

STATES OF JERSEY

OFFICIAL REPORT

THURSDAY, 17th MARCH 2011

PUBLIC BUSINESS – resumption	5
1. Draft Public Elections (Amendment No. 4) (Jersey) Law 201- (P.14/2011) - resumption.....	5
1.1 The Connétable of St. Mary (Chairman, Privileges and Procedures Committee):	5
1.1.1 Deputy J.M. Maçon of St. Saviour:	5
1.1.2 Deputy S. Power of St. Brelade:	5
1.1.3 Connétable P.F.M. Hanning of St. Saviour:	6
1.1.4 Senator A. Breckon:	6
1.1.5 Deputy M. Tadier of St. Brelade:	6
1.1.6 The Connétable of St. Mary:	6
1.2 The Connétable of St. Mary:	7
1.2.1 Deputy G.P. Southern of St. Helier:	8
1.3 The Connétable of St. Mary:	8
1.3.1 Deputy M. Tadier:	10
1.3.2 Deputy A.K.F. Green of St. Helier:	13
1.3.3 Deputy J.A. Hilton of St. Helier:	13
1.3.4 Deputy J.M. Maçon:	14
1.3.5 Deputy G.P. Southern:	14
1.3.6 Deputy P.V.F. Le Claire of St. Helier:	15
1.3.7 Deputy F.J. Hill of St. Martin:	17
1.3.8 Deputy T.M. Pitman of St. Helier:	17
1.3.9 Deputy M.R. Higgins of St. Helier:	19
1.3.10 The Connétable of St. Saviour:	19
1.3.11 Senator A. Breckon:	20
1.3.12 Senator B.I. Le Marquand:	22
1.3.13 Deputy P.J. Rondel of St. John:	23
1.3.14 Deputy C.H. Egré of St. Peter:	23
1.3.15 Senator S.C. Ferguson:	23
1.3.16 Deputy R.G. Le Hérissier:	24
1.3.17 The Connétable of St. Mary:	24
Deputy M. Tadier:	26
The Connétable of St. Mary:	27
Deputy G.P. Southern:	27
Mr. T.J. Le Cocq Q.C., H.M. Attorney General:	27
Deputy M. Tadier:	28
1.4 The Connétable of St. Mary:	29
1.5 The Connétable of St. Mary:	30
1.5.1 Deputy M. Tadier:	30
1.6 The Connétable of St. Mary:	31
1.6.1 Deputy M. Tadier:	32

1.6.2 Deputy T.M. Pitman:	32
1.6.3 Deputy A.E. Jeune:	32
1.6.4 Deputy P.V.F. Le Claire:	32
1.6.5 The Connétable of St. Mary:	32
1.7 The Connétable of St. Mary:	34
1.7.1 Deputy M. Tadier:	34
1.7.2 Deputy J.M. Maçon:	34
1.8 The Connétable of St. Mary:	35
1.8.1 Deputy J.M. Maçon:	35
1.8.2 Senator A. Breckon:	36
The Attorney General:	36
1.9 The Connétable of St. Mary:	36
1.10 The Connétable of St. Mary:	36
1.10.1 Deputy M.R. Higgins:	36
1.10.2 Deputy P.V.F. Le Claire:	37
1.10.3 Deputy G.P. Southern:	37
1.10.4 The Deputy of St. Peter:	37
1.10.5 Deputy M. Tadier:	37
1.10.6 Deputy J.M. Maçon:	38
1.10.7 The Connétable of St. Mary:	38
2. Importation of fireworks in 2007 for a charity event: investigation (P.21/2011).....	39
2.1 The Deputy of St. John:	40
2.1.1 Deputy T.M. Pitman:	41
2.1.2 Senator B.I. Le Marquand:	41
2.1.3 Deputy K.C. Lewis:	42
2.1.4 Senator A.J.H. Maclean:	42
2.1.5 Deputy M.R. Higgins:	43
2.1.6 Deputy R.C. Duhamel of St. Saviour:	43
2.1.7 Deputy S. Pitman:	43
2.1.8 Deputy P.V.F. Le Claire:	43
2.1.9 Senator F. du H. Le Gresley:	43
2.1.10 The Deputy of St. Martin:	44
2.1.11 The Deputy of St. John:	44
3. Elected Members' access to information: media releases (P.22/2011).....	46
3.1 Deputy P.V.F. Le Claire:	46
3.1.1 Deputy J.A. Martin of St. Helier:	48
3.1.2 Deputy T.M. Pitman:	48
3.1.3 Senator T.A. Le Sueur:	48
3.1.4 The Deputy of St. Martin:	50
3.1.5 Senator A. Breckon:	50
LUNCHEON ADJOURNMENT PROPOSED	51
LUNCHEON ADJOURNMENT.....	52
3.1.6 Deputy G.P. Southern:	53
3.1.7 Deputy S. Pitman:	53
3.1.8 Deputy A.E. Pryke of Trinity:	53
3.1.9 Deputy M. Tadier:	53
3.1.10 Deputy M.R. Higgins:	54
3.1.11 Deputy P.V.F. Le Claire:	54

4.	States of Jersey Development Company Limited: appointment of Chairman and Non-Executive Directors (P.32/2011).....	56
4.1	States of Jersey Development Company Limited: appointment of Chairman and Non-Executive Directors (P.32/2011) - proposal of the Deputy of St. John to debate in camera	57
4.1.1	The Deputy of St. John:	57
4.1.2	Deputy R.G. Le Hérisier:	57
4.1.3	Connétable J.M. Refault of St. Peter:.....	58
4.1.4	Deputy T.M. Pitman:	58
4.1.5	Deputy S. Power:.....	58
4.1.6	Deputy J.A.N. Le Fondré of St. Lawrence:	58
4.1.7	Deputy M. Tadier:	58
4.1.8	Deputy P.V.F. Le Claire:	59
4.1.9	Deputy G.P. Southern:	59
4.1.10	Deputy J.A. Martin:	59
4.1.11	Deputy M.R. Higgins:	59
4.1.12	Senator S.C. Ferguson:.....	59
4.1.13	The Deputy of St. John:.....	60
4.2	States of Jersey Development Company Limited: appointment of Chairman and Non-Executive Directors (P.32/2011) - proposal of Deputy J.A. Martin to defer debate to 29th March 2011	61
4.2.1	Deputy J.A. Martin:	61
4.2.2	Deputy P.V.F. Le Claire:	61
4.2.3	Deputy R.G. Le Hérisier:	62
4.2.4	Deputy A.E. Jeune:.....	62
4.2.5	Senator B.E. Shenton:.....	62
4.2.6	Deputy T.M. Pitman:	62
4.2.7	Deputy M. Tadier:	62
4.2.8	Deputy J.B. Fox of St. Helier:.....	62
4.2.9	Senator T.A. Le Sueur:	62
4.2.10	Deputy G.P. Southern:	63
4.2.11	Connétable J.M. Refault of St. Peter:.....	63
4.2.12	The Connétable of St. Mary:	63
4.2.13	Deputy M.R. Higgins:	64
4.2.14	Deputy J.A. Martin:	64
4.3	States of Jersey Development Company Limited: appointment of Chairman and Non-Executive Directors (P.32/2011) - resumption.....	67
4.3.1	The Connétable of St. Peter:	67
4.3.2	Deputy P.V.F. Le Claire:	69
4.4	States of Jersey Development Company Limited: appointment of Chairman and Non-Executive Directors (P.32/2011) - Scrutiny Panel to report back.....	70
4.4.1	Senator A.J.H. Maclean:	70
4.4.2	The Connétable of St. Peter:	71
4.4.3	Deputy J.A. Martin:	71
4.4.4	Deputy M. Tadier:	71
4.4.5	The Connétable of St. Mary:.....	72
4.4.6	Connétable D.J. Murphy of Grouville:	72
4.4.7	Deputy G.P. Southern:.....	73

4.4.8	Senator S.C. Ferguson:	73
4.4.9	Senator B.E. Shenton:	73
4.4.10	Deputy R.G. Le Hérisssier:	74
4.4.11	Deputy T.M. Pitman:	74
4.4.12	Senator P.F. Routier:	74
4.4.13	Deputy M.R. Higgins:	75
4.4.14	The Connétable of St. Saviour:	75
4.4.15	Deputy E.J. Noel of St. Lawrence:	75
4.4.16	Deputy A.E. Jeune:	76
4.4.17	Deputy P.V.F. Le Claire:	76

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS78

5.	The Connétable of St. Mary (Chairman, Privileges and Procedures Committee):	78
5.1	Senator A. Breckon:	78
5.2	Connétable L. Norman of St. Clement:	79
5.3	Senator T.A. Le Sueur:	79
5.4	Deputy R.G. Le Hérisssier:	79
5.5	Deputy M. Tadier:	80

ADJOURNMENT.....80

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

PUBLIC BUSINESS – resumption

[09:36]

1. Draft Public Elections (Amendment No. 4) (Jersey) Law 201- (P.14/2011) - resumption

The Deputy Bailiff:

Now, chairman, we had reached, in relation to the Public Elections (Amendment No. 4) (Jersey) Law, as Article 12, reading that Law, Part (b) seems to make changes as a result of the adoption of Article 11 that we reached last night, and Part (a) makes changes, which are dependent upon the adoption of Part 7, the amended Part 7 under Article 15. In those circumstances, shall we leave over Article 12 and wait until we have completed Article 15 and then return to it?

Connétable J. Gallichan of St. Mary:

I am happy to accept your direction. Thank you.

The Deputy Bailiff:

Alright, so we now resume the debate on Article 13 of the draft bill.

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

Article 13 amends Article 33 of the principal Law, which is concerned with how a person votes. The amendment merely requires that a ballot paper must be placed in the correct ballot box for the election in which it is cast when more than one ballot box is being used in the polling station. The Autorisé will nevertheless check for any missing ballot papers that may have been put in the wrong ballot box by mistake and it will not in any way invalidate a vote for it to be placed in the wrong ballot box. I propose Article 13.

The Deputy Bailiff:

Article 13 is proposed, seconded? **[Seconded]** Does any Member wish to speak?

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

I am not against this article at all, but I would wonder if the chairman could just talk about, in the case where there are multiple districts within one Parish for the different elections of Deputies, are there different colours? Why I ask this is the reason why we have the different colours of paper is so that, if someone, for whatever reason, puts a Deputy's vote into a Senator's box, then when they are all ... they must be taken to one place where they must all be counted, whereas at the moment, say in my particular District, usually the count for the Deputy happens at the polling station in my District, but obviously, going forward, it will have to happen at the Parish Hall, because if someone has put a Deputy vote in the Senator's box then obviously how are you going to tell which one it is if they are not all done at the same place. The reason why I ask this is, if you have multiple Deputies' elections going on in the same Parish, then presumably the colour the different Deputies are in - the different districts of the Parish - must therefore have to be different. Has the Committee considered this?

1.1.2 Deputy S. Power of St. Brelade:

I just would like to ask the chairman of P.P.C. (Privileges and Procedures Committee) if there is some slight tension between Article 13 and Article 10 in that Article 10 says that there may be up to 3 ballot boxes in each polling station for the different types of ballots, but at the bottom of Article 13 it says that it will not in any way invalidate a vote for it to be placed in the wrong ballot box. I am just wondering if certain voters in certain polling stations will just take the easy option and drop all 3 ballot papers into the one box, because it seems to indicate under Article 13 that is a possibility now because those votes will not be invalidated. If she could just clarify that as she sums up. Thank you.

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

Perhaps I can I just help to clarify on this. Normally, with a poll like this, there would be an Adjoint attending alongside the ballot boxes and one of the things the Adjoint would do is to try and ensure that people put the right votes in the right boxes, and not all 3 into one. If there is a problem, going to Deputy Maçon's query, the voting - certainly as it would happen in St. Saviour, where there would possibly be 3 different polling stations - the votes for Senator would all be taken back to ... the ballot boxes would all be taken back to the Parish Hall, but the votes for Deputy would be done at each individual polling station, and therefore, when that ballot box is opened, if there is a Senatorial vote in it, it would be seen that there is a vote of the wrong colour and the Autorisé would be able to take that aside and deal with it. Similarly, if the reconciliation was wrong at the end, the Autorisé would be able to authorise the Senatorial boxes to be opened to check that there were no votes in that from the Deputies. So it is a problem, it complicates things, but it is not insurmountable and the Autorisés have the power to deal with it.

1.1.4 Senator A. Breckon:

If I may just say, I think many people who have been involved with elections over the years know that in general terms the people who oversee it do so in a professional, but I would say friendly and common sense, manner and I think they will interpret this in the right way; that if something is put in the wrong box it is not going to be invalid, it will be put in the right place, and I do not think we need to make heavy weather of this and we need to respect those who do oversee the elections because many have years of experience and apply common sense, which is what this is about.

[Approbation]

1.1.5 Deputy M. Tadier of St. Brelade:

Sorry, it was drowned by the foot stamping. Notwithstanding everything that Senator Breckon said, and it is in a similar vein to Deputy Power's comments, if Article 13 simply says that the ballot paper must be placed in the correct ballot box, so there is an imperative there, but if we are saying on the other hand that if you do not place it in the correct box then that will count anyway, it means that the ballot paper does not have to be placed in the correct box, so I am wondering why it was not drafted in the article to say that ballot papers should be placed in the corresponding box, but any ballot papers, which find themselves into other boxes, will be counted. So my question is, is this at the discretion of the returning officer or the Adjoint or whoever is overseeing it, and if it is at the discretion, is that something that we should be concerned about? I do not think it is, but if it is not, why was it not just put directly into this article?

The Deputy Bailiff

Does any Member wish to speak? Then, Chairman, I will ask you to reply.

1.1.6 The Connétable of St. Mary:

I think the first 2 points have been ably dealt with by the Constable of St. Saviour and I thank Senator Breckon for his common sense remarks. To answer the last point, the article will say: "A person who has recorded a vote shall fold his or her ballot paper and place it in a ballot box being used for the public election in which the vote is cast." The Autorisé has discretion in all matters and I think the Deputy must understand the Law has been drafted in such a way by experienced Law Draftsmen that I have no doubt that it encompasses what must be done, but allows the discretion of the Jurat. Having said that, I move Article 13

The Deputy Bailiff:

Article 13 is proposed. The appel is called for. I ask Members to return to their seats. The vote is on whether or not to adopt Article 13 of the Public Elections (Amendment No. 4) (Jersey) Law and I ask the Greffier to open the voting.

POUR: 44		CONTRE: 1		ABSTAIN: 0
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Senator T.A. Le Sueur		Deputy M. Tadier (B)		
Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

We now come to Article 14.

1.2 The Connétable of St. Mary:

Article 14 amends Article 35 of the principal Law, which is concerned with the arrangements for taking the vote of a person who is ill or disabled. We will shortly come to debate revised arrangements for the taking of votes from persons who are sick or disabled and as a result Article 35 of the 2002 Law is amended to clarify that the taking of sick votes by the Autorisé is

restricted to polling day. This mirrors the current arrangements but the matter is being put beyond doubt in view of the new arrangements, which I will shortly propose in relation to pre-poll voting, and I propose Article 14.

The Deputy Bailiff:

Article 14 is proposed, and seconded? [**Seconded**] Does any Member wish to speak?

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

Yes. The first question is why such a long gap? It seems to me that the number of votes taken in this way will not be that enormous that you should need to have ... Am I talking to the wrong bit again? I think I will stop.

[09:45]

The Deputy Bailiff:

Does any other Member wish to speak? Then, I do not think, Chairman, you wish to reply to that. All Members in favour of adopting Article 14 to show? Those against? The Article is adopted.

The Deputy Bailiff:

We now come to Article 15, substituting Part 7, chairman, and this is one vote, one article, it is the whole of the part is being proposed.

1.3 The Connétable of St. Mary:

Article 15, this article substitutes the whole of Part 7 of the 2002 Law, which relates to postal and pre-poll voting procedures. The changes follow the recommendations of the Working Party, which was keen to ensure that voting is made as simple and accessible as possible to electors, who, for whatever reason, are unable to attend the polling station to cast their vote on polling day. Under the current law, in order to cast a pre-poll vote, the voter must be able to satisfy the Judicial Greffier that he or she will be out of the Island during the hours of polling or have some commitment or disability that would prevent him or her attending at the polling station. P.P.C. sees no reason to maintain these restrictions on pre-poll voting and believes, for example, that some voters, perhaps those who work everyday in St. Helier, may prefer to cast their vote at the Judicial Greffe before polling day and so the first significant change is that the pre-poll voting system is open to all electors through a substituted Article 38. In addition, the current pre-poll voting procedures are simplified in the law so that in practice an elector attending at the offices of the Judicial Greffe is treated almost in exactly the same way as a voter attending at a polling station. The voter will be asked to produce identity and then asked which elections he or she wishes to vote in. The elector will then be given the relevant ballot paper or papers to complete, which he or she will do in a private way, before placing the ballot paper in an envelope to ensure that the secrecy of the poll is maintained. P.P.C. considers that these procedures will simplify the pre-poll procedures for electors and will also reduce the work required by officers of the Judicial Greffe, which will go some way to offset the potential increase in the number of pre-poll voters following the lifting of the current restrictions on who may pre-poll. Another extremely important change to the pre-poll voting system is found in the inserted Article 42(11), which specifies that, in the case of a voter who is ill, disabled or illiterate, the Judicial Greffier shall take such measures as he or she considers appropriate for taking the voter's pre-poll vote. The wording of the new article mirrors the current sick vote procedure already in place on polling day, which is found in Article 35 of the 2002 Law. Following discussions with the Deputy Judicial Greffier, it has been agreed that the Judicial Greffe will take on temporary staffing who will be able to go out on request to voters who are unable to attend the polling station because of illness, disability or illiteracy, to take a vote from the person. The Working Party was extremely concerned that the current postal voting procedures that are in place for electors who are unable to attend the polling station because of illness, disability or illiteracy are extremely complex. Currently, an initial application must be made, followed by the

completion of a complex procedure once the voting paper and associated envelopes and declaration of identity are received back from the Judicial Greffe. The Working Party was concerned to note from statistics produced by the Judicial Greffe that a significant percentage of postal votes that are sent out were never returned in some constituencies, indicating that voters found the process complex. The amendment allows for the introduction of a new system where independent officers can attend on request at a voter's home address. P.P.C. believes that this is a significant improvement on the current system and will have the added benefit of ensuring that the integrity of the voting system is in no way compromised. In practice P.P.C. considers that it is likely that the new system will be operated through a partnership between the Parishes and the Judicial Greffe, so that any voter who wishes to avail himself or herself of the new pre-poll voting system could contact the Parish Hall, which would in turn notify the Judicial Greffier, so that one of the dedicated officers could make arrangements to take the elector's vote. That is just one scenario, but the article opens-up the possibility. The Judicial Greffe is aware that there will be an additional resource requirement for staff with the new system, but the additional officers will only need to be in post for a short period in the lead-up to the poll and P.P.C. considers that the cost of these officers can be justified in view of the significant benefit for electors. Following on from the changes in the pre-poll voting mechanism, P.P.C. is recommending that the postal voting is restricted to 2 groups of people, those who are likely to be out of Jersey during the hours of polling and those whose names and addresses are omitted from the electoral register under the provisions of Article 9 of the Law. In practice, the majority of the postal votes requested are in relation to persons who will be out of the Island on polling day, either because they will be on holiday, or because they are studying or working temporarily out of the Island. P.P.C. is therefore satisfied that no one would be prejudiced by the removal of the right for the sick and disabled or illiterate in Jersey to use the postal voting system and is fully satisfied that the new change of pre-poll voting described above will more than compensate for the change. Two other small changes are made to the postal and pre-poll voting system by the revised Part 7. In the past there has been some criticism of the notices published in the *Jersey Gazette* in relation to elections. Previously the Judicial Greffier has had no discretion other than to publish a notice in the *Jersey Gazette* in accordance with the statutory requirements. P.P.C. believes that it is appropriate to give the Judicial Greffier greater discretion and revised Article 40 simplifies the requirement for the Judicial Greffier to publish a notice of the arrangements and allows for the possibility for the notices to be published in other ways. The second minor change relates to the closing time for pre-poll voting, which is fixed at 2.00 p.m. on the Monday before the poll. As can be seen from the Law, there are a number of procedures that the Judicial Greffier must complete in order to forward all necessary paperwork and ballot papers to the relevant Autorisé before polling day, and P.P.C. believes that it is therefore reasonable to allow one working afternoon and one full working day to complete these procedures following the closure of the pre-poll voting system. The current arrangements, I remind Members, is that the opportunity to pre-poll closes on noon on the day before the poll. All of the sick or disabled people who have used the complex and complicated postal voting process before will be able to access the new sick vote procedure; that means that an independent officer will attend to take their vote without the complicated completion of complex paperwork. Pre-poll voting is being opened up to all and P.P.C. will ensure that this is well publicised in its voting campaign. It means that anyone who, for example, works in St. Helier, can vote at the Judicial Greffe in the lead-up to polling day, and the calls for one central voting office have effectively been met by this move. The only restriction is that you must do it before 2.00 p.m. on the Monday before the election. But, as I have said, P.P.C. will be making sure that this is well publicised. I think I have said enough and I move the article.

Deputy G.P. Southern:

I am quite happy to second it. Yes, can I just clarify with the chairman that I do not see any sign or remnant, vestige even, of dreaded Article 39A, which I think is behind the reason for changing this whole section. Is it the case that 39A has totally disappeared? For example, if I am canvassing and

somebody says: “Oh, I will not be here on the day, I want a pre-poll vote”, can I give them a lift down to the Judicial Greffe to cast their vote before the day, as I would be able to on the day, if they phoned me and said: “Can I have a lift down to vote”?

The Deputy Bailiff:

Does any other Member wish to speak? Very well, would you like to continue your speech then, because I think you put points of clarification and then the Chairman will reply. [Aside] Can I just say something about a process here, it is a very inconvenient way of process because it would enable numbers of Members to put so-called points of clarification and then the chairman would be on her feet replying before there is a main speech. On this occasion, because there might have been some confusion, I will allow it, but in future it is not a process that ought to be adopted. Chairman, would you like to answer that particular point?

The Connétable of St. Mary:

I am happy to. As I said in introducing this, this article replaces the whole of Part 7 of the existing Law in its entirety, and Part 7 did include Article 39 and 39A, so yes.

1.3.1 Deputy M. Tadier:

I may be able to address part of Deputy Southern’s concerns anyway here. First of all, I decided to speak early because I think it is important that the Assembly know that these changes were not passed unanimously in the Election Working Group, and in fact I strongly objected in particular to this change, the part to do with removing or rolling-back the way in which the postal vote is used, and I will give the reasons for that because I did do a separate report, which was included as an appendix in R.94, which highlighted the issues. The vast majority I have to say of these proposals I agree with and they were thrashed-out, but there were contentious issues. But Members might also like to know that it is not simply I who object to this particular change here, but the Jurats also disagree with the recommendation with regard to the postal voting, and I will read the relevant part out from my report. My concern here is, and I thrashed it out with the other 2 members of the working group, that it seems to me that the postal voting system, as it currently stands, works perfectly well. I think that the changes have been predicated for the wrong reasons and I will basically just read from my report, if Members will indulge me, because it is more concise. It says: “Like the Jurats, I disagree with the report’s recommendation that the sick vote should be expanded. In his letter on behalf of the Jurats dated 12th February 2012, Jurat Le Breton said: ‘We are of the view that the sick vote is principally for the voter who had every intention of voting on election day but is prevented from doing so because of unexpected illness. We see no need to change the existing understanding of the sick vote.’ The recommendation [this is my words now] comes hand in hand with the desire to reduce the number of people who use a postal vote, ostensibly on the grounds of wanting to safeguard the integrity of the poll, giving examples of widespread evidence of fraud in the U.K. (United Kingdom). However, this suggestion ignores the fact that first of all Jersey already has inbuilt safeguards with regard to the postal voting, following the insertion of the new Article 39A in the Law last year, which prevents candidates from interfering or ostensibly or perceivably interfering in the postal voting process.” Something I also do not agree with, but there you go, it has been done. Number 2: “Unlike the U.K., there is no evidence of postal voting fraud to date in Jersey”, and if there is I would like a Member to give evidence of that, but these changes are being done on the basis of no evidence currently, under our current system, in the way the postal vote is used leads to any kind of fraud. Number 3: “For many people, postal voting is a preferable and convenient choice”, and this is the part I want to emphasise, it should not be up to us to dictate how people can or should vote, I think we saw that yesterday. The argument that won the day was, when people go to a voting booth or they go to the polling station, they should not automatically be given 3 papers, they should have a choice, and I think that extends to this; that we should be encouraging people in as many ways as possible, in ways that are convenient for them, which are also safe and secure, to be able to cast their vote, and I

would emphasise at this point that there is nothing inherently insecure about the postal voting system, we know that there are certain countries that predominantly use postal votes or exclusively use postal votes, for example I have given the example of Oregon in the U.S. (United States) where it is only possible to vote by post, so there is nothing inherently insecure or insurmountable about security issues when it comes to postal voting. I go on to say that: "Many electors who currently vote by post would not necessarily bother to vote at all were this opportunity removed." So what this group is saying is essentially that we are only going to allow people who have a very good reason for not going to the polling station on the day, either because they are sick, we will give them a sick vote, or that they are out of the Island. This is another area of concern because I think the words were, by the Chairman of P.P.C., that they are likely to be out of the Island. Now, what does that mean when somebody asks for advice on whether they can have a postal vote, because someone may come up to me and say: "Look, I do not like going to the polling station; I do not like the fact that we have to run the gauntlet when we are down there; that there are 11 or 8 candidates." A lot of voters say that; they do not establish any eye contact, and it is a very intimidating process for certain members of the public, not all, because people are different, but for certain members of the public they do not like to face this daunting prospect, especially if it is the first time they may be voting.

[10:00]

They may well just wish to vote from home; they may not be likely to be away on holiday, but are we going to encourage respectable members of the public to lie because they would prefer to have a postal vote, so to say: "Yes, I will be out of the Island", and then what kind of evidence are they going to have to give to the Judicial Greffier to say that: "I am going to be out of the Island"? I think it is risking starting to make a mockery of the system. If I was inclined to want to vote from home, I would say: "Yes, I am likely to be out of the Island on that week" and then, if somebody comes around and says: "But you are not out of the Island", I would say: "No, my plans have changed." So I think this again is a sledgehammer to crack a nut, I really do not see the logic of it. There is no mention in the report of other jurisdictions where postal voting is either the sole or preferred method of voting, and I have given 2 examples of Oregon and Switzerland, another well-known example. There are real disadvantages from decreasing postal voting in favour of the sick vote. I think though at this point I have to flag-up something, which I think is misinformation on the part of the previous speaker, the whole idea that postal votes are not returned; that there is a significant number of postal votes that are not returned, is a complete myth, and let us look at the stats, they have been circulated from the chairman of P.P.C. here. They are limited to the Senatorial elections, but the trends are similar when it comes to the Deputies, so we are being told that there are vast amounts of postal votes, which are not being returned. All right, let us look for example at St. Brelade at the top. We had a total of 78 postal votes, which were sent out, 3 of them were because of prior commitments and 75 were to do with absence from the Island. Of those total, only 10 were not returned, so out of 78 postal votes that were sent out, 10 were not returned. That is not a vast amount that were not returned, and interestingly the ones that were not returned were to do with absence rather than to do with prior commitments, so the 3 people who said that they wanted a postal vote because of other commitments all sent their papers back and the 10, which were not returned, were due to absence from the Island. Again, we can look at these stats right the way through. Let us take St. Helier for example, 114 were sent out because of absence, 11 due to prior commitments, and those that were not returned were 15, so that is 15 out of 125 were not returned. Again, only one, which was sent out for prior commitments, was not returned out of 11, so that is less than 10 per cent of postal votes not being returned. Those are not bad stats at all. The statistics continue in every Parish like that, you have St. Saviour, which sent out a total of 67 plus 8, again 7 were not returned and those that were not returned were due to absence rather than prior commitments. So those who asked for ballot papers to be done and sent by post because of prior commitments do have a very good track record of returning them.

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

Can I ask, this is a rather incomplete set of figures, why are there none for the Deputies?

Deputy M. Tadier:

I do not know, there are stats for the Deputies, I have looked at them in the past and I looked certainly in my own District, and these were borne out by those who do go to the trouble to ask for a postal vote for whatever reason are committed enough to want to get the postal vote back, it stands to reason, and we have done everything we can in this Assembly to make it as difficult as possible for people to vote. We have removed the 39A, which said: "I want to get you a postal vote", even though, in my opinion, there is no harm there, and we are putting up barriers again and again to stop people using the postal vote, and I think the point I am trying to make is that the bottom line of this is that less people will vote, but that is the risk. There is not too much longer, Members will be thankful, but really these are ... I am so keen that this part does not get through that is why I am taking a moment. So, again, the Jurats have already said that the sick vote was really intended for those who get caught out on the day due to unexpected illness. Currently the Parishes seem able to cope with demand, but it is very unlikely that the increase in demand could very easily become unmanageable to what is already a very busy period for the Parish Halls. I would like to know how the Parish Halls, when they are handling for the first time potentially 3 elections on the same day, when they are going to be faced by people who have been refused postal votes because they have other commitments, they are neither ill nor they are not out of the Island, and they are going to be phoning up, are they perhaps, for postal votes on the day, due to illness, and are we going to be sending out lots of the available Parish staff who are there? They are all going to be tied-up at the Parish Hall. I mean this is a complete and utter nonsense, it is not even supported by the Jurats, it is not simply Deputy Tadier raising issues for the sake of it, it is not supported by the Jurats and I do not think that there is the infrastructure at the Parish. There is also another argument to say that people have enough time during the day, from 8.00 a.m. to 8.00 p.m., we are proposing 9.00 a.m. to 8.00 p.m., even though that is another argument, so we are proposing to reduce the amount of time that the polling station is open ...

The Connétable of St. Mary:

Point of clarification; the Deputy I think is mistaken with that.

Deputy M. Tadier:

All right, if I am mistaken I apologise; that was certainly one of the considerations, which I thought was put forward by the election Working Party. But, anyway, let us get back on track. The issue is that there are many people who cannot vote from 8.00 a.m. to 8.00 p.m. for whatever reason, because it is inconvenient for them to do so, and that is why they use the postal votes. There is a concern that by restricting postal votes to those who will be out of the Island on election day and presumably requiring individuals to prove that they need a postal vote, this will be seen as overly intrusive and do little to encourage people to vote, and similarly postal votes, whether one is able-bodied or not, allow a greater element of independence and autonomy, which is seen by many as a very private affair. Currently, many individuals with mobility issues make use of the postal votes, it allows them to put a cross in the box in the privacy of their own homes without anyone there to watch, so it is not simply those who may just choose it for convenience, many people who might not want to use the sick vote because they do not want somebody coming around from the Parish with the ballot paper, prefer to use a postal vote and do not want to have to say why they are doing that, and I think that is correct. This can then be posted in a nearby letterbox without any fuss, it is quite conceivable that if individuals were instead required to phone the Parish Hall and arrange for a sick vote that this would be seen as either too much of an intrusion or an inconvenience for both parties and they might simply say: "Well I am not going to bother doing that and I will not vote." So my point is I think the current system works well as it is, the Jurats do not have a problem with it, I am very concerned about the hard-working members of the Parish and those who volunteer that

they are going to be put under increased pressure and I do not think we need this change so I would ask that members seriously consider for the democratic process that this does not be changed.

The Deputy Bailiff:

Chairman, I perhaps wrongly permitted Deputy Southern to put a question to you about Article 39A.

Deputy G.P. Southern:

I have not asked it.

The Deputy Bailiff:

But I wonder whether it is right that what used to be 39A now comes back to 46D and whether Members should be advised of that.

The Connétable of St. Mary:

I am grateful for that opportunity you are giving me just to clarify that. I would draw Deputy Southern's attention to Article 46D, which does contain some of the provisions, it largely re-enacts 39A, but it clearly defines what the candidate can and cannot do, so I think that is the important thing.

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

Mine are in the form of 2 questions really; my first question to the chairman, and may be picked up when she sums up, but my first question to the chairman was regarding some sort of system where people might require assistance to complete their postal vote, and I did send a suggested form through, unfortunately I missed the amendment date by one day, and I just wondered if the chairman had given any consideration to that system. My other question - perhaps more general - is, with the post the way it is, are we going to do something to improve the service before we allow people to postal vote. I recently celebrated a birthday and a card took a fortnight, 2 weeks, to get from First Tower to Grosnez.

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

On reading the proposition and the detail contained in Article 15, postal voting aside, I believe that the idea of extending pre-poll voting to electors is an absolutely brilliant idea. Anything that encourages or makes it easier for people to vote has to be applauded, so the fact that anybody who works in St. Helier or wants to vote at the Judicial Greffier, can do so before 2.00 p.m. on the Monday before the election is a fantastic idea. A word of warning, I think it may become so popular that the Judicial Greffier might require more assistance than they might initially think. One of the questions I wanted to ask the rapporteur was whether ... it says that a person who wishes to vote with the Judicial Greffier has to do so before 2.00 p.m., but at what stage up until 2.00 p.m., is it the week leading up to the 1½ days before, because I cannot see anywhere in the proposition where that is made clear, so if she could clarify that point. There is one other thing that I would like to mention in response to Deputy Tadier's speech about postal voting and that he did not believe that there was a very high number of postal votes that were not returned. He referred to the Senators' poll because that was the only information we have on our desk, but if my memory serves me correctly, certainly in the Deputies' elections, from what I recall there was a Parish and a District in St. Helier that recorded a high number of postal votes not returned, so I think it would be interesting to balance the argument if we could have those statistics relating to the Deputies' poll as well. Thank you.

Deputy M. Tadier:

Can I just clarify? I will go and seek some information now and if there is time I will circulate it to Members.

The Deputy Bailiff:

You have made your speech, Deputy, and, once you have made your speech, you have made your speech. Deputy Maçon.

1.3.4 Deputy J.M. Maçon:

I am very supportive of these measures. I personally think that, if you are sick or disabled, having someone to be able to come around to your home and take your vote and not have to worry about all the form-filling, because a lot of ... I know in my District from my experience, a lot of elderly people or sick people do not like having to do all the form-filling and if they can make a phone call and someone will come around to their house and collect it, on the other side of the coin, I think they will quite like that that provision is there. My only question under Article 42(11), it makes the provision for someone who is ill, disabled or illiterate, but my question is, has the committee considered perhaps the spouse or the carer maybe of that individual because a lot of people would want, if they are caring for someone, to be able to cast their vote at the same time and I would like, if the chairman could just clarify what the situation is there, because, as I read the law, at the moment it does not seem to make that provision, but I will be happy for that to be clarified. But, overall, on balance, I think it is more sensible to have the provision where someone can come around after a phone call and collect someone's vote, rather than have to worry about all these different forms that you have to fill in, and I will be supportive of these articles. Thank you.

1.3.5 Deputy G.P. Southern:

I was going to be almost totally supportive of this particular part of the measures, however, as has been pointed out, 46D contains some of the more absurd strictures around voting that were contained in 39A, so, for example, I cannot as a candidate, or my agent, help somebody fill in a form to apply for a postal vote because they are not here on the day. I can give them the form, but I cannot then help them to do it. Not that there is any connection between the ballot paper and that application for a vote, any connection whatsoever, but we still have this ludicrous and ill-founded piece of legislation in here, and, given the fact that the P.P.C. attempted to revise the whole of Part 7, I find that absolutely absurd, so I am really tempted to vote against it. But, on other matters, why I was saying that I was about to give my whole-hearted support to this was this Article 38: "Persons entitled to pre-poll vote. Every voter is entitled to pre-poll vote in accordance with this part." As I saw that, my heart leapt, and I thought: "Good, at last." Here we have an option of voting, you go down on the day to the polling station, facing the barrage of candidates, *et cetera*, or you choose to say: "I wish to vote from home", and for people who are disabled or the illiterate, who often would prefer to vote in absolute secrecy, they do not want to go to somebody and say: "By the way, I cannot read or write", and what arrangements for those who are literally illiterate, what about the person who asks for somebody to come around and deliver their ballot paper and says: "Can you show me the name", for the sake of argument: "Southern; where is it? Is it that box? Alright." Is that preserving the secrecy of the ballot?

[10:15]

Normally those persons, they might... they have done in the past, they would use someone in their family, because they do not let it out of the family, but if a stranger arrives on your doorstep and just says: "Here is your ballot paper", and you start ... oh, I can just see the panic rising in some of my constituents. It is an awkward situation, which takes me on to the practicalities of how this is going to work. So that catchall: "Every voter is entitled to a pre-poll vote in accordance with this part." But then in 42(11) we get: "In the case of a person entitled to vote who is ill, disabled or illiterate, the Judicial Greffier shall take such measures as he or she considers appropriate for taking that person's pre-poll vote before the time mentioned in paragraph (1), providing secrecy in voting is maintained." So the secrecy in voting is already perhaps in some cases the blind person, visually impaired, and again I have seen it, cannot even spot which is the box. Not a problem, we are told, because not a problem, so not everyone ... everyone is entitled to a pre-poll vote providing you can

get down to the pre-poll station, but what is the mechanism by which you are going to prove, in some way or other, the slightly old form for a postal vote, that you are ill, disabled, illiterate or whatever? No requirement whatsoever, just now, what is the mechanism, you simply phone-up the number, which is in big letters all over the *J.E.P. (Jersey Evening Post)* and on every piece of literature: "You need to vote from home, just call us and we will come around, we will make arrangements and we will come around." As simple as that. On sick votes, on the day. But this is applying for, again, the question was asked: "How long beforehand?" but that will be done. These people who are going to be recruited will be recruited from where and what skills-base will they have for handling such a sensitive issue, and how will they be vetted to make sure that they are not fervent supporters of one or more candidates who are taking part in the election and may thus try and sway particular votes? The reality is will it be a simple phone call? Could I make that phone call if I am canvassing? I just want to make sure because I do not want to make calls again, doing the wrong thing. That would not be influence; I make a phone call to say this person wants to vote from home. I want to make sure that it is absolutely nailed down because what is in the amendment is one thing and the sentiments contained in the report are another. The sentiments that are contained in the report seem to say everything is safe and hunky-dory and we have it nailed down; the content of the amendment is not quite the same I do not think. So where are these extra staff going to come from? How are they going to be trained? How are they going to be vetted? Are we sure we can do this, is the question, and will that process be as simple as possible? So the question is, there will be no need to prove that you need to vote from home and not just want to vote from home, because that is the essential thing that I think, if we are going to get people voting in any particular circumstances that is what we have to do and it has to be as comfortable as possible for the voter to vote in the manner in which they so choose. Then finally, so we have this system that runs until 2.00 p.m. on the Monday before the Wednesday, we have the hiatus, presumably the sick vote can be ... so that is the pre-poll vote from home, we will send somebody to you, and then what takes over is what was the old sick vote, and that would run from 2.00 p.m. on Monday through until ... you would not send anybody out, but you could ... in the past, I have been able to register, as soon as what was postal voting closed, I then went on to ... I had my list as I went around knocking on doors, and it was a sick vote, I will phone through a sick vote, and on the day we will have somebody come out to you and you can vote from home at your convenience, or from wherever you are. So that gap, so that sick vote will be, as in the past, covers the gap from 2.00 p.m. until close of play on voting day. If I have assurance that training, selection, vetting and numbers of these people will be covered, and that the interval from 2.00 p.m. to the close of play on voting day will be covered, and that this procedure will be as simple as possible and as widely advertised as possible, then I may well be able to find myself able to support this with the proviso that in an ideal world I would like to vote against 46D out of principle, but perhaps I will come back and try and strike that from the record because it is rubbish.

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

Over the years I have seen the States end up in some pickles, because complex laws come to the Assembly, important laws, and Members who have been concentrating on other matters have not perhaps given as much thought to particular articles in laws that may concern them, and I have said in the past the legislative scrutiny side of things needs to be beefed-up. I met this week with the Comptroller and Auditor General and I discussed with him the processes by which we are holding the Executive to account, and how we can hold Scrutiny to account, in holding them to account. Having discussed his previous experience and that in Whitehall, sub-panels of Back-Bench Members get together, not necessarily with any resources, but they do on a regular basis form sub-panels regarding items of interest that concern them and members of the public, and they get together to help to focus in on some of the more finite detail in some of these areas and thrash-out some of the arguments. In this particular area of consideration, the ease of voting, I was discussing yesterday with the Greffier whether it would be possible to introduce a single electoral roll, a single list. It is not going to be possible before the elections, because that was one of the

recommendations that came out of Clothier and also in P.179 of 2001 that there be a single list, and what it is all about and what these things are all about, which P.P.C. is trying to do, and in some regards has done a very good job in, they are about making voting as easy as possible for people while ensuring that the democratic process is secure and that there is no interference of the process by over-zealous or over-eager or non-focusing candidates that might inadvertently or on purpose, maybe in the future, abuse the system, which has been put in place to protect the process and the outcome. So I am listening intently this morning at these issues that are surfacing and I listened to the speech of Deputy Tadier and Deputy Southern, unfortunately they are both not in the Chamber at the moment, but what I think I can echo is that it was not so long ago, in my memory at least - maybe it is faulty, but it seems to be in my memory - that we changed the law to enable there to be a reason ... for there to be no reason necessary to postal vote in order to encourage people to vote, and it was a progressive move that I believe we took at the time, and I was going to ask Deputy Le Hérissier, but he is not here either, to confirm that we took, in order to increase the opportunity for people to vote, and this morning it has been suggested by some remark, not in a speech, but in the background, that if you cannot vote between 8.00 a.m. and 8.00 p.m. then what are you doing. Well, today's society is a very, very busy society. We know that we have more working women in our community than anywhere else in the world. We also know that the elderly are beginning to work more and more and more, and in Jersey there is a number recently that has been analysed that there are more elderly people working in our community than there are in other communities. So, overall, we have, even though we have a recession... we have people working many, many different tasks, perhaps 2 or 3 jobs, in order to make ends meet. If you are working parents and you are out the door at 7.30 a.m. in the morning on your way to work at the other side of the Island, and you have to come back at tea time to take over while your partner goes to work, are you necessarily going to have the time to get in, or the inclination to get in, to take part in the democratic process, when you have just had a particularly difficult day and you might have to come home and look after children, or perhaps the babysitter is sick. So I think, while we can congratulate P.P.C. on extending certain areas, I think there is a body of work that has yet to be done in relation to these considerations about making sure people can have the greatest opportunity to vote, and Deputy Le Hérissier is back with us now, so I will just go over that little bit very quickly, because I would like for him to confirm it if he is going to speak. I thought we extended the postal vote for anybody to be able to vote for anybody to be able to vote for any reason to achieve greater ... We did not? No. We certainly should have done. It certainly has been discussed on P.P.C., when I was on P.P.C. it was discussed. Then we look at today's reasons that have been mentioned about people who may be sick or ill or frail, to get somebody to come along and take their votes. What if we have swine flu all over the Island or some other pandemic? What kind of situation are we going to be in then? Highly unlikely, Members would say, yet we have just spent millions of pounds on the issue, millions of pounds, and the community has been subjected to many people suffering from that illness. Now, just to finish off, I will be seeing if I can get some support from Back-Bench Members to look at this issue like it has been done in Whitehall, Back-Bench Members get together and look at particular issues, and I am going to see if there are some Back-Bench Members that want to come together with me and see if we can maybe focus in on this a bit more, maybe not in time for this election, but certainly for the future, making sure there is a single electoral list so that anybody anywhere in the Island, on election day, can vote at any polling station. If you are living in St. Ouen and you are spending most of your day in Grouville, then why should you not be able to vote, or in town, and that is something we need to work on. I am not going to criticise P.P.C. because I think they have done a good job in relation to many of the aspects of work that they have been working on, but they can only do so much. Finally, I went around to help a lady this week who has a significant difficulty in terms of her health and she is stuck indoors and she wanted to take part in the census. I am looking to the Chief Minister but he has gone now, the Minister for Treasury and Resources is in India. She wanted somebody to help her take part in the census and I sent an email, I have not had a response from that, she cannot fill in the forms, and she wants somebody to take her to the polling station, and I told her: "You can have a sick vote." Now she is

not in my District, although she lives close to where I live, I live 2 minutes outside of the District I represent, but she lives in Number 2 District, but she lives just down the street from me, and she is unable to fill in a form, she cannot write.

[10:30]

The best thing she could do in order for me to try to help her at the moment was make her signature, and that took her 3 attempts. So I think we have some work to do, and rather than criticising P.P.C. I think we should all take a leaf out of the book of what they do in the United Kingdom and start holding small sub-panels of Back-Bench Members in areas that we do not think are being progressed fast enough or in-depth enough, because at the moment what we have done is we have left all of this over to P.P.C. and whoever is monitoring P.P.C. as to the work they are doing... who is shadowing P.P.C.? Scrutiny Panels; just the States in general? We cannot blame P.P.C. for areas that may have yet to be completely addressed to all of our satisfaction, but we can get together ... I do not know whether I can get together with any of these States Members soon, none of them are listening to me, but I am hoping in the future that we can get together with some States Members and work on these issues collectively as Backbench Members and stop thinking about ourselves.

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

Just a short comment really. I do think we are moving forward, making it slightly easier for people to vote. I would very much like to see the day when people can go to their Parish Hall and vote before, rather than having to come to town, because there are some people saying: "I do not really want to come to town, why can I not go to the Parish Hall?" But maybe that is for the future, but that is an option. In answer to Deputy Tadier saying about why some of the forms are not returned, and I can say from my own personal experience we did a postal vote about 3 years ago for a Senators' election where we were out of the Island and it was quite complicated, I thought, to read, you also had to get someone to sign, so that was one of the problems, having to find maybe ... it is all right if you are husband and wife, there are 2 in the family, but if you are on your own you have to wait for the postman or someone to say who you are, so we could probably tidy-up there. But my main concern really is to see that we are moving forward for the last day or the time for the pre-poll votes being moved forward to the Monday afternoon rather than it was the day before, and I think that is a shame. There are a number of people who like to go away ... who are away on holiday but they cannot get their ... do their pre-poll vote before they go, simply because quite often I would hope that this will be expedited this year, ensure that we speed-up the process, because there is always the delay from when the nomination, the day or the evening of the nomination, until the printing of the ballot form, there can be 3 or 4 days, and people who want to go away on holiday cannot come into town and do their pre-poll vote, so what they have to do, they have to leave their form with someone for them, for the postal vote to be posted out maybe to America, and again, with the post being as it is, if we are shortening the time for when the pre-poll vote has to be returned, I think again it is unfortunate, so I would ask, probably I would be told, no discretion could be allowed, but it seems a bit annoying for people's votes to be somewhere in the return to Morier House or wherever, and they are dead votes simply because they are a day late by post, through no fault of their own. So maybe the chairman in summing up could emphasise why we really need to bring it forward for 2.00 p.m. on the Monday rather than as it was the day before, and what allowance will be made for those postal votes who do arrive on ... the chairman is nodding, saying: "Tough", so those people who are caught out by the slowness of the return of the letters, maybe through no fault of their own, probably through the mail, those votes are lost, and I feel that is a shame and I really am disappointed that it takes extra time to get these pre-poll votes to the Parish Halls.

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

I have enjoyed my short time on the P.P.C., it might be coming to an end, who knows. I have been looking for what I can support, and I have not been able to support much so far, chairman, sorry. My feelings are very much like Deputy Southern, anything we do to improve things for people will get my support. If it is all going to be as absolutely rosy with 3 votes, brilliant. It is a shame we could not do it before. What I do have to highlight, as Deputy Southern has said, and some of the Deputies behind me, 46D, well I think it is already pretty shameful that the diabolical treatment of Deputy Southern and Deputy S. Pitman a couple of years ago has already been featured in the best-selling economics book by Nicholas Shaxson of the *Guardian*, and through my contacts I know that it is going to be covered at length in a book due out in May 2012. How we ever got ourselves into this, we are always hearing that, if it is not broken, why fix it; it has never been a problem and all, the research I have done, with any interference in the postal votes, and I am glad to see we have a different *J.E.P.* reporter today, because hopefully she can persuade her editor to do some accurate reporting, because the problems were ... was it once, twice, 3, 4 times, I cannot remember now, there was inference in the media that some people had put crosses by their names. Now of course we all know that is impossible, the law that was broken was in helping people to apply to then get registered for a postal vote; what a heinous crime. Now I try not to regret a lot of things in life, but I have to say, and it is relevant, my big regret is that I stopped Deputy Shona Pitman from going to prison and I did that because she is my wife, she wanted to for the power of her convictions, and I really regret that and I apologise to her now, she was totally right. This will be a big issue because, come the election, I can say that I will be releasing a couple of documents, which will be quite fascinating, quite fascinating, and I know why Deputy Southern... he is a principled man. I do not agree with him on everything, as people have probably worked out by now, but when you are charged with an offence with another candidate's name on, and then that is withdrawn, and that candidate is never prosecuted, I think it is quite understandable why you should get a bit angry. Some of the documents I have seen, police documents, when they were looking for a certain other individual, not prosecuted, yet 2 people have criminal records and now we are making things better. How absurd is it that, in research done by lawyers, this equivalent could not be found anywhere in the democratic world, how shocking, how embarrassing for Jersey, how awful, and I do ... I am pleased that we go out live on the radio because I do wonder if it will be reported accurately, when I have had to read about people interfering with votes, which is completely untrue. My experiences of the election, I helped a lady - an old lady in hospital - to complete her form, she signed it, she is very concerned, she had come back to the Island just after the 1940s, the Occupation, desperate to vote, always had voted, she was very concerned, I mean she was under a lot of medication, she had a serious operation, she was in her late 70s, was very concerned that she would not get to fulfil what she always did, to vote, I helped her do that. Would I be a criminal? Now that lady, as I say, she was on some drugs, she really wanted to vote for Deputy Gorst; perhaps that explains something, but she thought he was a great person, really wanted to be able to vote for him, so I helped her do it. Perhaps I should be a criminal. Take me away, we all make mistakes, but that lady ... so I was an agent for him really, I might not have wanted to vote for him, but then it was not my choice, but I did it, the lady signed it, there was nothing untoward with it. That lady was my mum. That lady was my mum. Do I care if I would be seen by the Island's legal authorities as a criminal? Not a bit. Do I care if the police want to come and arrest me? Not a bit. Principles are important and this Government, and I am afraid all of us are just human, we make mistakes, and how we got ourselves into this pickle... laughable. I was discussing it with a person from Westminster only a couple of weeks back, this ... the fact that this 46D can stay in here when all you are doing is assisting someone to apply to get registered, nothing to do with the vote, for those of us who work in St. Helier, you will find regularly we have to do a lot more for people that have problems with social security, income support. Would we not want to do that? I spoke to a gentleman during the election, he could not read or write, and he was in a stress because he thought what had arrived was his rates, so I had to try and sort that out for him as well. There are these people who need assistance and this, I am afraid, came out of a P.P.C., and it was not under this Chairman, I know, but I think ... and I do like her now. Just remember, this came out from a

committee who also wanted to make it law that if you are a member of a political party you had to give in a list with your name on it. I wonder how that would have been used. Suddenly, Mr. Bloggs could not get a job anymore. That came out of the same committee, and I highlight this, because this is some of the flawed thinking involved in this. These issues should be about helping people to vote. If there is a problem, all right, fix it, but there had never been a problem with postal votes being tampered with in Jersey, never had, never was. I hope the editors of the *J.E.P.* can get it right this time. I want to support this, I applaud the P.P.C., I was not on it then but I applaud them for some of the work they have done. It is a difficult area but this 46D should certainly not be there. I would have amended it but Deputy Green told me he was going to so I will bring back something. I have been in discussions with the Minister already. It is wrong, it is in my opinion... and I know, Sir, you will tell us that opinions from lawyers are just opinions. It is not human rights compliant according to the lawyers I have spoken to. It will be a long route to change that so I will try and change that so I will try and change it through routes of common sense. But I think the big danger is when we have certain individuals who try to make political gain, people who probably could not get elected without smearing others, as we saw at the last election. It is very interesting that one of the documents I will be releasing refers to a certain individual who very strangely was not prosecuted. This 46D should go. I will support the rest of it but I will be bringing something back because it is time this Island grew up and put those politically motivated reporting of things aside from this process, because it was meant to be about getting everyone to engage. That is what P.P.C. are trying to do. I do think they have failed with this 46D and I will always go by my principles. Again, I applaud Deputy Southern and Deputy Pitman for standing up for what they believed. It is a shame that the other 7 people that I know of did not do the same.

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

Although I am a Member of P.P.C. I want to put on record again my opposition to what was 39A and to the new Article 46D. I think they are a total nonsense. I have always thought so and although I agree with many of the other changes we have made in this Article, and I obviously will be voting for it, I want to put on record the fact that this particular part of it I find totally unacceptable. Thank you.

1.3.10 The Connétable of St. Saviour:

Having been on the Working Party and on P.P.C. I think there are a number of items I might be able to help Members with. Deputy Tadier had said that the Jurats were against this. The Jurats were never asked about the pre-polling methods with extra staff being involved. I believe they were concerned that there could be a problem using the existing staffing as it is, the existing Parish Hall method. They were not involved with the use of extra staff so I am not sure we can say that they are against it. Deputy Tadier also went on to say that there was ... if people had an unexpected illness they would not be able to get to the poll, they would want a postal vote. I am sorry but with the times of postal votes, an unexpected illness if it is a last minute thing is not going to help. You are far better picking up the telephone and getting someone from the Parish Hall to come and do it. It has happened when people have rung at 2.30 p.m. and we have had somebody there by 3.30p.m. to take their vote. It is perfectly feasible. There was talk about the postal votes and he was concerned about the numbers. We have had some numbers back. If I can give a quote from the 2005 Deputy's election, St. Helier No. 2, there were 186 postal votes sent out, 96 were returned, 90 were not returned. That is a high proportion. In the total of that year there was 704 sent out and 159 were not returned. The figures for 2008 for the Deputies were a lot better; 705 were sent out and 103 were not returned.

[10:45]

Again, you cannot deny that that is a fairly high proportion. It is a complicated system, it is not an efficient system. We should only have to use it where people are going to be out of the Island. We repeatedly are told: "Oh no, postal voting is wonderful, it is secure." I am sorry postal voting is the

only type of voting where we have a potential problem. If you pre-poll, you are voting in a booth and it is supervised by the Greffe. If you are voting in the booth it is supervised by the Greffe. If you have a sick vote, you have 2 Adjoints who would come and take your vote and that is secure. If you have a postal vote, there is no guarantee that somebody is not leaning over your shoulder saying: "You are crossing that box." There is no guarantee whatsoever that your vote is secure. Postal voting is not a secure vote. It has been proved in England. We have not had the abuse they have had, but that does not mean that it is secure. The only way you can guarantee the security of the poll is to have it supervised as it is in the polling station or with an Adjoint going to take it. It is no use saying that people are not being influenced in their votes. I have been an Adjoint for some 25 years before I was elected. For a long time I used to go out collecting votes for St. Saviour. On several occasions I have had to stop people trying to influence voters as we were taking their vote as a sick vote. On 3 occasions I have had to send people out of the room to stop them influencing; 2 were carers and one was a member of the family. It is no use saying, if they are prepared to try and influence when there is an Adjoint in the room, you can bet your bottom dollar that they are going to try and influence that person if they are doing it with a postal vote. So it is no use pretending that it cannot happen; it can happen. The system we are introducing is far more secure. If it is awkward for people to come to the poll on that day, there is an extended pre-poll time now. They will be able to go and pre-poll for anywhere, and go to the Greffe; they can pre-poll. If they have a problem and people have a disability, if they have a problem with sight, they can have what used to be called the sick vote. They can arrange that with the Greffe, that will be organised through the Greffe, for someone to come. It may be that they will organise the Parish to come and do it on the day, the Greffe may do it before, but that will be organised by the Greffe. It is not a problem. I have assisted somebody who was blind to put her cross in the right place, not a problem. Having done it, I initialled it, it went into the envelope, I made a note on the envelope and reported to the Autorisé that this was what I had done, and that was accepted as a valid vote. Similarly, when somebody was confused and put a cross in the wrong box, I have made sure that was understood on the ballot paper. They put their cross where they wanted, I signed to authorise that they had done what they wanted, reported it to the Autorisé, that vote was accepted. The system is flexible enough to cope. You do not need major training to do this, you know what you have to do, it is quite feasible to be extended. It means that anybody who has a problem like this can get assistance. I just feel rather surprised that people are worried about this. I think I can simplify it to say that the whole procedure has been simplified, because postal voting is complicated. The use of the pre-poll will make things easier. It means that if people have difficulty getting to the polling station on the day, they have an option. Yes, it has been taken forward a day, but that has to be done to be practical, and I think it certainly is very much easier for anyone who has a disability or is handicapped in any way, for them to have somebody come to them and help them take their vote. It is far better than having them trying to struggle to do a postal vote. We know from the figures that a lot of those are not returned; this is a much more efficient way to do it. I would say that anyone who is voting against this is voting against improving the integrity of the poll, they are voting against simplifying the voting procedure, and they are voting against helping people with handicaps and disabilities. I cannot see why they want to vote against this. I expect the media might look at all sorts of reasons why we might want to vote against it. I do not think there are any ill intentions, but I think people should understand that the whole procedure is being simplified to encourage more people to vote and to make it easier for them to do so.

1.3.11 Senator A. Breckon:

The Connétable of St. Saviour just referred to some statistics that I have circulated to Members, and thanks to the Greffe who produced those. What it does not show is what is behind that, people who did or did not register a postal vote, how that came about, whether they were assisted or not. There are some things in there that stand out: for example, in 2008 in St. Mary there were 76 postal votes sent out, the total poll was 495, which is a significant part, percentage-wise, of the total electorate.

It supersedes anything else, and the other thing is, as a general trend, I think it shows that when people do take the time and trouble to get a postal vote, they do use it, which is really what it is about. But I do see some problems. The question is, can we rely on the postal service? And the way we are at the moment, I think the answer to that is: "No, we cannot." Not many weeks ago, I got a letter from Roseville Street which was posted on Wednesday afternoon; I got it on Monday morning. Where it had been, I do not know. Recently I posted some stuff to the U.K. ... that is another story because the other thing is... and I do know from experience, sometimes people who want a postal vote are in virtually inaccessible places, they will not get this and get it back. They could be in South America, they could be in New Zealand, they could be wherever it is, and this thing is not going to happen in a week, it is just not possible, so other methods need to be used. But we are talking somewhere else about I.D. (identification) cards, and we must make things generally easier for people to do. I have had the experience in the past, sometimes you have an elderly person living alone, how does this happen? What happens if you give them a form, if you have a form, what do they do with it? The answer is, in some cases, people do not see many other people, and to get a signature or to do whatever, it is just very difficult. If that is the case where somebody is infirm... and the Parishes I must say are absolutely brilliant in dealing with this, postal votes and collections, it does happen. But in general terms, if you think of a trade union ballot, say, for various issues, it could be industrial, it could be the appointment of some sort of official, it is done wholly on postal voting; wholly on postal voting. That is a tradition that has been done, manifestoes are sent out by post, there is no canvassing apart from that, although various regions and districts may lobby, but generally that is it. So where is the trust, and where are we perhaps being too officious in what we do, because there have been hurdles and hoops, and I think some people are backwards and forwards, post this... The post box for some people is difficult to get something in the post, and then the delivery time is another issue. So I think there are some issues there. The other thing I remember from my mother's mailbox, she used to get leaflets from different parties saying that if she wanted a postal vote they could assist with that, and indeed they did, and this was part of the mail shot that went out from political parties: "If you need a postal vote, contact us and we will help you to do this." So I do not know where we sit with this if somebody did that. Where is the illusion, as it were, or whatever you want to call it, if somebody were to actively do that. But having said that, not everybody is going to want a postal vote, but perhaps, P.P.C., we need to move on and look at the technology and how we could develop that, because if anything - with some security and issues like that in mind - we want to make it easier for people to vote, not more difficult. So perhaps it is something that P.P.C. (I think this is a stepping stone, but it needs to move on, certainly in the new House) need to look at technology and how it is utilised to encourage people to get involved and express their opinion. Having said that, also included in this is the removal of the requirement to use the *Jersey Gazette*, and that is something I know has been of concern to Members in other areas where it has proved to be fairly expensive. I think it has been up to 3 times the cost of some of the normal advertising to put it under that particular title, so that has got to be a good move. But again, I would ask the chairman of the Privileges and Procedures Committee and others - perhaps myself included - need to embrace the technology and use indeed cheaper and more effective methods of communication, especially with the younger people, to engage them. Because I can see, if you said to somebody perhaps 19 to 20: "We are trying to encourage you to use the postal vote." "What do I need to do? Oh, I need to do that, and then I need to do that? No, forget it." "Can I text a message?" "No, you cannot do that, sorry." I am not saying we should do that, but maybe we should be heading that way. So although I think this is an improvement, I would hope that P.P.C. would consider it as a stepping stone and we could move on and perhaps embrace the technology with the safeguards and respect the system we have. Finally I would just like to say over the years I have stood on numerous polling stations and there are people who, let us say, are not best able to get about, in their 70s, 80s, and even 90s, and if it was rain, hail or snow they would get to a polling station on polling day. "I have to do my duty." And I wish that would permeate down a bit because the other side of that is able-bodied persons; 30, 40: "What is going on in there? Oh, that lot again", and just walk past and do not

bother. I think we need to engage people, and this is part of a process. But also, it is not easy for the Privileges and Procedures Committee to do this, we need to engage the population, perhaps, rather than anger them, and then they will vote. But we need to do that because it is the right thing to do, and make these things easier, not more difficult. We need to have rules and regulations, but let us not be tripping each other up with them. With that, it does get my support, but again, I have some concern that it is an interim process this, and we will need to move on from this, and as I say, will support it.

1.3.12 Senator B.I. Le Marquand:

I wanted to make a few comments, firstly, based upon my experience. When I was the Judicial Greffier, it was my secretary who used to deal with all the postal voting, which gave me a pretty good insight into the strengths and the weaknesses of that system. The problem with postal voting is it is quite a cumbrous procedure. People have to write in to apply; they are then sent back the relevant papers, which they have to complete properly, and then they have to post them back again; that is three lots of postage going on. Perhaps people were starting to realise how cumbrous that was, and realising if they went in personally and applied for their postal vote, that they could be given the papers straight away and could complete the process. So effectively, for some time, we have had a pre-poll system on the back of the postal vote system, which was a bit of a strange state of affairs. Of course, one of the difficulties with the postal voting system was that if the date on which the nomination meetings took place was quite late, then that really, really squeezed the time periods available. I note that in the elections coming up this year there is going to be quite a long gap. That is going to help with postal voting. I know some Members feel it is too long, but it will help.

[11:00]

And a particular issue that arises, in relation to situations like students - I am not sure about the people in South America or New Zealand - but there is a very real situation with students. They are away, they take a bit of time sometimes to realise what is happening, they apply. One of the frustrations that my secretary had was she was very often dealing with applications which had come so late that she jolly well knew that there was not going to be enough time for it to get back to the university or wherever and for the person to get it back, but she still had to do it. So when you look at the figures in relation to the numbers sent out and the numbers returned, you must recall that there are situations like this where simply there is not enough time to get it back. The other related issue which arises - and in a sense I am making a comment on the comments of the Deputy of St. Martin here - is that of course, under the system, those who are operating pre-polls or postal votes have got to mark off on the list for each district, those people who have already voted or who have had forms to vote, and there is quite a lot work to do in relation to that. There is always a squeezing because if things are coming back, if you allow things to come back as late as the Tuesday, you are having to give the paperwork to the Jurat, a member of the Jurats is coming to collect the paperwork on the late Tuesday to have it for an early morning start on the Wednesday and so on. That is why, inevitably, you have to have an earlier cut-off date, to give enough time for that process to have happened properly so that they are marked-off. I think that this represents a substantial improvement. What we have now is effectively 3 mechanisms for dealing with those, or helping those people, who cannot get to the poll on the election day. We have pre-poll with a wider test as to when you qualify; in fact, anybody qualifies, effectively for that. Secondly, we still have postal, which will be for those who cannot get to the Judicial Greffe or to the poll. Thirdly, and this is where I want to make another point very briefly, we have the facility for those who are ill or unable to get to the poll on the day, to contact the Parish Hall or wherever so that an Adjoint will go out, as the Connétable for St. Saviour said. I had the experience during the 2008 Senatorial election of people contacting me quite late on to say: "How do I get a postal vote? I cannot get to the poll on the day." They were far too late and I said: "Look, do not worry about a postal vote, all you have to do is contact the Parish during the day before the election, but certainly on the day, and

someone will come out.” One more point I would like to make is, it is unfortunate, but notwithstanding all the publicity, it is quite clear to me from my experience that a lot of people do not understand that. They think the only mechanism available for them is the postal vote, and somehow we have to make that message clearer to people, so that they can understand they can do this last minute business. So a few thoughts; I think this represents a substantial improvement and I hope I have explained why there are nevertheless constraints on it.

1.3.13 Deputy P.J. Rondel of St. John:

I am going to be brief, but given my experience over the last 8 days, of where States departments send out mail to States Members, as of today I have still not received the Carswell Report on whether or not the Bailiff should or should not be in the House (R.28), I have real concerns that our postal services are not up to scratch, really up to scratch. Given what has been spoken of by the previous speaker and others, I believe that Senator Breckon is absolutely right, we are going to have to find alternative ways. We are told that Postal are now going to be on a shorter working week. That I believe, in another 3 years will probably be shorter still, and therefore we are going to have to use, whether it is emailing or alternative ways of contact, which currently I understand the courts accept - what is the document - not an email, but a facsimile as evidence. But I think the courts and everyone else are going to have to start moving probably forward into other areas like emails and the like as being acceptable to have correspondence, and I think P.P.C. will have to be revisiting this in the not too distant future, and I cannot blame, in some parts, Postal for having to tighten their belt and do certain things. But as far as the service is concerned, if a States department cannot get its mail to the public and to States Members on time, what chance is there of the ordinary voter, who is maybe off-Island, waiting for something to come via another postal service to our postal service to deliver it, I think the period given, even though it is longer this year, will create more problems in the future. I just flag it up so P.P.C. can review this again at one of their future meetings.

1.3.14 Deputy C.H. Egré of St. Peter:

I just wish to comment on what Senator Breckon said earlier. I can reassure him that the Working Party did look at electronic voting as part of our remit. We came to the conclusion at the time that electronic voting is not secure enough. We took professional advice on that; we are not in a position at the moment where we can maintain the level of integrity of the vote that we would require. However, I am certain that as technology improves in this particular area over the coming years, that P.P.C. will be looking into it with a view of moving forward in that area.

1.3.15 Senator S.C. Ferguson:

I think Privileges and Procedures Committee have made a great effort with this. Postal voting is a difficult area because it is one of the areas which is extremely vulnerable to fraud. I do find it surprising that my colleagues are using the U.K. as a model, where the amount of fraud arising from postal voting is legendary. There are cases of hundreds of postal votes being delivered to one address in urban areas. Continuing on this theme, are we sure that all registrations are valid? In the 2008 U.S. election in Texas, there were cases found where there were 28 people registered from a studio flat, and then there were about, I do not know, about 40 or 50 registered from a vacant parking lot. Fortunately, we have the Parish safeguards, and knowing the Connétables, I am quite certain that they will make sure that the registrations are valid. I do agree with the Deputy of St. Peter that at the moment computer voting would be a nightmare. The security implications are appalling. People have mentioned that the older generation are much keener on getting their vote in. My elderly female relations have always made an effort to vote, because I suppose my grandmother is of the generation who benefited from the suffragettes and went through a period where she could not vote, and then she was given the vote. So perhaps we need to put a note... it should be mentioned in the curriculum, so perhaps the Minister for Education, Sport and Culture would take note and make sure that the history of voting is included in history or civics lessons. I

think P.P.C. have made a great effort to keep the vote valid with checks and balances, and I recommend supporting this article.

1.3.16 Deputy R.G. Le Hérissier:

I wish in no way to disparage what P.P.C. are doing, it is very difficult when you have 53 voting procedural experts advising you. All I would say, if we want to increase voting turnout, the one thing we should stop is totally inane, boring and tedious debates like this one.

The Deputy Bailiff:

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

1.3.17 The Connétable of St. Mary:

I would like to thank everybody who has participated, and especially those members of the Working Party and P.P.C. who have tried to deal with some of the issues that have been raised already. There are a few questions that were asked directly that I think need to be asked and so I will deal with those. Deputy Southern asked about recruitment and about training, *et cetera*. That will be done by the Judicial Greffe, it will be under their remit, much in the way that all the staff that currently deal with postal and pre-poll voting have adequate training, so I think there is no need to be concerned. The Deputy of St. Martin was concerned, as was Deputy Southern, with the earlier cut-off with the Judicial Greffe. That earlier cut-off, I would assure the Deputy of St. Martin, applies to pre-poll voting. The postal voting is not changed by the article, so any postal votes that come in will be dealt with as they are currently under the Law. Of course, as Deputy Southern said, although there is a pre-poll cut-off, it is still perfectly possible to arrange a sick vote which will be collected only on the day, as we have now arranged... only on the day of the poll itself by the Autorisé. But that can be requested at any time, even on polling day itself, and it will be arranged. There was some general confusion which I think other Members have cleared up, between the sick vote, meaning the vote taken by the Autorisé on the day of the poll and the vote by people who are sick or disabled, which now becomes a pre-poll vote. I think as some Members have indicated, it is the opening-up of the pre-poll to all people, everybody who has a requirement. That is the great advantage of this, I think that is something that cannot be stressed enough and is something that the whole package, the whole of the Part 7 of the Law, hangs together and that is the crucial building block of it. Deputy Le Claire talked about having opened-up the postal vote before, but under of course, the 2002 Law there have always been the 3 categories of people who need to satisfy one of the conditions to have a postal vote. So we just reduce that to 2 now, but that really has never been opened-up. For the pre-poll vote, you had to satisfy the same characteristics but now, under this article, it will be completely opened-up. A number of Members talked about the central list. The central list is a possibility but the difficulty we have with the ability to vote anywhere would be that you would need to literally have ballot boxes for each of the elections at every place where you could vote, otherwise it would be impossible to do the count, it would be incredibly cumbersome. The way forward eventually, in the fullness of time, will surely go on to encompass electronic voting. As Senator Ferguson has said, and the Deputy of St. Peter, who was on the Working Party, it was looked at, but at this moment in time the Working Party did not recommend it, having taken appropriate advice, but certainly that must be something, I am sure, as technology is continually improving, that that will happen in the fullness of time. Deputy Le Claire asked about what would happen in a civil emergency. In civil emergency of course, all things change, all things are renegotiated, and whatever emergency measures were in place, I am sure, would deal with any poll that was in the foreseeable future. I would just like to reassure Members that at all times, in looking at everything, the Working Party and then P.P.C. were concerned with the integrity and the security of the poll. That has to be the ultimate goal of an electoral system and so recommendations have been made on that basis. The revised figures do show that there have been issues in the past with votes not being circulated. One of those underlying themes is of course, we must start, and P.P.C. is already engaged in starting, an awareness campaign, making

sure people understand the availability of the pre-poll vote to them, making sure they understand what is available. How, even if they miss that pre-poll deadline, they can still get assistance on the day. P.P.C. is already looking at that, as I have said. One of the greatest classes of users of the postal vote would be students, typically. Students may well, in this advanced election, because we are bringing the elections forward, they may well still be on-Island at the time of nomination and they may well therefore be able to pre-poll without any need for the postal voting. Of course, as part of our campaign. P.P.C. is looking at whether we can use social media, and that will hit directly into what the students themselves are used to using.

[11:15]

So alerts or notices, reminders, will be there and P.P.C. is really looking hard at how we can publicise all aspects of this. I do not know if anybody has anything that I have forgotten, because a lot of things have already been touched on. I commend this article because it does open-up the pre-poll process. It is important pre-poll maintains the integrity of the vote. The Judicial Greffier has the ability under the new Article 42(11) to do whatever is necessary, whatever measures he or she considers appropriate, for taking a person's pre-poll vote. That means that whatever circumstances arise, the Judicial Greffe will be flexible enough to deal with it. Whatever application a person makes for assistance will be looked at by the Judicial Greffe, and as the pre-poll is open to everybody, the Judicial Greffier will obviously take on board people who are with that sick or disabled person, if they want to avail themselves of the pre-poll vote at the same time, that will be dealt with, because that article really does give the Judicial Greffier licence to take any such measure as he or she considers appropriate. I think that is where we have the continued flexibility built-in, so there is nothing I need to say anymore. Please vote for this article. The opening-up of the pre-poll vote is an essential step forward. I move the article.

Deputy G.P. Southern:

A final point of clarification, if I may, Sir.

The Deputy Bailiff:

You can try.

Deputy G.P. Southern:

For clarity, and the question I ask, which I do not think has been answered, is that any person who wishes to have a pre-poll vote delivered to them, for whatever reason, can phone-up or a person can phone-up on their behalf to the Greffe or to the Parish Hall and say: "I need a ballot paper delivered to me in order to cast my vote. Will you arrange it?" and that will happen. That is the basic guarantee that I want in order to be able to vote for this, that there will be no barrier put in the way of anyone phoning up and saying: "I need a pre-poll vote, I need it delivered. Can you do that?"

The Connétable of St. Mary:

Article 42, paragraph 11: "In the case of a person who is entitled to vote who is ill, disabled or illiterate, the Judicial Greffier shall take such measures as he or she considers appropriate for taking the person's pre-poll vote before the time mentioned, providing secrecy in the voting is maintained." Pre-poll voting takes place at the Judicial Greffe, but if that is not possible for one of the reasons I have stated, the Judicial Greffier will make arrangements for people to visit the home. It does not mean, deliver a ballot paper to be sent back, it means go and take a pre-poll vote at the person's home. I think that is quite clear.

Deputy G.P. Southern:

If I may, just for final clarity, if that is, although we have had a verbal assurance, the carer of that person who is tied-up and is obviously busy, or if it is just someone who is busy, like the parents, both of whom work and look after their kids, by shift, by rotas, which does happen, it is very difficult for them to get out. Would that be permissible as well?

The Connétable of St. Mary:

Anybody has ability to pre-poll. That article deals with people who are ill, disabled or illiterate. I do not know how to be more specific. Everybody has the ability to pre-poll.

Deputy G.P. Southern:

The chairman is not getting the question. The fact is, what I want assurance on if I am to cast my vote in favour of this proposition is that there should be no barrier put in the way of someone who feels that they need a pre-poll vote delivering to their household in order that they vote, 42(11) says: "Ill, disabled or illiterate", it does not say: "Or a carer or busy or looking after the kids or work", *et cetera*. It does not mean that, the words of the amendment do not say that and therefore it is possible that a Judicial Greffier could say: "Hang on, are you ill?" "No." "Are you disabled?" "No." "Are you illiterate?" "No." "I am sorry, I cannot do that." That is what the law says, and I want assurance that that is not going to happen, because that is the thing that gets in the way of voting.

The Deputy Bailiff:

I think the answer has already been given to you quite clearly. [Approbation]

Deputy G.P. Southern:

Then I would appreciate to hear your version of what answer I have been given, Sir.

The Deputy Bailiff:

The chairman has already told you that anyone can apply for a pre-poll vote.

Deputy G.P. Southern:

But that means that they have to go to the Judicial Greffe, inconveniencing themselves, *et cetera*, and not have that delivered to their home, so there are no guarantees in this.

The Deputy Bailiff:

The arrangements for people voting are set out in what would become Article 42, and 42(11) only covers those who are ill, disabled or illiterate. But if you wish to get further advice from the Attorney, I am sure he will give it to you. Deputy Tadier, do you have a point of clarification?

Deputy M. Tadier:

Yes, questions for the Attorney General. I have given him advance notice of one. No, no, these are serious issues, and I am asking for advice from the Attorney General, and I would beg the indulgence of the ...

The Deputy Bailiff:

Deputy, if you wish to ask the Attorney General something, you are certainly entitled to do that. It probably would have been helpful to do it before the chairman had summed up, but it does not matter.

Deputy M. Tadier:

It only sprang to mind, Sir, but I appreciate that. But I think any information is better before we cast a vote than not. I have a question about Article 39(a) where it says the person is likely to be out of the Island, out of Jersey. First of all, how is "likely" defined in law? Secondly, what sanctions if somebody declares that they are likely to be out of the Island and they are not out of the Island? I think it is in a similar vein to Deputy Southern's point which he might have liked to ask, but I will ask it on that basis, of 42(11). If somebody phones-up the Judicial Greffier and says that they are ill, disabled or illiterate, and they are not, but they wish to have a vote from their house, will they be liable to any criminal prosecutions, and if so, what measures will be taken to undertake

whether they are ill or disabled or illiterate? These are the very real implications of these, that is why I am asking, thank you.

The Deputy Bailiff:

Are there any other questions, either for the chairman or the Attorney?

Deputy J.A. Hilton:

I do not believe I missed the answer, but I asked a question of the chairman in her summing up, about the pre-poll vote. I know anybody who wishes to lodge a pre-poll vote has to do it before 2.00 p.m. on the Monday before the election that takes place on the Wednesday, but what period of time in the lead-up to then has a person got to pre-poll vote? Thank you.

The Connétable of St. Mary:

I apologise to the Deputy, I did overlook her answer. Obviously, timings will change, as has already been heard - ballot papers, *et cetera*, take time to print - but the Judicial Greffier must publish a notice giving the details of the arrangements and that notice advises, it comes under the new Article 40(a), when the Judicial Greffe shall be open for pre-poll voting and postal voting. So it is determined on a case by case basis, and published immediately by the Judicial Greffier.

Deputy G.P. Southern:

May I follow your advice, Sir, and ask the Attorney General for clarity on the difference between Article 38 as presented and Article 42(11). If someone phones-up on behalf of a voter and says this person needs a pre-poll vote and they need it delivering, are they likely to be grilled on the questions ... are they likely to be asked, or ought they to be asked according to the law, is this person ill, disabled or illiterate? If the answer is yes, then that pre-poll vote might be delivered. If it is not, or if there are other reasons why they wish to have that delivered, that might be refused. Because if that is the case, I am voting against this, it is a bad piece of law.

The Deputy Bailiff:

Deputy, is your question whether pre-poll voting is limited to those who are ill, disabled or illiterate?

Mr. T.J. Le Cocq Q.C., H.M. Attorney General:

Pre-poll voting is of course available to everybody. An attendance for the taking of a vote, on an individual will be available for those people that fitted within sub-paragraph (11) of the appropriate article, those who are ill or disabled or otherwise, and I think it would be for the Judicial Greffier to be satisfied that it was justified to make those arrangements anticipated within that article. So the answer is, that would not apply to the carer, if that was specifically the question. In terms of the other questions asked, it is an offence under the law knowingly to make a false declaration for any purposes of the law, and that gives rise to liability for a fine at level 3, which is, I think, £2,000 or £3,000 per offence under the law. I think that would answer the question relating to people phoning up, deliberately making a false declaration. On Deputy Tadier's question as to the wording of "likely to", I am not, as I stand here, aware of a specific legal definition for the word "likely". It would bear its ordinary dictionary definition and it will be a matter of fact in each particular case, subject of course, to a knowingly false declaration being an offence under the law. I might point out to the Assembly that it is precisely the same wording that already exists in the legislation. Nothing is changed by this amendment.

Senator B.I. Le Marquand:

If I could just clarify, level 3 is £2,000.

The Deputy Bailiff:

Is that a question for the Attorney?

Senator B.I. Le Marquand:

Would the Attorney agree that level 3 is £2,000? **[Laughter]**

The Attorney General:

In fact, yes, of course the Attorney would agree to that. It is £2,000.

The Deputy Bailiff:

It is a relief to know the Minister for Home Affairs knows some law. **[Laughter]** Deputy Tadier?

Deputy M. Tadier:

A further question that arises from that answer to do with 42(11) is, where will the burden of proof lie? So if somebody phones-up and says: "I am ill", will there be any checks and balances to make sure that person is ill? Will they be grilled, will they be asked for a doctor's certificate, or is there a presumption that the claim will be made in good faith?

The Attorney General:

I do not think the concept of burden of proof as such applies in a matter like this, it is a matter within the discretion and purview, I think, of the Judicial Greffier. Naturally, if it appears that he has been asked to send someone along and it appears that person, having said they were ill, was not ill, there is a possibility of an offence under the law, which would have to be proved in due course. I think it would be assumed that if someone is asked to attend because they are ill, then that will be taken in good faith. Whether it is the intention of the Judicial Greffier to look to more formal confirmations of that, I am not able to assist the Assembly.

The Deputy Bailiff:

Very well. Article 15 has been proposed. All Members in favour of adopting the article? The appel is called for. I would ask all Members to return to their seats. The vote is on whether to adopt Article 15 of the draft Law, and I ask the Greffier to open the voting.

POUR: 42		CONTRE: 5		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy G.P. Southern (H)		
Senator P.F. Routier		Deputy of Grouville		
Senator T.J. Le Main		Deputy S. Pitman (H)		
Senator B.E. Shenton		Deputy M. Tadier (B)		
Senator J.L. Perchard		Deputy T.M. Pitman (H)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				

Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

As Article 15 has been adopted, we can now return to Article 12.

1.4 The Connétable of St. Mary:

Article 12 amends Article 32(a) of the principal Law which enables a person to vote at the polling station, despite having previously arranged to vote by post. The amendments are to the administrative procedures that an Autorisé must follow to mark the register when a person votes in a case where multiple elections are being held on the same day. I propose Article 12.

The Deputy Bailiff:

Proposed and seconded? **[Seconded]** Does any Member wish to speak? All Members in favour of adopting Article 12 kindly show?

Deputy M. Tadier:

Can we have the vote, please?

The Deputy Bailiff:

The appel is called for. I would invite Members to return to their seats. The vote is on whether or not to adopt article 12. I will ask the Greffier to open the voting.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Saviour				

Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

We now come to Article 16.

1.5 The Connétable of St. Mary:

Article 16 is a simple, technical change to the Law. At present, Article 46A, which is in identical terms to this new Article A47, has inadvertently been placed at the end of Part 7 of the Law, and not in Part 8, which relates to the count, where it belongs. There are no changes of wording at all to the article, it is merely being moved to its correct place in the Law. I propose article 16.

The Deputy Bailiff:

[Seconded] It has been seconded. Does any Member wish to speak? All Members in favour, kindly show.

1.5.1 Deputy M. Tadier:

I am sorry, Sir, I did have my light on. It helps if one looks up, I think, after asking that question, Sir.

The Deputy Bailiff:

I am sorry, I could not see Deputy Tadier. I call on you to speak.

Deputy M. Tadier:

I think it is a problem with the mic and the view of the mace as well, that is probably the issue. The concern I raised during the ... I am sorry about this issue being raised here. This is how a democracy works, and I am sorry if it is tedious that Members have to earn their pay, rather than being able to sit at home drinking coffee.

[11:30]

I have an issue about the polling stations. Does the Autorisé have control over the polling station in which the count takes place and the immediate vicinity? Simply something that needs to be raised, I think, for Members to be mindful of, is that there are inconsistencies about the way in which the vicinity is policed. In the elections of St. Brelade in 2008 there were candidates who went out the night before to take down posters that were immediately around the polling station, and in view of the polling station, because it was understood that it was not correct to have posters up that could influence people in the vicinity of the polling station. One of those individuals was myself ...

The Deputy Bailiff:

Deputy, this article is about control over the polling station at which the count takes place, it is about the count.

Deputy M. Tadier:

It is to do with the vicinity as well, I think. Alright. Is it best if I make that point at a different stage, Sir?

The Deputy Bailiff:

As I read Article 47, but perhaps it is a matter for the chairman or the Attorney, it seems to me to be about supervision during the count. Would it be helpful to ask the Attorney for advice?

Deputy M. Tadier:

Shall I just finish the point? It is very brief, and then the Members can judge, and the Attorney General. All I am saying is that there is an inconsistency, because in certain places one was asked to remove posters, in others one was not. I think it would be helpful in future if Members are mindful of that, if consistency is applied throughout the Island so no advantages are given to any particular candidate over the other. I apologise if that is the wrong juncture to make the point.

The Deputy Bailiff:

Does any other Member wish to speak? Mr. Chairman, do you wish to speak?

The Connétable of St. Mary:

I think the Deputy has made his point. There is nothing for me to add.

The Deputy Bailiff:

Very well. All Members in favour of adopting Article 15 kindly show? Those against? The Article is adopted. Do you wish to move Article 17 or do you wish to move the rest *en bloc*?

1.6 The Connétable of St. Mary:

I will Sir, as long as Members agree to accept them, of course. I will move them all. Article 17: with the possibility of 3 elections being held in each polling station, it is possible that there may be occasions when it is physically impossible to count all the votes on election night, and in these circumstances certain counts may need to be deferred to the following day. This amendment to Article 49 of the 2002 Law simply makes it clear that the ballot boxes must be kept secure if it is not possible to commence the count immediately after the close of the poll. It is possible that the Autorisé may need to open one or more of the ballot boxes that are not being counted, in case votes have been placed in the wrong box. In these circumstances, the ballot boxes will be resealed and kept secure until the count commences. I would like to just move that and then the next 3 articles, if I might, Articles 18, 19 and 21.

The Deputy Bailiff:

Article 17 is proposed and seconded? **[Seconded]** Does any Member wish to speak? Deputy Tadier?

1.6.1 Deputy M. Tadier:

I would ask for 17 to be taken separately. I do object to this. I have concerns about it, it is not necessarily a major concern, but I think that during an election, certainly, we are moving into general election time where not only the Autorisé and those who work there - I completely have sympathy that it is a long day for them, but it is also long day for candidates and the campaigners - and I think that is only fair that the count should take place until it is finished. I do not think it is correct that the ballots should get half way through and then they should take a break and finish them in the morning. I think that the public, certainly the candidates, those who are involved, it is not very nice, I do not think, especially for perhaps a Senator who has contested a whole Island-wide election over a period of a month, with maybe 15 hustings, should be able to have to wait until the morning. I think the issue here is to do with staffing. I also do not think it is correct that people who have been working at the polling station perhaps for 12 hours or even longer, should have to stay up overnight. I think that can easily be solved by putting more staff in and maybe doing shifts or split shifts, *et cetera*, things like that. This was discussed at the committee and I think that would be a much more proactive way of doing it. I am sure that volunteers at the Parish could be encouraged to come forward, and I think it seems strange. Once the ballots have started to be counted, they should carry on until they have been finished to be counted without any break in between. So I would ask for this to be taken separately and I would test the waters with other Members who maybe feel the same.

1.6.2 Deputy T.M. Pitman:

It is just a practical point I would like reassurance on, and it is not to cast any aspersions on anyone, I have every faith in the way that those in charge would deal with it. But if boxes are going to be left open and they are to be left overnight, with the best will in the world, problems can happen. Are we still in the position with this strange anomaly where some places were using biro to fill in ballot slips and some were pencils, because I am not saying anyone is going to be there busy, up all night rubbing pencil out, but if boxes are opened and then left overnight it is a concern. I would just like some reassurance on that.

1.6.3 Deputy A.E. Jeune:

My reading is that it says that if the vote count be held over, it will be kept in a secure place. It seems to me that this is common sense and I find it quite amazing that people are saying that people have to work all through the night and everything else. These are usually people who are doing this voluntarily and what we want is it done properly and accurately, and I believe this is facilitating that.

1.6.4 Deputy P.V.F. Le Claire:

Earlier I mentioned the fact, and it has been raised on a number of occasions, about a single list, and the answer that I received was that it would be difficult. It would mean that there would be different boxes throughout the polling stations for the different elections, and then how would those be counted and everything else. So if there is going to be progress towards a single list and if there is going to be counting that occurs over a break, maybe a break of a few hours and a recommencement in the morning, then surely if there was a single list, the people had voted in St. Peter's or St. Ouen's, those boxes could be transferred in that period, for the future. Otherwise, I do not have a problem with what is being suggested. I am just saying that is possibly something that needs to be taken into account in the future.

1.6.5 The Connétable of St. Mary:

As I read it and as I have explained it, this article allows for security of the ballot boxes to be maintained. Even if they do have to initially opened, they will be resealed in the event that it is not possible to conclude the count. It does not necessarily mean that it will not be possible, because of course there will not necessarily, although I hope there will be contested elections... there will not

necessarily be elections in all categories in every polling station. But it covers the eventuality and I think that is the important thing to do. Security is assured, and because the ballot boxes will be resealed in the same secure way as they are sealed at the beginning of the count, as Deputy Le Claire referred to the ballot boxes, there would need to be ballot boxes for each election that would take place in every polling station; in every polling station. It would be an enormous amount. Some polling stations might be able to conclude their count on the night, some other polling stations might not. I think probably, when we move to the central list and voting anywhere, that will be at the advent of electronic voting, that is how I would see that. But as it stands, this is a simple change and I move the article.

The Deputy Bailiff:

Article 17 is proposed. All Members in favour of adopting it?

Deputy M. Tadier:

The appel, of course.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on whether or not to adopt Article 17 and I ask the Greffier to open the voting.

POUR: 41		CONTRE: 1		ABSTAIN: 0
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				

Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

1.7 The Connétable of St. Mary:

If I might propose Articles 18, 19 and 21 together, these articles simply make consequential changes to cross-references and other matters as a result of earlier changes in the Law. I propose Articles 18, 19 and 21.

The Deputy Bailiff:

Articles 18, 19 and 21 are proposed. Does any Member wish to speak?

1.7.1 Deputy M. Tadier:

I would like Article 21 to be taken separately as one of the changes is consequential of Article 39A of which I am opposed. I think it is only right that any consequential changes that relate to Article 39A, I should also oppose, so I would ask for that to be taken separately.

1.7.2 Deputy J.M. Maçon:

Just briefly, I wonder if the chairman of P.P.C. could explain Article 20. Why we are moving from a period of 6 months to 12 months when contesting the election results?

The Deputy Bailiff:

We are not dealing with Article 20, we are dealing with 18, 19 and 21.

Deputy J.M. Maçon:

I beg your pardon.

The Deputy Bailiff:

Does any other Member wish to speak? Chairman, Deputy Tadier is entitled to ask that the vote on Article 21 be taken separately, so in those circumstances is there anything else you wish to add?

The Connétable of St. Mary:

Nothing at all.

The Deputy Bailiff:

Therefore we will take the vote on Articles 18 and 19. All the Members in favour of adopting articles 18, 19, kindly show? Those against? The articles are adopted. Article 21; do you want an appel, Deputy? The appel is called for and I invite Members to return to their seats and the Greffier to open the voting.

POUR: 38		CONTRE: 5		ABSTAIN: 0
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator T.J. Le Main		Deputy S. Pitman (H)		
Senator B.E. Shenton		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy T.M. Pitman (H)		
Senator S.C. Ferguson		Deputy M.R. Higgins (H)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				

Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (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 A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

Chairman, do you wish to move Article 20?

1.8 The Connétable of St. Mary:

If I might, I would like to move Articles 20 and 22 and leap forward. These articles extend the time within which an application to dispute an election can be made to the Royal Court and within which civil actions or criminal prosecutions arising out of a public election can be made. Current arrangements are that any application to dispute an election must be made within 6 months of the day when the result is presented to the Royal Court and Article 20 extends this to 12 months. The time limitation on civil action or criminal prosecution is currently even more restrictive, as the period is 6 months from the date the election is ordered. In practice, for elections being held in October the Royal Court may order the election in late August, meaning that the 6 month period expires in February the following year. If ever there were a requirement for an extensive investigation into allegations, for example, of fraud, it is possible that the 6 month period would be inadequate. P.P.C. is therefore recommending that both periods be extended to 12 months from the date of the election. I propose Articles 20 and 22.

The Deputy Bailiff:

Articles 20 and 22 are proposed and seconded. Does any Member wish to speak?

1.8.1 Deputy J.M. Maçon:

Only because I was about to ask a question previously, but given the chairman's introduction, I do not see that as necessary now.

1.8.2 Senator A. Breckon:

If I can just ask a question, maybe of the chairman of Privileges and Procedures, if not, perhaps the Attorney General. Could someone confirm that the election material gets destroyed after a period of time, and I understood that to be 6 months. If this is being changed, will the period also, or does the change in the law extend so that nothing would be destroyed for 12 months if somebody wanted to appeal against such a thing. I was aware of a possible appeal following the 2008 Deputies' election and that is the reason I ask it, just in case somebody said: "Well, after 6 months we can destroy this stuff", and somebody else was in the process of appealing against it.

The Deputy Bailiff:

Does any other Member wish to speak? Chairman, is this something you wish to deal with? Do you wish the Attorney to deal with it?

The Connétable of St. Mary:

I wonder if the Attorney can clarify when the actual destruction date is. I am not aware.

The Attorney General:

I am not able to give precise clarification, but I am confident that it is longer than 6 months and that the 12 months would not cause difficulty. Clearly, if any criminal prosecution or civil claim was raised under the law, then even if it were a 12 month period, the documents would inevitably be maintained after that, until those proceedings had been completed.

The Connétable of St. Mary:

I thank the Attorney for helping me.

The Deputy Bailiff:

Very well, the articles are proposed. Those Members in favour of adopting Articles 20 and 22 kindly show? Those against? The articles are adopted. Chairman, Article 23.

1.9 The Connétable of St. Mary:

Article 23 provides for the citation and commencement of the Law. I know that we did touch on this at the beginning of the debate yesterday. The arrangements for commencement are designed to ensure that the draft Law does not commence half way through the election process. Therefore, if the Law is registered in the Royal Court on or before 12th August 2011, it shall come into force on the day of registration. But if it is registered after that date, it shall come into force in accordance with an Appointed Day Act, which obviously will come back to the Assembly. I propose Article 23.

The Deputy Bailiff:

Does any Member wish to speak? All Members in favour of adopting Article 23 kindly show. The article is adopted. Do you now move the Bill into Third Reading?

1.10 The Connétable of St. Mary:

Thankfully, yes I do.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? Deputy Higgins.

1.10.1 Deputy M.R. Higgins:

During the debate on the gaming legislation, the Economic Affairs Scrutiny Panel provided States Members with a marked-up copy of the regulations that were being amended, and the changes were highlighted in colour. **[Approbation]** We also made a recommendation in our comments paper on those regulations, that marked-up copies of any regulation being amended should be provided to all States Members to help them analyse and understand the changes. In fact, I do not know how any States Member can say that they really understand what they are voting on unless they related the amendments to the primary or secondary legislation being modified.

[11:45]

I also know from speaking with the Attorney General yesterday that it would have cut down his preparation for any debate, in fact it would cut down his preparation in half, he said, if he was provided with a marked-up copy with coloured changes on it. I therefore would like to ask all Ministers and Chairmen, where appropriate, to provide States Members with marked-up copies of the legislation they are amending. It will not cause them any extra work, other than photocopying or distribution, they are used by their officers and by the Law Draftsmen to arrive at the law that we are considering in the States so therefore that if this done in future it will cut down the amount of time we spend in debates and certainly lead to less confusion at times.

1.10.2 Deputy P.V.F. Le Claire:

I would like to congratulate P.P.C. on doing a difficult job, and obviously the officers of the Greffier and the Law Officers in bringing about these changes. For my part I would like to apologise for my reference yesterday to the other House, which shall be nameless, and my reaction out of turn to ... it was not intended to but, on reflection, to ask you to withdraw in a slightly comical way. It was insulting and I apologise to you for that. I think Members need to focus their frustrations in the future in these types of debates upon the issues and not be drawn in by other Members who cannot control themselves by inadvertently or deliberately criticising the Chair and, in particular, I think you have managed this very well. If I might say, Sir, I do not mean to embarrass you. That is not to take away from the fact that other Members could not control themselves and did lead to other Members to stand up in frustration. I would like to ask, getting back to the point, if I might, can the Privileges and Procedures Chairman - who has done an excellent job in bringing clarity to some of these difficult issues - please explain in what ways the States will be informing the public about these changes that we have made in time for them to understand them ahead of the elections in case they are going to be voting, and well ahead of the elections in case they are considering standing.

1.10.3 Deputy G.P. Southern:

I will be calling for the appel on the Third Reading because this amendment and the natural law as a consequence, I believe, is fundamentally flawed. Article 42(11) discriminates and makes it more difficult for carers and those with busy family lives caring for their families to vote ... it removes the right to a postal vote and makes it more difficult for them to acquire a pre-poll vote. So I will be voting against this and I encourage other Members to because it is a flawed piece of legislation.

1.10.4 The Deputy of St. Peter:

I just wish to record my thanks to P.P.C. for bringing forward the proposition. As chairman of the Working Party I would also like to thank all Members of the Working Party and in so doing thank the advisers that gave us sound advice, in particular, the Jurats through Jurat Le Breton and the Comité des Connétables for all the work and the help they gave us. **[Approbation]**

1.10.5 Deputy M. Tadier:

I would echo those sentiments and I am glad the chairman did that first. It is quite appropriate. A lot of work went into this, not simply on our panel, not simply by P.P.C., which has been discussing this for a very long time and I think it is quite right that the Greffier and his staff, and the very good officer that we have, that work is acknowledged because they have been very patient with us. I

should also highlight that in spite of the fact that it sounds like many objections have come from this direction that I, and I think most of us, are very supportive of the general thrust of this, but having said that, I make no apologies for the disagreements because this is of fundamental importance this kind of law and it is only right perhaps that those of us who have been working on it, who feel passionate about it, do stand up and take time where that is appropriate to air our disagreements. That said, I am ambivalent because I feel that much of the great work that has been done, the opening-up of the pre-polling and the polling stations in the Royal Square, that is entirely positive. I think it has been partly undone with regard to the postal voting. Those arguments have already been aired. My major concern about this is we are already in a state of flux with the elections in general. We have got massive changes coming up with the 3 elections potentially on one day. We do not know what the unintended consequences are going to be from that. My personal opinion is that perhaps we have instigated too much change here. We will not know until the day of the election and afterwards what the impacts are going to be and certainly we will all need to come back to the drawing board on many of these issues. I will be also voting and registering dissent on this because I think that although there is much great work in this I think that it is not so good that it needs to go through unanimously. It is preferable that the flaws in this law, as I see them, are registered with an appropriate amount of dissenting voices.

1.10.6 Deputy J.M. Maçon:

I echo the concerns over Article 42(11) that Deputy Southern has had. However, in my time here I have already penned an amendment to cover spouses and carers, which I will be lodging by the end of the week. So I would ask that Members support this modernisation of the legislation and I will be bringing an amendment that Members can consider the impact on spouses and carers soon. I will be supporting this.

The Deputy Bailiff:

Does any other Member wish to speak? Then I call upon the Chairman to reply.

1.10.7 The Connétable of St. Mary:

Just very briefly. Of course I would echo also the thanks due to everybody who has helped participate to get this through to where it is today. Deputy Higgins raised a good point. Of course this piece of draft legislation had been lodged already and so possibly we missed a trick by not bringing it up to date but I am sure future people will bear that in mind with complex legislation. Deputy Le Claire asked me to expand on what is happening to promote awareness. As I mentioned previously, P.P.C. has already discussed at its last meeting the way forward and how we will publicise the election process, voter registration and the actual voting. Work has already started to investigate the best ways to deliver this public awareness, how we will achieve the best awareness among the public and that work is continuing and I hope we will soon start to see things happening, and just to reiterate that we will be including as many different media as possible in order to reach the best number of people possible. Having said that, I move the legislation in Third Reading.

The Deputy Bailiff:

The Bill is moved in Third Reading. Did you ask for the appel? The appel is called for. The vote on whether to adopt the Bill in the Third Reading and I invite Members to return to their seats and the Greffier to open the voting.

POUR: 41		CONTRE: 4		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy G.P. Southern (H)		
Senator P.F. Routier		Deputy S. Pitman (H)		
Senator B.E. Shenton		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy T.M. Pitman (H)		
Senator S.C. Ferguson				
Senator A.J.H. Maclean				

Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

2. Importation of fireworks in 2007 for a charity event: investigation (P.21/2011)

The Deputy Bailiff:

We now come to P.21 - Importation of fireworks in 2007 for a charity event - lodged by the Deputy of St. John and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion; (a) to request the Ministers for Home Affairs, Economic Development and Planning and Environment to review the events surrounding the importation of over 100,000 fireworks for a charity attempt at a world record in 2007, and in particular the actions taken by their departments in relation to this matter, with a view to ascertaining why difficulties arose which led to the eventual cancellation of the proposed launching of the fireworks and a substantial financial loss for the organiser even though the importation was initially approved by all relevant authorities and a Bailiff's permit issued for the event; (b) to request the Ministers to present to the States no later than the end of May 2011 a report setting out the results of their investigations and details of any appropriate actions they intend to take to compensate the organiser for the losses he incurred.

2.1 The Deputy of St. John:

I hope we are still quorate, so many people have left the Chamber after the last debate. Terry McDonald and Side by Side deserve our support, or your support. Way back in 2007 an opportunity showed itself for the Island to once again go into the history books for the right reasons. That is of raising funds for charity with an attempt of letting off 114,000 fireworks as the finale of the Battle of Flowers evening parade on 10th August of that year. With the support of the Economic Development Department, who had agreed to cover costs as no sponsors had come forward, and the support of the Battle of Flowers Committee, the Scouts Association, the T.A. (Territorial Army) and hundreds of well-wishers, Terry McDonald set about getting all the permits. Members will see in the proposition the full list of people and States departments he contacted, and in many cases they gave him encouragement. You will also see the lengths he went to to appease States departments. This culminating with the necessary Home Affairs explosive licence, the Fire Service permit and the Bailiff's permission, *et cetera*. Armed with these Mr. McDonald had the fireworks ordered and all went well until 2 hours before the ship was due to dock in Jersey at the end of the July 2007 with the explosives on board. Two hours before the ship docked in Jersey he received a telephone call from the Fire Service informing him that the fireworks could not be stored at the prearranged site in St. Ouen. Needless to say this raised concerns with Mr. McDonald. Never mind, as resourceful as ever, Terry McDonald found another venue ...

The Deputy Bailiff:

Deputy, Standing Order 104(1) says that a Member of the States should not refer to any individual who is not a Member of the States by name unless the use of the name is unavoidable and of direct relevance. Clearly it is of direct relevance but I am wondering whether in fact Mr. McDonald's name is unavoidable because the proposition refers to the organiser of the event, and that probably would be more strictly in accordance with Standing Orders.

The Deputy of St. John:

Yes, Sir, I will do my utmost not to mention him again, but he is in the gallery and ...

The Deputy Bailiff:

I am sure all Members have noted he is in the gallery.

The Deputy of St. John:

He has given me permission, Sir. Nevertheless the organiser found another venue, Ronez Quarries in St. John and I agreed, along with the Fire Service, that these pyrotechnics could be kept at the quarry. Three days later he received a 6 or 7 page email letter from the Environment Department officers from which had previously met with him on a number of occasions and they had not previously voiced any concerns. In that letter, it was warning him that what he was proposing to do could be illegal and unlawful. What was Mr. McDonald to do, break the law and possibly go to jail? He had no alternative but to notify his insurance company and notify them he did, of the latest developments, who notified him that he could not claim on his policy because of cancellation due to the concerns raised by the Environment Department. He did what he considered as right, and as a former highly respected police officer he cancelled the event in not wanting to break the law. This left the Battle of Flowers Association without a finale, the Side by Side charity out of pocket as the charity had paid towards the insurance of the event, some many thousands of pounds, and many disappointed groups of supporters, plus the organiser with the start of a nightmare. Some 600 nights the organiser spent camping at Ronez keeping an eye on the fireworks, or as a night watchman, on the pyrotechnics, until the owners of the quarry asked him to leave.

[12:00]

Then in the last quarter of 2010 Home Affairs instructed the bomb disposal unit or team to blow up the fireworks, I am given to understand, without having spoken on this occasion to the owners of

the fireworks or the importer for permission to destroy the pyrotechnics, leaving the organiser - you threw me by doing what you did, Sir - an outstanding sum of £54,000 to be paid. By whom is it to be paid? Have we made an error or has the organiser made an error? I therefore ask the Ministers with responsibility in their various parts to go away and find the files, collate the evidence and return to this Chamber by the end of May 2011, or thereabouts, with a report on what action and recommendations they believe should be taken, if any, to reimburse Mr. McDonald and the owner of the fireworks, and obviously Side by Side being out of pocket. If I could remind the Members of the chain of events: (1) meetings held over many months with all the necessary departments, including Environment and the Fire Service; (2) certificates were issued from the Fire Service; (3) an importation certificate was given; (4) meetings held with the Bailiff's Panel and a Bailiff's permit was issued; (5) officers from the Environment produced a 7-page document on issues raised because of the complaints of bird life and danger, but no evidence was produced. Why wait so late in the day to notify Mr. McDonald that he would be breaking the law. I wonder if this was a closing of ranks between departments or environmental people - I have to ask the question - or was it somebody being vindictive? I do not know. The damage was done. Mr. McDonald had no alternative but to notify his insurance company, whereby they told him that they could not insure him for an illegal event. I ask the 3 Ministers concerned to go away and look if there is something that may have gone wrong from within their respective departments and report back to us. I would like to know whether or not the officers, when they blew up the fireworks, if they were aware that they had not all been paid for at that time and if they were aware that possibly a claim could be made for not having notified the owner or the organiser of this. I am not asking for anything else other than fair play, for the 3 Ministers concerned to go away and report back in 2 months' time on the events that led to where we are today with this. Most Members I believe will know Mr. McDonald who is sitting in the galley and he has been sitting there quietly for the last 2 days hoping that we would have got to this earlier. We all have to bear something on our shoulders and he organised the event and possibly there might be some actions that he should have taken himself earlier, but I ask the 3 Ministers concerned, the Minister for Planning and Environment, the Minister for Economic Development and Minister for Home Affairs to go away and come back with a report in 2 months' time. Members, I am given to understand from the Chief Minister and from Senator Le Marquand that the Ministers are prepared to accept this - possibly the Chief Minister could nod his head in respect to that. He has lifted his head and he is nodding. So, for what it is worth, Members, we might be able to keep this debate short if Members so wish. I make the proposition.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] Deputy Trevor Pitman.

2.1.1 Deputy T.M. Pitman:

I will be brief. You do get the feeling that we have been here before with Reg's Skips, dare I say it. I cannot say I know Mr. McDonald, the organiser. I have met him a few times and he has always seemed to me a thoroughly decent and upfront genuine person and it is pretty sad when people have quite a long record of doing things for the community that they are left in such a horrible position. Following the events with him stuck out on that trailer, it would almost be laughable and funny if it was not so sad and so wrong. I think what the Deputy of St. John is asking the Ministers to do here deserves total support. It may be that there is not anything untoward and wrong that has happened but it certainly sounds as if something severe has gone astray here, and can it be right that an individual who does try to do things for the community can be left like that? If the Ministers are going to support and accept, I think that is absolutely wonderful and I really hope that that is the case. I will obviously support this and I would urge Members to do this.

2.1.2 Senator B.I. Le Marquand:

Many of us know and like Mr. McDonald. I have known him for many years, respect the work that he has done in different areas. I am supporting this, as indeed are my colleagues, the Ministers for E.D. (Economic Development) and Planning and Environment. It was my intention that there would have been a comment been put in from the Council of Ministers indicating that. Unfortunately there appears to have been a misunderstanding at the last Council of Ministers meeting and it was not thus interpreted by others. That comment would have said, effectively, in brief, what I am about to say, which is that we are accepting this. We believe that it is right for this work to be done by the 3 departments to indicate our view as to what happened in relation to this. Having said that, it is not accepted by the 3 departments that the version of facts put forward either in the proposition or the detailed documents set out with that are correct. Today is not the day for a debate on what is correct or what is not correct. That should await, in my view, the report but I am going to have to deal very briefly with a couple of points made by the Deputy of St. John - very briefly - but I have to because he has made some statements. In relation to the prearranged site which had been approved for the storage of the fireworks, that was on the clear understanding that the premises were vacant and it was discovered very late in the day that they had not been vacated by staff members and therefore were not suitable. That is a brief explanation of that. In relation to the issue of the final destruction of those, I would like the Members of the Assembly to know that the situation was very closely monitored by both myself and by my Assistant Minister from early 2009 onwards. We had concerns in relation to this, we are very concerned to see the situation that Mr. McDonald was left in but our primary Ministerial concerns were in relation to public safety issues and when the fireworks were effectively abandoned by all parties it was necessary for the Home Affairs Department to step-in on public safety issues and eventually to cause them to be destroyed. They were not blown up, 5 tonnes plus of fireworks would have made a big bang. They were certainly not blown up, they were destroyed over a lengthy period of time in controlled conditions. They were done so for public safety reasons and frankly by that stage there was no value to them, they were a liability. They were a liability to Mr. McDonald and to the owner and Mr. McDonald was very well aware of the situation and the owner was informed by letter in relation that. We had been in correspondence with him for quite a long time and getting absolutely no responses from him for a long time. But there is the situation. I do not want to go into more details, I believe that the Planning and Environment Department will put forward a different version of matters as indeed will the Home Affairs Department as to when issues were first raised and how they were raised. It may well be that E.D.D. will want to put forward a different account to that put forward briefly by the Deputy of St. John. Today is not the day for that. The next stage is that we will produce the report. I think that is important. There has been much said about this over a long period of time and I think it is now right that the Ministers involved in this now put forward their version of what happened, having examined the papers and so on. So we are most definitely supporting this. I apologise to Members that there was not a comment as I had intended, there was misunderstanding in relation to that.

2.1.3 Deputy K.C. Lewis:

My speech is obviously cut short by the fact that the 3 Ministers concerned have decided to accept the proposition of the Deputy of St. John. They are just being asked to review the event surrounding the importation of over 100,000 fireworks, so no decision will be made yet, but I will be supporting the proposition. Thank you.

2.1.4 Senator A.J.H. Maclean:

I will not say very much, the Minister for Home Affairs beat me to it. I think he has made the points, and just for the avoidance of doubt for Members, Economic Development together with Planning and Environment are prepared to join in with this review. I think all Members share concerns that the organiser of the event has suffered and I think we need to get to the bottom of this, so the departments will, in a co-ordinated fashion, pull together a review and present it to the States. I think that is all that needs to be said at this stage.

The Deputy Bailiff:

The door seems to be wide open. Members, do you still wish to speak? Deputy Higgins.

2.1.5 Deputy M.R. Higgins:

Yes, I do. Just to say very briefly that obviously I support it and I am pleased the Ministers are taking the action they have. I look forward to the debate that is going to occur when they report back because I think it is going to be a very interesting and a very lively debate. My main reason for supporting it is the fact that there are quite a number of unanswered questions. For example, who made the initial complaint that stopped the original location being used? The quality of the evidence that was put forward by the Environment Department that led to threats that if he went ahead it would be cancelled, and also why other fireworks displays before and after have taken place without any problems and why this particular one was prevented. So they are just some of the questions that I have and I might also say that as an event organiser, I also happen to believe, like Mr. McDonald, that if anything goes wrong, you are going to have no friends whatsoever among the departments that you are working with because they will all deny responsibility. We all know that success has many fathers and that failure is an orphan, and I can assure you the departments will be making sure it is an orphan if anything ever goes wrong.

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

Yes, very briefly. It is only right that the Environment Department should state in this Chamber for themselves rather than having words put into their mouths that they are in full support of this proposition and the Minister for the Environment and department will play their part.

The Deputy Bailiff:

If no other Member wishes to speak?

2.1.7 Deputy S. Pitman:

I would just like to thank the Deputy of St. John for providing the additional information on the proposition as I found it very useful, although I will not take one side over the other, I found it useful to be able to determine how I would vote on this. But I would also like to ... I do wonder why it takes this kind of thing, for a Deputy to bring this to the House for the Ministers to co-operate to just do a review. I think it is ridiculous and it just goes to show how departments should be working together but are not.

2.1.8 Deputy P.V.F. Le Claire:

I would like to congratulate the Deputy of St. John. I think it has been an appalling episode that we are going to hopefully to see an end to very shortly, I would hope. I do not think it is going to take the Ministers long to understand what went wrong if the information is placed before them, and I would hope that once that information has been placed before them that they bring a proposition back to this Assembly and that we can let our feelings be known about this. I appreciate we are cutting short this debate today but I would ask the Deputy of St. John to confer with Senator Shenton to ensure that if there is going to be compensation, that some proper compensation is assessed in terms of the loss and the pain and suffering that the organisers had to go through. This has been an appalling episode in my view and the Deputy of St. John has my full support in this proposition and any other similar proposition in relation to this.

2.1.9 Senator F. du H. Le Gresley:

I am perhaps a little bit disappointed that the debate has been cut short. Not because I am not pleased that the Ministers have agreed to accept the Deputy of St. John's proposition but because I think this is a matter that should be dealt with probably by a Committee of Inquiry rather than by 3 departments getting together to discuss something.

[12:15]

We know that the organiser has incurred financial loss and is, quite rightly, probably seeking financial compensation from the States. I think that is a matter that an independent party should be considering rather than the departments who appear ... and I do say the word “appear” because I do have concerns with the Deputy’s report and also his speech, I will not go into those now although I would have done if it had been a full debate. But I think he is absolutely incorrect to say that the fundraising event was declared to be illegal or unlawful. The evidence that I have read, which was provided, I do not see those words anywhere and I think that is something perhaps that the departments would look into. But my point for standing really is this is a matter for a committee of inquiry in the same way as Reg’s Skips was, the organiser tried to go to the Complaints Board but sadly was out of time. We do know that the Complaints Board cannot enforce any department to do anything, they are a powerless body and something that needs to be addressed. The other day we were talking about Clothier and one of the recommendations in Clothier was for an ombudsman for public services. If ever there was a case for an ombudsman to look into, it is the case of this abandoned fireworks or rocket launch. So really all I am saying is I am not sure that the review by the 3 departments or the 3 Ministers is going to produce what the organiser would wish for and I feel that the Deputy of St. John would have been better to have brought a proposal for a committee of inquiry.

2.1.10 The Deputy of St. Martin:

Very short, just to follow from Senator Le Gresley. I think if one reads the proposition, even if it had been existing today, it may well be out of time. When one reads the report, and I have read it very thoroughly - and I compliment the Deputy of St. John on his report - there is quite a lot there but there are also a number of holes. There are a number of holes in the report and I think what States Members will want to do is get a comprehensive report from each of the committees concerned. But the other issue, I would rather that (b) had finished after the word “take”. One looks at the third line: “... details of any appropriate actions they intended to take.” That should have been a full stop there rather than to go on: “... to compensate the organiser for the losses he incurred” because there is an assumption there is already something wrong. It may well be there is not something wrong. However, I will give it my support because I think the whole issue needs to be looked at and possibly then, when we do come back, it may well be to come back with what Senator Le Gresley is saying, it may well be a Committee of Inquiry. But I do not think we should make any assumption of guilt one way or the other, what we are asking for ... let us have those reports and make a decision then.

The Deputy Bailiff:

If no other Member wishes to speak then I will call on the Deputy of St. John to reply.

2.1.11 The Deputy of St. John:

I take on board what has been said by Senator Le Marquand and I hope, in no way, sullied anybody’s name in what I said. Having read through all the paperwork - and as you can see there is several files of it there - much of it is quite old and some of it is newspapers articles of the day and the like, anybody who has seen the file, they will notice that I managed to pull out a fair amount of information but when you are only one Member as a Back-Bencher doing one of these reports it is not the easiest thing to do. I understand where various Members are coming from, and I thank all those who have spoken. To Senator Le Gresley, yes I did send him a copy of a response which I received back from Mr. McDonald re. the advice on whether it was legal or illegal. The legal advice had come via the *J.E.P.* legal eagles. I sent him the email at the time of the response I got from the organiser. I could only go with the information I am given and I take it all in good faith. That said, I understand why he might wish to have a Committee of Inquiry at this stage but we are where we are and I thought it was far better to get people working together, the 3 departments involved, and then once we have their report we can go, if need be, to the next stage if we find things are not to our liking and then we could call for a Committee of Inquiry. But if common

sense can prevail, and I sincerely hope it does, we have 3 Ministers who I know are honourable men and we may have our spats across this Chamber but I would expect, at the end of the day, in particular if they are being led by Senator Le Marquand that we are going to get a good honest report. In relation to the Deputy of St. Martin about a number of holes ...

Senator A.J.H. Maclean:

Could the Deputy of St. John clarify exactly what he means by that? **[Laughter]**

The Deputy Bailiff:

I am sure it was just infelicitously phrased.

The Deputy of St. John:

I can clarify that because Senator Le Marquand was the one who spoke in more detail about the report ...

The Deputy Bailiff:

What you meant to say was it did not matter who lead it of the 3 Senators because it would be an honest report in any event.

The Deputy of St. John:

Absolutely, Sir. As for the Deputy of St. Martin, before I dig any more holes, yes there may be one or 2 holes, as I said before, but as Back-Bencher you do not have the help of a whole entourage of officers to compile reports, *et cetera*. So things done by the Deputy of St. John, who as you all know is dyslexic, yes we might have pages that have been ... because he is trying to keep within data protection by taking people's names out, so he is doing it himself and he has not got somebody who is going to reprint it all, he just puts a black line through the person's name and just leaves their title. But I think you all have the gist of what is required. We want fair play and I am sincerely hoping Members in this Chamber will support this proposition. I ask for the appel.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats, the vote is whether or not to adopt the proposition set out in P.21 and I ask the Greffier to open the voting.

POUR: 43		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator B.E. Shenton				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				

Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Deputy of St. John:

On behalf of myself and Mr. McDonald, could I thank the Members for their unanimous support.

3. Elected Members’ access to information: media releases (P.22/2011)

The Deputy Bailiff:

We now come to P.22 - Elected Members’ access to information: media releases, lodged by Deputy Le Claire and I invite the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to request the Chief Minister and the Council of Ministers to ensure that all information to be sent to the media is first sent to elected Members at least one hour prior to the media release being made, wherever it is possible to do so.

3.1 Deputy P.V.F. Le Claire:

I was really impressed by your words “infelicitously phrased”, I am going to read it because I think it is a great get out for me in the future. This one is not rocket science, this is very simple. This is about whether or not Members ... and if it could be agreed by the Chief Minister in my speech then we can just all look forward to appointing the Members and getting on with our week. It is about whether or not Members feel that they should have access, wherever it is possible to do so, to information ahead of the media. I spoke yesterday to the Chief Minister who said he has got trouble with this one and I said that I really think it makes the Council of Ministers look bad personally that they are not willing to give this to Members, because I know that the media gets more information sooner than Members do. I remember when I was involved with a recent publication, receiving the Minister for Treasury and Resources’ speech some hours before he made it and some hours before he then circulated it to us in order to be helpful, which I found rather remarkable. The Chief Minister said yesterday to me: “Look the trouble with this, Deputy, is that if we give it to every States Member, even if we could because nothing is centralised, in an

embargoed form then what is to stop them telling their wives, their wives telling their postman ...” well, no danger of that these days. **[Laughter]** I rest my case. Their wives telling their ... not milkman either, what is the other one, dustman, no, not that one. **[Laughter]** Sorry, Sir, I live in St. Helier. Telling the Rector or somebody anyway, telling the brother, sister, uncles, aunties, *et cetera*, and then by 11.00 a.m. it is around the town and that is not going to be good enough, especially if the media is going to keep a tight lid on it until 12.00 p.m. because it is under embargo and they are all very profession. I am sorry that just does not stack-up. I have got an email here from the Minister for Treasury and Resources in response to an email I sent him and I said, at 12.46 p.m. I sent him an email saying the budget ... I just had a constituent phoning me up saying that G.S.T. (Goods and Services Tax) was on the radio going up to 5 per cent, was there not an embargo on this” That is quite a significant issue. I am certain the radio reaches more people than most of our families and friends can do, and our milkman and our postman can do in the course of a morning, and his response was: “We will not always get this right. The reports did not go out to Members on email as I did not get back to my desk. I hope you agree this is a considerable improvement in presentations and arrangements. I am afraid the embargo was not clear, that was my fault. This was because due to my late signing-off of documents very late last night and finalising the speech this morning.” Now I agreed with him that there was a significant improvement and I do not criticise the Minister for Treasury and Resources for that. He is a very busy person. Sends out a lot of stuff. Has a lot to do. Does it, in the main, very well. But for the Council of Ministers or the Chief Minister to say that as a principle, wherever it is possible, and I am not saying it is a requirement because there might be an incident where they need to tell people immediately about something and they might want to communicate that immediately, then for goodness sake it should be within their power, and I am not trying to limit that, to go to their Communications Department and knock something up that does not contain too much spin, and get it out to the public via whatever communication they see fit, and no need to tell the States Members. But I just think it is ridiculous that we are getting briefed on a regular basis through information within the media. It is for another day, but it was interesting to read the comments of the Council of Ministers in relation to my proposition that is coming up on the States Strategic Plan on holding them to account on that, because in there the Comptroller and Auditor General says it all. On page 3, Article 2(11): “The format and content of the report will be decided by the C.A.G. (Comptroller and Auditor General) but it is yet to be determined.” This is about the States Strategic Annual Performance Report and the States Strategic Plan, which is the public’s most important document, let us not forget, in the words of the Chief Minister. It goes on, la la la: “Contained within it and partly to make sure that it concentrates on data, which should be reliable at the expense of narrative comments.” In other words, *sans* spin. That is the trouble, I do think there is a lot of spin that is emanating out of some of these things, and I think that by the time the public gets hold of it, and by the time the media has got hold of it, they have got an opportunity to get the counter-comment or the embracing and the supporting comment from somebody before we are even availed of the information ourselves as States Members. We are suddenly thrust into a position on occasion where we are being phoned-up by the media and saying: “Right, we have got the report and the comments and we have had this issued to us in the press release, so what is your view.” It might be about something that we have tabled ourselves and it is like, well: “I do not know, can you read it to me? I have not picked up a copy yet. I have not listened to the radio or I have not watched the TV, can you read me what that ...” and I am asking the media to brief me on the response of the Council of Ministers to a proposition of my own. Now I do not know about other Members but I do not think that is satisfactory. Not because I have a great belief that I am more important than anybody else, I do not. But I think that the people that elected me have a right to, and the people I am trying to represent have a right to know that their elected representative is being briefed on matters in a timely way and is in the loop. Now we are not in the loop. Quite clearly in the Council of Ministers new board game, called Ministerial Government, we are clearly not in the loop. I am hoping under the Troy Rule there is enough of us that are out of the loop that we are going to stand up for ourselves here and request the Council of Ministers to just agree to

this. Let us put it to bed. All I am asking is wherever it is possible to do so give us the same information that the media gets, an hour ahead if possible. I mean the same because sometimes the media gets more information than we do, and I think that is wrong. So, I do not think it needs to be a long debate. I would be happy to have it seconded by the Chief Minister and we can all get on with it.

[12:30]

The Deputy Bailiff:

The proposition is made, is it seconded? **[Seconded]**

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

I am pleased to second this. I did not have the comments and I have just been given them by Deputy Duhamel, and I really do think the Council of Ministers again have dug themselves such in a deep hole. I mean what is the Deputy asking for? The last 4 or 5 words: "... wherever it is possible to do so." To say this would mean information like the Budget to the media in advance in order to give them significant time to understand the key issues before broadcasting is absolutely ridiculous. Where is our Chief Minister and our Council of Ministers who stood up for election 2 years ago and said they wanted more open and informed States Members? I hope this is not a long debate. I mean the first line is: "In principle the Council of Ministers agrees with news releases." It is getting the form out together. We always try and do it at Health. If it can be embargoed to the media it can be embargoed to every States Member. To say we are not trustworthy is also so insulting it is unbelievable. To say that key issues like the Budget should be in the media's hands before States Members absolutely beggars belief. Absolutely. I think Deputy Le Claire has brought some propositions and, in hindsight, he has withdrawn them, but this week he has brought some very sensible ones. I hope the Council can deal with this very ... in exactly the first sentence and treat States Members with the respect they thought we were supposed to have 2 years ago, when they were going to be more open, transparent and inclusive. If we cannot have information or wherever possible, and it is tried very hard by the Council to do, that is fair enough. But to absolutely say in that last paragraph difficult debates we cannot have it before the media, I am absolutely disgusted.

3.1.2 Deputy T.M. Pitman:

I am pleased to follow my comrade, Deputy Martin. This really highlights such a lot, does it not, because it is the sort of government by decree we have now got. This is the way totalitarian regimes work. Give it out with spin. It is an absolute farce, as Deputy Martin says, that we, as elected Members cannot have things before - even at the same time as - the media. Just discussing this, and Deputy Vallois reminded me, the Communications Unit... I brought moves to get rid of that. How right I was. How right I was. It only serves 2 departments. Was it just the other day we heard the excuse: "We cannot have this Electoral Commission now because for £250,000", well let us get rid of the Communications Unit. There is your money, there is your £250,000. Use it for something useful: Electoral Commission. They can look about putting a proper system of government in place so we are all treated as the elected Members we are rather than this lip service to transparency. Deputy Le Clare is absolutely right. I am sick of the times that I have heard from the media things I did not know. It is totally unacceptable. It is wrong and there is no excuse for it, and to allow it to continue, it displays complete contempt for those other Members who are not part of the Executive, and we should support this and get on to the next one.

3.1.3 Senator T.A. Le Sueur:

I am sorry that this debate seems to have taken on an aggressive tone from the very start, when I tried to impress upon Deputy Le Claire yesterday, my desire to co-operate and work with him and to endorse the principles behind this proposition. Indeed, as the first paragraph makes clear, the Council of Ministers does agree that the news releases should be sent to States Members before

they are sent to the media. Not only do we agree with that, but that is a policy which I have set out and given to Ministers for some long considerable time now. To that extent the principle has already been firmly adopted and acknowledged. As the Deputy says, occasionally, as happened with the Minister for Treasury and Resources on one occasion, we get glitches in that, but the principle is there and it is done wherever possible. I was heartened by comments from Deputy Le Claire yesterday when he said: "Yes, I appreciate this will not always be practical to do so" and indeed his own report says: "... and not always one hour before the media" because I think we do have, whether we like it or not, 3 parties to consider here. Firstly, States Members; secondly, the media; and thirdly, the general public. The general public expects to be properly informed, ideally by Ministers themselves or through a proper media comment, and it is important, I think, that we have a proper process of ensuring that Members do get the information first. That is why I fully endorse the principles behind Deputy Le Claire's proposition. But we do have to consider how the general public obtain this information. If the media - and I say the media in the sense of the official media, radio and television, in the accepted sense - if that media is prohibited from mentioning it for an hour after everybody else knows about it, it does strike me as making a mockery of things. I would be quite happy for media to get information, and have it embargoed for an hour and that, I think, would be a sensible way forward, because in reality what we wanted to do is to make sure that not only are public informed but they are properly informed in the right way, and there is a danger that if the media hear things through the back door they broadcast what they hear through the back door and bring out the wrong message. I am anxious, and I hope all Members are anxious, the public hear the correct message, not any spun messages Deputy Le Claire might infer, but the correct message, and we all hear the same message. I do not see a great deal of difficulty here. If one could interpret Deputy Le Claire's proposition in the spirit in which I am sure it is intended. The difficulty is perhaps in this wording, which I think is slightly confusing to me, when it says: "At least one hour prior to media release where it is possible to do so." Technically it is always possible to do so. But he says, in his report, it will not always be desirable to do, so we cannot have it both ways. On the one hand the proposition says it can always be done. His report says: "I do not believe it is necessary for us always to receive everything all of the time and not always one hour before." I checked this morning with the media release that went out about the census, and the department has assured me that that went to States Members before it went to the media, and that is indeed a general rule, but I cannot guarantee that will happen every time, particularly as the Communications Department does not have responsibility for all documents issued. Equally, media releases come in various forms, and I do imagine that we are all trying to act in a sensible way here, for example, the Home Affairs Department, through the police, issue a media statement every morning about criminal activities the previous evening or previous weekend. I am sure we would not expect them to delay all that for an hour while we get fully informed. Equally, the Transport and Technical Services Department issued a notice about road closures. I am sure we are not really expected to get all of them with an hour's embargo. We have to have a bit of common sense here, in all directions. Ministers will apply common sense. I hope Members will apply common sense, and indeed that other departments because what is good for the Council of Ministers must also be good for other States committees and departments as well. I am prepared to accept this proposition on the basis of goodwill and a spirit of understanding what is implied, so long as Members are prepared to do the same thing.

Deputy R.G. Le Hérisier:

Can I take that as clarification that the Minister accepts the proposition as written?

The Deputy Bailiff:

I think the Chief Minister has made it plain that he accepts the proposition as written in the sense of his speech to the Assembly.

Senator T.A. Le Sueur:

Precisely, Sir.

Deputy P.V.F. Le Claire:

It might help if the Chief Minister is now accepting this for me to say gracefully that I would be prepared to move to the vote, if other Members felt they could contain themselves and sum up in a very brief fashion, but it is for Members.

The Deputy Bailiff:

I have numbers of Members who have indicated they wish to speak. The Deputy of St. Martin.

3.1.4 The Deputy of St. Martin:

I think it is very important to raise an issue because I think most of us have suffered from getting the media contacting us saying: "Have you got a comment?" and you say: "Well, I would like to but I have not got the actual information yet." I am grateful for what the Chief Minister has to say in his speech because it does not come in with his comments, because his comments really are: "To do so is also impractical. The media work to tight deadlines." I assure the Minister that I also work to tight deadlines and I would welcome ... but what I really want from the Chief Minister is an assurance that when anything is sent out it is sent out in electronic form. Nothing is more annoying to be told, as indeed we had the other idea, with the Minister saying we can go and collect a document in town and yet we could not have it at home because it was not in electronic form. I sent a message out to all Ministers, if they are going to send any literature out to the media, ensure that it goes out to all States Members in electronic form. We are now in an electronic age.

3.1.5 Senator A. Breckon:

Just a couple of points. The Chief Minister has touched on a number of things but he has also omitted to say a few things, and that is that the Council of Ministers, most of their agenda is 'Part B' and most of us are not aware of what has been discussed; it could be something as important as buses, which is fairly secret, so we must not get involved in that. We must apply common sense right round. Why is not some of this stuff discussed in open anyway. The other thing is, with an hour, we are not all wired for sound. We are not all walking round with BlackBerries ringing and fiddling around with, even in here, so people are in touch, others are not. So we get something at 6.30 p.m. on a Friday night, on a bank holiday weekend, might have an hour before but you will not have a clue about it unless you are accessing some sort of system. The other thing that was discussed, during the changeover from the first Ministerial session to this one is that wherever possible statements should be made to this House, any Minister or department could make a statement or press release about what they want and where is the challenge to that for the rest of us? One, we do not have the knowledge, it might be a load of rubbish, it might be about whatever else, but it might be of vital importance and we have no way of knowing that. We have no knowledge of it prior. It is in the public domain and we would look a bit more stupid than usual, somebody phones you up and says to you: "What about that?" "Do not know what you are talking about." I think we owe each other that courtesy. It is all right making media statements and releasing stuff, but any Minister has a duty to this House, they were elected by this House and they cannot just go wandering off and say: "This is going to happen at Fort Regent" or: "This is going to happen about the other." I believe they have a duty to this House and that, wherever possible, should be in the form of a statement. What has happened recently is we have had this House sitting and media releases have been made about fairly important subjects and the Minister concerned did not have the courtesy to do it in a statement to this House when we were sitting. We are not sitting everyday and there will be occasions when that is not possible, but Members should be informed, wherever possible and we do respect embargoes. If it is embargoed to 6.00 a.m. tomorrow morning that is the way it is. The media, whichever way, whenever the embargo is, does not suit one or the other. 6.00 a.m. the paper do not like, of course the others can run with it, and if it is midday the others do not like because the paper get it first and the others are running behind them. But we must respect

the media, but we are not here to please them, we are here to inform them and share the information so that they can report it on occasions with a considerable degree of accuracy. I would ask Members to remember that we are supposed to be inclusive. Ministers with statements and press releases have a responsibility, we all know that, but if we can share it then it is a shared responsibility and there is good news, but there is also some bad news. So if we do that, I think this is Deputy Le Claire's right to bring it, and I think it does have some merit, but it does also raise some other questions, which perhaps P.P.C., the Council of Ministers, we all could address is: how do we treat each other? How do we inform each other? How do we share the information? At the moment I do not think we have got it right. This will not do it either, but it is a step that I think Deputy Le Claire feels he needs to take because some of us are not included in what is going on.

LUNCHEON ADJOURNMENT PROPOSED

Deputy J.A. Martin:

Could I test the mood of the House, because I do not think this is going to be a very long speech. I do not know whether Deputy Le Claire is prepared to move P.27. We have very little business on the 29th and I would like to put a proposition to the House that we sit until 1.00 p.m. [Aside] ... and I think we will finish at 1.00 p.m.

[12:45]

The Deputy Bailiff:

I can tell Members there are 4 Members who wish to speak on this proposition.

Deputy P.V.F. Le Claire:

As a point of information, P.27 has been moved from this Order Paper to the next session, so there is only this debate and the appointments of the members to the S.o.J.D.C. (States of Jersey Development Company).

The Deputy of St. John:

If I could help the House, I am going to ask the House to hear that in camera, the last item.

The Deputy Bailiff:

There has been a proposal for the adjournment. There has subsequently been a proposal that we continue until 1.00 p.m., was it Deputy?

Deputy J.A. Martin:

I need to ask about P.32 because obviously it could not be debated until yesterday, it is the name of the Minister for Treasury and Resources, and the urgency, could that not be put off to the 29th. Unfortunately the Constable of St. Clement is not here but he seems to keep moving P.131 so I am assuming that will be moved again ...

The Deputy Bailiff:

The Assistant Minister for Treasury and Resources is shaking his head and does not wish to see P.32 deferred, so it will be dealt with ...

Deputy J.A. Martin:

Can he give us an explanation why? Is it time sensitive? It is the Minister for Treasury and Resources.

Connétable J.M. Refault of St. Peter:

Yes, it is rather sensitive. There is a massive piece of work to follow immediately after this debate and I think the public of Jersey want to see that movement happen. I do not think it is appropriate

to put this back, just as a matter of convenience, and I would like to have it properly debated today, if possible.

The Deputy Bailiff:

May I say that insofar as we have 4 Members wishing to speak on this particular proposition unless they all indicate now that they do not wish to speak, it does not seem to me we are going to finish this business for quite some time. I say that from the Chair. Deputy Southern, Deputy Tadier, Deputy Shona Pitman, the Deputy of Trinity, do you wish to speak still on this proposition? Yes. Very well. I take the proposal for the adjournment. All Members in favour of adjourning now kindly show. The appel is called for. The vote is on whether to adjourn at this stage. I invite Members to return to their seats and ask the Greffier to open the voting.

POUR: 30		CONTRE: 11		ABSTAIN: 1
Senator T.A. Le Sueur		Senator P.F. Routier		Deputy P.V.F. Le Claire (H)
Senator S.C. Ferguson		Senator A. Breckon		
Senator B.I. Le Marquand		Senator A.J.H. Maclean		
Senator F. du H. Le Gresley		Connétable of Trinity		
Connétable of St. Ouen		Connétable of Grouville		
Connétable of St. Helier		Connétable of St. Clement		
Connétable of St. Saviour		Deputy of St. Martin		
Connétable of St. Peter		Deputy J.A. Martin (H)		
Connétable of St. Lawrence		Deputy M. Tadier (B)		
Connétable of St. Mary		Deputy T.M. Pitman (H)		
Deputy R.C. Duhamel (S)		Deputy T.A. Vallois (S)		
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

The States now stand adjourned until 2.15 p.m.

[12:48]

LUNCHEON ADJOURNMENT

[14:15]

The Bailiff:

Very well then. We continue debate on Projet 22 and I call upon Deputy Southern.

3.1.6 Deputy G.P. Southern:

Just briefly, I note that the Chief Minister said that he has already committed to what Deputy Le Claire is proposing. In principle, that is what should be happening. I think the point is that it should be happening in practice at the moment as well. So in principle is all well and good but in practice, please. After all, we are equally committed to an inclusive government and that does not appear to be very apparent. We are equally committed in principle to increasing equality on the Island and with G.S.T. (Goods and Services Tax), regressive taxation and cuts left, right and centre, that does not appear to be very apparent either. So let us have the commitments in practice as well as in principle.

3.1.7 Deputy S. Pitman:

Just a couple of things. A while ago, I spoke to a former Minister regarding the 'Part B' agenda minutes and he said to me that when he was the Minister, most of the time the stuff that went on to agenda minutes should have been really 'Part A' agenda minutes and there was no real reason why they should. So we hear all these things about transparency and integrity from the Chief Minister but in actual fact it is very hard to believe when you think of something like that. Also, Members may remember recently when the Minister for Home Affairs was speaking to the Scrutiny Panel and he said, as I recall, that he could not say too much to the Scrutiny Panel because he was keeping a scoop for the *J.E.P.* Again, that does not make you think of trusting what the Council of Ministers is saying. We hear the Chief Minister talking about common sense and integrity and I believe that keeping information from Back-Benchers is really about executive control and preventing us from holding the Council to account.

3.1.8 Deputy A.E. Pryke of Trinity:

I shall be brief. Just to say as a department that releases, I should think, many press releases - and I think I have done 3 today - I hope that I do email all Members first before it releases into the press. I aim to do that and I will continue that in good spirit but also we must take a common sense approach to it because there are some releases that come from the Health Department, especially about conditions of patients, *et cetera*, which I probably would not give to States Members unless they wish it so. Also there are a lot of articles like insomnia, smoking campaign, *et cetera*, that come out frequently. If States Members want all that, then I am very happy to do that.

3.1.9 Deputy M. Tadier:

Just 2 points really. The first one is to do with the fact that in the comments, it was implied that the media would somehow be disadvantaged by this proposition. I think we need to clarify exactly what we are talking about. We are not saying that the media should get the press releases any later than they would do normally or that the embargoes would be different, simply that States Members should be getting them an hour earlier so the media are completely unaffected. They are not under any less pressure to do with their tight timescales. The other point is slightly peripheral but it was touched upon by the Chief Minister, which is the question as to whom the press releases are sent and how we classify the official media. There is an irony of course because at the moment it is only sent to the conventional media. Nonetheless, there are those of us - even in the House - who operate our own blog sites. For example, mine can found quite easily by typing in my surname on any search engine and the word "blog" or even by going straight to mtadier.blog.com. That is my own personal site. **[Aside]** As a States Member but in another capacity, I could be deemed to be part of the media, not the conventional media but a blogger and it may well be that I wish to put certain comments on there, certain stories on there. Now clearly I would have to abide by any embargo. Is it right that I am allowed to be privy to information which I can then use in my other capacity as a journalist if you like when I am publishing comments on the blog? Why should it not be the case that other bloggers get the information automatically anyway? Also there is a greater question as to whether if I as a States Member wish to employ a secretary or researchers; I think it is probably quite acceptable for me to pass that information on to a researcher so that I can have

them read through it. If my researcher happens to be another blogger who gets that information and then publishes it when the embargo time is up and they are publishing information anyway, is that necessarily a bad thing? I think these are all issues which do need to be considered in the round. I am sure that everyone knows that the nature of media is changing today and I would encourage the Council of Ministers to take a more proactive stance that when non-accredited media or non-mainstream media do make applications to be put on mailing lists, that there is no reason that they should not be included in those lists.

3.1.10 Deputy M.R. Higgins:

I would just like to say that as this proposition is very much concerned about the respect that Ministers hold for this House, I think it is disappointing that so few of them are in the House at the present time. **[Approbation]** I think there are only 2 actual Ministers here at the present time.

The Bailiff:

Does any other Member wish to speak? Very well. I call upon Deputy Le Claire to reply.

3.1.11 Deputy P.V.F. Le Claire:

I think it is something that will be supported and unfortunately I think there is a whole raft of things going on at the moment with the Council of Ministers that need to be investigated, and I am loathe to bring small propositions to try to engender a more accountable government. But last week or so, I have come to hear from one Minister that he is not allowed to submit his own comments because they have got to go through the Council of Ministers. I have heard from another former Minister that appointments do not even go through the Council of Ministers. They are decided outside the Council of Ministers in some instances and I just think the whole degree of accountability in relation to how the Council of Ministers is operating needs to be put into check by propositions such as this that do give the Council of Ministers the opt-out so that whenever they want, for whatever reason they want, they can argue the point that they did it because under these certain circumstances, they felt it was necessary. Much like the Medical Officer of Health has a free hand to issue a press release at any time, the Medical Officer of Health feels that she wishes to on any issue that she feels she wants to, in any way she feels she wants to, so should, in my view, the Council of Ministers have that ability to do that as well. If the Council of Ministers feel they want to issue a press release and do away with any conventions that exist because they have got a good enough reason, then so be it. I have said that in my proposition and I have made the proposition quite plainly capable of taking that. So all I am achieving in a vote today is making sure that the practice, as so ably put by Deputy Southern, becomes in practice rather than in principle. There is also the argument that if you want a good message to get out to the public as has been put, then is it not better for the States Members to be aware of the full picture themselves rather than commenting from an ill-informed perspective based upon how comments are relayed to them over the telephone by members of the media? If we had the information that the Council of Ministers was basing their decisions upon ahead of the media, then we might be given some time to reflect upon the issues, investigate the issues through some basic research on the internet or whatever and then have a more balanced approach to the questioning when it arose rather than saying something because you have been asked to and realising later that perhaps on reflection you spoke too soon. So it might do the public a great deal of good for us to consider that, that we do take into account what is being said and reflect upon it a little bit more carefully. I certainly have had many instances in my time in the States where had I been given a couple more hours and a little bit more information I would have said things differently. I thank Deputy Martin for her support. It is very good to receive support of that strength from an Assistant Minister, an Assistant Minister for Health that has been in the States Assembly now for a very considerable period of time and I would like to thank her and also the Minister for Health who does make a habit of keeping us well informed wherever she can do. Deputy Pitman makes the point that we do need to have these matters put before us. I thank him. Then we had the speech of the Chief Minister who is not in the Assembly at the moment. I found it

a little bit bewildering really to be honest. He started off by saying that the debate had begun in an aggressive style. I did not think it had. I started off by making light of the issues and just because Deputy Martin and Deputy Pitman spoke strongly in favour, the Chief Minister, in my view, does not need to become all defensive. He said there are 3 parties to consider: (1) States Members; (2) the media; (3) the general public. Well it should be turned on its head really. He fully endorses the principles behind the proposition and he says in practical terms, it is technically possible to always do this. He has difficulty and I can understand that in what he is saying because taking on face value what he is saying, the Chief Minister says wherever this is possible he will do but there will be times when it is not sensible to do. As I have said, I have stated quite clearly that that is always within their purview. However, it is quite easy for them to adopt a practice of when they are sending their communications to the media to send us the same amount of information with an embargo on at the same time or an hour before because at the moment what is happening in practice is the media are getting hold of the information in some circumstances, maybe it is starting to change now, we have had a refreshing piece of news that the census information has come out at the same time. Well maybe that has come out at the same time because of this proposition. The Deputy of St. Martin says that he has been in a position where the media has commented on his propositions and have phoned him up for his response and he has not been aware that there has even been a report or a proposition laid or a comment made and there again I make my point that if we have the information, then we would be better placed to see whether we have been pushing ahead along the same lines that we first thought we would be doing. Senator Breckon, I thank him for his support. He spoke about the fact that not everything needed to be on a 'Part B' agenda and the trouble is I think (and this sort of sprang to mind when he was speaking) that if the media are getting hold of the story and it is important because they have got deadlines they have got to reach, in practice what happens is the media will run a full page story on the subject they have been given the press release on. If the Scrutiny Panel or if the States or if an individual Back-Bench Member or if another Minister wants to retort that, as we have seen today, the Minister for Social Security is challenging the story from yesterday but he is on page 2 and yesterday's story was on the front page. "That is life", says the Minister. Well, not any longer. Let us kill that off right now because a better way to do things in my view is to have the message going out in balance with both the argument for and against for people to come to a reasonable conclusion rather than spin and defence and spin and defence. **[Aside]**

[14:30]

We might doing ourselves ... it may be a bad example because I forgot it was from P.A.C. (Public Accounts Committee) but we might be doing ourselves out of a job. I would recommend as a good read the recent Public Accounts Committee Report on the Accounts of the States of Jersey for December. The foreword I think is an incredible foreword. I would like to congratulate that to Senator Shenton on page 2. Give him a free plug there, excellent: "Members are supposed to be in an information age, the sharing of information" and I am just trying to address the points that were made, Sir, sorry. We are living in an equal society or at least we have been told we are and Deputy Pitman said that many items appear on the 'Part B' agenda when they should be on the 'Part A' agenda and the classic one that I was told which I commented upon was the one where another person at the British-Irish Council had commented to one of our Ministers when they were over they read on the *J.E.P.* how ironic it was that the Freedom of Information Act had ended up on the 'Part B' agenda. So the Iron Curtain has fallen in the East and slowly but surely it is falling in the Middle East and I am just wondering if it is going to be falling... **[Aside]** Okay, you can throw that idea in the bin, it is not working. I would like to ask for the appel, Sir. I think I have got the support of Members. I think it is quite clear, quite straightforward. We should be better informed. We should be as informed as the media is and we should be informed wherever possible ahead of the media so we are in a position to comment in an informed way. I would like to ask for the appel please, Sir.

The Bailiff:

Very well, the appel is called for then in relation to the proposition of Deputy Le Claire, Projet 22. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 37	CONTRE: 1	ABSTAIN: 3
Senator P.F. Routier	Deputy E.J. Noel (L)	Senator T.A. Le Sueur
Senator B.E. Shenton		Deputy J.B. Fox (H)
Senator A. Breckon		Deputy M. Tadier (B)
Senator S.C. Ferguson		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of Grouville		
Connétable of St. Saviour		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Deputy R.C. Duhamel (S)		
Deputy of St. Martin		
Deputy R.G. Le Hérisier (S)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy S. Pitman (H)		
Deputy K.C. Lewis (S)		
Deputy I.J. Gorst (C)		
Deputy of St. John		
Deputy A.E. Jeune (B)		
Deputy T.M. Pitman (H)		
Deputy A.T. Dupré (C)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		

4. States of Jersey Development Company Limited: appointment of Chairman and Non-Executive Directors (P.32/2011)

The Bailiff:

Very well. Then we come next to Projet 32, States of Jersey Development Company Limited: appointment of Chairman and Non-Executive Directors lodged by the Minister for Treasury and Resources and I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act dated 13th October 2010, in which they approved the Memorandum and Articles of Association of the States of Jersey Development Company Limited (the “New Memorandum and Articles”) and authorised the

Greffier of the States for and on behalf of the States to pass, together with the Treasurer of the States, one or more special resolutions of the company to adopt the New Memorandum and Articles and (a) to appoint the following persons as non-executive directors of the States of Jersey Development Company Limited for a period of 3 years in accordance with the New Memorandum and Articles to take effect from the delivery to the company of the notice referred to in paragraph (b) below: Baroness Margaret Ford (Non-Executive Chairman); Roger Lewis (Non-Executive Director); Nicola Palios (Non-Executive Director); David Pretty (Non-Executive Director); (b) to authorise the Greffier of the States for and on behalf of the States to deliver a notice to the States of Jersey Development Company Limited in accordance with Article 22(b) of the New Memorandum and Articles immediately following the adoption of the New Memorandum and Articles to give effect to such appointments.

The Bailiff:

Who is going to be proposing this one in the absence of the Minister? You are, Constable, right, thank you. You wanted to raise a point, Deputy?

4.1 States of Jersey Development Company Limited: appointment of Chairman and Non-Executive Directors (P.32/2011) - proposal of the Deputy of St. John to debate in camera

4.1.1 The Deputy of St. John:

Yes, Sir. Would it be possible to have this debate in camera? Having been part and parcel of this, I have to inform the Assembly obviously of certain things and it would be totally unfair to any person that they may be identified by what I have to say.

The Bailiff:

Very well. That is your prerogative, Deputy, to propose without notice that ...

The Deputy of St. John:

I propose that, Sir.

The Bailiff:

Is that proposition seconded? **[Seconded]** We are still debating at the moment that this whole matter should be heard in camera. That is what the Deputy is proposing and you are proposing, Deputy, that the whole thing should be in camera. The alternative, if you wish to, is to propose that after it is opened by the Assistant Minister, then it goes to camera so that at least members of the public would hear what the Assistant Minister has to say.

The Deputy of St. John:

Yes, Sir, I would propose that after the Assistant Minister has spoken and obviously the vote will be taken in public also.

The Bailiff:

Very well. So you are amending your proposition slightly so it is to go into camera after the Assistant Minister has proposed it?

The Deputy of St. John:

Absolutely, Sir.

The Bailiff:

Is that still seconded? **[Seconded]** Now does any Member wish to speak on the issue of whether to go into camera?

4.1.2 Deputy R.G. Le Hérissier:

Yes, I adamantly oppose it. We should be mature enough to have a debate on some of the underlying issues and not trespass into scurrilous comments about the individuals and this is a matter of supreme public concern, the issues, the principles, the payment, the payment structure.

4.1.3 Connétable J.M. Refault of St. Peter:

I think it is rather incongruous that we have just sat through a debate talking about openness and sharing and yet we have Members here straight away asking for us to go into camera. I think what we have here is something which is of significant public importance to see the way that we are moving on from W.E.B. (Waterfront Enterprise Board) to S.o.J.D.C. and significant interest in how we are going to best release capital out of financial returns back to the States of Jersey to enable us to do actual works that are vitally needed in areas such as Health, Social Services, Education, Home Affairs and many, many others. This is what S.o.J.D.C. is hoping to produce and I do really think that there is a lot of public interest in how we are going to achieve that and I would certainly not support the proposition to go into camera.

4.1.4 Deputy T.M. Pitman:

It is interesting. I had a number of complaints from the public constituents at lunchtime complaining to me about they wanted to listen to us, their elected Members, not the BBC's political correspondent passing off his comments on individuals so [**Members: Oh!**] ... well, that is what the public said. The media are meant to be impartial I am afraid. So much as I bear that in mind, I think this is very important and I would totally oppose it. I agree with the 2 previous speakers. This is of great importance and in terms of openness and transparency, we really should do our utmost unless the Deputy of St. John has got something which is so important like his previous one about the American Government might have come after him, which we never got to learn what it was about. I think we should try and maintain on air as long as we can.

4.1.5 Deputy S. Power:

I would like to add my voice to those that would wish to debate this openly as an open debate in this Chamber without going in camera. We are being asked to appoint 4 people to be directors of what is probably going to be one of the most important property development companies on the Island and I think it is in everyone's interests that we have an open and transparent debate and do away with a lot of the cronyism that we are being accused of in this Chamber. [**Approbation**] I really despair sometimes that we cannot do these things openly and honestly. I will oppose it.

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

I support the Deputy of St. John. The reason I rise is that ordinarily when we ... and there are 4 specific names on the paper, it does seem to me that ordinarily there is a risk (depending on how the debate goes) of those names being discussed in the Assembly. They have no right in any shape or form of recourse that it would be better for those types of debates to be held in camera and I will be supporting the proposition. But Members do need to think about that. Is it appropriate for named individuals to be discussed openly in the Chamber because that is potentially where we will end up?

The Bailiff:

I have got 4 other people who want to speak on this. I hope they will be brief because really we do not want to spend the entire afternoon arguing about whether to go into camera.

4.1.7 Deputy M. Tadier:

The Deputy of St. John must realise that he may be confused about his surroundings, that we are not operating in a secret society here but government operates in public transparently wherever possible. Now I fully understand the concerns of Deputy Le Fondré. That is a valid concern but to put the counter argument, there is also the public who have to be taken into consideration. It is one thing to say that these individuals are being appointed and they cannot answer back for themselves.

They certainly cannot answer back in the Chamber. They can do that through the media if they think that something untoward has been said. First of all I think Deputy Le Hérisssier's point is correct, that we should all be mature enough to stick within certain boundaries but if things do need to be said, then they need to be said. But also the public needs to know because it is their money that is being spent. It is not simply us who are appointing these individuals. The public are appointing them and paying for their wages essentially as taxpayers and so I think it is quite right that they would find it very bizarre if this already very controversial issue was to be debated in camera. So I cannot accept that unless I hear some very compelling reasons from the Deputy of St. John.

4.1.8 Deputy P.V.F. Le Claire:

Just to help maybe focus if I could as the debate unfolds. The proposer spoke about a whole raft of issues that this is reflective upon. I do hope that Members will concentrate their minds on the fact that this is just the appointment of these members and not the issues.

4.1.9 Deputy G.P. Southern:

I would just like to remind the Deputy of St. John that we should be conducting wherever possible our business in public and what we do and what we say should be open to public scrutiny and that I remind him that he has parliamentary privilege and unless he is about to say something that he deliberately knows is scurrilous, unfounded or untrue, he is totally protected and it is important I think that if there are issues to debate around these appointments, that the public know of them and we speak in safety of parliamentary privilege to express our concerns.

4.1.10 Deputy J.A. Martin:

I would just like to hopefully be helpful because I queried this before lunch and this was lodged on 2nd March and there have been Chinese whispers all around lunchtime and there is something people seem to know that possibly may not be best out in the public domain. I would like to put a proposition to amend the Deputy's in camera proposition that we hold this debate off for 2 weeks. We have a States Members' briefing and then if we come back and we are convinced with all this information that is missed going around and then we hold the debate either I would not go in camera properly but if I hear enough compelling evidence on a briefing and I think that is the most sensible way forward. I cannot see the urgency and the Assistant Minister never convinced me. He said there is lots of work to be done. Well, they should not be so tardy and just lodge a proposition that could only be debated even yesterday. So I am sorry, Sir, I hope I can bring that proposition.

The Bailiff:

I am not sure you can bring it as an amendment to the proposition but certainly immediately after that if you wish to propose that debate on this be deferred, you would be able to do so. So does any other Member wish to speak? Deputy Higgins, you have something new to say?

4.1.11 Deputy M.R. Higgins:

Yes, just very briefly. I happen to agree that J.D.C. (Jersey Development Company) is an important body and I believe that we should debate it and I believe we should debate it in the open as far as possible. Mind you, I believe that for different reasons to the Constable of St. Peter. However, I believe that we should conduct our business in public but if there is one small area, rather than the whole thing go into camera... I think I know what the Deputy of St. John is going to be raising and I must admit I do have concerns about it but I also believe that the public should know what is going on.

4.1.12 Senator S.C. Ferguson:

I would just like to support the Deputy of St. John. He and I have the same concerns and really, as Deputy Le Fondré said, if we are talking about a proposition which names members of the public,

we should be debating it in camera. It really is quite inconceivable that we should be debating it in full public.

The Bailiff:

The Deputy of St. John, do you wish to reply?

4.1.13 The Deputy of St. John:

Just briefly, Sir. I would like to echo what the previous speaker has just said. I was part and parcel of the interview process along with others and I asked for that specific reason. I could be far more open with Members by being in camera because people's names who have got no right of reply could be mentioned. I am not saying they will be but they could be mentioned and therefore I ask Members to give that some serious thought when they vote.

The Bailiff:

Do you ask for the appel, Deputy?

The Deputy of St. John:

Yes, please, Sir.

[14:45]

The Bailiff:

The appel is asked for then in relation to the proposition of the Deputy of St. John that this debate be held in camera after the opening by the Constable of St. Peter. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 9	CONTRE: 33	ABSTAIN: 0
Senator S.C. Ferguson	Senator T.A. Le Sueur	
Senator F. du H. Le Gresley	Senator P.F. Routier	
Connétable of St. Saviour	Senator B.E. Shenton	
Deputy R.C. Duhamel (S)	Senator A.J.H. Maclean	
Deputy of St. Ouen	Senator B.I. Le Marquand	
Deputy of St. Peter	Connétable of St. Helier	
Deputy P.V.F. Le Claire (H)	Connétable of Trinity	
Deputy J.A.N. Le Fondré (L)	Connétable of Grouville	
Deputy of St. John	Connétable of St. Clement	
	Connétable of St. Peter	
	Connétable of St. Lawrence	
	Connétable of St. Mary	
	Deputy of St. Martin	
	Deputy R.G. Le Hérisier (S)	
	Deputy J.B. Fox (H)	
	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy of Grouville	
	Deputy J.A. Hilton (H)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy S. Pitman (H)	
	Deputy K.C. Lewis (S)	
	Deputy I.J. Gorst (C)	
	Deputy M. Tadier (B)	
	Deputy A.E. Jeune (B)	
	Deputy T.M. Pitman (H)	
	Deputy A.T. Dupré (C)	

		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		

The Bailiff:

Very well, then we return to the debate on the proposition and ...

Deputy J.A. Martin:

Sir, can I not make my proposition?

The Bailiff:

I do beg your pardon.

4.2 States of Jersey Development Company Limited: appointment of Chairman and Non-Executive Directors (P.32/2011) - proposal of Deputy J.A. Martin to defer debate to 29th March 2011

4.2.1 Deputy J.A. Martin:

You said as soon as that one was lost you said ... or won. Yes, I would. We are not going into camera now and there are obviously some things ... I do not know what they are, as I say, it had only been lodged for 2 weeks yesterday. We could have a full, frank States Members' briefing within the next 2 weeks and we will come back here. Either it will proceed or it will not proceed, what we have heard. I did not vote for it to go in camera because it probably still goes out there, but at a States Members' briefing we can ask the questions. So, I would like to make that proposition that we hold off for P.32 for 2 weeks and in the meantime Treasury organises a States Members' briefing.

The Bailiff:

Is the proposition seconded? [**Seconded**] Very well. Does anyone want to say anything in relation to that proposition, which is to defer debate, in other words, 2 weeks on this matter?

4.2.2 Deputy P.V.F. Le Claire:

I am supporting it because I am wondering if Scrutiny is able to pull anything like this and do a review on it or not. I do not suppose so. In standing up to support it I think there is an issue. The reason I am supporting it is alarm bells are ringing. I do not know any of the reasons that there might be. I am none the wiser as to what is going on here but I am also wondering if the Deputy of St. John can let us know whether or not he feels now that he is able to still relay the same information that he was going to relay ... no, he is shaking his head. He does not feel like he is. What also concerns me is Senator Ferguson has been a stalwart in making sure the checks and balances in the past in this Assembly have been safeguarded. Now, when the Senator stands up and speaks in support of something because she also has the same concerns it would be disregarding her position in the past in making sure that matters of fiscal and probity, I do not know if that is the correct word, prudence, anyway, things we can trust ... probity. Yes, I thought it was. So, we would be disregarding that if we do not take into account the fact ... and I look towards Senator Ferguson and I ask, through the Chair, if Senator Ferguson is going to be able to convey what she might have been able to convey in camera if this is an open session and Senator Ferguson, through the Chair, is not making any sign to me whatsoever. I do not know if she is listening.

The Bailiff:

I am sure she is listening.

Deputy P.V.F. Le Claire:

I have done my best.

4.2.3 Deputy R.G. Le Hérissier:

There have been comments made which suggest that there were deficiencies in the selection process. If indeed that was the case I suppose the question has to be, why did the Members not make a fuss at the time? Not withdraw their co-operation? Or why did they not put in an objection at the time? Why has it come to this point? That is the question I would ask, and they went through the process, they took part, presumably they did not resign, so therefore we have to proceed openly.

4.2.4 Deputy A.E. Jeune:

I am just a little concerned that having voted not to go into camera to then decide that we will hold it off in order that we can have a States Members meeting behind closed doors. Is that not just the same as if we had have gone into camera? **[Approbation]**

4.2.5 Senator B.E. Shenton:

I think I will support this but for a slightly different reason. Obviously this is quite a controversial issue and personally I would prefer the Minister for Treasury and Resources to be in the Chamber to answer any questions that we have and to defend his department rather than be swanning around India and leave it to his Assistant Minister.

4.2.6 Deputy T.M. Pitman:

Yes, I do not agree with people swanning about where they should not be, but there we go. I find this very strange, as I have heard the rumours that there was something wrong with the appointment process; that the chairman wants planning powers which would really be creating a monster, but this is about £40,000 of taxpayers' money for 25 days work or something. It is such a crucial issue. Let us just get on with it and see what comes up. We can always alter our course as events unfold or do not.

4.2.7 Deputy M. Tadier:

To answer Deputy Jeune's concerns, there is a big difference between having a briefing and then coming back to have an open debate about the selection of these Members, the appointment of this committee. It is completely different. What we will be doing is giving ourselves a chance to hear the concerns of the Deputy of St. John and Senator Ferguson which they feel they cannot make in open session but it is completely unsatisfactory also, as I think the majority of us feel, that the appointments are made behind closed doors. So, we have appointments, we have briefing processes all the time and they are held by their very nature behind closed doors, sometimes with civil servants present and afterwards, on occasion, we have press releases, press conferences which are held. So, it is entirely proper that we should, I think, in a more informal setting be able to hear these concerns raised, have a period of time in which to test the validity of those concerns and the voracity of those comments which have been raised, and to come back and to choose which comments we make in an open session in the States, that that is entirely proper and I think this is a welcome suggestion by Deputy Martin that should be backed.

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

Our track record for in camera debates are pretty poor inasmuch as the press seem to know the full details within minutes after we have finished. This particular proposal sounds to be an ideal solution but I am seeing a head nodding in the wrong direction from the Deputy of St. John as if he is not willing to discuss the issue outside an in camera debate, so I just seek clarification on that, otherwise it seems senseless for us to have a proposition put forward that will not come to pass.

4.2.9 Senator T.A. Le Sueur:

I was not going to speak, but rose when I heard criticism that this appointment was done behind closed doors. Now, one of the reasons for setting up a Jersey Appointments Commission was to ensure that any appointment was done in a totally valid and open way. A selection process by its very nature is done in a confidential and private way, but with the knowledge that Members can have that there is an independent person outside the States who is ensuring that proper procedure is carried out, and I find it reprehensible to suggest that there is something wrong with an appointments process involving a recruitment panel including the representative of the Appointments Commission. If there was anything wrong with that appointments process I have no doubt that that member of the Appointments Commission would have been the first to stand up and blow the whistle. The fact that he has not done so is to me indicative of the fact that the appointments process was indeed properly carried out. Whether the selection panel came up with the names that everybody wanted is a matter of conjecture because clearly in any case like that judgments can be subjective and it may well be that one person, or other people, disagree with a selection of candidates. But that is the nature of the recruitment process and I fail to see what benefit we have by going and having a discussion or a presentation by the Minister for Treasury and Resources over the next 2 weeks to try to second-guess a recruitment process which has been objectively carried out. If we are not going to second-guess that process then I fail to see any merit in having a 2-week delay on this matter. The term of office of the current directors expires on 31st March 2011. If this proposition is left until that stage, and for any reason we have not debated and approved at that time, we would be in a situation thereafter of being in a total unsatisfactory position, having no doubt to start the whole recruitment process all over again because we are effectively saying that we have no confidence in these people and we would be in a totally unsatisfactory position. There is no advantage to be gained by a 2-week delay. There is every merit in dealing with this matter now. I have heard nothing from the proposer to say why they would be better informed in 2 weeks' time and I urge Members not to be seduced into the thought of having an early afternoon cup of tea.

4.2.10 Deputy G.P. Southern:

Here we go again. The Chief Minister is tardy in bringing a proposition to the States and brings it to the last minute so that the States cannot decide to deal with it in any other way. This happens time and time again. It is sheer incompetence on the part of the Council of Ministers and we should not be swayed by their incompetence into not doing what we see is fit.

4.2.11 Connétable J.M. Refault of St. Peter:

I just really stand following the Chief Minister just to advise Members, which I was going to do within my presentation anyway, that there were 7 Members of this Chamber that were involved in the selection process. So, to say it was done behind closed doors is quite erroneous when there are 7 people sitting around here today who were part of the selection process, and really just to say once again that delay for delay's sake is not good governance in my view and to do a private briefing is, as a previous Member did say, tantamount to holding it in camera anyway. I really do not see any need to hold ... I do acknowledge that the Deputy of St. John and Senator Ferguson have concerns and I hope that we will be able to address them in a moderate way within the debate anyway and I would look forward to the opportunity to do that.

4.2.12 The Connétable of St. Mary:

Notwithstanding what the Connétable of St. Peter has just said, there is a fundamental difference between going into camera now, which I did not support and having a private Members' briefing, apart from the fact that it raised in the first debate we had that there is parliamentary privilege if we speak in the Chamber. There is no parliamentary privilege in that in-briefing debate, neither is there anything that can be done under Standing Orders, I do not think, and I obviously defer to your greater knowledge, if somebody then releases what is given in that private briefing. Whereas if something is given in camera in this Chamber it would only come, as I understand it, as a matter of

privilege if it is then divulged outside of the Chamber, and I have on past occasions had to bring that to the President's attention and I would have, I would advise the Chamber, absolutely no hesitation in following that course of action again. I did not support the whole debate going into camera but I would support if any Member during the debate felt they had something that was crucial and was not known to take that piece of information in camera and then hold the Assembly to account through Standing Orders for the maintenance of privilege. I just feel that Members are muddling what benefits are of an in camera debate, and there are times when it is necessary, and just to say that it is not necessarily criticism. I have no idea of what matters the Members wish to raise. It is not necessarily going to be a criticism of the appointments process. It may well be that a Member of this Assembly validly feels that they know something now which was not known at the time of the appointment and they wish to bring that to the Assembly's attention. There could be a very good reason for going into camera but I believe not for the whole debate, but if another Member brings a motion to take a small part of the debate in camera I believe I would support it. But I cannot support this motion because it takes away all our parliamentary resources.

4.2.13 Deputy M.R. Higgins:

I have absolutely no sympathy with the Council of Ministers on the lateness of this and the fact that they feel it must be dealt with now. I am concerned however that I think it was Deputy Le Claire wanted to know if the Scrutiny Panel could look at it and of course because Senator Ferguson is conflicted in the sense she was part of one of the interview panels and the Deputy of St. John was also, as an environmental one concerned. Is there any mechanism under standing orders that one of the other Scrutiny Panels can look at this such as the Economy Affairs Scrutiny Panel?

The Bailiff:

I think it has to be the Scrutiny Panel in question, Deputy.

Deputy G.P. Southern:

My understanding of the code of practice for Scrutiny is that with permission of one chairman you can pass it on to another and certainly there is an interaction, an overlap, between Corporate Services and Economic Affairs in particular in this issue.

[15:00]

The Bailiff:

Deputy of St. John, do you want to contribute to this part of the debate, seeing as you raised it in the first place?

The Deputy of St. John:

No, Sir, I think a lot has been said and if I am going to say it I will say it in camera.

The Bailiff:

The Greffier and I will look at the Scrutiny point, but it seems to me that, if Members agree, we need to press on and decide whether they are going to defer debate and then we can look to see whether Scrutiny can call in the debate if they wish to. But at the moment the proposition before the Assembly is simply whether to defer debate. So, I call upon Deputy Martin to reply.

4.2.14 Deputy J.A. Martin:

The Chief Minister says that he has heard nothing from me. Well, I know nothing and that is what I want. I want some information because I do not like the whispering going around the Chamber. Deputy Le Hérisier, as usual, had the argument with himself saying: "Well, if there had been arguments for and against, why has somebody not done something?" I am telling the Deputy now there has not been time. This passed in October, there were 3 days of interviews in February. It does not say when; was it the 26th, 27th, 28th? It was launched on 2nd March. If we had had a

quick day on Tuesday it could not have been discussed until 2 weeks. So, there are things in here that are being said that we may need to know. Deputy Jeune says, why have a States Members' briefing? Because I think there could be things teased-out. We will be able to speak more. I do not agree with parliamentary privilege when people can say anything about other people outside who do not have a right to defend themselves, and if it is a States Members' briefing hopefully, as States Members, we are grown up enough to have an open discussion. I do not know; Deputy Le Hérisssier seems to know that it is a problem with the process and not a person. I have absolutely no idea and there are a lot of Members in here that do not have any idea. The other point is very, very valid. I think we should be putting questions to the Minister for Treasury and Resources and the Minister for Treasury and Resources is not here. He has left it in the capable hands of an Assistant Minister, who has not been there for that long, by the way, and a very capable politician, I am not denying that, but he is not the Minister. So, I want to give it to the Minister. There has been so much doubt raised in my mind, just from this morning, because I thought when I proposed to stay on and defer P.32 to next week there would be no objection because of the lateness in the lodging and it was a 2-week lodging, in fact it was an 11-day lodging, until yesterday, that there would not be a problem. Suddenly over lunchtime there is this ... well, it is like Cheltenham. They are really rushing for the finish line. It has to be done today. I am not convinced, and I really hope I have convinced the Members who need to know more. You will not find out in here maybe and Deputy Le Hérisssier seems to know the answer; is it process, is it appointment? Is it someone who was appointed? Have there been complaints? Have people been trying behind the scenes in those very quick 11 days to get something heard? We had the debacle of the fireworks this morning. People may have been complaining, Deputy, and they may not have been listened to. I do not know. So, I maintain the proposition. It is 2 weeks. We can have a briefing and I am not talking about being secretive, just a frank and open discussion that there seems to be a problem with making this appointment. I maintain the proposition and I ask for the appel.

The Bailiff:

Very well. The appel is called for in relation to the proposition of Deputy Martin that debate on this proposition should be deferred for 2 weeks. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 17	CONTRE: 25	ABSTAIN: 1
Senator B.E. Shenton	Senator T.A. Le Sueur	Deputy of St. John
Senator A. Breckon	Senator P.F. Routier	
Senator F. du H. Le Gresley	Senator S.C. Ferguson	
Connétable of St. Helier	Senator A.J.H. Maclean	
Connétable of Grouville	Senator B.I. Le Marquand	
Connétable of St. Lawrence	Connétable of Trinity	
Deputy R.C. Duhamel (S)	Connétable of St. Saviour	
Deputy J.A. Martin (H)	Connétable of St. Clement	
Deputy G.P. Southern (H)	Connétable of St. Peter	
Deputy of Grouville	Connétable of St. Mary	
Deputy P.V.F. Le Claire (H)	Deputy of St. Martin	
Deputy S. Pitman (H)	Deputy R.G. Le Hérisssier (S)	
Deputy K.C. Lewis (S)	Deputy J.B. Fox (H)	
Deputy M. Tadier (B)	Deputy of St. Ouen	
Deputy T.A. Vallois (S)	Deputy of St. Peter	
Deputy M.R. Higgins (H)	Deputy J.A. Hilton (H)	
Deputy J.M. Maçon (S)	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy I.J. Gorst (C)	
	Deputy A.E. Jeune (B)	
	Deputy T.M. Pitman (H)	

		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		

Deputy M.R. Higgins:

Could I just ask if you had managed to determine whether ...

The Bailiff:

Yes. In relation to Scrutiny, first of all of course any Member of the States may propose without notice that debate on a proposition be suspended - and I have to say we have not even started the debate yet, so I think that would have to be after the proposition has been made - and the States request the relevant Scrutiny Panel to consider having the proposition referred to it. The relevant Scrutiny Panel is the Scrutiny Panel ... the assigned scrutiny of the topic to which the proposition relates but if there is any doubt the Presiding Officer shall take the advice of the President of the Chairmen's Committee. **[Laughter]** So, the answer is, it would be open to anyone to propose it going to scrutiny. It would go to the relevant panel, which I think in this case is the Corporate Affairs and if there is any doubt we could take advice from the Chairmen's Committee and I suppose if Corporate Affairs said it did not want to and it was happy if somebody else could do it then I suppose it could proceed by way of agreement.

Deputy M.R. Higgins:

Sir, there is a problem. If there is a conflict there and there is not a vice chairman, in fact I do not know how many there are left on Corporate Services at the moment with the appointment of Deputy Vallois. Therefore, it may not be able to do it, in which case I am suggesting Economic Affairs as an alternative.

Deputy P.V.F. Le Claire:

Would that include the Public Accounts Committee themselves? So, if I stood up and said, for example ... I am sorry, I thought I was asking the Bailiff a question. Does that exclude me proposing the Public Accounts Committee?

The Bailiff:

Well, the Public Accounts Committee is not a Scrutiny Panel.

Senator A. Breckon:

I was just going to say that if it was referred to the panel then the chairman could declare a conflict of interest and some other member of the panel could chair.

The Bailiff:

I would have thought that the correct thing to do is for it to go to the usual Scrutiny Panel. If Senator Ferguson is conflicted then no doubt she will stand down and leave other Members to do it.

Deputy G.P. Southern:

There is a precedent with the agreement of the chair of the Chairmen's Committee that it could be allocated to another panel, especially between Corporate Services and Economic Affairs where there is an obvious overlap between the economy and the rest of the financial business and it has happened before. It happened when we agreed that Telecom, despite being the responsibility technically of the Minister for Treasury and Resources, was an economic affairs business and we did the Telecom privatisation sale through Economic Affairs rather than Corporate Services.

The Bailiff:

Well, I think the position is this for Members. That so far as Standing Orders is concerned if a proposition is made it has to go to the relevant panel. But it seems to me that once that has been done if the relevant panel decides to opt out and agree with the Chairmen's Committee that some other panel should do it there is nothing to prevent that. If it is not dealt with in Standing Orders I think so far as this Assembly is concerned it ought to go to the relevant panel. Are you asking to propose this proposition yet?

The Connétable of St. Peter:

If I can really just have a comment, if I may. I think this debate that we are having, or mini debates that we are having, are not doing this Chamber any good whatsoever. The issue in my view, and I would look to the Deputy of St. John to confirm, is that I do not believe there is an issue with the board as such. There is an issue within the board that the Deputy wishes to raise and I believe that is all ... that is the nub of the problem. I do not know if the Deputy of St. John would like to address that because there is, I do not believe, any problem with the proposition *per se*, nor the board structure *per se*; it is about one small element that he wishes to have the opportunity to speak on. Would that calm Members' concerns? I would invite him to comment on that, if he would.

The Bailiff:

Deputy, do you wish to say anything, or not?

The Deputy of St. John:

At this moment I do not want to get drawn into anything until we have a structured way for this debate.

Senator A.J.H. Maclean:

If I may just add something. It does strike me that if indeed what we are dealing with here is an objection to an individual who has been selected, that is an entirely different matter to one of process, which one can see the Scrutiny Panel perhaps wishing to look at the process of the recruitment but we have an Appointments Commission, it has gone through the process as the Chief Minister has told us. If it is simply that there is an objection to one individual that surely is not a matter for the Scrutiny Panel and I would just bring that to the attention of Members.

The Bailiff:

Can I suggest that we proceed with the debate? At some stage the Deputy of St. John will speak and he will say what he wishes to say. If, following that, anyone wishes to propose that it be referred to Scrutiny it is open to a Member to do so.

Deputy M.R. Higgins:

Could I just clarify that? I think you said after the proposition had been put.

The Bailiff:

I did. By "put" I mean proposed. So, in other words the proposition will be proposed, then it is a matter for Members, but I invite them perhaps to wait until the Deputy of St. John speaks and the general nature of his complaint may emerge and at that stage if any Member wishes to propose then that debate be suspended for it to go to Scrutiny of course any Member may do so. I just throw that out as a suggestion for Members but I think we need to press on at this stage at any rate and invite the Connétable to make his proposition.

4.3 States of Jersey Development Company Limited: appointment of Chairman and Non-Executive Directors (P.32/2011) - resumption

4.3.1 The Connétable of St. Peter:

Rather belatedly I will do my best to gather myself together for this one. I would like to just briefly remind Members how we have got to this point now. We really go back into last year on 13th

October 2010, P.73 of 2010 was debated to establish the States of Jersey Development Company - which we call S.o.J.D.C. - which forms part of a new arrangement intended to structure the planning, development and implementation of major property and related infrastructure generation projects in Jersey. It also improved a new memorandum of Articles of Association for the company and authorised the Greffier and Treasurer to pass for and on behalf of the States one or more special resolutions to adopt the new Memorandum and Articles. The new arrangements require the appointment of a board of directors with the skills, technical knowledge and standing to make the company a success. Accountable to the Minister for Treasury and Resources the board will be responsible carrying out the future remit of the company and will operate within agreed policies of the States to deliver projects aligned with the needs of the Island. In accordance with Article 30A and Memorandum and Articles, the States are asked to appoint a new chairman and 3 Non-Executive Directors of the company for a period of 3 years' duration enabling the States of Jersey Development Company to play a key role - a delivery vehicle - for property development on behalf of the States of Jersey. A lot has been alluded to about the development of the recruitment process. With your permission I would like to go into that with a little bit more detail. A recruitment consultancy was sought in November 2010 to assist with the selection process for candidates following a competitive tender process overseen by the Jersey Appointments Commission. It was agreed to appoint Odgers Berndtson to support the recruitment process. The candidate's search was undertaken both locally and nationally in the U.K. Adverts were placed in the *Jersey Evening Post* in December and January to attract local applicants while Odgers Berndtson performed a candidate search through its executive search function. Fourteen applicants applied for the role of Chairman, none of which were applicants from Jersey which was expected given the skills, technical knowledge and experience required for this role. Forty applicants applied for the 3 Non-Executive Director roles including 12 from Jersey. The recruitment panel agreed that 5 candidates should be interviewed for the role of Chairman. One applicant later declined to attend interview and 8 candidates were short-listed for the roles of Non-Executive Directors. Interviews took place over 3 days late in February and were supported by a robust, transparent, competitive recruitment process. Candidates were interviewed by 3 panels. A practice established for the appointment of the Treasury. These included a recruitment panel, chaired by the Minister for Treasury and Resources and supported by the Constable of St. Peter, myself, the Chief Executive of the States and a representative from the Jersey Appointments Commission. Two further advisory panels worked in parallel with the recruitment panel to interview candidates, the transition advisory panel made up of States Members and a technical panel of local industry experts for the selection of the Chairman. With your permission, Sir, I will go through the make-up of the panels. The recruitment panel was made up of the Minister for Treasury and Resources; myself, Constable of St. Peter; Bill Ogley, the Chief Executive; Ken Soar, the Jersey Appointments Commission; Giles Naylor from Odgers Berndtson, and was added to for the N.E.D.s (Non-Executive Directors) only by Baroness Margaret Ford. The transition advisory panel for the selection of the chairman was made up of the Chief Minister, Senator Ferguson, the Constable of Grouville, the Deputy of St. John, Deputy De Sousa and Julian Rogers from the Jersey Appointments Commission.

[15:15]

A second transition advisory panel was set up for the selection of the Non-Executive Directors which is made up of Senator Ferguson and Deputy of St. John, supported by Julian Rogers of the Jersey Appointments Commission. The technical panel was set up for the selection of the chairman only and that was made up of Andrew Scate, Chief Officer for Planning and Environment; Mike Waddington; John Bisson and Peter Cresswell and they were supported by Richard Ley, an external assessor from the U.K. with property experience; the Minister for Treasury and Resources for the support provided by the Chief Minister; Senator Ferguson; the Constable of Grouville; the Deputy of St. John and Deputy De Sousa, as well as the industry members and the Jersey Appointments Commission whose support was extremely valuable and played an important part in the selection process. All the candidates interviewed for the roles were of a high calibre and brought with them a

strong set of skills, expertise and knowledge. On the unanimous recommendation of the recruitment panel the Minister for Treasury and Resources wishes to propose the following be appointed as board of directors of the States of Jersey Development Company: Baroness Margaret Ford, as the Chairman; Roger Lewis, Non-Executive Director; Nicola Palios, Non-Executive Director; and David Pretty C.B.E., Non-Executive Director. The Minister for Treasury and Resources is confident that the proposed Board of Directors will provide a strong balance of skills, experience, and technical background that will contribute to the success of the States of Jersey Development Company. The appointments provide an outstanding mix of local and U.K. experience which will ensure that the complex local environment is well understood, represented, and articulated at the strategic level. The Jersey Appointments Commission has supported the recruitment process throughout and is satisfied it has been performed correctly. I will not go into the actual background of the C.V.s (curriculum vitae) of the individual chairman and N.E.D.s (non-executive directors); the Members already have that within the proposition that they should have in front of them. So, the other thing may I ask Members that this is not a debate about W.E.B. this is a debate about S.o.J.D.C. it is about looking forward. There are a number of questions already in front of Members in the information put out by the Council of Ministers, if that is of any help to them in helping them forward as well. I make the proposition.

The Bailiff:

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

4.3.2 Deputy P.V.F. Le Claire:

I do not know anything about what has been said today in reflecting on the concerns of Senator Ferguson and the Deputy of St. John but what I do know is that I emailed the Minister for Treasury and Resources and criticised him for holding up as a shining example the Housing Trust over the States of Jersey with its property and said at the end of it, and copied in all States Members, he should be here looking after his own affairs before running off and helping the Minister for Foreign Affairs do his portfolio. I have heard this afternoon Senator Shenton say that he would prefer to hear from the Minister for Treasury and Resources in support of what is going on. Senator Shenton is in charge of the Public Accounts Committee, he is the chairman of the Chairmen's Panel, we have heard concerns already that things need to be investigated. I have no knowledge whatsoever as to what the underlying issues are, but what I am certain of is that if we go ahead and support this today, as admirable as it may be, and as admirable as the people may be, if we go ahead and endorse this today then we are basically saying the largest thing that we could possibly hand over to somebody in our care on behalf of the public, it is okay to do even if there are questions surrounding probity. I just cannot do that. I just cannot support that. So, I am going to oppose it in its entirety and I will be seen to be doing so and possibly by the people that have been kind and good enough to step forward as to be against them and I am certainly not. I do not have any views about them whatsoever. So, I am going to propose that it is referred to Scrutiny so that I can support this proposition once they have given it the necessary checks and balances, and I ask through the Chair that the head of the Chairmen's Panel decides which panel that is and have it referred to Scrutiny so that when we do endorse this, when the Minister for Treasury and Resources is back in this Assembly, we endorse it because it is a significant portfolio and a significant responsibility on our behalf entrusted to us by the people of Jersey that we move forwards. Quite frankly, I am just absolutely amazed that having watched W.E.B. and all of the other issues dwindle along at a snail's pace that it has over the years, that we suddenly have to rush this through before we can wait to hear back from the Minister for Treasury himself and before we can have the checks and balances ticked off. I am sorry, no amount of reassurances are going to satisfy me unless I see a Scrutiny Report on the table saying it is all fine and hunky-dory because I have seen it from across the Chamber that the issues that have been mooted are not going to come out unless they are in camera. I do not think that is good for Jersey, I do not think it is good for this company to be beginning with. We have had a number in the past of resignations in relation to W.E.B. and the son

of W.E.B. and whoever else is put into W.E.B. We had one of the interim chairmen, Mr. Voisin, who is a previous States Member, placed into an embarrassing situation when he is a very honourable man because we were not careful enough and I am asking States Members, through the Chair, to endorse my request for the chairman to name and refer this to Scrutiny so we can all get behind it 100 per cent so when it comes they know they have 100 per cent backing in the important work that they have to do.

The Bailiff:

Can we just make it clear, because I think what you must be doing is exercising your right under Standing Order 79, Deputy, which is that the debate be suspended and that the States request the relevant Scrutiny Panel to consider having the proposition referred to it and what happens is in 2 weeks' time the chairman of the relevant Scrutiny Panel comes back and says yes or no. As I said earlier, what it says is the relevant Scrutiny Panel and if there is doubt then the Presiding Officer shall take the advice of the president of the Chairmen's Committee. I am advised by the Greffier that there is not much doubt and this is a Corporate Affairs matter, but of course what I did not mention earlier, to assist Members, is that Scrutiny Panels may establish sub-panels and so it would be open, if this matter does go to Corporate Affairs, for Corporate Affairs to pull in as many other Members as they wish from elsewhere in Scrutiny to form a specific sub-panel to get whatever spread of membership they wished. So, that would be open to them but I think ...

Deputy P.V.F. Le Claire:

May I also say it is then perfectly within the rights of Members when they go before the Scrutiny Panel to give evidence under oath where they are not to become liable for information that they convey and it is also within the purview of the Scrutiny Panel to hold meetings in private and in that respect the reason why I am doing it and trying to conduct a request of that Standing Order for clarity is because it will then have had the opportunity to interview, if necessary, the Minister for Treasury and Resources who is not here today and he is the person who this whole thing is ...

The Bailiff:

Very well, Deputy, I think you have made your proposition. Is the proposition seconded? **[Seconded]** So, we now have a proposition which the Deputy is entitled to bring that this matter be suspended and that the States request the relevant Scrutiny Panel, which is the Corporate Affairs Scrutiny Panel to consider having the proposition referred to it. Now, therefore we can have a debate now on that proposition.

4.4 States of Jersey Development Company Limited: appointment of Chairman and Non-Executive Directors (P.32/2011) - Scrutiny Panel to report back

4.4.1 Senator A.J.H. Maclean:

I wonder if you would just clarify please, if this were to be pushed to the Scrutiny Panel, the Scrutiny Panel would have up to 6 sittings in which they could review it. I think that is ...

The Bailiff:

Four.

Senator A.J.H. Maclean:

Sorry, 4. So, there would potentially first of all be a considerable delay. It would be helpful if the Deputy of St. John, who appears to be the person raising concerns over this particular matter, could clarify whether his concerns are in relation to a particular individual who has been selected, or the process because, as I was mentioning before, that makes a material difference to the type of review that Scrutiny could undertake and I feel if it is process then Scrutiny could indeed look at it, if it is down to individuals then that is another matter altogether. I am not sure what Scrutiny would be

doing. Would they be reviewing the C.V.s of all those candidates that have been put forward and turning themselves into an Appointments Commission? I think we need some clarity.

The Bailiff:

Deputy of St. John, are you able to assist?

The Deputy of St. John:

Process does come into what I would be saying but not all of it; but process is involved.

The Bailiff:

Are you able, for the assistance of Members, because I sense that Members are struggling a little with the nature of the concern, Deputy. Could you give as much as possible without ... if you do not want to mention particular Members or anything, can you give a broad outline of what it is which is concerning you?

The Deputy of St. John:

I will give you some information. There is only a small amount but it may be enough. Myself and colleagues were informed by our officer that the candidate was a preferred candidate of the panel prior to even interview for that part of the process. Prior to the directors being nominated, for want of a better word, I was also told by a member of that Appointments Board who they were proposing but more than that I cannot go into ... I will give evidence in confidence in a Scrutiny Panel but I am not going to go further into it unless it is an in camera debate.

The Bailiff:

Now, we are debating whether to suspend the debate.

4.4.2 The Connétable of St. Peter:

I would just like to comment on the Deputy of St. John's comments there because I took that, from what he was saying, that there was an element of prearrangement in who was going to be appointed to the board and I take very, very strong exception to that because that is certainly not true and in making that comment he brings 6 other States Members into disrepute and that is the only comment I will make.

4.4.3 Deputy J.A. Martin:

I would support this reference back and I do not know anything about the process, but it is probably a shame that the Constable spoke so early because he obviously cannot speak again but I am sure when he was discussing ... it rang alarm bells in my mind that the overall panel for the non-executives was inclusive of the chair. So, when was the chair elected and then was in on the process of electing the non-executives? These are all questions and I think I am getting to the root of some of ... without mentioning any names and I had no idea before I came in but it was just the opening speech of the Constable of St. Peter started ringing alarm bells to me because it was either a very quick decision, and I do think that much more needs to be known about exactly what went on. So, I totally support this being referred to Scrutiny and instead of a 2-week delay you might just get your 8 weeks.

4.4.4 Deputy M. Tadier:

There are strange dynamics going on in this Chamber. There seems to be a combination of smoke and mirrors and cloak and dagger tactics going on, if you excuse the mixed metaphor. Members I think are getting a sense that we are trying to indulge the Deputy of St. John and to a lesser extent perhaps Senator Ferguson because they seem to think that they have information that would be helpful for this debate. I think collectively we are trying to decide what is the best way that we can extract this information that may, or may not, exist. It sounds like it is being alleged by the Deputy of St. John that there was prearrangement and that is a very serious allegation but that needs to have

evidence if we are to consider it. Now, it is not satisfactory for that evidence, I do not think, at all to be taken in a States Assembly anyway. It is not the kind of forum which you would normally look at that kind of serious allegation if that is the allegation, or if there are other things that need to be looked at. The States Assembly with 53 jurors in it, or more, is not the way to do that. It is to be done by a Scrutiny Panel and the beauty of the Scrutiny Panel, as has already been alluded to, is that the Deputy of St. John, or anyone else for that matter, first of all they can sit on the Scrutiny Panel if they feel like being drawn in, or they can go and give evidence and they can do that with privilege and in camera, if they like to, but there is the added safeguard that you have the checks and balances of the Scrutiny Panel to be able to look at that evidence and to report back to the public something that cannot be done in an in camera debate where everything must remain secret and nothing can be leaked. So, I think it would have been helpful if the Deputy of St. John ... maybe he did it, maybe I missed it, would indicate, and Senator Ferguson would indicate, if they would be willing to give that evidence to the Scrutiny Panel with privilege either in public or not in public. I think this has to be the only sensible way forward otherwise we cannot make any kind of meaningful and informed decision. So, I certainly support this proposition.

4.4.5 The Connétable of St. Mary:

I just want to put it on record; I feel it is incredibly unsatisfactory that we are debating this particular proposition now, so early in the main debate, when we really have not heard anything to give rise to any suspicion. I do not know what the concerns are. I only have a feeling that there might be a concern. There is a perfectly legitimate process whereby we can start the debate, whereby any Member can speak with their portion being in camera if they wish to give us further detail. If we move to a Scrutiny Report at this time, apart from the fact that there will be a delay, which I make no bones about, that is an inbuilt process, but evidence will be given without the rest of the States Members knowing what that evidence is because it will be heard in confidence.

[15:30]

We will have the outcome of the report, as will the public, but we will not know what the concerns are and as a States Member, as one of the 53 people charged with making a decision at the end of this, I will not know what the problem is. Whereas if we have the debate and then hear the concerns in camera I will know, and I am not going to give the Constable of St. Peter any false illusions that I am on his side or anything in this debate, I want to know what the problems are but I really do feel that if we go ahead with this motion to pass it to Scrutiny now I will have been done out of my ability to find out what is going on and I think that is a real flaw in the process and I think it is just a shame that this has been referred so early in the main debate and I will not be supporting it for that reason.

4.4.6 Connétable D.J. Murphy of Grouville:

Surely the most feared phrase in the politician's language is: "I have been told." That is normally followed by a gutter-worthy comment about somebody that we know, and trying to run somebody down. It is not fair to say: "I have been told" and come up with absolutely no backing whatsoever. It is wrong. Why I am saying that, I sat on that panel, the same panel that the Deputy of St. John sat on, when we chose the new chairman of the board. At the same time I was a director of W.E.B. at that time as well, so clear the decks. I did not see and I never heard, and nobody told me who had been picked for this job. It went through the panel, through the 5 of us, I think it was 5 of us at that time who were sitting there, and there was no pressure brought. There was nothing whatsoever that I thought to be underhand in any way at all. I certainly was not told anything by anybody about who was preferred candidate. We came to a conclusion ... The Deputy of St. John came to the same conclusion as I did

The Deputy of St. John:

On a point of order, at the meeting I am referring to, Sir, the speaker that has just spoken was not present.

The Connétable of Grouville:

Well that was the board meeting I was at, which chose the chairman so I do not know which meeting you are talking ... did you have a secret meeting?

The Deputy of St. John:

I am not referring about the chairman, I am referring to other directors.

The Connétable of Grouville:

Well there you are, I did not say that, I was talking about the chairman selection. At the same time I would just like to come back to something that Deputy Le Claire said, that W.E.B. bumbled along. Well the reason that W.E.B. bumbled along, because there was too much political interference. Everything was micro-managed from the top. W.E.B. could not make a decision, it could not go anywhere, it could not do anything without planning ...

The Bailiff:

I do not think we need to hear you praise the efficiencies of W.E.B. or otherwise.

The Connétable of Grouville:

Yes I know, Sir, I am sorry I just thought I would get it in while I could. Anyway, I can assure Members that the board I sat on was absolutely straight, there was no problem whatsoever, and we chose a candidate whom we considered to be the best one at that time. There was no: "You know who", or taps on the shoulder or winks, or even taps on the side of the nose.

4.4.7 Deputy G.P. Southern:

In my mind there are 2 questions to be answered. Is this a matter of process (a), and (b) is this a serious accusation and therefore should this be referred to Scrutiny? I believe the answer to the first is yes; it is a process. The answer to the second is, yes it is very serious and I think the appropriate way forward is to refer this to Scrutiny so they can investigate fully and report back.

4.4.8 Senator S.C. Ferguson:

I should probably have just voted against the whole proposition as I intended to, the substantive proposition. Yes, I can give a speech without maligning anybody, slandering anybody and so on. It was just that we felt that to have a hearing in camera would have been less painful for 4 individuals, none of whom will be identified individually. For it to go to Scrutiny, I do not think if it is a matter of personalities it should go to Scrutiny, but if it came to that then I would prefer to have a meeting of the Scrutiny chairman before it was decided on the course of action. I think we could accomplish this particular debate, certainly as far as I am concerned; yes I can express my concerns without maligning anybody particularly. For a matter of note the Connétable of St. Peter was not quite correct because I was away in Washington the week of the interviews for the chairman, and I was not in fact there. I am merely concerned with this particular proposition, I do not think in total it should go to Scrutiny. I wait for my colleagues to continue.

4.4.9 Senator B.E. Shenton:

I think I should stand and just clarify the position with regard to the Chairmen's Committee. Strangely enough, next week Senator Breckon on behalf of P.A.C. will be issuing a report on Home-Buy, and one of the problems on Home-Buy was the interrelationship at the early stages of policy, between Scrutiny and the Executive, and how this led to a certain amount of confusion. I think sitting here, it is fairly obvious that Senator Ferguson would be conflicted on this issue without a doubt, and Deputy De Sousa would also be conflicted on this matter. However, Deputy John Le Fondré is not conflicted and therefore Deputy Le Fondré will [Interruption] ... He is not

conflicted on this matter and I believe that a sub-panel could be formed under the leadership of Deputy Le Fondré, and I am sure Deputy Higgins and others would be willing to join the sub-panel. We certainly have the resources within Scrutiny to look at this issue but I think it does open-up a much wider problem, inasmuch as if you start inviting Scrutiny members that are responsible for scrutinising the policy of a department, on to the people and they end up making the policy, then who is going to scrutinise it at the end of the day? It is a mess that we got into on Home-Buy. Senator Breckon will be making announcements on our findings next week but this clearly is not satisfactory, and I think if it did go to Scrutiny I will probably support it.

4.4.10 Deputy R.G. Le Hérisier:

I would support a referral to Scrutiny. The one thing that worries me, and I do not think my very fine friend Deputy Martin quite got my meaning when I was having this internal self argument. I think the one thing that worries me is, if Members were involved, and there has been a lot of hint, hint, wink, wink, nudge, nudge, about this. If Members were involved in a process, which they thought was fundamentally flawed and they were being dragged along in this process, it still begs the question, why at that point did they not blow the whistle and bring the process to a halt? Of course the public must be utterly confused about the way we manage things, that we apparently take part in a very defective procedure, and that is now emerging, and it is only when we are about to put the seal of approval or try and put the seal of approval upon that procedure that it all comes out. It obviously has to come out now, it has been too seductive almost the way in which it has been put forward and I think the only way it can come out is through the Scrutiny process. I do not share Senator Shenton's concern that this will involve Scrutiny getting into policy because in a sense every time Scrutiny reports and analyses a policy ... Sorry?

Senator B.E. Shenton:

By Senator Ferguson becoming involved with the actual formation of the appointment process it left no one to scrutinise it.

Deputy R.G. Le Hérisier:

Sorry, I take the Senator's point. I believe it will give a breathing space. We are going to struggle - 53 reviews of the appointment process - we are going to struggle to deal logically with this. Too many hares have been set running and I think it needs to be looked at in a calm and considered fashion by Scrutiny and people independent of the process, and it will bring this very unseemly debate to an end.

4.4.11 Deputy T.M. Pitman:

If I was a betting man, Sir, I would wager that you deeply regret reminding us that we did not want to spend all afternoon having a debate about whether we were going to have a debate. As we have reached this point I have been convinced now by Deputy Martin, and I think Scrutiny is the quickest way to get this resolved. So my mind has been swayed, perhaps other Members have. It seems that whatever we do we certainly must come to a conclusion with as much information as possible. If the Deputy of St. John and Senator Ferguson are saying that we are not going to get that otherwise, then I think the path for us is quite clear. My mind has been swayed, let us put this to Scrutiny.

4.4.12 Senator P.F. Routier:

There has been just a couple of things said, one from Senator Shenton just now about the ... I will highlight it as what probably was an error involving Scrutiny members in the selection process. Well, I think that is a bit of a turn around from other Members who have been requesting that the Chief Minister should be more inclusive, to try and include people into more of the decision making process. I think you cannot have it both ways. I think it is ...

Senator B.E. Shenton:

That is not what I said.

Senator P.F. Routier:

Fair enough. Anyway I have said what I wanted to say. Some Members have said that it is a pity that the Minister for Treasury and Resources is not here. We need to all be aware that the current Ministry for Treasury and Resources is the Chief Minister at the present time because he hands over the duties to the Chief Minister. So if we want to have the view of the Minister for Treasury and Resources, he is here. I just turn to what the chairman of the P.P.C. said just now. There is a way forward for us today. There is the possibility of hearing the Deputy of St. John in camera. I think we have a problem whereby even if we went along the Scrutiny route with regard to hearing the Deputy in camera though there is going to be criticism of that. We decided against going in camera for the whole debate, and I voted against that, but I think because we have this problem of hearing what the Deputy wants to say. I think that an option, which the P.P.C. chairman has highlighted to us is that we hear the Deputy of St. John in camera, and I would like to propose that we allow that to happen.

The Bailiff:

Not at the moment, Senator, we will take the one proposition at a time I think, which at the moment is in debate, so that the chairman of the relevant Scrutiny Committee can come back in 2 weeks time and tell us. Deputy Higgins and then the Constable of St. Saviour.

4.4.13 Deputy M.R. Higgins:

I do not believe that the public can take any confidence from any decision that is taken here today. To be quite honest I believe that it needs to be scrutinised, and I believe the Scrutiny Panel would have the opportunity of involving, depending on the nature of the allegations that are being made and what it is looking at it, it could invite for example, the Appointments Committee member who took part in it, and any others who were involved in the actual process. **[Interruption]** Pardon? Sorry, if there were 3 members of the Appointments Commission then they could get evidence from them. We are not going to get that. We will not hear their views and I believe the Scrutiny Panel could address all these issues. I think that the most sensible course, and the course that would I think give the public the most confidence that we are reaching the right decision, is for it to go to the Scrutiny.

4.4.14 The Connétable of St. Saviour:

We are getting ourselves into a terrible mess; we are going round and round in circles. **[Approbation]** We are now being asked to make a decision on whether something should go to Scrutiny but we do not know what, we are not being told the details. How can we make a proper decision if we do not know the information? **[Approbation]** Can we not at this stage go into camera, hear the information, and then make a decision whether it goes to Scrutiny or not?

The Connétable of St. Peter:

Sir, if it helps I would support that.

The Bailiff:

Very well. Does any other Member wish to speak on the proposition of Deputy Le Claire? Yes, Deputy Noel.

4.4.15 Deputy E.J. Noel of St. Lawrence:

I believe that the good Deputy of St. John has set a number of hares running. One of those is process. I had a conversation with the good Deputy at the last States sitting about this particular topic. The element of process that he objects to is that himself and Senator Ferguson's objection is that they had a preferred candidate that was not supported by the Recruitment Board, who selected another candidate.

[15:45]

That is the breakdown in process; their recommendation was not acted upon. That is the Deputy of St. John's process. The other issues that the Deputy of St. John told me concerned one individual candidate and that had nothing to do about their ability to carry out their role in the S.o.J.D.C. It was about the history of the past where that individual made a substantial amount of money for their business by selling an asset and leasing it back. That same individual also sold part of their business, again for a substantial sum of money, and it is those 2 points that the Deputy of St. John took exception to. He happened to be a customer of one of those entities and he was not informed about the sale of that entity to a third party until after the sale happened. I believe that my cousin by marriage has brought personal issues into this Chamber and it is not relevant to this appointment. This appointment has gone through the correct processes. We have used the Appointments Commission. It has been thoroughly and robustly done, and for personal issues it has been railroaded. I do not think this warrants going to Scrutiny. I think this warrants us getting on and appointing these people to the job that we wish them to do.

4.4.16 Deputy A.E. Jeune:

I think we should get on and continue with this debate; that is my opinion. However I feel very strongly that as much as is possible should always be open, and the people should know what we discuss. Perhaps it would be helpful if Members who feel they are in a situation where it would be essential to protect members of the public being named, that they need to go into camera. If they could identify how many of us feel they would have to go into camera during the debate it might be helpful.

The Bailiff:

Very well. Does any other Member wish to speak? Then I call upon Deputy Le Claire to reply.

4.4.17 Deputy P.V.F. Le Claire:

You know, I have been doing this a long time in my view. I have done a number of jobs in my life, and I have tried to bring those experiences to bear. I have been doing this job for a number of years, I have been doing it for well over a decade, and I have sat through many, many, appointments, and many, many instances when they have gone into camera. Whether it be over Le Pas or this or W.E.B. or whatever; Sir, you yourself have had to endure many of my speeches in those times. What I will say is this; Members really miss the point. I was persuaded that it was time to create a States of Jersey Development Company having been a long-time opponent of W.E.B. and I did so because I thought it would be a clean start and a good start, and I threw my weight behind it, a considerable amount of weight. Nevertheless, this is no way for us to start. The chairman of P.P.C., I am sorry to say, needs to consider seriously what I am proposing and think about what she said in opposition to it. She criticised me for bringing this up early in this part of the debate, well how would Members have felt if it had gone an hour and a half and then reached this stage? We have already seen before we get into any more debate, whether it be in camera or out of camera, we have already seen what are the makings of a disaster. There is going to be significant doubt about the process and about the people being appointed from what has been heard already. All I wanted to do today was come along and support the proposition. I did not want to make a speech. I did not want to intervene in this manner but what I did want to do was ensure that the new process had my full support and that the people carrying it forwards, who are fine people, they could do so with the knowledge that they had my support and that I was behind them. Now, I am going to vote against this if this continues, and I would urge every other Member, if it does not get referred to Scrutiny, to vote against it as well. Because there is no way on earth that we can... I am not going to mention the other 2 places; there is no way on earth that we can drag out in this process what was wrong with the process, and there is no way in this process and at this Assembly that we should be safeguarding the rights of Members, and that is P.P.C.'s job. To allow the individual that has a concern to bring forward information, highly serious information according to

the proposer, in a way that protects their position, and allows us most importantly, as mentioned by Deputy Tadier and Deputy Higgins, to do so under oath without being in a position where they could be sued, and most importantly to bring the officers and whoever else was involved in all of this saga, I do not need to know, in a process as a witness, and protected as a witness, to give their evidence as a witness. It does not matter how many of us go into camera in our speeches. Those individuals whose word we now have to hear in order to make sure we are going forwards in the right direction, their voices are going to be silent. They will not even be in camera. Their voices will be silenced. I am sorry to say, and I would hope that Members would support my request for it to go to Scrutiny, because otherwise it is going to be an unsightly continuing debate. Let us take this opportunity to have a breathing space. Let us take this opportunity to investigate what has been raised as significant issues. Let us give the Minister for Treasury and Resources and the Chief Minister, and any other person, the opportunity to look at those in the cold light of day and report upon them factually so that when we come to make this decision we are doing so with the full knowledge that it ticks all the boxes, and we can go back to the public and say, rather than a load of bravado speeches and: “I am behind this one and I am behind that one”, we can sign it off on our own basis. I am not satisfied to know what conversation the Deputy of St. John had with who, when, what date, where Senator Ferguson was on this day, what Deputy Noel thinks. That does not concern me. What concerns me is my vote in this proposition and in going forwards with these people that are going to manage a significant portfolio of properties, investments and futures in our Island. Billions of pounds worth needs to be done, and I cannot understand the opposition. Surely any prudent business person would at this stage say: “Hang on, let us not go any further, let us park this, conduct due diligence and then get behind it 100 per cent. If it is rubbish let us scotch that rubbish with facts. If these concerns are ill-founded let us bury those ill-founded concerns.” If these people have been maligned in any way, because they have certainly not been having an easy ride of it so far, this is not a way to introduce somebody into a position. If they have been maligned in any way then let us have the opportunity for everybody to stand up and say: “Shame on you for inferring that that the process was not correct. Shame on you for inferring that the appointments were not correct.” Let us do it with evidence. You will not get evidence in a debate, you will only get that in Scrutiny, so I ask for the appel.

The Bailiff:

Very well, the appel is called for then for the proposition of Deputy Le Claire under Standing Order 79, that debate be suspended and the States request the relevant Scrutiny Panel to consider having the proposition referred to it. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 20		CONTRE: 19		ABSTAIN: 2
Senator B.E. Shenton		Senator T.A. Le Sueur		Senator S.C. Ferguson
Senator A. Breckon		Senator P.F. Routier		Deputy of St. John
Senator F. du H. Le Gresley		Senator A.J.H. Maclean		
Connétable of St. Helier		Senator B.I. Le Marquand		
Connétable of St. Lawrence		Connétable of Trinity		
Deputy R.C. Duhamel (S)		Connétable of Grouville		
Deputy of St. Martin		Connétable of St. Saviour		
Deputy R.G. Le Hérisssier (S)		Connétable of St. Clement		
Deputy J.A. Martin (H)		Connétable of St. Peter		
Deputy G.P. Southern (H)		Connétable of St. Mary		
Deputy of Grouville		Deputy J.B. Fox (H)		
Deputy P.V.F. Le Claire (H)		Deputy of St. Peter		
Deputy J.A.N. Le Fondré (L)		Deputy J.A. Hilton (H)		
Deputy S. Pitman (H)		Deputy of Trinity		
Deputy K.C. Lewis (S)		Deputy S.S.P.A. Power (B)		
Deputy M. Tadier (B)		Deputy I.J. Gorst (C)		

Deputy T.M. Pitman (H)		Deputy A.E. Jeune (B)		
Deputy A.T. Dupré (C)		Deputy E.J. Noel (L)		
Deputy M.R. Higgins (H)		Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)				

The Bailiff:

Well if I may, Senator Shenton, no doubt you will liaise with the chairman of the Corporate Scrutiny Panel to see how this can be taken forward?

Senator B.E. Shenton:

Yes, we have a Chairmen’s Committee meeting coming up, Sir.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Bailiff:

Very well, then that concludes that matter and it concludes Public Business so we come now to the arrangement of Public Business at future meetings. I invite the Chairman of P.P.C. to propose it. Can we have silence please?

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

The arrangement of future business is as listed in the Order Paper, with the following changes. First of all, on the meeting of 29th March I have given notice already to Members that will be proposing an in-committee debate at that time on R.28, which was presented to the States this week. Then business on 5th April is unchanged. To business on 3rd May we have to add the proposition P.41, Freedom of Information Implementation Plan lodged by Deputy Le Hérisier. That is all the alternate business I have, although of course at some future meeting we will be coming back to continue the debate that we have just suspended, I am not sure yet when.

The Bailiff:

Yes, well what will happen is, certainly at the next meeting the chairman must return to say whether this matter is to be referred to Scrutiny, whether the relevant Scrutiny Panel wants to have it. If it does not then presumably the debate will proceed in 2 weeks’ time. If it does then a date will be fixed for the re-commenced debate.

The Connétable of St. Mary:

Thank you, Sir.

Senator P.F. Routier:

Is there any opportunity for the Scrutiny Panels to have done any work before the next sitting rather than having to wait until coming back to the next sitting?

The Bailiff:

That is entirely for the relevant Scrutiny Panel I think.

Senator S.C. Ferguson:

We do have a Chairmen’s Committee, Sir, so that I think it will get fairly well debated.

5.1 Senator A. Breckon:

My proposition P.150 on the Jersey Financial Services Commission: imposition of fines, I understand some work is underway. I would ask for the moment if that could be moved to 5th April or the sitting after because when I get some assurances either from the Minister or the

Financial Services Commission, and it is possible if that happens then that will be withdrawn but could I move it to further over?

The Bailiff:

So you will move that one to 5th April?

Senator A. Breckon:

Yes, Sir.

5.2 Connétable L. Norman of St. Clement:

Members will note again that the Samarès Nursery site: removal from the Draft Island Plan is down for 29th March. I cannot really offer this to be debated until the Island Plan itself has been lodged when we would know whether the prayer of the petitioners has been acceded by the Minister. I do understand, I have been informed, I have been told or I have heard that the Island Plan is to be lodged on or before 29th March. If what I have been told by the Minister is correct, that the prayer has been granted, then obviously I will withdraw this proposition. However, if it has not then I will wish to proceed with the debate provided the Island Plan has been lodged. If the Island Plan has not been lodged then I will defer until it has been.

The Bailiff:

That is very helpful, so we will leave it in at the moment with Members being aware of that.

The Connétable of St. Clement:

Yes please, Sir. I will notify Members what the situation is.

Deputy G.P. Southern:

May I just take the opportunity to remind the Minister for Treasury and Resources incarnate that I did ask last time for the earliest possible comments on my higher rates of tax before the debate, and I would remind him again, that as soon as I can get it the sooner I can really do my work.

Senator T.A. Le Sueur:

The Minister for Treasury and Resources remembers that.

The Bailiff:

Very well. Then do Members agree to adopt the arrangements for future public business as listed?

5.3 Senator T.A. Le Sueur:

There is one question, Sir, about Projet 30. I had hoped that the Comptroller and Auditor General would have produced an interim report by that stage. I have not yet seen it and it may well be that I will ask for Project 30 to be put on hold should that report not be forthcoming at the time required. I say that because I think if we are going to have a properly informed debate about this we need to see the response of the Comptroller and Auditor General before proceeding. I therefore suggest that Projet 30, or I look to Deputy Le Hérisier; I would suggest that it is not a matter necessarily of such great urgency. If you leave that at least until 5th April and see how we go thereafter.

5.4 Deputy R.G. Le Hérisier:

Sir, no I object. We have already delayed it, I was put under duress last time and had to agree. There was a promise, and perhaps Senator Shenton can adumbrate, there was a promise that a C.A.G. report would be available, and I really think it is a matter of great public concern, and the sooner we do this the better. I am not asking for anything revolutionary, that all appointments skid to a halt, that all payments over £100,000 are refunded and so forth. It is an advisory kind of proposition in its nature and I am sure we could go ahead with it.

[16:00]

The Bailiff:

Well, forgive me, are you making a proposition to take it out at the moment or are you intending to leave it in? [Aside] Very well, so subject ... Deputy?

5.5 Deputy M. Tadier:

I am happy to move P.34 to 5th April, which is to do with States Members training. I was going to say it is not urgent but some Member might disagree with me. The reason being it is partly to give Members more time to think about it, but I know that a couple of Members may wish to add some amendments that I am discussing with them at the moment and the extra time would be helpful.

The Bailiff:

So you want to move that ...?

Deputy M. Tadier:

To 5th April if that is possible.

The Bailiff:

Well, it is your choice at this stage. Very well, so that one is moved. Subject to that, do Members agree to take the business as set out in the Order Paper? Very well, thank you very much then that concludes the business of Assembly, which will re-convene in 2 weeks' time.

ADJOURNMENT

[16:01]