

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 11th JULY 2018

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[9:30]

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

PUBLIC BUSINESS - resumption

1. Draft Social Security (Amendment No. 23) (Jersey) Law 201- (P.77/2018)

The Deputy Bailiff:

Further to the direction that I gave yesterday, a new answer, or revised answer, has been filed by the Minister for Education in response to the question by Deputy Ward and that should be on Members' desks. Very well, we now resume Public Business and the next item is the Draft Social Security (Amendment No. 23) (Jersey) Law, P.77/2018, and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Social Security (Amendment No. 23) (Jersey) Law 201-. A law to amend further the Social Security (Jersey) Law 1974 and to make consequential amendments. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

The Deputy Bailiff:

Yes, Minister. Sorry, looking in the wrong direction; force of habit. **[Laughter]**

1.1 Deputy J.A. Martin of St. Helier (The Minister for Social Security):

Well, the Minister for Treasury and Resources can take it, if she likes. Yes, I am pleased to recommend to the Assembly various changes to the Social Security Law. Most of these amendments affect long-term incapacity allowance but I have taken the opportunity to make amendments and improvements in other areas of the law. Long-term incapacity allowance supports people with long-term illness or injury. This is known as loss of faculty and the amount a person receives depends on the severity of the loss of faculty which is assessed by a medical board. The most significant change is to introduce a right to review or re-determination. This will be done by a medical board and it will be a different doctor and this will allow the re-determination to be done more quickly and efficiently. These amendments also clarify the relationship between L.T.I.A. (Long-Term Incapacity Allowance) and S.T.I.A. (Short-Term Incapacity Allowance) and the role of determining officers in the department who make decisions on a claim. Much of the drafting enables the proper powers as to where decisions about the benefit can be challenged and escalated. People will have the right to ask for a re-determination on a decision of a determining officer and the proper process of re-determination and appeal to the Royal Court being standardised across the law. People's incapacity does not always follow a pattern and, as it stands in the law, there is little flexibility on how to manage this. Under these amendments, Order-making powers will be created which allow for new procedures so a person could have their benefit extended without the requirement to attend a medical board. This will be very helpful if someone is in hospital or attending the U.K. (United Kingdom) for specialist treatment, and we can now do this under an Order, and they can have their benefit, as I say, extended. As I said, there are a number of other areas addressed by this amendment. Members will see a relatively minor amendment to home carer's allowance. This allows claimants of that benefit to refer to the assessments which have been already undertaken under the Long-Term Care Law to ask for a carer's allowance rather than to have a further assessment under the Income Support Law. Similarly, Order-making powers are being created so that social security benefits can be treated as overlapping with income support and this will hopefully prevent overpayments being created. Changes of the timing of the actuarial review and the removal of Officer's Oath and the dissolution of the Social Security Advisory Board are also proposed. I would like to thank Scrutiny for attending a presentation on all these amendments that were given by the officers last week. Also, I would really like to thank the Advisory Council that have been hard working over many years, but they can see

that consultation now can be done by different groups and they are quite happy with them in this part of the law being removed. So, I propose the principles. Thank you.

The Deputy Bailiff:

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

1.1.1 Connétable S.A. Le Sueur-Rennard of St. Saviour:

Could I just ask a question? You are going to be able to extend the cover if the person continues to be unwell and incapacitated. If, for some unknown reason, someone's incapacitation goes the other way and they can work, will you be able to reverse that decision as well?

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

Some of these changes to the regime have been long overdue, in my opinion. Certainly, the principle of overlap so that overpayments are not automatically created by a change in circumstances is one area that has been particularly difficult for recipients to manage. Certainly, in my opinion, the Social Security Advisory Board, in particular, and the decision to do away with that, has been almost not functional for a number of years. It is giving general advice on principles but really had little role to play within the department, and I think it is overdue that this is done away with and not seen as part of the system.

1.1.3 Deputy S.M. Wickenden of St. Helier:

I was just going to ask the Minister how this affects people that are on long-term incapacity allowance that are overseas and they have moved back to their home country or the likes. Are the Medical Appeals Tribunal able to go and assess people that no longer live in the Island? I know currently, I believe, that to continue your long-term incapacity allowance, a person who is no longer in the Island has to get a note from their doctor. But without somebody on-Island knowing, we have no idea if these people are even still alive, and maybe their spouses are claiming the long-term incapacity, because all they require is a note from a doctor that we may not know or have any association with. So does this allow the Medical Appeals Tribunal to deal with overseas people that are claiming long-term incapacity allowance?

The Deputy Bailiff:

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

1.1.4 Deputy J.A. Martin:

Firstly, to the question from the Constable of St. Saviour, obviously the department always has the power if somebody is getting better from their condition, it might be an illness and loss of faculty, we can at any time re-assess. If somebody cannot for medical reasons ... which they would have to prove. They cannot just turn up. They would have to prove it: "I am in hospital at that time. I am having extra treatment" or: "I possibly need to be in the U.K. for a week and having treatment." We do not then just say: "Oh, we cannot extend your ... we will extend your benefit until you can attend" and so that might be a week or a month later. I thank Deputy Southern for his interjection today. It was very helpful and, as he says, as a department we have got a lot better at consulting on issues that are coming up and you go to the right age groups, and everything like that. So, it is not going to stop anything, it is just going to go to the right people. We are consulting on work-based pensions at the moment, we are talking to young people at Highlands and school leavers who this will affect in their pockets when they start work. So, these are people you want to talk to and consult with. Deputy Wickenden has thrown me a curve ball there. I do not think it improves the situation or does not improve the situation. I do know people who receive a part long-term incapacity benefit who are off the Island; that is their assessment. We do ask for, as you say, a doctor's letter at the moment. If the Deputy seems to have concerns that there might be people claiming it, somebody has died and their

partner is claiming it, it is something the department needs to look into. But it is not affected, this law, at all; any changes do not affect people receiving it overseas. So, with that, I maintain the principles and ask for the appel.

The Deputy Bailiff:

The appel is called for. I invite any Members not in the Chamber to return to their seats. I ask the Greffier to open the voting.

[9:45]

POUR: 42

CONTRE: 0

ABSTAIN: 0

Senator L.J. Farnham
Senator T.A. Vallois
Senator K.L. Moore
Senator S.Y. Mezec
Connétable of St. Helier
Connétable of St. Lawrence
Connétable of St. Saviour
Connétable of St. Brelade
Connétable of Grouville
Connétable of St. John
Connétable of Trinity
Connétable of St. Peter
Connétable of St. Mary
Connétable of St. Ouen
Connétable of St. Martin
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy M. Tadier (B)
Deputy M.R. Higgins (H)
Deputy J.M. Maçon (S)
Deputy S.J. Pinel (C)
Deputy of St. Martin
Deputy R.J. Rondel (H)
Deputy of St Ouen
Deputy L.M.C. Doublet (S)
Deputy R. Labey (H)
Deputy S.M. Wickenden (H)
Deputy of St. Mary
Deputy G.J. Truscott (B)
Deputy J.H. Young (B)
Deputy L.B. Ash (C)
Deputy K.F. Morel (L)
Deputy G.C.U. Guida (L)
Deputy of St. Peter
Deputy of Trinity
Deputy of St John
Deputy M.R. Le Hegarat (H)
Deputy S.M. Ahier (H)
Deputy J.H. Perchard (S)
Deputy R.J. Ward (H)
Deputy C.S. Alves (H)
Deputy K.G. Pamplin (S)

The Deputy Bailiff:

Deputy Le Hegarat, does your committee wish to call this in?

Deputy M.R. Le Hegarat of St. Helier (Chairman, Health and Social Security Scrutiny Panel):

No, we have had a meeting with the department and essentially all the matters we brought to them have been resolved. Thank you.

The Deputy Bailiff:

Thank you very much, indeed. Now, Minister, there is an amendment to the Articles lodged by you. Do you wish to propose the Articles as amended?

Deputy J.A. Martin:

Yes.

The Deputy Bailiff:

Are Members happy the Articles are taken as amended? Very well. Then how do you wish to propose them? There are 18 Articles in total, do you wish to take them *en bloc* or individually?

1.2 Deputy J.A. Martin:

Yes, I would like to take the Articles *en bloc* with ... is it right now to propose Schedule 3 as well?

The Deputy Bailiff:

Yes, it would be.

Deputy J.A. Martin:

Yes, and I will just speak briefly; I am not going to go through every Article and it will make more sense to cluster them by topic. So Articles 2 to 4 and 19 to 14 deal, as I said, with the long-term care incapacity benefit. As I mentioned, it is here that we introduce a re-determination process so that a claimant does not need to go through the formality of a Social Security Medical Appeals Tribunal to query the findings of the first medical board. The process is simple and consistent where there is a re-determination and appeal. This is a far more satisfactory process. On the same thing, Article 8 introduces a proper appeals process for the way in which people are classified for contribution purposes. These Articles also create Order-making powers which will enable me to bring forward new procedures to deal with cases where the period of assessment given by the medical board has expired or for valid reasons a medical board cannot be completed; as I said earlier, for probably medical reasons that will probably be the other, but if there are other unforeseen circumstances this could be considered. These could include assessment where a person is not required to attend or means to make a back payment on a claim. On a different subject, Article 5 expands the eligibility criteria for home carer's allowance. For a carer to claim the carer's allowance, they must demonstrate that the cared-for person needs their help. In the law as it stands, the cared-for person must be in the criteria by referring to income support medical assessments, but the long-term care assessment is also relevant and this amendment will allow it to be included in the application for home carer's allowance. This is good news because people are caring for people on long-term care benefits and then they have to re-fill in the form to demonstrate they are at least level 3 on the income support disability benefit, so that is another improvement. Article 6 creates Order-making powers for the benefits paid under social security, can be considered as overlapping, as Deputy Southern has said, with income support and offset at source. People are not going to receive any less benefit; it means that they will get 2 payments and then the department has to ask them to pay some back, so we can offset one against the other. Article 7 is a minor amendment which changes the timing and frequency which a Social Security actuarial review is conducted and this will allow these reviews to align with the new medium-term plan process. Article 16 removes the Social Security Advisory Council from

the primary law. As I said, this does not stop us consulting; it does definitely put in our consultation and it is to the people that it will affect. Article 17 removes the Oath which was taken by the Social Security officers which used to have to be done in the Royal Court. I maintain the Articles.

The Deputy Bailiff:

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

The Deputy Bailiff:

Yes, indeed. No Member wishes to speak? All those in favour of adopting the Articles, kindly show? Those against? The Articles are adopted. Do you move them in Third Reading, Minister?

Deputy J.A. Martin:

Yes.

The Deputy Bailiff:

Are they seconded? [**Seconded**] Does any Member wish to speak on the Articles in Third Reading? All Members in favour of adopting ...

Deputy M. Tadier:

Can we have the appel, please?

The Deputy Bailiff:

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

POUR: 46

CONTRE: 0

ABSTAIN: 0

Senator L.J. Farnham
Senator J.A.N. Le Fondre
Senator T.A. Vallois
Senator K.L. Moore
Senator S.W. Pallett
Senator S.Y. Mezec
Connétable of St. Helier
Connétable of St. Lawrence
Connétable of St. Saviour
Connétable of St. Brelade
Connétable of Grouville
Connétable of St. John
Connétable of Trinity
Connétable of St. Peter
Connétable of St. Mary
Connétable of St. Ouen
Connétable of St. Martin
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy of Grouville
Deputy K.C. Lewis (S)
Deputy M. Tadier (B)
Deputy M.R. Higgins (H)
Deputy J.M. Maçon (S)
Deputy S.J. Pinel (C)
Deputy of St. Martin
Deputy R.J. Rondel (H)
Deputy of St Ouen

Deputy L.M.C. Doublet (S)
Deputy R. Labey (H)
Deputy S.M. Wickenden (H)
Deputy of St. Mary
Deputy G.J. Truscott (B)
Deputy J.H. Young (B)
Deputy L.B. Ash (C)
Deputy K.F. Morel (L)
Deputy G.C.U. Guida (L)
Deputy of St. Peter
Deputy of Trinity
Deputy of St John
Deputy M.R. Le Hegarat (H)
Deputy S.M. Ahier (H)
Deputy J.H. Perchard (S)
Deputy R.J. Ward (H)
Deputy C.S. Alves (H)
Deputy K.G. Pamplin (S)

2. Draft Limited Liability Partnerships (Jersey) Law 2017 (Appointed Day) Act 201-(P.81/2018)

The Deputy Bailiff:

Very well, the next item is the Draft Limited Liability Partnerships (Jersey) Law 2017 (Appointed Day) Act, I ask the Greffier to read the citation.

The Greffier of the States:

Draft Limited Liability Partnerships (Jersey) Law 2017 (Appointed Day) Act 201-. The States, in pursuance of Article 44 of the Limited Liability Partnerships (Jersey) Law 2017, have made the following Act.

Senator J.A.N. Le Fondré:

The Connétable of St. Ouen is taking this one.

2.1 Connétable R.A. Buchanan of St. Ouen (Assistant Chief Minister - rapporteur):

The Limited Liability Partnerships Law was adopted by the States on 1st November 2016, was sanctioned by Order of her Majesty in Council on 15th February 2017 and was registered by the Royal Court on 24th February 2017. The law replaces the Limited Liability Partnerships Law 1997. It provides for the establishment, dissolution and winding up of L.L.P.s (Limited Liability Partnerships) for their registration and for connected purposes. The aim of replacing the old framework with the L.L.P. Law is to make Jersey Limited Liability Partnerships more competitive so that it is used a vehicle of choice for local and international businesses. Specifically, the law improves provisions relating to specified solvency statements, provisions relating to the registry and its functions and making insolvency provisions clearer. The Appointed Day Act brings the law into force in its entirety on 1st August 2018 if approved and I ask Members to agree to this proposition.

The Deputy Bailiff:

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

2.1.1 Deputy M.R. Higgins of St. Helier:

Just simply to ask a question. How many L.L.P.s do we have in the Island at the present time?

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

Just to ask a question. Would this Appointed Day Act, obviously part of the legacy business at a previous Council, enable the setting up of limited liability law firms, which I think I heard mentioned in the Law Society or the law changes? Would that be one of the purposes that this law would be used for?

2.1.3 Deputy S.M. Wickenden:

Just a question: the Assistant Chief Minister might not know the answer but maybe he could come back to me afterwards. Recently there was a company set up in the Island that was doing crowd funding to set up its company but the way that our laws are set up, one thing you cannot do on crowd funding when setting up a company is allow shares. The only thing you can do is offer gifts and the likes from the company. By setting up a limited liability, does this change the ability so that we could do crowd funding or would we still need to look at the law and give shares within crowd funding?

2.1.4 Connétable A.S. Crowcroft of St. Helier:

I hope that this falls within the ambit of what you will allow for discussion this morning under this matter. I cannot help noticing that the Assistant Chief Minister has brought quite a number of matters to the Assembly for approval of this type. I think we all commend him for the way in which he has done it. I am conscious that the Chief Minister is back in the Chamber and will be able to speak. I would like his assurance that legislative time will be given to other matters of importance to the Assembly. I am conscious that whenever Members have issues relating to social, community or environmental matters, they are often told there is no law drafting time and, yet, here we are approving quite a lot of financial instruments to assist our important industry. I would like reassurance that when Members bring forward proposals for environmental, social or other legislative changes, they are not going to be told there is no law drafting time in place. I trust that is a question that is in order.

The Deputy Bailiff:

Well I think that pushes the envelope slightly, Connétable, but I had to wait until you finished in order to work that out. So, you have said that, and obviously the Chief Minister, he has not spoken; he is entitled to speak if he wishes.

The Deputy Bailiff:

Does any other Member wish to speak on the proposition? If not, then I call on the Connétable of St. Ouen to respond.

2.1.5 The Connétable of St. Ouen:

If I can address the Constable of St. Helier's question firstly. The answer is I am unable to answer it and I will defer to the Chief Minister in this respect. I do not have the number of limited liability partnerships but I promise to get back to Deputy Higgins with the exact figures on that. As for the crowd funding issue, I am afraid that is what I would call a curve ball that I cannot handle. I do not know the answer to that but I will undertake to get back to the Deputy with a response to that. On that basis, I would like to ask Members to agree to the proposition and call for the appel.

The Deputy Bailiff:

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

POUR: 43

Senator L.J. Farnham
Senator S.C. Ferguson
Senator J.A.N. Le Fondre

CONTRE: 0

ABSTAIN: 1

Connétable of St. Saviour

Senator T.A. Vallois
Senator K.L. Moore
Senator S.W. Pallett
Senator S.Y. Mezec
Connétable of St. Helier
Connétable of St. Brelade
Connétable of Grouville
Connétable of St. John
Connétable of Trinity
Connétable of St. Peter
Connétable of St. Mary
Connétable of St. Ouen
Connétable of St. Martin
Deputy J.A. Martin (H)
Deputy of Grouville
Deputy K.C. Lewis (S)
Deputy M. Tadier (B)
Deputy M.R. Higgins (H)
Deputy J.M. Maçon (S)
Deputy S.J. Pinel (C)
Deputy of St. Martin
Deputy R.J. Rondel (H)
Deputy of St Ouen
Deputy L.M.C. Doublet (S)
Deputy R. Labey (H)
Deputy S.M. Wickenden (H)
Deputy of St. Mary
Deputy G.J. Truscott (B)
Deputy J.H. Young (B)
Deputy L.B. Ash (C)
Deputy K.F. Morel (L)
Deputy G.C.U. Guida (L)
Deputy of St. Peter
Deputy of Trinity
Deputy M.R. Le Hégarat (H)
Deputy S.M. Ahier (H)
Deputy J.H. Perchard (S)
Deputy R.J. Ward (H)
Deputy C.S. Alves (H)
Deputy K.G. Pamplin (S)

3. Draft Limited Liability Partnerships (Amendment of Law) (Jersey) Regulations 201-(P.82/2018)

The Deputy Bailiff:

The next item is the Draft Limited Liability Partnerships (Amendment of Law) (Jersey) Regulations, P.82/2018, and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Limited Liability Partnerships (Amendment of Law) (Jersey) Regulations 201-. The States, in pursuance of Article 38(6) of the Limited Liability Partnerships (Jersey) Law 2017, have made the following Regulations.

Senator J.A.N. Le Fondré:

This is also in the remit of the Connétable of St. Ouen because he has responsibility for financial services under the External Relations side which is where this is falling and it also applies to P.83 as well.

3.1 The Connétable of St. Ouen (Assistant Chief Minister - rapporteur):

These Regulations provide for the transitional arrangements to the L.L.P. Law or limited liability partnerships that exist under the old framework. Accordingly, I shall refer to them as the Transitional Regulations. Upon the Transitional Regulations coming into force, any limited liability partnerships which were established under the old framework will continue under the L.L.P. Law as if they have been registered and granted a certificate under the new law. In addition, all limited liability partnerships that have been established under the old framework will have a period of 6 months in which to appoint a secretary and notify the registrar of same. Until such time a secretary is appointed, the limited liability partnership's designated partner, the concept that exists under the old framework, must carry out the secretary's functions under the law. I propose the principles of the proposition.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Who is making the contribution to the charitable fund? Thank you, Deputy. No, not at all, all monies gratefully received by the Greffier, I am sure. The principles are seconded. Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Deputy Morel, do you wish to call this matter in? This is the Economic Affairs Scrutiny Panel.

Deputy K.F. Morel of St. Lawrence (Chairman, Economic Affairs Scrutiny Panel):

No, they are sensible Regulations and absolutely fine.

The Deputy Bailiff:

So how do you wish to propose the Regulations then, Connétable?

The Connétable of St. Ouen:

There are only 4 of them, could I ask that they be taken *en bloc*? They are relatively straightforward and I think my original speech covered the basic principles, in any case.

The Deputy Bailiff:

Very well, so you will answer any questions, of course?

The Connétable of Ouen:

I would like to propose that.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on the Regulations? All those in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted. Do you move them in Third Reading, Connétable?

The Connétable of St. Ouen:

I do.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on the Regulations in Third Reading?

The Connétable of St. Helier:

Can I ask for the appel, please?

The Deputy Bailiff:

Yes. Does any other Member wish to speak? The appel is called for. I invite Members to return to their seats.

POUR: 45

CONTRE: 0

ABSTAIN: 0

Senator L.J. Farnham
Senator S.C. Ferguson
Senator J.A.N. Le Fondre
Senator T.A. Vallois
Senator K.L. Moore
Senator S.W. Pallett
Senator S.Y. Mezec
Connétable of St. Helier
Connétable of St. Lawrence
Connétable of St. Saviour
Connétable of St. Brelade
Connétable of Grouville
Connétable of St. John
Connétable of Trinity
Connétable of St. Peter
Connétable of St. Mary
Connétable of St. Ouen
Connétable of St. Martin
Deputy J.A. Martin (H)
Deputy of Grouville
Deputy K.C. Lewis (S)
Deputy M. Tadier (B)
Deputy M.R. Higgins (H)
Deputy J.M. Maçon (S)
Deputy S.J. Pinel (C)
Deputy of St. Martin
Deputy R.J. Rondel (H)
Deputy of St Ouen
Deputy L.M.C. Doublet (S)
Deputy R. Labey (H)
Deputy S.M. Wickenden (H)
Deputy of St. Mary
Deputy G.J. Truscott (B)
Deputy J.H. Young (B)
Deputy L.B. Ash (C)
Deputy K.F. Morel (L)
Deputy G.C.U. Guida (L)
Deputy of St. Peter
Deputy of Trinity
Deputy M.R. Le Hegarat (H)
Deputy S.M. Ahier (H)
Deputy J.H. Perchard (S)
Deputy R.J. Ward (H)
Deputy C.S. Alves (H)
Deputy K.G. Pamplin (S)

[10:00]

4. Draft Limited Liability Partnerships (Dissolution and Winding up) (Jersey) Regulations 201- (P.83/2018)

The Deputy Bailiff:

The next item is the Draft Limited Liability Partnerships (Dissolution and Winding up) (Jersey) Regulations, P.83/2018, lodged by the Chief Minister, and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Limited Liability Partnerships (Dissolution and Winding up) (Jersey) Regulations 201-. The States, in pursuance of Article 38 of the Limited Liability Partnerships (Jersey) Law 2017, have made the following Regulations.

4.1 The Connétable of St. Ouen (Assistant Chief Minister - rapporteur):

These Regulations provide for the circumstances in which an L.L.P. may be dissolved. It then goes on to provide for clear statements and procedures which should be followed to wind up an L.L.P. in both solvent and insolvent situations. In the case of a solvent L.L.P., such procedures take into account who the dissolution manager should be, places an obligation on the dissolution manager to achieve a beneficial winding up and stipulates the powers of the court to give directions as to the winding up. In the case of an insolvent L.L.P. such procedures take into account the interest of creditors, as well as the powers of authorities, duties and obligations that are placed on the person responsible for the winding up of an insolvent L.L.P. These are very similar to those present in the Jersey law in respect of an insolvent Jersey incorporated company. I propose the principles of this proposition.

The Deputy Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Deputy Morel, does your panel wish to call this in? I think this is within your purview.

Deputy K.F. Morel (Chairman, Economic Affairs Scrutiny Panel):

It is within our purview, but, no. Thank you.

The Deputy Bailiff:

How do you wish to deal with the matter in Second Reading then, Connétable?

The Connétable of St. Ouen:

I would ask that we take the Regulations, which are fairly extensive, *en bloc*.

The Deputy Bailiff:

Very well. Are they seconded? [**Seconded**] Does any Member wish to speak on the Regulations or any of them? Those in favour of adopting the Regulations *en bloc*, kindly show. Those against? The Regulations are adopted. Do you move them in Third Reading, Connétable?

The Connétable of St. Ouen:

Yes, please, and I call for the appel for this one.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. Sorry, I am getting a bit previous, of course, the appel being called. Does any Member wish to speak in Third Reading, which is what I should have asked? The appel is called for. I ask the Greffier to open the voting.

POUR: 42

CONTRE: 0

ABSTAIN: 0

Senator L.J. Farnham
Senator S.C. Ferguson
Senator J.A.N. Le Fondre
Senator T.A. Vallois
Senator K.L. Moore
Senator S.W. Pallett
Senator S.Y. Mezec
Connétable of St. Helier
Connétable of St. Lawrence
Connétable of St. Brelade
Connétable of Grouville
Connétable of St. John
Connétable of Trinity
Connétable of St. Peter
Connétable of St. Mary
Connétable of St. Ouen
Connétable of St. Martin
Deputy J.A. Martin (H)
Deputy of Grouville
Deputy K.C. Lewis (S)
Deputy M. Tadier (B)
Deputy M.R. Higgins (H)
Deputy J.M. Maçon (S)
Deputy S.J. Pinel (C)
Deputy of St. Martin
Deputy of St Ouen
Deputy L.M.C. Doublet (S)
Deputy S.M. Wickenden (H)
Deputy of St. Mary
Deputy G.J. Truscott (B)
Deputy L.B. Ash (C)
Deputy K.F. Morel (L)
Deputy G.C.U. Guida (L)
Deputy of St. Peter
Deputy of Trinity
Deputy of St John
Deputy M.R. Le Hegarat (H)
Deputy S.M. Ahier (H)
Deputy J.H. Perchard (S)
Deputy R.J. Ward (H)
Deputy C.S. Alves (H)
Deputy K.G. Pamplin (S)

5. Draft Criminal Justice (Miscellaneous Provisions) (No. 2) (Jersey) Regulations 201-(P.84/2018)

The Deputy Bailiff:

The next item is the Draft Criminal Justice (Miscellaneous Provisions) (No. 2) (Jersey) Regulations, P.84, and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Criminal Justice (Miscellaneous Provisions) (No. 2) (Jersey) Regulations 201-. The States, in pursuance of Article 1 of the Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016, have made the following Regulations.

Senator J.A.N. Le Fondré:

Yes, the rapporteur is the Constable of St. John.

5.1 Connétable C.H. Taylor of St. John (Assistant Chief Minister - rapporteur):

These Regulations are made under the Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016. It is a bit of a tidying-up exercise, a few loose ends. The law in 2016 increased from £5,000 to £10,000 the jurisdiction of the Magistrate's Court to impose these fines. At the same time it reduced 4 levels to 3 levels: level 1 being up to £200; level 2 up to £1,000 and level 3 up to £10,000. At the time the law was made, or since the law was made, should I say, a number of omissions have been found and this is to catch those areas that were not in the previous 2016 law. The law itself, and the Regulations agreed by the Assembly in 2016, amended numerous enactments to replace the references of level 4 with either an unlimited fine or with a reference to level 3. Certain legislation, at the time the law and Regulations were debated, was either awaiting debate or Royal Assent and therefore could not be amended at the time. In addition, other legislation has been enacted since the law was adopted which requires amendment to reflect the reform shown of these scales. Accordingly, these Regulations replace the references to those enactments of level 4 and references to level 3 on the standard scale of fines. I therefore move the principles.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Deputy Ward, do you wish for the Education and Home Affairs Scrutiny Panel to scrutinise?

Deputy R.J. Ward of St. Helier (Chairman, Education and Home Affairs Scrutiny Panel):

We did discuss this at the last meeting. It was considered that further Scrutiny is not required, so I am quite happy with that. Thank you.

The Deputy Bailiff:

Thank you. How do you wish to propose the Regulations then in Second Reading, Connétable?

The Connétable of St. John:

I would like to take them *en bloc*. I think it is reasonably straightforward and I do not think it is necessary to go through them one by one; therefore, I would propose them *en bloc*, if I may.

The Deputy Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on the Regulations in general or any of them? All those in favour of adopting the Regulations, kindly show? Those against? The Regulations are adopted. Do you move them in Third Reading?

The Connétable of St. John:

Yes, please. I move them in the Third Reading and, in doing so, I would like to thank the officers for their work in bringing forward these loose ends and hopefully tidying up the situation. Thank you.

The Deputy Bailiff:

Are the Regulations seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading kindly ...

The Connétable of St. Ouen:

Can we have the appel?

The Deputy Bailiff:

The appel is called for. I invite any Members not in the Chamber to return to their seats. I ask the Greffier to open the voting.

POUR: 46

CONTRE: 0

ABSTAIN: 0

Senator L.J. Farnham
Senator S.C. Ferguson
Senator J.A.N. Le Fondre
Senator T.A. Vallois
Senator K.L. Moore
Senator S.W. Pallett
Senator S.Y. Mezec
Connétable of St. Helier
Connétable of St. Lawrence
Connétable of St. Brelade
Connétable of Grouville
Connétable of St. John
Connétable of Trinity
Connétable of St. Peter
Connétable of St. Mary
Connétable of St. Ouen
Connétable of St. Martin
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy of Grouville
Deputy K.C. Lewis (S)
Deputy M. Tadier (B)
Deputy M.R. Higgins (H)
Deputy J.M. Maçon (S)
Deputy S.J. Pinel (C)
Deputy of St. Martin
Deputy R.J. Rondel (H)
Deputy of St Ouen
Deputy L.M.C. Doublet (S)
Deputy R. Labey (H)
Deputy S.M. Wickenden (H)
Deputy of St. Mary
Deputy G.J. Truscott (B)
Deputy J.H. Young (B)
Deputy L.B. Ash (C)
Deputy K.F. Morel (L)
Deputy G.C.U. Guida (L)
Deputy of St. Peter
Deputy of Trinity
Deputy of St John
Deputy M.R. Le Hegarat (H)
Deputy S.M. Ahier (H)
Deputy J.H. Perchard (S)
Deputy R.J. Ward (H)
Deputy C.S. Alves (H)
Deputy K.G. Pamplin (S)

6. Draft Taxation Implementation (Miscellaneous Amendments) (Jersey) Regulations 201-(P.86/2018)

The Deputy Bailiff:

The next item of public business is the Draft Taxation Implementation (Miscellaneous Amendments) (Jersey) Regulations, P.86, and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Taxation Implementation (Miscellaneous Amendments) (Jersey) Regulations 201-. The States, in pursuance of Article 2(1) of the Taxation (Implementation) (Jersey) Law 2004, have made the following Regulations.

The Deputy Bailiff:

Chief Minister? The Connétable ... right.

6.1 The Connétable of St. Ouen (Assistant Chief Minister - rapporteur):

It is me again, I am afraid. These Regulations propose amendments to the Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008 and the Taxation (Double Taxation) (Jersey) Regulations 2010. The proposed changes are administrative and would enable future amendments to the schedules attached to either set of Regulations, if they are made, for the purpose of giving effect to a tax agreement, to be made by Order. With regard to the 2008 Regulations, it is currently the case that only the date on which a tax information exchange agreement entered into in force can be inserted into the Regulations by Order. The name of the jurisdiction, its description and the taxes covered can only be inserted into the schedule through an amendment to the Regulations agreed by this Assembly. These Regulations, if adopted, would enable all changes to the schedule to be made by Order. A similar amendment is proposed to the 2010 Regulations; it is also the case that at present an Order can be made for the insertion into the schedule of the Regulations of the date on which a double taxation agreement is entered into force. The name of the country and any description of that country currently has to be inserted into the schedule by Regulations agreed by this Assembly. If this amendment is agreed, all that information could be included in an Order to amend the schedule. Accordingly, there will be a consistency between both sets of Regulations and the Assembly would not be asked to approve simple administrative changes to either the 2008 or the 2010 Regulations on each occasion that a new tax agreement is reached. I move the principles.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Senator Moore, does your panel wish to call this in?

Senator K.L. Moore (Chairman, Corporate Services Scrutiny Panel):

No, thank you.

The Deputy Bailiff:

How do you wish to deal with the matters then in Second Reading, Connétable?

The Connétable of St. Ouen:

There are only 2 Regulations plus the commencement Regulation, I would ask they be taken *en bloc*.

The Deputy Bailiff:

Are they seconded? [**Seconded**] Does any Member wish to speak in Second Reading? All those in favour of adopting the Regulations in Second Reading, kindly show. Those against? The Regulations are adopted in Second Reading. Do you move them in Third Reading?

6.2 The Connétable of St. Ouen:

I would like to move them in Third Reading, please.

The Deputy Bailiff:

Are they seconded? [**Seconded**] Does any Member wish to speak on the Regulations in Third Reading? Chief Minister.

6.2.1 Senator J.A.N. Le Fondré:

Very briefly, just to thank, in my absence, all the officers who have worked on the various propositions that have come through this Assembly in the last day or so, in particular on this one. I believe this marks the last of what I will call the legacy legislation or near enough that has come ... I think there are one or 2 bits outstanding, but the bulk of the legacy legislation that has come through from the previous Assembly. In particular, I want to extend my thanks to the Connétable of St. John for his assistance, including on questions yesterday, and also thank most particularly the Connétable of St. Ouen who has had his baptism of fire, I would suggest, as an Assistant Minister and a new Member [**Approbation**] and thank him again for his work on this and the other propositions that he has brought to this Assembly on my behalf and on behalf of the Minister for External Relations. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak in Third Reading? I then call upon the Connétable to respond.

6.2.2 The Connétable of St. Ouen:

I would just like to thank the Chief Minister for his kind words and thank the Assembly for their support. I would like to ask for the appel.

The Deputy Bailiff:

The appel is called for. Any Member not in the Chamber, I invite to return to their seats. I ask the Greffier to open the voting.

POUR: 46

Senator L.J. Farnham
Senator S.C. Ferguson
Senator J.A.N. Le Fondre
Senator T.A. Vallois
Senator K.L. Moore
Senator S.W. Pallett
Senator S.Y. Mezec
Connétable of St. Helier
Connétable of St. Lawrence
Connétable of St. Brelade
Connétable of Grouville
Connétable of St. John
Connétable of Trinity
Connétable of St. Peter
Connétable of St. Mary
Connétable of St. Ouen
Connétable of St. Martin
Deputy J.A. Martin (H)

CONTRE: 0

ABSTAIN: 0

Deputy G.P. Southern (H)
Deputy of Grouville
Deputy K.C. Lewis (S)
Deputy M. Tadier (B)
Deputy M.R. Higgins (H)
Deputy J.M. Maçon (S)
Deputy S.J. Pinel (C)
Deputy of St. Martin
Deputy R.J. Rondel (H)
Deputy of St Ouen
Deputy L.M.C. Doublet (S)
Deputy R. Labey (H)
Deputy S.M. Wickenden (H)
Deputy of St. Mary
Deputy G.J. Truscott (B)
Deputy J.H. Young (B)
Deputy L.B. Ash (C)
Deputy K.F. Morel (L)
Deputy G.C.U. Guida (L)
Deputy of St. Peter
Deputy of Trinity
Deputy of St John
Deputy M.R. Le Hegarat (H)
Deputy S.M. Ahier (H)
Deputy J.H. Perchard (S)
Deputy R.J. Ward (H)
Deputy C.S. Alves (H)
Deputy K.G. Pamplin (S)

7. Draft Public Elections (Amendment of Time of Opening of Poll) (Jersey) Regulations 201-(P.89/2018)

The Deputy Bailiff:

The next item is the Draft Public Elections (Amendment of Time of Opening of Poll) (Jersey) Regulations, P.89/2018, lodged by the Comité des Connétables, and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Public Elections (Amendment of Time of Opening of Poll) (Jersey) Regulations 201-. The States, in pursuance of Articles 30(6) and 72(2) of the Public Elections (Jersey) Law 2002, have made the following Regulations.

7.1 Connétable D.W. Mezbourian of St. Lawrence (Chairman, Comité des Connétables):

I was going to open my speech by saying that this is a straightforward proposition but heeding my own advice of yesterday, I will not be doing that. By way of background, in 2017 a new Article 30 was inserted in the Public Elections (Jersey) Law 2002 which resulted in the Public Elections (Jersey) Regulations 2003 falling away. This inadvertently removed the midday poll opening time in elections for Procureur du Bien Public and for Centenier. These draft Regulations therefore reinstate the position which has existed for the last 15 years and which it was never intended should be changed by the amendments last year. The Comité lodged the draft Regulations as soon as it was made aware of the issue. There are elections, as Members will know, for Centeniers and Procureurs du Bien Public due in September of this year.

[10:15]

We wish to reinstate the midday to 8.00 p.m. polling time for those elections. Members will be pleased to know that postal and pre-poll voting is also available for those elections. I move the Regulations.

The Deputy Bailiff:

Are the principles seconded? [**Seconded**] Deputy Morel.

Deputy K.F. Morel:

Sorry, that was accidental.

7.1.1 Senator S.Y. Mézec:

I am disappointed that that was an accident because I am going to be referring to Deputy Morel in what I have got to say. I know it is early in the morning, but that is as good a time as any to incur the wrath of the Constables. Immediately after the 2014 election, the Comité des Connétables brought forward a proposition to this Assembly to make calling a *requête* more difficult. Before then you only needed 4 signatures and despite there being no evidence whatsoever of there being a problem with vexatious requests for *requêtes*, they brought a proposition to this Assembly asking to increase that to 10 signatures. Yesterday, we had an amendment for the Comité asking to make voting in the, at the time, potential referendum more inconvenient by having it on a worse day. Today, we have a proposition before us asking us to make voting in Centenier and Procureur elections less convenient. I might be spotting a trend here that these propositions are coming forward to make engaging with our Parish democracy less convenient. I think that that is the wrong way to go and so I oppose this proposition and ask States Members to oppose it as well. In the debate on what day we were to hold this referendum yesterday, Deputy Morel made, I think, an absolutely excellent speech which, if any Member was not paying attention to then I urge them to go back and watch the recording again, listen to the points he made. Because I think he made the case very well that if our Parish system will not adapt, and if it will not modernise, it will become less relevant. The reason I am opposing this proposition is because it is a trend in the wrong direction. We should be making it more easy and more convenient to engage with our Parish system. This goes in the wrong way. I think there is a wider discussion we need to have and I think that this proposition is symbolic of the complacency there is. We are going in the wrong direction. I ask Members to reject this proposition.

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

In a similar light to Senator Mézec, I was going to put the question to the proposer about what evidence there was of engagement with the public to test whether there was public support for this particular thing, as it is about a public service that we are providing. What evidence has the Comité based its decision on other than, I assume, being administratively expedient for the Parishes? Given that, Senator Mézec did comment, this is about engagement for democracy within the Island for these important positions, again, I want to know what is the evidence basis in order for this change?

7.1.3 The Connétable of St. Helier:

I first of all want to respond to Senator Mézec's remarks suggesting that the Constables are not interested in electoral reform or, indeed, of better engagement with their Parishioners, because I think those remarks are unfair. I know that my fellow Constables and I are dismayed regularly by poor turnout at Parish meetings. Last year's Parish Assembly where we set the rate and a unique, a practically unique ability, of the public to decide how much they will pay in local taxes which happens in the Parishes, we had, I counted, 5 people in the Assembly in the Town Hall who were not directly connected with the Parish. This evening's turnout may be less. Who knows? But that is not for want of trying. The Parishes try enormously hard to increase turnout at Parish events, Parish

meetings, and indeed Parish elections. Certainly in the Parish of St. Helier, if I can give a recent example where we had an unusual, I think for Parishes, we had a contested election for Roads Committee members, we really went out of our way to properly engage. Indeed, the Reform Party put up 5 candidates for the 5 available seats and embarked on a campaign, including social media and indeed canvassing of residents, to try to get people out to support the Reform Party's candidates for the Parishes' Roads Committee. As it turned out, they got one candidate in, which is good, but because there was a tied vote for the fifth place, we had to have another election for the Roads Committee place. Again, a campaign was carried out by Reform and the candidate who won was not Reform, but is an extremely useful member of our committee. We did have female candidates as well involved in that election. Not only so, but the Parish opened the ballot box early so that people could come in and vote during the course of the evening. We had a hustings for the Roads Committee; probably the first time that has ever happened with, I think, 10 candidates explaining to those assembled in the Assembly room why they should be considered to sit on this important municipal committee. I think it is unfair, to conclude that remark, to say that the Parishes are not interested in engaging better with their parishioners. In terms of the low turnout, of course, what we are asking for today is merely the status quo. The States have already agreed that 12.00 p.m. is a sensible start time for these particular elections and it was an administrative error that led to that being changed. As the chairman of the Comité explained in her opening words, we are simply asking for that status quo to be retained until such time as we have a much better level of engagement in the electoral process of the Island, not only at Parish level, but also at States level. I refer Members back to the findings of the C.P.A. (Commonwealth Parliamentary Association) observers at our last election who find our system broken. I have been saying this for some time, and so has Reform, that our system is not fair, it is gerrymandered, and of course for Reform today to be saying: "Well we have got to start at 8.00 a.m." because somehow that is going to make a huge difference, well, it is not. People will not come to the Procureurs' elections and vote in large numbers because our system is broken. I suggest we fix the system, we get the equity back so that people can really feel their votes count the same wherever they live in Jersey. I also agree with Reform and with Senator Mézec that Parishes at the Parish level need to look at their administration and ask themselves whether there is a better way of getting more people involved in politics at the Parish level, and that is certainly something we are doing in St. Helier at the moment. But I do not think the answer is simply to ask people in the Parishes to open the polls at 8.00 a.m. for a Procureurs' election. That is not going to fix the fundamental problems with our electoral process. So I urge Members to support what the Constables are trying to do today which is merely to keep the timing of the polls the same as it has already been agreed by the States until such a time as we fix our electoral process. Thank you.

7.1.4 Deputy M. Tadier:

Of course, the Constable is a skilled debater; if you give him one argument to run with, he will do that. In this case he has shown that he is a loyal Constable and he is sticking with the whip of the Constable's party in this Assembly. Be assured, they will all vote the same way on this issue because they are one voice, one party and they pre-discuss the issue, but you can prove me wrong, of course, Constables, on that one. Of course, there was some democracy brought into the St. Helier Roads election because of course Reform Jersey said in advance that they would be contesting the 5 seats. When was this election to take place? It was on 20th December after the school holidays, I think, had already started. That is presumably only because they could not get 25th December because the Parish staff are busy. But surely if they could, they would have no doubt done it, just as this evening; they are doing it tonight. No doubt it was pre-planned, of course. I am not suggesting there is some matter of conspiracy but such is the inflexibility in some of these meetings that they are not going to get a very good turnout tonight. I am glad I have provoked at least one Constable to speak in a moment. When we look at this, let us look, first of all, and the Constable of St. Helier at least will appreciate the concept of the *reductio ad absurdum*, and we will introduce Occam's razor again in a

moment. Let us start with Occam's razor, shall we? The Constables will say: "We are not antidemocratic and we want to increase voter turnout." These are the 2 propositions, so they are consistent with each other: "We are not antidemocrats and everybody in this Assembly wants to see a greater voter turnout." That is what we heard yesterday from one of the Constables. The counterproposition of course is that: "No, you are antidemocratic; you do not like people to turn out to vote. The 'fewer the better' is your adage and we want to keep the usual people who vote, because we know that they always vote the right way, whether it is in a referendum, in an uncontested Constables' election, or God forbid that we should have a contested Constables' election, and even when there are other elections, we want to make sure that people vote the right way." This is the thesis and the antithesis, if you like. We are going to try and prove which one of those theorems is most likely to be correct. So we apply Occam's razor to that and we say to determine which assumption is correct, which theory is correct, you look at how many assumptions and conditions are necessary for each explanation to be correct. Then the next step is that if an explanation requires extra assumptions or conditions, demand evidence commensurate with the strength of each claim. The third is extraordinary claims require extraordinary evidence. So when we have a history, a proven track record, as my colleague Senator Mézec said, of measures which *prima facie* seem to undermine and bring back democracy from what it could be when the obvious assumption is that it is because we do not like democracy, it does not stack up; that is the most likely scenario. When we have a scenario, it is convenient to say: "Well this was just an accident. It was an unintended consequence of a change in the law and it was never meant to extend the opening hours for voting for Procureurs and Centeniers and so we have got to make sure it goes back to 12.00 p.m. until 8.00 p.m." But the Constables' Committee could have easily said: "Well, let us just use this as an opportunity. There has been this fortuitous change which serendipitously arrived in our laps which means that people can now vote between 8.00 a.m. and 12.00 p.m. and then between 12.00 p.m. and 8.00 p.m. Is that not great? That means that people who maybe work in the afternoons only can come and vote in the morning because we want to promote Parish democracy." But presumably that is not true, that they want to restrict hours. So the *reductio ad absurdum* comes in now: "To what extent can you shorten the hours of voting and still claim to be a democrat? So 12.00 p.m. until 8.00 p.m.? What if we did it from 1.00 p.m. until 7.00 p.m., is that okay?" "That is okay." "What about from 2.00 p.m. until 4.00 p.m.? What about if we opened the polls from 12.00 p.m. until 12.01 p.m.? People can still get down if they really want to vote as long as they are registered and waiting in the queue for that one minute they can come and vote." That is the *reductio ad absurdum*. It goes without saying that if you want to have people to vote, you give them the maximum opportunity to engage. Now I am going to pause for a moment because I did not quite catch at the beginning, and it depends on whether the rest of my speech goes on to this area, I just want to ask the Solicitor General whether or not provisions are in place for pre-poll, for sick votes, for postal voting for these types of elections? Perhaps ...

The Connétable of St. Lawrence:

I think I answered that question when I made the proposition, that there are processes in place for pre-poll, postal voting and for sick votes to be collected. I did not mention sick votes but they may be collected.

Deputy M. Tadier:

I would like to know a bit more about how this works. Are the provisions exactly the same as for other elections? So, is St. Paul's Centre, for example, open or the Town Hall open for a week or 2 weeks in advance of when the polls open for people in that Parish to vote? In St. Brelade, for example, is Communicare open, where most people live in our Parish, to be able to pop over on the Saturday before the polls are open in order to be able to go and vote at Communicare? In other Parishes, in St. Clement when we have the Procureurs' election in September, will the Good

Companions Club be open perhaps a week before where people can drop in for a whole week to vote any time? Clearly, I do not think those provisions will be in place and that presumably means that, even though these are public elections rather than internal Parish elections as the Roads Committee one was, took place in a different way, then we do not seem to have a like for like. I find it strange, again, that we can say: “Well, look, we have got all these other provisions which seem to be okay” but hopefully they will be clarified in the summing-up, but yet we want different provisions in place for the elections which are presumably still really important elections within the Parishes. Lastly, I would echo the comments of Deputy Morel yesterday, I think we all know that in theory and on paper the Parishes, and some would still say in practice, but I have yet to be convinced of that, are a great potential beacon for democracy. These issues about electoral reform, so when the Constable of St. Helier says: “Well we need proper electoral reform in the States in order to resolve these issues”, no we do not because the Parishes do not have the internal issues of under or over-representation; it is one parishioner, one vote.

[10:30]

Anyone who turns up and is registered can vote and can make a difference in the Parish Hall. That is a good starting point for democracy. Similarly in the referendum yesterday we heard that we that we need electoral reform to resolve this problem. Well, you do not, because in a referendum it is a yes or no vote, every vote counts the same no matter where you live in the Island. The proposer of this was quite right, it is not a simple issue. It is controversial. Yet again the Constables will prove themselves to be on the wrong side of this argument, rather than seizing the opportunity to say: “Let us invigorate that. That is just one small step we are going to take to show intent and we will do a whole raft of other things, including digitizing the way we can vote in parish elections.” The evidence when it comes down to my analysis of it shows that this is an antidemocratic step and it will have the consequence if not the design of meaning that fewer people will engage in our system not more.

7.1.5 The Connétable of St. Saviour:

I love following him. He pontificates absolutely beautifully. I am a little bit disappointed that the Constables keep getting blamed for everything. To be perfectly honest, this is my third term and most of my Deputies have never turned up to Parish Assemblies. I have one gentleman who turns up on a regular basis, but I have Deputies that have never turned up to anything that has been going on in the Parish that has involved them. They could get involved to make sure that the electorate are interested in what is going on. But for some unknown reason, with some their private life or whatever they have got involved in here has taken them away from that. So it has been left to the Constable. It is not the Constables’ fault against everything. Trust me, we do our utmost to bring people in. I for one will do my utmost. We have a lot of things moving in Longueville, because the Deputy and I have been working very hard with that and we have finally got things moving. You cannot blame the Constables for the fact that people do not turn up to vote. That is ridiculous and that is blaming the Constable, yet again, for things that do not happen. In a few years’ time when you have all had your way and the Constables are out of here, you are going to be able to pontificate all you like on everybody. See how far it gets you. You moan about elections. If you have a British passport you can stand for election. Anyone can stand. The fact that I beat a Constable the first time round and was taken, and I got the job. This is, as I said, my third term. The last 2 terms no one has stood against me. But if you thought somebody could ... I have 2 people who try desperately to find someone to stand against me because I do not fit the criteria. I am not posh enough, I am too down to earth and I am too honest. They could not find anybody to stand against me, but that was not my fault as Constable. I will move hell and high water for my Parish. You can ask the Deputies here **[Approbation]** that I work very hard. I do not please everybody; that is an impossible job anyway. But I will do what I can for my Parish. To blame the Constables for everything, the voting, *et cetera*,

that is rubbish; absolute rubbish. I do not know what you are going to do when we are not in this and people do not still come out to vote. You are going to have to find another story to tell. We have done our utmost. I am like you; I feel that we should be open regularly for the voting. We should be open at 8.00 a.m. to 8.00 p.m. I did not think opening at 12.00 noon was any good, because there is importance for Procureur and for roads people ... are just as important as any other job. If you are voted in then you should be voted in with a mandate and be able to do the job. I also think if you cannot do the job you should be removed.

7.1.6 Deputy G.P. Southern:

It is always a pleasure to follow the previous speaker, who mentioned that in fact one of the moves that was made, and I am surprised that Senator Mézec did not mention it, was to restrict those people who could stand for particular positions, as with a Constable, to those who hold a British passport; again, reducing the scope for democracy in our society. We are told by my own Constable of St. Helier that what we should do is not this, basically. He has turned around and said: "Do not start here. Start somewhere else." I am reminded of the words of the famous philosopher Bernard Cribbins when he said: "Do not dig there. Dig it elsewhere. You are digging it round and it ought to be square. The shape of it is wrong. It is much too long. You cannot dig a hole where a hole does not belong." That is the attitude of the Constable: "Do not start here." We have accidentally reduced the time in which people can vote. We did not mean to do that. Therefore, we will not give them that actual time. We reduce it again and reduce the extent of democracy in our Parishes. The Constable was proud that we have had a large-scale election for Roads Committee, because Reform Jersey decided to contest and test the democratic process and we had a proper election with hustings, although the speakers did not work on the night, but we managed. We had a proper hustings, proper election and democracy seemed to work. Why do we not try and extend it step by step, little by little, to improve things, rather than wait for this mass change in our democracy where we are going to get everything right. No, we could start here and we could by accident extend the voting hours for Procureur and Centenier.

7.1.7 The Connétable of St. John:

If I was a Red Indian, I would say that some people have been talking with a forked tongue. I hope that is permissible, Sir.

The Deputy Bailiff:

No, I do not think it is. [Laughter] Talking with a forked tongue suggests people have been telling lies and you cannot do that on the floor of the Assembly.

The Connétable of St. John:

In that case, I withdraw it, Sir. We had a proposition yesterday for a referendum. In other words, let us go and consult the people of the Island. Let us find out what they want to do. What do we have: "No, we are not going to do that." The first speaker today said: "What consultation have the Constables had with the public?" Yet, yesterday, when it was: "Shall we consult the public?" "Oh no, do not do that because I know they are going to vote against what I want." There are too many people in here for themselves, not for the good of the Island. The Constables have debated this issue. What has come across from one or 2 Members is they do not know the difference between a public election and a Parish Assembly. Roads Committees are elected at a Parish Assembly, as are Constable's Officers, Vingteniers and other members of the Municipality. But when it comes to a Centenier and when it comes to a Procureur, they are elected by a public election and it is a different set of rules. The reason that has come about is because we Constables specifically want greater consultation and greater electability with the Parish for those most important positions. The election of Centeniers is through a public election. The reason for that is Centeniers have the power to charge people, to take away their liberties, which is a very serious matter. Therefore, we do not feel that

those powers should be elected under a Parish Assembly. The Procureurs du Bien Publique are extremely important individuals. They are the trustees of the Parish. They are the ones who keep us Constables under control. They check our spending and they protect the assets of the Parish. We, as Constables, felt that it was only right that this should be a public election, not a Parish Assembly. We want to ensure that there are the proper checks and balances and that the public is consulted through a public election, as opposed to a Parish Assembly. Because we are doing that we are now being criticised: "Oh you have not consulted." We have heard all sorts of jibes, which quite frankly I find rather ignorant and very saddening. Perhaps people should do a bit of honorary service for their Parishes prior to coming into this Assembly, then they would understand how the Parishes work [Approval] and they will have earned their positions within this Assembly. I would urge Members to support this, because all we are doing is correcting an administrative error, as has been pointed out, and bringing back the same period of time, which is an 8-hour period for people to vote, as opposed to what might have been a Parish Assembly, where you have a far smaller attendance and probably 5 to 10 minutes in which to vote. Clearly, going from 5 to 10 minutes voting time to 8 hours is indeed an enormous step forward. I would urge Members to support this minor amendment. Thank you.

The Deputy Bailiff:

Connétable, I did not say anything, I perhaps should have done, while you were speaking, I do not think it is parliamentary to suggest that some Members are in it for themselves. All Members have taken an oath before the Court to serve the Island on being elected. I do not think it is appropriate to suggest in the Assembly that any Member is not acting in accordance with that oath. Similarly, I do not think it is parliamentary to suggest that Members who are duly elected have not earned their place to be in the Assembly. They clearly have. They have been elected. That is the way our system works and operates. I would ask you to withdraw both of those observations if you would.

The Connétable of St. John:

Sorry, Sir. I will withdraw those accusations. Yes, indeed, there were accusations made against me that I was not elected. I thank you for that clarification; I was elected. Thank you.

The Deputy Bailiff:

Whether someone is returned unopposed or returned, they are returned at the will of the people who form them electorate. Very well.

7.1.8 Deputy K.F. Morel:

Yesterday it was mentioned that I spoke and I questioned the Constables' actions and how that reflected on their commitment to democracy in Jersey. This morning when I came in and I saw the Order Paper, like the Constable of St. Lawrence, I thought this was a fairly straightforward proposition. But then, unfortunately, some Constables managed to speak in a way which is antidemocratic, which is insulting to the people around them. I questioned why they think that is a good way forward for their own purpose, for the Parish system. I really do ask you think before you speak. Think about the people around you. People are not necessarily trying to attack the Constables. People are not trying to attack the Parish system. They are just trying to make sure that Jersey has a way forward that is democratic and inclusive. Suddenly, someone who was coming in here, happy to vote for this proposition, now when listening to the Constables, thinks: "Hold on, what are the Constables trying to do here?" I then question why I was so happy to vote for the proposition. It is the Constables who talk me out of it. I find it very strange behaviour.

7.1.9 Deputy J.A. Martin:

It is a real pleasure to follow the last speaker, because I was of exactly the same opinion. I thought this is something administrative; not much turn out for these elections; and why not put it back to

12.00 noon to 8.00 p.m. Then we keep talking about public elections. The Constable of St. John has just stood up and said: “We the Constables said we want the Procureurs and the Centeniers to be elected by the public.” To me, it is a no-brainer that it is open, I think the Constable of St. Saviour reaffirmed this, that these people are standing for election by the public, not to be presented to the Parish for an Assembly, by the public. It may have been an accident on the change of the Public Election Law that they did not mean it to go from 8.00 a.m. to 8.00 p.m., but now listening, exactly like the last speaker, I am convinced if it is a public election and if it is a low turnout, but the public need to be able to get there before 12.00 noon, they need to get there between 8.00 a.m. and 9.00 a.m. it has got to be a public election and it has got to be the same opening hours as we follow in every other election. I would like to defend some comments of the Constables on their voting *en bloc*, because sometimes you have to pick your arguments.

[10:45]

You keep attacking the Constables, as the Constable of St. Saviour said. Yesterday on the re-vote of the referendum it was 20:26 and 3 Constables voted not to have the referendum. If they were voting *en bloc* we would have had a tie. It would have been 23:23. So please, pick your arguments. The Constable of St. Lawrence is going to have a hard time summing up now, because it is a public election made by the Constables who want the public to come and vote in their Centeniers and Procureurs; why restrict the hours? I leave it there, but I just think, as the last speaker said, unfortunately the Constables have turned me to vote against this proposition. Thank you.

7.1.10 Deputy R.J. Ward:

I would just like to say very simply that our democracy is under scrutiny at the moment. Our democracy is under a microscope. To improve our democracy is a marathon not a sprint. Every small step that we take towards improving our democracy will have an effect. We need to have faith in the fact that we can make small changes to have an effect. So keeping the voting times as they are now is one of those small steps and it has an impact in the public domain. It may not be measurable at the moment, but we have to have faith that the actions that we take in this house towards improving democracy will be effective in the long term.

7.1.11 Connétable M.K. Jackson of St. Brelade:

First of all I would just like to put in that I held a Parish Assembly last night at which we had what I consider quite a good turnout of 40-odd people for relatively minor matters. Well, minor matters: election of Honorary Police, roads inspectors and other issues. I was pleased to see Senators and Parish Deputies there, apart from Deputy Tadier, who was not there. That leads me to say, I think we are probably ... and I suppose I am a sort of old new Constable or a new old Constable, I am not quite sure how to describe myself, but I have had experience of Procureur and Centenier elections in the past and they have been very slow. That is not a situation we really want to find ourselves in. I have not been party to the discussions that have run up to this proposition, but I must say, from a Parish point of view, if one is setting up for an election, whether we start at 8.00 a.m. or 12.00 noon, does not really make a lot of difference. The negative side is having staff members or volunteers sitting about potentially doing nothing. So my inclination, having listened to the debate, would be to suggest that I would be quite happy to start at 8.00 a.m. and I will probably not be supporting this proposition and incur the wrath of my fellow Connétables.

7.1.12 Connétable R. Vibert of St. Peter:

I am going to reiterate the words of my colleague, the Constable of St. Brelade, I will not be voting for this proposition. I was not party to the original discussions. We do have very small turnout at elections, but shortening the hours is not a solution to that and is not democratic. It is a public election and it should be on the same basis as every other public election. That is all I have to say.

7.1.13 The Deputy of St. Ouen:

I have noted when this proposition was lodged. It was lodged on 25th May, which was just a few days before we all attended the Royal Courts to take our oath of office and we officially came into office. That means that this proposition would have been considered by the Comité des Connétables in its previous form. There were 4 new faces elected as Connétables since then, who have not had an opportunity to discuss this matter within the Comité. Clearly there have been concerns raised during this debate and I am beginning to share them too. I came to this debate thinking this is purely an administrative matter, but perhaps it is important to send out a signal as to how we regard our democracy and how we make attempts to enhance it. The principle reason for reverting to a poll that begins at 12.00 noon seems to be for administrative convenience of Parish Hall staff. Of course, we acknowledge the very valuable service that Parish Hall staff and *Adjoints* volunteers give. But we must weight that against the loss of democracy, the democratic deficit that arises. If there are such things as public elections, clearly they are, why do we draw distinction? Why do we not say that all public elections are of democratic value and we have the same rules for each? What I am saying is that maybe the new Comité with the new members should look at this once again. Therefore, I am urging the chair of the Comité, perhaps, to withdraw this proposition now, take it back to the Comité and if you want to bring it back, because you still think there should be a change, please give us some very sound reasons as to why in the interests of democracy this is something that should come forward. A suggestion out there for the chair to consider.

7.1.14 Deputy L.B.E. Ash of St. Clement:

There are undoubtedly massive problems with our electoral system, but I do not think this is one of them. But do we open for a, what is going to be a very poorly attended election anyway, let us face it, whether we open for a month, it would be poorly attended. So I do not think we should get too bogged down in that. There are problems. Another problem is not the assertion that Deputy Southern made, that you have to hold a British passport to be in here. That is not a problem. It is a typical self-loathing statement from Islington Left, that is what that is.

The Deputy Bailiff:

I am working on the assumption that you are not accusing ...

Deputy M. Tadier:

Sir, I deny the accusation of self-loathing.

The Deputy Bailiff:

Yes. This is not, clearly, a comment upon Deputy Southern or what he says, is it?

Deputy L.B.E. Ash:

It is a comment on what he said, Sir, not merely on Deputy Southern.

Deputy M. Tadier:

We may be the Islington Left, but we are not all angels, is what I would say.

The Deputy Bailiff:

The position is firstly, and I accept that you are new in the Chamber, when the President is speaking any other Member sits down, is the first point. The second point is I do not think you can link an individual's observations to their personality and say they are suffering from self-loathing. I think that is an un-parliamentary expression and that is what I would ask you to withdraw, Deputy.

Deputy L.B.E. Ash:

Apologies, Sir. I withdraw that statement.

The Deputy Bailiff:

Very well indeed. Yes, please do continue. Have you finished?

Deputy L.B.E. Ash:

I have finished, Sir.

The Deputy Bailiff:

I am sorry, I assumed you were just obeying my edict to sit down. **[Laughter]** Very well.

7.1.15 Deputy J.H. Perchard of St. Saviour:

I completely agree with the sentiment raised by Deputy Maçon regarding evidence; Senator Mézec, Deputy Morel as well. I agree that democracy is important and should be preserved. I agree that we should be doing all that we can to promote civic engagement. I agree we should be altering voting times according to data, in order to ensure that everyone has the opportunity to vote and that the most convenient times are chosen. Debates in the Assembly should indeed be used to open minds, move hearts, and present facts in order to ensure we are informed as possible and exposed to alternative views. But irrespective of the result, I think it is very, very unlikely that in this particular case, the Connétable who proposed this has some sort of agenda. I think what is probably more likely is that they are feeling overwhelmed and that recruiting Centeniers in the first place is near impossible, at least in my Parish. To that end, I would urge the Assembly, irrespective of the result, that we work to collaborate between Deputies and Connétables. What we need to do is improve voter engagement, community spirit and a Parish identity; irrespective of the result today. We need to keep the communication open between us. It should not be us and them. We should not be having a divisive conversation. Can we please move on to the hospital debate? Thank you very much. **[Approbation]**

7.1.16 Deputy G.C. Guida of St. Lawrence:

I am very happy to have heard this and I second it. Just a small thing, the draft mentions financial and manpower implications and says that there are none. Of course, that is completely untrue, because the whole point is that there are massive manpower and financial implications to this. The experience at the Parish Hall is that when we have those elections we get 10 votes, 20 votes. So to spend 8 hours waiting for 20 people to show up and cast their votes is a horrible charge on the people working, the volunteers and the people that we have to pay to do this. So to add more hours does not do much. I am all for showing as many tokens of being as great a democratic country as we can. But any regulation that we have, any imposition that we have, has a cost. So we have to think: is 4 hours more for 10 people to show up at the Parish Hall worth the work of the people involved? I do not think, especially given that we have postal votes and we have sick votes; we have all the opportunities of voting if the afternoon is convenient. I do not think that the 4 hours are important. They are just an extra imposition on the Parish Hall which will not extend democracy. Please, do you think that the people in Jamaica are going to know about this and decide how great a democratic country we are? It is completely irrelevant.

The Deputy Bailiff:

The financial and manpower declaration, of course, relates to financial and manpower implications for the States of Jersey and not for the Parishes. That is just a correction.

Senator L.J. Farnham:

May I just point out, Sir, that the statement does say there is no cost implication for the States or the Parishes?

The Deputy Bailiff:

Yes. I think the correct interpretation, Senator, is that it says there are no implications for the States or the Parishes on adopting the draft regulations, which of course would close down the number of hours. But, yes, point taken. Senator Ferguson?

7.1.17 Senator S.C. Ferguson:

We seem to be making rather heavy weather over this, whereas if I read the report correctly, this was a decision made in 2003. According to the report, this is merely to correct a mistake in P.125/2016. So what we are doing appears to be re-debating something that the States had already approved in 2003. If we go on like this we will be here until Christmas 2100. It might perhaps be worth just respecting a decision made in 2003 and just get on with the business.

7.1.18 Deputy D. Johnson of St. Mary:

I hesitate to add to the number of speakers on what should be a very simple point. I do accept what the Constable of St. Lawrence said in introduction, the purpose of this proposition is to take the situation back to what it was. A mistake was made at that time. This does not present the Assembly and the Connétable in particular with the opportunity to show how essential they regard democracy in their Parish. Whatever the origins of this proposition, we do now have the opportunity for the Assembly as a whole to back those Constables who have said that it is no problem to them, to show how important parochial influence in the Island is and as such should we not simply revert to this proposition in its very basic term and say whether we approve it or not. For my part, I will vote against the proposition, because I think this does provide an opportunity for the Parish Halls to show how much they are involved the government of this Island.

[11.00]

7.1.19 Senator J.A.N. Le Fondré:

All I am going to say is that I am happy to support the Comité des Connétables on this. I appreciate the slight anomalies that have been coming out but I think it is about practicality. The reality we know is that a number of these positions - if they do go to contested election - tend to have very poor turnouts. The question I guess from the practicalities for the officers and the volunteers that do help, to be there for those extra 4 hours in the morning can be exceptionally disheartening when 3 people come through the door. I am exaggerating obviously. The principles that are being espoused are absolutely true about improving democracy and about improving access, et cetera. However, the practical position for these I think is what the Connétables are trying to address. On that basis I take the point - particularly, for example, from the Deputy of St. Mary I agree - but how we move forward and how we improve things under the present circumstances. I personally will vote for the proposition.

The Deputy Bailiff:

Does any other Member to speak on the principles? I call on the Connétable of St. Lawrence to respond.

7.1.20 The Connétable of St. Lawrence:

There is no wrath to be incurred. There is no difficulty in summing up. We listen in this Assembly and we make our decisions. It is correct that the new Comité has not been consulted on this, this - as the Chief Minister mentioned earlier, with reference to propositions that have been brought forward this week on his behalf - is a legacy issue. We have heard criticism today of the Parish system of what forms our traditional way of life. We have also heard support for it. The Connétables I think truly represent that traditional way of life in this Assembly and of course in their respective Parishes, and our unique identity that we are so proud to sell to the international community, is clearly based upon the tradition that we have in this Island, our heritage, and our culture. I believe that the majority

of Connétables who are in this current Assembly will do their utmost to ensure that the influence of the Constables and the Parishes remain in the decisions made in the best interests of this Island. But, as I said at the outset, we listen, we do listen, we are democrats, notwithstanding the views of some Members of this Assembly. We do our best to encourage turnout at elections; we do our best to encourage people to stand for the positions in the municipality. We do our best to encourage people to stand for this Assembly. We do our best in some instances to encourage people to stand against us. However, the fact that they choose not to do so cannot have blame laid at our door. But we recognise that there is room for improvement within the system and I would urge particularly the Deputies of the Parishes to work with their Connétables to increase voter turnout and to encourage others to stand for election. I do not need to be urged to offer to withdraw this proposition; I had already made my decision when I heard the comments that were being expressed. However, I felt it was appropriate for everybody to have the opportunity to speak and, in closing, I would like to ask the permission of the Assembly to withdraw this. **[Approbation]**

The Deputy Bailiff:

Does the Assembly agree that the proposition can be withdrawn at this point? Very well.

8. Future Hospital: Public Inquiry - Terms of Reference (P.90/2018)

The Deputy Bailiff:

The last item of Public Business is the Future Hospital: Public Inquiry - Terms of Reference, P.90/2018, lodged by Deputy Labey, and I ask the Greffier to read the citation.

The Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for the Environment to redraft the Terms of Reference for the forthcoming Public Inquiry into the new application for the Jersey Future Hospital, as outlined in his letter of 17th May 2018 to the Independent Inspector, to provide the Inquiry with the freedom and latitude to consider alternative sites, if deemed necessary and appropriate.

Deputy J.H. Young:

Sir, before the debate opens I did give notice of a question to the Solicitor General. I think it might be a point of order for me as Minister for the Environment. May I put the question please?

The Deputy Bailiff:

If it relates to your role as Minister for the Environment in the context of this debate, Deputy, yes.

Deputy J.H. Young:

As obviously Members know, as a newly elected Minister for Planning who has had views on this matter before, obviously this is a private Members proposition relating to the powers that rest with my office. Could I ask please the Solicitor General to advise whether or not there are any legal reasons that I should or should not participate in this debate? I will act on what the Solicitor General informs. What is the legal position please in this matter?

Mr. M.H. Temple Q.C., H.M. Solicitor General:

Under Article 12.2 of the Planning and Building (Jersey) Law of 2002, it provides that the Minister and only the Minister determines a planning application where there is a public inquiry concerning an application for planning permission. Mindful of the need to avoid the appearance of bias in the Minister when he makes that decision in relation to this application; my advice to him is that it would be prudent for him not to participate in this debate. Of course he may listen to it, it is a matter of public record and it will be recorded on Hansard, but my advice to him would be not to participate in the interests of avoiding apparent bias, and to abstain as well in relation to his vote.

Deputy J.H. Young:

Thank you. I accept the Solicitor General's advice and it will be my intention to withdraw from the Assembly, to listen, but obviously then I intend to abstain when the vote is taken.

Deputy G.C. Guida:

I would like to ask whether this extends to the Assistant Minister as well?

The Solicitor General:

Yes, it does.

Deputy M. Tadier:

Can the Solicitor General give clarification as to the Planning Applications Panel?

The Solicitor General:

In relation to the Planning Applications Panel, I do not think it does apply to them because there is express provision that it is the Minister who decides the application.

The Deputy Bailiff:

Very well, that concludes questions on the issue of conflict.

8.1 Deputy R. Labey of St. Helier:

Before we all get too excited with this debate it is a request to the Minister for the Environment. It is a request from this Assembly to the Minister for the Environment asking him to redraw the terms of reference for the U.K. Independent Inspector for the forthcoming public inquiry into the latest application for the hospital, so that if he deems it appropriate and necessary - if he deems it appropriate it and necessary - he can acknowledge the existence of alternative sites to the one that is before him. If I may draw the Assembly's attention to some remarks that the inspector, Philip Staddon, made in an executive summary of the public inquiry into the previous hospital application in which he stated: "The critical issue here is not the case for a new hospital facility but whether the application proposed represents the one and only vehicle that could deliver it. This raises questions about 2 matters that are beyond the scope of the Inquiry. The first concerns site selection and the comparative merits of alternative sites; the second concerns the brief which is currently premised on a single phase, comprehensive, new build project." If that is not a cue for this proposition I do not know what is. The inspector has acknowledged that the hospital could be built on this site, but he has been unable to look at other sites or even acknowledge their existence. There are occasions it is usual for those determining planning applications simply to look at the application before them and that is that, and make their decision. But there are times where the existence of an alternative does become a material consideration. So what we are asking the inspector to do is to work in an artificial bubble in isolation, in a world in which no other sites exist. Of course I sit on the Planning Committee so I am used to making planning determinations myself. Even down to a very domestic level with the smallest of applications, the existence of alternatives can become a material consideration. I am thinking of say, for example, a family who want to extend their home for very good family reasons, for very important family reasons, it might be to do with disability or what have you, they need extra room for their family or for a family member. They put in an application to slap an extension on to the front of their grade I listed house. Now, obviously this is going to be a difficult decision for the planning determiners because there is a compelling reason, a very compelling reason, for this extension but it is compromising the building that it finds itself being asked to be placed upon. So it is very, very difficult and one might be inclined, without the benefit of any alternatives, because of the compelling case, to relax the rules concerning listed buildings and pass the application and give that applicant the application and have to say: "Well, I am sorry, the grade I listed building has to take a hit on this one because of the reasons for it." So one would pass the application. If, however,

one is allowed to consider that the extension could be placed on the gable or at the back of the building where less harm would be done to the building, if one is allowed to take the idea that there is an alternative as a material consideration, one could refuse the application safe in the knowledge that the applicant can return with a better solution. The inspector in his report is unequivocal, if I remember, about the need for a new hospital. That is not in doubt. He is not with this proposition - if it is successful - being granted the authority to choose the Island's next hospital. That is certainly beyond his scope. But before deciding whether to grant this planning permission what he can do, on examination of the other sites and hearing evidence about them, he can advise whether it is safe or unsafe for him to make that determination because of a lack of information available to us and to him about another site. He might have to pass this application knowing that it breaks a number of planning rules, but it is so compelling. We all know the need for the new hospital, what is he going to do: stand in the way of that and turn it down? No, he is going to approve it, but he might feel it is safer for him to look at the other sites and advise the Minister for Planning that it would be sensible for him and us in this Assembly to gather more information or re-examine at a political level the benefits of another site or a couple of other sites. That is what this is about.

[11:15]

I have come under huge pressure to drop this proposition. It was sparked by the terms of reference for the U.K. Planning Inspector being published on 17th May, the day after the election. I looked at this and the inclusion of this sentence: "I do not consider that the Inquiry should consider potential alternative sites or funding mechanisms." That jumped out at me. Why put it in there, given that what we have just been through in the election with so many people asking questions about the choice of the hospital site; so many people having lost confidence or being very sceptical about the whole process? It is as if the public were, I felt, calling for help, waving and saying: "Please, we are not sure about this, we are unconfident about it." As a response I feel that this is one appropriate course of action, that at least in a public forum there could be a re-examination of sites, not a full look at everything and a determination at that public inquiry into the choice of hospital, but just in case we have missed something; that that should be identified by an independent planning inspector who could say: "Before I pass this why do you not just seek more information on one of these other sites?" Now, subsequent to me lodging this proposition, by now we are in the race for Chief Minister and both Chief Ministers on the radio broadcast, I think in response to a question about this proposition, did say that they thought another inquiry was needed into site selection. Both Senators made that promise that they would do that if elected Chief Minister. True to his word our Chief Minister has done that with the development of this Policy Development Board. I have to pay tribute to the Chief Minister who has included me in discussions on this all the way along and has been absolutely straight down the line with me and certainly consulted at length and listened to me, and I am grateful to him for that. I support the move for the Policy Development Board. I support all moves to - in the time allotted to us between now and say Christmas - to take a look and make sure that we have made the right decision on this. My feeling is, and why I decided to press ahead with this, is that if I had withdrawn it there was no other opportunity for somebody else to put in a proposition, and I heard from Members that a lot of them wanted to speak on this subject given the election that we had all just fought. I also feel what this has over the Policy Development Board is the public inquiry is public and so there is a public element to it; the public can make representations and can go and listen to the deliberations of the inquiry. Also the terms of reference for the P.D.B. (Policy Development Board) are centred on patient care and the finances, which is very good and I think it is very, very important, both of those areas. What I am asking for is a re-look at it on pure planning terms, and that is why I am proceeding with this and I do not see why the 2 cannot work together. As I say, there has been a lot of pressure applied and all sorts of arguments against this surfacing. One of them, on pure planning grounds, is that this is unprecedented, the U.K. Planning Inspector is only

supposed to consider the case against him, this is not fair to the applicant in this case, it might need the applicant's permission, the applicant might object. Wait a minute; we are the applicant. This is not Dandara or a private person coming to have this public inquiry and a determination. This is the people of Jersey. We are the applicant. It is perfectly within our right to say to the Inspector: "The scope has widened, you can take a look at the alternatives if you wish." If it is that unprecedented why was the sentence: "You are not to look at alternatives" put in the terms of reference anyway? If it is a given that that never happens why was it there? That is why it jumped out at me. There is a lot of fatigue with this issue, I know, especially with Members who have been here throughout the course of the last term. Fatigue is dangerous because you can make the wrong decisions with fatigue, and no doubt I will hear today from people saying: "Let us just get on with it. Let us put a spade in the ground. Let us just put a spade in the ground, give a message to the public that we have stopped these deliberations and are getting on with it." But putting a spade in the ground of the wrong site where a better one exists is not clever. Putting a spade in the ground of a site which, do not forget, is going to take the longest time to reach completion, we have to be absolutely sure we are doing the right thing with a building that is going to take 7 or 8 years to complete, not 4. Then there is of course the disruption to the current hospital with a building site for that length of time next door to it. Look, if we have to do that, we have to do it and we have to bite the bullet. I am site neutral; if this is the best site it is going to be tough for the physicians and the medics and all the staff working at the hospital, and it is going to be awful for patients to be working alongside a building site. But if there is no alternative we have to do it. If there is no alternative. Let us be absolutely sure there is no alternative. I feel that the Chief Minister has been under enormous pressure to get me to drop this, and I know that Ministers - although graciously the Chief Minister has given them a free vote on this - Ministers are coming under pressure from officers to reject this. I do not know whether Assistant Ministers has that filtered down to them and they are coming under this pressure. This pressure coming from officers I do feel has crossed a line. It has been quite frenzied and intense. I feel it is undemocratic. This is a decision for political representatives, it is about political policy. It is for us. So I have laid my case; I respect Members' decisions, whether they want to go with me on this or not, but please be your own man and woman and go with your conscience, and your duty of course is to the people who have just recently put you here. Thank you; I move the proposition.

The Deputy Bailiff:

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

8.1.1 The Connétable of St. Lawrence:

This proposition to me is yet another one that is straightforward. It is a cleverly worded proposition and it has persuaded me, as a Member who does want to see the hospital be built as quickly as possible and who has voted for that to happen on the current site; it has persuaded me to support the Deputy. I know nothing of undemocratic pressure by officers in this instance but I know that that happens; that is the way of things. But, as the Deputy said, the decision is for the elected representatives of the Island. Why is it cleverly worded? In my opinion it is achieved by using the words "if deemed necessary and appropriate". It is entirely up to the Planning Inspector to make the decision if he believes it is deemed necessary and appropriate to broaden the terms of reference. I know we are calling upon the Minister to redraft the terms but my opinion is quite clear on this. It is straightforward, the public have called for it, and I think if we were to press ahead without the inspector being able to undertake the review as he deemed necessary and appropriate the criticism would never go away. So I urge Members to support what to me again this week is the third straightforward proposition to be brought to the Assembly.

8.1.2 Deputy S.G. Luce of St. Martin:

I have got the greatest of respect for Deputy Labey and the Constable, but I have to say to Members in my opinion they are conflating - indeed confusing - 2 issues here. As chairman of the Planning Committee the Deputy should, and I know he does, fully understand the planning process. He will also know the difference between that process and the very separate property decision, the site selection process that a developer, any developer, has to take. If the Deputy's intention is to review the site appraisal for the future hospital here in Jersey then seeking to amend the terms of an inquiry into a live planning application cannot achieve this. Yes, the Minister for the Environment has the power to make those changes but that does not make it right. Other routes should be explored to achieve what the Deputy is seeking here. The subject of the public inquiry is a planning application for a new hospital on the same site as our current hospital. The scope of the application and the nature of the proposal is within the gift of the applicant, in other words ourselves; and the Deputy has already alluded to this. It is our application. But it is not for the Minister or the inspector to make changes to the application once it has been made. The current application does not include an appraisal of other sites but, as we all know, there has already been substantial work - and that does not get close to it - done on the other sites before the application was submitted. The applicant, ourselves, we have applied for planning permission for a new hospital on the existing site. We, as the applicant, have not asked for other sites to be considered. We have done that work already, and separately, so the application does not include an appraisal of those other sites. To approve the proposition for us today would require our application to be paused and revised, adding cost and further delay to the inquiry. This site, as we all know, lies in the built-up area of St. Helier. It is clearly an appropriate site for the hospital as one already exists there and has done so for very many years, and the inspector, as the Deputy alluded, said so in the first inquiry recommendations. Unlike in the green zone, and I refer specifically to something like Quennevais School where development is discouraged, there is no planning requirement in this case to demonstrate that a better or a different site exists. The fact that this application lies in the built-up area where development is encouraged is sufficient. As with all such planning applications there is no requirement for the applicant, ourselves, to demonstrate that a different proposal might be better; only that the development proposed is acceptable in planning terms. Would we ask a private developer who wished to knock down some flats in the built-up area to build some more flats if they had considered other sites? It is not for the Minister to alter a specific development if it is in accordance with the Island Plan, or to consider some different proposal - which the Minister might prefer - when an application comes forward. It is the Minister's job to determine the application against the Island Plan policies; a plan and policies that are approved by this Assembly.

[11:30]

It would be unreasonable in my opinion to request the inspector to consider other sites as part of his planning review of this application. The applicant, ourselves, have not asked him to do that, it is not necessary in planning terms. But if this Assembly wishes the applicant, ourselves, to consider other sites then it may of course do so, but it should be outside of this planning application process and not part of the Public Inquiry. If we do decide today that the terms of reference need to be changed then the Inspector can only assess the evidence before him. But the application is already submitted and supporting documents are not there. Under those circumstances I suspect that the inspector might be rather bemused. There is not a significant amount of work, as I have just said, that has been submitted with this application because it was not required; so what would the inspector do? I want to be clear; the site selection and the application are 2 separate issues. We are going around in circles. It is embarrassing that we appear to disagree with our own application. Surely, we can do better than this. If we are - and I pass no judgment on this - unhappy about the site of our own application then so be it, but let us decide that separately and then apply for the preferred site. Let us not confuse the 2. I will not be supporting this proposition.

8.1.3 The Deputy of St. Ouen:

Might I say at the outset that I do understand the concerns of Deputy Labey, and I hope he was not referring to me when he was talking about coming under great pressure to withdraw his proposition, because I think we might have had a 10-second kind of conversation but I have not sought to persuade him to do so; though I wish to speak against it because we all share the concerns that he has expounded. There is a disappointment, I acknowledge, with the processes that have happened around the site selection. In short, we wish that we ourselves and members of the public could be assured that we have taken a good evidence-based decision. But I do not believe Deputy Labey's proposal is the way to provide that assurance and, more than that, I have a great fear it will only go on to create confusion and misunderstanding if this proposition proceeds. We have asked a professional man who is independent of Island politics to come to the Island to do a piece of work as a trained professional with appropriate planning expertise, and we have given him terms of reference for that work and he has accepted that piece of work on that basis. Now it appears the suggestion is that we ask him to make a choice as to whether to participate in a controversial debate that has created a lot of heat in this Island, and frankly some mistrust. Is it fair to hand that choice to him? If we are to change the terms of reference I would have thought it is better to simply say: "Do it" because he could then respond: "Yes, this is what the Island has told me to do and I will proceed on that basis" or he could say: "No, for professional reasons I do not wish to accept those revised terms of reference." But it is suggested the decision is left to him if he thinks it necessary and appropriate. In essence, he is being asked to determine what is in the public interest when we know that is a matter that this Assembly should determine. We are the elected representatives of the public. I think that is an extremely uncomfortable position that we would be putting the inspector in, having invited him to serve us as an independent expert. So if he chose not to embark on a review of the site selection will he be required to explain why he chooses not to do that? Will members of the public who are sitting in front of him, taking part in the inquiry, will they press him to say: "Why, Inspector, are you not going ahead and doing that as Deputy Russell Labey wanted us to do?" Should he attempt to give an explanation? Will any explanation he gives then be questioned and criticised. Do we put him in the cauldron of public opprobrium and criticism? The poor inspector will not have any political cover. He cannot say he is following directions from the Minister because we have left the choice to him as to whether to proceed or not and we would be leaving him to defend the choice that he chooses to make. Is there a risk that he might be drawn into controversy? I think there is a very significant risk unfortunately, and that goes on to mean that there would be damage to the public confidence in the principal work that we want that inspector to do, which is to use his knowledge and expertise to conduct the necessary planning inquiry into the present plans that have been lodged for the building of our new hospital. Furthermore, it is just not clear what criteria the inspector might use if he chose to go ahead and consider alternative sites, except that Deputy Labey has said this morning that he would only want the inspector to look at those sites on pure planning terms. It is not in the proposition but Deputy Labey has attempted to give that amount of clarification. But the site selection process is much more complex than the pure planning considerations. It is about a lot more than that. It involves many policies, many considerations. There are, for example, clinical consideration; so all those who know how a hospital is best configured for effective use will have views on what department should be close to other departments and the like, clinical considerations. But significantly there are also political considerations. We all know that the waterfront site was not brought forward as a favoured option although, in the pure planning terms, a hospital could have been built there. In fact a hospital could be built on so many sites on pure planning or technical terms. So among the reasons the waterfront site was not brought forward included the St. Helier representatives in this House who told us that they would not countenance the loss of Jardins de la Mer, but one of the other political considerations was the fact that we know the Council of Ministers of the time was divided as to whether that site should be taken out of its planned use for residential development. So those considerations were significant factors in the assessment of the waterfront

site. But while the inspector could assess the technical merits of the site and say: "Yes, you could build a hospital on the waterfront site" how can he then go ahead and assess the feasibility and deliverability of a site, having regard to all the other considerations that this Assembly did take into account when it made its final selection? How would he factor all those in? How, in the words of the report to the proposition, the bottom paragraph on page 3, would the inspector be able to form an opinion on whether that site had been considered sufficiently? If the inspector tries to say: "Well, I am just looking at this on the technical merits, on pure planning terms" what does that do for public understanding and confidence, because I do fear members of the public will not understand that distinction the Planning Inspector would need to draw? If we put out the message that our Planning Inspector could review the selection of the sites certain members of the public would invest great hope in that process. They would make impassioned submissions, but the reality is they will find that any review will be constrained because the inspector will be saying: "I am sorry, I have planning expertise but I do not have the political knowledge of other considerations." So this is not going to help give the assurance that we would like the public to have. But I also find it is very unclear how the inspector would want to proceed and it is unfair to ask him to take on this burden of a vastly extended public inquiry. So, for example, will he wait until he arrives in the Island to hear submissions as to whether or not he should exercise the option that we might want to give him to review sites? Or will he be expected to announce his decision soon after the Minister for the Environment sends him revised terms of reference? That is important because there is so much work to be done if an Inspector should want to do this. People would want to add to their submissions, members of the public, and of course the future hospital team would need to prepare a great deal of background material to include in the inquiry, because I am assuming that the inspector would ask for those submissions. I do not believe - though it is not clear - that he would want to himself just go and delve into the mountains of paperwork and work his way through. I have sat on the 2 Scrutiny reviews into the future hospital that have taken place and I know the huge volume of paperwork there is. We could not have scrutinised effectively without presentations of evidence, hearing from those professionals working on the project, and the scrutiny and other experts who independently came along to assess the work. So, no, there will be a need for the inspector - if he is given this go ahead and if he chooses that option - to hear evidence and for the team to present evidence. What would that mean? If he is to consider alternative sites on a like-for-like basis with the application that is presently before him, it cannot be just a half page of A4 with reasons why; I would fear that in effect the future hospital team may need to prepare something like an outline planning application for whatever sites the inspector might ask or for whatever sites members of the public are putting forward for examination, so that a like-for-like comparison can be attempted. What extra cost and time involved when we know that such an inquiry would be limited in scope simply to the purely technical issues? So the future hospital team under my department is working hard to prepare for the present planning inquiry under its existing terms of reference, and they will now also be working to present evidence on the site selection to the Chief Minister's Hospital Project Board. This proposition, if adopted, will also mean that they will be required at the same time to submit material to the inspector under extended terms of reference and to respond to submissions from members of the public on a variety of sites. They are a dedicated, hardworking team and I applaud the work that they have done for his Island. It is certainly not from them, and I have not come under any pressure at all from them or other officers to oppose this proposition. But I do worry about their capacity. I have not asked them about their capacity and I am sure that if they are directed and this proposition is adopted they would burn the midnight oil to do all they have got to do. But it does worry me about the resources that might be needed and the strain on the team. Indeed, the whole inquiry I think will need extra resource to deal with its extended ambit and the huge amount of material there is, even though Deputy Labey told us during his speech that this is not a full look at everything. But this is strange, if you are saying it is not a full look at everything where are the constraints and how will the public understand that it is not to be a full look at everything? What does that mean in public understanding?

[11:45]

So some might say: “Well, delay the inquiry if there are questions of capacity and resource” and in fact a delay might be inevitable if there is need to amend terms of reference and give an opportunity for further submissions from members of the public and responses to be made. I am afraid I have to warn the Assembly of the consequences of delay, and the Assembly will probably hear from me increasingly on this. There are all sorts of consequences. The Minister for Treasury will have consequences because she needs to go out and look for the funding, but the Minister for Treasury and Resources will also be concerned about the inflationary cost of the building project. We will all be concerned about that sort of thing. But I would have to say, from the hospital point of view, that there would need to be significant capital investment into the existing site if we have to keep it going for even longer than is planned, because we need to maintain safe services on that site, or we start moving more hospital services off the Island because we cannot deliver safe services on the existing site. Are either of those options good value for money? So I do fear the consequences of delay. This is a difficult one; I acknowledge the desire for greater assurance over the site selection and I would hope to be able to deliver that, and I would hope that the Hospital Project Board that the Chief Minister has established would take great strides in establishing that greater assurance. Do we need this additional move? I think the proposition is well meaning but in fact it is unnecessary, and I fear confusing, to put this additional process in place. Therefore, I would ask Members not to support the proposition. Thank you.

8.1.4 Deputy J.M. Maçon:

When Deputy Labey brought this proposition I did speak to him and express some concerns about the wording of the proposition. What I would like Members to do, and perhaps those at home listening to this debate and perhaps viewing it on their P.C.s (personal computers), is to click on to the future hospital site. If you go to futurehospital.je and you go across to the tabs at the top and you click selection process there you will find 41 sites that were considered in the selection process. This is concern number one. What the Deputy is asking the Planning Inspector to do is consider any site if deemed appropriate; so that could be any one of that 41 list. Now, I hope that when the Deputy sums up he might say, for example, all that he meant - and was happy to agree with the Minister for the Environment - perhaps he just meant the final shortlisted sites. But that is not what is in the proposition at the moment and I think we need some clarity around that. That includes things like Millbrook playing field, fields off La Grande Route de St Jean, it also includes the People’s Park; do we really want to open up that debate again? So sometimes I think we have got to be very careful what we wish for here, because what we are going to ask the Planning Inspector to do is a significant body of work. Like the Minister for Health has just said, and I just want to say for the record, that no pressure has been put on me, no one has whispered in my ear from the ministerial line, from the civil servant lines. All I have had on this process is letters from members of the public about this proposition. Are we going to halt the conspiracy process so, for example, if someone writes to the Planning Inspector and says: “I think that option 22, Field 1219, Grande Route De Mont a L’Abbe was the perfect site for the hospital” and the Planning Inspector has not considered that site, is that really going to stop the conspiracy theorists say: “Well, there you go, they were never going to look at the evidence anyway”? So we have got to be very careful and be very clear about what we mean when we say: “Mr. Planning Inspector, what sites are you going to look at?” Because there are quite a lot of them. Again, we have talked about the potential costs in that. If we then open up that wide we have no idea when the Planning Inspector can report back. Deputy Labey said quite clearly: “We would like to resolve this by about Christmas.” If we do open it up that wide we do not really know when the inspector is going to come back; that is another concern I have. As the Deputy said, you want to make a decision purely on planning grounds but, as the Minister for Health said, when you are designing a hospital the more important thing is on clinical grounds. That is far more important

about the running of a hospital, the delivery of services, the clinical adjacency; those things are far more important. Can we really ask the Planning Inspector to do that? He is not qualified in those particular areas, he will be an eminently qualified architect and planner, *et cetera*, but he is not there to determine whether the X-ray Department should be next to the oncology or whatever. So all that underlying work which is really important to go into the planning applications has been done, and it will not be done for all the sites that have been done because some of them will not have been considered. So, for example, there is no point then saying: "Right, on planning grounds I think that Samarès Nurseries is a brilliant one on planning grounds" only for the hospital staff to turn around and say: "It does not work for clinical adjacency reasons." So that is why I think we need to consider this and be very careful about what we are being asked for here. In addition to this of course we also know that services are in flux, so the Health Department is still deciding what services are going to be put out to primary care, what services are going to be in secondary care; so we still have that issue around what the size of the hospital should be, what services are going to be in the hospital, *et cetera*. That is still up in the air. Also I have to ask, if we do this will it tell us anything new? For example, what the Deputy is asking us to do, will it tell us this is the best site or will it just simply tell us this is a viable site? Because at the end of it what you could end up with is just 4 viable sites, which is nothing we do not already know, so I am concerned about that as well. I do wonder whether perhaps we are doing a duplication in work. We know, for example, that the Chief Minister is setting up the Policy Development Board to look at this, and it seems to me that that body is far more appropriate to carry out that piece of work. I agree that it needs to be done but it seems to me that that would be a much better way to do this work than necessarily asking the Planning Inspector to do it, for the reasons I have outlined. But I do agree that it is something that needs to be looked at. For example, when we had the Comptroller and Auditor General's report looking at the site selection process - I do not mean to misquote her - but effectively she said it was shambolic, far too much political interference and it was not really a fair process. So absolutely I agree with Members who are saying the site selection process does need to be looked at and does need to be reviewed; the question then is how is that best done. Now, to my thinking I am not convinced at this moment that the Planning Inspector is the best way to go, and I understand why some Members will want to do that because it will be seen as independent, free from that kind of political control and interference, and that is something which they would look for. But I am not entirely convinced that is the best way to go and I still think that the Policy Development Board might be the best way forward at this time. We also know this question of considering other sites in the same ownership. When we are on planning applications sometimes we do consider and look at the land that is entirely in someone's ownership because sometimes the reason could be we really need this X for whatever reason. So we might say: "Well, wait a minute, you have got this vast amount of land, why are you trying to put this new residential unit right at the bottom of a field when you own some land right next to another house and it would be more appropriate to put it there?" So I do not think we can dismiss this area of we do not look at sites in the same ownership; we do in planning applications - and it might not seem it to the Deputy but that is something to help his argument - when looking at these types of things. What I would say though is when it comes to the Policy Development Board, while this was set up by the Minister I would hope that the Chief Minister would agree, that if there are expressions of interest from other Members who would want to join that board and take part in that process they would be welcome to; and that the process would be producing minutes so that everything is transparent and open; that it would take evidence from the public if the public wanted to submit it, like a Scrutiny Panel, for example. It just seems to me, given the reservations and concerns that I do have, that might be a better process to tackle this particular important issue than necessarily what the Deputy is asking us for. So I will wait for the Deputy to sum up and look forward to be convinced by him, but I do take comfort in the fact that we do have another body of work. There is an argument of duplication but there is another body of work which can mop up a lot of the issues that I have

raised and in a better way. I just wanted to put that on the record and, unfortunately, being the Assistant Minister to this Development Board I cannot offer my assistance.

8.1.5 Senator K.L. Moore:

I will pick up where Deputy Maçon just left off, as I feel that the announcement about the Policy Development Board this week certainly muddied the waters over this debate. I was very grateful to Deputy Maçon and the Deputies of St. Ouen and St. Martin who gave very pragmatic and clear views on the nuts and bolts of where we are and how this proposition sadly does not fit into the current planning application process as it is determined. But the news this week really has I think made this position very difficult for Members because we now have a policy board who are most certainly going to be looking at the site. Throughout the election process I do agree and acknowledge that there was some discussion and debate about the hospital and particularly the site. However, my views throughout the campaign process were always very firm; that we should have confidence in the decision of the previous Assembly and actually focus on the outcome for the public; that is the important issue as mentioned by the Minister for Health, that of patient care. So I would like to remind Members that I have a considerable mandate from the voting public who did not feel that my position on the hospital was an impediment to electing me to this Assembly, and I would really ask them to consider that when they vote on this. I think we need some more clarification from the Chief Minister on the position of the Policy Development Board who are going to be looking at the site, and how that is going to work in relation to the inspection process. Because it appears to me if we are going to be going down this road we do need a sort of independent view, because I feel that the board I am afraid - with all due respect to the members who are sitting on it - in the main have very openly held views that are totally partial on the issue of the site and its selection. Therefore, I find it difficult to accept that it will be able to return in the timescale that has been suggested a rational and objective view to the questions that have been posed in the terms of reference that are somewhat brief. So I think it would be most helpful if the Chief Minister could enlighten us further to assist Members in making a conclusion today.

8.1.6 Deputy S.M. Wickenden:

My, the Executive are out in force today, and I welcome Deputy Maçon and the Deputy of St. Ouen to the Executive. Why are we at this stage and why are we looking at other sites when we have gone through a 3½-year process to get where we are today? It is because we do not have public confidence. I think that is clearly why everyone is looking at what it is. I do not think the public have felt like they have been involved enough in where the site selection process came from in a way that they can easily understand why we are where we are today. So here we are and we are still looking at other sites.

[12:00]

What is this proposition all about? It is about broadening the tool set for the Independent Planning Inspector, it is just giving more tools into the belt. We have done it for many things, these last few days we have done it: limited liability partnership, draft companies demerger; they are tools for the financial services. We are opening up toolsets to make things better. This is just giving an extra toolset. Now we have heard certain arguments about it is too broad maybe, because there were 41 sites shortlisted. We are talking about an experienced and intelligent person that knows planning law that would easily look at those 41 sites and say: "Well, they were shortlisted for a reason." I am sure it would not take more than an hour to go through and see that those shortlists were done for very good reasons, as laid out by the future hospital team. I cannot imagine that we are using this fearmongering about saying "well this very experienced and intelligent person is going to suddenly go and open up all 41 sites for any reason whatsoever". I think that is just fearmongering, and again we hear about this is going to cost more money and there are going to be problems. We heard that

3½ years ago, we keep having that drummed out that this is going to have consequences if we delay. The Deputy of St. Ouen made lots of different statements about the fact that a planning inspector, the Independent Planning Inspector has no knowledge on running a hospital or setting up a hospital but I would ask whether the panel set up by the Chief Minister of the Constable of St. John, the Constable of St. Ouen, the Deputy of St. Ouen, the Deputy of Trinity and the Deputy of St. Peter have any planning experience on building and planning. Maybe by letting the Planning Inspector look at the planning side of these sites and the political panel look at the political side of these sites, we get 2 different arguments each with known experience and we can take that information together. He is an Independent Planning Inspector that does not come with any preconceptions or political bias that we will have with Members of the Assembly that have run on mandates that have been through the doors. This is about independence and I am sure any new Member would like that independent view, not a politically biased or preconceived idea, within this. I do not see this problem ... I do not think it is too broad. I think that we are talking about a very intelligent person, somebody that we ask to adjudicate over planning appeals for the general public, for our parishioners; if it is good enough for them why is it not good enough for us? I do not see the problem, I do not see why we are getting all of these arguments against the idea that we open the toolbox to an independent view who has experience in planning, which is why we set the independent planning inspector process up in the first place, for somebody that has years and years of experience in planning law to look at contested planning applications and there is no more contested one than we have here with the hospital. So I say let us open the toolbox, let us have an independent view from an expert on the planning side of it and let the politically appointed body look at the political side of it and we can see it from both sides and make our own decision. If it changes, if the new Executives bring forward a different site or a different view based on their report, we can see it from both sides of the story and we can be exceptionally informed from both points. I do not see a problem in allowing this to happen or giving the tool available, and it is just opening the tool box it is not instructing. Thank you.

8.1.7 Senator S.C. Ferguson:

I think probably the first thing is a comment on technical terms. Deputy Wickenden talked about fearmongering. With great respect to the Deputy, the term is shroud-waving. It is a very technical term and if we do not follow a certain line of business then obviously the sky is going to fall in; it is Chicken Little writ large. Now, this happens to be a matter of great public interest. As I recall, the original Atkins work was very supportive of the waterfront, Warwick Farm and the St. Saviour sites but for some reason these were dismissed in quite a cavalier manner. Now, Deputy Wickenden also mentioned the C. and A.G.'s (Comptroller and Auditor General) report which was extremely critical of the process of the original site selection. Little things like the H.S.S.D. (Health and Social Services Department) view of consultation with its staff means lining them all up in the Halliwell Theatre and telling them what is going to happen. Now, is that consultation? Not by my sort of book and certainly not by the Auditor General's book, and, as has been said, the whole set-up was badly planned and somewhat shambolic. Now those of us who have contacts within H.S.S.D. at a lower level than the senior management know that any criticism by staff and clinicians was severely dissuaded, one could almost say suppressed. Those of us who went on a propaganda tour of the hospital last week may [Laughter] ... well everything was going to fall down. You know, again, Chicken Little rides again. But you may have noticed the comment that the basement was subject to planning. But we are going to build a new hospital there with a whole lot of machinery in the basement and they talk about the morgue being in the basement and the picture that gives me is ... I am sorry it worries me. Will we see the coffins floating down Gloucester Street? The Minister is an advocate and does have an advocate's silver tongue but the public need reassurance. The original inspector's report stated, as I recall, that the inspector could not comment on the suitability of the site as this was outside his terms of reference. So let us bring it into his terms of reference. As for the capacity of the team, the department will be receiving a letter from me in my capacity as the president, I think it is, of the

Public Accounts Committee asking for a response to the Auditor General's report on the site selection, which is well overdue. That response was due by the beginning of this year and it is now 6 months, at least, overdue. The Minister, I am afraid, has not listened to the public; we need to and this particular proposition is evidence that we have listened to the public. We have heard they are concerned because it was a very big thing during the elections. I urge Members to support the proposition.

8.1.8 Connétable J. Le Bailly of St. Mary:

Having knocked on the doors of the smallest populated Parish in the Island, very often the conversation led to the new hospital build. People are adamant that the site should be reviewed. The concerns are obvious: noise and dust disruption during the build, loss of parking, also the fact that the site is too small to accommodate all the essential facilities like a catering unit, which we know is being constructed at St. Peter, and as I briefly mentioned yesterday this already appears to be a *fait accompli*. People have not heard an explanation as to why the alternative sites were considered unsuitable. Those reasons have not been disclosed. It may be that the existing hospital site is the best choice but please give that information to the public in order to stop the rumour and mistrust of this situation. Rumour is far more dangerous than the truth. I and many others would like to know the reasons for choosing this existing site over the others. The new hospital must be built with full public backing. Until we have the facts the people will never be happy with the existing site. I intend supporting this proposition because this is what my electorate expect and want. Thank you.

8.1.9 Deputy K.G. Pamplin of St. Saviour:

I will be supporting this proposition and I will explain why as briefly as I can. As the Members may know, the last couple of days I have been working on a project from listening to the public, and between a great number of people from starting with a position said: "That is not going to happen" we have made it happen. That was all started by members of the public approaching me at my daughter's school on a Saturday and on social media through the weekend and with great support from the Bailiff's Chamber, the public, the corporate sponsors, my fellow Members, and the public are very happy with what we have achieved, apart from those who like a drink or 2, but that is another subject for another day. I use that point to show because again, as the Deputy and others have just said, we have also just gone through an election process and, like my colleague to the right of me in District No. 1, again knocking on doors, this was a very passionate subject. My background before being elected was working in the charity sector at health-related charities so I have a lot of contact with consultants, doctors, nurses and friends and colleagues. So before the propaganda visit, as the Senator referred to last week, I too got my own will to go and have a tour of the hospital with some of the nurses, doctors and consultants who work there. I found a nurse who had just woken up from a sleep in a store cupboard. I found somebody who had just been unable to work due to the restraints and the constraints put on the working conditions. During the tour we saw many things which were frankly, in 2018, in a hospital that cares for ... well, cared for me, my family members and our fellow Islanders, how has this taken so many years to get to this stage. But it must get sorted. The other important note was we need to get on with it because of the importance of health in the Island; there is a growing a need for the elderly population, for the high rise and statistical evidence of dementia and Alzheimer's alongside the other issues that we are facing, that we need to get on with it as my colleague in District No. 1, St. Saviour, said, for the clinical reasons that must be so important. I will draw your attention to another very important reason because the discussion of site selection is coming up. Over Christmas in Jersey we saw something that was really distressing and upsetting where, for reasons still unknown, a young woman decided to hand over her new-born baby to the hospital emergency department. We do not know the reasons and this is not the time to judge the rights or wrongs of that but the point is she had an access in St. Helier to walk to that A. and E. (Accident and Emergency) and did it, and thank goodness she did. So we have to ensure that our

hospital is accessible for everybody, whatever the reason, and we must recognise that the people who work in that building, the people who elected us just want us to make the right decision as soon as possible. I will also draw reference to the point that during our recent Scrutiny meetings I took ... I have been selected as the person who will carry on the work from the previous Scrutiny Panel to review the Scrutiny process of the future hospital site. We are in a bit of a quandary at the moment obviously because not many other people have come forward to join me on that panel as of yet, and I think the problem is because we are waiting on this proposition and this new panel that has been set up. I agree with the sentiments said today that the Scrutiny process, as we all know, is vital and so I draw your attention to that. We just need to make sure we are all working together here, communicating together here for the right reasons and I believe, as I know everybody else here, that Scrutiny is really important. So, that is all I wanted to say on this matter and I thank you for listening.

[12:15]

8.1.10 The Connétable of St. John:

I just wanted to say that because much reference is being made about the Policy Development Board, and one of the issues that has been mentioned is there are some spaces, anybody who is interested, I would be delighted to hear from them because this needs to be an inclusive board not an exclusive board. So anybody who would like to join, please make themselves known to me and I would be delighted to talk to them. I think there is an important issue with this proposition and that is that the public want to know that they have the support of this Assembly to look into the site selection. While that is something the Policy Board may be doing I think the message needs to come from this Assembly that we are listening and that we are going to do something about it. As the proposer has said, his proposition is to ask particular items but it does not have to be done. But it will at least show the public of the Island we are listening, we are going to look at the site selections and the support of this Assembly would be, in my humble opinion, most welcome.

8.1.11 Deputy R.E. Huelin of St. Peter:

It would be rather odd if I did not say something on this subject. I thank Deputy Labey for bringing this. I am not going to discuss the hospital, the pros and cons of Gloucester Street or anybody else, this is purely about public confidence and I believe ... when I was listening to the Constable of St. John's proposition, I think in about April last year, on the site selection, I was sitting up there in the public gallery, the previous Ministers for Infrastructure and Health both said the only thing that they had done wrong was not to bring the Island with them. It was about communication and I think we must start at the first opportunity we can to listen to the public and show that we want to put things into the public domain and be listened to and instil some confidence that is severely lacking. Now, at my - sorry, mine, it was not mine it was the St. Peter's Deputorial hustings, I cannot say it was mine - somebody stood up from the crowd and asked for a straw poll on whether - and I wrote this one down - whether they were in favour of the Gloucester Street site or had second thoughts. Well, over two-thirds immediately stood up and said that they had second thoughts. So I now believe that is a remit, as it were, from the Parish of St. Peter to push forward and make sure we are more open with the selection. I believe at the Senatorial hustings in Trinity a similar question was asked where 90 per cent of people said they would like to have a review. The ComRes survey conducted, that was issued recently, 546 out of 1,000 said they wanted to have a review. I mean I could go on talking about letters in the *J.E.P. (Jersey Evening Post)* but fundamentally we must be more open and if we turn this one down it is the first message to those people that put us here because we were all - thank you very much - we were all asked, on the doorsteps of our Parishes during our campaigns, to look long and hard at the hospital and make sure we get the best health service for our Island for the next 50 years. I am going to support that in this proposition because of transparency, because of openness

and as the first stage in trying to regain public confidence in the most important project that we will have during our 4 years in the Chamber.

8.1.12 Deputy J.H. Perchard:

I think it would be really helpful for Members if, after this meeting, at some point in the near future that the new board would perhaps circulate a bit more information about what will happen should they find that they are dissatisfied with the evidence that supported the previous Assembly's decision to build a new hospital on the site of the existing hospital. I think this debate has been complicated, as Senator Moore has said, by what seems to be the establishment of a board and a proposition that has the same goal at the end of it all. We want to restore public confidence, we want to make sure that the decision is the right one, and I think there is no disagreement in that principle between these 2 bodies, if you like, but I am struggling with the decision on this proposition because I see flaws on both sides and that kind of clarity would be incredibly helpful going forward.

8.1.13 Senator J.A.N. Le Fondré:

I was hoping I could make it past lunchtime so I could get some of my points down into a reasonable order. I think the point I would start off with, and I have always said this, I was always originally site neutral on the hospital, from wherever I have been, and it was as matters progressed that concerns were raised. But today is not about the merits of any planning application. Also my big concern, which is what is being expressed and what we encountered certainly during the elections, is about public perception. I think public perception, and the Deputy of St. Ouen alluded to it as well, is that it felt that in the past 3½ years there were certain very strong views on certain areas that dogged the entire process. In terms of the board that we established, this is our biggest legacy issue, and by "us" I mean not only the Council of Ministers but obviously the Assembly as well, and it will obviously at some point come back for a vote at this Assembly, I am sure, and therefore each and every one of us here has to be satisfied that when they vote to spend just under half a billion pounds that they are happy with the evidence they have had in front of them. We cannot dodge that decision; it is now going to be our decision even though it is a legacy handed over to us from the previous Council of Ministers and the previous Assembly. I mean I will say certainly Deputy Labey and I have worked relatively closely on just trying to get matters moving forward and I think that has been quite useful. The difficulty is that, in terms of establishing the Policy Development Board, they are mainly looking at things like cost and the issue on patients and things like that as opposed to major planning aspects of it, which I would suggest that what Deputy Labey is looking at is the planning side. I have to say my very simple view on the proposition is that he is looking to enable matters, to enable the inspector should the inspector so wish, and from that point of view my stance, I hope going forward, is to, if we get into positions that one can enable a wider piece of work to take place, I am generally supportive of that stance. I do not believe there is a conflict between the 2 pieces of work; we have had those discussions. I will say again, Ministers will have different views on this, okay, you are not going to get a unified view out of the Council of Ministers at the moment on this type of debate because it is the biggest issue going and we have, certainly within the 2 or 4 weeks or whatever it is now that we have been together, we have not had that chance, we have not had an opportune moment to talk through the issues around the hospital project. So, as I say, I am expressing my personal view which is I consider this an enabling proposition and from that point of view it will get my personal support. I cannot speak for the rest of the Ministers but from my particular perspective there is not a conflict between the 2 approaches; that one is focusing mainly on planning matters and the other one is going to be looking at things like costs and satisfying themselves, in terms of the membership of the board it is important it is not a one-sided view. My understanding on the membership is that is certainly the intention we are trying to achieve and the other issue is my instruction to the Constable of St. John is really to get on with it because of the timing we are facing. Again, the timing we are facing is not of our making, it is applications that have been put in process before this Assembly was

appointed. But ultimately it will be our decision and therefore I think the greater information we have and the wider clarity we can bring - I deal with Deputy Maçon's comment about minutes and transparency - insofar as is possible that is hopefully a second intention. There are some general principles that have been circulated to the Chairmen's Committee for some comments behind the generic principles of generic boards. They are fairly simple and straightforward we are looking for some feedback there. But it is quite clear we are trying to improve early engagement with States Members but obviously not wanting to tread on, for fairly obvious reasons, the overarching strengths of the Scrutiny process and that is where we have got to be very careful. But in my view, as I said, we have got to, overall, take the public with us on this. From my point of view, I have got to be able to look members of the public in the eye when we eventually do approve a hospital project that it represents, in my opinion, the best value for the Island and we have got, in my view, to take that extra step. I hope that helps clarify certain matters.

8.1.14 The Connétable of St. Helier:

I just want to make a brief comment; it is perhaps a question for the proposer and it was triggered by seeing an advance copy of the *Evening Post*, which probably ought to be called the *Morning Post* now, which leads, on its front page today, that People's Park is one of the sites that will be revisited by the Policy Group. Clearly that is something that fills me with some concern, to say the least. I raise that because the inspector, the independent inspector that is the subject of the present proposition, determined the La Collette application 2 years ago. In July 2016 he refused an appeal against the development of La Collette Flats and the loss of the important green space, the protected green space, along Green Street. His comments made me question whether he fully understood the importance of open amenity space in urban areas particularly where population density is high. So I would like reassurance from the proposer that if this inspector is to add looking at other sites to his remit, or be asked to do so, that he is not going to show the same view of People's Park as he showed of La Collette green space because clearly People's Park is a no-go area, as far as I am concerned, and as far as many members of the public are. So I just seek that assurance from the Deputy.

8.1.15 Deputy L.B.E. Ash:

Well, it looks as though we are going to get back on to the merry-go-round. It has been great fun, we can have another go; we can revisit sites, we can reassess the costings, we can indulge in countless more meetings. The only snag on all this is the merry-go-round is quite an expensive merry-go-round. We have had a few goes on it now and it has cost the taxpayer £30 million. Now, let me tell you what the taxpayer thinks of that. I will leave out a couple of the F-words but I will include a few. Farce and fiasco are 2 of the ones I have heard. It is up to the Assembly, and we will vote in a moment, but if we go down that route again then a strict time limit must be put on it. A final decision must be taken by the end of this year and we must start to commence work in the first part of 2019. We have got a great opportunity now in this Assembly to restore people's faith in it and we need to seize that opportunity. If that means putting aside Mrs. Le Brocq's new gazebo exceeding planning regulation 22.6(3) then so be it. The important thing is to clean this mess up once and for all and to deliver a hospital that the Island can be proud of.

The Deputy Bailiff:

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

8.1.16 Deputy R. Labey:

Let me address Deputy Ash first of all. There is going to be a public inquiry; that is going to happen. All this proposition is seeking to do is a slight alteration to the terms of reference of that inquiry. This could result in absolutely no delay whatsoever. If it did result in a delay it would be for a very good reason and we would be the better off for knowing that reason.

[12:30]

I hate it when a politician gets up to sum up and has a big sheaf of papers in his hand and is going to go through all the comments from those that have spoken. I am not going to do that because I can **[Approbation]** lump them into one but I just must address a couple of specifics that people have asked me to do. So, Deputy Maçon, when you are assessing a determination planning application for a hospital, clinical considerations are material considerations as are planning considerations. The Planning Inspector cannot divorce the 2. So there will be, as pertinent to this application of course, clinical considerations. I am not saying he should not consider those; of course he is going to. My difficulty was with the Policy Development Board, that there was not anybody with planning expertise on it. My suggestion was to have put a U.K. planning inspector hired independently from the Judicial Greffe, not the Planning Department, and stick a planning inspector on that board but that idea was rejected for the Chief Minister's very good reasons, and I accept them. But I think that board will be confronted with a lot of complex planning issues and when those planning guys get started you have to have some expertise to meet them head to head. There is no reason why the deliberations, and I think this would be a good thing, of the Policy Development Board should not feed into the public inquiry. They could deliver their results to the public inquiry and feed into it. I agree it would be ridiculous for all 41 sites to be looked at again. My personal opinion ... weirdly when I first lodged this proposition the former Chief Minister said to me: "Oh, my, what are you doing? What if he recommends People's Park?" People's Park is politically absolutely not an option and I would just **[Approbation]** dismiss it completely and take that out of it because we know, from that wild goose chase that took us 2 years in the last term, it is simply politically unacceptable, so I would just take it out. So, the main body of the opposition is from Deputy Luce, the Minister for Health, the Assistant Minister for Health and, to a certain extent, Senator Moore. If only you knew it, I am doing you a big favour because this, the current planning application, is very different from the disaster that was pursued which should not have been done, the original one, the monolith as we call it. This application is very different in that the applicants have started to listen a little bit more to the Planning Department, which is a good thing. It looks to me that there has been a convergence between the Planning Department and the applicants in producing this latest application. It is very possible this could sail through to the inspector in his determination recommending planning permission for this application. Now, what is better for the public confidence than that; the inspector delivers a recommendation to give planning approval, having looked at the other sites, or having not been allowed to look at the other sites? What is better for public confidence? In the scenarios that the Minister for Health and Social Services painted for us, and nice try, Minister, but you fundamentally are underestimating the intelligence and the expertise and the experience of the Planning Inspector. Believe me, I have lost an appeal to Philip Staddon so he is not my best buddy. I lost the La Collette appeal to him. Nevertheless he is our man. He will not hear impassioned speeches which he cannot consider. He runs the inquiry very professionally and he will not allow people to waste their time. The Minister for Health and Social Services was the first and only one in this debate to bring up outline planning permission and, you know, the problem with this, and I did beg the last Minister for Health and Social Services not to continue with this, is the fact that it has been done with outline planning permission. Effectively the Assembly is being asked to spend £460 million or whatever it is on a hospital they do not know what it is going to look like. So, we are spending ... would Members do that with their own money, even £400,000; would they spend £400,000 on a house they did not know what it was going to look like? Are we comfortable to spend £400 million of the public's money on a hospital we do not know what it is going to look like? I think that has been such a missed opportunity, that we could not have presented the public with something exciting that they could have manifestly understood what it was going to be like and the excitement of it. It could have been exciting and we could have taken them with us but no, we took, I think, a really wrong path with the Rochdale Envelope which is, as I say, the dodgy developer's

friend and the neighbour's enemy. But we are where we are with that. I do not think I need to say too much more. I do not. I just repeat that: what is better, the result of this public inquiry held in public, people having their say and the inspector saying: "I recommend granting planning permission, I have seen the other sites" or: "I am recommending planning permission" and all the Island is going: "Yes, but he did not see the other sites." I maintain the proposition and I ask for the appel.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. If Members have had an opportunity to return to their seats I will ask the Greffier to open the voting.

POUR: 34

Senator S.C. Ferguson
Senator J.A.N. Le Fondre
Senator T.A. Vallois
Connétable of St. Helier
Connétable of St. Lawrence
Connétable of St. Saviour
Connétable of St. Brelade
Connétable of Grouville
Connétable of Trinity
Connétable of St. Peter
Connétable of St. Mary
Connétable of St. Ouen
Connétable of St. Martin
Deputy J.A. Martin (H)
Deputy G.P. Southern (H)
Deputy of Grouville
Deputy K.C. Lewis (S)
Deputy M. Tadier (B)
Deputy M.R. Higgins (H)
Deputy J.M. Maçon (S)
Deputy L.M.C. Doublet (S)
Deputy R. Labey (H)
Deputy S.M. Wickenden (H)
Deputy of St. Mary
Deputy G.J. Truscott (B)
Deputy L.B. Ash (C)
Deputy K.F. Morel (L)
Deputy of St. Peter
Deputy of Trinity
Deputy M.R. Le Hagarat (H)
Deputy J.H. Perchard (S)
Deputy R.J. Ward (H)
Deputy C.S. Alves (H)
Deputy K.G. Pamplin (S)

CONTRE: 7

Senator L.J. Farnham
Senator K.L. Moore
Senator S.Y. Mezec
Deputy S.J. Pinel (C)
Deputy of St. Martin
Deputy of St Ouen
Deputy S.M. Ahier (H)

ABSTAIN: 1

Deputy J.H. Young (B)

The Deputy Bailiff:

That concludes the Public Business for this meeting and I invite the Chairman of P.P.C. (Privileges and Procedures Committee) to propose the arrangements for future business.

Deputy R. Labey:

Yes, and before I do that may I just make a comment? It is very unusual in political life to find a journalist that can satisfy completely his audience and also the politicians, especially if he is a political journalist, that he interacts with daily. One such is our friend in the box up there who is from Radio Jersey, Mr. Chris Rayner, and he has been commentating on our proceedings and reporting on our proceedings for Radio Jersey for very many years and I cannot remember how many of them there are. But he is leaving, this will be his last job in the little glass box up there, and I just thought it was appropriate to express our thanks to Chris Rayner for his excellent work on our behalf.
[Approbation]

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Deputy Bailiff:

As you can see, Deputy, Members are entirely with you in this regard so that seems to be a well-placed interjection. Future business?

9. Deputy R. Labey (Chairman, Privileges and Procedures Committee):

I have no alterations to the future business set down for the next sitting that has been published.

The Deputy Bailiff:

Very well. Do Members agree to take future business as set out in the Order Paper under M?

Senator J.A.N. Le Fondré:

Can I just make one observation that P.70 will obviously be on the agenda for the Council of Ministers at its next meeting? At this stage I would expect ... well, we will inform Members whether it will be continuing or whether it will be deferred. Thank you.

The Deputy Bailiff:

Simply giving Members notice that it might be deferred. Very well.

Deputy J.M. Maçon:

I have a proposition lodged for the 11th of September and I wonder if it could just be knocked back to the following sitting.

The Deputy Bailiff:

Which one is that? Oh, yes.

Deputy J.M. Maçon:

P.91 thank you.

The Deputy Bailiff:

The following sitting seems to be singularly open to addition. Do Members agree that we put P.91 back to the sitting after the 11th of September? Very well. The States stands adjourned until 9.30 on Tuesday, the 11th.

ADJOURNMENT

[12:40]