersey) Law 1998, to appoint Mr. John Richard Harris as a Commissioner of the Jersey Financial Services Commission for a period of 5 years, with effect from 1st March 2013.

The Deputy Bailiff:

Can I just ask, the public gallery should now be cleared and the media should withdraw.

[18:30]

[Debate proceeded in camera]**The Deputy Bailiff:**

The appel is called for, I invite Members to return to their seats. We have to come out of camera. I do not know if the media are returning or not but we are now no longer sitting *in camera*. I invite Members to return to their seats. The vote is on whether to adopt the proposition to appoint Mr. John Harris as a Commissioner of the Jersey Financial Services Commission. I ask the Greffier to open the voting.

POUR: 42		CONTRE: 1		ABSTAIN: 0
Senator P.F. Routier		Deputy M.R. Higgins (H)		
Senator P.F.C. Ozouf				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Deputy Bailiff:

We now come to M and I call on the Chairman of Privileges and Procedures to propose the Business.

3. The Connétable of St. Helier (Chairman, Privileges and Procedures Committee):

Business is as set down under M on the consolidated Order Paper. We are not aware of any new matters having been presented so I, therefore, propose M.

The Deputy Bailiff:

Very well. Before bringing the meeting to a close I am sure that Members would wish me to thank the usher and the Greffe staff for attending in the Chamber so late. [**Approbation**] The States now stand adjourned until 5th March.

ADJOURNMENT

[18:42]