3.14 Deputy J.M. Maçon of the Chairman of the Privileges and Procedures Committee regarding the participation threshold in referenda:

Can the Chairman explain whether the proposed referendum will carry a participation threshold before the results will be deemed credible as there is no provision for this in the Referendum (Jersey) Law 2002 or in P.52/2013 and if not, why not?

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

The Referendum (Jersey) Law 2002 is essentially an enabling law and does not make provision for the setting of a participation threshold. P.5/2013 could technically have introduced the participation threshold but I am advised that the Electoral Commission agreed after careful consideration that it would not be constructive to propose one.

3.14.1 Deputy J.M. Maçon:

Can the Chairman please give further details of the reasoning as to why it would not be constructive given that many countries throughout the world, when it comes to constitutional change, do have a participation threshold?

The Connétable of St. Helier:

It is perhaps a question that should be put to the Electoral Commission but it may be helpful if I direct the Deputy to the debate on the referendum law which was adopted in 2002 without amendment by 37 votes to 2 and in its accompanying report, it dealt with the question about participation thresholds and whether a certain majority should be required and in the report, it is suggested that, as the outcome of the referendum is not binding anyway, it would not be helpful to have a participation threshold.

3.14.2 Deputy G.C.L. Baudains:

If the Chairman of P.P.C. could remind me, I thought Senator Vibert brought in a 75 per cent threshold to pertain to any reform of government, does that apply in this case?

The Connétable of St. Helier:

I do not believe it does, certainly not as far as the referendum goes. It will be up to the States to decide what to do with the results of the referendum because it will come back to the Assembly and clearly it is in everyone's interests, whatever their view of the referendum, that we encourage a large turnout and I think our energy should be focused on … certainly from P.P.C.'s point of view, we will be doing all we can to make sure that the referendum is widely participated in.

3.14.3 Deputy J.M. Maçon:

Does the Chairman not agree that we might be able to quash many arguments in the future given for exactly the reason that it has got to come back to the Assembly, that if you have a participation threshold reflecting a significant turnout of the public, then that will help States Members to be able to cast a vote accordingly when it comes back - granted it will still be on their conscience - and that would provide better foresight than having none whatsoever?

The Connétable of St. Helier:

I personally do not have any strong views on this matter but if I can quote the report again from P.40/2002, it does raise a problem in having a threshold. It says, and I quote: "If a preponderance of the Island's elected representatives wishes to pose a question to the electorate, it will be difficult in the opinion of the committee to justify law that could thwart the will of the majority of those representatives." In other words, it certainly seemed to a previous committee, that was a legislation committee, that it would not be right to interfere with the wishes of the States by putting this essential threshold.