

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 10th JUNE 2008

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

STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY

1. Statement by the Chief Minister concerning the establishment of a Jersey Enterprise Board.

1.1 Senator T.A. Le Sueur (Deputy Chief Minister - rapporteur):

States Members will recall that the report and proposition entitled Jersey Enterprise Board Limited: proposed establishment was due to be debated by the States Assembly on 17th June 2008. The Corporate Services Scrutiny Panel has effectively completed its work and the panel's draft report has been circulated to relevant parties, including the Chief Minister. Although the Chief Executive has subsequently liaised with Deputy Egré of St. Peter regarding this proposition and the panel's report, it has not been possible to arrange a formal meeting at which the Chief Minister and other Ministers could discuss the panel's provisional findings with the panel in the time available prior to 17th June. The Council of Ministers has agreed that there would be merit in holding further discussions with the Scrutiny Panel with a view to developing a refined proposal that could be both well understood and supported. The Council has therefore agreed that the report and proposition entitled Jersey Enterprise Board Limited: proposed establishment should be withdrawn. In the meantime, the Council of Ministers will be proceeding with the proposal to establish a Regeneration Task Force whose remit will be to co-ordinate and regenerate the town and urban areas. Accordingly, a report will shortly be considered by the Council of Ministers in order for it to bring the Regeneration Task Force into being. It is understood that the Scrutiny Panel's report will be published during the week commencing 9th June.

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

I wonder if the Deputy Chief Minister might be able to indicate at this stage whether or not he is able to tell us what the actual makeup of this Regeneration Task Force will be. Will it be exclusively politicians or will it be made up of non-politicians, or will it be an N.G.O. (non-governmental organisation) sort of stand-off type arrangement?

Senator T.A. Le Sueur:

My answer makes clear the report is still to be considered by the Council of Ministers and it will be after they have considered this that we will ascertain the nature of the composition of that task force. I suggest that there may well be non States Members involved in it to some degree but how that would be remains to be seen, and will be discussed obviously by the House in due course.

1.1.2 Deputy G.P. Southern of St. Helier

I would like to ask the Deputy Chief Minister whether he considers that the establishment of a regeneration task force is not consequential on agreement to J.E.B. (Jersey Enterprise Board) and whether it is appropriate that he goes ahead with forming the Regeneration Task Force.

Senator T.A. Le Sueur:

I believe that the regeneration of St. Helier is a final activity and irrespective of whether Jersey Enterprise Board comes into existence or not a regeneration task force will be necessary. So I do not think the 2 are connected at all.

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

Could the Deputy Chief Minister just confirm that after the report regarding the Regeneration Task Force is considered by the Council of Ministers a proposition will be brought to this Assembly for consideration?

Senator T.A. Le Sueur:

I believe it would be appropriate for such a task force to be brought to the Assembly for consideration, but at this stage it seems premature to speculate on what that might contain.

1.1.4 Deputy P.V.F. Le Claire:

I apologise, this has been a bit back to front in asking what was happening with the regeneration board and then coming back to what is happening with the formal proposal, because I should have asked that first. I did not have a chance to because I was looking at this statement and trying to understand what has occurred. Could I ask the Deputy Chief Minister what has arisen that has required this proposition to be withdrawn today rather than put back in the order of business?

Senator T.A. Le Sueur:

I think the reality, Sir, is that this proposition was lodged at the end of last year. It will very shortly fall out of time and I do not believe that we could deal with the situation adequately in the time period available. On that basis there seems to be little alternative but to withdraw this proposition.

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

I wonder if the Deputy Chief Minister would reaffirm whether my amendment which was agreed by the Council of Ministers would be included in the revised proposition, if it comes back to the States, or whether it is something I need to resubmit?

Senator T.A. Le Sueur:

At this stage, Sir, I have no idea what the revised proposition might contain so I have no idea whether the Deputy's amendment would be appropriate or not. But I think having made the point in his amendment and accepted by the Council of Ministers, he can take comfort in the fact that we would be aware of his requirements and build that into our proposition. He might not need to make an amendment at all.

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

Could the Deputy Chief Minister confirm, in this statement he says: "Accordingly a report will shortly be considered by the Council of Ministers in order for it to bring in the Regeneration Task Force." Could he tell us who the authors of this report are? Are they W.E.B. (Waterfront Enterprise Board) or J.E.B or is it a ministry? Which is this report they are considering? Who is the author please?

Senator T.A. Le Sueur:

The report will be produced by officers of the Chief Minister's Department.

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

Would the Deputy Chief Minister confirm that essentially his statement confirms that J.E.B. is dead in the water and that we have to look at totally new alternatives?

Senator T.A. Le Sueur:

The proposition is dead in the water; that does not mean that the notion of an Enterprise Board is dead in the water. That remains for further discussion.

The Bailiff:

No other questions for the Deputy Chief Minister, we come back to I and Questions. In accordance with Standing Order 15 I have approved the following urgent oral questions that Deputy Southern wishes to put to the Deputy Chief Minister, in the absence of the Chief Minister.

Deputy G.P. Southern

If the man who knows the answers thinks that is logical, that is all right.

QUESTIONS

2. Urgent Oral Questions

2.1 Deputy G.P. Southern of the Chief Minister regarding a PricewaterhouseCoopers report on the Waterfront development

(a) Were the Chief Minister and the 3 States Directors of the Waterfront Enterprise Board Limited aware of the results contained in section 2.2 of the PricewaterhouseCoopers report, "Harcourt Developments Limited Financial Capacity Assessment", and if so when did they become aware, and if they were not aware, why not?

Senator T.A. Le Sueur (Deputy Chief Minister):

The Financial Capacity Assessment on Harcourt Developments Limited was commissioned by Waterfront Enterprise Board Limited as part of its continuing due diligence exercise in relation to the proposed development of the Esplanade Quarter. Harcourt had previously been selected as preferred developer of Esplanade Square. W.E.B. then entered into heads of terms for the development of the Esplanade Quarter with Harcourt in July 2007. These heads of terms provide, among other things, for the delivery by Harcourt of financial guarantees issued to W.E.B. by an acceptable bank or insurance company in the aggregate sum of £95 million. The financial guarantees will set out an obligation by the bank or insurance company to make payments to W.E.B. in the event that Harcourt fails to complete the road works or fails to make planned payments. The Directors of the Waterfront Enterprise Board, including the 3 States Directors, would have been aware of the results of the Financial Capacity Assessment report in October last year. This was a confidential internal report and I do not believe that the Chief Minister would have been made aware of the content. The report was intended as a confidential report to the board of W.E.B. and there is a clear disclaimer from the author of the report, PricewaterhouseCoopers, on the front cover. Accordingly, the reports did not receive wide circulation and were simply one of several papers to assist the board in its decision making. The Deputy selectively quotes one section of the report. I suggest that Members should do as the board did, and take the report as a whole setting this paragraph into context. Although this report is part of a package of information regarding the capacity of Harcourt to undertake the Waterfront development, the board of W.E.B. regard the provision of copper-bottomed bank guarantees as far more important, indeed of paramount importance, in the financial protection provided to W.E.B. and to the public of Jersey. For that reason the developers are required to have guarantees in place, and while these are referred to in the report they will be updated once the contractual arrangements to get underway and before signing any leases. I can give Members the absolute reassurance that no contract will be signed with Harcourt or, indeed, anybody else until those up-to-date guarantees in the sum of £95 million are in place and have been thoroughly and independently verified.

2.1.1. Deputy G.P. Southern:

In referring to the Chief Minister, the Deputy Chief Minister says that the report was for internal consumption only. Can he indicate when the Chief Minister became aware of the contents of this report, if at all?

Senator T.A. Le Sueur:

I believe, Sir, that the likelihood is that the Chief Minister became aware of it, as most of us did, last week.

2.1.2 Deputy G.P. Southern:

When last week because we did debate last week.

Senator T.A. Le Sueur:

I cannot speak for him, Sir, but I do not believe he was aware of the contents of the report until after the conclusion of the debate last week.

2.1.3 Deputy P.V.F. Le Claire:

As a contingent liability, will the States, and thereby the public, be required to indemnify the developer and the underwriting of this deal with the banks in the event that it is unable to commit to its obligations?

Senator T.A. Le Sueur:

Although I do not fully understand the question, Sir, I believe the answer is no.

2.1.4 Connétable D.J. Murphy of Grouville:

I refer to the statement issued by Harcourt, and in paragraph 2 it states that Harcourt own 100 per cent of the subsidiaries doing the work on the Waterfront. However, in paragraph 3 certain parties are claiming a partial interest in the share capital of these companies. Now what happens if these parties are successful, does that mean that the share capital of these companies changes so that in fact Harcourt are not then in control, and what do we do about checking out the people who are allegedly looking for a piece of the action on this deal? That is the first part, Sir. Can I just go on to a second part there? I note that the guarantees from the banks extend to £95 million, which is the amount due to the States of Jersey; will there be any guarantees on completion of the project, i.e. that the banks are satisfied there is enough money there to complete the project, not just to buy the land in?

Senator T.A. Le Sueur:

It is not really for me to comment on the statement made by Harcourt Developments, but if the company were to change its shareholding structure that does not necessarily change the contractual arrangements. The important thing is that we are dealing with ... the States has to deal with a contractor of repute and if we are not satisfied that Harcourt is a contractor of repute then we would not contract with them. As to the extent of the guarantees and the time period, the contract is by no means finalised yet and at this stage those are matters for negotiation. But the intention is that there would be a limited period for development and if the contractor failed to deliver within the required timescale then the guarantees could be brought into place. But, as I say, at this stage, Sir, that is speculation until the contract is nearer a drafting stage. Whether it be with Harcourt or anybody else.

2.1.5 The Connétable of Grouville:

Surely, Sir, Harcourt are only a contractor of repute while they have reputable members on the board. These may be changed if the partial shareholding is moved.

Senator T.A. Le Sueur:

That is, at this stage, speculation. I have no indication of whether the claim referred to in Harcourt's comments is justified, will be settled, but I repeat, that if Harcourt is not at the time of contracting held to be a company of repute then we would not conclude the arrangements with them.

2.1.6 Deputy G.P. Southern:

In the light of the statement the Deputy Chief Minister has just made that the Chief Minister was unaware of the content of this report until after the debate; can the Deputy Chief Minister justify ...

The Bailiff:

That is not what the Deputy Chief Minister said. The Deputy Chief Minister said that to the best of his knowledge, that he could not answer for the Chief Minister, that was his belief.

Deputy G.P. Southern:

That he believes that ... thank you, Sir. That his belief is that he was unaware of the content of this report; can he justify then the statement made by the Chief Minister which says: "The ruler has been run over Harcourt thoroughly and they have come up A1 every time" with the statement that Harcourt scored 1.4 on a test of ability to do the job - 1.4 out of 5 - and the words of the result in the table were "fail". Is that A1 every time and is that statement justified?

Senator T.A. Le Sueur:

I think it is difficult for me to speak for the Chief Minister and his interpretation of a report that he has not seen, but I suggest that the Deputy refers to my answer when I said that he quoted selectively one section of the report. Taking the report as a whole the board came to a view, and that view, I think, was communicated to the Chief Minister.

2.1.7 Deputy R.G. Le Hérisier:

Would the Deputy Chief Minister confirm, following on from that reply, that the interpretation placed upon the findings of the report by the States Directors who spoke were correct interpretations?

Senator T.A. Le Sueur:

The Board of Directors of W.E.B. came to a conclusion which, in the light of the report, I believe was a reasonable conclusion.

Deputy R.G. Le Hérisier:

Were they correct, not reasonable?

Senator T.A. Le Sueur:

I do not know, Sir, if I can justify correctness or incorrectness because I do not see an absolute yardstick. One makes a judgment on these matters. This was, I believe, a reasonable judgment, made in light of full information provided by an independent person.

2.1.8 Deputy P.V.F. Le Claire:

I asked a question of the Deputy Chief Minister who said that he did not understand the question and yet responded "no".

Senator T.A. Le Sueur:

Maybe I was a little bit short there, Sir, because I do not believe that the States has any contingent liability in this respect. Nor do I believe that it has any obligation to indemnify the developer; were that to be the case then there is not much point having the bank guarantees in the first place.

Deputy P.V.F. Le Claire:

Could I seek clarification please, Sir, from Her Majesty's Attorney General on this issue? Although it is a part of the consideration it is the end of the thesis that this is not going to be completed okay. Is it practice, could I ask Her Majesty's Attorney General, for the States to indemnify in land that is its own anyway, it is going to revert to the public in 150 years' time, any such negotiations, leases, contracts, *et cetera*; is it not practice that the States indemnifies these sorts of deals? Is it therefore not practice that the public ...

The Bailiff:

Deputy, I make it clear that it is not open for you to question the Attorney General, but you are asking for clarification from the A.G. (Attorney General) of the Deputy Chief Minister's response?

Deputy P.V.F. Le Claire:

It has arisen out of the fact that the Deputy Chief Minister has not answered my question satisfactorily in my view, Sir.

Mr. W.J. Bailhache Q.C. H.M. Attorney General:

I apologise, Sir, that I am not sure I am able to give a very convincing response to that question. It seems to me that there is ... what underlies it is a question of the commercial realities that affect particular transactions which the States do from time to time, and there is a very wide variety of such transactions. I am not sure I can help the Assembly much more than that.

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

In the Deputy Chief Minister's answer to Deputy Southern, Sir, is the Deputy Chief Minister implying that W.E.B. through its directors or its Chief Executive chose to withhold this report from the States until after the decision had been reached?

Senator T.A. Le Sueur:

No, I do not believe there is any intention to withhold the report from Members. This was an internal report to the directors of W.E.B. which was not felt to be relevant at this stage, and I emphasise "at this stage" to the proposition. The report simply was one part of a large number of pieces of information that the board considered in deciding whether Harcourt was suitable to be maintained as preferred developer but was not relevant specifically to this debate. The fact that it has chosen to be released subsequently is a matter for the person concerned.

2.1.10. Senator P.F. Routier:

Does the Deputy Chief Minister accept that the questioner could have been even more selective and chosen a section which would indicate that it was appropriate to proceed with the transaction but to monitor it carefully, and does the Deputy Chief Minister agree that the questioner is missing the point and the priority to the States is that a bank or insurance company are prepared to guarantee the position of the States?

Senator T.A. Le Sueur:

Yes, Sir, I believe I made it clear that one should never quote selectively from the report but looked at it as a whole, and as Senator Routier, who is one of the Directors of the Waterfront Enterprise Board, clearly indicates, the board did look at the report as a whole and came to the conclusions with which ... I agree with his conclusions.

2.1.11 Deputy G.P. Southern:

Does the Deputy Chief Minister consider that it would have been wiser to have released this report in its entirety before we had done the debate in the interests of having informed proper debates?

The Bailiff:

Deputy, if you want to put that question shall we move on to (b)?

2.2 Deputy G.P. Southern

(b) Why did they choose not to reveal this important information to Members in advance of the debate on the Esplanade Quarter Masterplan, P.60/2008?

Senator T.A. Le Sueur (Deputy Chief Minister):

The proposition which Members debated, proposition P.60, was a proposition in 2 parts. The first part dealt with the endorsement of the intention of the Minister for Planning and Environment to adopt the Masterplan for the Esplanade Quarter as an agreed development framework for the Esplanade Quarter. This part of the report is independent of who ultimately develops the scheme. Part (2) of the proposition deals with the land transfers necessary to allow W.E.B. to contract with a developer to undertake the scheme. It did not specifically refer to any one particular developer although Harcourt had been identified already as the preferred developer. For that reason, and in order to provide Members with a summary of the financial terms of the proposed development of the Esplanade Quarter, the provisions of Appendix D were included in the report and proposition

for information. But Members were not asked to approve the entering into of a development agreement with Harcourt. It was, and is, considered that the key financial security is, or will be, the provision of independent financial guarantees by a bank or insurance company.

2.2.1 Deputy J.A. Martin:

As all presentations to States Members as developer with architecture have so far been Harcourt, after we have agreed the principle in 2 parts, was there then a provision to go out to tender to other developers. Was this the intention of the Council of Ministers?

Senator T.A. Le Sueur:

No, Sir, as I indicated, Harcourt have been for 12 months now the preferred developer and, as preferred developer, they have expended considerable sums in working up the proposition which would enable them to provide this sort of activity and cost out how much it would be worthwhile. So, I do not think that at this stage there would be any reason to go out to tender when the board has already indicated that Harcourt is the preferred developer. If in further negotiations it is found that Harcourt are unsuitable as developers then it may well be that the board at that stage would go out to tender. But that is speculation of the future. At the moment Harcourt remains the preferred developer subject to being able to deliver appropriate satisfaction to the board and to the Chief Minister.

2.2.2 Deputy J.A. Martin:

So 12 months ago, before Harcourt were the preferred developer, we went out to tender to all other developers and interested parties. Can the Deputy Chief Minister please confirm that?

Senator T.A. Le Sueur:

I believe, Sir, that probably in 2006 discussions were held to going out to tender, as a result of which a number of potential developers were identified, narrowed down to a very small shortlist out of which Harcourt became the preferred developer. But that activity was carried out by the Waterfront Enterprise Board as part of their duties, and I think they came to a conclusion which, on the face of all the information provided to them, was a reasonable one.

2.2.3 The Connétable of St. Peter:

Given the major project that we were considering, did no-one on the Council of Ministers, when it came before them, feel that they ought to establish and find out a lot and more greater detail that clearly had been done and the background that had been carried out by the Council of Ministers? Because I think it is a case, Sir, we have been badly let down by the Council of Ministers.

Senator T.A. Le Sueur:

No, Sir, I have to make it clear that the process in this having identified a developer is to then bring the plan to the States, as the Council of Ministers did last week. Once the Masterplan is agreed then one goes into detailed negotiations with the developer. That will require up-to-date due diligence being carried out on that preferred developer. If that due diligence is not to our requirements then the contract would not proceed. But one does not do due diligence at an earlier stage prior to knowing what the plan is and then having to repeat it subsequently nearer to the event. At the time that the board chose Harcourt as its preferred developer they had all the information that they required, including letters of comfort from the banks to enable them to go forward as a preliminary stage that Harcourt should be the preferred developer.

2.2.4 Deputy P.V.F. Le Claire:

This issue of due diligence is an interesting one and the terminology “up-to-date due diligence” is specifically interesting. When Scrutiny examined the proposals for the moving of the tourism buildings we conducted a Scrutiny review with the then chairman, Mr. Margason and I put it to Mr. Margason at the time that as a report had surfaced in the local media about certain directors

associated with this company, Harcourt, were W.E.B. satisfied with the due diligence in this company? His response was: “Yes, the due diligence had occurred and it was fine, everything was okay. All the boxes has been ticked.” That is a matter of record. Could the Deputy Chief Minister then explain to us what aspect of the up-to-date due diligence is he referring to? Is he referring to the money or is he referring to the company or is he referring to the directors?

Senator T.A. Le Sueur:

Having ascertained that Harcourt was competent to carry out this development negotiations continued with them as a preferred developer. The detailed due diligence on any contract will be done at the stage that the contract is in the process of finalisation. One does the most up-to-date due diligence one can do, and I apologise if the Deputy is confused about the words “up-to-date”. What I am saying is that due diligence carried out a year or 2 ago would not be suitable as a current verification of the ability of any contractor to do this work. Hence, having determined that Harcourt are likely to be the contractor, when we come to the final detailed negotiations on the contract we will do due diligence at that time.

2.2.5 Senator F.E. Cohen:

Would the Deputy Chief Minister please confirm that Harcourt was selected as the preferred developer for Esplanade Square long before I began the process of crafting the new Masterplan?
[Laughter]

Senator T.A. Le Sueur:

The Senator has a better memory than I have. I said 2006 or so, it was clearly earlier than that but I am happy to be corrected by the Senator.

2.2.6 The Connétable of Grouville:

Would the Minister not agree that the proposed investigation by Carey Olsen into the Nevada situation would simply be an attempt to try to prejudge the court case that is already going on there, and if it turns out to be vexatious, in fact, loading the onus onto people who perhaps have absolutely no way at all of knowing what the possible outcome of that case will be?

Senator T.A. Le Sueur:

At the moment Carey Olsen are investigating the nature of litigation, or supposed litigation, because I believe that this did raise concern in Members’ minds. I cannot, at this stage, judge what the outcome of that investigation will be but certainly no lawyer would be in a position to prejudge or second guess the outcome of that litigation. I think what Members and W.E.B. need to know is whether that litigation is germane to the appointment of Harcourt as developers, and if anything came out of that investigation which suggested that they might not be, the States should be fully informed of that.

2.2.7 Deputy A. Breckon of St. Saviour:

If I can come back to question (b) and the question you are asked in there about revealing this important information, and I would like to ask the Deputy Chief Minister if he agrees that access to emails between all Ministers on the Waterfront, on W.E.B., on Esplanade Square are made publicly available and that will prove what they knew and when?

Senator T.A. Le Sueur:

I do not think that Ministers or States Members discuss things exclusively by email, and while that may give some indication of some people’s thinking it would not, by any means, produce a complete picture. I cannot see any point in going down that sort of level of activity unless the Deputy is after a witch hunt. I think it is far more important that we concentrate our efforts on seeing whether Harcourt is, indeed, a suitable developer for the waterfront scheme.

2.2.8 Senator J.L. Perchard:

Is the Deputy Chief Minister aware of the Corporate Services Scrutiny Panel's report 2008 review of the proposed Waterfront development, Esplanade Square, Les Jardins de la Mer and Route de la Liberation's conclusion, which is one paragraph, Sir, and it says: "From my examination of the process as described herein I am satisfied that the arrangements with the preferred developer have been carried out professionally and with regard to obtaining value for money within the confines of the Hopkins proposals. There are of course wide-ranging demands placed upon this scheme both social and economic, and the proposals have to satisfy many criteria. Given its complexity and subject to the necessary safeguards built in I can see no reason why the scheme should not proceed in this manner." Is the Deputy Chief Minister aware of the conclusion in the Corporate Services Scrutiny Panel's report?

Senator T.A. Le Sueur:

Yes, Sir, I am grateful to the Senator for reminding me [Laughter] of the content of that report which does indeed show that all the activities to date have justified the action that the board of W.E.B. and the Council of Ministers have taken. Clearly that report in February - it goes up to February - up to that date everything had been done in accordance with what would be expected. All I am saying now is we will continue along the same lines, using the same policies, before finally signing a contract with the preferred developer.

2.2.9 Deputy G.P. Southern:

If I may remind the Minister, this is not about a wish, this is about accountability, and does he consider that in the interests of an open and informed debate it would have been better to have released the full contents of the PwC report, including the reservations expressed in 2.2, along with the overall glowing recommendation as recorded by our Director, Senator Perchard: "We decided to do a second due diligence and we got PwC to do that. Their report of Harcourt was a glowing one. They recommended them as suitable." I see nothing in appendix D that recommends them as suitable. It simply goes through a set of facts. The Members could not necessarily have the skills to interpret appendix D, would it not have been better to have had the full report so that we could have an informed debate?

Senator T.A. Le Sueur:

I believe that Members are quite capable of interpreting appendix D which was written in clear language and was put into the report for information. It was there as an adjunct to the main proposition which was to approve the Waterfront Masterplan and to arrange a land swap. So I do not believe it would be necessary to add anything further to appendix D by way of clarification, it is perfectly clear.

2.3 Deputy G.P. Southern

(c) Having failed to release this data earlier why, when pressure was applied over information relating to the financial deal, was it not revealed during the debate so that Members could consider it properly before coming to a vote?

Senator T.A. Le Sueur (Deputy Chief Minister):

I believe we probably dealt with that question in the last half hour; but the Chief Minister provided information about the guarantees that are required in order to secure the financial standing of the deal. That is the key issue that was necessary to consider. However, W.E.B. have agreed that they will undertake another due diligence report into Harcourt's financial standing. This will be shared with the Chief Minister and Treasury Minister and I hereby undertake to provide a report on the financial standing, and the nature and security of the independent financial guarantees to all States Members before any legally binding development agreement is signed. This will allow all of us to

be satisfied with the security of the deal and to ensure that the public interests are properly safeguarded.

2.3.1 Deputy G.P. Southern:

I thank the Deputy Chief Minister for that commitment but I wish to return to the conduct of the debate on P.60 and ask him again whether he considers that the conduct of the Chief Minister and our representatives on the W.E.B. board on that day was appropriate in order to have a fully informed proper debate on that decision?

Senator T.A. Le Sueur:

Yes, Sir, I do believe it was proper and I do remind the Deputy just what the proposition said, and the words of the proposition, I think, are quite important in this, the proposition on part (b) was to do with the land arrangements, not to do with the appointment of a developer.

2.3.2 Deputy R.G. Le Hérisier:

Would the Deputy Chief Minister confirm that this episode illustrated that the role of the States Members on W.E.B. was working perfectly well and, indeed, it was an excellent example of how it was working. Would he confirm that in his view that is the case?

Senator T.A. Le Sueur:

I have confidence in the entire board of the Waterfront Enterprise Board, States Members and non States Members. They are doing a sterling job in helping to provide us with a Waterfront which I believe all of us in due course can be proud.

2.3.3 Deputy J.A. Martin:

When States Members and this report does just presume that we cannot get the 100 per cent guarantee we are looking for, could the Deputy Chief Minister inform the House how long it will take us to get back to this position with a new developer?

Senator T.A. Le Sueur:

No, I am not in a position at this stage, Sir, to give any indication of that. Clearly the preferred developers have put a lot of time and effort into this and if they were to be unsuitable as developers then any new developer coming in would have quite a lot of learning and catch up to do, and I cannot at this stage say whether that would take them days, weeks or months. So it would be foolish for me to put any timescale on that activity simply to say that there would be a further delay.

Deputy G.P. Southern:

Point of clarification, Sir, if I may. The Minister referred to a new examination of the financial situation and a report back, he did not say when, could he do so?

Senator T.A. Le Sueur:

I said in my reply, Sir, that I undertook to provide that report before the legally binding development agreement is signed, so I cannot say how long it will take to produce that legally binding development agreement. All I can say is that even if the development agreement was available, unless the financial standing had been ascertained the development agreement could not be signed and would not be signed.

The Bailiff.

This matter is not on the Supplementary order paper but I have given leave to Senator Perchard to make a short personal statement.

PERSONAL STATEMENT

3. Senator J.L. Perchard:

I would like to apologise to Deputy Baudains and to the House for making statements which were unintentionally misleading during the debate on the Esplanade Quarter last week with regards to legal actions taking place in Nevada. I made those statements in good faith as I thought the information I had in my possession was correct at the time I addressed the Assembly. Since it transpired that this information was out of date and therefore incorrect. I would like to apologise unreservedly.

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

If I might thank the Senator for those comments and presume, if I may, suggest that perhaps the Members of the Assembly as well. Could I ask him ...

The Bailiff:

No, you cannot ask him anything because Standing Orders do not permit questions on a Personal Statement, Deputy.

Deputy G.C.L. Baudains:

Thank you for your advice, Sir, I shall ask him privately. [Laughter]

PUBLIC BUSINESS - resumed

4. Draft Public Elections (Amendment No. 3) (Jersey) Law 200- (P.65/2008)

The Bailiff:

Now we come back to outstanding Public Business, and the first item on the order paper is the Draft Public Elections (Amendment No. 3) (Jersey) Law, projet 65, in the name of the Privileges and Procedures Committee, and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Public Elections (Amendment No. 3) (Jersey) Law 200-: a law to amend further the Public Elections (Jersey) Law 2002. The States subject to the sanction or Her Most Excellent Majesty in Council have adopted the following law.

Connétable D.F. Grey of St. Clement (Chairman, Privileges and Procedures Committee)

I ask that the Vice Chairman of P.P.C. (Privileges and Procedures Committee), the Deputy of St. Mary, act as rapporteur, Sir.

4.1 Deputy J. Gallichan of St. Mary (Vice Chairman, Privileges and Procedures Committee - rapporteur)

I am pleased to be able to present this proposition today as it represents the combination of collaborative work between the Privileges and Procedures Committee, the Comité des Connétables and the Parishes, the Jurats and the Judicial Greffe. After much initial independent work by these interested parties, a working party was set up under my chairmanship late last year in order to bring together all the observations, comments and conclusions into the comprehensive package of amendments to the Public Elections (Jersey) Law 2002, which you see before you now. The aim of the projet is to refine and extend the principal law to ensure that everyone eligible to participate in the electoral process is empowered to do so in a secure and confidential environment. It further aims to ensure that associated administrative processes are free from ambiguity, robust and fully workable. The working party began by addressing certain administrative problems which had come to light since the introduction of the 2002 law. Now that 2 full electoral cycles had been completed it was clear that there were some issues that were not simply teething troubles which

should be worked around but which should be addressed by legislation to ensure common treatment in all elections. It was also recognised that this was a chance to address several previous unforeseen situations that had simply not been catered for by the original law. There is also now the opportunity to consider certain policy questions and to change the law or not in the light of today's debate. In addition, it has also been necessary to accommodate recent decisions of this House. This has meant that there is a tight timescale for this debate but the committee is still hopeful that with the assistance of the Attorney General there is a reasonable chance that Royal Assent can be gained in time for any agreed changes to be made in time for the coming elections. The matters to be dealt with are quite self-contained within the relevant Articles and can be decided on in separate votes by this House. They range from fundamental changes such as the establishment of a true rolling register to relatively minor but important changes, such as moving the responsibility for the design of ballot boxes from the Minister for Home Affairs to the Comité des Connétables. I will deal with each of these issues in detail when proposing the Articles and so for now, Sir, I propose the principles of the law.

The Bailiff:

Is the proposition seconded? **[Seconded]** The principles are before the Assembly for debate.

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

Just to make a change, Sir, I would like to congratulate the Privileges and Procedures Committee on what I think is a very well thought out set of changes. I say that with some level of bias, Sir, because as Vice President of the former Legislation Committee I did a report on public elections. I am not sure if it made any contribution to the current proposition but I am very pleased to see that some of the recommendations from that report are clearly echoed in this proposition and I think it provides a very useful step forward in terms of how we run our public elections, particularly in respect of the rolling registers aspect. I think there has been a level of confusion among the voting public and certainly we have been rather swamped with reminders to sending forms to the Parish Hall, it is all extra expense one way and another and we can probably do with that level of saving, and also make it easier for Islanders to be assured that they are registered to vote. I think it was disconcerting for many, many voters to suddenly realise that if they did not keep up with the pace they would suddenly find themselves crossed off the voting register, and I know that many, many local people felt that there were various mechanisms that could have ensured other ways of making sure they stayed on the register, after all they were saying: "We voted once, we have not moved, we are still living here, we are still Jersey residents, what has changed?" So, I think that we are looking at some very useful reforms here and I commend the Committee for their efforts.

4.1.2 Deputy G.P. Southern:

I will rise to my feet just to speak briefly on the overall principles behind the law. While I admire much of what it contains, it certainly seems to be steps in the right direction, I have my concerns about Article 8, removal of name from the register, I am not sure that the Committee have produced what they intended, a true rolling register. It seems to me there are some difficulties there, and Members will note that in my amendments I spend a lot of time discussing Article 13, and I do advise Members to read my amendment report on Article 13. Article 13, I have serious and fundamental objections to and I will, at the appropriate time, be encouraging Members to reject this particular amendment.

4.1.3 Deputy R.G. Le Hérissier:

I, like Deputy de Faye and, to an extent, Deputy Southern, support the principle. Just 2 points, Sir. The point has been raised previously, why - for not all of these - but why when one is making minor administrative changes does it have to be brought before the States? I have been told previously this is to do with the importance of electoral law and it has to be entrenched into primary law, but it does make for a very rigid system, which requires a lot of energy to change it. The

second thing is, Sir, although it is not covered in these Articles, it is a point I have been hammering on to no effect, it should be added, for several years, is the quality of the advertisements. We have got yet another one, a totally turgid advertisement for the Procureur de St. Clement in the press at the moment, which is absolutely meaningless to the public. It is a total mass of gobbledegook and there have been all sorts of attempts to improve the level of advertising to make it more relevant to the public, and we are spending hundreds of pounds every time on totally useless advertising. Is there any way we can deal with that?

4.1.4 Deputy S. Power of St. Brelade:

I wonder, could I ask the rapporteur to attempt to explain or maybe she has an exact explanation - if I draw the rapporteur's attention to page 8, the tables on page 8 and on page 9 which are the 2002 election results and the 2005 election results - how there appears to be a large spike in the number of papers sent out in St. Helier No. 2 and the difference between the number of papers sent out in St. Helier No. 2 and the number of papers returned, and the same thing appears to be happening at St. Martin. It appears that St. Martin had nearly 300 sent out and just under 200 returned; St. Helier No. 2 in 2002 had 159 sent out and 100 returned, and if I draw the rapporteur's attention to page 9 on the 2005 election results it appears that St. Helier No. 2 had 186 sent out with 96 returned, and while there is no analysis of St. Martin for 2005 she might have an idea of how many papers were [Interruption] ... I know that, but I would wonder if perhaps she might comment on that.

4.1.5 Senator P.F.C. Ozouf:

I welcome too many of the provisions that have been brought forward by P.P.C. I particularly welcome the debate that we are going to have in relation to postal voting. It is absolutely essential that there is absolute integrity in the poll and there have been, as will be no doubt discussed later on in the debate [Approbation] some reference to the integrity of polls elsewhere in the United Kingdom, particularly in relation to postal voting. There are serious issues which must be discussed in this Assembly on this important issue. It is some years since I have been involved, regrettably, in voter registration campaigns. We have previously discussed in this Assembly the importance of turnout in elections, not being a simple turnout in relation to the number of people on the roll but a calculation of the potential number of eligible people. That is the international statistic which must be compared in order to get legitimacy of elections. It is disappointing, despite the work that some of us, including myself, did a number of years ago on registration, that registration still appears to be a real issue. There have been provisions put in place in order to improve that. For example, to provide reminders for households that have not, for example, returned a form. P.P.C. appear to be taking the right decision but it is a simple decision to allow a rolling register. I note, Sir, that the Constable of St. Helier, who is not in the Assembly today, I think he is to be congratulated in appointing an electoral officer to work hard with his Parish in order to ensure that people are encouraged to get on the voter register. It is not simply, Sir, a simple issue of reminding people by letters. In other places there are statutory provisions that local authorities must go round and physically visit places and houses that do not have registered voters. That is a real issue. May I ask the Vice Chairman of P.P.C. to explain to the Assembly whether or not she has considered, with her committee, such measures to be put forward in Jersey. I realise that there are issues that some people will say: "Oh, it is simply a fact that people need to be not lazy and respond to their forms" but people need to be encouraged. People have busy lives, voter registration might not, at the point that voter registration is dealt with, might not be the most interesting thing that people want to do. They subsequently realise there is a problem. Does she also commend the Constable of St. Helier on the initiative he has taken and would she consider any further encouragement by P.P.C. in respect of encouraging people by physical visits of where there are no voters in householders to get on the role. That, I say, in the context of being completely disconnected from candidates doing it.

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

I support this proposition and I congratulate Privileges and Procedures on bringing this forward today. I very much hope that the provisions will be in, in fact, in time for the coming elections. One thing that I think is excellent is the concept in establishing a rolling register.

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

I too would like to congratulate the Deputy of St. Mary and her colleagues on an excellent bit of work. There has clearly been a lot of work and they have identified a number of anomalies that needed to be sorted out, and I thank them for that. I think they have done an excellent job. I only have concern with one Article and it is not so much about the proposed change, it is more the signal it sends out, and it is Article 9. We have been talking a little bit this morning about encouraging people to vote and it is about the changing of the times of the polls and going from 8.00 a.m. to 10 a.m. I do appreciate that a number of Connétables have said that they do not have that many voters coming at that time, but it is a relatively new thing. It is something that changed not that long ago, and I would suggest that it is given more time because it sends out the wrong signal if you are going to shorten the voting day to the public that want accessibility, particularly working people. I do know at St. John, in particular, a number of working parents that have voted early and then gone to work after dropping children at school and so on. So, I do think it should be maintained and that is the only Article I think that I have any objection to. I would also like to ask the rapporteur as to whether anything has been done concerning looking at other methods of voting using technology rather than just sticking to the old proven methods of voting. Other countries around the world are looking at this, are we going to? Also, is there going to be any follow up on the lowering of the age to 16 for voting? In other words, what is happening from the Education Department's perspective and so on, in encouraging those people that now have the right to vote to use it?

The Bailiff:

I call upon the rapporteur to reply.

4.1.8 The Deputy of St. Mary:

For one lovely moment there, Sir, I thought I was going to get nothing but congratulations, unfortunately I do have a bit of work to do. Firstly, Deputy de Faye, yes I would like to confirm that the working party did look at all the proceedings, reports and work that had been done and, as the Deputy rightly says, Sir, a lot of earlier recommendations were taken on board. Deputy Power and the Deputy of St. John raised specific questions regarding certain Articles, Articles 13 and Article 9 respectively, and they will be fully dealt with, I think, during the time when I speak to those Articles. With their leave I would like to reserve my comments until then. Deputy Southern and Senator Ozouf also made particular reference to Article 13, and I look forward to a strong debate on that Article and I think we are going to be able to debate it very fully. Deputy Le Hérisier has, as he mentioned before, the rigidity of the way we come back to address what he calls minor tweaks in the law. Apart from the fact that of course at the moment, by the way it is set up, we are obliged to bring these back for debate. I think it is quite simply the importance of the robustness of an electoral law which means that we must continue to debate these things fully in the House. I take his point with regard to the advertisements, but there is unfortunately a turgid form because there is a turgid amount of information that must be got out. I agree that perhaps that could be looked at again. I thank Deputy Scott Warren for her comments and would just like to say that as regard to the ... there was another point made by Senator Ozouf. I do commend the Constable of St. Helier most strongly for the work he is doing with the electoral register. I think possibly that is something that we could analyse in future and see exactly what results have happened there. At the moment the committee has not discussed the possibility of making an official visit to all addresses where there is no one registered. Over time, of course, with the rolling register we should get fewer and fewer households that do not have any representatives and perhaps at that time it would be something that could be looked at. For the moment, Sir, I move the principles.

The Bailiff:

I put the principles of the Bill. Those Members in favour of adopting them kindly show. Those against. The principles are adopted. Now Mr. Vice-Chairman of the Corporate Services Scrutiny Panel, do you wish to scrutinise?

Deputy C.H. Egré of St. Peter (Vice-Chairman, Corporate Services Scrutiny Panel)

No, Sir.

The Bailiff:

Thank you very much. I call upon the rapporteur to move Article 1.

4.2 The Deputy of St. Mary:

Article 1 is simply a definition of the principal law, meaning the Public Elections (Jersey) Law 2002, and I propose Article 1.

The Bailiff:

Article 1 is proposed and seconded? **[Seconded]** Does any Member wish to speak? I put Article 1, those Members in favour of adopting it kindly show. Against. The Article is adopted. Now we come to the first of the amendments by Deputy Southern and I ask the Greffier to read amendment 1.

The Greffier of the States:

1. Page 17 new Article. After Article 1 insert the following Article. 2. Article 5 amended. In Article 5(1)(c) of the principal law: (a) in clause (i) for the words “2 years” there shall be substituted the words “18 months”; (b) in clause (ii) for the words “5 years” there shall be substituted the words “3 years”.

4.3 Deputy G.P. Southern:

Members will be aware of my long standing commitment to attempting to reduce the length of time required before members of our society can participate in our electoral business and take a full part in doing so. We recently heard calls from the president of Madeira for greater, again, involvement of the Portuguese community, some 8,000 strong, in our democracy and democratic processes. Equally, we now have perhaps a Polish community which is 4,000 to 5,000 strong; again which I believe should be given the maximum encouragement to participate in what is their chosen home. This therefore follows on from a series of amendments that I have made over the past 12 months for initially to reduce the qualification time to zero, and Members decided they certainly did not want to go that far; and then to one year in January of this year, again Members chose to reject that move; and this one, again, comes further towards the status quo, and I am now proposing 18 months as the fundamental base point, 18 months permanent residence before people can involve themselves in our electoral system. I do not wish to rehearse all the arguments around reducing that period of time. I merely remind people that this is one way to welcome those minorities into our community and say: “You are fully welcome to participate in our society.” It is an inclusive move which has been encouraged by numerous senior members of our society in speeches, certainly over the past 2 years. This is a way in which we can significantly mark, yes, we do want minorities our society and we are prepared to be as inclusive as we possible can. The reality, I believe, is that perhaps not very much difference will be made because we only have elections, by in large, every 3 years. So the likelihood is that most people will have been here for the required period during that interval. Two years or 18 months may not make a great deal of difference but gives a significant marker that says: “We do wish and we are bending over backwards to be as inclusive as we possible can.” I see no dangers, absolutely no dangers, in accepting this amendment, 18 months, 2 years; 18 months is, I believe a move in the right direction and I encourage Members to support this amendment.

The Bailiff:

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

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

We are back again debating something which I think we should have agreed to previously. I think it is important to remind Members of the House that prior to 1994, I think it was, or 1995 at the very latest, the general rule was that the law was that if anyone came to the Island and they were a British subject there was no waiting period at all. So it did not matter how soon you came over providing you were a British subject. However, if you were a non British subject you could not vote at all. It did not matter how long you were here you could not vote and it was seen to be unfair for that system to continue. By way of a sort of compromise it was agreed that because in those days we did not have I.T.I.S. (Income Tax Instalment Scheme), one did not pay income tax probably for 2 years, it was deemed that 2 years might be the reasonable period for anyone, whether they came from the U.K. (United Kingdom) a British subject, or were a foreigner. They would all have to wait 2 years. That is how the law has been ever since it was passed, say, 1993, 1994 or 1995 at the very latest. Quite clearly we have moved on from there. We are trying to encourage more and more people to participate in what is going on in the Island and, in particular, voting. More importantly, I think, people now start paying income tax almost from the time they are here and they start working. So the old argument about “they had to be here for 2 years before they were paying tax” goes out the window. So I would like us to think that we have moved forward. I personally would not have thought there was need for a waiting period at all. I would rather we went back to the old days where as long as you were paying your tax irrespective of whether you were a British subject or not you could vote. However, that is not before us today. What we have today is reducing the time, the waiting time, to 18 months and I think it is perfectly reasonable. One issue I would like to raise though, it was in January when we debated this particular issue, I do remember the Deputy of St. Mary - and she has a smile because she knows I am going to remind her - that she did say that they were addressing this issue when they were giving consideration to this particular document. I have looked at the committee minutes and there is no mention at all really of looking at the reduction. I am being reminded I am wrong. I stand corrected, but I was looking to see where, in fact, why the reason was that this was not reduced. Under item 8 it says: “The Committee agreed that requirement for a person who has been resident in the Island for 6 months up to the date of application and a total of 5 years previously shall not be removed.” But that is slightly different from what we have in front of us here. What I am asking for Members is to support the amendment by Deputy Southern. It is one small step but I think it is a very, very important step - 18 months is much better than 2 years.

4.3.2 Deputy G.W.J. de Faye:

I do not agree with that view. I think one of the interesting features of those who have come to live in the Island from elsewhere is, generally speaking, the politeness and deference with which they treat the local culture. There is a respect that they have come from somewhere else and they wish to join us, to work with us, to live with us, but it has always struck me how the many nationalities, French, Italian, Portuguese, Polish, have really made a point of recognising our local culture. As Members will know, it is the gradual erosion of our local culture that I think is probably one of the more serious issues of our time. If we were speaking in a regional parliament in Brittany or Normandy or perhaps Italy, a county council perhaps somehow discussing this issue in the United Kingdom, I would have no qualms whatsoever about saying there should be no waiting time to vote at all because the systems and the way the systems operate are, generally speaking, almost universal and homogenous throughout the entire European Union, where people used to political parties have determined for many years themselves as either young people growing up to be voters, or as voters, that they are likely to be Conservative or right wing, they will have links with the Christian Socialists or the Liberal Democrats, and they have systems that they know and understand and democratic systems that they know and understand. But coming to Jersey, that has all changed. We have a unique political system here and we have a unique political culture which is almost

entirely dependent on the independent political representative. I do believe that under those extremely unique circumstances we do need to take a slightly different view of just when people should be accorded a vote. I am pleased to see that Deputy Southern is slowly, month by month, inching his way towards the Privileges and Procedures Committee position, and I would imagine that now we have got down to the difference between 18 months and 2 years, this may be the last proposition he brings on this particular topic. But I believe that the current position is the right one, it seems to me that it is right that a 2 year time period for continuous residence is appropriate and similarly, and let us remember that it applies to British subjects as well, and in many respects the major danger of cultural erosion comes from that very direction. Similarly, I am entirely happy that for people popping in and out of the Island, there seems to be little wrong in my view with a 5 year total period. I would urge the House that this is one of those occasions where what is in place is right and should stay in place.

4.3.3 Deputy C.J. Scott Warren:

I support this amendment for a reduction from 2 years to 18 months residency before a person is allowed to vote. Newcomers to our Island will still face a period of taxation without representation and I see this as a positive and inclusive way forward.

4.3.4 Deputy J.A. Martin:

It is always very interesting to listen to Deputy de Faye. Every time we have spoken on this argument his arguments against change. He said if it was a local council or somewhere else he probably would not have a problem. In his last debate he said: "Let us look at anywhere else in the world, they do not let anyone who has just come in vote." This amendment is not now anyone who comes in to vote, we are just asking it go down to 18 months. The Deputy of St. Martin made the point that we do now have I.T.I.S., people also pay social security and now, of course, the one that everyone cannot avoid, G.S.T. (Goods and Services Tax). I think it is reasonable. I voted for the immediate inclusion of people to vote; that one was voted against. I voted for the year; that one was voted against. I will be voting for the 18 months. We want people to be involved in our society. We tell them they cannot vote for 2 years. It is our laws. Most people, as I said in, I think, a speech I made a couple of debates ago on this subject, that this is not the first thing they look for. But I think under our law and looking to keep people inclusive we need to give them a chance, and I think this is reasonable. We are just trying to ask for less than 2 years. Again, this has not been addressed obviously by Privileges and Procedures because this is exactly the same time, it has always been in the principal law. If that is what they want, that is what they are sticking to. This amendment asks us to change. Really, Sir, I have not got anything else to add but I think for 6 months we really do not want to obviously keep the debate too long and everyone will have their opinion, but I am just telling you that I think that we should drop it to 18 months.

4.3.5 The Deputy of St. Mary:

Firstly, if I just very briefly advise the House that indeed the Privileges and Procedures Committee did look at length at making some change here. We were particularly focusing on removing the 6 month re-registration requirement, but there were difficulties involved in that and we were unable to resolve them in time, which is the reason it is not in the draft legislation you see before you. Moving on now, I would just like to discuss what Deputy Southern said when he said he was wanting to make sure that we included our minority populations. Absolutely, I agree, that needs to be done but my question to him would be: the majority of those minority population, the majority of Madeiran originating community, for example, and now a great deal of the Polish one, have been here already more than 2 years but are not participating. I just wonder how much greater involvement of those communities will be achieved by this. Really, I think the issue of inclusion lies somewhere else and needs to be tackled in a different way. Personally I think the current situation as regards the 2 year qualification, at least, is the correct one and this small change is really a tinkering change. I believe that we have a relatively brief time requirement for registration.

Most other jurisdictions, where there is a shorter time requirement, do have a citizenship qualification. Ultimately this is going to be a political decision, but if the issue merits amendment then surely it merits a comprehensive examination and perhaps a more fundamental change, and I will not be supporting this amendment.

4.3.6 The Deputy of St. John:

I cannot really see any reason to object to this amendment whatsoever. If people are contributing to our society then they should be allowed to vote. In fact, I look forward to the day when hopefully some of our ethnic minorities in Jersey are sitting in this House, which does not happen at the moment. This type of proposal will encourage people's participation. So, I would fully support this and, like I say, anything that can be realistically done to encourage participation from all segments of our community should be encouraged, and I commend the Deputy for proposing the amendment. I will be supporting it.

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

I am not going to support the amendment. I think P.P.C. have looked at it and they said it is not appropriate at this time. Personally, I think it is a reasonable approach they are adopting. I support the words of the Deputy of St. Mary and I think we should support P.P.C. on this matter and reject the amendment.

The Bailiff:

I call upon Deputy Southern to reply.

4.3.8 Deputy G.P. Southern:

I thank all Members who have contributed to this debate, albeit briefly. Certainly the Deputy of St. Martin for reminding us he has been involved for a while now, for a long time, more years probably than he cares to remember, and talking about the history of why did we get 2 years. Because that was when we started paying taxation and that was considered to be appropriate at the time. In other words, it is an accident of history. So there is nothing written in stone about 2 years, it is just a mark that was fixed upon because of the situation at the time when we wished to make ourselves more inclusive and open up the vote to non British citizens. That is the fact. So there is nothing magical about 2 years. Despite that, Deputy de Faye, once again, puts his usual clarion call to defend something he calls, I think, Jersey culture and says that minorities do recognise our local culture and I did not see the point of what he was saying. Does he think that a move from 2 years to 18 months before you can register to vote is going to bring down Jersey culture? I do not believe that is a realistic prospect at all. Deputy Scott Warren was fully in support and reminded us that this is an aspect of 'no taxation without representation'. We have now changed the system historically so that people do pay tax from the moment they get here. It seems to me absolutely appropriate that they should be included in the mechanism for representation, and again that argument has been rehearsed several times. Deputy Martin also pressed that particular point and reminded us that she has voted on this 3 times now ... she is about to vote on this 3 times now. In response to Deputy de Faye, and in response to the Deputy of St. Mary, I can assure both of them that I will not be coming forward in the near future with any similar such request. I will tell you why, because it seems to me that the argument produced by the Deputy of St. Mary that this was now such a small move it constituted tinkering and that what we ought to do is do something else elsewhere to fix the machine. It seems to me that is a logical fallacy. I urge Members, please, do not fall into this trap of saying: "We rejected you the first time when you said zero, we rejected you the second time when you said one year; because that is too serious a move. We do not want to go that far." Now I am talking about a very relatively small move from 2 years, not set in stone, to 18 months. Just as a symbol. Please do not again reject it by saying: "Well, that is too small a move, it is not worth doing" because that seems to me the argument that was being presented by the Deputy of St. Mary. She called it "just tinkering". A classic double bind. The other double bind

she threw into the argument, and how often we hear it, is that: “Of course what we need to do is not do this which can be done in a straightforward manner and might improve things; it certainly contains no dangers. What we need to do is to spend 6 months or whatever working on another area and make sure we have got everything bolted into that piece of legislation, and some time in the future we will come back to you and we will amend it in a different way: trust us.” That is a classic double bind I have heard several times in this House over my 7 years. Again, not to be followed. I thank the Deputy of St. John, as he said: “I have no reason to object. The principle is right and there is no reason to object. No dangers involved.” Deputy Le Fondré takes his what I am afraid is his usual conservative position, no change, no change, no change on anything because everything is perfect in the best of possible worlds. So, I believe it gives a signal of inclusivity which I believe we should be taking. There are no dangers involved, please Members, please Members, support his particular amendment.

The Bailiff:

I ask the Greffier to open the voting which is for or against the amendment of Deputy Southern.

POUR: 19		CONTRE: 22		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator T.A. Le Sueur		
Connétable of St. Martin		Senator P.F. Routier		
Deputy R.C. Duhamel (S)		Senator M.E. Vibert		
Deputy A. Breckon (S)		Senator T.J. Le Main		
Deputy of St. Martin		Senator J.L. Perchard		
Deputy P.N. Troy (B)		Connétable of St. Ouen		
Deputy C.J. Scott Warren (S)		Connétable of St. Mary		
Deputy R.G. Le Hérisssier (S)		Connétable of St. Peter		
Deputy J.B. Fox (H)		Connétable of St. Clement		
Deputy J.A. Martin (H)		Connétable of Trinity		
Deputy G.P. Southern (H)		Connétable of Grouville		
Deputy of Grouville		Connétable of St. Brelade		
Deputy of St. Peter		Connétable of St. John		
Deputy J.A. Hilton (H)		Connétable of St. Saviour		
Deputy S.S.P.A. Power (B)		Deputy J.J. Huet (H)		
Deputy S. Pitman (H)		Deputy G.C.L. Baudains (C)		
Deputy A.J.D. Maclean (H)		Deputy S.C. Ferguson (B)		
Deputy K.C. Lewis (S)		Deputy of St. Ouen		
Deputy of St. John		Deputy G.W.J. de Faye (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy of St. Mary		

The Bailiff:

We come back to the amendments in the name of the P.P.C. and invite the rapporteur to propose Articles 2 and 3 together, perhaps?

4.4 The Deputy of St. Mary:

Article 2 substitutes Articles 6 to 10 of the 2002 Law. The new Article 6 refers to the electoral register. The situation under the current law is that while every elector has a duty to register on an annual basis the electoral register itself has a 3 year life and is cleared down and started again from scratch at the end of that time. Experience has shown that the current provisions lead to a gradual increase in the number of registered electors over the 3 year period with a sudden fall-off in the first year of the new 3 year cycle. This is most probably because people who are entitled to be registered simply omit to make an application for their name to be included on the new register. As can be seen from the table on page 4 of the report accompanying this proposition, the variation in

the number of registered electors is, in fact, quite staggering. The Privileges and Procedures Committee does not believe it is acceptable for a system to be in place that allows for such drastic variations and which inevitably means that many people entitled to be on the register are not included. This new Article 6 therefore creates for the first time a true rolling register. Once these amendments, if adopted, to the law are in force the register will never again be wiped clean and will simply be updated over time. In addition, as there are no longer any elections held on a Vingtaine basis there is no longer any relevance for a register to be drawn up by a Vingtaine, and this Article also removes that requirement which would otherwise remain as an unnecessary bureaucratic burden for the Parishes. The new Article 7 explains how the Connétable will collect information for the rolling electoral register. Once a year the Connétable will send out a form to every unit of dwelling accommodation setting out the names of persons already registered to that address. As at present, it will then be the duty of each person ordinarily resident who is entitled to be registered to check the form, amend it as necessary, and return it to the Connétable. The present requirement for 2 reminders to be sent in the event of a non return is removed as in the absence of a return the current information will remain on the register. New Article 8 sets out how the rolling register will be maintained over time. Paragraphs (1) and (2) mirror the current law but paragraphs (3) to (5) give new provisions. The rolling register will be able to be weeded if the Constable knows that a person is deceased or no longer resident in the electoral district. The Privileges and Procedures Committee has been informed that there is now good liaison between the Superintendent Registrar and the Parishes to forward information on persons who are deceased. Paragraphs (4) and (5) of the new Article 8 set out that if no reply to an annual notice is received for 3 years the Connétable will contact the person concerned and explain that his or her name will be removed from the register unless a reply is received. This will be another mechanism for the Connétable to remove names from the register if persons are no longer resident in the electoral district concerned. The committee accepts that the new rolling register may have the consequence that persons are included on it when they are no longer resident in the relevant electoral district but on balance the committee is convinced that this is a preferable situation to the current one where many people who should be on the register are clearly not included because of the current 3 year cycle. Furthermore, if a person leaves one district and registers in another it should be remembered that their name will automatically be removed from the list of the first district. Safeguards are in place to ensure that provided persons registering give accurate personal details they cannot be registered in more than one district simultaneously. The new Article 9 contains an entirely new provision which is being brought forward in response to concerns expressed to the committee about people who have valid reasons because of threat of personal harm, for not wishing to appear on the electoral register. There is evidence that a small number of people have opted not to register and have thereby lost their right to vote because of this concern. This new Article allows any person believing they might suffer personal harm if their address was known publicly to apply to the Connétable to be registered to vote without being included on the public register. Following a successful application the person's name would not be circulated with any of the publicly available registers, nor be included on the candidates' lists because that would, of course, defeat the purpose of this provision. I believe that it is more than likely that any person needing and wishing to follow this process would be motivated enough to make their own arrangements to find out about the candidates. Details of all persons registered under this provision will be provided to the Judicial Greffier in order that they may vote by postal vote or pre-poll vote. It will not be possible for these persons to attend the polling station to vote, as their names would obviously not be included on the register available at the polling station. New Article 10 repeats the majority of provisions on appeals but updates these to reflect the new provisions on the substituted Articles. Article 3 amends Article 11 of the principal law as a consequence of the move to a rolling register. I move Articles 2 and 3, Sir.

The Bailiff:

Are the Articles seconded? [**Seconded**] Does any Member wish to speak on either Articles 2 or 3?

4.4.1 Deputy J.A. Hilton of St. Helier:

I had not appreciated in the past individuals who did not vote simply because they did not want certain individuals in our community knowing where they resided. So, I welcome this Article and it at least gives everybody the right to cast their vote in the election; so I do welcome this.

4.4.2 Deputy C.J. Scott Warren:

I also similarly welcome that provision and I support these Articles. I am also pleased that no longer is it likely that electoral material will be sent to deceased people, which has quite honestly been very, very distressing in the past for close relatives. I certainly support these Articles, thank you.

4.4.3 Connétable K.P. Vibert of St. Ouen:

The Comité des Connétables is in full support of these amendments. I think it is important to note that the rapporteur, as a former Parish secretary, was acutely aware of the logistical problems which Parish secretaries face in this field, and the opportunity to consult with them was taken and I think that the amendments show what the Parish secretaries have come up with has been followed.

4.4.4 Senator P.F.C. Ozouf:

I note the Deputy's comments in relation to the doing away of the Vingtaine, and she explained that effectively the electoral list would no longer be prepared in Vingtaine orders because there is no longer a Vingtaine in election. Does this mean that the Vingtaines will not be included in the register by way of information but will just be printed and sorted, or will they not be sorted at all? There is still a requirement for Vingtaines to be used for various issues and I, for one, think it would be a shame to delete from our cultural history the Vingtaines and the people linking in with the Vingtaines. She also explained in Article 2 in the new Article 6, that names and addresses are going to be in alphabetical order. Is she satisfied that the electoral registers can now and are being published and organised and sorted by the Parishes in the order of the actual street or road across the Island? Is she satisfied and is she content with that? Could she, finally, confirm - and I am not trying to in any way surprise her with any questions - but could she confirm, I said in my opening remarks of the importance of follow up procedures being put in place for the following up of a request to include information. I accept her arguments and her Committee's arguments in respect of the fact that there should be a rolling register, but could she just confirm for the avoidance of any doubt because I cannot tell that from the Articles here that there are no changes being put in place in order to do away with the requirement for the Constable to send up follow up letters to electors in respect of their obligations in respect of registration of the law?

4.4.5 Deputy P.N. Troy of St. Brelade:

I remember when I was on P.P.C., which I think was some 3 or 4 years ago, we then wanted to introduce a rolling electoral register but I recall that at the time that some of the Connétables felt that they would not have the resources within their Parish Hall. That is not all Connétables but I believe that at the time when we first discussed it there were one or 2 who felt that they did not have the resources, and I feel that now it is good that all the Connétables are on side and obviously P.P.C. has had discussions with the Connétables and they feel comfortable about overseeing this function. I am very glad that it has been resolved. Certainly, people living in the community, lifelong Members of our community will really welcome the rolling electoral register.

4.4.6 Deputy R.G. Le Hérissier:

Just building on Senator Ozouf's question about the Vingtaine. Will the list be available in electoral district format?

4.4.7 Deputy J.A. Martin:

Following on again from Senator Ozouf; I thought that - and nobody has brought amendments - but I see this could work unless we get confirmation that my understanding and the Senator's are different, I find if it is going to be that people can be off the register, it is not going to be in

Vingtaines, it can only be in name and address order, the districts in the big Parishes, St. Helier, St. Saviour and St. Clements, maybe, but we have districts - and St. Brelade's - this can be a real difficulty because you only have so long to get to your electorate and if somebody you do not know... obviously if somebody prefers not to be on the roll you will not be knocking on their door because you will not know they are on the roll, that is their privilege. But I really have concerns because my first electoral roll that I was given was in name and address and not district and it took me, and it was a by-election, and it took me ages to establish where I was going. I think this may have been overlooked, it will work fine maybe in the smaller country Parishes, but I seriously think for the Deputies of St. Helier, St. Brelade and St. Saviour that if we do not have confirmation by the rapporteur of P.P.C. that we, as electoral candidates, that we will be able to get lists in address and district form, I strongly urge those people to vote against these Articles.

4.4.8 The Deputy of St. Martin:

Could I ask the rapporteur maybe to make that clarification now rather than us carrying on a debate because I think it is quite an important issue?

4.4.9 The Connétable of St. Clement:

Can I just point out that if Members would read the amendment, number 6 says: "The Constable of a Parish shall prepare and maintain a separate electoral register for each electoral district that is or is within the Parish." Number 2 says: "The names and addresses of the persons registered in an electoral register shall be arranged in that register in 2 lists, one in alphabetical order and one in street order of the persons' addresses." I think that answers the question.

4.4.10 Deputy G.P. Southern:

I too have some reservations about this particular amendment. While I am absolutely fully in support of going to a rolling register, if we are talking about differences of something like 40 per cent on the roll, which figures do indicate between one election and the next election, that is a shocking state of affairs and Members do not want to be bored by me again banging on about the 2 stage process we have got. Registration, if we do not get registration right therefore, how can we expect turnouts to be anything like valid in any sense whatsoever if we do not get the registration right - I'm fully in support of moving to a rolling register. But I do not quite see how the rolling register is created and whether what has set out to be done has been done. So, for example, in my report on my amendments I talk about in the Parish of St. Helier, the number of registered electors fell from 15,900 in the Deputies elections of 2005 to 13,600 in the election for Constable in January of this year. So over a 2 year period we have got reduction of substantial ... of the order of 2,000 people ... off the register because nobody had been out and re-registered them. That was made worse by the fact that after that election any person not registered in 2006 and 2007 was automatically taken off. So we had in St. Helier taken off another 2,000 and we are down to 11,000 as our base for starting. So we have got this idea of a semi-rolling register that we clean every 3 years. That is what we do because if you have not registered ... you last registered in the last election of 2005, if you have not registered in 2006, 2007 you get taken off. Now it seems to me ... and in the process of getting taken off the current law says, I think, send a notice: "We are removing you from the register" tough luck. Now, this new rolling register, it seems to me, it is hardly a marked improvement. It seems to me that once again every 3 years if the Constable is required - 'he shall serve a notice on that person' if they are about to remove him from the register. Now the difference between 'send a notice' and 'serve a notice' on that person, it seems to me, unless somebody can tell me different, is hardly different at all. Serve a notice means go to that building, establish who is living there and whether they are the person and inform them: "Unless you fill in a form I am going to remove you from the register." It seems to me that that is (a) not possible to do, and (b) yet is what is required by the law to happen unless you are just going to send them a notice to say: "We have not heard from you for 3 years therefore we are removing you from the register." It seems to me that is no different to the situation in St. Helier now. I seek an

explanation - clear explanation - from the rapporteur that that is not the case because I have got a feeling that all the intentions are right but actually we have not produced a true rolling register. It seems to me, for example, and I will use an example of specifics. In the past 3 years I have been to bedsits in Convent or Caesarea Court and seen that on the list there are 5 names. I know that it is a bedsit. I hope, because I cross my figures as I knock on the door, that one of those names still lives there. On many occasions I have found out that none of the 5 names supposedly living in a bedsit in St. Helier live there and somebody else is there, at which point if it is before closing date I rapidly try and register them and get their vote in, get them interested in the process [Laughter] however, I [Interruption] ... and the key phrase there is if the register has not closed I register them. But it closes very early, we will discuss that later. The point is at the moment I cannot see the difference in the wording of the Articles that make that situation not possible to be repeated under this, and I do not want to be going on knocking on bedsits at the end of this year with 6 names on the list saying: "Hello" or in 2011 saying: "Which of you lives here? Are you Mr. Wilson [or] you are obviously not Mrs. Williamson." But I need it made clear that what we are doing here will make a significant difference and will not mean that the electoral officer in St. Helier has to go round and serve notice knocking on doors because he will never get round everywhere. I long for the day when on the full St. Helier register we have got - I do not know how many names would be there, 25,000 names, 27,000 names? Something of that order. I look forward to the day when the register is absolutely choc-a-block and we think we have got everybody on there. But I am not sure, and I need some further explanation that what is being proposed will do that.

The Bailiff:

I call upon the rapporteur to reply.

4.4.11 The Deputy of St. Mary:

I would like to just thank generally the people who have spoken in support of these amendments. The specific questions posed by Senator Ozouf, the Vingtaine is still important but unfortunately as no elections are held on a Vingtaine basis it is no longer now just necessary to put, for example, to extract all the electors in the Vingtaine du Nord in St. Mary for a particular election. That is the only extent to which the Vingtaine is being removed. Vingtaine data is still collected and it will still be possible, I would imagine, it is simply a word processing exercise, to see which particular Vingtaine somebody is in. What this does mean is that the electoral list for an electoral district, if it is the alphabetic one you are looking at, you are looking at one list for the whole of that district. You are not faced at the polling station with someone coming in and saying: "My name is Smith." "Which Vingtaine are you in?" "Oh, I do not know" and leafing through 3 different Vingtaines to find the right Smith. All the Smiths will be together. However for canvassing purposes, as had already been confirmed by the chairman, the electoral list will still be produced in street order basis so that should avoid any problems. I have not been advised of any problems with the street order production, but if I am ... I will chase it up and double check and will let the Senator know separately. I think also Deputy Martin's questions were dealt with in the same way but I would also just like to point out to her that she should not be concerned about a whole raft of people who will not be included on the electoral register because of the new provisions we are making. The new provisions we are making for not being included on the register relate to specific circumstances, in other words, perhaps there is a threat to life or limb of the person if their whereabouts was known. It is not simply enough to say: "I do not want to be on the register." So the majority of electors will be included on the candidates' lists. Deputy Southern, I appreciate his general support for this but I would like to try and address his concerns if possible. Firstly, I would like to say there is no automatic take-off by the Constable unless there is a certainty, for example of death having been informed by the Superintendent Registrar, or if the Constables know for a fact that person has left his Parish. What happens under the current system is every year during the 3 year cycle, after the first year, a list of all the people resident at an address is sent to that address

and it is the responsibility of the person at that address to either sign it and say this is correct or to cross out the names of people who have left and add their own. That is how it should work at the moment. There are other mechanisms in place to catch people who move between addresses, other events that they might do, for example, if they have a driving licence, changing their driving licence will trigger the Parish to send an electoral registration form. So there are other ways to catch it. The provision of the new Article means that instead of a person potentially being removed from the register at the end of one year of not having filed a return, which is what could happen now, it would have to be 3 years of receiving nothing at all from that address. It is not an automatic process, the Constable must write not to the address in blank terms but to the registered elector who was registered at that address, specifically to Mr. Smith at 5 Acacia Avenue: "Are you still registered? Please respond to me within 28 days or I will have to remove you." So there is a definite proactive mechanism. It is not a question of 'we have not received anything for 3 years therefore the register is cleared out'. I do not know whether that answers Deputy Southern's concern but I think his finger is hovering, if he would like to ask me I will give way.

Deputy G.P. Southern:

Yes, Sir, I am sorry I was not clear but it seems to me that the Deputy of St. Mary is repeating exactly what I described as the process that happens now in St. Helier. Every 3 years there is a cull - for want of a better word - of electors and that is what happens in St. Helier. It is a semi rolling register but it is not a rolling register and if you talked to the electoral officer in St. Helier about what happens, he says that is what happens. It is not satisfactory, it is a pain in the butt to do but that is what we are doing. It is cleared every 3 years. Now, it seems to me what we have not ... I think Members are being misled if we think we are producing a true rolling register. We are not. I think we are building up future problems for ourselves. I am not sure if I can support this amendment because we are not doing what we say on the can.

The Deputy of St. Mary:

Thank you for clarifying your concern. I do understand where the Deputy is concerned. At the present time the register is automatically cleared out every 3 years. Under the new proposals that will not happen. If somebody makes a return that will never happen, their name will never come off. If perhaps they are away, they have a bereavement, they are otherwise occupied, they do not make a return in year one, their name will stay on the register. If they fail to do it in year 2 it will stay on the register. If in year 3 they do, there is another 3 years for that person. There is absolutely universal clearing down of the register at a given time every 3 years and that is what happens now. That is why we do not have a rolling register. In the future if these amendments are adopted everybody from any time that they register will remain on that register for at least 3 years, even if they do not respond to the annual request to confirm their registration.

Deputy G.P. Southern:

Can I ask a further point of clarification? Can the rapporteur therefore guarantee that we will not have people turning up to vote who have been removed from the register by a letter arriving on their doormat supposedly addressed to them saying: "I am going to remove your name from the register" but still believing themselves to be registered. Is that not possible? Are we going to see the end of people turning up to vote unable to do so? I do not think this does that.

The Deputy of St. Mary:

I regret to inform the Deputy that if someone does not respond for 3 years to the generic form sent to the household, which includes their name and address - their details - does not sign repeatedly in the first year, the second year or the third year and then receiving a letter addressed to them personally at that address advising them that they have 28 days to respond before their name is removed, if that person does not make any response within the 3 year period or the subsequent 28 day period then, yes, Sir, in order to ensure the electoral register is kept to realistic and manageable

proportions and to ensure that the vast majority of people who do fill in forms are focused on, those people will be removed if they do not respond to the form specifically written to them. I believe, in fact, that answers all the questions that I was given and having said that I move those Articles 2 and 3.

Senator P.F.C Ozouf:

I do not wish to give the Deputy a hard time at all but she did not answer my question in respect to follow up letters. I was not aware, because the report does not make it clear, that whether or not the follow up procedures ... the follow up letters that were previously part of the electoral register, were being abandoned. If they are I am very concerned.

The Deputy of St. Mary:

I apologise to the Senator, Sir. At the time, once the electoral registration form is sent to a household if no response is received after one month the Constable is obliged to send a reminder. If no response is received to that after a further month a further reminder must be sent. Those 2 reminders will be removed by this law because there is a rolling register in place. A letter is sent and unless there is a return from that household the current standing information on the register will be maintained for the following year.

Deputy S. Power:

May I seek a point of further clarification? Senator Ozouf referred to the listing of Vingtaines and I need to be absolutely sure in my own mind as to what the rapporteur said. Is the rapporteur definitively saying that in Parishes with multiple electoral districts such as St. Helier, St. Brelade and St. Saviour, and we have further subdivision of those electoral districts into the Vingtaines which are not only useful electoral guides but are useful geographic guides, is the rapporteur saying that the Vingtaines will no longer appear and the listing of Vingtaines will no longer appear on the electoral rolls, on the registers?

The Deputy of St. Mary:

What I am saying is that electoral register will no longer be ordered by Vingtaines. Therefore if there are, for example, 2 Vingtaines in an electoral district the alphabetic listing will be from A to Z across the 2 Vingtaines at once. It is still perfectly possible to ascertain in which Vingtaine somebody lives but for the purposes of an election the electoral list is drawn up to facilitate an election and there no longer any elections held on a Vingtaine basis. Until relatively recently there were electoral assemblies, for example, to elect Constable's officers on a Vingtaine by Vingtaine basis. Now those elections are undertaken at a Parish Assembly across the whole Parish and therefore it is simply a redundancy that you do not need, the electoral Vingtaine. The district and the Vingtaine are not the same thing.

Deputy G. P. Southern:

Sir, a point of clarification ...

The Bailiff:

Well, Deputy, I cannot allow a cross-examination of the rapporteur to develop. If it is a discrete, short, crisp point, you may make it.

Deputy G.P. Southern:

It is to ask the rapporteur whether streets are still organised on a Vingtaine district? I believe they are on a Vingtaine basis.

The Deputy of St. Mary:

The street order index is in order of street. I do not believe it will be by Vingtaine, I believe it is alphabetic by street.

The Bailiff:

Do you wish to have an electronic vote, rapporteur?

The Deputy of St. Mary:

I will call for the appel.

The Bailiff:

I ask the Greffier to open the voting which is for or against Articles 2 and 3 of the amendment.

POUR: 28		CONTRE: 10		ABSTAIN: 0
Senator T.A. Le Sueur		Senator P.F.C. Ozouf		
Senator P.F. Routier		Deputy R.C. Duhamel (S)		
Senator M.E. Vibert		Deputy A. Breckon (S)		
Senator T.J. Le Main		Deputy of St. Martin		
Senator J.L. Perchard		Deputy R.G. Le Hérisier (S)		
Connétable of St. Ouen		Deputy J.A. Martin (H)		
Connétable of St. Mary		Deputy G.P. Southern (H)		
Connétable of St. Peter		Deputy S.S.P.A. Power (B)		
Connétable of St. Clement		Deputy S. Pitman (H)		
Connétable of Trinity		Deputy K.C. Lewis (S)		
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Deputy J.J. Huet (H)				
Deputy G.C.L. Baudains (C)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy J.B. Fox (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy A.J.D. Maclean (H)				
Deputy of St. Mary				

The Bailiff:

We now come to Article 4 of the amendment and I ask the rapporteur to move Article 4.

4.5 The Deputy of St. Mary:

Article 4 makes 2 changes to Article 12 of the 2002 Law. The first change comes about because in future the Senatorial and Connétable elections will be held on the same day. The nomination meetings for the Connétables clearly need to be held in each Parish, whereas the Senatorial meeting is held in St. Helier. So it would simply be impractical to attempt to hold both meetings on the same day. The Comité des Connétables has discussed the situation and the intention is that the nomination meetings would be held on 2 consecutive days. Under the current legislation the electoral register in force for an election is related to the day of the nomination meeting and without any amendment there would, in law, be 2 different electoral registers for the elections of Senators and Connétables. This Article amends the current provision and provides that where nomination meetings are held on 2 consecutive days for elections that are to be held on the same day the

register in force for both elections is the one at noon on the day before the first nomination meeting. This will avoid any practical issues about having 2 separate electoral registers in force for elections that are to be held on the same day. The second part of Article 4 amends Article 12 of the principal law as a consequence of the new provisions referred to above on the exclusions of names from the register. They provide that the Connétable must provide registers, as at present, to the Judicial Greffier, the Autorisé and the Adjoint together with the candidates but the Connétables must only provide a list of the omitted names to the Judicial Greffier. I move the Article.

The Bailiff:

Article 4 is proposed and seconded. **[Seconded]** There is an amendment to Article 4 in the name of Deputy Southern and I ask the Greffier to read that amendment.

The Greffier of the States:

(2) page 20, Article 4. For paragraph (a) substitute the following paragraph: (a) in paragraph (1), for the words the beginning “as in force” to the end of the paragraph there shall be substituted the words “as in force at midday on the 7th day before the day when the election is held.”

4.6 Deputy G.P. Southern:

I return again with an issue that I am passionate about, which is the registration process which is the first part of our electoral process, the registration process in order to get people involved and voting. What this amendment does is to allow effectively for late registrations within a part of the election period. Now, I have tried this before and I tried to run the late list, as it were, right up until the day before the election. This again is a compromise position and what I am talking about is a late list which will be compiled up until a week before the election, thereby giving candidates a chance to contact them in the final week, which is a tactic many people use anyway. The time to contact your electors is in the week before the election, when they do not forget and they do not park your leaflets behind the tea cosy or wherever they park it. Sir, it is a compromise position which will allow an additional 3 weeks or so for the register to remain open for those - and there is no blame attached - who have not noticed there is an election about to happen and you call on their doorstep and you say: “Hello, are you going to vote for me?” and they say: “Oh, is there an election?” and you are like: “Oh, you are not registered, are you?” You are in a position then where you have to say - let us suppose this is Senatorial - “Of course you can vote in the next set of elections because I can register you here and now, done. Okay. But you cannot vote in this one.” Time and time again I find this happens. They are keen on voting once somebody is on their doorstep or once somebody reminds them: “Come on there is an election coming, get involved. This is about your life. You know, the single most important thing in your life is politics because it affects everything ...” Okay, nobody says that **[Laughter]** but some politicians may be think it is. Perhaps it is. It can be argued, but it is a moot point as to how important it is. But nonetheless suddenly their eyes light up and they say: “Yes, I would like to vote.” “Oh, you are not registered you cannot vote. Sorry, tough, mate. Oh dear, you can vote in the next one because you are registered now” *et cetera*. That 3 weeks is significant for many voters because that is the time when somebody is going to call at their door and say: “Do you want to vote? Do you want to affect your life? Do you want to pay this tax? Do you want to accept what is going on? Do you want to vote for X or Y? Do you want to vote?” If you have not registered you cannot vote. Time and time again, when I am talking to people, they say: “Why can I not register now I want to? There is no blame attached to coming to that decision late surely. Now I want to register and you tell me I cannot. Well, what is that about?” This breathing period which enables an active candidate who is doing the basic hard work, the miles on doorsteps, the opportunity to register people. I do not see that that there is anything - anything at all - wrong with that. When I first brought this I made the simple statement, the production of a list of these late registrations to be available at polling stations does not seem to me to be an insurmountable or even difficult administrative task. It certainly does not appear to me to be insurmountable or difficult that the Parish authorities allow registration for

an additional 3 weeks and produce an addendum, a late list, of fresh voters to candidates so that they can get in contact with these people. A key thing, it is not about the candidates necessarily, it is about the voters. It is about enabling them to register, and thereby vote, until as late as possible. Again, we are saying we want you to vote so we will stretch the period. Now P.P.C. in their comments have said: "P.P.C. believes Deputy Southern has misunderstood the current position. Elections are called over one month prior to the relevant nomination day. This period and the publicity generated by the calling of election already provides ample opportunity and impetus for persons who may wish to vote to ensure they are in fact registered." I believe P.P.C. are wrong. I do not misunderstand the situation. I have seen the evidence and the evidence is that, in many cases, certainly in the urban areas where people are not as committed to the process per se, the reality is people wake up to an election late. All the preamble that you see beforehand, and we referred to the abysmal state of public advertisements, you know they are not eye-catching, they look like something to do with, I do not know, parking, refuse collection or dogs. You know, nobody reads them. People do not pick it up and say: "Oh, I have just read the public notice that there is an election coming. From the words contained in it I understood, I think, there is an election coming. I think it is November X. I must register. How do I do that? When am I going to do it?" Come on, the reality is that does not work. You just have to look at the fact that the electoral register, certainly in town, and I will refer to St. Helier again, stands currently at 11,015 voters and we are just starting the process and we are just ... we have appointed an electoral officer and he is trying to engender more registration. I have not been able to speak to him prior to this particular debate. I spoke to him about a month ago and he said initially it looks we are getting a good return. I hope it, Sir, but the fact remains that for those who miss the boat we could extend the period and that is all this says. The other argument that P.P.C. deploy is that this will be a bit awkward for the candidates. They say the existing system has an added benefit in that a single definitive list for all candidates for elections to work to is made available following nomination day. Well, all well and good, fine. If candidates are aware that there is a late list coming they can accommodate that. But the essence is not about serving the needs of the candidates, although that is useful and as a candidate myself I am very grateful, but if I am aware that there will be or there may be a late list coming with an extra, what, 10 names, 100 names, 300 names on it, I can cater for that. I can make sure that I am ready to go and I can get the numbers here as well. But the essence is not about helping the candidate, it is about helping the voter register. That is what we should be doing and I believe we should be supporting this adjustment to allow this additional period for people who wake up late, and not blame them, you know: "You are a dozy voter, you do not deserve the vote because you have woken up late to the fact there is an election coming" it is: "Oh yes, you can still register up to a week before the election." It is a simple process, please, please let us support this amendment.

The Bailiff:

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

4.6.1 Senator P.F.C. Ozouf:

Should there be any doubt that there is a party or an establishment, and my voting record in respect of the earlier amendments proves, I hope, that I am not part of it or at least it does not exist. I think that the fundamental controls in respect of electoral registers should be strong and must be up to the point of the nomination meeting. I recognise that the Constables have an issue of cost, I do think the solution is exactly what the Constable of St. Helier has put in place. I am disappointed that the arrangements for follow up letters are now gone but I do hope the Constables - and I am sure that they will - will want to get as many people on the electoral registers as possible and they will be following the good example of the Constable of St. Helier by employing somebody specifically to do that. That is the solution to the issue. I am afraid the solution to an electoral register and people not on the electoral register is not allowing registration after the nomination meeting. It fundamentally puts the Parishes in an extremely difficult position where there is that option to be

registered later on. That, I am afraid, potentially puts the situation that many people will allow electoral registration to happen after a nomination meeting, it effectively means that there is not an electoral register in force that is going to be complete at the nomination meeting, and I think that it would be extremely unwise for this Assembly to allow this amendment to happen effectively after the nomination meeting has happened. The work should be done beforehand, the efforts to get people on an electoral register needs to happen beforehand, this amendment is effectively attempting to put procedures in place after the horse has bolted. That is absolutely the wrong position. We should be sending the message to P.P.C. and the Constables that they need to be doing the work beforehand not afterwards and I think this amendment is absolutely unwise.

4.6.2 The Attorney General:

I would like to open, if I may, with an apology to Deputy Southern that I am going to take him by surprise. It was because I was away from the Island last week I am sorry I have not had the opportunity of speaking to him about what I wish to say. I think there are 2 technical difficulties with this proposed amendment which I must bring to the attention of Members. The first is that under Article 18 of the Public Elections (Jersey) Law a person is admitted as a candidate for the public election of an officer in a constituency only if he or she has been duly proposed and seconded at a meeting of persons entitled to vote at a public election in that constituency. It is, therefore, important that when somebody is nominated one knows whether or not the proposer and seconder is on the register. You have to close the register in order to know whether that nomination is valid or not. So the idea that the register somehow stays open until 7 days before the election itself has an intrinsic difficulty for that reason. The second problem with it is the knock on effect with postal voting under Article 38 because a person entitled to vote under Article 38 at a poll for a public election is entitled to do so by a postal or pre-poll vote under those circumstances, you then need to refer back to when is a person entitled to vote. They are entitled to vote if they are on the electoral register in force at the time by Article 2 and then you have to go to Article 12 to see which is the register in force at the time. The amendment would change the register in force at the time from before the nomination meeting to 7 days before the election. The result of that would be, I think, that the Judicial Greffier who is responsible for sending out the postal and pre-poll vote forms would be unable to do so until the register is closed, i.e. 7 days before the election. That would have very serious practical difficulties as a result of which it seems to me that many people who might otherwise be exercising their right to a postal vote would not be able to do so because the form has to go out maybe to far flung parts of the world and then come back again. So I regret to advise Members that there are some serious difficulties about this amendment.

Deputy G.P. Southern:

Could I ask a point of clarification of the Attorney General? Does the Attorney General not consider that those difficulties are mitigated, and in fact dealt with, I think, by the addition of Article 17A in my amendment, and does he not accept that the vast majority of people will be on the register as of the nomination meeting and therefore entitled to register for a postal vote. Those who register in the 3 week period proposed in this document will be eligible a week from the election date and, again, in the vast majority of cases could thereby register for a postal vote with a week to go and therefore deliver their postal vote in time? It would be, in fact, a rare occurrence for somebody to have missed the boat and then have registered and be in Sierra Leone and unable to vote and that what this does ... I suppose the essential question is difficulties not impossibilities?

The Attorney General:

No, Sir, I regret to advise Members I do not think that Article 17A, if adopted, cures these problems. Insofar as postal voting is concerned that is provided for under part 7 and Article 17A deals with the interpretation of part 5. So I think it does not apply to postal votes. The question is not how many people would be added to the register between the time of the nomination meeting and the time 7 days before the election, the question is whether the Greffier would have a register

which he is able to rely upon for the purposes of sending out forms. The answer to that is he has no register because it does not exist. As to the earlier point about nominations, I do not see Article 17A dealing with the problem of Article 18 which I mentioned earlier that one has to establish that the proposers and seconders are persons entitled to propose and second respectively.

Deputy G.P. Southern:

If I may, and with respect, surely nothing has been changed about the register established for nomination day, that still exists, 17A says ...

The Bailiff:

Deputy, I do not think you are asking, you are arguing, and you are perfectly entitled to do that but I think you can do that in the context of your closing speech. I think the Attorney General has made his advice quite clear and you are perfectly entitled to disagree with it but I think you address the Members at the conclusion of the debate.

4.6.3 The Deputy of St. Mary:

I am afraid that my thunder has likely been stolen by the Attorney General because I had identified similar concerns.

Deputy G.W.J. de Faye:

I am sorry, I do not wish to interrupt the Deputy of St. Mary's speech if she is about to give one but I did want to put a question to the Attorney General. Was the Deputy of St. Mary about to ask a question or not?

The Deputy of St. Mary:

I was just going to say my speech is largely superfluous, except that I was extremely concerned that Deputy Southern's amendment, if adopted, would effectively mean that postal voting would be limited to 6 or 7 days before the election, which would be totally unworkable. That for all registered voters, those on the nomination list and on the electoral list, there is only one register in force for an election, Sir, and it must be identifiable and beyond question.

Deputy G.W.J de Faye:

That is precisely the point I wish to follow up. What is the electoral register? Because it seems to me that the proposition that Privileges and Procedures brought forward has within it the concept of a rolling register. In other words one that is in place all the time. Which is why I am rather struggling with the Attorney General's advice because the implication is that Deputy Southern's amendment does not create a register until 7 days before the election. Now, it seems to me there is a very serious conflict of interpretation here. Either we have a rolling register that is consistently in place or we do not. If we do then Deputy Southern's amendment to allow people who do not find themselves on the register at midday before nomination day but wish to include themselves seems to have some element of validity to it. But the advice it would appear from the Attorney General is that the register, under Deputy Southern's amendment, would not be created until 7 days before the election and it does seem to me we do have something of a crisis of definition, and I would very much value some guidance.

The Attorney General:

The question is whether it is a register in force. It is not so much that you do not have a rolling register, it is a question of whether there is a register in force, and the entitlement to vote under Article 2 is conferred by reference to that expression whether the register is in force. The definition of whether it is in force or not is found in Article 12 which is the provision which Deputy Southern now seeks to amend.

Deputy G.W.J. de Faye:

I am grateful to the Attorney General for the explanation, Sir.

4.6.4 Deputy C.J. Scott Warren:

I would have liked to support this amendment, and if it is not practicable to support it now - and I would like very much to hear from the benches of the Connétables about their views on this - but if this is really genuinely not possible now, is there going to ever be a way in future to allow the late registration of voters?

4.6.5 Deputy G.W.J. de Faye:

Ploughing a political furrow in Jersey can be a very, very lonely business. But on this occasion I am going to support Deputy Southern. I do agree with him that there is an issue at election time with people who simply have missed the warning. I agree entirely with the Deputy that despite elections being called one month prior to nomination day, in terms of a marketing and public relations exercise, it is not a very compelling one. Indeed when do voters get excited about elections? It is when they know there is going to be one, because we have to face facts here, we may be warned about an impending nomination day but very often nomination day comes up and only one candidate comes up and therefore there is no election. So it is not at all surprising that many, many Islanders who would often be very interested in taking part in the voting procedure are rather on standby until they realise that an election is going to take place. Obviously their interest is fuelled by what the choice of candidate is likely to be. Therefore I do not believe that the warning about imminent nominations is the real trigger process to public interest in an election. I do see that there is considerable merit because the publicity that tends to be generated stems from the personalities and candidates who present themselves at the nomination meeting. It is at that time and subsequent to it that potential voters in the Island who have been excited and enervated at the prospect of an election make the effort to see if they are registered or not, as they perhaps thought they were, and then discover that they are not. I have to say that from ...

Deputy R.G. Le Hérissier:

Point of clarification. I understood enervated was sending people to sleep whereas energised was bringing them back to life.

Deputy G.W.J. de Faye:

Well, it is not a definition I have harboured for many years but I defer to the Deputy's long record of academe in that respect. I have to say, Sir, that on reading Deputy Southern's amendment I was worried about the technical implications, which have now been, I think, very clearly explained by the Attorney General. It appears that we are faced with a worthy amendment but one which is unlikely to work in practice. Nevertheless I think a message should be sent to Privileges and Procedures Committee to have another look at this particular aspect. After all, we are looking after people who are concerned about not appearing on the register for reasons of personal safety, we make arrangements to allow people who are ill or incapacitated to take part in elections, we make reasonable accommodation for postal voting and that will be enhanced under the proposed changes, so that if you fail to deal with your postal votes or fail to deliver a vote into the Greffe you may still have an opportunity to do that at the polling station via the Autorisé and I can see no real reason why what I understand to be Deputy Southern's concept cannot be put into practice. It is, broadly speaking, a sensible one that a register should come into force relevant to the nomination day so that we can be assured that all candidates are legitimate properly nominated candidates, that is entirely reasonable but it does also seem to me, Sir, to be reasonable that for whatever reason, and I would suggest under a rolling electoral system there will be a likelihood that we are talking about only a few people not making it on to the official register at the right time, it is reasonable to say that if someone finds that they are not on the register but wishes to take part in the election process that they should have a number of days or perhaps 2 weeks or so of grace during which time they can make that register. Now, previously I recall that Deputy Southern had indicated that the

deadline should be roughly a day or 2 before the election day and it was quite clear, I think particularly with comments from the Connétables benches, that that was cutting it too fine. There are certain administrative processes that do have to be gone through and it may be - and I have yet to hear a technical comment on this - that Deputy Southern's suggestion of 7 days may still be too short a time but nevertheless I think that the spirit of what Deputy Southern is suggesting is quite right. Why should it be that because your opportunity to vote at present is cut off at midday before nomination day, you then discover the very exciting list of candidates has been produced and you want to take part in that election and for whatever reason - oversight, misfortune - you discover that you are unable to take part in that election. Surely to goodness within a fortnight period before the actual elections take place we have the wherewithal within this Island and our various administrations to allow someone who is a legitimate voter to ensure that they get on to the register in time to take part in the elections. I do not really think this is a tall order. Despite knowing that this is technically flawed, in order to give Deputy Southern encouragement and in order to send albeit a small message to Privileges and Procedures Committee, I will be supporting the Deputy.

4.6.6 Deputy J.A. Martin:

This time on this amendment I agree with every word that Deputy de Faye has said. I think the amendment made - if we believe the advice of the Attorney General - I think he would be saying, me as a candidate I would be going out, I need to get a proposer and a seconder and another 8 names. Now, I can assure you and everybody I make sure, I doublecheck, that those people are already registered. I still have heart stopping moments when that form is produced up to the Greffier to check that they are all registered. So I understand what the Attorney General is saying but the register has not closed so people may be willing to add their name after. But those people will not be on my nomination list. The people on my nomination I check 100 per cent and again, and again, that they are registered. So I understand the Attorney General, again I agree with Deputy de Faye, it is a technicality that could be overcome and may be just with a change in wording of 'in force'. Now, as we have established, we have a rolling register. Why I come back ... I just want to add a few ... I think it has been covered adequately by Deputy de Faye, it does not matter so much, I think, in the Senatorials but you do speak to people and they say some of the people who know that the Deputies are coming up and they may want to vote for me, and they will say: "Oh, I would not have minded voting for whoever is standing in the Senatorial election." I am not mentioning any Senators. "But I am not registered." So they cannot ... the Senators are a different election but there are still people out in the street talking to the Deputies that they know are coming up to election: "Oh, I would have liked to have voted but I cannot get on." So, 7 days ... I have been told by the proposer of this amendment that it is feasible, he has checked it through the Greffe, through the Constables and through ... it may be a little bit more work but as they said: "Who are we here for? Are we here for us or for the people out there?" Another reason, many times when I knocked on doors, and I will give one instance - I will not name the new block of flats, but it was in St. Helier, but it was just completed and people were moving in just after the nomination. Out of about 25 flats there were 3 people registered. Now, some of those people were so into politics they made sure that before they even arranged their removal men that they were going to be registered in the district. Others were: "Oh, what do you mean, I cannot vote now. Well, I always used to vote when I lived ..." "Oh, that would have been No. 2, no, no, now you are in No. 1." "Or you have just moved from St. Saviour." "Oh, but I want to vote." Now, this puts an obstacle in their way, and I do not think we are talking about thousands of people, I just think we are making it easier. So, as I say, I will not say any more. Sorry, I will just follow on from Senator Ozouf because I thought he was going to support this because as he did point out, and why he voted against the other Articles, not the amendment, was because we are losing the 2 reminders to get on the register. Now, a lot of people do not do it the first time around so we are losing those 2 reminders and if people are not on before nomination when we go door knocking and we find out that it is the wrong person, new people living at that address, missed the deadline, always voted, cannot do it. I think we do protest too much that we really want everybody to be included in our

election. We want people to take notice but what do we do? We try to put every obstacle in their way. This can be workable and if you really want people to vote, you will vote for this amendment and ask P.P.C. to go away, it is giving them the signal that this is what the House wants, and hopefully sit down with the Attorney General because he is the adviser to the States and to P.P.C. and make this workable. So, certainly, Sir, I will support this amendment and if everybody in principle likes the amendment but, as it has been pointed out, it may not work still vote for it. That for sure will make it get moving.

4.6.7 Senator M.E. Vibert:

Deputy Martin has compelled me to speak because, I am sorry, you cannot, in my view, in all consciousness behave properly and in an effective manner as a States Member and adopt the attitude that Deputy Martin has just said, that this can be workable so vote in favour of it. If I listen to the Attorney General, and we have checked this out with other people as well, it cannot be workable because you need a law change to make it workable. That would mean having to come back to the States and we have not got time to do that to get this through for the next election. So this will not work. Even if you believe in what Deputy Southern is trying to achieve the amendments that have been put forward will not work. Please listen to the advice that has been given. Do not vote in hope and make things very difficult for the forthcoming election and disenfranchise a whole swathe of people, postal voters, who will not then really feasibly be able to vote. I believe I can appreciate what Deputy Southern is trying to achieve but the consequences are not desirable. We are talking about the electoral register and the integrity of the register in force at an election must be beyond question. What Deputy Southern appears to be trying to do is to establish a different register for the nomination process and then for the election itself. If accepted would mean that the register in force at the actual election would not be available in definitive form until 7 days before the election. What this would mean under the laws, and there is no amendment to the part that is required, would mean that no postal or pre-poll votes could be issued until 7 days before an election. Or perhaps 6 if time is allowed for the actual production of the registers and delivery to the Judicial Greffe. While it might be possible to accept applications in advance of that time, it would seem to be impossible to allow anyone to vote until the 7 day register was available as this is the election register under the amendment. The register that would govern the entitlement to vote in the election, not the register available at the nomination meeting. P.P.C. have raised this point with the Judicial Greffier who has confirmed that this would be his understanding of the consequences of adopting the amendment. Six days or even 7 is simply not enough time in many cases to turn a postal vote around, as we have said. Under the present law there is at least 21 days between nomination meeting and election as the same register is in force for both. The only factor holding up the issuing of the first postal and pre-poll votes is the printing of the ballot paper. Even in this situation with 21 days the Judicial Greffe staff have had to resort more and more to the use of courier services to ensure that the postal ballots have at least a sporting chance of being delivered and returned in time to be counted in the election. So if this amendment was adopted, unlike what Deputy Martin was suggesting it can be workable, it would not be. There would be potentially whole swathes of people who would not be able to participate in the elections. Example, someone due to be out of the Island on holiday, on business or for any other purpose for more than 7 days preceding any election. They will have to apply before they go and then hope the ballot papers can reach them, wherever they are in the world, and then find its way back to the Judicial Greffe all within 7 days. This is a retrograde step. Also P.P.C., and it has been approved now, proposed that a rolling register be adopted. So there is not going to be, in future, a great requirement to reduce the cut off period, any persons once registered would remain registered. I think there is a great danger in believing that it can be made workable when all the advice is it cannot and I urge Members to reject the amendment in the name of common sense.

The Attorney General:

I would like to give a further apology to Deputy Southern, which he might prefer to the first one, and that is that although I have struggled a little bit with Article 17A, I have come round to the view that he was right and that it does cure the problem about the nomination of candidates under Article 18. So I would just like to make it clear to Members that although I put up 2 problems as I saw it in the construction of the legislation, the problem relating to the nomination of candidates I think is probably not a problem. However, the problem on postal votes remains very much a problem because the Greffier will not be able to send the register out until 7 days before.

Deputy G.P. Southern:

May I ask a point of clarification on that further information? Is it the Attorney General's opinion that the fact that we have used 17A to adjust the system works in general, could a similar adjustment be made in short order to ensure that something similar applied to postal voting and that we would be able to catch everybody rather than most people?

The Attorney General:

I think, Sir, that would require a more detailed amendment.

Deputy G.P. Southern:

I accept that, Sir, but could it be done?

The Attorney General:

All manner of things can be done given time.

4.6.8 Deputy S.C. Ferguson of St. Brelade:

We have heard a lot this morning to-ing and fro-ing and we have also heard about accountability, it just seems to me that surely people as individuals are also responsible and accountable for their own actions. I mean if I am catching a plane I do make sure I am there on time and there are many aspects of life where the individual is responsible, getting to the Parish Hall to pay your parking fines on time, for example. I think voting is a right, yes, but it is also a privilege and it is surely up to the individual to make sure they are registered. It just seems to me that we are attempting to extend the nanny state. You know, it is not common sense.

4.6.9 Deputy J.A.N. Le Fondré:

I think Deputy Ferguson has stolen a little bit of my thunder. I have absolutely no problem with Privileges and Procedures going back and looking at this again and bringing another amendment at some point in the future. But I do rather think, Sir, that we are in danger of creating legislation on the hoof as some of the comments we have heard from today. What we are debating is the amendment in front of us and the wording in front of us. We cannot, as I said, amend it on the hoof. I do get quite surprised at members accepting a change which they recognise in their speeches will cause, according to the advice we have had, certain legal difficulties. It is about rights and responsibilities and I think we have got to be pretty careful about weighing those up. It is, yes, the right to vote but is the responsibility as well with individuals to keep aware of local events, to be aware that the elections are coming up, particularly when we have got now a 3 year rolling register and they will be informed, with 28 days to resolve the matter, of a potential removal from the register. If I have understood the Attorney General correctly, if we do approve this amendment it will cause major problems with posting voting. Surely we do need a cut off date, surely it is right at present that we stick to the present status quo of the day before the nomination date, and on that basis, Sir, I think we should thoroughly reject this amendment and proceed on.

4.6.10 Deputy P.N. Troy:

Earlier this morning we had a rolling electoral register, then it appeared that we might not have a rolling electoral register and now I am absolutely certain that I am uncertain as to whether we have a rolling electoral register. This is getting quite confusing now because P.P.C. have littered this

document with the fact that we have a rolling electoral register and it looks like we do not have that. But going to this question that Deputy Southern has been discussing and the Attorney General made an input on, where we are talking about those who want to register after the nomination date. I agree with the principle that people should be able to be added on to the register if they want to and if they can prove their validity to vote. But then we get to this issue about the postal voting and I feel that we could go back and change, I do not know whether it is Article 13 or 14 which says that anyone whose name is added to the register after the nomination date would be excluded from postal voting. So they could turn up at the polling station if they are in the Island at that time but then we could put in a provision within the earlier part that they would be excluded from postal voting and then the Greffier could carry out his normal postal voting in exactly the same way as he has been doing for a number of years. So that is how I would see the solution to the problem. The Vice-President of P.P.C. is looking at me as if she is not quite understood what I am saying. But basically you could add people on to the register after that date, we could bring forward proposals in the future, you could add people to the register but they would be excluded, those who were added after the nomination date would be excluded, from taking a postal vote. Whereas everybody else before that date would, of course, be able to have the postal vote in the normal manner. So that is what I would suggest P.P.C. could look at and the Attorney General could look at. Whether it could be done in time for this upcoming election, I do not know. The Attorney General is going: “No” he is nodding his head in disapproval. So that is a no. But maybe for the next elections that is what we could look at.

Deputy G.P. Southern:

Could I ask a point of clarification about the nodding of the head, Sir? Shaking of the head. Was it about it could not be done in time or it could be done at all? What was the negative reaction from the Attorney General about time or about content?

The Attorney General:

It was about time. I am not sure what the content would be. It might be about the content but it is definitely about time.

4.6.11 The Deputy of St. Martin:

As most Members know, I do support most things that Deputy Southern has brought to the House because I do believe in making it easier for people to vote. I do not have a problem with that. However, I do have a problem with what he is proposing here. If the only thing because it is going to put people like me in difficulty in this next election. Because in fact I am going away the beginning of October and if I cannot do a postal vote before I go, if that is what I believe the Attorney General is going to say, I will not be able to vote, simply because I will be away on 1st and the register will not close until 7 days before the election, which will mean 7th and I will be away so there is no way I will be able to vote. If that is what it is. Certainly, we are going to disenfranchise a lot of people. What I think Deputy Southern and I have been trying to do, and I am sure others have as well, is looking after those handful of people who get themselves caught out. They are not on the register and they only find out when someone knocks at the door and says: “Mr. Smith, you can vote but you realise your wife is not on the register so she cannot vote” because of an omission. I understand that that problem has been rectified. If it has not, no doubt it will have to be rectified. But these are omissions. But as it stands I think we would be unsafe, as much as I want to support what Deputy Southern is trying to do, I think what we have before us today would not be workable, as such I could not support what Deputy Southern has put in front of us today.

4.6.12 The Connétable of St. Ouen:

I think that the Deputy of St. Martin has used wise words because I think this could be unsafe as it is. I have to say that I personally would be quite happy to look at the problem again because I

understand what Deputy Southern is trying to achieve and I am sure that maybe even the suggestion of Deputy Troy could be taken up. But it is my understanding that it would not be able to be enshrined in law in time for this year's elections. Certainly I think that there is some mileage in looking at this again.

The Bailiff:

I call upon Deputy Southern to reply.

4.6.13 Deputy G.P. Southern:

Before I start on the list of contributors, can I start by asking for further clarification from the A.G. It seems to me from what I have heard that there is not a problem about the electoral register in force on nomination day and that therefore anyone on that list can vote and can exercise their right to a postal or pre-poll vote. Furthermore, it seems to me that the result of my amendments is that all those people who wish vote on the day, if this were to be accepted, would have the right to vote on the day and there would be a few extra people on the list because of the extension and that that part of the amendment works and that all that is wrong is that those people who register late under this system would not be able to have a postal vote. Is that the correct interpretation of what this amendment does?

The Attorney General:

No, Sir. The provisions of Article 17A if adopted, which were referred to by the Deputy earlier, only apply to the interpretation of Part 5 which deals with the nomination process. They do not apply to the question of postal voting which comes under Part 7 and Article 38. Therefore the problem which arises with the postal vote is that you do not have a register in force on which the postal vote will be based until 7 days before the election if the amendment to Article 12 was adopted.

Deputy G.P. Southern:

Again, if I may, just before I start to take this forward, the Attorney General appears to be saying that all postal votes will be affected?

The Attorney General:

Yes, indeed, Sir.

Deputy G.P. Southern:

Can I then further ask, and perhaps this is a repeat but I need clarity in my mind, is it the opinion of the A.G. that that could be rectified in a fairly straightforward manner with the law change?

The Bailiff:

Deputy, the A.G. has answered that question. He says it depends upon what kind of amendment was brought forward but it certainly could not be done in the time available before the next elections.

Deputy G.P. Southern:

Right, I am clear. It seems to me that we have not had a satisfactory debate on this particular aspect of things and while I accept the Attorney General's apology for not having got to me earlier, I do - and I accept that he was away and that he sprang that on us at the final hurdle - object to the fact that we did not, in this case, and it seems to me that P.P.C. have known about this technical problem for some time and yet have made no effort to contact me. I thought I had got it right, I went to the Law Draftsman and said: "This is what I want to do" and apparently I have missed out a vital part of the loop which was: "Hang on, this also applies to postal votes, let us also tie that into it so we are hunky dory with it." Now, it seems to me that certainly it was a matter of days that the Law Draftsman arrived at his fundamental: "This is the change you want." It could well be that my

instructions were wrong and what I should have done is say: “And make sure that we got postal voting in the loop as well.” But it seems to me not an insurmountable problem to organise that and get that in the loop too. Not impossible, can be done and I believe could be done in fairly short order. Certainly whenever I approached the Law Draftsman on electoral law they seem to understand the law and amendments seem to be fairly straightforward. It is not a major issue. They are minor issues. So it seems to me that I will go along and I will maintain this amendment on the grounds that several people have said we ought to be voting in favour of the principle of this. The fact that we are behind hand and rushing to get this through is not of my doing. It is of P.P.C.’s doing. We are having the debate today because P.P.C. came, brought this proposition, their amendments, to the House late and have asked for a hurry up on this debate because they were late. This is a debate ahead of its time. It should have been lodged 6 weeks, it has not been. So my amendments to that could not have been done any earlier. It seems to me there is some support in the House for the principle that I am proposing here, that we should extend the period so that we can catch as many people as possible.

The Bailiff:

Deputy, the trouble is that that is now what Members are going to be asked to vote upon. I really wonder, in the light of the advice that you have had, whether it is not sensible to withdraw this and take the view that your point has been made [**Approbation**] and was upset by others. The Members in fact are being asked to vote upon an amendment which they have been advised would make it very difficult for any postal votes to take place. That is the reality.

Deputy G.P. Southern:

Make it difficult for any postal votes to take place but could be amended by, I believe, a very straightforward amendment which can be done in short order.

The Bailiff:

Not before the next elections, that is the advice.

Deputy G.P. Southern:

Not before the next elections because what difference will 2 days in sending it off make.

The Bailiff:

It is a matter for you. I do not want to put any pressure on you, I am just saying it seems a curious approach in the light of the advice that has been received.

Senator M.E. Vibert:

Sir, perhaps I could ask for some clarification. If there is any new amendment, which I understand would be required, which would have to be lodged preferably for 6 weeks but a minimum of 2 weeks understood which would make it practically impossible, in fact I believe impossible, to get it to the Privy Council and approved in time for the elections. I think Members should be aware of that.

Deputy G.P. Southern:

It is turning into a hell of a day. In the light of your comments, Sir, in that case, and further submissions I received from Members through my left ear and my right ear, I think I will choose to withdraw this amendment and urge, as I do so, P.P.C. to get on and bring something back in very short order [**Approbation**] to correct this error in the drafting which has occurred, I believe certainly not intentionally, and certainly put me in the embarrassing position of standing in this House with a flawed amendment because nobody got back to me and said: “Do you know it is flawed by the way it does not do that?” P.P.C. have certainly known about that for a while and have not informed about it, and have not produced any comments on this particular statement,

brought it to the House late and reflects badly on me, yes, but certainly - certainly - on them. So I withdraw the amendment.

The Bailiff:

It is a matter for the Assembly. Is the Assembly prepared to allow Deputy Southern to withdraw this amendment? Very well, the second amendment is withdrawn. Now we come back to the debate on Article 4. Does any other Member wish to address the Assembly on Article 4? Rapporteur, do you wish to say anything more before put the question?

The Deputy of St. Mary:

No, Sir.

The Bailiff:

Very well I put Article 4, those Members in favour of adopting it kindly show? Those against? Article 4 is adopted. Madame Rapporteur, you move Article 5?

4.7 The Deputy of St. Mary:

Yes, Sir, I do. Article 5 is brought in response to concerns from the Jurats and the Royal Court that there is currently no provision for the replacement of an Autorisé after his or her appointment. This Article allows the Royal Court to appoint another person in place of the Autorisé and, if there is not time enough for the court to convene within the period of 10 days before the poll the Bailiff can make the substitution alone. I move Article 5, Sir.

The Bailiff:

Article 5 is proposed and seconded. **[Seconded]** Does any Member wish to speak on Article 5? I put Article 5, those Members in favour of adopting it, kindly show? Those against? It is adopted. Now, Deputy Southern is not here and if he can hear me I wonder if he would be good enough to return to the Chamber because it seems to me that the next amendment of Deputy Southern falls because it was, in essence, consequential upon the amendment No. 2. The amendment to Article 17A must fall, I think, Deputy. Yes? Very well. So then returning to the amendment we have got to Article 6. Do you wish to take the remaining amendments together or in parts?

The Deputy of St. Mary:

Sir, I will take your advice but I had been planning to take them all separately with the exception of Articles 17 and 18 which hang together, simply to give Members the ability to query any one, Sir.

The Bailiff:

Indeed, so you move Article 6, please.

4.8 The Deputy of St. Mary:

Article 6 makes no practical change to the law but clarifies the potential ambiguity. In practice the Senatorial nomination meeting is always held in St. Helier but chaired by a Connétable chosen by the Comité des Connétables who is normally the Chairman of the Comité. This Article clarifies the legislation which, as currently drafted, could imply that the Connétable of St. Helier chose the meeting held in his or her Parish Hall. I propose Article 6, Sir.

The Bailiff:

Article 6 is proposed and seconded. **[Seconded]** Does any Member wish to on Article 6? I put Article 6, those Members in favour of adopting it kindly show? Those against? It is adopted. If you move Article 7.

4.9 The Deputy of St. Mary:

At present any nomination meeting for a public election cannot be closed until at least 20 minutes after it had been opened. In practice, particularly if there is only one nomination, the business of a meeting can be concluded well before this time and those present must wait, doing nothing, until the 20 minute period has elapsed. This Article will reduce the period from 20 minutes to 10 minutes. I move Article 7, Sir.

The Bailiff:

Seconded. **[Seconded]** Does any Member wish to speak on Article 7? Deputy of St. Martin.

4.9.1 The Deputy of St. Martin:

Can I say not before time. I think most people who have been to Parish Halls, or even public halls, know that we have got to hang around for that amount of time when we know there is no other candidate. I complement P.P.C. on a job well done. I do not think we need to spend too much time on this one.

4.9.2 Deputy A. Breckon:

Just a comment, Sir. I will not oppose this but attending lots of Parish Assemblies when the Connétable says: "Talk among yourselves for a few minutes until the clock goes round" there are some very interesting conversations taking place. **[Laughter]**

The Bailiff:

I must say I always thought it was a very good opportunity for a chat. If no other Member wishes to speak, do you wish to reply, Deputy?

4.9.3 The Deputy of St. Mary:

No, Sir, just to thank the Deputy of St. Martin for his comments and to note the perspicacity of Deputy Breckon, Sir.

The Bailiff:

I put Article 7. Those Members in favour of adopting it, kindly show? Those against? It is adopted and you move Article 8.

4.10 The Deputy of St. Mary:

Article 8 makes some minor changes to the law. At present it is the Minister for Home Affairs who must prescribe the form of ballot box used in public elections. It is considered more logical that this duty should fall on the Comité des Connétable because of the role that the Connétables play in making the practical arrangements for the elections to be held. I move Article 8, Sir.

The Bailiff:

Article 8 is proposed and seconded, President? **[Seconded]** Does any Member wish to speak on Article 8? I put Article 8. Those Members in favour of adopting it, kindly show? Those against? It is adopted and you move Article 9?

4.11 The Deputy of St. Mary:

I think we might have a little bit more debate on this than the preceding ones. The principal law amended the opening times of the polling stations to 8.00 a.m. until 8.00 p.m., whereas previously they had opened at 11.00 a.m. The hope was that this would encourage a higher voter turnout but in fact it appears from the history of the previous 2 rounds of elections that the only real result has been to spread the same number of voters out over a longer day. An hour by hour log of voters was kept for the first round of elections which showed that in the 2002 Senatorials 11.9 per cent of votes were cast before 10.00 a.m. In the Deputies' elections the Island-wide figure was 13.4 per cent with the Parish figures ranging from 10 per cent in St. Saviour to 20.8 per cent in St. Lawrence. Also after that first round of elections there was a general feeling that this was having an effect.

Unfortunately it was not possible to obtain a similar log for the 2005 elections but having talked to some of the Autorisés and the Connétables their recollection is that the figures were not as remarkable as in the previous set of elections. One downside of the earlier start to the polling was the fact that the previous tradition of allowing schoolchildren in to view the sealing of the ballot boxes has been lost. While this is a small thing, for many children this was their first experience of an election and was an excellent opportunity for early engagement in the democratic process. There is no doubt that there is an additional administrative burden on the staff manning the polls and also on the Autorisé. It should also be remembered that in addition to these 12 hours of actual polling time, there will have been a number of important administrative tasks to be completed before the polls open, and also, of course, the count to be supervised afterwards. Many of these people, Sir, are volunteers - the majority I would say - and for many of them they are involved throughout the entire process. So all in all it is a long day for all involved. This Article, if adopted, will amend the opening time of the poll from 8.00 a.m. until 10.00 a.m. Privileges and Procedures itself is divided on the desirability of the change. Certain members of the Committee feel that at a time when efforts are being made to increase voter participation reducing the opening hours of the polls will send out the wrong message. Other members of the Committee feel that the benefit of an 8.00 a.m. opening time has not yet been proven. Having discussed the matter at length the Committee has concluded that this proposed change should be brought to the States for debate. For Members information, the polls in many other jurisdictions are open for at least 12 hours and in the U.K. and Israel, for example, randomly, 7.00 a.m. until 10.00 p.m. is the polling time. Having consulted the website of our sister Island, I am slightly confused but for the last election it seems that not all polling stations had the same hours. **[Laughter]** Some opening from 8.00 a.m. until 8.00 p.m. and others from 10.00 a.m. until 8.00 p.m. Ultimately, Sir, this is a political decision and therefore I propose Article 9.

The Bailiff:

Article 9 is proposed and seconded. **[Seconded]**

LUNCHEON ADJOURNMENT PROPOSED

Senator L. Norman:

I propose the adjournment, Sir.

The Bailiff:

Could we just see, Senator, whether anyone wishes to speak or not. Yes, they do. Very well. The adjournment is proposed and Members will return at 2.15 p.m.

LUNCHEON ADJOURNMENT

PUBLIC BUSINESS (continued)

4.11.1 The Connétable of St. Ouen:

We heard from the rapporteur this morning that the Committee was not unanimous in its support of this particular Article and I have to say that I am well aware that the Comité des Connétable are not unanimous either. While it seems very attractive to move the hour back to 10.00 a.m. for various reasons, especially for ease of operation at the Parish Hall, I personally feel that it is a retrograde step. I think having moved to 8.00 a.m. it would be a terrible thing for us to do to start moving it back again. I think we need to give it time, we need to give this time to bed in and merely the figures from the couple of elections that we have done do not, I do not think, prove anything. The rapporteur mentioned the fact that there was an inability for the schools to be involved, especially the primary schools. I think that is a very important thing to keep in mind, but certainly at the last

election at St. Ouen we managed to hold back the crowd for 20 minutes while the senior class from Les Landes School came in and performed their own personal votes. Certainly nobody who stood for 5 minutes or so waiting to vote had any objection to that. So I do not think that that on its own is a justifiable reason for moving it back to 10.00 a.m. Certainly I will vote against this.

4.11.2 Senator M.E. Vibert:

Very interesting to hear the Connétable of St. Ouen and the senior class at Les Landes School going to cast their vote because I did not realise we had reduced the voting age to 10. But a very serious point and one of the points I would make is that though many children at primary school may have lost the opportunity of going to see the ballot box which was the normal thing being sealed and held up and so on, is that of course in all our primary schools now we have a citizenship curriculum and we encourage democracy in voting in a much more proactive way. In fact in all schools they have their own vote for a school council with the use of ballot papers and ballot boxes, so they have experience in that way. I entirely agree with the Connétable of St. Ouen, I am one of those certain members of P.P.C. who does not agree with shortening the opening hours. I think the message is very important and I think shortening the opening hours when we are trying to encourage more people to vote sends out entirely the wrong message. We are trying to encourage more people to vote, therefore we should keep our polling stations open and not cut the times they are open. I do not think it is the time to do it, as the Connétable said. We are making some changes here, we should see how these changes filter through, does the rolling register make a difference, and we should be encouraging more people to vote and we should be saying: "You can vote from 8.00 a.m. on your way to work, you do not have to vote until 10.00." So I shall be voting against this provision, Sir.

4.11.3 Deputy G.P. Southern:

To my mind this is a no-brainer. We have increased the voting time. I am not suggesting we increase it further but we certainly should not be making a measure to reduce it at this stage. I think particularly important for working and busy families to have the maximum opportunity to be able to vote. Between 10 and 12 per cent of the voting population decide to turn up before 10.00 a.m. and do their vote before they start their day, it is done and dusted and certainly that is what I prefer to do. If there were a single person who was unable to vote on his or her way to work and got into their seat after their supper at 7.00 p.m. and made a conscious decision: "Shall I go out and vote? No." I do not think we should be doing that. Okay, so we have increased the time, we should maintain that time. We should enable as many people as possible to vote at their convenience. Not our convenience, their convenience.

4.11.4 Deputy J.B. Fox:

Certainly from a Deputy that spends 12 hours on a polling station each time there is an awful lot of people that go and vote first thing in the morning in St. Helier, it then means that they have done their duty and they go off to work and they have not got the pressure, do I go, do I not go, which we have just heard from the previous speaker. But there is an element that you have got to bear in mind, that in October and November it is a very bad time of the year as far as the weather, the cold, *et cetera, et cetera*. One of the things that the retired, especially, people do is they go out in the morning to get their morning paper or their loaf of bread or their pint of milk or whatever it is, and if they can vote while they are out they are more likely to do so in the back streets of town than go home and wait for 10.00 a.m. and then go home later. I think it is just a straightforward yes or no, the preference of the individual Members of this House. I shall vote no on this occasion because I think, like it has already been said, it is important that we send out the right message, we give the people the opportunities that we have now afforded them for 2 occasions and I think that is very important. It is a good democratic process and I shall vote against this one.

4.11.5 Deputy S. Pitman of St. Helier:

I am going to say basically what the last 2 speeches were. The Deputy of St. Mary stated, backed by evidence, that there was small amount of people voting at this time between 8.00 a.m. and 10.00 a.m. But for a significant number of people this is the only time that they can vote and personally I do not see the point in this Article. Also for the Deputy of St. Mary, it does not matter if it is a long day for those who are working and involved in collecting of votes, it is an important day for the Island.

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

I took the opportunity at lunch time of asking my secretary just to confirm the figures which it has been in a habit at St. Brelade to get noted on the hour. Just for members' information at the October Senators' election and November Deputies' election these were taken. Interestingly enough 19th October, Senators' election, by 10.00 a.m. 4.82 per cent of the electors of the 40 per cent odd turnout had voted and at the November one some 4.4 per cent had voted. Now during the course of the day those hourly counts are quite interesting. Yes, they are slightly less than in subsequent hours but you will find that around 2.00 p.m. it is not much different. So I think it is really quite important for this time to be retained, albeit to the detriment of the administration in whose favour it really would be. So I am inclined, Sir, to go against this particular amendment.

4.11.7 Deputy J.A. Martin:

I will not add too much because a lot of what I was going to say has been said. I think we had 3 principal arguments from the Deputy of St. Mary, one was about the children, well that has been covered; secondly, about percentage of the people who turn out to vote between 8.00 a.m. and 10.00 a.m. may not be any greater. To that I say I do not care if it is an extra 2 or 3 people they need to be open at 8.00 a.m. Her third point, which I found very interesting, that the volunteers - now we have to think of the volunteers who sit on the polling stations. I was told over the lunch hour they are volunteers but some who give up their day time job are paid. Now it may be expenses, it may be not. I would like her to answer this question. It may be immaterial but if they do not want to volunteer for a 12 hour day, do not volunteer. **[Laughter]** I am sorry, Sir, they can laugh but a volunteer is a volunteer and that is the job. I am not having a go at the volunteers, Sir. It was the Deputy of St. Mary's argument that we have to think ... Now, thirdly I think this is a point, 8.00 a.m. until 10.00 a.m., if you do not open the polls until 10.00 a.m. the most people that will be discriminated against is working women because they can take their children to school or in childcare and they pick them up. Then what have they got to do? They have got to rush home, they have got to get their children's tea, then they have got to get their husband's tea if they have got a husband and if they have not got a husband, they are a single parent stuck in that house with 2 or 3, maybe more, children of whatever age to try and find a babysitter so they can run down to the polls and vote. Sorry, no. As the Constable of St. Ouen has said, and many others, we have been doing this for 2 years now, what are we going to put on the signs at the Parish Hall or where we vote: "Sorry not open this year until 10.00 a.m. Come back later"? No way. I am sorry, Sir, this is a no-brainer.

4.11.8 The Connétable of Grouville:

I have to agree with the Deputy's last remarks, it is a no-brainer. Talking from a parochial point of view on mornings of elections between 8.00 a.m. and 10.00 a.m. we do have a pretty large influx of people. Now it is easy to say they could come at another time of the day, some of them cannot. I think if this part goes through and we lose one voter, that is too much. We cannot afford to lose one voter. As regards the volunteers who come in, I can assure you that in the Parish of Grouville they do not get paid but they do get a nice lunch. So what we do normally is have 2 shifts. The first shift who do the morning and then have lunch and the second shift who have lunch and then do the afternoon. So everybody seems to end up happy. But as the Deputy said it is a no-brainer and I shall be voting against this. Thank you, Sir. In fact I would like to ask if the Deputy of St. Mary

would like to withdraw it because it seems to me that it is not going to be terribly popular.
[Approbation]

The Deputy of St. Mary:

I think the whole reason of bringing this was because it was bandied around from time to time and it was a decision of the Committee that we should put to the vote so that it can be put bed, Sir. So I am quite happy if Members do not want to speak anymore and just vote, that would please me greatly.

The Bailiff:

Does any Member have anything new to say?

4.11.9 Deputy S.C. Ferguson:

No, I do not want to deny anybody the opportunity to vote but in 2002 it was pretty dead between 8.00 a.m. and 10.00 a.m. until 10.30 a.m. when the people coming to get the papers and a cup of coffee and visited the Parish Hall to vote and have a chat. Then we had a rush at 6.00 p.m. in the evening. Then in 2005 we had a rush at 8.00 a.m. and really very few people coming in at 6.00 p.m. and it did seem from the people I saw that the 8.00 a.m. lot were coming at 6.00 p.m. I do not think, unless the Connétable has the figures with him ... perhaps he would enlighten us. I am sorry, may he, Sir?

The Connétable of St. Brelade:

May I on a point of clarification just correct the Deputy in that at 9.00 a.m. on the 19th October in her area, there were 2.38 per cent recorded, 2.29 per cent at 10.00 a.m., which counted for 154 people voted before 10.00 a.m.

Deputy S.C. Ferguson:

But, with respect, there was a queue at 6.00 p.m. in 2002 because I met a lot of old friends there. Yes, my own preference is for voting on the way home from work. If the children are in the car, or the child is in the car, then they can come and stand at the entrance and see what voting is all about. But apparently, obviously, I will go with the majority but my own preference, as I say, is 10.00 a.m. until 6.00 p.m.

4.11.10 Deputy C.J. Scott Warren:

Just a suggestion, perhaps the Connétable should provide breakfast, and not just to the volunteers but maybe to those coming to vote. But we might then be getting into a dodgy area of bribery, I presume. But certainly, Sir, this sends out totally the wrong signal and I will not be supporting it. Thank you, Sir.

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

I will be very brief, Sir. In my district of St. Saviour No. 2 there was steady trickle coming from 8.00 a.m. in the morning. We are there for the benefit of the people, Sir, and I believe it should remain as it is. I will be voting against this, Sir, and may I say, while on my feet, I would like to thank all the many volunteers who do sterling work in our Parish Halls.

4.11.12 Deputy G.C.L Baudains:

It is a bit like Sunday trading, is it not? I think we all understand that if the shops did not open people would get their goods on the other 6 days. It really is a convenience because the shops do not sell any more over the 7 days than they do over 6 days, it just costs them more to do so. We must not forget, I do not think, Sir, that moving to the 8.00 a.m. start for voting was an experiment and it was an experiment to get more people to vote. Well, it has not worked and as the Vice President of the Privileges and Procedures Committee said, it has really the same effect as Sunday trading, same number of voters, just spread over a longer period of time, 12 hours instead of 10. It

is my belief that when I see the type of people who do turn up to vote, the amount of effort some people put in to being there, I think if the voting period was only one hour they would still be there. It does seem that some Members of the Assembly, Sir, cannot seem to understand that you cannot make people vote. Alternatively, of course, if the 10.00 a.m. to 8.00 p.m. proposed is really truly impossible for some people let us not forget the postal vote exists. We seem, Sir, not to care about these officials who administer the vote. Who put in a tremendous amount of work over a long period of time. I believe Deputy Martin was taking that vein, Sir. Unfortunately it does seem to me that these politicians are the same people who at the next election will express their wholehearted support for the honorary system, but of course today they do not mind knocking it. It is further suggested, Sir, that if we move from 8.00 a.m. to the 10.00 a.m. suggested some people will not vote. I do not believe that. I am not usually in the habit, Sir, of supporting things that do not work. This 8.00 a.m. experiment did not work. Let us move to 10.00 a.m. as it always was previously.

4.11.13 Deputy R.G. Le Hérisier:

I think in a sense we are missing the point because the big question is why do people vote, why do people not vote? Had it been presented within the context of a study which would have demonstrated that, and I think some of the reasons are, Sir, just in a very random way obviously very good advertising instead of the turgid screeds that are appearing at the moment, advertising up to nomination day and advertising that an election will take place. The thing, Sir, that quite frankly we refuse to face up to, the fact that it will be a meaningful election. That people will go into the booth feeling that they are expressing a vote which will have an actual effect on policy. There are a large number of people, including the traditional voters, who at the moment keep the system going who are coming increasingly to the conclusion that the system does not work in that way.

4.11.14 Deputy P.N. Troy:

Just briefly, Deputy Baudains said that this had not worked to increase the number of people voting. That may or may not be the case but I do not think that he can necessarily prove whether people have turned up at 8.00 a.m. or 8.30 a.m. whereas they might not have voted at all if that had not been open to them. But it is obvious that a number of people are going to the polls at that time, it is convenient for those who vote for us and so I agree that we should support this. I think the Deputy of St. Mary, when she brought this, she probably knew she was on to a hiding for nothing here when she brought it forward because when I was on P.P.C. with Deputy Le Hérisier I think we changed all of this to widen everything from 8.00 a.m. until 8.00 p.m. and I think it has been received quite well by the electorate. So I am loathe to step backwards and change what we have done. So, that was it. I am sorry that the poor Deputy is going to see herself lose this vote massively.

4.11.15 Deputy G.W.J. de Faye:

There have been a lot of very fascinating anecdotal contributions but I am perhaps a little concerned we may be drifting away from the key issues. First of all the position we are in at the moment was and still is an experiment. An experiment in bringing times earlier and I, for one, do not believe we have seen enough of the experiment to make a determined judgment on whether it has been successful or whether it has not. What I do recall when the idea was first mooted was that the serious argument laid against it was in the administrative time it might take up for the Parishes and the burden that the Parish Halls may have had in manning the booths that much longer. So I look to the Connétable's benches this afternoon and there appears to be no issue on this at all. It appears that the Parishes have absolutely no difficulty in reality servicing the 8.00 a.m. start and I think that is good news because we need to understand which way round this is. We should be servicing the voters, not worrying about whether it is a problem for the administration. Certainly if we were down in South Africa, for example, where people walk from their villages the day before and start queuing to vote at around midnight the arguments would be rather different. We would be

querying whether we should be opening the booths at the crack of midnight because there are people that enthusiastic they want to be there to make sure they have voted. I think we need to get this right. On the one hand the politicians among us are suggesting that we ought to have forms of voting, electronic techniques, let us make it easier for the voters, and here we are worrying about whether we should shorten the closing time or not. No, we should facilitate it, we should make it easy for voters. Who knows, if you are night shift worker it might be just a lot easier to vote at 8.30 in the morning than it is to vote at 7.30 in the evening. Let us make it easier. It appears that we can. The experiment, I think, is a little inconclusive at this stage but I think we need to get it absolutely clear that we are here to facilitate the voter and not mitigate against the voter.

Deputy G.C.L. Baudains:

I hope therefore the Minister will be putting buses on so that people at Clos de Roncier can make the polls at 8.00 a.m.

4.11.16 The Deputy of St. John:

I already spoke about this briefly when we were discussing the principles and I cannot support the idea that the voting day should be shortened for all the reasons that people have mentioned. I think it is fundamental here that the Constables are the majority that are not supportive of this change and it is them that would have most of the work and it is their staff and their volunteers that would be most affected by it. So, I would urge Members that if the Connétables do not support this move then neither should the rest of the House. With that, Sir, I think it would be quite useful that, as the Deputy of St. Mary has already suggested, we move to a vote on this and move on.

4.11.17 Connétable P.F.M. Hanning of St. Saviour:

Deputy de Faye made several points that were, I think, valid for us. South Africa, yes, if it matters to people they will vote, they will vote whatever time we have the poll, even if it is only open for an hour, they will make the effort. I think we should make it as easy for people as possible, extending it as we did before I think gives people the right idea. I think as an experiment it has not proven successful, the numbers have not gone up so that works either way. We have certainly found that there are problems in the Parish. I know for years I have been involved helping with elections and working at the Parish Hall and it has put a lot more strain on the Parish Hall, on the staff who have to get there long before 8.00 a.m. to get everything sorted before the start - people tend to forget that - and the work goes on a long time afterward it closes at 8.00 a.m. for those that are counting, sorting it out, and again the staff are working a very long day. Getting the extra numbers, because we have also had to get shifts when you are running 3 polls in a Parish, is hard work. It is not easy necessarily to get everyone. You try and juggle them around, Sir, that some can do mornings, some can do afternoons, it puts extra work on the staff just to make the arrangements. However, having said that, I feel that we probably have not run the experiment for long enough. I would feel more confident in saying, yes, we should shorten the hours had we already had another election. I think we need to run it another year before we decide.

The Bailiff:

I call upon the rapporteur to reply.

4.11.18 The Deputy of St. Mary:

Hopefully this will not take very long. I would just like to pick up a few generic points, Sir. Firstly, I am very heartened to hear the different measures that are in place in different Parishes and across the Island to involve the school children. I think that was an important aspect and I am glad that it is not being overlooked. I have to say I was a little confused about Deputy Martin's comment about the payment. If she was asking did the volunteers get paid, to the best of my knowledge, well certainly in my Parish of St. Mary, they do not get paid, Sir, and I do not know others that do. The reason for mentioning the volunteers was exactly for the reason that the Constable of St. Saviour has just expounded. That you are requiring ... you need to call on a greater

pool of people and in some Parishes those people just are not available because not everybody can afford to take time off to help. So that was the only reason for mentioning that. A number of speakers talked about the experimental status of this and I think that is wholly justified. I appreciate the importance of getting as many people access to the polls as possible. The reason for bringing it was the fact that it does not seem to have had the desired increased turnout that was hoped. Indeed, I am grateful to the Constable of St. Brelade who brought his figures for the 2005 poll which did, if I heard him correctly, substantiate what I had been told anecdotally that the figures were not as good in 2005 as they were for the first time that the polls were open longer. For example, in St. Brelade the Senatorial in 2002 would have had 4.9 per cent by 10.00 a.m. turnout and then it went down to 4.2 per cent in 2005. For the Deputies' election it went from 11.9 per cent in 2002 to just 4.4 per cent. So the initial flush of enthusiasm for this perhaps has tailed off. But, again, I appreciate the point that we may not finally know this until after another suite or 2 of elections has taken place. I am grateful for everybody who spoke, even though, as Deputy Troy said, most of them are against the position. Of course, as I said, P.P.C. itself is not united on this and I would now just put the proposition to the vote, Sir, if I may.

The Bailiff:

I ask the Greffier to open the voting which is for or against Article 9 of the Bill.

POUR: 3	CONTRE: 34	ABSTAIN: 0
Deputy J.J. Huet (H)	Senator T.A. Le Sueur	
Deputy G.C.L. Baudains (C)	Senator P.F. Routier	
Deputy S.C. Ferguson (B)	Senator M.E. Vibert	
	Senator B.E. Shenton	
	Senator J.L. Perchard	
	Connétable of St. Ouen	
	Connétable of St. Clement	
	Connétable of Trinity	
	Connétable of Grouville	
	Connétable of St. Brelade	
	Connétable of St. Martin	
	Connétable of St. John	
	Connétable of St. Saviour	
	Deputy R.C. Duhamel (S)	
	Deputy A. Breckon (S)	
	Deputy of St. Martin	
	Deputy P.N. Troy (B)	
	Deputy C.J. Scott Warren (S)	
	Deputy R.G. Le Hérisssier (S)	
	Deputy J.B. Fox (H)	
	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy of St. Ouen	
	Deputy of Grouville	
	Deputy J.A. Hilton (H)	
	Deputy G.W.J. de Faye (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy S. Pitman (H)	
	Deputy A.J.D. Maclean (H)	
	Deputy K.C. Lewis (S)	
	Deputy of St. John	
	Deputy of St. Mary	

The Bailiff:

Now we come to Article 10.

4.12 The Deputy of St. Mary:

There has been evidence in recent elections that certain electors apply to vote by post because they initially do not believe they will be able to attend the polling station, but then due to a change of circumstances they in fact go to the polling station on election day with the ballot paper they have obtained by the postal vote process and try to cast that vote there and then. Under the current legislation it is not possible for a person to receive a postal vote and then to vote at the polling station using the ballot paper. At present these people must be turned away by the Autorisé and not be permitted to vote. This is clearly not satisfactory. The new Article 32A which is inserted by this Article would allow electors to vote in person in these circumstances. The elector must clearly produce the ballot paper sent to him by the Judicial Greffier and in these circumstances there is no possibility of fraud and no possibility that the person can vote by both post and in person. I move Article 10, Sir.

The Bailiff:

Article 10 is proposed and seconded. **[Seconded]**. Does any Member wish to speak? Deputy Southern.

4.12.1 Deputy G.P. Southern:

Hear, hear, I will vote for this.

The Bailiff:

Then I put Article 10, those Members in favour of adopting it, kindly show? Those against? Article 10 is adopted. Do you move Article 11?

4.13 The Deputy of St. Mary:

It has been custom for many years for the Autorisé and other persons authorised by them to attend on persons on polling day to receive what have been traditionally called “sick votes” from person who are unable to attend the polling station through infirmity or illness. Under the legislation as currently drafted there is some uncertainty about the validity of these votes collected in this manner and this new paragraph in Article 35 of the law clarifies the position to make it clear that votes can be validly collected in this way. I propose Article 11, Sir.

The Bailiff:

Article 11 is proposed and seconded. **[Seconded]** Does any Member wish to speak? I put Article 11. Those Members in favour of adopting it, kindly show? Those against? Article 11 is adopted. Do you move Article 12?

4.14 The Deputy of St. Mary:

Article 12 is merely consequential on the provisions relating to persons whose name is excluded from the public register because of risk of harm and I therefore propose Article 12, Sir.

The Bailiff:

Article 12 is proposed and seconded. **[Seconded]** Does any Member wish to speak? I put Article 12. Those Members in favour of adopting it, kindly show? Those against? Article 12 is adopted. Do you move Article 13?

4.15 The Deputy of St. Mary:

I have a sneaking suspicion this might not be passed as swiftly. This Article inserts a provision in the law that the Privileges and Procedures Committee believes is extremely significant and important. At present there is no restriction in the law on candidates or their representatives assisting with the postal voting process. Candidates can, for example, assist electors to complete forms for postal voting, can take these forms to the Judicial Greffe and offer other assistance to enable people to obtain a postal vote. Any elector who has received significant assistance from a candidate or his or her representative to obtain a postal vote may feel in some way pressurised into voting for that candidate when the ballot paper is received from the Judicial Greffier. Although candidates may believe that they are simply assisting electors in these circumstances, Privileges and Procedures is concerned that the current provision could be seen to interfere with the fairness of the election process, and indeed the same concern has already been raised elsewhere. Following the scandal of postal ballot fraud in the U.K. local elections of 2004 the Electoral Commission produced a code of conduct for political parties, candidates and canvassers, which provides guidance on the handling of postal vote applications and postal ballot papers and advises candidates and canvassers, among other things, not to handle or help voters complete their postal ballot papers, to encourage voters to post or deliver ballot papers themselves, and not to solicit completed postal ballot papers from electors. The code, although voluntary, has been widely accepted in 2005 and in 2006 the 3 main political parties reconfirmed their adoption of the code prior to the May elections. The Chief Executive of the Electoral Commission explained that the aim of the code was to ensure that the standards of behaviour expected at polling stations also apply in the community so that postal voters can have confidence in the system. In other words, all electors, whether voting in person or by post should be assured the same degree of confidentiality and the same freedom from interference at the point of casting their vote. Would anyone really expect candidates or their canvassers to be allowed to enter the polling booth with a voter? I think not. Then why should we countenance their presence at the time of completing a postal vote? This new Article would make it illegal for a candidate to assist an elector in completing the application form for a postal or pre-poll vote. In addition, it would make it illegal for candidates to deliver or cause to be delivered the forms to the Judicial Greffier. For the avoidance of doubt, paragraph 2 of the new Article makes it clear that a candidate or representative can still distribute blank forms to enable a person to apply for a postal or pre-poll vote but with the new provisions it would be illegal for the candidate to do anything further. It would, nevertheless, still be possible for staff, for example, in an old people's home to assist residents to complete the necessary paperwork but this would distance the process from the candidate or his or her representative. There is some evidence that in the past persons have been led to apply for postal votes when they no real intention of voting. This is demonstrated to some degree by the tables on pages 8 and 9 of the report to P.65 when in some districts significant numbers of papers were not returned. There is also anecdotal evidence that a good number of forms may have been completed by third parties on behalf of applicants as many that were presented to the Judicial Greffe when checked were found to contain incorrect information. This therefore meant that these applications had to be returned for amendment. Comments have been made by Deputy Southern in his amendments to P.65 that P.P.C. does not understand the democratic process. I can assure him that the contrary is true. Every voter has the right to believe that their vote is equally valuable no matter how it is cast and that they themselves are subject to all the responsibilities and safeguards afforded to all electors. At the heart of democracy is the principle that a voter must be free to cast his vote in secret without intimidation and without interference. This principle must be extended to all forms of voting in equal measure. This is what Article 13 aims to ensure. It makes absolutely no comment on the campaign methods employed locally by any candidate at any time but merely aims to ensure that this principle can be guaranteed in future. Sir, I propose Article 13.

The Bailiff:

Article 13 is proposed and seconded. **[Seconded]** Does any Member wish to speak? Deputy Breckon.

4.15.1 Deputy A. Breckon:

I think this is a bit of a sledgehammer to crack a nut really, and some of the wording of it concerns me a bit because in paragraph 8 it says: "Or assist such a person in completing any form." Well, the person may ask you: "Do you know what my electoral role number is?" Under this law you could not tell them because you are then assisting them to fill the form out. So that to me seems to be a nonsense. In paragraph (b) it says: "It is illegal, do not forget, for you to deliver or cause to be delivered" so you could not, for example, give somebody a stamped addressed envelope and say: "By the way, that is where you need to send it to." To me, Sir, that has got to be a nonsense, bearing in mind sometimes if you are visiting people, people are sometimes housebound and, let us just say, not fully aware of the system and officialdom. If you need to break down these barriers, for heaven's sake, you are talking about telling somebody a number and giving them a stamped addressed envelope and as this law is written, in my understanding of it, Sir - and I might be wrong - it prevents a candidate or anybody associated with him from doing that. I think that is a step too far.

4.15.2 Deputy S. Pitman:

First of all I would like to know how the Deputy of St. Mary thinks a voter will be pressurised by a candidate. In fact these people, these voters, are asking the Parish to be registered to vote. Also, Sir, does the Deputy know of anybody who has felt that they have been pressurised when a candidate has suggested that they fill in one of these forms? Sir, I would also like to say that when I canvassed in the 2005 elections and I think I got about 20 people registered, these people were mainly elderly, did not know the system, were not informed that they could go out and get ... they did not have to walk to the Parish Hall, they were very grateful to me for giving that information. If this is voted for, Sir, I feel we will lose this. Also if this goes through as a law I will ignore it and continue with collecting these postal votes.

4.15.3 Deputy G.W.J. de Faye:

I sincerely hope the previous Deputy does not follow that course of action, Sir. I do feel strongly about this and I have to say to Deputy Pitman and others, I do not believe it is for Privileges and Procedures Committee to prove that pressurisation, as so described, is taking place. It is the responsibility of the Committee to ensure that it does not take place and that the opportunities for it to take place are not there. In that respect I think the Committee has acted entirely responsibly in bringing this change to the legislation. All States Members will realise, and probably the Minister in particular, that we are bound by protocols that we set ourselves in terms of our standards of behaviour and probity. Yet it appears at the moment, at election time, there really are no standards pertaining of any significance at all. Now, I make no suggestion whatsoever that any candidate has brought pressure to bear on anyone in the past or is maybe likely to do so. But it is important to create the conditions where that simply is not a matter in question because, if we are expected to have probity as States Members, it seems to me that candidates for the role and appointment as a States Member should also be seen to exercise probity. This measure ensures that that is the case. It cannot be right for a candidate or candidate's representative to be involved in someone's voting process. It certainly would not be tolerated at a polling station and it should certainly not, in my view, be tolerated in somebody's home. Now, I do understand the arguments being put forward by those who say: "This is a convenience. This is an extension to our democratic process. I am tirelessly walking from door to door and, wherever I find someone who discovers they are disenfranchised or something, I can provide the service." Well, if that service is required then it should be provided, possibly by the Parish or possibly by some other mechanism. It should not be provided by the candidate or the candidate's representative. You do not have to be particularly widely read to know that in various areas around the world - and we have read about it in cities in the United Kingdom - political parties and their representatives and candidates have gone to almost ruthless measures to supplement their votes: by taking in and beguiling the unwary; people who do not necessarily have a command of the English language, who do not necessarily understand the

forms that they are filling in, who do not really know what a political representative or a candidate is, who have been completely taken in, in vast swathes. We now have a much better idea of the potential for corruption that lies behind the opportunity for candidates to quite deliberately take advantage the innocent voter. I cast no aspersions on anyone's behaviour, past or present, and I simply say this: this is an excellent measure to ensure that the finger can never be pointed at any candidate and no voter can be taken in and we should support it.

4.15.4 Deputy J.A. Martin:

I think the Deputy may have made a few valid points but I would just like to go back to the rapporteur's speech. Now, we are told that this will not stop people who live in an old people's home, an assistant there helping them with a form. In my district I have a problem because - and this is a problem - I can go in lots of blocks of flats, the door is open and there is a little old lady or man sitting in there waiting for the only person they see each week: Family Nursing or Meals on Wheels. They say: "I need a postal vote", or "I need to apply for it." The only thing I can do is basically assist them by giving them a form. Now, my problem is that person then, some of them are not very ... they are fully, fully *compos* but they may be physically slightly impaired by this age. They know exactly who they want to vote for. I do not even ask them if they want to vote for me. I ask them if they vote. Now, you can believe that or you do not believe that, but I want to know if they vote. Now, what Deputy de Faye has said is if it is not us - and where P.P.C. have completely missed the boat - who is going to get these people's postal votes or application for postal vote to the right authority? No-one. So these people, unless the candidates can help, will not be able to vote. So this is where I really have a problem. I mean, the Deputy of St. Mary was very careful to point out that this is not, let us say directed at any one or 2 people in this House. I am looking at postal votes and how many in each district and other Parishes. We do not have the percentages. I mean, in St. Mary - let us just go for the Deputy's own Parish - she has 1,040 registered voters and she has 41 papers sent out. Well, what is the percentage of that against the biggest in St. Helier where we have 3,500 and only 159? Well, it sounds a lot but what is the percentage? Probably about the same, Sir. Now, we are talking about pressuring people. How pressurised is it when we have Senators with lots of money and myself as well; not having lots of money but I have lots of volunteers on the day to bring people to the polls in a car or in a minibus: "Vote for so and so." Obviously if it is my car or somebody who is helping me it says: "Vote for so and so"; they will take the sticker down just around the corner. The people know they are in my car. Now, when they go in to vote they have no pressure. In fact, some people come out and they say: "I came in his car but I voted for you." Quite legitimately, they will have you over every time. Now, Sir, we cannot have it both ways. We are allowing people to put on minibuses to bring people to the polls and we are now saying we are going to leave the little old lady or man or even youngster who has not much connection with the outside world ... we are denying them the opportunity to vote. If the P.P.C. have come up with a way that these people could have then registered without just relying on a friend, and I am talking about people who do not see people ... well, if you want to put it down to the authorities like Family Nursing or Meals on Wheels, hopefully that they will get there, that is all well and good. I do not think that is good enough. I think this is something that has gotten totally out of hand. You do not pressurise people to vote. You are not there when they cast their vote when you have brought them in, in your minibus. So I certainly cannot support this and I just think it is absolutely silly. If we are trying to encourage people to vote, what harm are we doing?

4.15.5 Deputy C.J. Scott Warren:

Firstly, Sir, in response to the Vice-Chairman of Privileges and Procedures, I personally think that when someone requests a postal vote he or she does intend to use it; but we all know that however good intentions are they do not always get carried out. I, Sir, support ensuring the absolute integrity of the voting process, including postal voting. It has been said that this is a sledgehammer to crack a nut. However, we all know that seats can be won or lost by a mere handful of votes. That, Sir, was certainly the case in the last Deputies' elections in St. Helier and I know it has been

the case in other Parishes. It is so important that the integrity is ensured. In the last election, Sir, my involvement was that I phoned the Parish Hall with a few names of people who wanted postal voting forms. That, Sir, I felt, gave help to those constituents who wanted the forms without really my involvement except to make that phone call. From then on the Parish Hall said somebody would see that it was enabled that that person could get that vote. Sir, that seems to me being able to help but being safely removed from the situation where any pressure could be put on. So, Sir, I will be supporting this Article.

4.15.6 The Deputy of St. John:

I very much agree with Deputy de Faye's issue where we just simply must be above this. We must have the best of corporate governance in our own area of politics. We must not, we cannot, ever be accused of any kind of coercion in these types of matters and by having such an Article, it prevents us from any such kind of accusation. I think it is very clear and I think a number of Members have referred to it already. In the paragraph in the report it does very clearly say that a candidate's representative can distribute a blank form to enable the person to apply and then they should do that themselves. In the same way as a number of Members have mentioned, you do not go into the voting booth with that little old lady that is finding difficulty walking in. You simply do not do it. You have to have the highest of probity. You must not get involved with that process. An interesting thing though that Deputy Breckon mentioned, and I would like some clarification from the rapporteur on this, and that is the issue of electoral numbers. Now, in my particular election I wrote to every parishioner from the database that I was provided by the Parish. I signed a data protection declaration to say that I would only use this for the purpose of electioneering and I used that number and advised every parishioner by letter of their electoral number, just to ease the process when they got into the booth. So, I assume that is permitted; whereas Deputy Breckon was suggesting that maybe that was not. I would draw Members' attention to the statistics which were quite interesting. This is the first time that I came to realise that, outside the urban Parishes, my Parish and St. John's had the highest numbers of papers returned by postal vote. Out of those 69 that were sent out, 63 were returned. Now, I had absolutely nothing to do whatsoever with those postal votes. I never carried a blank postal vote with me when I was electioneering. I never encouraged anybody to apply for a postal vote. I had nothing to do with it at all. Clearly P.P.C. and others promoted the concept of postal voting. I certainly did not. The interesting thing about that was the huge return from it. In other words, nearly all the ones sent out which were demanded and requested by the electorate, rather than given out by the candidate, they were nearly all returned. Whereas, if I look at a district in St. Helier where 186 papers were sent out, only half of them were returned. So I would suggest to Members that those people that request a ballot paper by post do complete them and return them, whereas if it is given to them they are less likely to and I think that says a lot. I would urge Members to draw their attention to those statistics. For the sake of probity and good corporate governance, I really think that Members should support this Article 13. I think the stats say it for themselves.

Deputy J.A. Martin:

Sorry, Sir, can I just have a clarification from the Deputy of St. John? He said he never asked or participated on the 69 papers sent out but he was in a contested election. Does he know if the other 2 candidates asked for these 69? I mean, where did they come from? He is not explaining it right, Sir. He did not, but it was a contested election. The other 2 may have, between them, provided the 69.

The Deputy of St. John:

I am happy to say that I had nothing to do with it. What the other candidates did, I have no idea, Deputy Martin. You are quite right to mention it and I apologise if I inferred anything from it. What I was trying to suggest was that I believe, myself, that if the electorate requests the forms then

it is more likely that you are going to get a return from them, rather than giving the forms out, because they generally then want to do that rather than have it given to them.

4.15.7 The Deputy of St. Martin:

I just want to pick up on something that Deputy de Faye said earlier. It is a shame he is not in the House, but he talked about people being naïve and ignorant and not knowing really anything about wanting to fill a form in. Well, this morning he was arguing why it needed at least 2 years before people could understand how to fill a form in. Sir, he cannot have it both ways, with respect. I would assume the whole purpose now that people have to wait 2 years before they are able to vote is they know all about the English language and know full well what they are going to do and there is no way they are going to be intimidated if they want to complete a form to vote. So I think we can put that one to bed. I think this proposal that we have here really is an attack on the integrity of all candidates, all those who wish to stand for the election, and I feel rather sad because I did get the Committee Minutes to see what was discussed at length about these particular proposals and could not see anything in the Committee Minutes about this particular aspect of it because I do think it is a bit below the belt. It is also based on tittle-tattle; hearsay evidence; anecdotal evidence; proper evidence. Where is the evidence? I think it is bizarre as well that you can give a form and we heard Deputy Breckon saying: "You cannot even tell ..." People say: "Well, what is my electoral number?" "I cannot tell you, I might be in trouble." I do not know what trouble you are going to be in because it does not say here but no doubt you are going to be in a heap big trouble from P.P.C. if it was found out you gave them that number. Again, I think it is a rather slippery slope. One thing it did do, it did enable 1,000 people who might not have wanted to vote, it gave them the opportunity to vote. Those who chose not to ... there were all sorts of reasons why the form was not returned and I know certainly why some forms were not included. It was simply because of what we have done today; we are amending that problem where people did bring their forms to Parish Halls, etcetera, in complete ignorance; not knowing that they did not count. So what are we going to do here? We are going to vote for a proposition that disadvantages those who do care to go out and canvas. If anyone has been involved in quite difficult elections, one knows that people will use anything which is legal to ensure that people have the opportunity of expressing their votes. I must compliment my former opponent in 2005 because he worked very hard and his team must have worked very hard to try to persuade a lot of people to vote and use their postal vote but it would appear that a lot of those he did try to persuade did not vote. Probably that is why there is such a high return in St. Martin's of those who did not vote.

The Deputy of St. John:

On a point of clarification, the Deputy mentioned this issue of not providing a voter number to the parishioner. Can that be provided or not? We provided it to them by mail. Are we being told here we cannot give it to them on the doorstep or not? We have been given the list, we have signed a declaration about data protection and we are allowed to write to them with their voter number on it. Can we give it on the doorstep or not? Can I have clarification on that, Sir?

The Bailiff:

Attorney General, do you need notice of that question?

The Attorney General:

I think I would like to think about it.

The Deputy of St. Martin:

One thing that has not been mentioned is about those who sit in a room and ring up people on the day and say: "Look, we have not seen you here voting yet. Would you like to vote?" There is no mention here. So we will have this bizarre instance where you cannot give someone a postal vote yet you can have people sitting in an office somewhere ringing up people and saying: "Look, you

have not voted. Do you want to come and vote?" The only difficulty is, of course, they will not be able to provide a car because that representative may well be carrying someone.

The Connétable of Grouville:

May I say, on a point of clarification, I do not know how that person would be able to constructively say that somebody has not voted because the voting lists are kept in the Parish Hall and they are private.

The Deputy of St. Martin:

I am speaking as someone who has been involved in some quite difficult elections. **[Interruption]** Anyway, again, what happens here when someone wants to do a home vote and you call at their door and they say: "Look, I do not want to do a postal vote but can you make arrangements for me, please, to get someone to come from the public hall, get the Jurat down to do a home vote?" I presume one can do that because it does not say you cannot. But, again, it does seem bizarre that you can go to the public hall or the Parish Hall and ask for someone to arrange for a home vote for someone, yet you cannot arrange for a postal vote. Anyway, I feel the whole thing really is a sledgehammer to crack a nut, as Deputy Breckon said. I think we are attacking the integrity of all States Members, all potential candidates, and I certainly will not be supporting it.

4.15.8 The Connétable of St. Saviour:

I am a little surprised that suddenly we have all become little vulnerable flowers where our integrity is being attacked. I think we have to realise that by far the most important thing is the integrity of the poll. **[Approbation]** It is more important than numbers. Whatever the result, it has to be trusted and if people do not trust the poll then there is no point in having an election. So what we have to do is ensure that we have a system that we can trust. I, as I say, have helped for years doing this. For some reason I have ended up going out collecting sick votes for quite a large number of years and I have lost count of the number of times I have been asked who the person should vote for. There are a lot of people who are very, very vulnerable and I think we have to be aware of that. These people can be manipulated. They can be persuaded very easily by somebody who has gone in there with the best will in the world to help them but they are vulnerable and they are not going to make their own decision. They are going to have this decision just twisted slightly to the favour of the person helping them. It is no use us saying: "We are all people of integrity." We may be, but the fact remains we have to be seen by people outside to be whiter than white and I think if we are seen in any way to have a system that could bear influence on the way people vote, then we are very, very wrong. I am getting the impression here that it is a one-sided view: "We must be able to do this; it is easier for the people to be able to vote this way." More important than that is integrity. It is far more important. People have to be able to trust the poll. **[Approbation]**

4.15.9 Deputy S. Power:

I directed a question this morning to the rapporteur in relation to the tables on page 8 and page 9 and I hope in her summing up she will address that again. I took the liberty, Sir, of doing some statistical analysis of the tables on the 2002 Deputies' contested seats and the 2005 contested seats and there is a remarkable similarity in a number of the Parishes in 2002; with the exclusion of St. John, which was not contested, and St. Martin, which was not contested, in 2005. If one takes the number of papers returned on the tables on page 8, if you express the papers returned as a percentage of the registered electors in 2002, most of the Parishes hover around between 0.8 and 1 per cent. But there are some anomalies which are St. Martin at 8.6 per cent, and I am happy to confirm to the Deputy of St. Mary that St. Mary in 2002 was 3.4 per cent, which was the second highest; so most of the Parishes hover around the 1 per cent, with perhaps St. Helier No. 2 at 2.8. In 2005 most of the Parishes hover at just over the 1 per cent. So perhaps in her summing up she might like to address this and give us the benefit of her expertise and her studies over the year.

4.15.10 Connétable J.Le S. Gallichan of Trinity:

Many people say: “Why do we not have the elections of the old days?” One of the main reasons is that we all have to be whiter than white now ... and if you get anywhere near the entrance of a Parish Hall with a rosette on, that tends to sort of influence the way that people vote when they go to vote. If that is the case, how on earth can we accept something where people go with a form and fill it in while they are with them? I am sorry, if you cannot stand outside a Parish Hall or in a Parish Hall ... some people in certain Parish Halls, they have to stay outside in the rain throughout the whole 12 hours. Well, I thought that was a step backwards personally because I thought the atmosphere of an election in the old days was basically to get people to go and vote. So if you had good camaraderie between all the candidates and all those who came in, it was more of a social atmosphere as well. We have lost that and those days will not come back because of certain people being concerned that, as you walk through the door, the rosette meant your vote was being decided for you. I totally disagree with that but I do not disagree with this. I totally support this. We should be way above suspicion. Anyone who stands for this House should be above suspicion, Sir, and I will be supporting this proposition.

4.15.11 Deputy P.N. Troy:

Sir, I feel that if we do support this today I think, when we go to the election and once we have had all the nominations, the P.P.C. should really be looking at either providing a copy of the Elections Law to every single candidate so that they are fully aware of what is in the law or, alternatively, providing a fact sheet which tells potential candidates. A lot of us have been through the mill before and we are familiar with it but certainly new people standing for election really sometimes are not aware of the rules to which they have to adhere. I think P.P.C. should really look at producing a guide sheet or something similar for new candidates if this and other areas are approved.

The Bailiff:

The law is on the Jersey Law website, Deputy, for everyone to see.

Deputy P.N. Troy:

Not everybody reads it, Sir; that is the problem.

4.15.12 Deputy R.G. Le Hérissier:

The Constable of Trinity is quite right and there were comments made when the over-rigid interpretation was applied on what was the environment of the polling station. I thought there had been a certain loosening up of that because there were a couple of elections, as we know, where the whole thing just got quite stupid. Something we are also forgetting, before I make my point, is I think you have to compliment Deputies who do campaign aggressively or assertively, or do both, because that is what electioneering is about. It is about bringing people out and they have to be complimented. But that said I am afraid I then part company with Deputy Southern and the Deputy of St. Martin. I am afraid it has to be a procedure which is tightly regulated. We must be cleaner than clean. Of course, as Deputy Scott Warren said earlier, the ability to influence elections with fairly small numbers in Jersey is very, very present and one solution I would say, developing what Deputy Troy said, I would like to see much more publicity. I see a programme is being organised at the moment which might eclipse those awful advertisements about Procureurs' elections. I would like to see much more publicity from P.P.C. and the Parishes as to how to go about postal voting because I think the public are going to be rather confused now. They are going to be presented with this form and candidates are going to have to go through this procedure of: “I cannot touch you; I cannot get involved.” It is all going to sound terribly sanitised and everything. There really has to be some attempt to (a) publicise the process, and (b) if at all possible, to simplify it; but it must really be pushed home because I think that has to be what will replace the assertive electioneering by Deputies. But as I said just now, Sir, much as I admire the kind of energetic

electioneering of our colleagues and I think they have to be praised for that, I think this is a step too far as the Constable of Trinity said.

4.15.13 Deputy K.C. Lewis:

I will be supporting this. I do believe we have to be whiter than white. Something that the Deputy of St. Martin said did bother me, and I apologise in advance if I have misinterpreted, but how on earth would anyone known except for the returning officers who has voted and who has not?

4.15.14 Deputy G.P. Southern:

I feel we are in danger of losing our track here. Let us look at what we are trying to do. Surely the purpose underlying all of these amendments is to encourage improved voter participation and to get more people voting. In my opinion this particular amendment is one of the most petty-minded, obnoxious items of bureaucratic nonsense ever to come before this Assembly and, with all the caveats expressed by the rapporteur and others, to say this is not directed at anyone in particular, of course it is. Of course it is. It is directed at 2 Members, at least, of this Chamber who make the effort, election after election, to get out on doorsteps and knock on doors and introduce themselves with a smile and say: "Hello, I am one of your candidates." That gets people votes. It is the old-fashioned way. Some of us do it very successfully. As part of that process of encouraging people to vote, there is the postal vote. That is additional to. Now, on the basis of no evidence whatsoever, P.P.C. have suggested that assisting somebody to get a postal vote ... Remember this is not the ballot paper, this is a form to acquire a postal ballot. By the time the ballot paper comes, the candidate is nowhere near. It is 3, 4, 5 days away from the postal vote arriving. So to suggest that this is somehow interference with the legitimacy of the process, I am sorry, quite frankly that is absurd. This is not about interference. This is about facilitating, helping people to vote. The suggestion is that poor people will be somehow pressurised into voting for that particular candidate who has assisted them to get a postal vote. Again, what nonsense. What pressure is there? We heard from the Constable of St. Saviour about people who do not know who to vote for. Anybody pressuring a voter is - come on, use your brains - most likely to lose their vote rather than gain it. Apply some pressure to somebody's voluntary vote and you lose their vote. Now, some people might try that but I will bet they are not in this House because they would not have been elected. They would have caused the reaction: "I do not like them; they did a hard-sell on me." Not reality, not reality. Let us examine what we are trying to do, because I think this is a very important decision we are about to make. What impact does this have on voters? Does it encourage voting, postal or otherwise, or not? Those who wish to have a postal vote fall into of several groups: (1) those who will be absent from the Island on election day, yes, they require a postal vote; (2) those who have an illness, disability or mobility problem that makes getting to the polling station difficult or impossible, absolutely appropriate, we should be giving them a postal vote if we can; (3) those who are too busy with work and/or family commitments to attend, and there are a number of those. That is the officially designated 3 categories that are allowed a postal vote. But on top of that there are many types of people who have problems with going through the process of voting: (4) those, for example, who have a learning difficulty and cannot read; that is a very crippling thing that happens to people. Many of those will not admit openly that they cannot read and they need assistance to fill in a form or to vote; (5) those for whom English is a second language; tremendous problems with handling a form that is not in their own language; again, a need for assistance; (6) those with partial sight, those who are blind; they still want to vote; and those who are elderly or infirm but who wish to vote and will not venture forth in foul weather, which when we have got a general election is often the case, what do they want? They do not necessarily fit into any of the categories but when you ask them: "Do you always vote?" "Well, I try to." "What stops you?" "Well, if it is raining cats and dogs on that day, I will not go out." What is the appropriate solution? Postal vote. Perfectly acceptable. Then there are those who we are quite happy to blame because they do not vote; those who do not usually vote, either from disillusionment or apathy, who just might use a postal vote if they can be bothered. (4), (5) and (6) intrinsically require some

assistance, often in filling in the form itself. What is being suggested here is that a candidate may hand out an application form ... It takes, because I have done it, between 30 seconds and 2 minutes to fill that form out and get a signature from the person. It is a 2 minute or 30 second job and it is done. I have regularly done that on the doorstep and then ensured that that form is taken into the Greffe and registered. That postal vote is done and dusted, there and then, within 30 seconds or within 3 minutes. It is done. However, no matter how many times you do that, the people who feel that they want a postal vote do not get perfect results; still some of those votes do not come in. Is it because they cannot read and they do not want to ask for help from anybody else to vote? Is it for other reasons? But they do not all return. People still do not use them. We cannot guarantee that they are going to use them. Nonetheless, we should enable them, if we possibly can, to do a postal vote. What this law is suggesting is that you are standing there like piffy on the doorstep, you have given them a postal vote, you can see that they can barely see the form, they require assistance, or that they are infirm. The number of occasions I have waited while somebody, in order to get a signature, has taken 2 hands to guide the pen, and partially sighted and the shakes are on, and it has taken 3 minutes to get the signature. It only took 30 seconds for me to fill in the address and the name but it has taken 3 minutes to get the signature. Come on; that is the reality. That is the reality. Do we want that person to be able to vote by post because they are unlikely to go out to the polling booth? The answer must be yes. Can we do it? As a matter of common courtesy, when asked, and many do: "Can you help me fill it in?" Yes, because I know what I am doing, I know what the boxes are. You enable them, done. So do we really want to encourage people to vote, by post or otherwise? It seems to me that the thrust of this particular Article says: "Well, not really", because we are putting in a hurdle that says: "No matter whether the candidate delivers you a postal vote request form, he or she cannot then assist you in filling it out while you are there and it does not take very long. You have got to ask your son or daughter to help you fill it in sometime later, your home help, or your milkman. I do not know, whoever; your the next visitor or sometime later." Again, like with registration, does it get: "Yes, I must do that", and then it does not get done? I think that is a likely outcome in many cases. So what does that do legally? It brings up some strange anomalies. As I keep reminding people, voting in Jersey is a 2-stage process: the registration process and then the voting process. What we have got, if we adopt Article 13, we would make the following things illegal: assistance in completing a postal voting application form, any assistance, including putting the number on it - presumably the voting number - delivering or causing delivery of forms to the Judicial Greffe. So, having filled in the form there and then, I cannot volunteer to say: "I will pop that in, if you like, to the Greffier. It will be done and dusted. Your postal vote will arrive within 5 days." Not allowed to say that; not allowed to assist; not allowed to give an envelope with the right address on it. No. "Can you read that text there where it says where you have got to send it to? Are you sure? Do you want me to write it out in big hand so you can see it?" Because that is often the reality. The provision of transport to enable a voter to attend a Judicial Greffe if they want to vote on the day; that will be rendered illegal. I believe that many of the people in groups (4), (5) and (6) that I referred to could properly claim that Article 13 disproportionately interfered and limited their right under Article 3 of the First Protocol of Human Rights (Jersey) Law 2000 to fully exercise their right to participate in free elections in that it discriminates against them by setting an artificial barrier to their ability to vote. I believe that is disproportionate and I look forward to somebody challenging it. Returning to the 2 elements, registration and voting; what this will do ... Assistance: if the candidate offers assistance in completing a postal voting application form that would be illegal and subject to a £2,000 fine. If, on the other hand, earlier in the process, the candidate were to assist in completing a voter registration form - the first stage - that remains legal. So one act, helping somebody register, legal; helping somebody get a postal vote, illegal. Think about it. Which is assistance and which is interference? Secondly, delivering or causing delivery of forms to the Judicial Greffe would be illegal under Article 13, £2,000 fine. Delivering or causing the delivery of voter registration forms, equally part of the process, could be taking place within a month of the election, remains legal and seen as helpful. They want us to register people and I certainly do. Finally - and bear this in mind,

please - provision of transport to enable a voter to attend the Judicial Greffe to register their pre-poll or postal vote would become illegal, even on election day before noon. We are about to extend the period when you can deliver your postal vote to the Greffe. Before noon on election day, that is rendered illegal. So, I give somebody a lift to the Judicial Greffe; illegal. If anybody sees me and reports me, that is up to £2,000 fine. Provision of transport to enable a voter to attend the polling station on election day remains perfectly legal. I can take somebody to the polling station. It does not interfere with their vote. I mean, as Deputy Martin said previously, often they get out of somebody's car and you think: "Oh, I thought he was one of my voters." He has arrived in somebody else's car, who is not in the room at the moment: "I thought he was one of mine." As he comes past you he tips you the wink, big wink: "I have used his transport but you know where my vote is going." We know this. We know this happens. I am sure it has happened the other way round. I have given lifts to people or organised lifts for people knowing damn well, and they have said it in the car: "I might take your car but I am not voting for you. God, I cannot stand what you represent. Why do you not sort yourself out?" You get the 5 minute lecture on the way to the ... You think: "Oh, God, good day for me this", but, yes, you deliver them. Are you interfering with their vote? No, you are not. But, according to this Article 13, if I deliver that same person to the Judicial Greffe before noon to register their vote that will be illegal, because it is interference according to this. That, to my mind, is complete and utter nonsense. Please, please, throw this bureaucratic nonsense out.

4.15.15 Senator M.E. Vibert:

Deputy Southern made a spirited defence of collecting postal votes. From what I could understand, the main thing was encourage voting, which I totally agree with but not at any cost. If he wants to encourage voting I am sure handing out £1 notes or £10 notes to voters might help but that would be bribery. That would be undue influence. What this amendment is seeking to do is to ensure there is not any undue influence. If I can say, I thought the Constable of St. Saviour summed up the situation very clearly. What we need to do is protect the integrity of the poll. It really is a case of it should be done in secret and without interference. Not that it might happen but we should not allow a candidate the ability to stand over a voter with a postal vote. We should not allow people who, as the Constable said, may be vulnerable. I am sure we have all had the experience of people asking: "Who should I vote for?" We should not be putting candidates in that position and we should not be taking advantage of people who ask those questions. I think this is a clear issue, if you like a moral issue, of what we believe is right and wrong in the way we conduct ourselves; and we conduct ourselves as a democracy and try to have a free and fair vote. I believe that, even though we may have to look in the future at other issues such as has been mentioned, that is no reason for not bringing in what I think is a long-overdue, very sensible and protective measure for vulnerable voters and I think when P.P.C. saw the figures it was showed to us that it was time to bring this amendment. I think that we will all be able to know that these things cannot happen in future. Whether they have happened at all is not the point. The point is we need to be seen to be making sure that we operate to the best democratic standards possible and I will be supporting the amendment, Sir.

Deputy A. Breckon:

I wonder if I could seek a point of clarification from Senator Vibert. He was just saying that when P.P.C. saw the figures they felt they must do something. Is he saying to the House because it was increasing they felt they must stop it?

Senator M.E. Vibert:

After the concerns about postal voting had been expressed to us, we asked for the figures to be prepared. I do not think they had been prepared before. What I was saying is when we saw the figures, that helped convince us that it was time to bring in this amendment.

4.15.16 Deputy J.A. Hilton:

I have sat here this afternoon and listened very closely to the speeches of those Deputies who have stood up and spoken against this amendment to the law and, for the life of me, I just cannot understand why you would not want to appear anything than completely whiter than white and above board when it comes to dealing with people's votes. So I am struggling here. Deputy Southern make some comment about old-fashioned canvassing and how he believed that himself and the other Deputy mentioned this afternoon, who he believes are the target of P.P.C., get out and do old-fashioned canvassing and this is the way it is done and all the rest of it. Well, I would like to say that I believe very much in old-fashioned canvassing as well and in the 2002 elections I would say that I probably knocked on at least 95 per cent of the doors in St. Helier No. 3/4. If you look at the data on page 8 you will see, in fact, that St. Helier No. 3 district had a very low number of postal votes and I do not see that I was compromised in any way at all, or would be in the future, by this law being changed. So I really do not understand where you are coming from on that point.

Deputy G.P. Southern:

The point is it is not about the convenience of the candidate, it is about the convenience of the elector and ability to fill the form in there and then.

Deputy J.A. Hilton:

Not at any cost, Sir, I do not believe. As previous speakers have said, the integrity of the poll has got to be paramount and I do not believe in these circumstances that it is. I would suggest maybe for those candidates who like to assist the vulnerable in our communities to either post a vote or do whatever, that they would suggest to those people when they come across them that maybe they would take their name and number and, certainly in St. Helier now we have an electoral officer, that you pass that person's name and number on to the electoral officer and ask that person to assist the person who would like to cast a vote. I do not see what is wrong with doing that and I think it is a perfectly reasonable thing to do.

The Deputy of St. Martin:

It may be a question for the Attorney General, Sir. If that is the case then that person must be a representative. If indeed he has been asked by the candidate to see the electoral officer to supply, surely the returning officer must be a representative. Could I seek clarification maybe from the Attorney General; if someone is representing a candidate?

Deputy J.A. Hilton:

Could I just say, Deputy Martin made the point that she comes across elderly people who need assistance. What I am saying is, so that everything remains whiter than white and above board, why can Deputy Martin not suggest to the person: "Well, under the law I cannot help you but I am sure the Constable of St. Helier, who is very keen to get as many people voting as possible, as part of the roll of the electoral officer that St. Helier now employs ...", or that you could pass their details or ask the electoral officer to get in touch with the person.

Deputy J.A. Martin:

I would like clarification, please. I totally agree with the Deputy. If she had listened to my speech I said there was an alternative. In the 2005 election in St. Helier alone we had over 400 postal vote requests. Now, these papers were signed in the people's houses. Would our electoral officer, one person, be able to get to 400 people to give them the postal votes to return to the Greffe to get it back for a postal vote? That is a simple ... it is not logistically possible.

Deputy J.A. Hilton:

I am not suggesting that the electoral officer would have to get to every single person. What I am suggesting is he could post the form and inform these people exactly how they go about doing it. It is a point of information. I am really struggling to understand why there are Deputies in this House trying to defend this position. The other point I wanted to make is, if I recall correctly, in the 2005

elections there was an incident whereby the spouse of a candidate allegedly threatened another candidate over the removal of posters. I would say that if we have got spouses of candidates who are prepared to threaten other candidates and go round removing posters in the middle of the night, then I am afraid I would call into question whether any pressure was being placed on certain people when it came to postal votes.

4.15.17 Deputy J.B. Fox:

I think the whole argument here is a question of what is perceived, what is not perceived, what is being done and what is not being done. The trouble is that when you are in someone's private house as part of your electoral routine, nobody knows what is done, what is said or anything else. But what does come out of it is that people are fired up, they are worked up, there are various other forms of arousal; whether it is because of the discussion of what is happening ... But on many occasions it is the statements that are made by somebody else, it is a third party thing of what someone has done in trying to get people to the polls and you get it from different candidates who are following on, knocking on doors, *et cetera, et cetera*: "I have already voted", and things like this. I think the truth of the matter is that the safest way is what is being proposed now but on its own it is not going to work. It is going to need explanation and it is going to need some form of streamlining that people can get to the polls. Yes, there are all the people that Deputy Southern has described. I have come across them as has everybody in this room that knocks on doors and I do electioneering the old-fashioned way. I posted I think it was 46 last time out of 7,500. No, I do not go and fill in forms. I give them a form. They have their electoral number on my leaflet. They have it on every other candidate's leaflet that has put it through the mailbox. So they know what their forms are and what I think would be a help is that ... the forms from my recollection are pretty sparse in their process of what they should do after that and some of the complaints are that they cannot read them because the writing is too small. So they can be looked at but I am sure that P.P.C. can look at the forms together with the Comité des Connétables and see if there are any improvements that can be made. I personally will vote for this one. I think the other methods that have been described are subject to criticism; they can be subject to abuse and, yes, they might produce some extra voters but they also produce a lot of people that do not return their papers. So they are not all as successful as they make out. I think that the personal approach at the door or wherever you see the person is much more likely to get them to go to the polls. They do not necessarily vote for you but, at the end of the day, they at least go to the polls and then they have their democratic choice, which is what this is all about. Thank you, Sir.

Senator S. Syvret:

I just wondered if we were going to hear some answers from the Attorney General in respect of things like definitions of "help" or "assistance" and how does one define an agent or a representative of an agent?

The Attorney General:

The suggestion I think was made that the electoral officer for St. Helier might be treated as the representative of the candidate. I do not believe that that could possibly be so and it is, in my view, self-evidently not so. The electoral officer is performing a job for the Parish of St. Helier and not for the candidates. As far as the earlier question I was asked, which was whether or not giving the electoral number to a person amounted to assistance for the purposes of Article 39(a)(1)(a) of the draft law, I am in some difficulty for this reason. This is a form to be completed for the purposes of an application under Article 39(4) of the law. What that says is: "A person entitled under Article 38 may apply for his or her name to be included on the register of postal and pre-poll voters or apply in person at the Judicial Greffe to cast a pre-poll vote there and then." There is no form prescribed in the law for the purposes of making that application and having looked on the Judicial Greffe website I cannot find any trace of a form, as such, that has been prescribed either by the States or by the court. I just have an email in from the Judicial Greffier here who confirms there is

no form prescribed. So I think it rather depends whether or not there is a requirement to provide a number. If there is a requirement to provide a number, then yes it would be giving assistance to provide the number to the person who is to apply for a postal vote, in my view. That seems to me to be giving information necessary to enable the form to be completed and that is what Article 39(a)(1) is about. If there is no such requirement to produce an electoral number then the issue does not arise. As I say, there does not appear to be such a requirement; although, from the way Members have been speaking, it does appear as though that number is, in fact, asked for on a routine basis.

Senator S. Syvret:

Just to clarify, when I spoke on the definition of an agent or an assistant, I was not speaking about an electoral officer in St. Helier. Other Members spoke of perhaps staff at elderly care homes, Meals on Wheels, Family Nursing and Home Care, the kind of people who may be the only people seen by some voters, the people who then get asked to help fill out the forms, but who may be supporters of various candidates. Are those people not then agents or supporters or representatives of the candidate?

The Attorney General:

I think this is going to be a question of fact in any particular case. By and large one would not expect the person who is running an old persons' home to be treated as the representative of a particular candidate. It may well be that the Health Minister might want to give consideration to guidance being issued to those in charge of care homes to ensure that there is some protection given to the vulnerable. That may well be something which could have been considered previously, but it is going to be a question of fact in any particular case.

Deputy A. Breckon:

I did ask in an earlier statement I made about the delivery or 'cause to be delivered'. If you supplied somebody with a stamped addressed envelope would that be seen to be illegal under the law, under clause (b)?

The Attorney General:

For my part, as a potential prosecutor as we are talking about an offence here, I think that the delivery of a stamped addressed envelope by itself would not fall within Article 39A because it could be for any other purposes like the buying of a copy or a grant of probate or anything else.

4.15.18 Senator S. Syvret:

I came to this debate thinking on the balance of probability I was going to support the amendment. I am now not going to because of the discussion that has taken place and the issues that have been raised. Certainly, it was a pleasant change to hear the Attorney General taking a position that did not go with the establishment point of view for once. I am sure he would be on his feet first thing at the very start of the debate had this been a proposition brought by an anti-establishment Member, as indeed he was with Deputy Southern only this very morning. I think the fact is this amendment clearly has a number of serious practical problems. There is no clear, readily discernible definition of who is perhaps an agent or a supporter of the candidate. There is no clear definition of help, what it might mean to help somebody to fill in the form. We have heard the Attorney General already struggling to define the issue and saying it would depend upon the facts in the particular case. This just is not good enough, to introduce legislation on this basis. I also think the point raised by Deputy Southern, in particular, about candidates who have difficulty in filling out these forms needing assistance and legitimately being able to get assistance from the only people who may well proactively come to them during an election time, i.e. the candidate or an agent of the candidate. They may well need assistance and I think the point raised by Deputy Southern concerning the convention rights under the European Convention on Human Rights is a valid point. If somebody is partially sighted or completely blind or has some kind of learning difficulty they

may need and require, as I said, quite possibly the only person who will proactively go to their home in the course of an election campaign to help them fill out the form. Let us remember that what we are dealing with here is not helping the voter to put a cross against a name of a particular candidate. All we are talking about is helping a voter to fill out a form, to go to the Judicial Greffe which will then result ultimately in them receiving the postal vote form. I think Members have very much lost sight of that and there is also a very serious illogic, I think, in saying that it is okay and still perfectly legal to help potential voters to register on to the electoral role, but not legal to help them apply for a postal vote. Where is the logic? Where is the consistency? There is none; it is clearly all over the place. I am no fan of the J.D.A. (Jersey Democratic Alliance). I have had my arguments and I have had my run-ins with them, but it is really obvious - embarrassingly so to be honest - that this amendment today is simply class war. This is an effort to roll back the boundaries so only the literate, the educated, the middle classes are able to go and vote. Clearly a lot of Members in this Assembly do not like the fact that those who may not be fully literate, those who may not have English as their first language, those who may have learning difficulties, all kinds of other things, those people who may just not be at all inclined to deal with such things as filling out forms and so on, perhaps not doing any writing of any description in their lives, have because of the proactive efforts of some candidates begun to express an electoral force. Clearly, a lot of traditional Members in this Assembly do not like that one little bit: "We cannot have the under classes and the working classes getting above their station, can we?" I am certainly going to be voting against this amendment. I do think some of the speeches that Members have made in which they talk about the need to be seen as whiter than white and how politics has to be perceived as a realm of integrity, that of course, to the average person listening to this debate, will be regarded as a joke at the very outset in any event. If it is somehow so terrible for a candidate or their agent to help a potential voter simply apply for a polling vote form how much more immoral, unacceptable, devious, unethical and utterly appalling must it be to tell straightforward lies to your voting public in your election manifesto? Straightforward brazen nonsense, things that you know you have absolutely no intention of carrying through and supporting once you get elected, but you do it anyway. As the 2 Members opposite in St. Helier No. 2 have been attacked by a number of the establishment Members this afternoon, I have to point out that their fellow Deputy, of course, is now known quite commonly as Deputy Alan "Vote for me for G.S.T. exemptions" Maclean. **[Laughter]** This amendment is clearly absolute nonsense. It is ill thought out, it is ill defined. Had this been brought forward by a backbencher and an anti-establishment Member it would have been shot down in flames hours ago.

4.15.19 Senator P.F.C. Ozouf:

The reason why P.P.C., as I understand it, brought forward this amendment was because of concerns; concerns in the United Kingdom in relation to postal voting where there have been various scandals where a number of postal applications had been made on behalf of other people and the person was not involved, it is alleged. There were signatures that had been forged. There is concern in the United Kingdom. There was, as I understand it, a parliamentary committee in relation to the review of postal assistance which said that candidates should not be involved in the application for postal voting. I think the P.P.C. or maybe a member of P.P.C. or the Vice Chairman will comment on that, that there has been concern about postal voting in the U.K. which are relevant learning experiences for us. There is also the issue that there has been some concern in elections in Jersey. I have no idea which candidates they were, but I have heard concerns in various St. Helier constituencies that candidates were involved in more than one of the steps involved in that electoral process. Whether or not that was involved in the application to put the person on the electoral register, the application for a postal vote and the issue of the voting itself, I do not know, but certainly I know that there are a number of Members of the Assembly who had heard concerns that candidates were involved in more than one step. That was a concern which ...

[Interruption]

Deputy S. Pitman:

A point of clarification, Sir. Could the Senator tell us where he had heard this from and who told him?

Senator P.F.C. Ozouf:

I cannot recall and I do not know which candidates they were, but I know that there were a number of people that expressed concern about candidates being involved in different stages of that electoral process, more than one. I do not know whether or not it was the electoral register or the vote itself. Maybe the Deputy, who is obviously a candidate in St. Helier, knows better than I do, but I have certainly had conversations with a couple of Members in the Assembly about those concerns and I think that is the reason why P.P.C. brought forward this arrangement. Maybe Senator Syvret is correct, that there is some further tightening up in relation to postal voting and the definition of agents that needs to be made. Maybe we are going to have to further tighten up the arrangements, and that would be something that would be entirely appropriate. But this to me is clear, that at least we are shutting down the opportunity of somebody being involved in the application for a postal vote of which there is evidence from the U.K. elections that it is inappropriate that the candidate is involved in it. I do agree that there is an issue of definition of agents and certainly P.P.C. or the Attorney General's office or the Judicial Greffe is going to have to give some guidance on that because anybody involved in relation to supporting candidates should not be involved in that. We should constantly strive to improve the voting system. We should shut down loopholes where they are available and constantly ensure that there is nothing that can cast aspersion on the voting issues and the elections themselves, so I will be supporting the P.P.C. proposal.

The Greffier of the States (in the Chair):

I call on the rapporteur to reply

4.15.20 The Deputy of St. Mary:

I will try and keep this as brief as possible, but there are obviously a number of different points raised. I will probably deal best by dealing with the points rather than the people who have brought them. The matter of the electoral number has been dealt with by the Attorney General. There is a distinction that has been made between helping somebody to register to vote and helping them to register for a postal vote. The answer is registration to be on the electoral register happens at a time when no election has yet been called. It happens up to the time of nomination. It is a completely separate process from the election itself. Anything that happens after nomination ties directly in with that register and, therefore, falls into a different level of scrutiny. Many speakers have made a point echoed very succinctly by Senator Vibert when he said 2 things: we are looking here at a clear moral issue and the free and fair vote. That really is what it is all about. Deputy Hilton summed it up when she said she could not understand why we would not want to see measures in place that would make us be, to the outside, whiter than white and that is a really crucial point. I was, I have to say, astounded by Deputy Pitman's comment that she would, if this passed, continue to do what she does now. It is not really for me to comment except that I hope she will revisit the oath she swore when she became a Deputy. Several times people have said it is our duty to help people, these people have no one else to turn to. The help is there available from the Parishes. I have worked at the sharp end of this, having been a Parish secretary, and I have seen that people need assistance. I have worked with people who had learning difficulties, people who did not have English as a first language, and every time as Parish secretary I was able to assist them. When I stood for election myself I simply put something on my election publicity that said: "Postal voting is available. If you wish to inquire about this, please contact the Parish Hall." People had the right path to follow, but that path did not involve me. The whole point is - and I was very clear in my opening speech - that this is not an attack on any particular candidate or any particular voting practice. Deputy Power asked me twice during the day to comment on the figures for postal voting. Really, the figures speak themselves. I cannot comment for how those figures arose, how the

anomalies arose, and who is responsible because they arose simply because there was an election and an election means there is more than one candidate, so it is quite impossible to ascertain exactly who was responsible or involved in the increased number of postal votes. I would like to remind Members what the amendment says. It is a candidate or a representative of a candidate. We have heard that perhaps we would need to tighten up “representative”, but certainly in the broader sense a candidate or someone who works on behalf of that candidate are who we are saying should not be assisting. The assistance of the electoral registration officer in St. Helier, of the Parish staff, these are the people who deal with these issues daily. They are the ones who are best able to help people obtain the forms. Senator Syvret said he could not understand why we were so concerned about this part of the process, the initial registration to make a postal vote, and we were not talking about the ballot paper itself. That is quite simply because this is the first step in the process and I did make some fleeting remarks to the election frauds in Birmingham in my opening speech, but Senator Ozouf wanted more information. My eyes were well and truly opened to the extent of the practices that are possible. I am not saying these practices, I wish to make clear, have gone on or go on here, but we have to ensure that they cannot go on for the integrity of the election. Processes where candidates visit, or fill out the form and then know that within 4 or 5 days that ballot paper will be coming back, and then they visit again on the day when that would happen. I am getting comments, but I am explaining to you situations that have arisen in the U.K. There was a huge problem in the Birmingham elections of 2004, even resulting in things as diverse as pillar boxes, where people knew that the ballot paper has been posted, those pillar boxes being set on fire by representatives of the candidates who have been watching for the ballot papers to be posted. These things are extreme, but they are happening; they are happening not in the back waters of some remote nation, but in the U.K., and we really have a duty to ensure that they do not happen here and that they cannot happen here. This is the first step in the process and it is the time to set the standard by which the process will be governed. Senator Syvret then went on to talk about a class war and, I am sorry, this is absolute utter nonsense. I know exactly what efforts are made to include all sections of the community by the Parishes in the run-up to elections. I know because I have worked there and I have done it and I am sorry, but that is a slur on the staff of the Parish Halls if Senator Syvret honestly believes that they actively discourage certain sections of our community from participating and I refute it totally. **[Approbation]**

Senator S. Syvret:

It is a point of order. The Deputy is saying something completely untrue. I did not say, and I never claim to in any shape or form, that Parish staff are actively discouraging or hindering voters to get on the electoral roll. What I said, in fact, was that it may well be during an election time that the only person who will proactively visit a potential voter’s home will be the candidate or a representative of the candidate. At no stage did I suggest that Parish Hall staff were deterring people from registering.

The Deputy of St. Mary:

I do accept that, Senator, but by implication ... the true path would be for the candidate to say: “Apply to the Parish Hall and they will help you” and that is what would happen and all sections of the community, I can assure the Senator, would receive equal treatment in that case. Deputy Le Hérisser talked about assertive campaigning and, like Deputy Hilton, I would say that assertive campaigning - knocking on doors, visiting your electorate - is something that most of the Deputy candidates do. The Senators obviously have different criteria and I am sure more and more Constables will be doing that as more ... as there are more and more elections for Constable. But it does not mean that we have to take this extra step. As I said before it is quite possible to visit your electorate and to advise them that there is postal voting available and to tell them where to approach for a form. Again there is nothing in fact in this legislation and amendment to stop you handing out a blank form there and then. As for whether or not you should be able to take people in your car to the poll, that is a longstanding tradition. As Deputy Southern himself rightly said quite often it

works against the people who have. I know parishioners in St. Mary who always go with the person with the nicest car basically. But the whole point is that the polling station is a separate entity. Nobody goes with the voter into the polling station. There are no electoral colours worn. There is nothing. That all stops outside. So there is that break between the car and the voting booth.

Deputy G.P. Southern:

Can I ask a point of clarification on that particular issue? Is it not true that there are no colours and there is a break? If you were to provide transport for somebody to attend the Judicial Greffe to vote on the morning of election we are using their postal vote. Surely that is the case. Giving a lift in one case is illegal subject to a £2,000 fine. Giving another lift to the polling station is not illegal. That is manifestly absurd, does the rapporteur not agree?

The Deputy of St. Mary:

I am just a little confused. I do not know if the Attorney General might have quicker access to it than me but I do not know whether you can vote in person on the day of the election at the Judicial Greffe. What we are saying, Sir, is that a candidate cannot take transport to the Judicial Greffe. A pre-poll vote is cast before the election day. There is a difference. Attending the Judicial Greffe is different to attending a polling station I believe. I am just scanning to see who else I have ... I also was quite confused as to how certain electors have known who had voted and who had not voted. Unless you have an encyclopaedic memory and do not take any comfort breaks during the day at the polling station you are not going to know exactly who has voted, but I think that has been dealt with. Deputy Troy asked whether it was possible to give guidelines about the process to candidates. I am sure that would be possible. In fact I believe that already candidates do receive guidelines on certain aspects of the poll. I think it is from the Autorisé before the election so I am sure that would be easily dealt with. As for making a barrier to voting, I really do not believe there is a barrier to voting here because there is a process that can be followed and the process is open to everyone without reservation so I believe that everyone has an equal footing. Deputy Southern in his opening remarks said that our amendments were to improve participation. I would just like to clarify that in my opening speech I did give the gist of what we are doing is not specifically limited to that. We have a duty to make sure that everyone eligible to participate in the electoral process is empowered to do so in a secure and confidential environment - secure and confidential. We must make sure the administrative processes are free from ambiguity, robust and fully workable. To that I would just echo the words that we must make sure our electoral process is beyond doubt, that its integrity cannot be challenged. I think, Sir, unless anybody has anything I have missed they would like to bring up, I would like to propose the amendment and ask for the appel.

Deputy G.P. Southern:

I asked the rapporteur to clarify whether, in fact, it would be illegal to give a lift to someone to register a pre-poll vote at the Judicial Greffe whereas giving someone a lift to go and vote is not illegal. I believe it is, Sir. I await the Attorney General's answer on that particular question. I believe it concerns 39A in the main law.

The Attorney General:

39A is the Article we are discussing at the moment. The provision under Article 32A of the law which we have just adopted enables the elector who has applied for a ballot paper to vote by post, to attend at the polling station and with the permission of the Autorisé then to cast the vote with that ballot paper. It is clear that the Autorisé will have a discretion in this respect because Article 32A(4) says where the Autorisé permits the elector to vote. I think the position is that if a candidate were to drive such an elector to the polling station that would not be an offence. It does not follow of course that the Autorisé would allow in the exercise of his or her discretion the elector

to vote because he would have to be satisfied that the elector's vote is secret under Article 32A(3). That seems to me to be the correct position.

Deputy G.P. Southern:

If I may with your permission ask a point of further clarification from the Attorney General? I seem to have done a lot of communicating today. Can the Attorney General refer to Article 39A of the amendment and in particular 39A(1)(c) which says: "A representative or candidate shall not provide transport for such a person so as to enable the person to make an application in person under Article 39(4)." Illegal transport.

The Attorney General:

I am sorry if I have not made the position clear. I was, I think, agreeing with the Deputy perhaps it would be an offence to provide transport for a person who made an application for a postal vote but it would not be an offence to provide transport for somebody who having received an application for a postal vote and a ballot then attended at the polling station to cast that vote. Whether or not the process would be effective would depend on the discretion of the Autorisé who would have to be satisfied that the secrecy of the ballot had been secured.

The Greffier of the States (in the Chair):

The vote is for or against Article 13 which inserts new Article 39A.

POUR: 31		CONTRE: 8		ABSTAIN: 0
Senator T.A. Le Sueur		Senator S. Syvret		
Senator P.F. Routier		Senator B.E. Shenton		
Senator M.E. Vibert		Deputy R.C. Duhamel (S)		
Senator P.F.C. Ozouf		Deputy A. Breckon (S)		
Senator F.E. Cohen		Deputy of St. Martin		
Senator J.L. Perchard		Deputy J.A. Martin (H)		
Connétable of St. Ouen		Deputy G.P. Southern (H)		
Connétable of St. Clement		Deputy S. Pitman (H)		
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Deputy J.J. Huet (H)				
Deputy G.C.L. Baudains (C)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy of St. Mary				

The Greffier of the States (in the Chair):

Very well. Do you propose Article 14, rapporteur?

4.16 The Deputy of St. Mary:

This Article is merely consequential on the changes made by Article 10 of this law which asserts the new Article 32 enabling persons who have received a postal vote to vote in person at the polling station. I propose the Article, Sir.

The Greffier of the States (in the Chair):

Is the Article seconded? **[Seconded]** Does any Member wish to speak? I put Article 14The Article is adopted. Do you propose Article 15, rapporteur?

4.17 The Deputy of St. Mary:

The Judicial Greffier has expressed concern that the name and address of the person witnessing a declaration of identity for a postal or pre-poll vote must be legibly recorded on the form in case it is ever necessary to contact them to verify the legitimacy of signatures. This Article addresses these concerns and also allows for a member of the Judicial Greffe's staff who might be called to act as such a witness to record his or her name only rather than name and address. I propose the Article, Sir.

The Greffier of the States (in the Chair):

Is the Article seconded? **[Seconded]** Does any Member wish to speak? I put the Article. The Article is adopted. Article 16, Deputy.

4.18 The Deputy of St. Mary:

This Article sets out the procedure that the Judicial Greffier must follow when dealing with applications for postal or pre-poll voting that persons who have their name omitted from the electoral register under the provision of the new Article 9. The provisions as specified enable the Judicial Greffier to check the validity of the vote submitted but still preserve the anonymity of such persons and the process when the vote is given to the Autorisé for the purposes of the count. I propose Article 16.

The Greffier of the States (in the Chair):

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

4.18.1 Deputy G.P. Southern:

Yes, Sir, I welcome this wholeheartedly. This is one of the reasons why all of the postal votes are not converted into actual votes because people forget to put stuff in the envelope inside the other envelope and put it on. Sir, it is one of the reasons why the percentages are as they are.

4.18.2 Deputy J.A. Martin:

Yes, this goes back to a question that I think was put to ... we have now an Electoral Roll Officer in St. Helier.

The Greffier of the States (in the Chair):

Sorry, Deputy, but the States are inquorate. I ask the usher to summon at least one more Member. Very well, you may continue, Deputy.

Deputy J.A. Martin:

Yes, I was advised that if I am knocking doors with my electoral roll and I realise someone is a postal vote, it was pointed out to me by Deputy Hilton that I should then take their name and address and go back to the new electoral appointed officer for St. Helier so he can give them a postal vote. My problem and my question is these people will not appear on the electoral register

so how will anybody know that they need a postal vote, however it is dealt with after that, if it is not pointed out by the person knocking on the door. They will not be knocking on the door because they are not on the register. I am sorry, Sir, I am slightly confused. I hope the rapporteur can answer my question.

The Greffier of the States (in the Chair):

I call on the rapporteur to reply.

4.18.3 The Deputy of St. Mary:

I hope I can answer the Deputy’s question. Quite simply there cannot be any reference on the electoral register for obvious reasons because these people are vulnerable if their identities are disclosed. They make the application to the Connétable to have their name omitted from the register - it is an active, proactive function - at which time the Connétable will explain to them that because of the way the procedure must work they can only in future make postal or pre-poll votes and the procedure will be explained to them then. Obviously it would be wholly inappropriate even if a candidate discovered one of these people by accident - just knocking on the wrong door, for example - for their name and address then to be given to the electoral officer because that would put them on the radar, as it were, for anybody who might be looking for them shall we say. I hope that answers the Deputy’s question. I put the Article, Sir.

The Greffier of the States (in the Chair):

The appel is called for on Article 16. I ask the Greffier to open the voting.

POUR: 29		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator M.E. Vibert				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator F.E. Cohen				
Connétable of St. Clement				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. Mary				

The Greffier of the States (in the Chair):

Do you move Articles 17 and 18 together, rapporteur?

4.19 The Deputy of St. Mary:

I am relieved to be able to propose at least 2 together. It has sometimes transpired that postal votes have been received at the Judicial Greffe on the actual polling day and technically these should have been disallowed whereas the Judicial Greffier is satisfied and has reassured the Privileges and Procedures Committee that it would have been possible to arrange for these to be delivered to the Autorisé at the relevant polling station during the day. This Article allows for just that process to happen. No changes are made to the provisions relating to pre-poll voting and related provisions but the delivery of registers, *et cetera*, to the Autorisé by the Judicial Greffier also remains unchanged. I propose Articles 17 and 18, Sir.

The Greffier of the States (in the Chair):

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

4.19.1 Deputy G.P. Southern:

I think the word is 'stet' because my previous comments apply to this. I am reassured by the Attorney General's statement that giving somebody a lift to register their postal vote on noon of the electoral day will not render me or anybody else subject to a £2,000 fine for giving them a lift in.

The Greffier of the States (in the Chair):

Do you wish to reply, rapporteur?

4.19.2 The Deputy of St. Mary:

I would just like to thank the Deputy for his support. Thank you.

The Greffier of the States (in the Chair):

I put the Articles. Article 17 and 18 are adopted. Do you propose Article 19?

4.20 The Deputy of St. Mary:

I do, Sir, thank you. There are 2 elements to the postal vote: the ballot paper itself and the declaration of identity. In order to maintain the secrecy of the poll these are packaged separately so that the person checking the declaration of identity does not see the way the person has voted. The voter completes the ballot paper which is then sealed in a special envelope and here is one I made earlier. Then the declaration of identity is completed which is then sealed with the ballot paper envelope inside a second envelope. In practice the Autorisés have found that on many occasions the declaration of identity is not in the first envelope when it is opened but that the thickness of the ballot paper envelope makes them suspect that it has been folded and sealed inside the smaller envelope along with the ballot paper. Following the provision of the principal law to the letter would mean that the vote would have to be declared invalid but this Article, if adopted, would give the Autorisé the discretion to open the ballot paper envelope if they suspect that the declaration of identity is within it. There is of course a very small risk that the secrecy of the poll will be compromised in these circumstances if the Autorisé sees the ballot paper but the Privileges and Procedures Committee believe that this is outweighed by the fact that the vote will not be wasted. Autorisés are persons of great integrity and the Privileges and Procedures Committee is not concerned that the secrecy of the poll will be unduly jeopardised in these circumstances. I propose the Article, Sir.

The Greffier of the States (in the Chair):

Is the Article seconded? [**Seconded**] Does any Member wish to speak on the Article? I put the Article. The Article is adopted. Do you propose Article 20, rapporteur?

4.21 The Deputy of St. Mary:

While the Privileges and Procedures Committee is not aware of any problems encountered so far, Jurats have expressed concern to the Committee that the authority of the Autorisé is theoretically limited during the count itself. This Article removes the ambiguity and makes it clear that the Autorisé is authorised to take whatever steps are necessary to ensure that the count is not disrupted in any way. I propose Article 20, Sir.

The Greffier of the States (in the Chair):

Is the Article seconded? **[Seconded]** Does any Member wish to speak? I put the Article. Article 20 is adopted. Do you propose Article 21?

4.22 The Deputy of St. Mary:

This Article is merely consequential on the change made by Article 11 of this law relating to the collection of sick votes from electors. I propose Article 21, Sir.

The Greffier of the States (in the Chair):

Is the Article seconded? **[Seconded]** Does any Member wish to speak? I put the Article. The Article is adopted. Do you propose Article 22?

4.23 The Deputy of St. Mary:

This Article repeals Article 54 of the principal law which relates to the order of swearing in, in the Royal Court. The Royal Court already sets its own procedure for the order of swearing in and so in practice the statutory order set out in Article 54 has not been followed and could potentially lead to confusion. I propose Article 22, Sir.

The Greffier of the States (in the Chair):

Is the Article seconded? **[Seconded]** Does any Member wish to speak? I put the Article. The Article is adopted. Do you propose Article 23?

4.24 The Deputy of St. Mary:

This Article is merely consequential on the other changes made to the law in relation to persons whose names are omitted from the register as a result of the risk of harm. I propose Article 23, Sir.

The Greffier of the States (in the Chair):

Is the Article seconded? **[Seconded]** Does any Member wish to speak? I put the Article. Article 23 is adopted. Do you propose Article 24?

4.25 The Deputy of St. Mary:

This Article inserts a penalty in the law for any candidate or representative who contravenes the new restrictions on interference with the postal voting procedure. Any candidate who is found guilty of an offence is liable of a fine up to level 3 which is currently £2,000. I propose Article 24, Sir.

The Greffier of the States (in the Chair):

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

4.25.1 Deputy G.P. Southern:

I should really have amended this because I too, like my colleague, intend to continue to assist people who ask me to help them fill in the form. I will not stand there like defeat and say: "I cannot. It renders me liable to a fine of up to £2,000. You would not want me to do that, would you?" I shall help them and say: "Please, sign it." I shall do that so I am among those who may well be prosecuted under this particular bureaucratic nonsense of a piece of law.

4.25.2 Deputy J.A. Martin:

No, I just have a question on again I hope before the election we can have a clear definition of who is a representative helping someone with their postal vote because it is not someone who works for you. It may be someone who supports you. It may be someone who knocks on the door 2 days later and wants some help and they want to vote for me or they want to vote for somebody else. I have a problem. I can understand a candidate but so wide as who a representative is that we are making a law and for that reason - I mean it has already gone through but this is the penalty - I cannot vote for this because I do not know who my representatives are. I know the people who come round with me and it is normally one or 2 people but there are certainly a lot of people out there word of mouth who will say: "Why do you not vote for so and so?" Will they be fined if they are found out to do this if they are being helped to make a postal vote? I will not be supporting this part until they define the word "representative" of the candidate.

The Attorney General:

I am sorry what I said earlier was not helpful to Members but perhaps I can try again. It is going to be a question of fact but as a matter of principle I think there is a distinction between a supporter and a representative. Candidates will have many supporters but the supporters are not going to fall in the same category as those who are representatives because the representative has some form of authority from the candidate to do the things which are being done. It is that form of authority which makes the difference between a supporter and a representative. I hope that is helpful.

The Deputy of St. Martin:

Just on a point of order. This will be nitpicking. So if a supporter goes round and helps someone to fill a form in they are not committing an offence but if a representative does they are committing an offence.

The Greffier of the States (in the Chair):

I thought you had spoken, Deputy.

Deputy G.P. Southern:

A point of clarification from the Attorney General again if I may, Sir, just to clarify the position of party members, are they likely to be regarded as supporters or agents?

The Attorney General:

The Deputy will not like to hear me say this, but it will depend on the facts and whether or not they have some form of authority from the party and from the candidates but it will be a question of fact. If I may say so, because I think it is unfortunate when any Member in this Assembly indicates an intention to break the law, I think that is most unfortunate and I just add that it would be my duty to prosecute. [Approbation]

Deputy P.N. Troy:

Can I ask the Attorney General another question? If a candidate has deliberately broken the law to secure votes and then those votes are counted at the poll and let us say, for example, that they became elected to this Assembly by 10 votes but they had secured 20 votes through an illegal method, could not the result of the election be challenged by another candidate as such and could that not present us with another lot of difficulties which we are not even thinking about here?

The Attorney General:

In a sense that would be a private law matter between the other candidate and the candidate who has been returned. I think there is nothing in this legislation that provides for a Member to be disqualified if he or she breaks the law as adopted here.

The Greffier of the States (in the Chair):

I call on the rapporteur to reply.

4.25.3 The Deputy of St. Mary:

I thank the Attorney General. I think he has dealt with all of the points that were raised in response to that Article so I put the Article.

The Greffier of the States (in the Chair):

The appel is called for so I ask Members to be in their designated seats. The vote is for or against Article 24 and the Greffier will open the voting.

POUR: 25		CONTRE: 5		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy A. Breckon (S)		
Senator M.E. Vibert		Deputy of St. Martin		
Senator P.F.C. Ozouf		Deputy J.A. Martin (H)		
Senator B.E. Shenton		Deputy G.P. Southern (H)		
Connétable of St. Clement		Deputy S. Pitman (H)		
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy G.C.L. Baudains (C)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy of St. Mary				

The Greffier of the States (in the Chair):

Do you propose Article 25, rapporteur?

4.26 The Deputy of St. Mary:

This Article is consequential on the change in relation to the Autorisé’s powers during the count and makes it clear that it is an offence to disobey any directions of the Autorisé during the count. I propose Article 25, Sir.

The Greffier of the States (in the Chair):

Is the Article seconded? [**Seconded**] Does any Member wish to speak? I put the Article. The Article is adopted. I assume you propose 26 and 27 together, rapporteur?

4.27 The Deputy of St. Martin:

Article 26 gives a transitional provision which states that the electoral register in force when this amending law comes into force will be the starting point for the rolling register created by these amendments. As a result there will not be any requirement for the register to be started again and

the full rolling register will be instituted as soon as this amending law comes into force. Article 27 is the citation and simply says it will be Public Elections Amendment No. 3 (Jersey) Law and will come into force 7 days after it is registered, Sir. I propose Articles 26 and 27.

The Greffier of the States (in the Chair):

Seconded? **[Seconded]** Does any Member wish to speak on Articles 26 and 27?

4.27.1 The Deputy of St. Martin

Yes, just a short one. We are proposing this today. We are now into June. Is there a possibility of this going before Order of Council and coming back to the House for an Appointed Day Act before the elections in October?

The Greffier of the States (in the Chair):

Just from the Chair, Deputy, I say it does not need an Appointed Day Act because the Article 27 implies it comes into force 7 days after it is registered.

4.27.2 Deputy J.A. Martin:

Yes, it is just a question on the finance and manpower implications and P.P.C. does not believe that any of the new provisions in this legislation will have any significance resource implications. I go back to my point about we have just passed a lot of amendments that clearly if broken by whoever can be fined up to £2,000. Could somebody tell me who will be policing this new part of the law because I think if it is policed properly it will have certainly quite a lot of manpower and financial implications?

The Greffier of the States (in the Chair):

I call on the rapporteur to reply.

4.27.3 The Deputy of St. Mary:

As regard to whether this law can get Privy Council assent in time, the answer is I cannot give any guarantee on that but I am hoping that the Attorney General will use his considerable charm and powers of persuasion to do what he can. As regards to manpower and resources implications, as with any piece of legislation you cannot prejudge who will break it. Well, I would have said ordinarily you could not. In regards to the administration of this piece of legislation - in other words fulfilling all the different processes that it dictates - we do not anticipate any increases in that.

Deputy J.A. Martin:

The Deputy has not answered my question because she is saying that she cannot anticipate anybody breaking the law. I want to know who is going to be checking that nobody is breaking the law and the financial and manpower implications, have they been looked into? I would suggest from her answer it is no but I would like her to confirm that.

The Greffier of the States (in the Chair):

A reply, rapporteur?

The Deputy of St. Mary:

I do not think I can add anything to what I said before. The provisions especially I think when we are talking about Article 13, they will be apparent only when there is a case that comes to light. I do not think there is going to be a proactive policing of this. The people generally will know what the law is and they will come forward with complaints if they feel they are being unduly put upon by candidates or representatives. That is where the test will be.

The Greffier of the States (in the Chair):

I put Articles 26 and 27. The Articles are adopted. The Bill is adopted in second reading. Do you move it into *Third Reading*, rapporteur?

4.28 The Deputy of St. Mary:

I do, Sir.

The Greffier of the States (in the Chair):

Seconded? [**Seconded**] Does any Member wish to speak?

4.28.1 Deputy R.G. Le Hérissier:

Just a couple of points. Over 3 years ago we were promised by the Judicial Greffe there was going to be a real attempt to make advertising more attractive. The one thing that was done was the Portuguese parallel advertisement was dropped but there was never any revision to the English language advertisements and they were never livened up. This has been going on for 3 years. Please do something. The second thing is, Sir, I know some of us are getting a bit dodderly. It has been quite difficult - and it is nobody's fault - but there is a real issue about how you follow these amendments and how you place these amendments in the context of the current law. As I said I realise I may well be losing it [**Laughter**] and I realise Senator Vibert has lost it. But what I would say, Sir, is there a better way of presenting these things so we can see the overall projet we are dealing with and we can see where it is varying from the existing law, be it indentations in red or something like that? It is really difficult to follow it at the moment I find.

4.28.2 Deputy C.F. Labey of Grouville:

Could I just ask a question that I think was raised when we were discussing the principles and that is of internet voting and when we are going to bring this into the 21st Century?

4.28.3 Deputy G.P. Southern:

Just to reiterate effectively my complaint of earlier that I am very disappointed at P.P.C. and the manner in which they have brought this and the fact that they have had to rush this through with less than 6 weeks notice giving us or backbenchers insufficient time to prepare properly amendments and to consider fully the implications of what we are doing. I believe we are passing - particularly with Article 13 - a piece of bad law and that is always a mistake.

4.28.4 Deputy G.W.J. de Faye:

Firstly I would like to support the comments of Deputy Le Hérissier in the way that we present some of our propositions. This was a little difficult to follow because if we did not have copies of the previous law in front of us, it was in some circumstances hard to make the comparisons. I would also like to reflect upon the concern of the 3 frontbenchers before me about the punitive aspects of this law, it was very honest of them to indicate their intentions. I am sure, Sir, with the same honour they will hand themselves in ...

Deputy J.A. Martin:

Excuse me, Sir, will he please take that back; 2 people mentioned it not 3?

Deputy G.W.J. de Faye:

I do not believe I am wrong there. I said the 3 Members who were concerned with the punitive aspects of this law which 3 of them were. As regards the 2 Members who have indicated their intentions, I am sure they will in the same spirit hand themselves in should they contravene the law.

Deputy G.P. Southern:

I will even buy the handcuffs.

The Greffier of the States (in the Chair):

I call on the rapporteur to reply.

4.28.5 The Deputy of St. Mary:

I thank Deputy Le Hérissier for his comments which are I think very valuable and will be borne in mind. The Deputy of Grouville reminded me - and I thank her - that I had not addressed other methods of voting, for example, email voting, internet voting, *et cetera*. There are trials of various alternative methods of voting that are taking place in different local elections. There was electronic voting in several areas in France in the last elections with very, very mixed results I have to say. There are trials of different kinds of voting regularly during the U.K. elections. We are monitoring the results of these trials. There are some very informative Articles published on the Electoral Reform Society websites, for example. But I think it is premature at this stage to move wholesale that way because there are still a huge number of pitfalls involved. That said, Sir, I would move the Articles in *Third Reading*.

The Greffier of the States (in the Chair):

I put the Bill in *Third Reading*. The Bill is adopted in *Third Reading*.

The Deputy of St. Mary:

I wonder if I might just have a very brief word to thank all those people who participated in the process of bringing these amendments to the principal law together, in particular to the Law Draftsman who has made all the adjustments as necessary on a very, very tight timetable. It has been a long and very complex process but I consider it well worth the effort. **[Approbation]**

Senator M.E. Vibert:

Can I just say as a member of P.P.C. I would like to thank the Deputy of St. Mary for taking the lead in this and presenting a very difficult case and I think doing it very well. **[Approbation]**

The Greffier of the States (in the Chair):

Thank you, Senator. Before we move to the next item, can I draw attention to Members to the lodging this afternoon by Deputy Baudains of P.97/2008 Esplanade Quarter of St. Helier: Masterplan - rescindment proposition?

Senator F.E. Cohen:

May I comment on that please?

The Greffier of the States (in the Chair):

Well, very briefly. It is not the place for a debate, Senator.

Senator F.E. Cohen:

No, just simply to say that I notice the proposition includes part (1) as well as part (2) and to inform Members that I notified my department of my decision to formally adopt the Masterplan on the afternoon of the debate on part (1). I signed the ministerial order the following morning so it is already adopted.

The Greffier of the States (in the Chair):

Paragraph (1) did contain a number of other matters, Minister, as I am sure you are aware. Could I also draw your attention to the 2 reports tabled today: States of Jersey Law 2005 Delegation of Functions by the Minister for Home Affairs and the report of the Environment Scrutiny Panel, SR8, on air quality review? I understand the Deputy of St. Peter wishes to comment briefly on the J.E.B. report.

The Deputy of St. Peter:

Yes, Sir, if I may. As a result of the statement made by the Deputy Chief Minister this morning, there has already been some media interest generated. We had as a panel intended to publish our report on Thursday. It was signed off in final draft form on Wednesday of last week. As a result of the media interest I have instructed that the report should be released immediately. I believe through your good offices it will be on people's email as we speak so it should be available to all Members now. I have already commented to the press in that regard. Hard copies I believe will be available tomorrow.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Greffier of the States (in the Chair):

That would be helpful. As the Deputy has said he does not need the leave of the Assembly. It is noted that matter is withdrawn from today's order paper which means the Assembly has only the last item to deal with which is the arrangement for business for future meetings. I call on the Chairman of P.P.C.

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

I would like to propose the arrangement of public business as outlined on second supplementary order paper with the various additions and subtractions. The first is, of course, that P.194/2008 The Jersey Enterprise Board Limited: proposed establishment has been withdrawn. That comes off 17th June. There are 2 items that have been moved. I think it might be 3 now. The School Milk, P.66/2008, as just agreed to be included on arrangements for 17th June which is the next meeting. On 1st July P.58/2008 Draft Water Amendment (No. 3) (Jersey) Law has been deferred until 9th September. On 15th June, P.76/2008 Integrated Coastal Zone Management Strategy has been deferred until 9th September. There are 2 additions: P.96/2008 Committee of Inquiry: Toxic Incinerator Ash Dumping in the St. Helier Waterfront Land Reclamation Schemes is now listed for 15th July and the Esplanade Quarter of St. Helier: Masterplan - rescindment, P.97/2008, is listed for 1st July. I propose those.

5.1 Deputy G.P. Southern:

May I request that school milk comes fairly early on the agenda. I do not know what number it is and where it fits but it would be nice to get it over with and not be a late item.

5.2 Senator T.A. Le Sueur:

The first item on the agenda is the Draft Land Transactions Law. I am quite happy to defer and let Deputy Southern get on with school milk first.

The Greffier of the States (in the Chair):

Are Members content to list school milk as the first item? Very well.

5.3 The Deputy of St. Martin:

Yes, I could not quite hear the Connétable of St. Clement because of a bit of noise around me but did I hear that P.61/2008 Draft Marriage has been put on until September?

The Greffier of the States (in the Chair):

No.

The Deputy of St. Martin:

Maybe I did not hear that.

The Greffier of the States (in the Chair):

No, P.58/2008, Deputy, the Water Amendment Law.

The Deputy of St. Martin:

I could not hear, sorry. Could I just confirm then that P.61/2008 is still on 1st July and if it is would it be possible to bring it forward 2 weeks rather than leave a heavy agenda on 1st July? It was originally put back but whether that could be moved on to 17th June, 2 weeks earlier.

The Greffier of the States (in the Chair):

I think the difficulty, Deputy, is the Minister and Assistant Minister are not in the Chamber. The Minister did specifically ask for that date. It may be unfair to fix it in her absence.

The Deputy of St. Martin:

With respect, there should be somebody here and this was put back a month. I thought for the convenience because we were overloaded of work on the last week. I would propose that we have P.61/2008 on 17th June.

The Greffier of the States (in the Chair):

There are a lot of lights on. Is this on the matter of the Marriage and Civil Status or another matter?

5.4 Deputy G.W.J. de Faye:

It is my understanding it is the Minister's proposition. I think it would be highly irregular if on the back of an amendment we switched the timing to suit the representative making the amendment as opposed to the Minister's proposition.

Deputy R.C. Duhamel of St. Saviour:

I just want to make the point that P.72/2008 I am sure has not escaped ...

The Greffier of the States (in the Chair):

I am sorry, Deputy, can we just finish Marriage and Civil Status first? One thing at a time. Do you wish to formally make that proposal, Deputy? It will still be a matter for the Minister's discretion whether she...

5.5 The Deputy of St. Martin:

I would like to put it to the House, Sir. I just feel it has been put back and it is an opportunity to bring it forward. We are going to have a heavy load on 1st July. It would just ease the work on 1st July.

The Greffier of the States (in the Chair):

The Deputy has proposed that P.61/2008 Draft Marriage and Civil Status be moved out to next week. Those Members in favour, kindly show. Those against. The matter will stay listed where it is.

5.6 Deputy R.C. Duhamel:

I am sure it has not escaped Members' attention that P.72/2008 is down for 1st July; P.72/2008 being the proposed Energy from Waste Facility which is likely to be a protracted and drawn out affair. It does look as if we are overloading the agenda for 1st July. It is likely that what would normally be a 3 day affair is probably likely to turn out to be a 30 day affair if we are not too careful.

The Greffier of the States (in the Chair):

Perhaps the Chairman of P.P.C. may comment but I understand, Chairman, that your Committee is addressing this matter at this meeting tomorrow, the business for July. There has been concern raised about the volume of business, Chairman, for July. I understand your committee is giving consideration to this tomorrow morning and may be in a position to comment on Tuesday?

The Connétable of St. Clement:

Yes, Sir, I think that would be the appropriate time to comment.

The Greffier of the States (in the Chair):

Are Members content with the arrangement of business as amended? Very well, it is adopted. That concludes the business of the Assembly. The meeting is closed and the Assembly will reconvene next Tuesday.

ADJOURNMENT