

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 6th MARCH 2012

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[9:30]

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

1. Written Questions

1.1 DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE COMPOSITION OF THE HOUSING WAITING LIST:

Question

Of the figure of 522 on the Housing waiting list would the Minister advise the Assembly how many people this actually equates to in terms of the number of adults and children within each family unit?

Answer

Whilst it has been possible to breakdown the waiting list data in the manner requested, doing so has required significant resources from within my department. These are therefore not figures that I am able to publish regularly.

The Housing Department has always held a waiting list for social rented accommodation and there have been a number of other waiting lists held by other providers, most significantly the Housing Trusts. Simply adding those lists together would have involved significant duplication and portrayed an inaccurate and far higher demand for social housing than was actually the case.

As part of the Housing Transformation Programme an Affordable Housing Gateway has been developed as the single access point for all affordable housing applications. This Gateway is now operational and we are in the process of amalgamating the waiting lists of all the providers with the exception of the Parishes (who represent just 6% of the social housing stock). All of the Trust waiting lists have now been closed. This has meant that we have been able to strip out the significant duplication that existed where people were applying for housing to more than one provider. As a result we can be certain that all those applying through the Gateway have been consistently means tested and are genuinely in housing need. The Housing Trusts and my department are now making all of their allocations (60 so far this year) from the Gateway.

CURRENT DEMAND

As at 20th February 2012 the Gateway demonstrates that there are **574** applicants in need of a rental home (Gateway Bands 1, 2, 3 & 6). It is important to note that the amalgamation work is on-going and it is possible that this figure will continue to rise, albeit only moderately. This apparent increase in waiting list figures is not a reflection of “new” or ‘emerging’ demand, but a reflection of the previously “hidden” demand within the waiting lists held by the Housing Trusts.

There are two further Bands within the Gateway, Bands 4 & 5, which refer to applicants who are already adequately housed but who wish to move, either to alternative rental accommodation or an affordable purchase scheme if it were available. Additionally the waiting list figure of **574** does not take into account applicants who are currently living in social rented housing but require a transfer to alternative accommodation.

The current waiting list of **574** has been broken down by the household make up of each application as requested. The total number of individuals within the **574** applications is **1,421** – the breakdown of the age of those household members is shown below.

Age Range	Number of individuals	Number of applications
18 or younger	527	0
19 - 40	455	253
41 - 65	342	248
over 65	97	73
Total	1,421	574

67% of waiting list applications are from families.

	Number of individuals	Number of applications	% of total
Applications with no dependants	240	189	33
Applications with dependants	654	385	67
Dependants	527	0	0
Total	1,421	574	100

This is no surprise. Demand for family homes, particularly two bedroom properties, has seen a significant increase since 2008 when the supply of new homes being developed slowed significantly.

EXISTING TENANTS REQUIRING A TRANSFER

The Gateway offers more flexibility in regards to both waiting list and transfer list applicants, as allocations of all social housing stock, not just the Housing Department but also the Trusts, are being made through the Gateway. This increases mobility and provides for more equitable allocations amongst providers for the benefit of all tenants. The Gateway demonstrates that if a greater supply of one bedroom properties were available, social housing transfer applicants currently under-occupying two and three bedroom social rented homes could move thereby releasing their existing family homes for those on the waiting list.

SUPPLY

The figures demonstrated by the Gateway are not just statistics, they are real people every single one of whom will have been visited and assessed personally against stringent allocations criteria. This careful and thorough assessment takes into consideration all household members whether they are children, grandchildren or elderly dependants.

Understanding the level of need and having confidence in that data will, I hope, be sufficient justification for a greater supply of homes being delivered through our planning system. Increasing supply really is the key to reducing the current high level of need.

The year on year waiting list figures demonstrate that demand has increased significantly since 2008, when the supply of affordable homes effectively dried up. That is despite the fact that the States re-zoned land for life long and first time buyer Homes (P75/2008) in 2008. It is regrettable that very few of those homes have been delivered to date and it is that lack of supply which we are now so short of. It must be a concern that as building on most of these sites has not yet commenced it will be another 2 years at least before we turn any keys in new homes.

It is often misunderstood that it is the Housing Minister who controls the supply of homes when it is in fact the Planning and Environment Minister who has his hands on the supply levers. I know that the lack of supply is of concern to the Planning and Environment Minister and we must all support him in whatever initiatives he comes up with to speed up the supply and see that land rezoned by the States in response to Housing need is developed in a timely manner and not just when it might best suit land owner and developer.

I will be publishing a White Paper at the end of this month which will bring forward a number of proposals which will improve the way that affordable housing is delivered in Jersey in the future.

Social housing rents and States rents in particular have fallen significantly behind the market and are now providing a hidden and unintended subsidy to all social housing tenants irrespective of their financial circumstances. This is despite the intended policy of successive Housing Committee's to have rents at 90% of the private rental market. Providing this hidden subsidy was not the intention of this Assembly when it established Income Support.

Removing the hidden subsidy and returning to nearer market rents is one of the proposals in my forthcoming White Paper. However, this alone will not deliver affordable housing. What is needed is a long term and sustainable approach to Housing the population and core to that is the need for:-

- A body to champion housing issues
- An appropriate form of regulation for the affordable housing sector
- Affordable housing providers who are financially sustainable and agile enough to respond to the changing housing needs of the population

Members will be aware that as things currently stand I am simultaneously expected to set sector and Island-wide housing policy, regulate the activities of other social landlords and provide landlord services to 4,500 homes. There are clear conflicts in this which are unhelpful. I will therefore be bringing forward proposals to separate these functions and establish a Strategic Housing Unit and an independent regulatory body.

The Strategic Housing Unit will have a number of responsibilities the most significant of which will be in respect of setting our long term housing strategy to ensure that we have the right number of affordable homes going forward.

A Regulator is necessary in order to ensure adherence to the policies of the Strategic Housing Unit and to provide an independent view on the performance of the various providers. However, the other role of regulation is to generate confidence in the sector for all stakeholders including States members, Tenants and Lenders.

The White Paper will also set out my proposal to transform the current Housing Department into a more agile and flexible organisation. A number of options have been considered and my proposal is for a wholly States-owned Housing Association.

The new Association will be permitted to borrow which will allow it to speed up investment in the stock for the benefit of its Tenants and to use existing assets more intensively; generating new homes which better meet the needs of the population. The new Association will be staffed by the staff from my existing Department ensuring that the considerable expertise is retained for the benefit of tenants. The new Association will be able to grow and provide more homes if that is what is necessary, setting the rents at nearer market level will ensure that new homes can be developed without the necessity for States subsidy.

I can confirm that the Political Steering Group overseeing the HTP includes the Treasury and Resources Minister and the Minister for Social Security and recommendations 11 and 12 of the scrutiny report are fully covered by the Housing Transformation Programme and an outline of future policy will be included in the forthcoming White Paper.

However, it would not be appropriate for a White Paper on Housing reform to discuss the detailed interaction between rent levels, income tax thresholds, minimum wage and Income Support.

Work is being co-ordinated through the Housing Transformation Programme on changes that will be required to Income Support as a result of the reform of the social rented sector. These proposals will be put to the States in parallel with the proposals for Housing reform.

1.2 DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING RESIDENTIAL DEVELOPMENTS OF 3 PROPERTIES OR MORE:

Question

Would the Minister make available a list of residential planning applications to develop 3 properties or more per site that have received planning permission but have not yet commenced development?

Would he also make available a list of residential planning applications for 3 properties or more per site that have commenced development but which have yet to send in a certificate of completion?

Answer

The Minister for Planning and Environment publishes regular monitoring reports on housing land availability. These reports provide details of, amongst other things, all outstanding residential planning permissions, together with all homes under construction.

The last report, reflecting the position as at January 2011, was published in September 2011. It is published and available on the States of Jersey website and was sent to all States Members.

The next report, reflecting the position as at January 2012, is presently in preparation, and will be published once complete.

1.3 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING THE INTRODUCTION OF RESIDENCE AND WORK PERMITS:

Question

Would the Chief Minister outline the circumstances under which he would contemplate proposing the introduction of residence and work permits and also outline any legal or political impediments to their implementation?

Answer

The question of additional controls around migration will be reviewed alongside a post-implementation review of the new Control of Housing and Work (Jersey) Law and Register of Names and Addresses (Jersey) Law, and further measures may be proposed depending on the outcomes. This would seem a proper process to arrive at conclusions.

However, the new legislation will bring significant enhancements to the compliance regime around the ability of migrants to access work and be housed, and will provide a population register so we can track population and immigration, and so achieve whatsoever targets are agreed by the Assembly. In addition, the new legislation does contain provisions to grant permissions to workers on an individualised basis and to direct precisely where such persons may live and for how long they may work, so is able to be flexible in response to prevailing conditions.

As to introducing residence permits as well as effective controls over work, the dominant driver for migration is the desire to obtain work, for example, 94% of Polish nationals and 90% of Portuguese nationals of working age are working, so also controlling residence would seem largely an unnecessary cost. Furthermore, Jersey is part of the British Isles, with the obligations incumbent by virtue of our constitutional position, the Immigration Act - and Protocol 3 - that British Nationals have the right to reside in Jersey (and Jersey residents to reside elsewhere in the British Isles) and that European Union nationals have the right to enter and remain in the Island.

1.4 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE ENERGY FROM WASTE PLANT AND ITS POTENTIAL USE BY GUERNSEY:

Question

Further to the Minister's response to part 1(v) of my written question of 21st February 2012 relating to the Energy from Waste plant, would he advise whether Guernsey politicians were advised during their discussions with his Department regarding the potential exportation of their waste, that their Jersey counterparts had yet to determine whether they would be willing to accept their waste and, if not, why not?

Answer

The Minister can confirm that during the meeting on the 10th January 2012 the politicians visiting from Guernsey were informed that the importation of waste into Jersey for treatment in the Island's

Energy from Waste plant will not proceed until the principle of waste importation has been discussed and approved by the States of Jersey Assembly. This is in accordance with P17/2010 Amd.

1.5 DEPUTY J.A. HILTON OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE NUMBER OF PLACEMENTS OFFERED TO REGISTERED UNEMPLOYED PERSONS BY STATES DEPARTMENTS:

Question

Would the Chief Minister advise whether any registered unemployed have been offered placements within States Departments on either work experience, Advance to Work or Advance to Work Plus during the past 2 years and, if so, advise how many and in which Departments?

If there have been placements, would the Chief Minister advise how many have resulted in positions being offered to those people involved and would he indicate whether these were permanent or contract posts?

Answer

Across all the States-managed schemes operating voluntary work placements, 105 placements were offered by the Departments during 2010 and 2011. In addition, 18 people were offered placements through the Prince's Trust scheme.

The States schemes currently operating placement schemes are Advance to Work, Advance Plus, Workwise and Work Zone. A breakdown of the specific numbers of placements by department and scheme is provided in figure 1 below.

Discussions are ongoing for the provision of at least 100 additional voluntary placements within States Departments which can be channelled through the Back to Work team to the most relevant scheme. There is also a proposal that temporary resources within departments are initially sourced from among those who are unemployed, including people who may already be on voluntary placements.

The figures show a general increase in support for the schemes managed by the States of Jersey and the Prince's Trust between 2010 and 2011.

States departments have also shown their support for the principle of training through placements by engaging with both the Project Trident and IOD Work Shadow schemes which are run annually for school students. 472 students were placed with departments on the 2 schemes during 2010 and 2011.

During 2010 and 2011 10 people were offered permanent contracts as result of placements and 26 were placed on contracts or temporary paid work.

Figure 1

Placements through Advance to Work, Advance Plus, Workwise, Work Zone and The Prince's Trust and resulting employment by department

Department	Advance To Work			
	2010	2011	Permanent	Contract

Chief Minister				
Economic Development				
Education, Sport & Culture	6	8	3	
Environment	1			
Harbours				
Health & Social Services		3		
Home Affairs	1	2		1
Housing	1			
Human Resources		2		1
Information Services				
Jersey Airport				
Law Offices				
Social Security	1	1		
Transport & Technical Services	3	4		
Treasury	1	3		1
	14	23	3	3

Department	Advance Plus			
	2010	2011	Permanent	Contract
Chief Minister				
Economic Development		1		1
Education, Sport & Culture		9		3
Environment		1		
Harbours				
Health & Social Services				

Home Affairs		2		
Housing				
Human Resources		1		
Information Services				
Jersey Airport				
Law Offices		1		
Social Security				
Transport & Technical Services		4		1
Treasury		3		
	0	22	0	5

Department	WorkWise			
	2010	2011	Permanent	Contract
Chief Minister	1	1	1	
Economic Development				
Education, Sport & Culture	2	5	3	3
Environment				
Harbours				
Health & Social Services	3			2
Home Affairs	2			1
Housing	2	1		
Human Resources				
Information Services				
Jersey Airport		1		
Law Offices				

Social Security	5	2		1
Transport & Technical Services	2	7	3	5
Treasury				
	17	17	7	12

Department	WorkZone			
	2010	2011	Permanent	Contract
Chief Minister				
Economic Development				
Education, Sport & Culture				
Environment				
Harbours				
Health & Social Services				
Home Affairs				
Housing				
Human Resources				
Information Services				
Jersey Airport				
Law Offices				
Social Security		11		1
Transport & Technical Services		1		1
Treasury				
	0	12	0	2

Department	Princes Trust			
	2010	2011	Permanent	Contract

Chief Minister				
Economic Development				
Education, Sport & Culture	10	6	0	4
Environment				
Harbours				
Health & Social Services				
Home Affairs				
Housing		2		
Human Resources				
Information Services				
Jersey Airport				
Law Offices				
Social Security				
Transport & Technical Services				
Treasury				
	10	8	0	4

Department	Trident		IOD Work Shadow	
	2010	2011	2010	2011
Chief Minister	4	3	2	
Economic Development	2	1	2	1
Education, Sport & Culture	180	162	2	3
Environment	10	5		1
Harbours	2	2	1	1
Health & Social Services	11	6	3	4
Home Affairs	0	1	2	2

Housing	2	1		
Human Resources	0	2		
Information Services	1	2		
Jersey Airport	3	2		
Law Offices	0	2		
Social Security	1	3		1
Transport & Technical Services	12	12		2
Treasury	7	6		
	235	210	12	15

	2010	2011	Permanent	Contract
Totals (excluding Trident & IOD)	41	82	10	26

	2010	2011	Permanent	Contract
Chief Minister	1	1	1	0
Economic Development	0	1	0	1
Education, Sport & Culture	18	28	6	10
Environment	1	1	0	0
Harbours	0	0	0	0
Health & Social Services	3	3	0	2
Home Affairs	3	4	0	2
Housing	3	3	0	0
Human Resources	0	3	0	1
Information Services	0	0	0	0
Jersey Airport	0	1	0	0
Law Offices	0	1	0	0

Social Security	6	14	0	2
Transport & Technical Services	5	16	3	7
Treasury	1	6	0	1

*All figures included in this answer and figure 1 are collated from the records of Advance to Work, Advance Plus, Workwise, Work Zone, The Prince's Trust, Project Trident and the IoD Work Shadow Scheme not from the departments involved.

1.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING A REDUCTION IN INCAPACITY BENEFIT:

Question

With respect to the Minister's recent statement on the reduction of incapacity benefits, does the Minister accept that when the new in-work benefit LTIA (Long Term Invalidity Allowance), for persons who suffer a permanent loss of physical or mental faculty as a result of disease or accident, was introduced in 2001, it was clearly stated that it would not apply to existing beneficiaries?

Does he consider that any attempt to amend this provision relating to existing beneficiaries (currently 1,036), would be a breach of trust?

Will the Minister confirm that for the 1,036 existing beneficiaries, a choice to transfer to LTIA would currently risk a reduction in their award from a 100% (£186 weekly) to some lesser percentage?

Does he further accept that any reduction in payments awarded on either of these schemes (funded from contributions to the Social Security Fund) would, in most cases, merely result in increased costs to the taxpayer in Income Support payments?

Does he finally accept that if he wishes to reduce the cost of the benefit bill to taxpayers he could raise contributory benefits by a margin significantly over inflation?

Answer

When Long Term Incapacity Allowance (LTIA) was introduced in October 2004, the amendments to the Social Security Law were such that existing claimants had the option to either move to the new benefit or to remain on their existing benefit. Article 54A provides that individuals entitled to various benefits prior to October 2004, were allowed to continue to receive these benefits (including Invalidity Benefit) after October 2004, whilst they continued to satisfy the eligibility conditions of the pre-2004 benefit.

It should be noted that the changes to incapacity benefits were made in October 2004, rather than 2001, as suggested by the question.

I do not consider that any attempt to amend Article 54A would be a breach of trust. Article 54A can be amended in the same way as any other legislation. Social attitudes and expert advice evolve and it is only correct that legislation should be updated from time to time. Any decision to amend legislation is taken by the States Assembly in a transparent and democratic manner.

At the end of December 2011 there were 968 invalidity claims remaining. Most Invalidity Benefit claims are paid at the standard benefit rate of £184.45 per week. Individuals can choose to transfer from Invalidity Benefit to LTIA at any time.

An individual receiving Invalidity Benefit is not allowed to perform any work related activities or to have any earnings (with some limited exceptions). An individual receiving LTIA is allowed to return to or continue in employment and receive the benefit and wages at the same time. The value of the LTIA award is based on an assessment of the loss of the faculty of the individual. This is determined on a percentage basis and awards can be made between 5% and 100%, depending on the extent of loss of faculty.

It is correct that the value of the LTIA benefit will never exceed the value of the Invalidity Benefit and in many cases; the value of LTIA will be less than the Invalidity Benefit, reflecting the inflexibility of Invalidity Benefit. However, an individual moving from Invalidity Benefit to LTIA is able to continue to claim a contributory benefit based on their loss of faculty and is also able to take up employment. For lower income households, a transfer from Invalidity Benefit to LTIA would result in a decrease in the incapacity benefit, and a corresponding increase in income support, with no (or minimal) net change to the individual.

However, whereas the transfer from invalidity to LTIA may have little short-term impact on the financial situation of the claimant, their long-term prospects are improved as they are able to undertake retraining and gradually move back into employment, progressively reducing their dependence on benefits. Many recent studies point to the positive impact of employment and the negative impact on individuals who are excluded from the workplace for significant periods. The positive impacts extend beyond financial aspects to include better health and social well-being.

The suggestion that we could increase contributory benefits “by a margin significantly over inflation” in order to reduce the cost of the benefit bill to taxpayers is wholly irresponsible. Members will be well aware of the existing pressures on the Social Security Fund and the increasing costs of pensions over the next two decades. The cost of contributory benefits is borne by local employers and employees, the same people who pay taxes.

1.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING SAVINGS IN THE DRAFT STRATEGIC PLAN RESOURCES STATEMENT:

Question

Will the Minister explain to members the implications, in terms of service delivery or savings, of the 2012 – 2015 figures (given in Figure 1 of the Discussion Draft: Strategic Plan Resources Statement circulated on 21st February 2012) under the following headings –

Prices – Housing Rents

Income Support Model adjustment

Supplementation Formula adjustment?

Answer

This is a very difficult question to answer simply. Many factors (already in the public domain) influence the spending areas in the question – for example the number of Income Support claimants and Social Security contributions of individuals.

The figures referred to by the Deputy are the annual adjustments to cash limits, in line with current policies, and are required to maintain the *current* level of service or benefit. The amount of the adjustments varies from year to year based on the particular factors (such as the examples above) included in the formula.

1.8 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING SAVINGS PROPOSALS TO AVOID TAX RISES:

Question

Will the Minister inform members what proposals, if any, he has under consideration relating to borrowing, user-pays and drawing on the Island's 'significant resources', to deliver on the assurance he gave to the Assembly on 21st February 2012, that there need not be tax rises over the coming 3 years in order to meet financial targets?

Will he detail for members what aspects of the public sector terms and conditions he expects will deliver the £14 million savings required?

What contingency plans, if any, does the Minister have to compensate for the possibility that the terms and conditions savings or Education, Sport and Culture Department savings are not delivered in 2012 and if not, why not?

Answer

The Minister for Treasury and Resources, together with his Ministerial colleagues, is in the early stages of planning and preparing for the Medium Term Financial Plan (MTFP). Detailed work to conclude the MTFP will commence after the States have approved the Strategic Plan. The Medium Term Financial Plan, due to be lodged in July, may contain proposals on some new appropriate user-pays charges and a strengthened policy for maintaining the Island's Reserves. Borrowing has never been ruled out for capital investment that would yield a return, for example Social Housing. The Minister would not wish to bring any increases in the rates of Income Tax or GST to the States in the next 3 years, but it must be remembered that it is the States that ultimately decide on levels of spending, which must then be financed by taxes raised.

It is in the long term interests of the States, its employees and of Islanders in general that we develop a modern, flexible workforce that provides value for money for taxpayers. The 2012 Business Plan and Budget, which were agreed by the States, do not allow for any increase in the public sector pay bill.

The 2012/2013 public sector pay review is now underway and comes at a time of continuing economic uncertainty, when pay restraint is essential. We have fulfilled our commitment to staff by paying increments to c3,600 colleagues which were due in January 2012 and have proposed a 3-year pay deal. States employees have a very positive pay and benefits package that ensures a high degree of job security and I would encourage employee representatives to work with us as negotiations continue.

Discussions continue with employee representatives on opportunities for saving money on terms and conditions which could be used for staff remuneration. The aspects of public sector terms and conditions that will deliver savings will be developed by working in partnership with employee representatives.

The States are committed to achieving the £65 million CSR savings target. The States must live within their means so that issues such as unemployment, housing and reforming the health service can be tackled. This means that the financial savings outlined in the CSR need to be delivered. Departments continue to work on delivering the savings targets outlined in the Comprehensive Spending Review.

1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE DELIVERY OF AFFORDABLE HOUSING:

Question

Will the Minister inform members how an increase in States rental levels will assist his department to deliver affordable housing in line with the Strategic aim to “House the community”?

What proposals, if any, does the Minister have under consideration to respond to recommendations 11 and 12 of SR3/2011 ‘Review of Benefit levels’ and if none, why?

What consideration, if any, will the Minister given in his forthcoming white paper on Housing Reform to the interaction between rent levels, income tax thresholds, minimum wage and Income Support, and if none, why?

Answer

I will be publishing a White Paper at the end of this month which will bring forward a number of proposals which will improve the way that affordable housing is delivered in Jersey in the future.

Social housing rents and States rents in particular have fallen significantly behind the market and are now providing a hidden and unintended subsidy to all social housing tenants irrespective of their financial circumstances. This is despite the intended policy of successive Housing Committee’s to have rents at 90% of the private rental market. Providing this hidden subsidy was not the intention of this Assembly when it established Income Support.

Removing the hidden subsidy and returning to nearer market rents is one of the proposals in my forthcoming White Paper. However, this alone will not deliver affordable housing. What is needed is a long term and sustainable approach to Housing the population and core to that is the need for:-

- A body to champion housing issues
- An appropriate form of regulation for the affordable housing sector
- Affordable housing providers who are financially sustainable and agile enough to respond to the changing housing needs of the population

Members will be aware that as things currently stand I am simultaneously expected to set sector and Island-wide housing policy, regulate the activities of other social landlords and provide landlord services to 4,500 homes. There are clear conflicts in this which are unhelpful. I will

therefore be bringing forward proposals to separate these functions and establish a Strategic Housing Unit and an independent regulatory body.

The Strategic Housing Unit will have a number of responsibilities the most significant of which will be in respect of setting our long term housing strategy to ensure that we have the right number of affordable homes going forward.

A Regulator is necessary in order to ensure adherence to the policies of the Strategic Housing Unit and to provide an independent view on the performance of the various providers. However, the other role of regulation is to generate confidence in the sector for all stakeholders including States members, Tenants and Lenders.

The White Paper will also set out my proposal to transform the current Housing Department into a more agile and flexible organisation. A number of options have been considered and my proposal is for a wholly States-owned Housing Association.

The new Association will be permitted to borrow which will allow it to speed up investment in the stock for the benefit of its Tenants and to use existing assets more intensively; generating new homes which better meet the needs of the population. The new Association will be staffed by the staff of from my existing Department ensuring that the considerable expertise is retained for the benefit of tenants. The new Association will be able to grow and provide more homes if that is what is necessary, setting the rents at nearer market level will ensure that new homes can be developed without the necessity for States subsidy.

I can confirm that the Political Steering Group overseeing the HTP includes the Treasury and Resources Minister and the Minister for Social Security and recommendations 11 and 12 of the scrutiny report are fully covered by the Housing Transformation Programme and an outline of future policy will be included in the forthcoming White Paper.

However, it would not be appropriate for a White Paper on Housing Reform to discuss the detailed interaction between rent levels, income tax thresholds, minimum wage and Income Support.

Work is being co-ordinated through the Housing Transformation Programme on changes that will be required to Income Support as a result of the reform of the social rented sector. These proposals will be put to the States in parallel with the proposals for Housing reform.

1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING POPULATION FIGURES AND THE MEMBERSHIP OF THE HEALTH INSURANCE SCHEME:

Question

Will the Minister give members an explanation of the difference between the population figure (97,857 according to the 2011 Census) and the figure of 92,500 members of the Health Insurance scheme given in his Department's Annual Report and Accounts 2010?

Answer

The Health Insurance scheme is available to all Jersey residents, once they have lived in Jersey for at least six months at any time, and have paid any Social Security contributions due during that

time. The estimate provided each year is based on the population figure from the Statistics Unit for the previous year, to account for the new arrivals during the year.

These population statistics are shown on the gov.je website* and, for example, are used in the States Annual Performance Report. The difference between the Census figures and the population estimates over the last few years is being investigated by the Statistics Unit.

As noted in the response to question 6709, some historical data was reported inaccurately in the statistical appendix to the 2010 accounts. The correct information is set out below:

HEALTH INSURANCE	2006	2007	2008	2009	2010
Number of persons in the scheme	88,200	89,300	90,800	91,800	92,500
Number of doctors' visits during year by claimants	346,465	345,645	346,782	366,757	344,054
Number of prescriptions during year	1,251,616	1,324,335	1,489,319	1,590,227	1,651,355

There are no errors in the statistical appendix in respect of years 2009 and 2010. The transcription errors relate solely to the historical data for 2006, 2007 and 2008. The statistical appendix does not form part of the report and accounts and these were not affected in any way by this transcription error.

*<http://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/TD%20PopulationChangesSince2000%2020090529%20SU.xls>

1.11 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING IMPROVING PUBLIC PARKING AT LA RUE DES PRES:

Question

What steps, if any, is the Minister taking to improve the provision of parking at La Rue des Pres Trading Estate, with particular reference to the use of the public car park?

Answer

The Minister refers the Deputy to the answers to his questions 4156 tabled in January 2009 and 5235 tabled in March 2010, when it was explained that this is not a public car park under the Road Traffic (Public Parking Places) (Jersey) Order 1985 and that Jersey Property Holdings (JPH) did not have powers to police car parks. The questions and responses are attached for ease of reference.

The car park is a private car park in public ownership that is managed by JPH with no limits to its use. To limit use would require some mechanism, such as a barrier entry system or permit, which regulates usage. A charge would then need to be levied to offset cost of operation.

In the Minister's view, there is an expectation that the car park is to be made available to the public with some regulation as to its use by commercial enterprises.

Various options have previously been put forward by JPH, including converting the car park to a public car park under the 1985 Order, to be administered and policed by either Transport and Technical Services or the Parish. To date neither authority has indicated a willingness to take over this responsibility.

Obviously each landowner or operator has the responsibility in conjunction with the Planning Department to ensure sufficient staff and customer parking for the operation of their business.

There is a restrictive covenant in each deed of ownership that requires each owner to provide on-site car parking. The deeds also prohibit retailing to be undertaken on the site, however, when originally developed the then Island Development Committee gave consent for retailing to take place, with what clearly now appears to be insufficient on-site parking provision.

The Minister believes that this long-standing issue needs to be addressed and the Assistant Minister would welcome entering into discussions with the Parish officials and the TTS Minister and his officers to determine a means to transfer the site to an authority that has appropriate policing powers in order that it can indeed be converted to a public car park and policed in accordance with the Law.

Previous Questions and Responses:

**WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY R.G.
LE HÉRISSEIER OF ST. SAVIOUR**

ANSWER TO BE TABLED ON TUESDAY 20th JANUARY 2009

Question

What issues, if any, arise in managing public car parking on the Rue des Pres Trading Estate and how are these issues being resolved?

Answer

Background

The land which currently forms the 42 space car park was originally acquired as part of the Rue des Pres Trading Estate Development and was retained by the Public (former Planning Committee) together with the Estate roads and verges. The original concept was for the car park to provide free parking to all users at Rue des Pres and it was historically policed by the Planning Enforcement Officers.

Current Situation

The current parking arrangements are not satisfactory for two reasons

- 1) Areas adjacent to each industrial unit originally intended for parking have been developed as building extensions.
- 2) The public car park is usually full with staff cars and or cars awaiting repair by a local business.

Visitors are therefore parking illegally outside units and causing obstructions

Thus the key issue may be summarised as a shortage of parking spaces for staff, business use and visitors leading to illegal parking and traffic congestion

To address this situation Property Holdings is considering the following options. However, each has a significant cost implication for which funding is not presently available.

- 1) Employ the services of a wheel clamping company to police the car park and effectively make it for short stay parking only;
- 2) Erect a parking barrier and employ the services of a managing agent to let the spaces;
- 3) Designate the car park under the Road Traffic (Public Parking Places) (Jersey) Order 1985, which would enable it to be policed by T&TS. (This option has been considered in the past, however, T&TS was unwilling to take on the responsibility of an additional car park);
- 4) Transfer the ownership of the car park to the Parish of St Saviour by means of a conveyance passed before the Royal Court. The Parish would then be responsible for policing the car park pursuant to the 1985 Order. (Discussions have previously occurred with the Parish, however, the Planning Committee at the time did not wish to dispose of the car park);
- 5) Dispose of the car park on the open market with a restriction that it be used only for parking.
- 6) Investigate development of the car park site as a multi-storey car-park.
- 7) Retain the car-park land, but lease it as private parking.

The Transport and Technical services department is currently working on plans to reconfigure the current site

landscaping in order to make further parking spaces available adjacent to each unit.

To significantly improve on site parking at Rue des Pres a combination of these initiatives may be necessary including safeguards to ensure that the viability of the trading estate is not compromised.

I have asked the Property Services Department to work with the Parish of St Saviour to establish the best way forward.

**WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES
BY DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR
ANSWER TO BE TABLED ON TUESDAY 23rd MARCH 2010**

Question

“Following meetings with relevant Parish officials, would the Minister indicate what steps, if any, he proposes to take to improve public parking provision on the Rue des Pres trading estate?”

Answer

Jersey Property Holdings (JPH) has operational control of the land which currently forms the 42 space car park which was originally acquired as part of the Rue des Pres Trading Estate Development and was retained by the Public (former Planning Committee) together with the Estate roads and verges. The roads and verges were subsequently transferred to the then Public Works Committee on 28 February 1984 and remain under the operational control of Transport and Technical Services (T&TS).

With specific reference to the car park, JPH is aware that the current parking arrangements are unsatisfactory. The policing of public parking places within the Island is outlined by The Road Traffic (Public Parking Places) (Jersey) Order, 1985, as amended and car park officials may be appointed by either a parochial authority or T&TS. JPH has no policing powers to manage car parking.

In order to resolve the parking issues, JPH is considering the following options:

- 1) Designate the car park under the Road Traffic (Public Parking Places) (Jersey) Order 1985, which would enable it to be policed by T&TS. The Department has been advised however, that the Parking Control Officers do not police any car parks in the eastern parishes and therefore it would not be cost effective for T&TS to take over responsibility for the car park.
- 2) Transfer the ownership of the car park to the Parish of St Saviour by means of a conveyance passed before the Royal Court in order that the Parish would then be responsible for policing the car park pursuant to the 1985 Order. (The Public could not legally retain ownership of the car park whilst transferring policing functions to the Parish).
- 3) Employ the services of a managing agent to let the spaces. Preliminary discussions have been held between JPH and a private company in this regard.
- 4) Dispose of the car park on the open market. Planning and Environment has advised that the car park must be kept as such, unless or until the Minister for Planning and Environment gives consent for it to be used for another purpose.

**1.12 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER
REGARDING THE CIVIL SERVANT STANDARDS:**

Question

Will the Chief Minister outline the contractual and legal framework governing the standards required of all Civil Servants, especially those relating to honesty, transparency and working to the best of their ability?

Answer

All Civil servants in the States of Jersey operate within a clear and well-defined framework of contractual obligations and responsibilities supported by various laws and regulations enacted by the States of Jersey. For reference, I direct Deputy Higgins to the following documents as examples:

- Employment of States Of Jersey Employees (Jersey) Law 2005
- Official Secrets (Jersey) Law 1952
- The Civil Service Terms and Conditions of Service in particular section 3 which refer to rules of Conduct for Staff.
- Employment contracts which govern the individual relationship between employer and employee.
- Gift and Hospitality register

I believe the States of Jersey has a Civil Service of which it can be justifiably proud.

1.13 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE TENDER PROCESS FR THE STATES-WIDE PRINTING MACHINE CONTRACT:

Question

Will the Minister outline the tender process that was used for the multi-function printing machine contract that was awarded to Danwood Jersey (formerly IOS Digital), giving details of tender descriptions and requirements and timelines and stages adopted?

Answer

A restricted competitive tender process was carried out issuing a request for expressions of interest (EOI) in the JEP and the Official Journal of the European Union (OJEU) in January 2008. The candidates were short-listed using a pre-qualification questionnaire which required the respondents to have Jersey based service support (February 2008).

Three suppliers were short-listed who had been awarded framework contracts by the Office of Government Commerce (OGC) and had an on-island partner. An invitation to tender (ITT) was issued requesting mini site surveys. One supplier submitted a non-complaint bid and was therefore de-selected (August 2008).

The remaining suppliers attended tender clarification presentations and reference sites were visited. As each of the suppliers displayed similar capabilities the OGC provided independent support to assist with the evaluation process.

This included a request for both suppliers to submit a detailed site survey of floors 4-8 Cyril Le Marquand House and Jersey Property Holdings Hill Street, along with a technical solution and

supporting commercial pricing proposals (Sept-Dec 2009). Each of the suppliers were requested to deploy their suggested solution in order to assess the practicality of implementing their scheme, the appropriateness and readiness of the States of Jersey in embracing a Managed Print Service solution and the capabilities of the supplier.

The suppliers were scored on 3 key elements:

- ITT Technical response
- Customer feedback from pilot
- Commercial Proposal (Price)

Danwood Jersey were selected as preferred supplier (in April 2010) as a result of this competitive process.

2. Oral Questions

2.1 Deputy G.C.L. Baudains of St. Clement of the Minister for Treasury and Resources regarding the notification of changes to individuals' Income Tax Instalment System (I.T.I.S.) rates:

Can the Minister confirm that individuals are always notified in advance by the Comptroller when their income tax instalments system, that is I.T.I.S. (Income Tax Instalment System) rates are altered in accordance with Article 41C 7(A) of the Income Tax (Jersey) Law 1961, and if not, why not?

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

I thank the Deputy for the opportunity of clarifying this important issue and I am pleased to say that an individual is always notified when their I.T.I.S. effective income tax rate is altered and a notice is sent to the individual on all occasions. Notices state the date from which the revised rate will come into force. The Comptroller may also advise larger employers of the revised rates of the class of employees so that they can be automatically entered into payroll systems. The notices that individuals are sent of course need to be given to individual employers. The Taxes Office reviews an individual's I.T.I.S. effective rate when calculating or revising their assessment to tax. There may be reasons for revising the rate, for example where the individual notifies the tax officers of a significant change in personal circumstances. The notice of the revised rate can only be issued at the time the revised rate is calculated and obviously not in advance of that calculation.

2.1.1 Deputy G.C.L. Baudains:

I thank the Minister for his reply but it does seem to be at variance with many peoples' experience. I can assure the Minister that I fully support I.T.I.S., but is he aware that many peoples' percentage appears to be set arbitrarily by the Tax Department and when they complain if they have overpaid they are usually told by the Tax Department they cannot have a refund, it will be set over until next year. Does the Minister believe that is satisfactory?

[9:45]

Senator P.F.C. Ozouf:

The Deputy raises another point, the original question is whether or not the rate is ... the individual rate change is notified to the individual and I am advised that at all times the Income Tax Department notifies every individual of an I.T.I.S. rate change. He is shaking his head. I have

advice from the department that that is exactly what they do. In relation to the rate itself, there is the situation of course that where the Income Tax Department does not have the particulars of the individual taxpayer, then the default grade of 20 per cent is applied and indeed employers must apply a default grade of 20 per cent in the absence of the individual supplying a notice of a different amount. Of course rates do change with individual circumstances and if the Deputy does have individual cases where taxpayers are unhappy with their tax rate then certainly the very helpful Income Tax help desk is there to help every taxpayer in order to deal with their issues. But if the Deputy wants to address any particular concerns, I am happy to take them up although I never deal with individual tax cases.

2.2 Deputy G.P. Southern of St. Helier of the Chief Minister regarding proposals for changes to public sector employees' terms and conditions:

Following initial meetings with the representatives of public sector pay groups, will the Chief Minister inform Members what proposals for changes, if any, to terms and conditions as stated in the 2012 Annual Business Plan, have been tabled for negotiation by the States Employment Board and if none, is the Chief Minister preparing to impose a 2-year wage freeze to achieve the £14 million proposed savings instead?

Senator I.J. Gorst (The Chief Minister):

The 2012 and 2013 public sector negotiations are at an early and different stage with the various pay groups. Members will be familiar with the budget implications they agreed in September last year. The economic and financial context for the review has been explained to groups at these meetings, in particular the figure in the 2012 Business Plan agreed by the States does not provide for an increase in the public sector pay bill unless compensatory savings are made and is predicated on the achievement of the comprehensive spending review target.

2.2.1 Deputy G.P. Southern:

When did the Chief Minister abandon all pretence at negotiation or consultation with representatives and opt for the easy option of a 2-year pay freeze imposed on public sector workers?

Senator I.J. Gorst:

I have not abandoned negotiation as the Deputy suggests and I would also say that no options with regard to reaching agreement around controlling expenditure in this area and modernisation and transforming terms and conditions can be described as the easy option.

2.2.2 Deputy G.P. Southern:

Will the Minister state when he made his mind up to abandon negotiations and was it before he stood before this Assembly to elect himself as Chief Minister?

Senator I.J. Gorst:

I can simply reiterate that I have not, nor has the States Employment Board abandoned negotiations. It is a very difficult area; the States Employment Board has been asked to work within a budget approved by this Assembly and that is what we are endeavouring to do. Inevitably the difficulty arises around pay negotiations because to some extent if we are not careful they can be seen to be undertaken in the public domain and that cannot be right when the employer makes an offer it is an offer but we expect to continue with the normal course of negotiations and that is where we find ourselves today.

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

Can the Chief Minister confirm that he agrees that it is very bad judgment on his part to make this announcement in the same week we have had this confirmation of handouts of “jobs for the boys” for more than 500,000? Does he not think the timing at least could have been better?

Senator I.J. Gorst:

I am not sure how to answer that. I am absolutely aware that I, the States Employment Board and this Assembly face a myriad of challenges and decisions which are difficult and have to be made every day, week in, week out. Of course I would prefer not to find myself in the position I do, but it was right that the information regarding the termination of a contract was made public. It is right also that we, as a States Employment Board, make an offer to our employees and we continue to negotiate. The timing I admit is far from ideal but both decisions are right.

2.2.4 Deputy T.M. Pitman:

I agree with the Minister that the information did have to come out: indeed I was one of those who pushed for it and I applaud him for doing so. However, does the Minister not concur that the damage to the morale of our workers - our employees - is going to be huge when they see what appears to be one rule for one, those at the top, one rule for those struggling at the bottom and can he not take that into account when he is continuing his negotiations?

Senator I.J. Gorst:

I do not believe that there is one rule for one and one for another. I and the States Employment Board are absolutely committed to transforming the way we provide Government services and the way that we deal with our staff. The Deputy is right when he says that some actions of the past have affected morale of our organisation and the individuals in our organisation. I am committed to ensuring that that position is improved, that we transform the public service and that we become a values-based organisation. That does not mean to say that decisions are going to be easy and straightforward. But I am committed to that. I believe the majority of this Assembly are committed to that and that is the direction that I wish to work towards.

2.2.5 Deputy M. Tadier of St. Brelade:

The Chief Minister said that it is right that we make public sector workers a pay offer, and that it is right that we negotiate. Does the Chief Minister accept that if we are making them a pay offer, which is zero, that is the equivalent of not making them a pay offer because the *status quo* would be the same as a zero proposal. My question to the Chief Minister is how does one negotiate with public employees in a meaningful way if one starts off from a position where we are saying: “There is no money in the pot for any pay increases, now let us negotiate”?

Senator I.J. Gorst:

As I said right at the start to a question that a fellow Deputy put, these decisions are not easy, they are not straightforward: the States Employment Board is working to the budget that this Assembly has set them. Having said that, of course, there perhaps are other savings which could be made to terms and conditions, which would allow money to be transferred from one area to another around which negotiations can take place. Of course it would not be right for me in this Assembly to carry out public negotiations, they should be done together between staff side and union representatives and that, I hope, is what will continue to take place.

Deputy J.A. Martin of St. Helier:

My question has been asked.

2.2.6 Deputy M. Tadier:

The supplementary in that case is where is the contingency? If we are to take place in negotiations and if we are to, let us say, avoid strike action or other industrial action and a fixed sum or a fixed percentage increase is agreed, where is the contingency in the Business Plan for those negotiations to be honoured?

Senator I.J. Gorst:

As the Deputy knows there are contingencies in Business Plans approved by this Assembly and that is a change from the way that we used to operate. But it would not be right for me at this point to say how those contingencies should be used.

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

In order to moderate the impact of the current situation, did the S.E.B. (States Employment Board) consider whether there could be a small increase in the lower levels of the public service but that zero would be maintained in the upper reaches of the public service?

Senator I.J. Gorst:

I fear this is getting perilously close to showing S.E.B.'s hand in its negotiating position and I do not wish to go there. S.E.B. has made an offer and it is now for, as I have said, employer and employee representatives to sit round the table and to continue the process which we have followed for many years.

2.2.8 Deputy G.P. Southern:

In effect, has the Minister abandoned all pretence of modernisation of the workforce for the next 2 years since he has put nothing in the pot to negotiate on.

Senator I.J. Gorst:

I am not sure if that is the third time that the question has been asked but I shall endeavour to answer it in a different way. I have not abandoned negotiations. With modernisation it is not always the right way to dictate from above. If we are to see the modernisation that we desire, and the transformation of our public sector, we need to engage and negotiate. In actual fact, some of the areas where modernisation can take place can be best decided and the best knowledge can come from the ground up. Therefore, it needs to be decided and negotiated round the table because I have no doubt that some of the better ideas for modernisation will in fact come from the employees themselves.

2.3 Connétable P.J. Rondel of St. John of the Chief Minister regarding the Island's Emergency Planning policy:

Would the Chief Minister provide Members with details of the Island's Emergency Planning Policy, including how many days or weeks or months worth of emergency food and supplies are held on-Island at any one time.

Senator I.J. Gorst (The Chief Minister):

Emergency planning procedures in Jersey are undertaken in accordance with the Emergency Powers and Planning (Jersey) Law 1990 and as Members no doubt will expect, this is a detailed and complex set of procedures required to ensure that the Island is prepared in cases of emergency. The Island does not hold any emergency stocks of food or supplies but it is my understanding that there are estimated to be 2 to 3 weeks of food stocks on the Island at any given time.

2.3.1 The Connétable of St. John:

Given historically we had up to 3 months supply of food stocks on-Island, will the Minister be looking at increasing the volume of stock held on Island, given that I noted in the media some weeks ago a comment from I believe - and I do stand to be corrected - the Emergency Planning Department that households should keep additional stocks within their larders? That being the case, is the Minister happy that having all our stocks in warehouses on the mainland - the bulk of our stocks - is he happy that this can continue, given that I am aware that back in the ... when we had a crises some years ago when we had one of our car ferries commandeered from the U.K., because of the time... I think it was the Gulf War or the war just prior to that, one of the wars, and we were left with one ferry. Given we have gone down the road of warehousing all our food off-Island or the bulk of our food off-Island, will the Minister be looking at this again, please?

The Deputy Bailiff:

Are you happy, Chief Minister?

Senator I.J. Gorst:

Not often, Sir, not often. So the Connétable makes a very good point. Up until the 1960's it is my understanding that the Jersey Government did take the view that stock piling of around 3 months worth of food was the appropriate course of action. However, that has not been the case for many, many years now. It was not up until around 1995 that there were what we might call buffer stocks of margarine, sugar, biscuits, flour and yeast held but, again, that has not been the case since 1995. The Connétable is right that retailers or food retailers on the Island generally or mostly have a "just in time" policy and their stocks are held outside of our Island.

[10:00]

This is a policy which is, as one would expect with emergency planning, continually under review and I have spoken again to my Emergency Planning Officer to consider whether it remains the appropriate policy for us as a government.

2.4 Deputy J.A. Hilton of St. Helier of the Minister for Planning and Environment regarding the sale of homes at Uplands Drive under a 'Homebuy'-style scheme:

Further to the response given to my question on 21st February 2012, when the Minister confirmed the sale of 4 homes at Uplands Drive under a scheme similar to the Homebuy scheme, will he explain why, when the original permit allowed for 6 homes to be affordable housing and the remaining 8 to be for first-time buyers, he decided to withdraw the remaining 2 homes from the Homebuy scheme?

Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment):

In short, I did not decide to withdraw these 2 homes from the Homebuy scheme. Last year following significant levels of advice, it became necessary to look at the planning permission that had been granted for the site, as it previously required Homebuy schemes to be delivered in accordance with proposition P.74/2008. As the Deputy in the House will understand, following a review of this scheme by the Public Accounts Committee - the Comptroller and Auditor General - the decision on the Island Plan in June of last year, and then in subsequent decision on P.163/2011... the Homebuy scheme was effectively placed on hold pending a future decision by this Assembly. Homes can therefore not be sold under this scheme. In this case, a specific offer was made by the developer in negotiation with the department to the 6 families promised a home by the Parish of St. Helier draw, to honour the previous intended deal in spirit. Four of those families chose to take up the offer. All other homes on this site are Category A homes and sold as such to first-time buyers in line with the planning permission.

2.4.1 Deputy J.A. Hilton:

In the first part of his answer the Minister for Planning and Environment said he did not decide to remove them. What I am trying to establish is exactly who did and on what grounds. The Minister in his response said the developer made an offer. I am trying to understand what the offer is and why 2 families were deprived of affordable homes, with the developer effectively netting an additional £300,000. That is what I am trying to ...

The Deputy Bailiff:

You have 4 questions so far. Would you try and focus on one or 2.

Deputy J.A. Hilton:

I am trying to understand why the developer was allowed to net an additional £300,000 when the permit specifically said 6 homes and not 4.

Deputy R.C. Duhamel:

The permits, as originally conditioned, were for first-time buyer houses. A subsequent extra planning obligation agreement was placed on this particular site in order to sell 6 homes, as the Deputy states, under a previous Homebuy scheme. I have already outlined many times to this House and to the Deputy that for legal reasons, notwithstanding reviews that were undertaken by our Public Accounts Committee, the Comptroller and Auditor General, the Island Plan in this House by the States and the States also deciding on P.163/2011, that for legal reasons we were unable to honour the Homebuy scheme because the Homebuy scheme does not exist. The Homebuy scheme replacement might exist in the future when the work is undertaken. I believe that the Deputy is also a member of the working group to bring forward a replacement Homebuy scheme to this House. Until that happens, we are not in a position to broker any homes under a Homebuy scheme because it does not exist. The Deputy was offered by myself, through the officers, an opportunity to have the illegal niceties explained to her at the department. She declined the offer. I still offer her openly and publicly another opportunity for her to receive the legal advice that is privy to the department and to understand things more fully in that respect. I do not think I can say anymore.

2.4.2 Deputy J.A. Hilton:

Yes, indeed, the Minister did make me a very kind offer to attend his offices last week but I was involved in a Scrutiny review and was working in back-to-back meetings for 5 days last week so it was absolutely impossible for me to do so. I am not happy with the Minister's response. I do not believe that he has answered the question in an adequate way. He seems to have a scheme that was perfectly okay for 4 but not for 6. So, my question to the Minister is will he agree to a review being carried out by the Comptroller and Auditor General so we can get to the bottom of this and have some answers for the public, please?

Deputy R.C. Duhamel:

I do not set the agendas for the Comptroller and Auditor General but if the Comptroller and Auditor General is quite happy to undertake that piece of work then obviously it will be for him to do so.

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

I wonder if I might be allowed to ask the Minister to clarify his answer about planning obligation agreements. Obviously this particular matter relies on such an agreement. Could he confirm whether he has taken advice from the Attorney General that when a consent is given that that is subject to a planning obligation agreement which for whatever reasons cannot be implemented, whether that means that the consent is null and void and further application ...

The Deputy Bailiff:

Deputy, I am sorry, I am going to disallow that question. Planning obligation agreements are quite a large step away from the Homebuy scheme, even though they may have some tangential connection. Any further questions? Final supplementary?

Deputy J.A. Hilton:

Just to say that I will take up the Minister's offer and ask for this matter to be referred. Thank you.

2.5 Deputy R.G. Le Hérissier of the Minister for Health and Social Services regarding the total cost of the suspension of the surgeon who was suspended/excluded on 2nd February 2009:

Given that the figure stated by the Minister on 22nd June 2010 was £450,079, will she inform Members of the total cost of the suspension of the surgeon who was suspended/excluded on 2nd February 2009 and would she advise whether the individual concerned has now retired and if so, when?

Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):

The total cost of ensuring that services to patients and waiting times are maintained was £789,340. I can confirm that the doctor concerned has now retired.

2.5.1 Deputy R.G. Le Hérissier:

Would the Minister confirm that included in those costs was the cost of the 2-year police health and safety investigation surrounding the performance, the cost of a leading Q.C. (Queen's Counsel) who was hired by the Attorney General to provide that advice and the cost of various expert witnesses, and the cost of a professor who looked as a result of the case into the management of surgeons at the hospital. Would she confirm that all those costs have been included and if not, what were they?

The Deputy of Trinity:

No, I cannot confirm that. The report that the Deputy is talking about was commissioned and funded by the Health and Safety Executive.

2.5.2 Deputy R.G. Le Hérissier:

Would the Minister bring those full costs back to the House so that the enormity of what has occurred can be brought to our attention? Secondly, could she tell the House what lessons have been learned from this particular period?

The Deputy of Trinity:

It is very difficult because the Health and Safety Executive comes under the remit of Social Security, so I would not have those figures. And lessons? Well, as in anything, there are always lessons to be learned; how we can do things and how we can improve, and the day I stop learning I will be out of this job.

2.6 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding travel grants funded by public monies:

Will the Minister advise how much public money was given last year in travel grants to local sports people and clubs and also to individuals and groups to access cultural events via such means as the Jersey Arts Trust Travel Grants and the Rivington Travelling Scholarship?

Deputy P.J.D. Ryan of St. John (The Minister for Education, Sport and Culture):

The Advisory Council for Sport and Leisure awarded £176,223 in grants to sports clubs and associations in 2011. The Jersey School Sports Association was awarded £50,000 to support representative teams to travel off-Island to participate in a range of sporting activities. The Jersey Arts Trust has a budget of £52,050 which it allocated to local arts practitioners, although my understanding is that the Jersey Arts Trust receives a low demand for off-island travel and only some 10 per cent of that £52,050 was allocated to off-island travel. The Rivington Travelling Scholarship allocated grants of £960 from the fund.

2.6.1 Deputy M. Tadier:

The first question is can the Minister confirm whether those figures relating to sports are cumulative? So, the £117,000 and the ... is the £50,000 allocated to schools additional or included within the first figure?

The Deputy of St. John:

The £50,000 is additional to the £176,223.

2.6.2 Deputy M. Tadier:

I do have to declare an interest in this because I am a member of the Arts Centre Management Committee, which is part of the reason I am asking. Does the Minister acknowledge the importance of not only sports ambassadors for Jersey but also cultural ambassadors who are travelling often to the U.K. (United Kingdom) or elsewhere to do with cultural events... the importance it brings to the Island both economically and culturally? And will the Minister endeavour to address perhaps the lack of balance in sports funding and arts funding for travel purposes?

The Deputy of St. John:

The answer to the first part of that question is yes, I do, as I already said in my answer. Though, however, when it comes to the second part of the Deputy's question, my understanding is that the Arts Trust, although it has a budget of £252,000-odd to allocate to local arts practitioners, the majority of the demand is for local events and local participation of various of kinds and there is not a huge demand for off-island travel. Nevertheless, it would be quite appropriate for any local artists to apply to the Jersey Arts Trust for off-island travel in the normal way.

2.7 Deputy T.M. Pitman of the Attorney General regarding the dismissal of a court case through 'lack of evidence':

Will the Attorney General advise under what circumstances a case in court may be dismissed through lack of evidence?

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

In general, a case may be dismissed through lack of evidence if the judge or judges in question are not satisfied that the evidence available to them is sufficient to prove to the correct standard the facts that must be proved in order to justify a conviction in a criminal case or the relief sought in a civil case. In a criminal case, the evidence adduced by a prosecutor must establish the facts upon which a charge is based beyond a reasonable doubt. This is a high standard. It is, therefore, sometimes the case that a court will determine at an early stage of the prosecution that the evidence is not sufficient to establish the guilt of the accused. This often occurs at the end of the prosecution case before the defence witnesses are called. Sometimes the prosecution will decide not to proceed with a charge and in those circumstances offers no evidence.

2.7.1 Deputy T.M. Pitman:

Obviously I appreciate the advice of the Attorney General cannot be asked about specific case, so if I could give him a hypothetical question. How would this work out: should I attack my elderly neighbours in their home tonight with large steel ball bearings fired from a catapult ...

The Deputy Bailiff:

Deputy, are you able to tell Members that this is completely hypothetical?

Deputy T.M. Pitman:

Yes, Sir, because I have not done it.

The Deputy Bailiff:

No, the circumstances, do they reflect circumstances that have taken place actually in court?

Deputy T.M. Pitman:

I am giving the nearest example I can without going to an actual case in court, Sir.

The Deputy Bailiff:

The reason why specific decisions of the courts are not the subject of debate generally in the Legislature is that Members of the Legislature accept that the courts are independent and are not swayed or liable to be swayed by political concerns. That is a fundamental part of the European Convention on Human Rights and of course historically entrenched in our law as well. Of course, one or more judicial decisions can give rise to discussion in this Assembly as to whether the law should be changed or perhaps in an extreme case as to whether the judge should cease to hold office but it is not an appropriate question to put to the Attorney General who is not responsible in any event for the performance, if I can put it that way, of the Judiciary. Now, if that helps you in framing your supplementary question..?

Deputy T.M. Pitman:

You are always helpful, Sir. Thank you. How can I pitch my question? As I believe there are victims who have rights which are more important than perpetrators of crimes, perhaps the Attorney General or indeed yourself, Sir could then advise how can a member of the public go about finding out how a case can be dismissed, when the police will not tell them and the Law Officers will not tell them?

[10:15]

How does a member of the public find out why they cannot know the person who has attacked them and has been found with weapons can have the case dismissed? I cannot put it any other way, Sir, and I am doing my best.

The Attorney General:

For obvious reasons, there is no entitlement for anyone to know the full details as to why the prosecution has taken a decision in a particular case or indeed why a court has. Quite often the material before the prosecution and the court is of an inherently confidential nature. One might anticipate matters set out for example and purely hypothetically in a background report or in a psychological assessment. Those kind of things simply cannot be put into the public domain and told to people who were not involved in the decision-making process. Generally speaking though, someone who is involved in the case might be told as much as the prosecution reasonably feels that it can tell them in the circumstances. But there is no right to know those kind of matters.

2.7.2 Deputy T.M. Pitman:

I thank the Attorney General for his answer. Could he explain or hopefully give assurances that when a case reaches the court all the evidence of the case would have been transmitted from the police to the court. So, all that evidence will be available so that that decision is made in light of the full information.

The Attorney General:

There is of course always the possibility that mistakes are made and that information that should be produced from one part of the judicial system to another does not make it. In the vast majority of cases, and I am not aware of any other case, full information is provided by the police to the prosecution services and the prosecution takes its decision in the light of that full information. The prosecution adduces the evidence before the court that it believes it is appropriate to do so.

2.7.3 Deputy M. Tadier:

Can the Attorney General confirm that cases being dismissed once they have already gone to court should be a rare occurrence, presumably especially if they are ones in which the Crown is prosecuting because of course there has been already an evidential test which takes place before any prosecution is pursued, which would presumably have to be more than a 50 per cent certainty of winning the case in most circumstances.

The Attorney General:

I would happily refer Members of the Assembly to the code on the decision to prosecute which can be found on the Law Officer's Department website, which explains the 2-stage test that a prosecution decision falls to be taken under. There is an evidentiary test and then there is a public interest test. Generally, before a charge is brought it is the case that the person making the prosecution decision will have decided that the evidentiary test is passed and that the public interest is in favour of the prosecution being brought. However, as time progresses, the prosecution's understanding of the evidence or indeed understanding of the public interest may evolve and change and it could therefore be the case that a charge brought could subsequently not be proceeded with.

Deputy T.M. Pitman:

I do not think I am going to get where I need to be so I will have to find another route, thank you.

2.8 Deputy J.H. Young of the Minister for Planning and Environment regarding changes to the Third Party Appeal system:

In view of the recent judgment in an appeal against a development in La Rue au Moestre, St. Aubin in which the Royal Court concluded that the development should not have been approved, will the Minister agree to bring forward changes to the third party appeal system to address the inequalities of the system for third party appellants?

Deputy R.C. Duhamel (The Minister for Planning and Environment):

The Deputy suggests in the run up to his question that the Minister's decision was - what is the word - not agreed with. Members will know that third party appeals are dealt with under Articles 114 and 109 of the Planning and Building (Jersey) Law 2002. The effect of these provisions is that a court may only allow an appeal on the ground that the decision of the Minister was unreasonable having regard to all the circumstances of the case. The court, in summing up, stated that the court had considered the matter very carefully; the Jurats are unanimous in concluding that - if they had been the Minister, which clearly they are not - they would not have granted permission for this development because of the degree of overbearing overlooking, even with the party wall. However, they remind themselves of the fact that such a view does not entitle

them to overturn the decision of the Minister and that in order to do so they have to be satisfied that his decision is so mistaken as to be properly categorised as being unreasonable. This they are unable to do. They consider that the decision falls within the band where reasonable disagreement is possible and in the circumstances they are not entitled to substitute their own view for that of the Minister. Turning my attention to the question without the premise, I have already stated at this House on several occasions that it is my intention to bring to this House - probably by the third quarter, that is the aim of the department - changes to the appeal system in order to consider the very questions that the Deputy Young has addressed about inequities in the system for third party appellants. This is the agenda and I am hoping that we will stick to it.

2.8.1 Deputy J.H. Young:

I thank the Minister for his very full answer. I would just like to ask him to clarify 2 points. Could he confirm that he thinks that where in lay terms a court decides unanimously that they do not consider that it was right to give consent, that constitutes for most people a mistake? Secondly, would he not agree that if the court finds itself in the situation that having reached that conclusion that it cannot do anything about it and cannot cancel the consent that is seen by most people as at least an inequality, something to be put right?

Deputy R.C. Duhamel:

I think that there are issues and difference of opinion in terms of Ministerial ideas, departmental ideas and indeed ideas for the public. This is why I have asked for a review of the system. To draw me into any particular conclusion as to what the outcome of that review will be at this point in time is wrong and I reserve my judgment.

2.9 Deputy G.P. Southern of the Minister for Treasury and Resources regarding a review of the uses for the Strategic Reserve:

Given the failure of successive Assemblies to put funding aside to allow for the depreciation of assets leading to the enormous sums required for capital expenditure on essential infrastructure such as hospitals, roads, sewage and so on, while building up a large strategic reserve - more than £560 million - does the Minister not consider it is time to review the uses to which the Strategic Reserve can be put?

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

Firstly, I do not agree that successive Assemblies have failed on capital expenditure as negatively portrayed in a local newspaper. We have built fantastic schools, we have an energy from waste plant, we have improving roads and we have invested in sea defences, funded entirely from cash, with no debt, an almost unique position of any Government in the world. £20 million has been allocated over 5 years for property backlog maintenance. T.T.S. (Transport and Technical Services) infrastructure maintenance was increased by nearly £2 million in 2012. While new capital expenditure had been temporarily reduced in recent years, this was bolstered significantly by the use of the fiscal stimulus funding, which was a real boost, particularly in the area of social housing. I am aware of course that there are significant future capital needs, particularly for a new hospital and our liquid waste system needs investment and we need to improve the lot of office accommodation in the States. But we do have valuable investments and some surplus profits, particularly for example in the ownership of S.o.J.D.C. (States of Jersey Development Company) and Esplanade Square that we can exploit to offset some of these costs. So I can say that I am in active discussions with Ministerial colleagues on the funding options of the future investment on the hospital. I am looking at using existing resources to fund some capital expenditure schemes and indeed bringing forward some capital expenditure for this year. On the issue of the Strategic

Reserve, the Deputy has I think asked this Assembly on 4 occasions in 2006, 2008 and 2010 and again in 2010 to spend the Strategic Reserve. Successive Assemblies in several previous debates and votes have sent a clear message that the Strategic Reserve is a permanent reserve only to be used in exceptional circumstances to insulate the Island's economy from serial structural decline. I see no reason to change that.

2.9.1 Deputy G.P. Southern:

I see from answers elsewhere that the Minister for Treasury and Resources has not ruled out the idea of borrowing to fund capital expenditure. Before we resort to borrowing, paying somebody else's interest rate, why do we not use our own funds saved over years first.

Senator P.F.C. Ozouf:

I agree with the Deputy in some respects and, for example, that is why we have - and he will be alert to - the revised investment strategy that I laid before the States some months ago, for example, of using the Currency Fund, which is £90 million which can be used in some certain circumstances for investment. I am very happy for States resources to be used, for example, to help Parish funding schemes. I had a very constructive meeting with the Constable of Trinity last week. I look forward to working with the Constable of St. Saviour on her Parish scheme and other departments. I look forward to working with the Minister for Housing on, yes, borrowing - perhaps some internal borrowing, some external borrowing. Where there is an asset that a return can be provided for, like an investment in social housing, then that is perfectly acceptable for borrowing. Other infrastructure that would have a return is where we can certainly consider borrowings. What I do not agree with is using the Strategic Reserve to effectively have one-off expenditure that would mean that there was not a return. We can find solutions and we must not be negative. I think we have very good infrastructure.

2.9.2 Deputy M. Tadier:

It is unfortunate that the Minister for Treasury and Resources tries to downplay the lack of maintenance throughout our whole infrastructure. We know that only last week we read about the Housing Department having to sell properties simply to pay for maintenance when they already have a lack of properties anyway. We know that the General Hospital, in the words of the Hospital Director when we did our tour, was saying that he sees facilities there which are worse than in third world countries. The Chief Minister will know that because he was present. But my question, acknowledging that Jersey has consistently under-invested in its infrastructure, will the Minister for Treasury and Resources accept this simple analogy, that for years and years we have been robbing Peter to pay Paul, Paul being the Strategic Reserve? Is it not time that we give some money back to Peter to level the playing field?

Senator P.F.C. Ozouf:

I agree that the hospital needs investment and I agree that there has been 10 years of lack of focus and lack of political drive which the current Minister for Health and Social Services and, indeed, her immediate predecessor started. We need to invest in the hospital, in the services, and it is, in fact, one of the biggest issues that this Assembly has to deal with. We are going to solve it. We have resources at our disposal. We need to think creatively and we need to find that solution. But it is not right to say, is it, that our infrastructure is crumbling? We have fantastic schools. We have roads that are improving and we have made significant improvement in social housing. Things are improving. We can do better and by working together we can do that. Yes, we can be more confident in our future now we have solved some of the difficult issues of our public finances, as this Assembly did last year.

2.9.3 The Connétable of St. John:

I have heard some comments in my time but I think the Minister must have got up on the wrong side of bed this morning. Our infrastructure is crumbling around our ears, whether it is the roads - the state of our roads right across the Island - our drainage systems, or our sea defences. I could take him to a dozen and one places around the Island and prove what I have just said is correct. I have spent 18 years in this House, apart from a short gap when I was out, trying to get our infrastructure improved and that has not been happening. The Minister spoke of putting £20 million on our roads. When I came into the House it was not uncommon for £14 million annually to be put in to repair our roads. He is talking about a one-off injection. Will the Minister please explain if he is going to put an annual injection of up to £20 million into our roads until all our infrastructure, i.e. roads and what is below it, is put into good fettle? Please explain.

Senator P.F.C. Ozouf:

The Connétable is quite correct, there is a need in some areas for improvement. I am sure that he does not only drive from St. John to St. Helier, but we are seeing, for example, the airport road, a significant investment in that road. We are seeing other roads improve.

[10:30]

There is investment going in and this Assembly is the place that we vote money. We are going to decide in October the medium-term financial plan. That is going to set out the capital requirements. I certainly agree with the Connétable that in order to maintain our infrastructure there is a need on average for at least £50 million or £60 million to be put into maintenance and infrastructure repair and that is what we are budgeting to do. We have plans and that was at the heart of the comprehensive spending review to put in place proper arrangements for contingency and capital. I now am working on the 25-year capital programme, and this Assembly will be presented with that and will decide it. I hope it has his full support.

2.9.4 Deputy R.G. Le Hérissier:

Given the Minister for Treasury and Resource's much appreciated enthusiasm and application to the regeneration of Fort Regent, can he identify the source of funding for that regeneration and when it will start?

Senator P.F.C. Ozouf:

I am delighted that Members share... and indeed the Chief Minister and I have spoken with the Minister for Education, Sport and Culture, and we agree that Fort Regent should be one of our top priorities for resolution. The Deputy did some good work in relation to the steering group that he was on. He set out a number of requirements in that report and we need to work on that report. The source of funding is, of course, to be found. Where there is an investment that could have a return, I am willing to find creative ways in order to find it. Where it is a one-off sum cost it is going to have to be set alongside other one-off costs, such as hospitals, *et cetera*. But we need to find a solution for Fort Regent. We need to be positive about it. I think it is a jewel in our crown. It is a great place. It needs investment and it needs political emphasis and political work, and I look forward to working with all Members to find a solution for it.

2.9.5 Deputy J.A. Martin:

It is really an overall question. The Minister says we will keep finding money. Is the Minister for Treasury and Resources absolutely satisfied that we are not going to get any more rabbits pulled out of the hat? Have all his departments put the list together for the next 15 to 20 years? Because it does not seem to me ... because the first I read about most things is on the front of the *J.E.P. (Jersey Evening Post)*. I am not saying we need to raid our reserve. I am saying is it, in fact, that the list is - because we have not done it for so long, including capital depreciation - so big that even the Minister for Treasury and Resources is frightened to tell us what we are looking at?

Senator P.F.C. Ozouf:

I agree with the Deputy that, first of all, it is important not to learn things from the *J.E.P.* because often it is quite negative, and I think disproportionately negative, if I may say. **[Approbation]** Secondly, I am trying to inform Members more about plans and I have invited all Members to breakfast briefings individually on proposals and Members have had before them at those meetings the detailed analysis of our capital requirements. No, I am not frightened about it. There are capital requirements that all departments have set out and I thank the finance directors and the Ministers and the chief officers for giving information for now 25 years ahead of what capital spending we think is required. We are now only dealing with the Health Department in terms of an unresolved issue. All decisions will be before this Assembly and I look forward to working with Members to solve the remaining issues that we need to do on our capital infrastructure. We can do it. We come from a position of strength and, no, we do not need to break and throw caution to the wind of our sound fiscal rules which have got us into the good place that we have at the moment.

2.9.6 Deputy J.A. Martin:

Just a one-off supplementary, then. Do we already have a depreciation fund for the incinerator because it should have started the day it opened?

The Deputy Bailiff:

It is quite a long way from the Strategic Reserve.

Senator P.F.C. Ozouf:

Yes. It is quite an important point because the incinerator - the energy from waste plant - was paid for in cash. Now, not many places do that. It would be some years before we would need to start putting some money aside, and I look forward to working with Guernsey to see whether we can get some revenue from that. Maybe that is the money that should be put aside for its depreciation or for environmental considerations. There are options that we have. We are in a very strong position. Let us not talk ourselves down. Let us tackle the issues that we have to deal with and look to the future with a positive sense instead of this constant Jersey-bashing which says that everything is wrong where I do not believe it is.

Deputy J.A. Martin:

Thank you for the no answer.

2.9.7 Deputy T.M. Pitman:

Jersey banging? I just have to correct the Minister. I know it is an easy mistake to make, Deputy Le Hérisier and myself both being moderate, quietly spoken, centre-based politicians, but it was actually I who initiated Fort Regent getting back on the political agenda as a Scrutiny review and the steering committee. My question to the Minister is how can he say that we have a commitment to our infrastructure when we have just seen that a massive amount of our housing is not fit for public habitation? Until the Minister now holding office got involved, we had about £100 million worth of absolutely essential maintenance. That backlog had just been allowed by the previous incumbents to just run and run and run. How can he say we have a commitment and a good infrastructure?

Senator P.F.C. Ozouf:

He is right. First of all, I congratulate him for helping us in relation to Fort Regent. We need to work together on that issue. Secondly, it was the correct statement to say that our investment in social housing had not been adequate. We had not made appropriate arrangements. The difficulty was the Minister for Housing was asking for money, lumpy expenditure set alongside other

expenditure for infrastructure which you never get a return from. I am very happy, working with the Minister for Housing, that we do borrow some money. When you build a social house it gets a return over 20 years and you can borrow against it, just as the Homes Trust has done. We have made significant improvement in the social housing stock. I am delighted to drive past Clos Gosset, Pomme d'Or Farm, all the other areas of improvement. There is a lot more to be done. The Council of Ministers are considering a paper next week on further bringing forward. We are making real progress on this issue. So, yes, he is right to say it was wrong in the past, but we have done a great deal to improve and there is more to be done. I am sure the Deputy will agree with that.

2.9.8 Deputy G.P. Southern:

Never before in the history of mankind have I heard so much cock-eyed optimism. I was reminded of Mitzi Gaynor in *South Pacific*. That has got us where we are today with an underspend on our infrastructure. Does the Minister accept that our major industry is in structural downturn and, if not, will he define what a structural downturn looks like?

The Deputy Bailiff:

Does that arise out of the question, Deputy? The question is about depreciation of assets and the Strategic Reserve.

Deputy G.P. Southern:

As part of his answer, he said the Strategic Reserve should be used when there is a structural downturn in our major industry. So I am referring to his own answer.

The Deputy Bailiff:

Very well.

Senator P.F.C. Ozouf:

I do not believe that that our major industry is in structural decline. We have seen a very severe difficulty ...

Deputy G.P. Southern:

Structural downturn I believe you said.

Senator P.F.C. Ozouf:

A structural downturn or decline, which is the circumstances as set out in the Strategic Reserve policy approved by this Assembly. Our finance industry is not in structural decline. It is working well. We are going to be doing more awareness-raising and we are going to be bringing investment into Jersey and we are going to create a new industry in Jersey called the I.C.T. (information and communication technology) business, which is going to bring jobs and prosperity for another generation. Let us be positive about Jersey instead of the Deputy bringing propositions to this Assembly to spend the Strategic Reserve. Let us build economic growth and invest the proceeds of economic growth in our infrastructure and improving services.

2.10 Deputy T.M. Pitman of the Minister for Housing regarding an increase in social housing rents:

My question is who was Mitzi Gaynor? No, it is not. I am only young. **[Laughter]** When deciding to raise social housing rents by 20 per cent, will the Minister advise what discussions, if any, he had with the Minister for Social Security regarding whether the housing component of

income support would be increased by the same amount and, if not, how will he proceed to ensure that those who can least afford the increase will not be affected?

Deputy A.K.F. Green of St. Helier (The Minister for Housing):

I am grateful to the Deputy for the question, but first and foremost it is important to be clear what is proposed. What is proposed is the removal of hidden subsidy in social housing rents. This subsidy was never intended; is neither means tested nor targeted, and sits outside the income support system. But to answer the question, the hidden subsidy will be removed alongside a simultaneous increase in the level of housing component of income support. The removal of the subsidy will not in itself have any negative financial implications for those housing tenants in receipt of income support. They will be fully protected. I have discussed it with the Minister for Social Security and he sits on my Housing Transformation Programme Group and I am very grateful for the support and the help that he has given me.

2.10.1 Deputy T.M. Pitman:

I have to say I find what the Minister said reassuring on one hand but as there are such large sums involved I do not believe it is plausible. The question I would like to ask is given the subject that has come up in previous questions about the huge amount of substandard housing, what assurances can the Minister give that this rise is not going to affect people who are basically paying to live in things that are little better than slums? He knows the sort of places I am talking about.

Deputy A.K.F. Green:

There is some accommodation which I am not very proud of as Minister for Housing; in fact, I am ashamed of it. But when we are looking at the 26 to 27 per cent of accommodation that would fail the Decent Homes Standard of the U.K. - which is the criteria which I want every home that we rent out to fit to - some of those fail not because they are in poor condition but because we have not replaced the kitchen or we have not replaced the bathroom, which may be perfectly serviceable. That said, there is a good percentage which is wrong and not up to standard and I am working very hard with my colleagues in the Council of Ministers to put it right. We have reduced in the last 3 years the outstanding maintenance from around £80 million to around £40 million. I have plans going forward to the Council of Ministers at the meeting next week which will bring forward places like La Collette if approved. There is lots going on and I think people can have good heart that we are working very hard to improve the accommodation for people in social housing.

2.10.2 Deputy G.P. Southern:

While I am very reassured to hear the Minister for Housing's commitment to protecting those most needy from the impact of a rent rise, does the Minister not accept that is simply transferring the monies from one pot to another and that if he raises rent by 20 per cent he will effectively be raising income support by a substantial figure?

Deputy A.K.F. Green:

If my figures are accepted as part of the Housing Transformation Programme, we will generate a greater income of £11.25 million. I accept that £7.5 million of that will have to go to Treasury to help to pay for that component or to cover the whole of that increase of rent component. But the remainder can be used in investing in our property, can be used to ensure that we always meet our maintenance obligations. As well as building new, which subject is something I am talking to the Council of Ministers about at the moment, I want to make sure that we have proper planned maintenance programmes and that that work is carried out, and we never, ever again find ourselves in a position where we have outstanding maintenance of - as in the past - £80 million.

2.10.3 Deputy G.P. Southern:

If I may just press the Minister, does the Minister accept that a rent rise will inevitably lead to an increase in the amount of taxpayers' money going towards income support?

Deputy A.K.F. Green:

I have just said that the rent rise will pay for that component and it will pay to the component by the tune of £7.5 million coming from the people that are paying the rents.

2.10.4 Deputy J.A. Martin:

I would just ask the Minister for Housing - obviously not now - but to back that up. I will declare an interest. I am a States tenant. That is the interest I will declare. What I would like him to... because from the presentation at Housing, from my memory, you have around 4,500 houses and at least I thought 80 per cent of them were receiving income support to help with the rent. So how does a figure of increasing the other minority of 20 per cent bring in the millions the Minister for Housing says? It has never worked in the past. If the Minister can back it up with some actual figures then hopefully it will be okay.

Deputy A.K.F. Green:

I can back it up and I will let the Deputy have those figures.

2.10.5 Deputy M. Tadier:

The Minister will accept that there are waiting lists for social housing, that the demand for social housing by those who cannot afford housing anywhere else exceeds the actual stock that we have. My question to the Minister is if he believes that there is a small percentage in the social housing sector who should not be there and can afford to rent in the private sector, rather than putting their rents up why does he not simply try to target those places, keeping the rents at the same price, to make sure that people who really need the accommodation can get the accommodation?

[10:45]

Deputy A.K.F. Green:

There is a minority of tenants that will be paying the full rent. I am merely - and I agree with it otherwise I would not be doing it - putting in place the policies that previous Ministers and Presidents have had of being 90 per cent of the market rate for rents. Now, are there people that could afford to be living outside of social housing? Sometimes circumstances change and there are people that could, but at the moment they have no alternatives. This is part of the Housing Transformation Programme. People pay their own way where need be and others I hope to offer alternatives, such as affordable homes, thereby freeing social housing for those that really need it. You need to wait to see the White Paper and then it will all be clear.

2.10.6 Deputy M. Tadier:

If I may have a supplementary, the Minister talked about this policy of setting the prices at 90 per cent of market rates. First of all, does the Minister have control over the market rates? Secondly, does the Minister really think that the market rates are affordable in general terms or does he think that they are inflated and perhaps the States should not be following what the free market is setting?

Deputy A.K.F. Green:

If we stay below the market rate then we are not pushing the market rate up, which is what I think the Deputy was referring to. We are not pushing the market rate up if we always tail behind. We need to make sure that our particular social housing is targeted at those that really need it and where circumstances change we need to offer people real alternatives. That is where the whole Housing Transformation Programme comes into its own.

2.10.7 The Connétable of St. John:

The Minister mentioned properties that do not conform because of bathrooms and kitchens, *et cetera*. Would he please supply us with a list of properties which, if that is the element that they do not meet all standards ... because my background is in obviously kitchens and bathrooms. Bathrooms last, shall we say, virtually for ever and I have real concerns if you are using a list giving Members information that these properties need to be upgraded when bathrooms, as I say, they last for generations. It is not just 20 or 30 years. Will you strip out all those which need kitchens because somebody thinks they are out of date but they are still very serviceable, and likewise the sanitary ware and bathrooms? Can he give us a list with that stripped out, please?

Deputy A.K.F. Green:

It is a very interesting point that the Connétable makes. My own wife reminds me that the kitchen in our house is 30 years old when I talk about this. That said, when we set a standard we set a standard of replacing bathrooms and kitchens normally at around 20 years. Now, if the Constable would just bear with me, if when we inspect that property we find that the kitchen or the bathroom is up to standard, of course it will not be replaced. We do not rip them out just to replace them, but you have to have some sort of funded business plan that we are working to. So what we are saying is every 20 years we plan to replace but if they are in good condition because they have been well looked after by the tenants, then we will not replace them. But we need to make sure we have a proper funded maintenance plan. There is no other way of doing it.

The Connétable of St. John:

A supplementary if I may.

The Deputy Bailiff:

Can I make it absolutely plain from the Chair that I should have disallowed the last question, which has absolutely nothing to do with the question that is before the Assembly.

The Connétable of St. John:

I am sorry, Sir, but the Minister in a reply to Deputy Southern mentioned bathrooms and kitchens, *et cetera*.

The Deputy Bailiff:

Well, I should have pulled him up ...

The Connétable of St. John:

I pulled it out of that.

The Deputy Bailiff:

It is just taking us down a completely blind alley. Now, are there any further questions? Deputy Southern.

2.10.8 Deputy G.P. Southern:

Is the Minister aware that his current waiting list is described as inadequate and it underestimates, and that it leaves out many economically vulnerable under-50s and what is he prepared to do about catering for this hidden market?

Deputy A.K.F. Green:

Yes, I am aware but there is no point in widening the criteria until we can meet the demand. We need to have a proper, robust system. I want to help the under-25s and I want to send out messages to the couples under 50 that we can help them, but until I have solved those immediate problems

and widened the amount of property that we have available, I am not able to do that. But I am certainly working on it and keen to do it.

2.10.9 Deputy M. Tadier:

How does the Minister feel about increasing rents by 20 per cent for some of the most vulnerable in our society while at the same time there is a pay freeze on the table for 2 years? Some of those people, of course, will be in social housing. Can the Minister respond on how he feels on a moral level with that?

Deputy A.K.F. Green:

Yes, because I have already said they will be fully protected.

2.10.10 Deputy T.M. Pitman:

I think in fairness I should point out that I do believe the Minister is doing a good job. He has inherited an absolute disaster from Senator Le Main. But what I would like to ask the Minister, could he clarify for us whether he has been under any pressure to increase his rent from the Housing Trust who, of course, has effectively frozen it for a number of years?

Deputy A.K.F. Green:

Absolutely not, but what I will be bringing in as part of this regulation is the money that the Housing Trust will have as a windfall that I will have greater say and control over how it is used. It will be used for social housing from the Trust as well. I will have greater say. The Trust has had no input in terms of whether we should put the rents up at all.

2.11 Deputy J.H. Young of the Minister for Planning and Environment regarding changes to the Planning process:

Will the Minister advise the Assembly of the remedial action he proposes to take and the lessons he draws for future planning decisions from the recent judgment of the Royal Court, which concluded it would not have approved the development in La Rue au Moestre, which it considered would overbear, overlook and seriously affect the privacy of the properties of the objectors in Le Quai Bisson?

Deputy R.C. Duhamel (The Minister for Planning and Environment):

The comments I made in the previous question about the preface to the question still apply. Notwithstanding that, the court dismissed the appeal and in doing so directed that an extra condition be imposed regarding the means of enclosure to the external terrace, requiring a solid raised planter wall rather than a balustrade with obscure glazing. With regard to the question of what further remedial action I propose to take on this matter, the honest answer is none. There is none to take. This appeal was a challenge which did not overturn the Minister's decision and while the court may have chosen to make another decision had it been the Minister, it reminded itself that it is the test of reasonableness that is under consideration and not the planning merits. All due process was followed in the consideration and determination of this application and following the lodging of the third party appeal the court has delivered its judgment. Likewise, in the context of the wider issue of the jurisdiction of the court in dealing with planning appeals, with regard to the test of reasonableness as opposed to the planning merits-based appeal system, this is an issue on which States Members and the public will be able to air their views following the proposed publication of the Green Paper on the planning appeal system.

2.11.1 Deputy J.H. Young:

If I may raise 2 points to ask the Minister to clarify. The Minister referred to due process being followed in this application. In terms of lessons learned, is it correct, can he confirm, that prior to the application being determined no visit was made to the appellant's property - which was immediately below the application site - to consider it and that the first time that a visit was made it was by the Royal Court when they visited the appellant's property?

Deputy R.C. Duhamel:

I am not able to do that other than to say that I did visit the vicinity of the neighbourhood to see for myself what the overbearing would be, and indeed if we stray into the legal reasons for the court coming to a particular decision as to the non-overbearing nature of the property, it does particularly state that from the premises that are being asked to be built there is no overlooking of the ground floor windows. There is perhaps a dormer window which would only just be below the level of the terrace and, therefore, be easily seen from the terrace but the provision of a planter wall would minimise those views, as indeed the efforts that the applicant had made in order to reposition the windows so that in the main the overlooking properties were minimised or taken out of the application. I do not think it is right that we should particularly go into the details of a particular court case and ask questions in the House on those details because, as your comments previously referred to, Sir, the court is the court and the politics of the situation is something different.

The Deputy Bailiff:

I thought the question, Minister, was whether or not either the Minister or anyone from the department had paid a visit to the premises.

Deputy R.C. Duhamel:

I answered that. I said I had not paid a visit to the person's premises. I had viewed the site from above and viewed it from below, but I had not viewed it from the woman's bedroom window. [Laughter]

The Deputy Bailiff:

I am sure she is very relieved.

2.11.2 Deputy J.H. Young:

Thank you for clarifying my question. If I could ask the Minister, the Minister has dealt with his own position and I know it has caused some amusement about standing in the appellant's bedroom, but having stood there myself and seen it yesterday [Laughter] at the invitation of the householder and saw the prejudice caused, I think I would ask the Minister ... the Minister has confirmed that he has not seen the prejudice, but could he confirm whether the planning officers did so before they recommended this for approval?

Deputy R.C. Duhamel:

I am not able to do that. I will come back to the Deputy.

2.11.3 Deputy J.H. Young:

If I may, one final supplementary. The Minister said that there was no remedial action to take in this matter. Could I ask him whether he has referred to the building bylaws which deal with the structural safety of developments and whether he is aware that this property is to be constructed on a near vertical rock face and whether he has seen the structural reports that refer to the rubble stone and the history of landslips? Would he be able to look at attaching a condition to the consent that will make it null and void if it cannot be safely constructed?

Deputy R.C. Duhamel:

Indeed, if the Deputy has a chance to read the file, that is indeed part of the decision that I made when I agreed that it was okay in planning terms. There is a further condition on the Minister having to be satisfied of the ability of the company - whichever company undertakes the work - to satisfactorily in structural terms guarantee virtually that there is minimal chance, if not no chance, of landslips that perhaps might come about if this work is undertaken in a substandard fashion.

2.12 Deputy M. Tadier of the Chairman of the Comité des Connétables regarding warrant cards issued to Connetables:

Will the Chairman advise whether any warrant cards have been issued to the Connétables in the time between the tabling of the written answer to me on 21st February 2012 and the current date and, if so, would he state how many, to whom and why they were issued?

Connétable J.L.S. Gallichan of Trinity (Chairman, Comité des Connétables):

Between tabling the written question on 21st February 2012 and the current date, 2 warrant cards have been issued, one to the Connétable of St. Clement and the other to the Connétable of St. Ouen. They are issued for identity purposes only.

2.12.1 Deputy M. Tadier:

So the answer which I was fully expecting has to be for identification of what?

The Connétable of Trinity:

Maybe they are not so well known as other Constables in their Parish.

2.12.2 Deputy M. Tadier:

That is not a satisfactory answer. The clear implication of the question is that now all States Members are able to get a card identifying them and their position in the States Assembly, whether that be Deputy, Senator or Constable. My point is - and this was brought in incidentally after the first questions were being asked, so I am sure that the said Deputies of St. Clement and St. Ouen could apply for one of these cards - is it to identify them as police officers, as I believe that is what warrant cards are for, and so that they can carry out policing duties in their respective Parishes?

[11:00]

The Connétable of Trinity:

To the best of my knowledge, Deputy, they do not have these cards for policing as far as I know, but, as you know, the Connétables retain the authority to carry a warrant card under existing legislation. It is there for the decision of each individual Connétable whether they wish to do so. Obviously, these Connétables have decided they wish to have a warrant card. I presume, as far as I am aware, none of the Connétables at present do any policing matters. We leave that policing to the Chef de Police of the Parish.

2.12.3 Deputy M. Tadier:

I note first of all that 10 Constables have decided that they do not feel the need to carry a warrant card identifying them as a police officer, which is interesting. I presume also that discussions about this subject have taken place on the Comité des Connétables, so could I ask the Chairman to have a full and open discussion with the Comité des Connétables to decide whether it is considered best practice by the Chairman for Constables who are considered no longer to be active policemen to have cards which denote them as active policemen.

The Connétable of Trinity:

It can be brought to the Comité des Connétables but it is still down to each individual if they wish so, and each individual has to make their own views. I do not think we can enforce someone not to have one when they are entitled to have one at present because they are head of the Honorary Police.

2.12.4 Senator P.F.C. Ozouf:

The Deputy said that the Constable of St. Ouen might not be known in his Parish. Would the Chairman confirm that, in fact, he believes that the Constable is now very well known to the 8 million readers of *The Economist* following his excellent work [Laughter] and the excellent work that the Honorary Police do in Jersey?

The Connétable of Trinity:

I am sure that is correct.

2.12.5 Deputy M. Tadier:

I am sure the second part of Senator Ozouf's question, which he did not quite add there, is: "... and therefore he does not need a warrant card to identify him to his parishioners."

The Connétable of Trinity:

That is not a question, but I think it is down to each Connétable to decide their own matter.

The Deputy Bailiff:

That brings that part of question time to an end. Senator Ferguson, I have you down as malade and obviously I am delighted to see that you are well enough to attend the Assembly. Could I ask if you asked Deputy Vallois to declare to the Assembly that you were malade?

Senator S.C. Ferguson:

There appears to have been a slight confusion. I have been malade for the last few weeks. This week I had a doctor's appointment at 9.15 a.m. I sent a message to the Deputy but I would assume that, unusually, she has not caught up with her messages and, therefore, she incorrectly assumed that I would not be coming in today but ...

The Deputy Bailiff:

You very clearly have been marked défaut excusé for a doctor's appointment, but I make the point only to Members that it is important before you take an oath to say that another Member is malade that you should ensure that the person really is sick or make them sick so they cannot be present.

Senator S.C. Ferguson:

I was malade until I came out of the doctor's.

3. Questions to Ministers without notice - The Minister for Social Security

The Deputy Bailiff:

We now come to Questions to Ministers without notice. The first question period is to the Minister for Social Security.

3.1 Deputy G.P. Southern:

Does the Minister not accept that it was clearly stated when L.T.I.A. (long-term invalidity allowance) was introduced in 2001 that this benefit would not apply to existing beneficiaries on the

old scheme and that his proposal or suggestion that he might transfer these people from the old scheme to L.T.I.A. is a breach of trust?

Senator F. du H. Le Gresley (The Minister for Social Security):

The Deputy has submitted a written question on this very subject and Members may well have read my response to that written question. He makes a number of mistakes in what he is saying to the House, unfortunately, because L.T.I.A. was introduced in October 2004, not in 2001. However, there was a debate back in 2001 which was to introduce L.T.I.A. When the Deputy talks about a breach of trust, he is referring to a particular phrase within the proposition, which was an amendment No. 14 to the law. If I may, I really want to dispel the opinion of the Deputy that this is a breach of trust. The clause he is referring to is in the explanatory notes to this amendment, which are written by the Law Officers, not by the Employment and Social Security Committee of the time. It states that the new provisions for incapacity benefit: "... will not apply to existing beneficiaries, whose entitlements will continue to be governed in accordance with the present law." That simply means that the Social Security Law of 1974 still applies to those beneficiaries. However, the House on the proposition from the Minister for Social Security can at any time review a law.

3.1.1 Deputy G.P. Southern:

A supplementary if I may. Does the Minister, notwithstanding his answer, accept that any reduction in incapacity benefit that he achieves will simply be transferred to income support in the majority of cases?

Senator F. du H. Le Gresley:

The review that I am proposing that the department carry out is to see whether we can assist some of the people who have been on this benefit for nearly 10 years. The fact is that about a third of them are under the age of 40 and it is clearly important that we try to assist these people if we can to return to the workplace, but that cannot be done while they remain on this benefit because the benefit prevents them from taking up employment.

3.2 Senator A. Breckon:

Can the Minister say what progress has been made in the introduction of the elderly care scheme?

Senator F. du H. Le Gresley:

The Senator refers, I believe, to the long-term care benefit, which was approved by this House last year. We are doing a lot of work in preparing regulations to bring back to this House and I hope that those regulations will be lodged some time this year. At the moment, our discussions are around the collection of the contributions and that involves discussions with the Income Tax Department. At the moment I am not able to give any indication of when those matters have been progressed.

3.3 Deputy T.M. Pitman:

If the Minister can cast his mind back to the questions asked of the Minister for Housing about how the 20 per cent rise had been discussed with himself, the Minister for Housing seemed to imply that everything was very straightforward, it could all be done just like that. We were discussing it and I think rent rebate alone is £26 million or £27 million. Can the Minister give assurances that that really is achievable? Does he share the confidence of his colleague?

Senator F. du H. Le Gresley:

Yes, the Deputy is quite right to be concerned about the implications on people on income support with the proposed increase in the rents to 90 per cent of market value. I can confirm to the Deputy

that the discussions have been agreed between the Minister for Treasury and Resources, the Minister for Housing and myself that the money will be made available through the Treasury to the Social Security Department to provide cover for those States tenants who are currently on income support that they will not feel any effect of the increase in the rents. I am quite satisfied that that protection is there.

3.4 Deputy S. Power of St. Brelade:

The Minister will be aware that his predecessor, the Chief Minister now, instigated a series of increased investigations into inappropriate claims, false claims and, indeed, fraudulent claims at times to his department. Can the Minister give the Assembly an indication as to whether he is keeping this impetus up and whether he has maintained the same level of activity and budget into this area of his department?

Senator F. du H. Le Gresley:

Yes, there was a press announcement towards the end of last year. I cannot remember, unfortunately, the figure for the Deputy, but the department is very much following up on messages given to the answer phone on the fraud line. We have employed 3 extra officers in that department and they have more than paid their way. We are always keen to follow up on any potential fraud because obviously this is taking money away, particularly on income support, from taxpayers.

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

Could the Minister explain why only one carer's allowance is available to any family when there are some individuals who require care to a ratio of 2:1?

Senator F. du H. Le Gresley:

It is a very good question the Deputy asks. The Deputy is referring, of course, I think, to invalid care allowance, which is paid to one member of a household to look after somebody who needs I think more than 35 hours a week care. There is also a component within income support for a carer, which is sometimes appropriate, particularly if the carer is perhaps somebody under the age of 18 or a pensioner. But the Deputy makes a very good point and I will look further into that.

3.6 Deputy G.P. Southern:

Does the Minister accept that his decision to change the access of those on income support to special payments for dental services will reduce the number of visits to dentists by this particular section and reduce the dental health of these particular clients?

Senator F. du H. Le Gresley:

I do not accept the Deputy's assumption. In fact, what was quite clear when we reviewed the amount of special payments being issued for dental care is that they doubled between 2009 and 2010 from about £140,000 to £280,000 with many of the increases relating to dental care costing in excess of £1,000. Now, this is dental care that is not available to the ... or the cost is not available to the people who are not on income support in this Island and it seemed to us that there was possibly an abuse of the system. We needed to tighten up and I have no doubt that the changes that we have introduced, which is basically £500 by way of grants over 2 years, is quite fair and we have exempted pensioners over the age of 65 and people on personal care component levels 2 or 3. So I think we have been quite careful to be sure that we protect the more vulnerable and, in any case, if somebody has a particular need which would take them over that limit we can do it by way of a loan or, alternatively, possibly a grant if it was, say, for a pair of dentures or something like that.

3.7 Deputy J.A. Martin:

I must press the Minister on the discussions the Minister has had with Housing on the 20 per cent uplift in the housing component for people on income support. Given that the majority of people on income support, or many on income support, only receive that component, what discussions has the Minister had that this will draw many, many more people into it? I have just worked out that the benefit for the top one-bedroom flat, which is now £156, will go up to £183, where there will be some couples out there thinking: “Well, I will not claim for the £5 or £10” but they will certainly claim for the extra £30. Does the Minister know the unknown, I am basically asking, or has he even thought of the unknown because that is what will happen. How many are there?

Senator F. du H. Le Gresley:

The Minister would love to be able to predict the unknown. He would be quite a valuable Minister if he could do that. However, I would say that the Deputy perhaps is misunderstanding when she says that the majority of people’s income support goes towards the rent. Of course, what happens with income support, as she I am sure is aware, a number of components are added up. If the amount made available to that claimant is equivalent or less than their rent which they pay to States Housing, then that is where the money will go first to settle the rent. There is not a difficulty really, as I understand, with the proposed increase to 90 per cent of market rents because that will simply replace the current fair rent that we work to. We will have a new set of rents and we will pay up to those levels.

3.8 Senator L.J. Farnham:

Does the Minister know the latest figure or could he update the Assembly as to the amount of money that is estimated that is lost each year due to fraudulent or illegal claims?

Senator F. du H. Le Gresley:

That is quite a difficult question and I would need more time to give a detailed response to that. I am happy to look into it and come back to the Deputy.

3.9 Deputy T.M. Pitman:

I hope the Minister is aware that there are known unknowns and unknown unknowns, according to Mr. Rumsfeld. Could the Minister clarify what progress has been made with the meeting he had and some of his officers had with several States Members regarding concerns about lost documents within the department? Has any action been taken and has anything new been put in place since that meeting?

[11:15]

Senator F. du H. Le Gresley:

Yes, I am pleased that we had the opportunity to have a meeting with those Members who had concerns about the operation of my department. Those Members will know that we sent out the notes or minutes of that meeting and that I agreed to come back to those individuals in early April with how we are responding on the various points raised. We are taking those complaints very seriously, but I am not in a position to give a full response today.

3.10 Deputy G.P. Southern:

What progress has the Minister made with the recommendations contained in Scrutiny Report 5/2011 into benefit levels of the interaction between income tax, the minimum wage, rents and income support?

Senator F. du H. Le Gresley:

The Deputy is aware that the income support system, for want of a better word, is always under review and the matter that he raises concerning the interaction with tax thresholds, *et cetera*, is one

that is being looked at this year along with obviously the work that we are doing with the Housing Department in relation to the Housing Transformation Programme. I can assure the Deputy it is a matter on our agenda.

3.10.1 Deputy G.P. Southern:

When will the Minister come to the House with the conclusions of this review? Because it is absolutely imperative that it is there if we are to view the housing plan.

Senator F. du H. Le Gresley:

I am unable to give a specific timetable for the Deputy, much as I am sure he would wish me to. It is a matter that is being looked at by officers, obviously in conjunction with officers at the Income Tax Department, but it is quite a difficult piece of work and I am unable to give him a timescale.

The Deputy Bailiff:

Deputy Martin, I had you next on my list.

3.11 Deputy J.A. Martin:

Yes, it was just a follow-on because I think the penny just dropped when the Minister said about the rent rebate. My question would be I am a private landlord and at the moment I am charging my tenant £275 but you are going to give me over £300 because that is what it will be. So am I going to sit there and keep my tenant at £275? No, the 20 per cent on a 3-bed is over 55, which brings it up to over £300 a week and any private landlord worth his salt, if they do not chase that money, well... logic of lunatic strikes me. I just cannot get my head round it.

The Deputy Bailiff:

Is that a question?

Deputy J.A. Martin:

The question was have they thought about this? Is it directed at the trusts or the private landlord? These are the only people who will be getting any money.

Senator F. du H. Le Gresley:

As far as the housing trusts which provide social housing, the rents that they will be charging will be identical to those being charged for States tenants. They are part of the gateway and, therefore, they are covered by those arrangements. Private landlords: part of the piece of work that is being carried out by my department is to decide how we allocate income support component, housing component, for private sector tenants. We may well use ...

The Deputy Bailiff:

I am very pleased to hear that, Minister, but your time has now expired.

4. Questions to Ministers without notice - The Chief Minister

The Deputy Bailiff:

We come now to the second question period, which is of the Chief Minister. Deputy Power.

4.1 Deputy S. Power:

The Chief Minister has recently passed chronologically his first 100 days in office. Would he care to give an indication to the Assembly that his new Council of Ministers is an oasis of peace and

calm and would he say that the same oasis of peace and calm extends to his relationship with his Minister for Treasury and Resources?

Senator I.J. Gorst (The Chief Minister):

In the words of a rather more famous politician, in my first 100 days I am enjoying myself. I do not think that I would be satisfied and entirely happy if I had a Council of Ministers that was an oasis of peace and calm because one of the purposes of the Council of Ministers is to have a robust debate and try and consider every angle before bringing forward a piece of policy or a piece of legislation for approval by this Assembly. I can confirm that we are, indeed, having those robust debates about the future direction of our community and that is right and proper. I am and always have worked well with the Minister for Treasury and Resources when he was Minister for Treasury and Resources before and I was Minister for Social Security, and I continue to have that good excellent working relationship.

4.2 Deputy T.M. Pitman:

Would the Chief Minister agree with me and condemn the comments of his predecessor bar one in suggesting that giving senior civil servants a “get out of your contract card free”, £500,000 golden handshake, justified by possible attacks or criticisms from States Members was completely inappropriate and would he distance himself from that view?

Senator I.J. Gorst:

As a child, one of the lessons that my mother endeavoured to teach me was the principle of “but for the grace of God.” I have no doubt that some of the decisions which I probably already have made and will be called upon to make during the course of the next 3 years, subject to the will of this Assembly, will in hindsight be viewed in a different light from the conditions during which I had to make those decisions. Therefore, I will not rise to the challenge that the Deputy lays before me. As I understand it, the previous Chief Minister said there were good reasons to make that decision at that time and I believe that probably I should leave it at that.

4.3 Deputy J.A. Hilton:

In response to a written question, the Chief Minister very kindly provided some data with regard to Advance to Work and Advance Plus schemes. My question was asking how many of the registered unemployed had been accommodated by States departments on both of those schemes. I was somewhat disappointed to note that in 2011 out of the 15 departments in the Advance to Work only 8 offered placements to people on the Advance to Work scheme. Likewise, in 2011, on the Advance Plus only 7 States departments out of the 15 offered places. Notwithstanding the 100 places that they are currently negotiating, does the Chief Minister believe that the States of Jersey have done enough to offer registered unemployed opportunities in States departments?

Senator I.J. Gorst:

In a word, no. The Advance to Work scheme initially looked for placements that were going to lead to work and, therefore, employers were asked to come forward with placements where there was a good chance that that was going to lead to a full-time job. During the course of the difficulties that we are experiencing, that has changed slightly and the Advance to Work programme has asked for employers to come forward who perhaps are not aware of full-time employment at the point that they offer the placement but there is value in the placement in itself. One of the first things which the Deputy referred to in her question was that I asked for us to find more placements across States departments. I have set the target of at least 100 additional placements and we are working on that. It might be that there is extra capacity that we can find, but the reason I asked for that additional 100 places to be looked for was because I was not satisfied with the role that we were currently playing. But I believe that we are now correcting that issue.

4.4 Deputy G.P. Southern:

In his most successful - in P.R. (public relations) terms - first 100 days the Chief Minister appears to have yet to come to this House with a statement about any major policy change or policy initiative that he in particular is making. The same applies to many Ministers. It seems to me that the Chief Minister should adopt the habits of his predecessors and whenever possible announce policy initiatives in this House, thereby giving 10 minutes question time to work out what is going on, rather than allow these Members to read in the paper what is going on. Will he do so from now on?

Senator I.J. Gorst:

I will endeavour to do so.

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

Following recent revelations regarding the compromise agreement with the former Chief Executive Officer of the States of Jersey, is the Chief Minister as Chairman of the States Employment Board able to update the Assembly regarding the agreement with the former Chief Officer of Health and Social Services?

Senator I.J. Gorst:

Indeed I am. The then States Employment Board signed an agreement with the former Chief Officer of Health and Social Services. That agreement included a monetary value, which was calculated at 6 months' notice in lieu and 6 months' pay, which totalled just over £129,000.

4.6 Deputy J.A. Martin:

It is really a follow on from Deputy Hilton's question and thank you for that answer. My question is - and I hope the Minister will take this on board when now working with Social Security - given the amount of youngsters as well out of work, why are we not working with the third sector? I keep hearing charities crying out for volunteers, but my daughter and all her friends who go down there are not offered or told about this. It would be the ideal place for third sector charities to get some youth on board to help, because some of the charities are coming to an end because of the age of the volunteers. Would the Minister, please, seriously look into this? I think it is absolutely a great opportunity and it should not be missed.

Senator I.J. Gorst:

Yes, I will. The Deputy makes an excellent point. Third sector organisations were, of course, the Minister for Social Security reminds me, invited and took stalls at the jobs fair. I lose track of the days. I find it is a bit of a problem since I have got to this job, but I think it was last week I had a meeting with representatives of the third sector and suggested to them that we, Government and the third sector, needed to have a more co-ordinated approach around volunteers and people that might be able to work alongside them and help them with their work and they have gone away to think about that. They are about to start the process of appointing the third sector forum co-ordinator which is going to help and enable us to really get some traction in this particular area, because I am, and I know the Council of Ministers are, very supportive of the third sector. In actual fact, I see the work that we want to do in Government only being delivered if we are able to work hand in hand with the third sector because of the invaluable contribution that they have to our community. So it is going to be a continuing theme, or I hope it will be, not only coming of the Chief Minister's Department but from right across Government, with every Minister signed up to recognising their value and to working hand in hand with them.

4.7 Deputy T.M. Pitman:

Obviously, as well as being Chief Minister, the Chief Minister is a Senator representing all the various Parishes of the Island. Over the last 2 weeks both the Constables of St. Clement and St. Helier have been charged by their parishioners, after an overwhelming vote to reject politicians being on the Electoral Commission, with conveying that message to all those Senators and the Deputies. Can the Chief Minister confirm that he has received that message, that the public of St. Helier and St. Clement do not want politicians sitting on the Electoral Commission?

Senator I.J. Gorst:

I was just trying to do a quick check with the Connétable of St. Helier as to whether the results of that meeting were emailed directly. I do not recall seeing that email. However, of course, there was publicity in the *Jersey Evening Post*, for which I thank them. The Connétable of St. Clement did indeed refer to, if I recall correctly, the Deputies and all Senators the results of the meeting that took place in his Parish.

4.7.1 Deputy T.M. Pitman:

In light of the overwhelming response that those 2 Parishes did not want people sitting on the Electoral Commission, will Chief Minister be withdrawing his very ill-considered former support for having politicians on that Electoral Commission?

[11:30]

Senator I.J. Gorst:

I know the Deputy is excited to get to the debate that we will be having later today and to know what the contents my speech might be. However, I will not give in to that temptation to put him out of his misery in that respect.

PUBLIC BUSINESS

5. Draft Amendment (No. 18) of the Standing Orders of the States of Jersey (P.4/2012)

The Deputy Bailiff:

Are there any further questions? Very well, that brings question time to an end. There is nothing under J or K. We now come under the first item of public business, the Draft Amendment (No. 18) of the Standing Orders of the States of Jersey - P.4/2012 - and I ask the Greffier to read the proposition.

Senator F. du H. Le Gresley:

Sir, before the Deputy Greffier reads the proposition, could I just correct something I said during question time? It was inadvertent but I have just been reflecting. In answer to Deputy Southern, I said that approximately one-third of the people in receipt of invalidity benefit are under the age of 40. I should have said under the age of 50, Sir.

The Deputy Bailiff:

While you are correcting things, Senator, can I just also say that you said the Law Officers wrote the explanatory note and I think it was probably better to say the law draftsmen wrote the explanatory note?

The Deputy Greffier of the States:

Draft Amendment (No. 18) of the Standing Orders of the States of Jersey. The States, in pursuance of Article 48 of the States of Jersey Law 2005, have made the following amendment to Standing Orders.

5.1 Connétable A.S. Crowcroft of St. Helier (Chairman, Privileges and Procedures Committee):

This amendment to Standing Orders follows a decision by the States, as Members will have read in the projet, taken on 9th June last when a proposition of the then Deputy of St. Martin was adopted by 35 votes to 9, with 2 abstentions. P.P.C. (Privileges and Procedures Committee) at the time made it clear it would be unfair to make the change before the elections as Members needed to stand for election knowing that their declaration of interests would be published on the internet during the lifetime of the new States if they stood for election. The new P.P.C. therefore addressed this issue once it was appointed and asked for this amendment to be drafted to give effect to the change and if I can just outline why we have introduced this change. All Members, as they will know, are required to complete a declaration of interests and to submit it to the Greffier. Members are required to keep the register up to date and the Greffier's office sends out periodic reminders to all Members to ensure they do not overlook the requirement. Members will have had one very recently. The current Standing Orders require the Greffier to maintain the Register of Interests and states: "Any person may inspect the register at the offices of the States Greffe during normal working hours." That is Standing Order 154. In practice, a file is kept in the States Assembly Information Centre in Morier House and anyone can go in and inspect the declarations. The Greffier does not allow photocopies to be made of the register because the wording in the Standing Orders simply says the register can be inspected. Advice was, nevertheless, received during the June debate last year from the Solicitor General that made it clear that there was no reason why a person inspecting the register could not jot down details with a pen and paper. He stated: "I believe the word in the Standing Order is 'inspect' and 'inspect' means you look at it. So you cannot copy it or photocopy it, but there is nothing to stop you, I suppose, with a pen and paper, jotting down what you can see." When asked earlier in the debate if there was anything to stop a person then publishing on the internet or a blog information that had been jotted down, the Solicitor General advised: "The answer is it is not an offence to publish such information on the internet *per se*, although, of course, depending on how the information is used and whether or not it is used properly or maliciously, I suppose one could commit an offence of, for example, harassment; but the mere fact of publication itself is not an offence." Now, concerns were expressed during the June debate about this publication of interests on the internet and the new P.P.C. was conscious, when considering the matter, that some concerns were genuinely felt by Members about the risk of publishing information about their interests on the internet and also, perhaps more importantly, that the interests of a Member's spouse or partner also had to be declared. P.P.C. has noted these concerns but has made the following points. First of all, being a parliamentarian in any modern parliamentary democracy in the 21st century brings with it the expectation of openness and transparency and this is, in a sense, the price one has to pay to serve in public office. Secondly, Jersey is behind other jurisdictions in relation to internet publication of interests. The U.K. Parliament and the devolved Parliament and Assemblies of the United Kingdom now publish Members' interests online, as does the States of Guernsey. Thirdly, the information is already public information and the legal advice given is that anyone with enough time can come into Morier House and copy it all out, then go home and publish it on their own website or blog. There is a real risk if this happens - as it surely will at some point in the future if we reject this today - that this information might be selective; for example, covering only certain Members. It might be out of date if the person does not come in and copy out updates, for example, or it might even be deliberately misleading and inaccurate. It is far better, in the committee's view, for us to be proactive and publish this officially through the Greffe, as Members will then have an assurance that the information will be accurate, up-to-date and published on an official States of Jersey website. Finally, the interests of a spouse and partner simply have to be included in the declaration or there would be an obvious avoidance mechanism to simply transfer assets to one's spouse or partner to avoid having to make a declaration. Moving on now, just finally, to the mechanism for

this and this is indicated in the report accompanying the proposition. The intention is to include a new field on each Member's biographical page on the website. This page currently gives information such as address, phone number, a photo and details of Ministerial office or committee membership and the intention is to include an option to open, as a P.D.F. (Portable Document Format) document, the Member's declaration. If changes are notified to the Greffe by a States Member, the Greffe will update the declaration and upload the new version. Members are already being contacted by email by the Greffe asking them to check the information that is being typed up from the hard-copy declarations. The change to the States Assembly website will be made in time for the coming into force of the new requirement, one month from today, as set out in the commencement provision in Standing Order 2. I would like to propose 1 and 2 together, if I may, and I move the proposition and will take questions.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Thank you. Does any Member wish to speak?

5.1.1 Deputy G.C.L. Baudains:

I appreciate this proposition merely brings into force things that have been decided previously, but I am nevertheless uncomfortable with it. I fully understand the public have a right to know whether or not a politician has interests that might or might not influence his or her actions or his or her voting, but what I am concerned about, and I know this issue has been aired previously, is the security issue. To me there is a world of difference between something that is being kept in the Greffe and something that is available on the worldwide web. I do not have a problem with information being held at the Greffe because it means that somebody has to be in the Island to access the information and have sufficient urge to go and take the time to look at it. The worldwide web is a completely different issue where anybody can access the information. We will have our in-boxes filled with spam. We will have gentlemen from Africa telling us about this wonderful deal that we cannot possibly refuse, because they have looked at the information and thought: "Well, this person has got a few bob. We will try him." It is simply not good enough. I am concerned. I am also slightly concerned that P.P.C. have mentioned previously that all candidates in the recent election were fully aware that the information would be going on the website. I think, if the committee asked all the candidates in the recent election whether they were aware of it, they would find that the circulation was not quite as they thought it was. I believe this carries openness beyond what is reasonable. It might even have a deleterious effect. I can imagine 2 matters that might arise. It could deter a successful businessman from standing for election, knowing that all his details will be around the world, or it might even encourage Members to be economical with what they put down on the form. I really do not see the advantage of this and I am quite concerned about it, in fact.

5.1.2 The Connétable of St. John:

Like the previous speaker, I do have some real concerns - real concerns - given that only this morning I was given back my form, which I produce here today, and I have complied with what the law says because I have filled it in and I am told it is not legible because they want to type it up to put it on the internet. Well, I think it is totally wrong that assets of investment companies of which I happen to be a director need to be shown on the internet. I would have thought sufficient would be that the company is declared. In particular, if some of these assets are not my own but my spouse's, I think it is totally unfair and I would like to know from the Attorney General where it said on a nomination paper for Connétable, for Deputy or for Senator that your individual assets would have to be produced at the time of the election. I do not ever recall seeing that that was part of the form that was filled in, even for the criminal check that they do in the case of Constables. Further to this, would the Attorney General also tell me, by having to disclose a spouse or partner's

assets, are we breaking data protection on that person's behalf, because I have real concerns that we could be. I have got no problem in declaring what I own but I have got a problem in declaring a third party given that it is totally ... with data protection. Maybe he could answer that before I go any further.

The Attorney General:

In response to the first part of the question, I am not aware of any information contained in a nomination paper that relates to what the obligations of declaring an interest would be were the nominated person subsequently to be elected. It might be, I suppose, suggested that anyone who stands for office would be deemed to know what the requirements of that office are when they are standing for it, but I agree that there is nothing on the nomination form, as far as I am aware. I do not think data protection considerations arise in connection with whether or not a matter that is, in effect, within the public domain, because it forms part of a declaration that is available for inspection at Morier House by a member of the public, simply then is published on the internet. I do not think there is any difference in data protection considerations between those 2 actions.

The Connétable of St. John:

Given the A.G.'s (Attorney General) comments about the nomination paper, should P.P.C. not put this in place before? In fact, I would suggest that they withdraw this and make sure that that is put in place before we go and put information on the internet so that all candidates are aware when they are signing up that their entire assets and those of a spouse will be put into the public domain. I will not say more than that at this time, but I do have some real concerns and I would ask P.P.C. to take this back and deal with that particular point.

5.1.3 Deputy T.M. Pitman:

I have got no problem with this. I started out with nothing, as they say, and I have still got most of it left. I do not care who sees it. I do respect the Constable of St. John's position. The real reason I have got no problem with this is because, the way the Jersey register is set up, you cannot get away from the fact that it will still be slightly less than useless. The public will not get to know all the intricacies of companies and businesses and how interwoven some Members' interests may be. I do not think there is anything to be feared by this, so I think we should get on and vote on it.

[11:45]

5.1.4 Deputy M. Tadier:

I support this, both personally and on behalf of the P.P.C. I think the argument that the Constable of St. John is coming out with is valid and I think it needs to be aired, certainly this idea about the third parties. I do not think it is so much a data protection issue. There could be human rights implications for that, but I think that they would be qualified rights that, when taken on balance, the public interest has to come down when it comes to parliamentarians in the modern day to have a transparent approach to politics. I would also make a comment that there must be lots of obligations and duties that are incumbent on States Members, whether they end up getting elected or not from the point of candidacy, which are not printed on the form. There is a Code of Conduct and it is reasonable for any candidate, who you would think would be political, to have followed what was going on in the States; to know that there was coming up a requirement for States Members to publish their interests on the internet. I would simply say that it is in the interests of Jersey, I think, to promote this transparency abroad because we are not simply limited to the Island. We are watched by the whole world. It is entirely possible that somebody in Guernsey, or somebody further afield, might be entering into all sorts of negotiations with Jersey. They may even be wanting to send their rubbish to Jersey. They may want to look up and see if any States Members own or have got any interest in that kind of company that deals with building

incinerators, which, of course, is not the case. So there are all sorts of legitimate reasons. I think the argument of criminality... any act of criminality is not desirable, but all people across the world have a right to view information, I think, for legitimate purposes. Criminals have a right to look at our information, but they do not have a right to commit crimes after having looked at our information and that is to do with law enforcement. I think that we should adopt this proposition. It is a good step forward and I think there is probably too much being made ... but I do, on a personal note, endorse Deputy Trevor Pitman's idea that this does not cover everything. There are obviously many mechanisms in politics for vested interests to be maintained. Of course, that does not happen in Jersey, but there are many mechanisms which would not be caught out by this. It is simply a step in the right direction.

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

I certainly do not have an issue with this proposition coming forward, but the thought just occurs to me, in listening to the comments around the Chamber this morning, should one's spouse deny you the right to disclose her financial interests would there be some form of penalty. Can I address that through to the Chairman of P.P.C.?

The Deputy Bailiff:

Does any other Member wish to speak? I call on the Chairman of P.P.C. to reply.

5.1.6 The Connétable of St. Helier:

I am glad that question came last. It gives me a few minutes to try and think of an answer. Deputy Baudains is uncomfortable with this and I think he is probably not the only one, but when he says there is a world of difference between writing down ones interests and having them published on the internet I think, as I said, in my opening remarks, that is not the case given that anybody can go in and, perhaps selectively and perhaps mischievously, publish those details online. Is it not better to have all of our interests declared together on an official website rather than for them to be scattered across numerous blogs and websites, which may well only tell half the story? He also worries that it will cause more spam. Well, he probably needs to get his spam filter adjusted. I certainly do not get many requests for money from Nigeria. I get the odd one. Both Deputy Baudains and the Constable of St. John asked about the status of new candidates who were not aware of this. I did not say that the candidates were made aware. I said that the previous committee considered it would be unfair to make this Act retrospectively on Members who were already in the States. As I think the Vice-Chairman said in his remarks, no one can be expected to put all of the provisions of being a States Member on the nomination form or it would be a lot longer than it already is. Clearly, before you set out to take on public office, you find out what is involved as best you can and declaring interests, I would have thought, is one of the more obvious things that one finds out about. As I also said earlier on, it is something that is widespread and indeed other governments and other parliamentarians put a lot more on their disclosures than I think we do. Deputy Baudains was also concerned about a deterrent. Would it deter new Members? Well, I suppose it might deter some people who did not want their interests on the website, but I can think of a lot bigger deterrents to joining the States Assembly than that. He also said it might cause Members to be economical with the truth. Well, I think Deputy Trevor Pitman alluded to this when he said that there is not a lot of useful detail in the declaration anyway. I do not call that being economical with the truth. I call that a light touch; having a declaration of interests which indicates to people who are interested that you have certain business interests, certain directorships, certain properties, but that is about as far as it needs to go. The Constable of St. John also has concerns about these things being online. As I said, it is common practice. It is perhaps better the devil you know than the devil you do not, which I think is the alternative. He also asks us to take it back. Well, given that there was a not quite unanimous vote last time round, in June last year ...

and as I make this argument I know people are going to quote it back to me in the next debate; but, given that the principle has been adopted by the States and there is no realistic alternative if we are going to make our declarations public, I do not really see the point in taking it back. I thank the Vice-Chairman, Deputy Tadier, for his comments and I still have not thought of an answer for the Constable of St. Peter's question. What do you do if your spouse refuses to have their interests published? The Attorney General might be able to help me out of this spot, but I certainly have not got any idea.

The Attorney General:

I have to confess, I am not entirely sure of the answer to the question. It seems to me that that is a matter between husband and wife, but the obligation is on the Member to make the declaration and that declaration relates to the sum of the assets that are in the names of that Member's family. Quite how one would square the circle where that information could not be forthcoming for reasons outside the Member's control is something that I would have to give further thought to, I am afraid.

The Connétable of St. Helier:

I am grateful to the Attorney General. There will be some interesting discussions in a few marital rooms, I am sure, in the ensuing days. I think I have answered the questions. I would like to maintain paragraphs 1 and 2 and ask for the appel.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt paragraphs 1 and 2 of the proposition and I ask the Greffier to open the voting.

POUR: 38		CONTRE: 5		ABSTAIN: 1
Senator P.F.C. Ozouf		Connétable of Grouville		Connétable of St. Mary
Senator A. Breckon		Connétable of St. John		
Senator S.C. Ferguson		Connétable of St. Ouen		
Senator A.J.H. Maclean		Deputy G.C.L. Baudains (C)		
Senator B.I. Le Marquand		Deputy J.P.G. Baker (H)		
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				

Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

6. Electoral Commission: composition and terms of reference (P.5/2012)

The Deputy Bailiff:

We now come to P.5 - Electoral Commission: composition and terms of reference, lodged by the Privileges and Procedures Committee and I ask the Deputy Greffier to read the proposition.

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

Sir, just before we start, may I ask a point of order or certainly clarification? I did try and run it past the Greffier overnight and I think, in conclusion, we decided it was better to run it past yourself. On the actual proposition P.5, part (b) is the area I would like to address. We have always been told or understood that we have to read what is in the proposition. That is what we are approving. Part (b) of that proposition makes specific reference that the nomination and ballot procedures for the position, if this proposition is adopted, will follow the process set out in the Standing Orders for the selection of the chairmen and members of Scrutiny Panels. It then has 2 exceptions which is (i) and (ii): “Nominations for the 2 members shall be invited from all Members” which basically means there is an exception - normally it would be the Scrutiny chairman who would do the initial nominations - and (ii): “Voting for the members shall be undertaken by an open ballot.” Those are the only 2 exceptions that are stated. Now, Standing Order 125, which is “Members of Scrutiny Panel: appointment process”, says: “The chairman of the Scrutiny Panel shall indicate the number of members (not exceeding 4) [but I do not think that is relevant] that he or she wishes the panel to have and shall nominate elected members who are neither Ministers or Assistant Ministers as candidates.” I think that is followed up in Standing Order 135 as well. I was just wondering - and I appreciate it is probably a strict reading - could you clarify that the strict reading of (b), as it is written in that proposition, does not preclude Ministers or Assistant Ministers being nominated to the Commission? You might want to think about that for a couple of minutes.

The Deputy Bailiff:

No, I do not need to think about it, Deputy. Your question to the Greffier was referred to the Bailiff who has made a ruling that it is the process of election, which is to be mirrored and it follows that Ministers and Assistant Ministers can be nominated to be members of the Commission if that is what the States adopt.

Deputy J.A.N. Le Fondré:

Thank you, Sir.

Deputy M. Tadier:

Yes, I just have a question, Sir. Are you chairing this particular debate?

The Deputy Bailiff:

Yes.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act dated 15th March 2011 in which they agreed that an independent Electoral Commission should be established in Jersey to investigate and report on all aspects of the composition of the elected membership of the States Assembly and the election and voting processes for such Members and to vary that decision as necessary and (a) to agree that the Commission should be comprised of 3 Members of the States, one of whom shall be its chairman, together with 3 other persons with appropriate skills and expertise who are not Members of the States, appointed by the States on the recommendation of the Privileges and Procedures Committee following a recruitment process overseen by the Jersey Appointments Commission; (b) to agree that the chairman and 2 States Members should be appointed by the States immediately following the adoption of this proposition with the nomination and ballot procedures for these positions following the process set out in Standing Orders for the selection of the chairman and members of Scrutiny Panels except that (i) nominations for the 2 Members shall be invited from all Members without initial nominations being made by the chairman; and (ii) voting for the chairman and members shall be undertaken by open ballot and not by secret ballot; (c) to agree that the terms of reference for the Commission shall be: "1. The Electoral Commission shall consider all the following areas - classes of States Member, constituencies and mandates, number of States Members, terms of office and all other issues arising in the course of the work of the Commission which are relevant to the needs stated above. 2. The views of the public in Jersey should be sought and all such views taken into consideration. Formal meetings and hearings of the Commission should be held publicly in Jersey unless the Commission believes that there are reasonable grounds for holding a meeting or hearing in camera. The content of all written submissions to the Commission will be made available to the public, unless the Commission believes that there are reasonable grounds for non-disclosure of a submission or part of a submission, and should be attributed unless the submitter explicitly requests that a submission shall be non-attributed and the Commission accepts the reasons for such a request. 3. The Electoral Commission shall review existing studies and research and conduct further research as it sees fit. 4. At the conclusion of its investigation the Electoral Commission shall present a report with recommendations to the Privileges and Procedures Committee to enable the Committee to present the Commission's proposals to the States for approval prior to the submission of the proposals to the electorate in a referendum under the Referendum (Jersey) Law 2002"; (d) to request the Privileges and Procedures Committee, in consultation with the States Members appointed as chairman and members, to take the necessary steps to recruit the remaining members of the Commission and to request the Commission to forward its recommendations to the Committee no later than December 2012.

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

Considerable attention and public interest has been devoted to this subject of the Electoral Commission, but it does seem to me that possibly more concern has been expressed about the process of the Electoral Commission's work than the outcome. Before I go any further, I just want to pick up on a remark made by Deputy Trevor Pitman earlier about the outcome of the St. Helier Parish Assembly. I was not in the chair for that meeting. It was chaired by the Chef de Police.

[12:00]

I can only assume that the advice to Senators and Deputies was forthcoming from the meeting, but if it was not I apologise and I will just have to do it now. Possibly that covers me, but, as Members will know, there were 2 Parish Assemblies on this matter, one in St. Clement and one in St. Helier.

Both had a pretty good turnout as far as Parish Assemblies go. I think nearly 100 people turned up in St. Helier and a very large majority of those present voted that the Commission should be kept independent. I think about 30, or possibly 50, people in St. Helier voted that way and about 3 voted against. But, anyway, a substantial number of those who came supported that proposition and I am duly notifying the Deputies of St. Helier, if they did not know and if they were not there, and the Senators who were also elected by St. Helier electors that that was the outcome of that meeting. So to return to what I hope to be a short speech or a concise speech, because it seems to me that the debate is bound to focus today, and possibly tomorrow, on the amendments that have been put to P.P.C.'s proposition, and I hope P.P.C.'s report does a good job of explaining how the new P.P.C. arrived at a different position from the last one. It does seem to me that there are good reasons for having an independent Electoral Commission and that certainly caught the mood, I think, out there. But should we have an independent Electoral Commission at all costs, is the question. Is an independent Electoral Commission bound to come up with reform proposals that will work? This seems to me a key question we are going to be debating. Without wishing to diminish the value of those strong views that are held about the importance of keeping States Members off the Commission, these arguments, I would maintain, have been less strident - possibly much less strident - than the voices that have been raised for a long time now that the composition of the States needs to be reformed, particularly we need a smaller Assembly. I note in passing that Jersey was governed for several centuries by a 36-strong States and was on a war footing for much of that time and tackled numerous economic crises. The key question for Members today is: what kind of Electoral Commission will deliver results in short order that are likely to be approved by the States in time for implementation in October 2014? The proposition, supported by a majority of members of P.P.C., is to include States Members on the Commission. I would emphasise that P.P.C. does not have any States Members in mind in bringing forward their proposition and the debate should be, therefore, about the principles not the personalities that may have been brought into public discussion thus far. P.P.C. also wanted to take the opportunity of narrowing the scope of the Electoral Commission's work given the tight timescale and given the fact that P.P.C. is already proceeding with a root and branch review of electoral matters under the capable chairmanship of Deputy Martin. However, as with the question of States Member membership on the Commission, this matter of the terms of reference is subject to an amendment. So, in the course of debate, Members will have the opportunity to debate both the revised composition that P.P.C. is proposing and the sharper focus that we are seeking to bring about to the Commission's work. The P.P.C. proposition also includes, very importantly, part 3 which mandates the Commission to review existing studies and research and conduct further research as it sees fit. I think that is important because - we will come to Deputy Young's amendment later - there is a temptation possibly to try to put more and more expertise into this particular bandwagon and P.P.C.'s view is that the Commission that we are proposing will be able to call upon expertise as it needs to. My position has been referred to by some Members, the fact that I was part of the minority of P.P.C. members that voted against this revised proposition, and I raise it now because I know that if I do not other Members will. I must say that I have waived. There is clearly a balance to be struck today between perception and pragmatism. People are concerned out there that there will be a perception that this Commission is not going to come up with a good outcome, it will be influenced by the "turkeys do not vote for Christmas" way of thinking or people will have preconceived notions that they will bring to the table. That is a perception and I have certainly been concerned about that. Of course, there is another concern, which is that a truly independent Commission - and this will be the subject of much of the next debate - that does not have the benefit of States Members expertise will come up with a solution that the Assembly will turn down. That has happened before. The pragmatist in me can see the advantage in having well-informed States Members selected by this Assembly to be on that Commission, but the ideological politician can see the advantages in having an independent Commission. I am in that position that Deputy Le Hérisier is often in, I think, of

being a little bit on the fence about this. I do not have strong views, I must say. I can see the advantages of both sides of this argument and that is why I feel that it is entirely acceptable for me to bring the proposition forward that P.P.C. approved by majority. I would conclude by saying that States Members are elected to make decision of this sort. We are elected to make decisions about the composition of the States and, sooner or later, whether it happens in the course of the Commission's work or at the end of its work, the States will have to decide upon a set of reform proposals and the key question for us today is: how can we be sure that we will get a set of reform proposals that match the public demand for reform? Is it best to have an independent Commission or one with States Members upon it? I hope that I have covered, in broad brush, the approach of the committee in bringing forward this proposition and I will now propose it and sit down.

The Deputy Bailiff:

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

Deputy T.M. Pitman:

I did not want to interrupt my Constable when he was speaking but he did inadvertently mislead the House when he said around 30 to 50. Can I just clarify? It was 53 against having any politicians and only 3 supporting having politicians.

The Connétable of St. Helier:

I am grateful to the Deputy.

6.2 Electoral Commission: composition and terms of reference (P.5/2012) - amendment (P.5/2012 Amd.)

The Deputy Bailiff:

There is an amendment in the name of Deputy Le Hérissier which we come to next and I ask the Greffier to read the amendment. This is paragraph 1.

The Deputy Greffier of the States:

Page 2, paragraph (a) - on line 1 for the number 3 substitute the words "7 independent" and after the word "members" delete the words "of the States"; after the word "chairman" delete the words "together with 3 other persons with" and insert the word "possessing"; and after the word "experience" delete the words "who are not Members of the States"; (b) page 2, paragraph (b) - delete paragraph (b); and (c) page 3, paragraph (d) delete the words "in consultation with the States Members appointed as chairman and members."

The Deputy Bailiff:

Deputy Le Hérissier, on paragraph 1 only because of your amendment to your own amendment to paragraph 2.

6.2.1 Deputy R.G. Le Hérissier:

I will basically focus, as did the Constable, on the pragmatic reasons and on the issue of principle but, before we launch into it, it is worth delving back into history. I thought Members might be interested in a debate that was due to take place to extend the representation of St. Helier and move it to 6 Deputies. There was a proposal out of session moved to do so where it said: "Jurat Falle argued some extraordinary nonsense about digging potatoes", and as the *Jersey Express* paper said: "What has this to do with increased representation? It requires a mind such as his to see." The then Constable of St. Saviour said he thought that they might have passed the law while they were talking, they were spending so much time talking. The Constables and country Deputies could not be said to be at present so busily engaged in potato digging. They were all large-landed proprietors and the argument was absurd. He hoped the vote would not be town versus country. The debate

rumbled on and, in the end, it was rejected that the House meet to approve it out of session. The Deputy of St. Martin then said: "Well, why do we not elect the 3 Deputies from the 6 Centeniers?" Deputy Bossy proposed that the Bill be sent to the Lunatic Asylum Committee. The Deputy of St. Martin protested against this remark on the part of Deputy Bossy; his Bill was as good as that of any other. I will not tell you the date; I will tell that later. The *Jersey Express* continued: "Jersey reformers, if they continue to exist, have been content to slumber in a state of apathy which strikingly contrasts with what is occasionally called the spirit of the Jersey people. There can be little doubt indeed that apathy is the evil from which local politics and Jersey's progress suffers." Further quotes from the *Express*: "The States do not advance the work of legislative reform as simply owing to the constitution of that body" and that was triumphantly, in a St. Helier debate, illustrated yesterday: "The majority of the States want no real reform. They want no reform at all." So that was in 1892, the debate on the extension of the number of Deputies in St. Helier, and I also refer to 1895 when we had an election for Deputies and, again, to reflect the state of apathy, there was only one contested election in the Parish of Trinity. It just shows how the world has changed. **[Laughter]** Only one contested election. So the whole issue of getting the public involved in reform is definitely not a new issue. For the benefit of new Members, they may wonder what this is all about because there is a freshness to the House, although we have yet to hear it fully expressed from some quarters. There is a freshness to the House and they must wonder what all this is about. Basically, as we all know, it represents the culmination of a period of what unfortunately became intense disillusionment with the ability of the States to reform itself. If one were to read Deputies Tadier and Martin's report, I come to the count that approximately 65 propositions, some withdrawn, have been moved in the 2000s on reform: 65 propositions, approximately. This is a conservative estimate on the assumption of £1,800 an hour to run this Assembly; it costs the States £115,000 directly, but an awful lot of time in preparation, in meetings and so forth. That is by no means a realistic figure. That is an under-estimate. So a lot of the proposals got near - and under the previous P.P.C. some did get quite near - to victory but the States proved unable to deal with what you might call large-scale reform. It only brought into incremental reform, as we know: the single election day and the much more acrimoniously debated - as the Deputy of Grouville will testify - reduction in the number of Senators. The lesson was quite clear and I do not think it has changed, although I will be open to persuasion. The States cannot reform themselves. What these debates also prove is that reform is unbelievably interconnected and I will dwell on that later. We had exhausted the process. We had intensely annoyed the public en route and we had shown ourselves, as was mentioned earlier, to be totally full of vested interests who would assert themselves. The Constables, with the Senators, would protect themselves, it was alleged, and then the Deputies who had the numbers to do so, it was alleged they would then attack the Senators to protect themselves. It also became obvious, as the 2000s rumbled on with the 65 propositions, that Clothier had in fact missed out on a major issue. One of the big problems facing every P.P.C. who tried to tackle this was: how can you give votes equal value? That had never been discussed as a proper issue in Clothier because Clothier had entrenched the Parish boundaries, basically. They felt the Parish boundaries should remain the sacrosanct boundaries. Now, with the Constables removed, as they had proposed - but that obviously was to become one of the most contentious issues - you could meddle around a little bit with the number of Deputies within a Parish and come to a somewhat rough equality.

[12:15]

But we never, under that system, were able to prove that votes were of equal value. It was very difficult. So people then moved to, as we know, the super-constituency or the large constituency model, but still based on an amalgamation of Parishes; not based on an all-Island system of the kind that Guernsey looked at a couple of months ago. It was argued by Deputy Wimberley - hopefully most Members have read his P.15 - that this system, particularly in the case of the Constables

because we did not have votes of equal value, led to enormous disparities. He analysed, for example, his own Parish and he has got various graphs that he used and he said that St. Helier was 209 per cent under-represented and St. Mary, at the other end, was 78 per cent over-represented and so it went on. But that was never really discussed properly in the 2000s, that issue, which is why I have added to my list “electoral systems,” because that was never added: the way you vote and the size of your constituencies or the nature of your constituencies. There was a further issue that increasingly worried the public. It was that there was no connection between the way you cast your vote and the policy that emerged at the end, if indeed any policy ever did emerge, which we know was sometimes potluck. There was no connection and we all know that the way to get that connection or the obvious way could have been a political party system. We also know that, despite the hopes of Clothier - and it was a hope, it was not a command - that was not to be. We never ended up with a party system where people could vote and the result of that vote could impact on policy. That never happened and to this day does not happen in any meaningful or direct sense. So I then ask the question: why independence? Why do we need an independent body? Well, I have given the history, which is that we, the States, proved incapable. We did not confront some of the key issues. We skirted around them and we wasted an awful lot of time and annoyed an awful lot of people and showed our worst side in terms of the assertion of vested interests. So why not, as one or 2 Members have said, quickly get together a group of States Members. They have got ideas. Everybody has got ideas. Why not get them together and move to a fairly quick resolution? Well, I would say the people who were suggesting that need to answer, very clearly, certain questions and some of them are negative questions. Does history suggest that such a body will remove inconclusive and rancorous debates? Does it suggest that? I ask you to think of that. I ask you to also consider what has materially changed, since the last House considered this matter not that long ago, to ensure a trouble-free process and to ensure acceptance of the outcome because, let me tell people, bringing the proposals together is chicken feed. The issue is how you get that support, how you build up that support. That is the real issue. We can all go to a textbook. We can all go to a warmed-over version of Clothier. We can all go back to a “how to maintain the Island’s traditions” handbook and so forth, but that will not answer that question because that is not the question. The third question you have to ask yourself, because this is the elephant in the room - and although the Constable quite rightly said: “I will not be referring to personalities”, we know there is a most treasured elephant in the room so to speak - why is the committee chairmanship so important? Why has it become so important? It is partly because it represents a polarisation, I suppose, of opinion, in the House. There is a feeling that if the chairmanship were to go with certain people the committee might move in a very traditional direction. If it was to go with someone else it might be more genuinely reformist in its orientation. But you have to ask yourself: “Why is it so important? Why would somebody want to be chairman of a committee where, because of the controversy that surrounds reform, their role will be microscopically scrutinised?” It will be microscopically scrutinised by ourselves, by the media - we hope - and so forth. You have to ask yourself: “Surely they could play a much more formidable role if they were to be a witness and if they were to lead a campaign on the Island on the issue of reform.” If they were to put their vision forward we could have a really good debate. We could have the different versions of reform coming up against each other and the public could be really involved; whereas imagine the other situation. A chairman, every move analysed, every move open to possible criticism, utterly inhibited and constrained in that role and continually accused, because there is no greater place for the production of conspiracy theories, of manufacturing or being involved in corridor conspiracy of one kind or another. Surely no one would wish to take that burden on their shoulders. They would wish to be much more openly involved and be out there fighting and leading the debate. Indeed, I would say it is their duty - their duty, no less - to lead that debate; to bring their knowledge and their wisdom to bear on the situation and to ensure that other people can deal with the issues they raise in a public way. The issue, as I have just said, is not that we cannot think of reform proposals.

We have had 65 attempts by different Members of the States. It is that we cannot build a consensus to move forward. That is the issue and my proposal of retaining independence is to give the best possible circumstances for that consensus to be developed. Now, it has been raised with me that there are people - and Sir Philip Bailhache is an obvious one - who have got considerable mandates for reform. Should they not be put in a chairmanship position, despite all the disadvantages that I have outlined about how the chairmanship is not going to be, quite frankly, a terribly nice position? Well, first I would say we need to have a much clearer picture of what these candidates are talking about when they talk about reform. Did they go to the electorate and, good luck to them, did they mine the deep discontent that there was about the way that the States is working? Did they, as a result of having put that to the electorate, then come up with very coherent sets of reform upon which the electorate could pass judgment or did they, by dint of their experience - and quite rightly, I would have thought - suggest that they could lead the charge because they had the relevant experience? Well, we have done that before. People may remember that Mr. Tomes came into the States, after his dismissal as Deputy Bailiff, on the basis that he was going to reform the office of Bailiff. Mr. Tomes, for various reasons, ended up in the hinterlands of the Public Service Committee and its composting subcommittee and there was no reform. There was no reform. We had Senator Syvret. He was a poll-topper on several occasions. There was an assumption in certain quarters that this would entitle him to be the Chief Minister, because he had put strong alternative policies forward, and, of course, he did run once in any event. But, again, that was not accepted as an argument. The feeling was you had to come on the floor of the House and argue your points on the floor of the House and convince the Members. You did not come in with what you might call a plebiscite vote, which immediately allowed you to go forward with a particular point of view and impose it upon the House. That is not the way the House works. One enters into the spirit of the debate. One defers to that kind of, obviously, electoral support. One must, but you enter into the spirit of the debate and the issue is fully and properly debated on the floor of the House. So those are the reasons. The history, I am afraid, is not a good history and new Members can make up their minds. They will hear a lot about that history. I hope it is not repeated. I could not think of a worse introduction to this House. We are being given the opportunity for a fresh start. That was what the Deputy of St. Mary put forward, having told us for 3 years that we were doomed if we did not follow his approach. Well, we might be. We needed a fresh start. We needed an open book on reform and I have to say it does not bother me at all which way we reform; if we say the new House must consist entirely of the Constables, it must consist entirely of the Deputies or we must bring the Rectors back. I am not too bothered, quite frankly. Let the debate go where it will. Let the debate go where it will. I mean there is no doubt that the last part of the Deputy's proposition - that the Commission formulate questions that can be put to referendum - is going to require the wisdom of Solomon, I think. Now, he does have a little let-out there because he does talk about 2 options being put forward and he realises it could be highly contentious, the models that will be put forward to the electorate. The intention is, of course, as new Members may or may not have realised, that when that Commission, if it is constituted as I want, reports the findings will slip through this House. They will not be disentangled by this House. There will not be the usual 50 propositions to pull it apart and fragment it because, as I mentioned and I have not elaborated on it, everyone who has dealt with reform knows that it is incredibly interconnected. To take my earlier example, if you go for the notion that a vote must be of equal value in an election then clearly you cannot have people with a 28,000 electorate and people with a 1,500 electorate. You cannot have that. So that raises big issues about the role of the Constables. There are big issues about the size of Deputies' constituencies and I notice Mrs. Rose Colley brings up the usual debate about St. Lawrence versus Grouville when she says she was angered after she had gone home after the election result. She had picked up the considerable anger in the Island about the political process and it sunk in after a few days, there are some people elected as Deputies with tiny numbers of votes. I do not like that. I do not like the minority votes on which some Deputies get

in, which is why I added voting systems. I think that is another issue. So you can see it is all interconnected ultimately, but we cannot deal with those interconnections. We have not been able to. That is why we want independence. That is why we want people from the broader community. On those grounds I would like to move the propositions.

The Deputy Bailiff:

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

6.2.2 The Connétable of St. John:

The previous speaker was talking about the number of votes. Was he not elected on a post and, therefore, he would have had only had 10 signatures on his paper? I do not know but I think ... and that happens to quite a number Members over the years, quite a number of Members, but I am going to move on. Should the Electoral Commission be independent? We sit here now because 12 years ago an independent report was produced on how to make our Government better and how to make the States Members more representative. We failed to achieve this because, as I have said time and time again, we cherry-picked the report. We cherry-picked the report. I am, of course, talking about Clothier and, as the former Deputy of St. Mary has correctly identified in the initial debate on the Electoral Commission, since we decided to proceed with Clothier we have spent - and I will repeat what the previous speaker said - 64 hours debating reform at a cost of over £115,000 in sitting fees alone. We need to draw a line. We need a system of Government that is fit for purpose and we need a well-respected politician, in my view, like Sir Philip Bailhache, who has the backing of the public, to do this. I would like to offer you a few points on why I believe the Commission should be chaired by the Senator. Firstly, I must point out that the so-called shift in public opinion to the situation where they do not want Senator Bailhache to chair the Commission is a fallacy.

The Deputy Bailiff:

If I may say so, the content of this proposition does not depend upon the person who is appointed by the States to be chairman and I, for my part, do not find the possible Member of the States, if the principle proposition were to be adopted, to be relevant to what the States are debating at the moment, which is Deputy Le Hérisser's amendment.

[12:30]

The Connétable of St. John:

Well, I might come back into the debate later on then, Sir, with this because it needs to be said. I have got some real concerns of what I have heard from the previous speaker, Sir, the proposer of the amendment.

The Deputy Bailiff:

You certainly need to speak before you cannot speak at all.

The Connétable of St. John:

Yes. **[Laughter]** That is exactly it, Sir. I think I will come back in later on.

The Deputy Bailiff:

I am sorry, that was not intended to ... If you can keep speaking, please speak if you would like to.

6.2.3 Senator A.J.H. Maclean:

I rise with some caution to make comments on this somewhat of a hot potato subject. I am equally unsure whether it is wise to rise to challenge my learned colleague Deputy Le Hérisser, who is talking and has spoken on one of his specialist subjects. I understand that there are, of course, many different and indeed strongly-held views with regard to this subject and, in particular,

focusing on the matter of the independence of the Commission and indeed, for that matter, the perception of independence of the Electoral Commission. However, the whole issue of reform has been a long-running and, if I may say so, somewhat torturous process. It has gone round, in many respects, in ever-decreasing circles getting - to date - nowhere. I think it is probably fair to say that just about every Member here realises that a need for reform exists. The trouble is no 2 Members seem to be able to agree exactly what that reform is going to look like. I find it particularly interesting that, in Deputy Le Hérisier's opening remarks, he went back to the century before last, 1892. I am pleased, as I am sure most Members are, thankful that he did not repeat every repeated case since then, otherwise we would be here for the next goodness know how long, but it does demonstrate - the 65 propositions that he referred to - the amount of time and effort that this Assembly has put into the very necessary need to reform. But, and I think this is important, there are many, many factors that will help to deliver genuine reform of the Assembly and I think if we focus, as indeed this amendment does - and I understand the reason it has been brought - on the question of the make-up of the Electoral Commission then that, in isolation, is going to prove to be somewhat of a red herring. I say that because if we consider in detail what makes independence and what is the concern about the independence, as such, of the Commission... I would just like to make some remarks on that. It does strike me as rather odd that we would seek to have an independent Commission that does not include any Members of this Assembly. It seems to me that that is exactly the type of input that any Commission would require. An understanding of the functioning and an understanding of the way in which the Assembly operates would be nothing short of valuable and indeed necessary to any Commission. I would just add that, of course, we are all elected by the public, by the members of this Island, to make decisions of this type, difficult decisions. That is perhaps one of the reasons why it has taken so long to get nowhere, because of the difficulty associated with any sort of reform. Past experience of independence with regard to reviews like Clothier and Carswell does not, either, lead to a satisfactory outcome. I am afraid that those are examples where independence has not worked and so to think that having a totally independent Commission is going to guarantee a success, I think, is far from the mark. I like, as best one can like, the proposal from P.P.C. I believe it is a package and a carefully considered package that has the greatest chance yet of delivering an outcome that I would hope Members would, in due course, support, but let us see what that comes out and proves to be. I particularly like the fact that it has got a balance and I think balance is important: 3 States Members and, importantly, those 3 States Members are going to be selected and voted on by Members of this House. I think that is exactly as it should be. Nothing is predetermined. Nothing is pre-agreed. Three Members selected by this House and 3 other persons, independent persons with appropriate skills to be selected and go through an appropriate process overseen by the Appointments Commission. It seems to me perfectly reasonable and perfectly acceptable. Nowhere in the proposition from P.P.C. is there any suggestion that there are any predetermined ideas that the Commission is going to be ...

Deputy J.A. Martin:

I wonder if the Member would give way a minute. Maybe I have lost the thread but the Member is completely talking about P.5 and not the amendment. Is he deliberately trying to have 2 bites of the cherry or have you missed him, Sir?

The Deputy Bailiff:

The problem, Deputy, is that the amendment goes directly on the same subject matter as paragraph (a) of P.5. So it is inevitable there is going to be a crossover, it seems to me.

Senator A.J.H. Maclean:

That was my assumption as well, Sir. **[Laughter]** What I was seeking to demonstrate was the fact that it is about whether or not independence is important and what, in fact, independence means. I was demonstrating that we have balance in the proposal; 3 States Members and 3 non-States Members, giving a nicely balanced Electoral Commission which this Assembly and Members of this Assembly, quite rightly, have the choice to select or not, as the case may be, the Members put forward and indeed whoever it is who is going to chair the particular Commission. I think that is absolutely right. Safeguards, if that is something that is important in terms of getting the right result at the end of the day, are important and I think, again, the P.P.C. proposition puts in place appropriate safeguards. Certainly important if one is of the disposition that conspiracies exist in this matter and I think that the safeguards ensure that no one individual or individuals would hijack - if I can put it that way, if that is a feeling that some Members might have - the direction or agenda that an Electoral Commission might have. But what are these safeguards? Well, apart from the fact that States Members will be elected to the Commission, as I have already mentioned, it is a committee of 6. I think that makes it fairly clear that there will be a fair spread of ideas, particularly with independent members from outside of this Assembly. There will also be a process to go through: public consultations, hearings, formal public meetings and so on. So the views of the public will clearly be presented and be in the public forum. It would make it very difficult for anybody on the Commission itself not to take heed of the views of the public, the valuable opinions of the public, and all submissions and so on will be made public. Now, the conclusions - and this I believe to be particularly important from the independence perspective - of the Commission will, of course, as Members realise, come back ultimately to this Assembly for approval; a second bite of the cherry, having gone through the process. Then the public have their final say when we go to referendum. All of which leads me to see that this is a very thorough process. I also happen to like and am minded to support the amendment being proposed by Deputy Young. I accept there is an additional cost associated with that. That is one area that I feel a little less comfortable about, but the principle for those that might feel that they want a further safeguard is presented by Deputy Young and I think that is something that we will need to consider very carefully. I will be listening with interest to Deputy Young when he brings his amendment forward, but I certainly think it is a further interesting perspective. Now, on the subject of the terms of reference, also part of the amendment that Deputy Le Hérisssier has brought forward, the P.P.C. proposition gives 4 areas for the Commission to consider and also states - and this is a key point - that it will consider all other issues arising. I am sure that the Deputy will be making representations to the Commission, if indeed he does not seek a post to sit on the Commission himself. He may well do so. Indeed, he may even seek the chairmanship of it with his great experience of this matter and I am sure Members would find that a welcome addition; but, nevertheless, if he does not, he can make representations to the Commission and raise the particular points that he thinks are important. I am not going to continue any further. I am certainly very aware of the concerns of Members about the matter of independence but I really do feel there is no ideal solution. I think the P.P.C. proposition is about as close as we can get to the right way of progressing this matter. I think it delivers a balanced opportunity for an Electoral Commission. I think it will have the right oversight and safeguards. I think it will work and I do hope that Members will get behind it when the time comes, but I do not agree with Deputy Le Hérisssier's amendment and I would ask Members to reject it.

Deputy J.A. Martin:

Sir, before we adjourn, could I just ask for a point of clarification from yourself? When the Constable of St. John was speaking you asked him to refrain from mentioning Senator Bailhache's name. Quite obviously, in my and Deputy Tadier's report, because it was in open forum, a public P.P.C., the reason we are having this debate is because of the desire, rightly or wrongly, that Senator Bailhache does want to chair this Commission. I do not know where we sit there, Sir,

because in my speech ... unless history has changed and Senator Bailhache is going to tell us he does not want to chair the Commission. Will people be having the independent Commission if they thought I was going to be chairing it? This is what I am getting from you, Sir. I need some steer over lunchtime because I think it does matter who is going to chair the Commission and I really do not think you should be able to bar us from who we are talking about when openly Senator Bailhache has told us this is the job he wants.

The Deputy Bailiff:

I must admit, it had not occurred to me, looking at the amendment, Deputy, and the terms of the proposition, that the identity of the chairman and the motivation of any person who might put themselves forward to be chairman could be relevant arguments before Members. That certainly was the reason I expressed the view I did to the Connétable of St. John and that continues to be my view at the moment, but if you are able to bring Senator Bailhache's name and qualifications, or lack of them, or motivation into the debate in some different way than the way that was being proposed by the Connétable of St. John, I will no doubt have to sit back and let you do so. But I do not, at the moment, see, on the face of the proposition and the amendment, that the individual qualities of whoever is to be chairman are relevant to the issue. The only question is whether the chairman should be an internal chairman - internal to the States - or an external chairman, but perhaps I can think about that more over lunch.

Deputy J.A. Martin:

I really would appreciate it because even if it is not enshrined into who would be, if it is not independent, we have the history on P.P.C. As I say, it was public. So up to that date when P.5 was ... it will come up. I do not have a problem with that but it is political as well as it is wherever you fill on the Commission and I just feel to tie our hands ... I cannot see where anybody here does not know the name of the person who wants to be the chair of the Commission. So I think it is politically naïve not to have this debate frank and fully and open. That is all I am asking for, Sir.

Senator B.I. Le Marquand:

Could I support Deputy Martin in this and explain a particular difficulty that is going to arise already because of the challenge that was given to Members who may be wishing to support the proposition and not the amendment to say, what has changed? Of course, I and others will want to raise the election for Senator and the fact that Senator Bailhache is a major factor of change. I would very much regret, Sir, if any decision that we might make would prevent us from running that argument, which is a very clear argument that needs to be run, in response to the challenge from the proposer of the amendment.

[12:45]

The Deputy Bailiff:

Well, I will think about it more over lunch. It would not be the first time that I do not necessarily think that the debate is logical, but there you go.

LUNCHEON ADJOURNMENT PROPOSED

Senator P.F.C. Ozouf:

Sir, may I propose the adjournment and remind Members that there is a meeting of the Assemblée Parlementaire de la Francophonie straight away.

Deputy M. Tadier:

Sir, I did have my light on before Senator Ozouf and Senator Le Marquand. Could I make a quick remark? The other point that I think needs to be addressed here as a point of order is that we are

also discussing point (b), which is to do with subsequently appointing somebody to chair the Commission. We do not have a chance later on in the day to debate about the merits of any particular candidates. So what I would also do over lunchtime, Sir, it was clearly minuted, I think - it certainly came out in the public meeting of December when it was proposed by my esteemed colleague, the Deputy of St. Peter - that we should ask the States to at least have the option to include States Members so that the poll-topper could have the opportunity to chair and also the poll-topper did say that he would want to chair the Commission. That is a matter of public record and I will endeavour to find that over the lunchtime, but I do nonetheless understand that, while this is about personalities, it must not be personalised and I think that we can do both of those things if we are going to have a meaningful debate today.

The Deputy Bailiff:

If Members are in favour of adjourning now, the adjournment is proposed.

[12:47]

LUNCHEON ADJOURNMENT

[14:15]

The Deputy Bailiff:

[**Aside**] Now, there was raised with me by Deputy Martin just before lunch the question of whether there should be any reference or could be any reference to Senator Bailhache as a possible chairman of the Electoral Commission given that I had ruled this morning that the Connétable of St. John should not be allowed to sing Senator Bailhache's praises. The relevant Standing Order is Standing Order 104: "A speech by a Member of the States must be relevant to the business being discussed." On further thoughts over the luncheon adjournment I can see that the question as to the identity of the possible chairman of the Electoral Commission might be relevant to a question of whether that chairman should or should not be a States Member and, therefore, Connétable, if I may belatedly apologise to you for stopping you in mid-flow and give an indication to Members that if they wish to have the debate about Senator Bailhache's good points or bad points, which I am probably better able to talk about than most Members, they are able to do so.

The Connétable of St. John:

That being the case, will I be allowed to finish my speech a little later, Sir?

The Deputy Bailiff:

We would have to lift Standing Orders perhaps, briefly, to do that but, for my part, if Members agree, then I would allow the Connétable of St. John to make his speech.

Deputy M. Tadier:

Sir, could I propose that formally? [**Seconded**]

The Deputy Bailiff:

Very well. Are all Members in favour of allowing the Connétable to complete his speech? So, Connétable, perhaps before your voice goes completely, why do you not speak now.

6.2.4 The Connétable of St. John:

We need a system of Government that is fit for purpose and we need a well-respected politician like Sir Philip who has the backing of the public to do this. I would like to offer you a few points on why I believe the Commission should be chaired by Sir Philip. Firstly, I must point out that the so-called shift in public opinion to a situation where they do not want the Senator to chair a Commission is fallacy. Yes, granted, the results in the 2 Parishes meetings have suggested that the

Commission should be independent but my belief is that, by and large, the public want the Commission to be led by the Senator. An overwhelming majority of Islanders gave the Senator a mandate to govern - in excess of 80 per cent of the voters, I believe - demonstrating his widespread appeal to lead this Commission. To those who argue that this is incorrect, I ask them to read the first line of the Senator's manifesto: "I am standing for election as a Senator because I believe that in recent years the States have lost their way and that political reform is now urgent." Quite clearly the Senator pulled no punches in demonstrating what his campaign was about: his desire to reform our system of Government because it was not working. Yes, clearly 20 per cent of the population did not support Sir Philip or his ideas and the tyranny of democracy is one of the greatest dangers that our system has, but we must deliver what is most acceptable to the largest number of people possible, and that is to have a Senator leading the Commission and working with others to ensure that changes implemented are the right ones for Jersey. The right ones. A common argument that those supporting independence will offer the Chamber is that the States have proven to be incapable of reforming from within and this is true. As a States Member under both systems of government, I can pay testament to the fact that we are largely incapable of introducing real and lasting changes to ourselves. However, there are some important things we must consider before supporting this argument. Firstly, we have proven to be largely incapable in the past because we have been out to look after our own position in this Chamber. However, Senator Bailhache is not a career politician and he is not trying to hijack the Commission in order to preserve his position. I would argue the opposite. He is not a career politician and he is not trying to hijack the Commission in order to preserve his position. I believe he holds his current role as Senator in order to pursue chairmanship of the committee and consequently I believe that those supporting the independence of the Commission have got the arguments the wrong way round. Further to this it is important to remember 2 key things. The first is that Clothier was an independent review and it failed largely because it did not adopt changes that were acceptable to the public. I believe that a poll-topping Senator can produce wholesale changes that are acceptable and that an independent commission, in itself, is not intrinsically good by being independent. This does not make the Commission any better for the public of Jersey it just makes it independent of the States Assembly, no more, no less. It just makes it independent of the States of Jersey Assembly, no more or no less. The second important thing to remember is that if this committee was chaired by Sir Philip this is not the end of the consultation with us or with the public. We will, of course, have a referendum, what better way to gauge public opinion than to have a referendum. You can forget a M.O.R.I. (Market and Opinion Research International) poll. A M.O.R.I. poll told you about Constables or Senators or anything. They were giving us a view of a few people, a few hundred people. As we will see for ourselves what the public really think is in black and white as a result of the arguments that any changes are going to be forced through because of Senator Bailhache's chairmanship is totally incorrect, totally incorrect. I would just also like to say that no matter who chairs the Commission the most important thing is that it remains open to the public. We need to see each step that is taken and how the Commission came to their conclusion. The reforms of 1947 did this and they were largely supported as a result. Did Clothier's? Given that we are here 12 years later debating change, I leave that one to Members to figure out for themselves. Finally, I must hold my hands up and say that I previously voted for an independent Electoral Commission. I did so without knowledge as Sir Philip was going to stand for Senator. As I have said in my speech, whatever we produce it has to be fit for purpose, fit for purpose. That goes without saying. However, I believe that there can be no greater way of doing this than having Senator Bailhache chair the Commission. He has seen our system operate from the inside as President of the Assembly, from the inside as a Deputy in the 1970s and now as a Senator in 2012. Over and above that he has also seen it from the outside as a Jersey citizen. When looking at the qualifications for knowledge of the system I can think of no candidate better suited to the job. I thank you and ask Members to oppose the amendment of Deputy Le Hérissier.

6.2.5 Senator L.J. Farnham:

I have 2 speeches so I will have 2 bites of the cherry but I have got a short speech and a very short speech. I am going to use the very short speech now in response to Deputy Le Hérisier's comments, and I have missed the Deputy's speech since my time in the Assembly and despite still using material from the late 1800s he has come a long way in his delivery. I found it quite interesting and entertaining. But on a serious note the Deputy did challenge Members to deal with 3 issues arising from his amendment which I will attempt to do. But while considering the answers over the lunchtime recess I came to the conclusion that the Deputy had laid the foundations for a strong case against his amendment. The first question was: "Does the history suggest that this will remain inconclusive?" I am sorry I cannot read his ... I will refer to my ... I mean basically the question was will this change debates in the future and the answer is probably not, I do hope, not for a little bit of time. But after this issue is resolved there will be further debates on this States Assembly and many other legislative assemblies around the world have debated their constitution for centuries and they will continue to do so. I completely understand that some Members are concerned that the inclusion of States Members could compromise the independence of the Commission but in reality this is unlikely to happen because the Commission is essentially, in the first instance, an information gathering body who must seek and take into account the views of the general public or the people of Jersey as mandated. They must then, having taken entirely into consideration, those views and converted those views into a recommendation, produce it in the form of a report to the Privileges and Procedures Committee who will then present it to the States. The backup for that is a referendum. So if the report produced by the Commission is not accurate or reflective of the views of the people of Jersey then this will become a glaring omission in the referendum. There are very few areas I would support referenda for but the constitution of the States Assembly and the reform we are talking about here is probably one of the only ones that I would, and I think that referendum is going to be important. So the scrutiny that the Deputy also alluded to, and he did say that the role of chairman will be microscopically scrutinised, I think the role of the whole Commission will be very heavily scrutinised. There is nowhere for them to go. They have to do as is mandated. The second question was: "Well, will it guarantee support for its recommendations?" My previous statement would say: "No, of course, nothing is guaranteed." Nothing is guaranteed, the recommendations will be made, the States will consider it; it will go to referendum even if the referendum supports the recommendations of the Commission. I can foresee in the debate now it will be fraught with difficulties and amendments and so on, but I do sincerely hope that whatever the Commission comes back with moves fairly smoothly through the States to enable it to be introduced into our system. Now, whether the States allow Members to be part of the Electoral Commission or not the really important issue here is that we must facilitate a process that ensures that the highest calibre of people are selected to serve on the Commission.

[14:30]

People with relevant experience, people with relevant knowledge and people, certainly, with a high level of competence. In fact if there was an advertisement drafted to go into the media advertising for this position it would probably read something along the lines that we are looking for somebody with longstanding experience of chairing a very difficult situation and dealing with very difficult and challenging people. I would automatically think: "Ah, I wonder if there is an ex-Bailiff who is interested in the position?" Well, from an experience point of view that is something that has to be taken in consideration is that by excluding States Members we are making the same argument. As including them there is a wealth of experience in the Assembly and as I explained before the safeguards in place for the Commission and the reporting processes, the job it has to do, will simply not facilitate any manipulation of what the public want. I think that is very straightforward, the Deputy quite clearly agreed when he said the position of the Commission will be microscopically scrutinised. Why is the chairmanship of this committee so important? Well, I have just explained.

The chairmanship is important. The whole body... I mean you cannot separate the 2; you cannot say the whole thing is going to ride on the chairmanship. The chairman needs to be somebody who is experienced at holding together and managing and facilitating the very difficult task that lies ahead. I can add no more at this stage. I had a fair crack at answering the questions and I hope they are recognised favourably when he responds later in the debate.

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

I would like to question the actual need to alter the composition of this Assembly any further. The public responds on losing 2 Senators and the fact that 2 more will be lost at the next election has not gained public support. I was of the opinion that the Assembly was too large. However, since being elected as a Deputy I am now aware of the massive workload involved on each individual. Reducing numbers will increase and possibly make that burden on this Government less efficient. The Government is constantly being compared in size to other jurisdictions. Whether we administer 100,000 people or in the case of other jurisdictions of say 500,000 people the same composition of government would be required in order to function efficiently. However, Sir Philip stated right throughout his election campaign that there was need for political reform. That won the sentiment of the people Island wide. They proved it by allowing him to top the poll. Accordingly, we have to acknowledge that message. The people want Sir Philip to lead that reform. It is our duty to install him as chairman of this new Commission if it has to be formed. **[Approbation]**

6.2.7 Senator S.C. Ferguson:

In the last Assembly I got somewhat aeriased over the fact that Ministers had changed the decisions of that House without consulting the Assembly and, in fact, I brought amendments to this Assembly to redress these. Then I realised that I am equally guilty for the same misdemeanour and I think I owe the Assembly an apology for my part in what is a significant error in procedure with regard to this whole debate. Not that it changes my ultimate view however. In my experience innovation and change are best when generated from the front line rather than being imposed from on high. The lack of success: perhaps we need to have better marketing of the ideas being generated. I am also inclined to think that the number of Members in this Assembly is the less important part of reform of the Assembly. Deputy Le Hérissier talked of gaps in the Clothier report and looking again at Clothier over the weekend, Clothier was very superficial about a lot of basic issues, particularly those regarding the machinery of government. As a result, our implementation of the machinery of government part of Clothier and the various amendments to the States of Jersey law has resulted in a system which is dysfunctional. We have corporation sole positions of Ministers and we have dysfunctional relationships between the Chief Minister, Ministers, chief executive and chief officers. You will have a situation where a chief officer has to be responsible to the chief executive and his Minister at the same time and if instructions differ there are problems. Clothier was very brief about these matters. The Howard Report in Guernsey was more constructive and more discursive. The Electoral Commission, as proposed, will not address these matters and it should not but if we want an effective Government fully accountable to the voters then we do need to address these. At the same time I have seen no real plan for any sort of business transformation. We have a situation, for example, where we need a business transformation to achieve significant savings and a genuine culture change. We have 11 desks to every 10 employees and not every employee needs a desk. I mean what a waste of space. But both the transformation and machinery of government changes are more important to Jersey than the number of Members of this House and what they are called. I regret the procedural mistake in the way this matter was brought to the Assembly which has overshadowed the debate and for which I have apologised for my part, but I consider that this is peripheral to the real work that needs to be done to improve governance in the Government of Jersey. Yes, I will agree with reducing the number of Members

of this Assembly. We need a Commission but we need one which combines front line knowledge as well as independent views and I will not be supporting the amendments of Deputy Le Hérissier.

The Connétable of St. Lawrence:

Excuse me, may I ask for a point of clarification, I think it is. I am concerned that Senator Bailhache has been referred to on a number of occasions by his name, Sir Philip, and to me it seems extremely personal and I wonder whether you could rule that he is, in fact, referred to as Senator Bailhache?

The Deputy Bailiff:

Standing Orders would have it that he should be referred to as Senator Bailhache. Does any other Member wish to speak?

6.2.8 Connétable J. Gallichan of St. Mary:

Very briefly and not to deal with any specific elements of reform because as I sit here I am simply dealing with a matter of independence and, for my own clarification, I would simply ask the proposer of the amendment to outline one thing for me: specifically what is it, in his opinion, that renders a member of the public, of sound mind, judgment, possessed of the relevant ability and also of his or her own views on all manner of things, eligible to stand, or to apply, for membership, or even chairmanship, of the Electoral Commission on one day and then be ineligible on the next having stood successfully for election? On the contrary, what argument is there that the same person would not have added an extra dimension to their eligibility, an extra qualification, by becoming experienced and knowledgeable about the workings of the States Assembly from the inside? In my experience there are 2 things that are clear and relevant here. Excuse me; I think I am catching something from Constable of St. John. Firstly, from outside the Chamber the workings of the Assembly look very different. As a case in point the Deputy of St. Mary has already said and acknowledged that his understanding of the workload of Members, for example, has altered dramatically since his election. Secondly, I would put it that often the most opinionated and unyielding voices are those heard from the outside of the Assembly looking in.

6.2.9 Deputy S. Power:

I have to confess that when I saw P.5 lodged by P.P.C. I had an absolute ... honestly I had an air of ambivalence about it initially and it drew me back to some successes and, indeed, some of the failures of the previous P.P.C. Then in the excellent addendum produced by Deputy Tadier and Deputy Martin there was a great amount of information there relating to the obvious failures, if one were to count the number of debates that have taken place in this Assembly over the years, but before my time, during my time and now again. If there was one recurring theme, I am sure Deputy Tadier will agree with me, on the doorsteps of Les Quennevais and La Moye it was discontent with the lack of success in some form of electoral reform and reform of the Assembly. I think both of us had been challenged on a number of occasions to explain what our position was and I think both of us have made our positions clear. I think the addendum that has been produced is a very good pulling together of a lot of the factual information that we needed in the historical evolution of what has not been done, what is attempted to be done and where we are right now. In the last 3 weeks I have detected across the Island, and across the media, a whiff of something that I am not sure I am happy with, and that is a suggestion that this Electoral Commission, were it to have a States Member or 2 States Members or 3 States Members, would be, in some way, hopelessly tainted by any involvement by those who are directly involved in the Assembly and in the political process of this Island. The frustration felt by the public, the frustration that I have detected in the public, is to do with the malaise that has been part of the decision making ability and the decision making process of this Assembly. It is an Assembly largely held in disrepute and in some cases it is held in great ... there is great disrespect for this Assembly so what we have to do,

collectively as an Assembly, is try and find a way of being more effective, be more efficient and be more accepted. With P.5 we have a new P.P.C., for better or for worse, it has been mandated to carry out that task and this is its first attempt and it has a, from what we know to be, majority decision by members of the P.P.C. to proceed with P.5. My ambivalence turned about 10 days ago when I realised there was within the Assembly and there was within the public a loose grouping of people who felt that this process would be less than perfect if there was political representation of some kind on this. Again, I couch these words on the basis that I was completely ambivalent about this. We have, at the moment, a long history of not achieving sufficient electoral reform and reform of the States and particularly in reform of the States we have had failure after failure after failure.

[14:45]

We have a possibility of doing something slightly different this time. Instead of having a lay panel or a composite group such as was involved in Clothier to take it forward or as was the case with a person of the well respected track record of Lord Carswell we now have a suggestion that somebody from within may be willing and may be able to drive this forward. I would say this, that someone, someone, someone has to drive this. It has to be driven. Reform of this Assembly and changes within the Assembly, changes to electoral boundaries, the number of States Members, terms of office, functions of the electoral process, voting systems, voting registration, somebody, in my humble opinion, somebody in this Chamber has got to take political responsibility for this and drive it forward. I think that is roughly where we are. I do not know whether it is within the remit of the Chairman of P.P.C. to do it. I do not know but what I do know is we are at the start of another long road and there will be many twists and turns and there will be more frustration within this Assembly and even more frustration outside in the public. But what I do know is that the Member who has expressed interest in trying to do something about this stalemate has political acceptability, has a strong mandate, has not hidden anything and I think that is where we are right now. It is up to this Assembly, as this debate evolves, to see where we go from here. My own opinion on my own electoral district is that the boundaries are not correct. There is misrepresentation: there is over-representation in one area and there is under-representation in another area. It has not been dealt with for years. That is my opinion on St. Brelade and I believe the same situation occurs, certainly, in St. Helier and St. Saviour. So I would like an in-depth Commission to look at these issues as well as the other issues I have just related to and I believe that in this debate on the amendment of Deputy Le Hérisier, and I will wrap up on this, I do believe that I will prefer to vote against Deputy Le Hérisier's amendment to his amendment, and I will wait for the main debate and see how it evolves. So where I am right now is that I think somebody has got to take political ownership, political drive of this and take it to the next stage and I would really prefer somebody who has a track record and an achievement in getting things done so therefore I will be opposing this amendment.

6.2.10 Senator P.M. Bailhache:

This debate is about a principle - an important principle - and for those Members who think that some change is necessary to our constitution the amendment raises a serious point. Is reform best achieved under a Commission that contains no States Members or is such a Commission an almost inevitable recipe for another Clothier or Carswell-type report that will not command the support of a majority of Members and will simply gather dust? When I discussed the amendment with Deputy Le Hérisier and asked him why he thought that States Members should not form part of the Commission he told me that the States had shown themselves to be incapable of reform. That is what he said this morning albeit, if I may say so, at slightly greater length. That is, indeed, the thrust of what one might call the Wimberley approach that was adopted by this Assembly last year. The States have lost their credibility, are a hopeless case and must not be trusted to have anything

to do with the reform agenda. Even some commentators in the media and letter writers to the newspaper peddle that line. The States are not fit for purpose, so the argument goes, of agreeing on any reform. It is true that the record is not good. Maybe it was true that in the last Assembly a majority of Members would always find some means to block reform. As Deputy Le Hérissier put it this morning, the States cannot reform itself. For my part I am just not prepared to accept that depressing view of the new Assembly. **[Approbation]** Deputy Le Hérissier asked rhetorically what has changed since last year. I think lots of things have changed. Fresh winds have blown through this Assembly. The Council of Ministers under the leadership of the Chief Minister is on the whole working as a team. Scrutiny Panels are not destructive agents following personal agendas but are offering constructive criticism to Ministers in a variety of different ways. This is fundamentally different from what we had before. The public has shown at the ballot boxes I suggest in the most unequivocal way that they want political change, not just in terms of the composition of the States but in terms of the way in which we conduct ourselves as a Parliamentary Assembly. The process has begun. I do not believe that when the time comes the majority of Members will act in their narrow selfish interests and refuse to compromise if it can be shown that it is clearly in the public interest that some new model should be adopted. That is the first reason for rejecting the negative, pessimistic and rather sad view of the competence of the Assembly that is embodied in this amendment. Are we really so pathetic, so incapable, so untrustworthy, that we cannot fulfil one of our basic responsibilities as a Legislature, that is to discuss and to debate difficult options for reform and to come to a rational conclusion. We should be and we should show ourselves to be confident about the ability of this new Assembly to deliver. The second reason for rejecting this amendment is, to my mind, more compelling still. Whatever the outcome of this vote, Members will have, at some stage, to take responsibility for any proposed reforms that are to be put to the public in a referendum. The decision of the Assembly in May 2011 that envisaged a Commission that was independent seemed to envisage that the Commission would reach a conclusion and that conclusion would almost automatically be put to the public in a referendum. Thereafter it was surmised the Assembly would have to pass the requisite legislation to give effect to the Commission's conclusions. Now, that approach seems to me to be nonsense. Would Members really agree to act as a rubber stamp to the Commission's conclusions? The Assembly would, as it were, in those circumstances, abdicate its responsibilities to the Commission. Would Members really agree to act as a rubber stamp if they thought that the conclusions were fundamentally wrong? No self-respecting Member of this Assembly could act in that way. However the Commission is composed, whether it includes States Members or not, there will have to be a debate on the floor of this Assembly about its recommendations. The question, therefore, becomes this: how do we best ensure that the recommendations of the Commission have a reasonable chance of success on the floor of this Assembly? Do we have the best chance with a Commission composed of 7 outsiders with limited knowledge, perhaps, of how the States work in practice, of how different Members relate to their constituencies, of the importance of the Parishes in the Island, of the chemistry of the Assembly and so on? Or does the best chance lie in a joint Commission composed of outsiders but insiders as well, where the insiders - the Members of the States - can take constant soundings from Scrutiny Panels, from the Council of Ministers, from Members in the margins of meetings and around the coffee room; and where the outsiders can act as a sounding board for the public mood. The answer seems to me to be obvious. The best chance of developing a solution which will find acceptance ultimately in the Assembly is to include States Members in the Commission. A mixed Commission of this kind has never been tried before. I have been a Deputy and I am a Senator. I understand the sensitivities of Deputies in country Parishes and in small constituencies; I understand the desire to maintain an Island-wide mandate. I have not been a Constable but I do understand the vital importance of the Parishes in the constitutional structure of our Island. If we are prepared to compromise, and I am sure that we are, we can find a Jersey solution. At the end of the day, there are 2 broad constituencies. There is the

constituency of the States which will have to approve the recommendations of the Commission before they go to a referendum. There is the constituency of the public which will have to approve the recommendations of that Commission in a referendum. Is it not more sensible to have a Commission composed of representatives of both those constituencies, namely Members of the States and members of the public? The underlying question is really this: are we really going to characterise ourselves as weak, ineffectual and basically unfit for purpose, or are we going to accept our responsibilities as elected representatives and get on with the job? I ask Members to reject the amendment. [Approbation]

6.2.11 Deputy M. Tadier:

I am pleased to follow the very good oratory of Senator Bailhache, and it is clear to me why he got elected, it is because he is a very good public speaker and I think he is generally a well-respected member of this society, and the 80 per cent who voted for him I am sure would have done that if there had been no mention of electoral reform in his manifesto. I am sure they would have voted for him if he said he was going to get rid of the 12 Constables rather than, as he did quite clearly state in his manifesto, that he wants to keep the 12 Constables. So the first point here today is to do with an independent Commission. Let us look at what the word “independence” means rather than not having States Members on it. Because I think the point is whether we have States Members or not we would want a Commission which would be able to look at the problem without any prejudged ideas from a point of view which did not have any vested interests that could be linked to that which were both real and perceived from the public.

[15:00]

Now, as far as I know we only have one person putting themselves forward for the job of chairman. In some ways it is remarkable that P.P.C. have asked to have 3 Members of the States on the Electoral Commission when there is only one person who ever wanted to be on the Electoral Commission from the States. I have never heard any other States Member asked to put their names forward for the Electoral Commission. Less than 12 months ago we had a debate in this House where States Members at the time, by a good majority, said we want to have independent Electoral Commission. None less than the outgoing Chief Minister whose words we would do well to take note of, which open up the minority reports. “If there is one thing which maybe we can learn from this week’s discussion [that is the week’s discussion again about States reform] is that this problem is never going to go away. But if we had an independent external Commission” so that is independent and external, which is even more radical that what is being proposed here “there is more chance that something might get resolved in a proper way.” Those are not my words, they are words of the radical former Senator Terry Le Sueur. Quite right, and I am sure his words were genuine when he said that. So our outgoing Chief Minister recognises the need for the independent and external Commission. So the point is not whether whoever puts their names forward for this position is well qualified, my question would be the litmus test is can this person act in an objective way? I certainly could not do this because I have got pre-stated views as to how I might like the Assembly to be managed. I stood on a basis in 2008 of having one class of States Member which would necessarily mean the removal at least of 2 categories of States Member, in fact probably of 3 and then dividing up the Island in a different way. Could my colleague, Deputy Trevor Pitman, stand for this Commission? I do not think he could because he has probably got similar views. Take another example, could perhaps Senator Bailhache put his name forward and expect to be independent? Well, let us read his manifesto, which says: “As was recommended by the Clothier panel the number of Members should be reduced to 42.” Okay, so that is something he agrees with. So he agrees with Clothier in that respect, so a reduction in numbers. Again, the new Deputy of St. Mary I thought had a very good point there because it is all very well to say we should reduce numbers of States Members but when we get in here and realise the work that each of us has to do,

both on the scrutiny function, on the Ministerial function or, indeed, as independent Back-Benchers, we realise there is a great deal more work than one anticipated. Then the important part for me: "I do not support the removal of Constables from the States. The Constables represent an important link with the Parishes." Now, this is a fine position to have, there is nothing wrong with that position. You can take a contrary position and that is equally valid but to put yourself up therefore after that, to say: "I want to chair this Commission" and expect to be able to consider all the angles and all the submissions which come from both sides or all sides of the Island is simply not a tenable position. How can a group, let us take my group for example which I have been involved in in the past "Time for Change", how could they be expected to make a submission to this Commission saying: "We would like you to remove the Constables from the States, we would also like you to remove the Senators from the States, and we would like you just to have Deputy Island-wide constituencies, which there may be 6 of them, there might be 42 of them." How could we expect to get a fair crack of the whip? How can any of the groups in Jersey, any of the individuals in Jersey expect to do that? This other argument, and I note it was not one that Senator Bailhache made himself, but other people have been making this argument is that there is some kind of mandate here. I know this was partly addressed already by Deputy Le Hérissier and partly addressed in the opening of my speech, is that we cannot put our finger on why an individual was elected. Even if that person is elected topping the poll, as was the case with former Senator Syvret at one point, that does not necessarily give one the automatic right to, let us say, become Chief Minister or even to enforce any particular areas of one's manifesto. I think that needs to be taken with caution. I know I have spoken to people in St. Brelade who I know have voted for Senator Bailhache because they told me. They also voted for various other successful Members. They voted for myself, and they have told me: "I voted for Senator Bailhache because I wanted him in the States, I wanted him to be in there but I still want the Electoral Commission to be independent because I do not trust States Members in general to be able to vote for any wholesale reforms." It is not just a question of whether we will act in a self-interested way, in a selfish way; it is because we are entrenched. We are part of the problem in here. We cannot look at the whole area in a holistic way because we are part of the problem. So those are the general comments. I just wanted to introduce partly some points in our minority report. Senator Ferguson was quite right to talk about the abuse of process which has taken place by P.P.C. here. P.P.C. is simply a facilitator. That is the point that we have highlighted in our report. P.P.C., like Ministers, should be there to listen to the direction of the States Assembly and enforce the democratic decisions that are coming forward from those decisions. The decision was quite clear less than 12 months ago to ask for an Electoral Commission and P.P.C. should have come back with that position. If another States Member wanted to amend that and suggest that we should include a States Member or States Members on the Commission that was the correct process. It was completely out of order in my opinion and I think in the opinion of at least 3 of us because it was a split decision. Three P.P.C. members were not in favour of the P.P.C. proposition, 4 were. I think that is another consideration to take on board. Is it really a good way forward when we already have a split, it could not have been any closer, a 3/4 split so we are already starting from fissures here and I would question what is it going to do to the States Assembly in the next 2½ years if we start off from a divided position. We have talked about a fresh new wind which is blowing through the Assembly which is, I think, certainly true. I have noticed it myself but this can also be seen as a honeymoon period and my one fear is that if this gets through today, as the P.P.C. position is intended that we are not going to have a very good 2½ years in Jersey and that we are going to see divisions not simply in the States but we are going to see divisions in our society emerge, which may not necessarily be a bad thing, it will catalyse party politics but that is not what everyone wants in the States Assembly. Those are some of the points which I think needed to be made. I would say that P.P.C. has basically been hijacked. I know those are strong words but that is the position as I feel is the case. P.P.C. should have simply been there to enact the proposition as was adopted initially. I would just like to highlight

something, if Members do have the addendum - incidentally I am on page 4 - this is just to highlight again the need for a truly independent leader of the Electoral Commission because we are not going to have a chance to debate who these members are. Again, this is another remarkable thing that P.P.C. seems to have slipped through under the radar. I did not pick it up myself until very recently, it appeared on the Order Paper and I know that the Greffier no doubt put that there deliberately. We are not going to even be able to take a recess after the sitting. If P.P.C.'s proposition is successful we cannot even have one day where we can say: "Who wants to put their names forward" because I do not know anybody else apart from one person. Who wants to challenge for the position of chairman? Who wants to put themselves forward for the other 2 positions? I have not heard that and we are going to be asked to make a snap decision at the end of this and I think that, in itself, is sufficient grounds to reject part (b) of this proposition. But looking at point 17 this is something that happened within the P.P.C. meetings. After P.P.C. agreed to draft its proposition P.5 the same Member - and this referring to Senator Bailhache - said that: "P.P.C. should bring a further proposition to the States to propose the retention of the 12 Constables in the States and to propose a reduction in the number of States Members to 42. The only decision left to make by the Commission would then be how to elect the 30 Members." So this was something that happened. It is minuted in a P.P.C. open meeting. So we have the person who wants to be chairman saying: "Let us also just have a States debate on it." In other words, we do not really need an Electoral Commission in the first place, let us just decide to have 12 Constables and 30 States Members and then let us tell the Electoral Commission that is what they have to do. So that begs the question, what is the point in having an Electoral Commission in the first place. If one reads on, clearly that view was not shared by the rest of the panel because it was simply too wacky. If we did that it would be so blatant that the Electoral Commission would be stacked from the beginning but they said: "Hang on a minute, Senator, I think you are getting ahead of yourself. We all know what the result is going to be of this Electoral Commission but we cannot obviously tell the States and the public because that would be too ridiculous. So let us hide our hand a little bit here." That is what is going on. So this is not about personalities, it is saying that no one in here is fit to chair an Electoral Commission, especially if they have pre-stated views. There might be a couple of Members here who do not have the pre-stated views and this is why we need some semblance of independence. We need some experts on it. I am not too precious about who ends up chairing or whether they come from the U.K., whether they come from Guernsey, whether they come from St. Mary or whatever, it does not matter to me so long as we have a good mixture and we produce a model which is best for our Island. But we need a modern Electoral Commission, which is going to look objectively for the needs of the modern society. I will leave the speech there. I think that is the counterargument as best as I can put and I know that there will be an opportunity for certainly the other author of the minority report to speak as well.

6.2.12 Deputy G.C.L. Baudains:

I listened to Senator Bailhache's speech with interest because he spoke at length about the need for reform, which is I do not think is in doubt in anybody's mind, but said virtually nothing about the subject in hand, and that was the constitution of the Commission. In fact I thought he may even be a good case for supporting Deputy Le Hérisier. This debate is about the Commission and who should sit on it and about the reform that it will ultimately put forward. But I think we are in danger of confusing what sort of reform the Commission is about or hopefully will produce. So far much has been said about reducing the number of States Members to 42, which if one looks in the States minutes will find has been roundly rejected in the past and to those members of the public who have suggested it might be a good idea, I have asked them the question: "Where are the 10 Members going to be taken from? You cannot reduce the number of Ministers, you cannot really reduce the number of Assistant Ministers, you will take it from Scrutiny; hello dictatorship" and then they see the folly of that. You cannot reduce the number of States Members until you have

decided upon the machinery of government. Only then will you know how many States Members you need. So this Commission is probably not as important at the present time as some Members may think it is. Its work will have to follow the work being done on the machinery of government. One cannot come before the other and it cannot be running in parallel. As for Deputy Le Hérissier's amendment, I believe that States Members with knowledge of the process and procedures are in a better position to decide what change is needed than people from outside. However, politics for those of us who have been in it a while is quite simply not so much a matter of actuality but of perception. Perception must not be underestimated. I do not think we can escape the fact that some members of the public view the change proposed by P.P.C. - that is the change to allow States Members on the Commission - as a vehicle to permit what some people may call the old guard to maintain a certain control of the political agenda. I look upon it as a mini version of the Bilderbergs. There was also a perception that if the Member who has declared his wish to chair the Commission does in fact get his wish, his strength of character - which is undoubtedly good, and his intentions are good - his sense of character may well overshadow the rest of the Commission. The outcome could be that the public would be set against the Commission's conclusions no matter what they were. In other words, the work of the Commission would turn out, sadly, to be largely a waste of time. It is a question of personalities, no matter how much we may pretend it is not. That cannot be ignored. My election platform also was one of States reform. I want States reform that will succeed. How we go about it is very important. If we want reform to have a chance I believe we must adopt Deputy Le Hérissier's amendment because I believe to go with Privileges and Procedures' version would ensure, as has happened many times in the past, that any proposition for change will fail.

[15:15]

Lastly, I have to say I find it somewhat ironic that the very people that have consistently bemoaned this Assembly's habit of revising decisions now propose reversing a previous decision of this House. Deputy Le Hérissier's amendment seeks to restore the decision as was previously made and I believe for that reason it should be supported. I would also, before I sit down, highlight another danger. That is if we vote against this amendment we may very well find ourselves in the position, once the debate reverts to P.P.C.'s main proposition that we reject that too and end up with absolutely nothing.

6.2.13 Deputy J.A. Martin:

It is a pleasure to follow Deputy Baudains because I think along with maybe Deputy Tadier - and I think he did - I think we are missing the point of an Electoral Commission. It is about the public. The other Deputy of St. Brelade said the public are not happy. The public are not happy maybe with the representation but some public have very limited votes on who we have in this House. So what is an Electoral Commission? Firstly it is not political. The Electoral Commission in the U.K. would look at the population, you would not start anywhere ... I am not saying 4 Constables or 4 Senators, 4 Deputies, for how you cut the cake, you would look at what the population is and where they live. It does not even need to be by the Parish, it could be by postcode, but it is not political. So why myself and Deputy Tadier felt so strongly ... I was alone on this though because Deputy Tadier had not come back, I was so adamant that I could not support most of the report in the proposition that I was challenged to write a minority report. I am glad that Deputy Tadier and I did take the time and research all what has gone on in here. But, again, that is what has gone on in this House. Senator Bailhache has said, not too long ago, that he feels that Deputy Le Hérissier made an excellent argument for why we should keep it in-house because we are told we cannot reform ourselves. We are told he is quite upset that the States have got to this point. I think everyone is upset. But we are 53 elected Members, what about the thousands and thousands of people that do not even bother to register to vote. They are upset and if you carry on with how we represent

people, I mean, it is just not going to work. I did hear Senator Bailhache say that why he feels that there should be 3 Members of the States on the Commission that he could elicit some opinions in the coffee room or at the edge of meetings, I do not want an Electoral Commission like that, the public do not want that, they want somewhere where they can go. I think he did say the outside members could deal with the public but obviously everyone would sit together. When we get on to Deputy Young's amendment we talk about validation. You will only be able to validate something if it stacks up in a democracy and that is what a Commission does. It is all about that. I could go on really. I will just say that the Senator and I - and we have spoken about it - hold completely different views on why he got elected. I agree with what a lot of people have said, it is because he has given loads of time to the Island, he is a respected judge and he was a States Member. Of course he would have got elected. Electoral reform... and we did have this sitting on the Commission, we did have this in an open meeting around the table of P.P.C. and he said in St. Helier, because obviously me being a St. Helier Deputy, at the Radisson he was completely open about his way of reform, again cutting a cake into small pieces before you got to the public. But he did say St. Helier did elect him on that because he was quite clear at the Radisson exactly what he wanted, he wanted 42 Members, 12 of them being Constables. So I did test the water and although there was only 53 who voted at the end, when I asked the question stood in front of all of the people, I would say there was about 120 there at the time, which again for a Parish of St. Helier Assembly is not too bad, I said I did not need to know anybody who did or did not vote for Senator Bailhache, what I did need to know, would somebody put their hand up and tell me that they voted because of his proposed electoral reform and there would definitely 42 Members, with 12 of them Constables. I asked 3 times, and they are not shy in St. Helier, believe it or not. We are not wilting St. Helierans. Not one of them put their hands up. In fact there seemed to be a glaze across the room. So it really to me is absolutely immaterial whether you believe, the Senator believes, or the Constable of St. John believes why the Senator was elected. I believe the people out there have had enough of us; that we will be the old guard because we will not look at anything else, we cannot look at anything else. I am on the registration and the mechanics of what an election process is and we are nowhere near getting people registered. The U.K. are always moving their boundaries because suddenly factories close down in one area, the population move to another area, they find suddenly they are totally over represented in one place and under-represented ... they have to move a boundary. They are always chasing it but they try to be fair. That is what we are not. We are not fair, there are certain places in this Island where if I lived I would feel very, very aggrieved at where we are now because I probably would only be able to vote in the Senator's elections and we may not even have them, I do not know. I would be very, very aggrieved. Just lastly, it goes back to the people ... it does seem like I am picking on Senator Bailhache, I am not, he has told P.P.C. why he feels he could do the best job and I am trying to tell everybody why I feel he cannot because we all come with - as the report says - the history of Jersey, you know "if it's not broke don't fix it" well out there it is broke but he does say: "Well, we had Clothier and we had Carswell and they did not work." A well-researched Commission that cuts the cake properly for democracy produces a straightforward referendum that can be supported by the public will have to go through this House and it will go through this House. So the only way to get this, because people do not understand what independent was - we voted for it in March last year - it is to support Deputy Le Hérissier's amendment. We start with a complete independent Commission, they are not new, we know what they are, in fact Deputy Wimberley and I would have rather gone to the U.K. and brought someone in from their Electoral Commission because they are in no way political. They are there firstly for the people so that the people have a proper ratio of representation in government: local, county council and Parliament. That is what they do and this will not do it. There might be some chance with supporting the ... or it should be a lot of chance supporting Deputy Le Hérissier's amendment. But please remember why you are here. It is not about which way, who is best, how many people have given how many years, think about the appalling amount

of people we have registered, think about out of those people we do have registered who bother to vote and they will not engage under this system. We need a represented democracy and an independent Commission will start with that premise.

6.2.14 Connétable S.W. Pallett of St. Brelade:

First I will start with an apology, I will apologise to yourself and the Members, I will never, ever be as eloquent as Deputy Martin when it comes to speaking but as a new Member I am probably looking very much through rose-coloured spectacles when I look at what goes on within this Chamber. Many of the elected Members of the Assembly took part in the debate of proposition P.15 last March and that proposition was carried with agreement to form an independent electoral Commission to investigate changes to the composition of this Assembly and several other aspects of the electoral process. We all went into last year's general election knowing P.15 had been adopted and the terms of reference included within this proposition. I, for one, campaigned for several long weeks on various important issues that were close to the public's heart but the issue of electoral reform was one issue that I was sent a clear message certainly by the voters that I spoke to and those that had voted for me, and certainly followed closely my own manifesto, that was reform, if it was to be effected, needed to be led by an independent Electoral Commission void of any States Members with the result or proposals put forward by that Commission put to the public of this Island to decide by referendum. Parishioners I had spoken to had totally lost faith in this Assembly to put their house in order. I should stop there and say I feel part of the fresh wind that Senator Bailhache mentioned and I am also part of the new era of Scrutiny, but they are both in early days so I hope I do not disappoint in what I am saying this afternoon. As I was saying, they have lost faith in this Assembly to put their house in order because the vested interest with the phrase: "Turkeys do not vote for Christmas" and we have seen it all outside, quoted to me on many doorsteps. To be honest, the public do not trust us to get the job done. Today, quite simply, if I do not vote for this amendment I would not be representing those parishioners who voted for me. Deputy Le Hérisier was right when stated that the proposition simply ensures the intent of the States is followed and that the independence of the Commission is retained. To defend this independence is paramount in ensuring the integrity of the decisions reached is maintained and the public feel that we have listened to their views and not simply looked after possible vested interests within this Chamber. I am at a total loss to understand why the new P.P.C. within a month of its formation considered the removal of the true independent status by proposing the chair and 3 members of the Electoral Commission be elected from this Chamber and justify it by stating States Members should have a stake in the process and that the Committee does believe that States Members are unable to drive forward reform. Where is the evidence for the comments? The evidence suggests the complete opposite, but I will get on to that. I, along with many other Members believe it would be far more fair-minded to be given the opportunity - and that is us within here - to give views on proposed electoral reforms to a body that did not have States Members on it, especially Members that may well have preconceived ideas of the type and focus of electoral change that they may individually support. Again, with States Members on the Commission the perception to the public of vested interest will, I believe, be enough to damage the integrity of any decisions reached. The newly formed P.P.C. disagree with the former Deputy of St. Mary about the States inability to drive forward reform, believing Members must have a stake in the work of the Commission. P.P.C. almost lectures Members that to move for an independent Commission would be an abdication of responsibility for Members. This is nonsense and I feel offended that listening to my parishioners in some way is abdicating my responsibilities. I suggest more Members listen to the Islanders they represent and not just toe the party line on an issue that is so important in ensuring the public get the changes they truly want and asked for during the last election. The past record of the States to drive electoral reform has at best been unsatisfactory.

The current P.P.C. claim that the last Assembly was capable of taking incremental decisions on reform; to outsiders much of what transpired was slow, cumbersome and indecisive.

[15:30]

The excellent minority report of Deputy Martin of St. Helier and Deputy Tadier of St. Brelade clearly timelines the failures of this Assembly and focuses the waste of time and in financial terms. Please let us stop this now and support this amendment. As a slight aside, I searched the internet trying to find an Electoral Commission anywhere in the world whose make up includes members of a Parliament or National Assembly. Now, I could not find any but maybe I did not look hard enough. The Electoral Commission in the U.K. is politically independent and interestingly, I know some of us do not always have a view that African countries are democratic, but in the ones I could find all those countries did not include anybody that was a member in their National Council. I have printed one off because it just happened to be there, easy to find, Gambia for example, their Electoral Commission quite clearly states they are not qualified if he or she is a member of the National Assembly. That is what we are. As a Constable I am prepared to accept whatever an independent Electoral Commission puts forward. I have faith in the public to decide on the right way forward if offered a referendum on the proposal of what the Commission decide. Please let us not forget the public. They put us here and they deserve an unconflicted transparent independent Electoral Commission. **[Approbation]**

The Deputy Bailiff:

Connétable, if I may say so, for your maiden speech that showed no lack of eloquence. **[Approbation]** I call on the Connétable of St. Helier.

6.2.15 The Connétable of St. Helier:

I was going to rise to my feet and call upon supporters of Deputy Le Hérissier's amendment to really get moving because I was getting a bit swayed, I have to say. Then the Constable of St. Brelade stood up and I think gave the first decent speech for the amendment that we have heard in this debate. I apologise to the proposer of the amendment for saying that but I am going to come back to him in a minute. My colleague out west, it seems to me, really highlighted the key issues here which are about what the public will make of the work of the Commission. He comes fresh with experience on the doorstep, some Members - as I have - have been returned unopposed. I cannot put hand on heart and say that I know exactly what my parishioners feel about this. Unless I do take cognisance of the Parish Assembly last week and take that as an indication of how my parishioners would like me to go on this. But I thought that was a really compelling speech. I do not agree with him about vested interests. I think Members of the States serving in any capacity are capable and must set aside their own interests and I think they do to a large extent. But I accept that there is a perception of vested interest out there and it is a perception which certainly has concerned me to date. So I do welcome his speech and if there are a few more of them then I will be getting firmly back down on Deputy Le Hérissier's side of the fence. I must say that I am disappointed with my colleagues on P.P.C.'s contribution so far. From Deputy Tadier, he suggested that we are entrenched, we are part of the problem, that we want to hijack the Electoral Commission, and then he went on to say that if it does not go Deputy Le Hérissier's way, and I quote: "We are not going to have a very good 2½ years in Jersey." I think that is an extraordinary exaggeration and I would say, with respect to the Deputy, that most people out there are less concerned with what we are discussing today than they are concerned with the economy, with how much **[Approbation]** their bills are rising and with how difficult for many of them life is becoming in the current economic climate. So I do not think we should kid ourselves that this in some way is the watershed which will make a huge difference. As I said in my proposing speech, what the public who care about the States, and not all of them do care about our composition, want is to see

change. The Deputy of St. Mary, in a far cry from his predecessor Deputy of St. Mary, who seemed to believe that we have got about the right number of States Members; I do not think we do have and I do think the public want to see change but I do not agree with Deputy Tadier that there is something going on. I mean, he said of P.P.C. that the requirement to choose the chairman should P.P.C.'s proposition go through, and I quote: "slip through under the radar", which is nonsense. All members of P.P.C. had the paperwork; they are aware of it. He did go on to say he did not notice it himself. But there is nothing going on here. This is simply the procedure that is recognised. We have a job of work to do here. The Electoral Commission has to finish its work in time for changes to be implemented. There is no time to sit around forever debating this. We have to make a decision and we have to get on with it. Then he said later on: "We all know what the result is going to be. Let us hide our hand here." Again, I find that offensive, because there is not some vested interest going on here. I have made no secret of the fact that I can see both sides of this argument and I do not accept the argument that we are in some way, and I am partly repeating what Senator Bailhache said here ... I do not accept the fact that there are people out there who have a very poor view of States Members. But I do not share that, and I think that a lot of people out there do not write off the States. If I could go back to the proposer of the amendment, he gave us a bit of history which I really enjoyed. I am not sure he was right, though, because he started off by talking about the States failure to reform, and I thought to myself: "What about Ministerial government?" It is not everybody's cup of tea, but it is a major reform that has happened recently. He says we cannot reform ourselves and we saw outside the poster saying: "Turkeys do not vote for Christmas." But these turkeys have to vote, because at the end of the day it is Members of the States who will have to approve what the Electoral Commission comes up with. We cannot get out of that fact. The other point of course is the single election day came in last year. That is a reform; that has happened. Maybe it is not fast enough for some people. It does seem to me that when you do take a view down the history of the States, it has reformed and it is reforming itself. Deputy Le Hérisser made an interesting point that it is not about the findings. He says you could work out the findings of the Commission in half an hour. It is about building a consensus for reform. Again that is perhaps going back to what the Constable of St. Brelade was saying: it is about getting the public onside in this reform. I am not sure I agree with him, but I think he said he was not bothered; let us bring back the Rectors. Of course he was exaggerating, but much as I would welcome the Dean's input, I do not think we can write it off like that. There is a piece of work to be done here, and I think they are going to have a tough job to do. Again, the key item, as I said in my opening speech, is the involvement of States Members on this panel. It is not the same as the U.K. Electoral Commission, so it should not be compared to it, but whether the involvement of States Members is going to get a result that we can get behind and which the public can get behind. Again, as I say, I am listening out for those speeches that make the case for the amendment. I do not think simply knocking the States and saying what an entrenched and incapable Assembly we are, does anybody any credit. I do not think it is going to help us get to a result here. What I want to hear about are what are the real dangers involved in P.P.C.'s proposition if the amendment is not approved. I look forward to hearing more of those arguments.

6.2.16 The Connétable of St. Lawrence:

In my opinion, Senator Bailhache made a compelling case for having States Members on the Commission. I did not know when I entered the Chamber today how I would vote on the proposal or the amendments and I believe I was swayed by the Senator. I have no doubt that he would be ideal as chairman of the Electoral Commission. Clearly he has the knowledge and experience to oversee what will inevitably be a challenging role. He would rise to that challenge. His *curriculum vitae* speaks for itself, and his manifesto made clear his intention to work for reform of the States. However, I am uncomfortable in the knowledge that the Senator has declared his preference for the retention of the Connétables. Clearly, if the proposition by P.P.C. is approved without amendment

by Deputy Le Hérisier, we will today or tomorrow elect States Members to the Commission. As such and in the belief that Senator Bailhache intends to stand as chairman if that is the case, I believe it would be inappropriate for any Connétable to vote on the composition of the Commission. We have had no discussion; we have had no discussion ever about how we are going to vote, but I repeat: I believe it would be inappropriate for a Connétable to vote on the composition of the Commission. As such I intend to abstain when we come to that part of the vote.

Deputy M. Tadier:

May I seek clarification of the last speaker? Would she say that that would be a blanket position for all Connétales, or should those who have had a Parish Assembly, which has asked them to consider voting in a certain way, maybe consider voting?

The Connétable of St. Lawrence:

I believe I have made my speech.

6.2.17 The Deputy of St. Martin:

This was always going to be an important emotive debate and as such I gave it just a little bit more time and thought before putting my words down on paper. I am one of those new Members of the Assembly and have quite recently knocked on every door in my Parish of St. Martin. I feel therefore that I have a good understanding of the issues which are of interest to the parishioners of my Parish. Right up there at the top of the list is States reform, followed closely the issue of the potential reduction in the number of Members in this House. Senator Bailhache based his very successful Senatorial campaign on States reform and some of those other issues that I have mentioned, and in my Parish he was hugely successful. I can only conclude that the voters of St. Martin supported him because of his views, particularly to do with electoral reform. Some may say that Senator Bailhache has already decided what he wants to do. He is an ex-judge and I, as an ex-lay magistrate, can appreciate that one may arrive at a case having read through the papers previously with a preconceived idea; but one is always open and has to be in a position to change one's mind given a persuasive argument. I am sure that the Senator will be thinking hard before making decisions. As a keen agricultural observer of this Assembly over the years, I used to find farming debates hugely frustrating. It seemed ridiculous to me that all the farmers left the Chamber when the industry that they knew so well was being decided on. When you move your office to another building, you might get independent outside consultants to design and advise, but you really should speak to the office manager and the secretaries to find out how things work, and work together with them to get the office to function at its best. When you redesign your packing line in your production shed, you need to be speaking to the managers, to the supervisors and the workers that operate that line to really find out what is happening and work with them to achieve best results. The idea of no States Members on this Commission seems at the very least unhelpful to me. It has not taken me long in this Assembly to realise that as a previously interested layman, as a previous outsider and as a previous independent, how very little I knew about how this Assembly operates; how the systems, how the procedures and how the methods inside this Chamber work. I cannot think that having States Members on this Commission will not be of real benefit when it comes to the recommendation and consequent conclusions. I offer these as final thoughts. There has been much talk about turkeys and how they do not vote for Christmas.

[15:45]

I would offer this as a suggestion: in many ways many of the turkeys in this analogy have accepted the concept that Christmas needs to be thought about; and if you really, really wanted to redesign the turkey farm, the way to ultimately get the very best out of the system would be to work with the turkeys to redesign it. Ultimately they would be the ones that really know what goes on and what works well and what does not. The last House may well have made a decision that reflected their

view, one that indicated that they thought the States were not capable of reforming themselves. But this new House seems to me to be much more committed to genuine reform, to working together for common and not personal good, ultimately for the better government of our Island. I would urge Members to support P.P.C. and reject this amendment.

6.2.18 Senator P.F.C. Ozouf:

There have been some good contributions in this debate, particularly the last one from the Deputy of St. Martin. I listened to Deputy Le Hérisier with great interest to see whether or not he was going to say anything that really changed my mind when I came here today. This is, like Deputy Le Hérisier, my fifth States Assembly. While I am not naïve and of course every new Assembly has a honeymoon, this is a different Assembly. It is in contrast to the acrimony of the last Assembly. I agree with the Constable of St. Helier, it is the economy that matters to most people: tax and spending. But there is in this Assembly something that has changed. There is a resurgence of a willingness to work together. The Council of Ministers is working well together. Scrutiny has a resurgent confidence about it; it is doing productive work, holding Ministers to account. But Members are working together for Jersey's national good. They are wanting to find solutions. They want win-wins. There are no cliques or cliques; there are genuine fair-minded, caring people, honoured to serve the community, willing to work together, and as the Deputy of St. Martin has just said quite rightly, people in this Assembly elected that want reform. The foundation of our democracy, the font of it, is of course the composition of the States. It is about us and how we get here. There are issues and there are preconceived views of different people. I believe that those issues can be resolved by a group of people that consists partly of elected Members and outsiders. Things have changed, and Senator Bailhache stood for election for the very reason of electoral reform. He is in this place because of that purpose. So I want to correct one other thing that I think a number of Members have said. There is a view that the previous Assembly ruled out the concept of an Electoral Commission with States Members on it. Forgive me, I stand to be corrected, but I understand that there was an amendment passed by the last Assembly which said that the makeup of the Commission would be decided by the new Assembly. The composition would be by proposition by the new P.P.C. following consultation. It seems to me that I understand the apology that Senator Ferguson has given, but there is nothing wrong in what P.P.C. have done; it is exactly in the way in which the amendment was put forward as amended by, I think it was the former Senator ...

Deputy M. Tadier:

Can I ask a point of order on that from the Chair or from the clerks? Because I think that is a key point that Senator Ozouf is raising. My understanding of the amendment was that we had agreed on an independent Electoral Commission and that the appointment of members of that independent Electoral Commission would be appointed by the new House. There is a difference between that and saying that we can have a non-independent Commission. Otherwise we would not be having a debate it.

The Deputy Bailiff:

I will ask the Greffier while Senator Ozouf is completing his speech to check the Hansard just so that we know.

Senator P.F.C. Ozouf:

I hope I am not breaking Standing Orders by looking at my BlackBerry, but I think paragraph (c) as substituted by saying: "To request the Privileges and Procedures Committee, after consultation, to bring forward proposals for debate ahead of the debate on the Annual Business Plan detailing the proposed composition of the Electoral Commission and its anticipated costs and how it is to be funded." I think it was quite clear that it was the new Assembly. I was part of that debate. If that

is not my reading of it, I was quite clear that the matters of organising the Electoral Commission was to be reserved by the new Assembly, and this is what this new Assembly is doing. So while Senator Ferguson may well feel as though she needs to apologise, I was clear that it was the new Assembly that was going to vote on the composition. I do not think there is anything wrong with that.

Deputy G.P. Southern:

If I may, a point of clarification from the speaker who suggested that the phrase was “after consultation”, can he point me to what consultation has taken place from P.P.C. of Members, because I have not been consulted and I do not think anybody else has?

Senator P.F.C. Ozouf:

I am not a member of P.P.C., but I know there have been soundings taken by the members of P.P.C. The fact they hold their meetings in public; that has been the source of public debate. I think it is important that Members do understand the context of the decision that was taken last time by the States. I think that, whatever was in some Members’ minds when they voted, things have changed. I genuinely think that there is a spirit of co-operation, that there is a spirit of certain optimism, of confidence of this Assembly in wanting to find solutions. Yes, there are vested interests, there are the issue of the Constables, there are the issues of the small constituencies, there is the issue of the Island-wide mandate. But I think that we can put together a group of individuals, partly from this Assembly and partly outside, to resolve these issues. As other speakers including Senator Bailhache has said, those matters will come back to this Assembly for ratification before being put to an Island-wide referendum. That seems to me entirely the best way to proceed. I have been in 5 Assemblies, and in all of the previous 4 Assemblies we have failed to make progress. This is a different approach, but I think that this is an approach which is going to work. It is an approach that we can support and is an approach that takes both of the constituencies of interest of both this Assembly and outside together. I believe that we should reject the Amendment and move forward with confidence. Hashtag politics and move forward, that we will find solutions for the issues that are unfair to some electors in this Island, and will raise further the standards of parliamentary democracy in Jersey. I urge Members to reject the amendment.

6.2.19 Senator B.I. Le Marquand:

I am going to begin by talking about the nature of this Electoral Commission because a number of Members have made references to a U.K. Electoral Commission. I am not sure whether that is the correct name for it, because there is a Boundaries Commission, I think, there as well. My opening point is to point out this is very different from an organisation whose role is simply to adjust boundaries in order to achieve approximate equality of numbers per member. This is far more akin to the area of political matters and far more akin to the recent debates and, in fact, referendum in the U.K. when a decision was being looked at in relation to whether to move from first past the post to a different type of system. But this is not merely a Boundaries Commission; this is not merely an adjustment of numbers and sizes. This is going very clearly into political areas. I believe that point needs to be made clearly so that Members are not confused by any similarity of name as to the underlying functions. So those Members who are part of previous States will recall the numerous debates on the makeup of the States which eventually led to a limited package of reforms. Frankly, as a result of those debates, many of us - including myself - began to suffer from what I call repetitive debate syndrome and I was certainly among those. Accordingly when the former Deputy of St. Mary came forward with his ideas it was attractive as a means if only of ceasing from having those repetitive debates for a period while there was some mature reflection. But I for one was always concerned about the dangers of what would happen in effect would be another Clothier report which gave insufficient weight to local factors, thus leading to proposals

which did not carry support ultimately in this Assembly. Deputy Le Hérissier rightly asked a question: “What has changed since then?” I believe 2 major things have changed since then. The first is that a former Bailiff, Senator Bailhache, retired from his judicial role as a commissioner specifically in order to stand as a Senator on a platform of electoral and government reform. He received substantial support Island-wide and now offers himself as chairman of the Electoral Commission. That is an important change. We now have another major option which we can consider alongside that which was preferred on the last case. The second matter, and here I am perhaps repeating in different words what other Members have already said, is we now have a very different States to the last. This States is far more pragmatic and ‘can do’, and far less ideological. The Constable of St. Helier in his opening speech referred to his dilemma and the tension between those 2 things. This Assembly in my view is not a talking shop, so far. I have much greater confidence in its ability to make pragmatic decisions that are going to be needed to meet different challenges, including challenges in this area. Concern has been raised that if the Electoral Commission includes politicians, possibly Senator Bailhache and other Members, then it will not be sufficiently independent. However, we are not seeking today to set up something like a court or a tribunal which needs to be fully independent by its very nature, and in which in fact judges have to excuse themselves - stand down - if they have some conflict of interest. The nature of the process involved in this is of necessity going to include political input at a number of points. I want to read out at this point paragraph (c)(iv) of the proposition to make that point, because after the Commission has completed its work that reads: “At the conclusion of the investigation, the Electoral Commission shall present a report with recommendations to the Privileges and Procedures Committee to enable the Committee to present the Commission’s proposals to the States for approval prior to the submission of the proposals to the electorate in a referendum under the Referendum (Jersey) Law 2002.” So if anyone believes that somehow the Electoral Commission’s work is going to be done and therefore matters will automatically be presented to the public, that is a myth. If it is quite clear... and it is quite clear from this proposition and that part has not been sought by anyone to be amended, the States will then have political input to decide: “Is this a sufficiently reasonable option to warrant going to the public?” Then it goes to the public in a referendum, and then after that it comes back again to the States again, because the States will ultimately have to make the decision. So any sense of somehow we can get rid of the responsibility for making the ultimate political decisions as to what is the appropriate way forward is a complete and utter myth. I believe that is a very strong argument to counter any suggestion that somehow the independent, completely without States involvement, nature is an essential aspect of such a Commission. I have picked my notes to bits, sorry, in order to try and reduce what I am saying, but I think that concludes what I need to say. Unfortunately I will not be able to support the amendment.

The Deputy Bailiff:

I was asked by Deputy Tadier to rule on the suggestion from Senator Ozouf that the present proposition for States Members to be able to participate in the Electoral Commission was consistent with paragraph (c) of the previous resolution of the Assembly. That requested P.P.C. after consultation to bring forward proposals for debate ahead of the debate on the Annual Business Plan 2012, i.e., by September 2011, detailing the proposed composition of the Electoral Commission, its anticipated costs and how it is to be funded. I am advised by the Greffier that the Bailiff has ruled that when the earlier part of the proposition was agreed that an independent Electoral Commission should be established, that meant no States Members. So that would tend to go against that part of Senator Ozouf’s submissions. I call now on Deputy Southern.

[16:00]

6.2.20 Deputy G.P. Southern:

I too have been in 5 States Assemblies, and it seems like ever longer with another debate on attempting to get this House to reform in any democratic way. I ask myself why are we here? Why did the Deputy of St. Mary, when he had already decided he was not going to seek a second term, bring a proposition to this House to suggest that we should set up an independent Electoral Commission to decide the way forward for democracy on this Island? For those of you who did not know him, he was a very strong Member of this House, not only the longest speaking in my memory, but also one with a singular and very sharp sense of integrity and a depth of analysis which went with that. He would try rarely, if ever, to compromise. If he saw things one way, that is the way he saw them; he would not compromise, even if he risked losing a proposition. This one he won, and a key to his argument was “independent”. We need to take the decisions out of this Chamber, because he had been in here for 3 years and he had seen what went right and what went wrong, and one of the things that went wrong was every time we got close to reform, starting way back with Clothier, going halfway with Clothier, any time since, got close to reform it would get scuppered. It was, and he would say it, turkeys voting for Christmas. And he brought it when he did precisely to avoid this sort of situation after an election with a candidate - and it does not matter who it is - coming to the House saying: “I have a mandate for reform.” Not only that: “I know exactly how the reform should look.” That person, no matter who he is and how many votes he got, should not be in charge of an independent Electoral Commission to decide the way forward for democracy. He comes with his mind made up. We have heard a lot of words beginning with “P” today; we will start with one of those, because that carries with it a perception that the mind has already been made up. It was like as if I were to come to you and suggest that I too have been campaigning - I have been for the last 10 years - for States reform, and that I should be put in charge of States reform instead of, say, Senator Bailhache. Because those of you who know me, and some of you know me quite well, know I too have very fixed ideas about what it wrong and right with this House, and I am likely to stick to them if I were on an Electoral Commission. The reality is I would not fancy going up to the Electoral Commission and knocking on Senator Bailhache’s door and getting a true, proper hearing for my views. We have talked very little today about principles, and I believe we should have done. The principle that should be at the heart of the way we move next in terms of reform is how do we improve our democracy? We are aware that we have a democratic deficit on the Island. In that - and this is something that Deputy Le Hérisier mentioned - we have a set of unequal boundaries, so that we do not get equal value for the vote. Each vote weighs differently. In St. Mary and St. Helier a vote for a Constable means something completely different: one is, is it 4,000 electors and the other is nearer 40,000 electors. That is a big significant difference. Secondly, the other way in which we add to the democratic deficit is that we have traditionally had Constables in the House. Again a Constable is elected primarily for the function of running his or her Parish and incidentally, *ex officio*, sits in the States. Whatever their abilities, the prime *modus operandi*, the prime thing about a Constable is that he runs his Parish. That is what they are elected for. They are elected on completely different grounds to the rest of us in this Chamber. It does not take long for any analysis to take a look at what is being proposed by what will be a candidate for the chair of this body; he is suggesting 42 total States Members of whom presumably 12 are Constables, I assume 8 remain as Senators, leaving us 22 places to fill, instead of 29 this time round. Just think about it; it does not take long. Put one in every Parish, or do we not need to do that? What is left? Not very many to go round. Poor old St. Saviour, poor old St. Helier. Democratic deficit going down? No. Democratic deficit going up. Each vote becomes worth something enormously different unless we have a major change. We were recently advised and there were many, perhaps half the Members of the States there at a meeting held by the Sub-Committee on election reform where we had the speaker, I think it is Dr. Professor Adrian Lee. He talked about that democratic deficit and he talked about equal value. He also pointed out very early on in his speech that no one who benefits from the electoral process should be involved in drawing up the voting register to get that position. That is the case for the Constables. They are

elected by an electoral register that they help draw up. That is already fundamentally going against democratic principles. Equally, I believe, that same democratic principle should apply to this House. You are going to set up an Electoral Commission to advise who is in this House; it should not contain the people who benefit from that change. What we should be doing is improving our democratic process. As I think Senator Bailhache talked about, should we be asking this House just to rubberstamp the answer that we come out with, and he talked about we should be assisting this body to produce an answer acceptable to this House. The idea is it should be acceptable to the people outside this House primarily, because they are the people who have to have their faith restored in the system because in many cases their faith has been severely shaken and has disappeared. Never before have Members of this House been held in such low esteem. The answer is not: "How do we produce an answer acceptable to this House?" It is: "How do we produce an answer acceptable to the voters outside?" The way to do that is to support this proposition which talks about setting up an independent review body and taking away once and for all any perception that in some way what is produced is tainted. It is about perception. We have a chance today to take that perception away and put ourselves in the hands of a trustworthy body that is and can be seen to be truly independent. That is what we have to do; that is what the Deputy of St. Mary wished us to do and he was a man of integrity.

6.2.21 Deputy J.A.N. Le Fondré:

Around the time I was first elected, seeming longer and longer ago I have to say, a Member of the States at the time said to me how soon I would come to learn that he has a statement that the public would regard me as no longer being one of us and very soon becoming one of them. Something like 7 years down the line I can very much relate to that sort of remark. I think one of the things one has to be slightly careful about in terms of as a new Member coming in and within 2 or 3 months of being elected, is one's perception of how things operate now in what is a completely different atmosphere to what we had in the previous 3 years, and then what one's perception might be in for example 2 years from now, having had the full experience of near enough a full term of the Assembly. I can say certainly when I first came in I think there were 13 new Members at that point; I cannot remember exactly. We came in and I would say we had a great time in the first 3 years, and very much a good working environment and indeed people commented on how different it was compared to the previous 3 years. In other words, there were similarities to where we are now to where I was 6 years ago. Then we have had the last 3 years which can sometimes be described as somewhat more frenetic. Where I am, for the avoidance of doubt, I am supporting the amendment; I am supporting Deputy Le Hérissier. But I would say my position is somewhat of what I would call a traditional view of this Assembly: I support the Constables in the States. I always have done, particularly as far as I am concerned, they and in conjunction with the Deputies, as a Deputy, are very much components of that Parish system. It goes very much down to that community aspect of Jersey life. It is one of the things that make Jersey Jersey. I very much support the Crown Officers: the Dean, the Governor and obviously the Bailiff being in their present roles. For the avoidance of doubt, I would not support any further reduction in Senators, and in terms of reform, I do not think I have sat through all the 65 debates that we have had, but I certainly have sat through a number in the 7 years, and I can very firmly hold up my hand as I think it was the ... I cannot remember the expression to the media; it was the little boy from the north or something, which was a comment at the time to the proposition offering the same day elections in place. That was my original proposition which then P.P.C. brought. So as far as I am concerned I have been very much involved in the reform process for the time I have been here, and I think I can say hand on heart I have achieved certain things. Yet I do think that the amendment should be supported. I will just also say I did not vote for the Commission in the first place, but basically and simplistically, if you are going to do it, do it properly. I am not pessimistic to; I agree with Senator Bailhache. I have quite high hopes for how this Assembly is going to carry on, but obviously we

are in early days and we have to see how that goes. But for example, just to address a couple of remarks by Senator Le Marquand, I think he referred, for example, to the Commission, I think it was the Boundary Commission in the U.K., and he seemed to imply it was not political. As far as I am concerned if you are re-examining the boundaries in the U.K., particularly as I understand, the influences that can occur as to whether you shift it one or another to bring in more Labour supporters or move out more Conservative supporters or whatever it is, if that is not political then you really need to examine that perspective, that point of view. I think, yes, it is very clear in this process that the States will have a say and will have input, political input, on this process. But I think one of the key matters is that at what point that input takes place. The States is now 51 separate individuals and they all have their individual views and they all have their individual influences and whatever at the right point.

[16:15]

But the States is not 50 per cent of the body that is presenting those views to this Assembly for consideration. That is the point. It is about independence. I certainly endorse the comment that I think people are far more concerned with the economy with everything that has been going on in the world. But to an extent I also take the view that they would rather we got ourselves sorted out internally. That to me is the machinery of government side. That is about having the right level of oversight as to making sure we properly manage the Island. I think particularly in the last few weeks that is about not seeing £0.5 million payouts. That is possibly about not seeing further court comments referring to serious irregularities in respect of certain Ministerial actions. From that perspective, if one takes within the context of internal reform the machinery of government as being the important aspect, that determines how many people ultimately; who does what and that would determine how many people we need in this Assembly. It is only then you can then decide how those people should be elected, from my perspective. I think too, just to go through a couple of remarks on the proposition, I do find it very difficult to separate the principles of the proposition and then the likely outcome and potential identity of the States Members that get appointed to that Commission. Therefore I think it is very difficult, given the quite strong views that have been expressed by at least 2 Members - that is certainly not me - of P.P.C. to separate the 2 from the principles of the proposition and the potential identity of members of that Commission going forward. Again, that comes down to independence. As an aside, in part (a) which specifically says it has been referred to 3 Members of the States and 3 other persons: 6 members. So are we not lining ourselves up completely for a hung vote potentially? I am sorry, but normally on most committees I have been on, you try and have an odd number. I know that is a pedantic point, but that is the proposition; that is what we are voting for. To me again, we are just lining ourselves up for problems going forward. If at the end of the day the so-called independent Commission comes back with something that might rightly resemble the views that have been strongly expressed by one or 2 of its States appointed members, the perception from the outside - it does not matter how well it arrived at that judgment - will be that that was not an independently and properly arrived at decision. Just to read from the report, this is on page 7 of P.5: "It will of course be necessary to ensure that any locally-based members approach the work in a totally objective way." Two lines down: "... it will be essential to ensure those who apply do not come with preconceived ideas or existing strong views on the matters to be addressed by the Commission." That is the words of this proposition or the report accompanying this proposition presented by P.P.C. I think, in summary, if it is good enough for Gambia it should be good enough for us. I urge Members to support the amendment.

The Deputy Bailiff:

I do not know if there are any Members who needed to make a confession over there as to a telephone that might have gone off. Very well; that is all right then. I call upon the Connétable of St. Clement.

6.2.22 Connétable L. Norman of St. Clement:

I was very pleased that Deputy Southern reminded Members that Constables are elected Members of the States, and I hope that my colleague from St. Lawrence listened to that, because elected Members of the States are put in this place to make decisions. So while my colleague from St. Lawrence will be abstaining I will be representing my parishioners by voting, and voting against this amendment. I will vote against because I have not been beguiled by the romantic and indeed naïve notion embraced by those who are supporting the amendment, that somehow a Commission made up of so-called independents - persons with probably no local political experience - will come up with the golden bullet, a scheme that will be 100 per cent acceptable to the public and of course to States Members. We have been there before, have we not? Twelve years ago we had the Clothier Panel made up of truly independent members, some parachuted in from other jurisdictions, which when they made their recommendations which not only did the States refuse to accept but also refused to put the Clothier recommendations to the public either by plebiscite or by referendum, despite several propositions asking the States to do that. The question we have to ask is what confidence can we have that the same thing would not happen again and the excuse could be exactly the same. We could say that the independent Commission made up entirely of independents do not have the political knowledge and experience and therefore the proposals do not work. That is the risk. I think we need to remind ourselves that the Commission will only be appointed to make recommendations. The decisions will in fact be made in this place. I was interested to hear Deputy Le Fondré telling us already that he believes the Constables should remain in the States and we should not have any fewer Senators than we have now. What the heck is he going to do if the Commission come up: remove the Constables, remove the Senators and have all Deputies? What is he going to do? Is he just going to accept that because they are all independents who have been parachuted in, or is he going to oppose those recommendations which he does not agree with? That is the dilemma every single one of us is going to have to face. We - no matter how the Commission is made up - the States Members, the elected States Members, are going to have to make the decisions, and we cannot get away from that and we cannot hide from that and indeed we should not hide from that, because that is the reason we have been elected to this place. If we put 3 States Members on the Commission, we give ourselves a real chance to succeed, because not only do States Members have the experience and knowledge to supplement and balance the views and the work of the independents, but we States Members will bring different skills and different experiences from independents with no political experience. Another very important thing, and some Members have alluded to it during this debate: States Members are much closer to the public, or should be much closer to the public, and can understand and indeed attempt to achieve the aspirations of the electorate; and they can do that so much better than private individuals parachuted in to work on this Commission. That is the reason why I will be voting against Deputy Le Hérissier's amendments.

The Deputy Bailiff:

Connétable, I wonder if I might ask you to withdraw the expression "what the heck" which is not a parliamentary expression.

The Connétable of St. Clement:

I withdraw that with pleasure, and I do apologise if I have caused any offence.

6.2.23 Deputy C.F. Labey of Grouville:

Well, 65 debates so far, and it certainly feels like it. I must hold my hands up because I have been a party to that, bringing forward my propositions to try and retain the full Senatorial seats. I am afraid I am not at all enthusiastic about this debate. Not because of the number of times we have had these reform debates, 65 and counting, but because is this really top of the agenda in the public's eye? We have in this evening's *Jersey Evening Post* population being of concern to the public, the number one concern to the public; unemployment levels 1,500; housing our young people, the state of our hospital, educating and getting our local people in jobs, G.S.T. (Goods and Services Tax) on food; and here we are yet again debating reform. I understand the Commission is to take it in theory out of our hands, independent; let them get on with it and then bring it back for yet more debate that we are going to have to sit here and decide upon. I am afraid I cannot work up the enthusiasm for this debate. I really cannot. To my mind, what is so desperately wrong with this Assembly? All the issues I have mentioned before, the makeup of this Assembly, is this really top priority that we have here? I know we have anomalies in our system. For example, my good friend to my right here is a clear example; he shares the same number of constituents with his fellow Deputy of St. Lawrence, yet the Deputy of St. Peter and I have the same number and we do it single-handedly. Perhaps you could draw your own conclusions from that **[Laughter]** but there we are. There are anomalies in this system, but Back-Benchers can bring that forward. If I was not so frustrated the last time, I would bring back the 4 Senatorial seats, although I thought Senator Farnham was going to have a pop at it this time, so we will wait to see. But we are hanging around waiting for this all-singing, all-dancing Commission and, as the Constable of St. Clement said, we have still got to bring it back here, have yet more debates and make decisions; not abstain, but make decisions. That is what we are here for. To my mind, what the public are frustrated about and indeed States Members, is the machinery of government: the way things work inside of here. The public do not want to see the mud-slinging. I think it has improved somewhat in this new term. But they and we want to see things improved: the freedom of information, all States Members being included in decision making. As things stand at the moment more often than not we often find out that civil servants know an awful lot more than we, the States Members, do. It takes a lot for a Back-Bencher to find anything out. I think there are issues and there are things that we could do an awful lot better. Before we decide on a magic number of 42, 52, 35, the Deputy of St. Mary said: "Well, let us have a look at the workloads." Rather than plucking a figure out of thin air, let us see what work needs to be done and include every Member in partaking in that work so that everybody feels inclusive. I felt that will be a huge step forward into making this a less divisive Assembly. However, going back to the issue before us again, do we want States Members on this panel? I must confess with my lack of enthusiasm for another debate on this subject, I do not have strong views on it. I see merits in having States Members with their knowledge, their understanding of how States Members work, how the different classes of States Member interact with one another, the subtleties, the fine-tuning and there is a lot of knowledge there. But is that knowledge better addressed in a submission or is it best to have those States Members there to help these independents as they go along? Which brings me on to the independents that we are looking, poor souls, to commission on to the Commission. Who is going to be picking these independents, these people from the good and the great? Are we going to see a populated public gallery when that list is published because some people do not like some of the names? They have seen them to many times before; they are from Jersey; they are not from Jersey, so they do or do not understand how things work. There are issues with not having States Members on as there having all independents.

[16:30]

I am going to listen to the rest of the debate. I am swaying one way or another. I must say that the speeches of the Constable of St. Brelade and Senator Bailhache have been 2 very good ones for and

against, and I see merits in both. So I shall listen to the rest of the debate and make my own mind up.

6.2.24 Deputy J.H. Young:

Like the previous speaker I am certainly very, very impressed with the speeches of Senator Bailhache and the Constable of St. Brelade, which I think set out for me the 2 positions. When the proposition first landed on my desk I felt very much torn in some dilemma, because like the Constable of St. Brelade, during the elections in the Parish of St. Brelade I was publicly very supportive of Senator Bailhache and his commitment to reform the States, and I still am. I had many conversations with electors on the doorstep and they shared those high expectations of him. But I think in looking back at those conversations it was clear that their expectation that he would be a champion of the reforms, the reforms which had no champion for, to see those through the States machinery which people recognised was problematic. I do not think they saw the Senator as being the author of the findings of the Commission. The Senator's mandate was specific on a number of things, I think. There was clearly a mandate for reform of machinery of government and I certainly share that because the public have lost all understanding and connection between the vote they cast on the doorstep and the Ministerial appointments and positions and the roles they finish up in. I think this is absolutely something that has to be put right. That particular task, I am very pleased and I think this ought to be within our gift to be able to sort out internally through the P.P.C. Sub-Committee of which I am a member. But I do agree here with Deputy Baudains, the Deputy of St. Clement, because he says that these 2 pieces of work are related, the internal reforms that we make to the machinery of government and the external electoral system. I think those mandates were clear. I think the roles of Constables and Senators and Deputies were not really defined. Obviously there were positions set out; probably we have all got positions on them. I have not followed the machinations of the States for the last few years. Like the public I have listened to and think: "Where is the outcome?" But today's task is to put in place the structure or the body or the Commission that will answer these questions. I do agree it is imperative that this be done in time for the 2014 elections. I am clear if we do not do this we all will have failed. Public credibility demands that we arrive at conclusions on those matters. But it is right that the principles of the former Deputy of St. Mary's proposition which was accepted by the House, that the process adopted to arrive at that point would be objective, and it would be soundly based and sufficient to stand up to the scrutiny and the questions that would be thrown at it, definitely, by the public and interested groups. The word that comes to me there is validation. It has to stand up to that. I agree it is really good to hear all the good things being said about the new States, and obviously as a new Member it is good to have that. I certainly feel this is a very, very constructive body to work in. But I think that breath of fresh air is not sufficient reason for stepping outside the principles of really important States decisions. I have read through the report and proposition of Deputy Wimberley, the former Deputy of St. Mary. I read all through the Hansard records, and I was very impressed with his striving for real objectivity and independence. Something which would rise above all the previous debates. I do not think that is something to be set aside lightly. I think Senator Ozouf said that it was not right that independence was a principle of previous States' decisions. I think that although there is the proposition that he referred to which was amended as he described, there was a series of reports from the former P.P.C. which certainly did not include the proposal to include States Members. All of the issues in those consultation reports were about how many Members, the balance between local and non-local and experts and independents. Now, if the amendment falls and the P.P.C. proposition is approved, it is going to be very difficult, I think, for those 3 States Members who are bound to have some interest in the outcome. "How will we select them?" I ask myself. "Do I even know the potential candidates?" Obviously, I clearly see Senator Bailhache's position. His position is absolutely credible as an individual and he is open about that. I find difficulty in how we are going to make that selection. I was really astonished to

see, and maybe I should have picked this up, that if that vote goes ahead we will immediately have to fill that position. Of course, on this point, as a new Member, first job in the House, select Ministers. How good is the process to tell you all about them and do you know what you are getting? Well, I found that bewildering. I would like to feel that we are not ... if we do it, if the amendment is lost - and I hope it is not - and we end up with P.P.C. that we will have some way of having some considered process for choosing them. But, it is much easier to go with the amendments, because that proposal offers 7 independent members. Why is 7 attractive? Those who have had experience in putting together groups and consultation process in Government and outside, 7 is a really good sort of magic number, particularly for complex matters where there is a lot of disagreement. You need a balanced group. If you end up with smaller groups there is a danger of those groups being skewed by somebody's overtly strong personality, but with 7 there is much more resilience. So, I think there is a much better chance that we can work with that 7. We will not be able to find 7 completely independent local members. Anybody who has not got a view, have they got anything to offer? I am not sure they have. At the very least they need to be people of standing, who as a minimum have an appreciation of democracy. So, I think a group of 7 would allow us to choose a Commission based on a broad spectrum of opinion and have a balance. Now, contrast that with, if the amendment falls and we have the P.P.C. proposals, P.P.C. is 3/3. But in the report, buried in there, it says that one of the experts, if they come forward, would occupy one of the 3 independent positions. So you would have 3 States Members, one expert, possibly, and 2 independents. Now, I think that really lacks balance; absolutely lacks balance. This may seem very theoretical and abstract, but it really is important for the credibility. At the end of the day, public acceptability of what comes forward. I think people have said lots of good things and it is great to hear it is a new Member about the new House. But, I think, one should recognise that the public are going to take time to lose, if you like, their views of the past States. That is going to take time to work out. I think they are going to be watching and they are going to see how we do. At the moment, I think that fresh air that is in here is not yet fully understood. I think, myself, having started out being torn, really seeing and understanding the mandate of Senator Bailhache and fully respecting his position. I think, in conclusion, the best proposal we have is to stick with the principles of independence. Members can contribute by running campaigns, by putting in submissions and I really hope that, if we do end up with the amendment, some way can be found that Senator Bailhache is still the champion taking this thing procedurally through the States, but not being the author. In conclusion, I shall be supporting the amendments. [Approbation]

6.2.25 The Very Reverend R.F. Key, B.A., The Dean of Jersey:

I rise really simply to deal with one or 2 of the background questions. Certainly not to give an opinion on which way I think things should go. The first is to comment on principles, because Deputy Le Hérisier started by saying that there is a principle about every vote should have equal weight. That is certainly true. It is only one of the principles of constructing a democracy. If I went to the other side of the Atlantic, for example, the Lower House certainly is proportionally based, the Upper House is 2 votes per state, whether you are as populous as California or as small as Rhode Island. The reason for that is there is a principle about maintaining the sovereign areas of which the whole democracy is made up. In other words, putting that down into Jersey terms, you have the one principle about equality of weight of vote, you can also have a principle about the parochial system and the importance that that has in our heritage. It is not that one principle is more important than the other, but that both may well have a place in working this thing through into the future. The second is about pragmatism. I spend a couple of days each month starting off, as I did yesterday, driving to the airport and getting on the Dash 8 or the Jetstream and going to Winchester yesterday for a member of the Bishop's staff. It really is like going through C.S. Lewis' wardrobe in the Narnia Chronicles. It is that which connects me from one reality to another. Now, my colleagues on the Bishop's staff, if they ever read this, I need to say, are wonderful

fantastic people. That is great. But if I ask: “Do they understand Jersey?” The answer is: “Well, no.” That is not their fault. They do not live here. I have lived here for 6 years and I am just beginning to get under the surface, perhaps, of what makes this place tick. So, I think independent does not have to mean outside. Indeed, we could get, I guess, a totally independent or indeed 3 independent, depending on which way the States Members vote, from Mongolia, Latvia, anywhere you like really. But that does not mean that independence should be confused with ignorance. I do not mean that word putatively, I mean unknowing. It seems to me that what is underlying this is, what is the best way of getting the best reform accepted by both the States and society? I do not know which one that is, but that seems to me to be the big question. Because there is no way, if I understand the proposition correctly, that the States can abdicate its responsibility. It is this Assembly that will take final decisions, before or after a referendum. Therefore, whatever the States decides about the amendment or the proposition, it should not be thought that there is any mechanism by which we can pass a difficult problem to somebody else and say: “Please come back with the answers so that this Assembly can abdicate its responsibility.” It will be the Members of this Assembly who take that decision and it is not one that should be shied away from. I think we have to be slightly wary of politics, because I think I hear 2 things, slightly, if I may offer this as a mirror to the Assembly. The first is that just occasionally I am tempted to think that we are considering in our worse moments: “What composition of this Assembly is likely to give me the outcome I would most like if I were a dictatorship?” It seems to me that that is not a good thing.

[16:45]

On the other hand, I have to say that - I know it is Lent - when we cover ourselves in sackcloth and sit here saying: “What a useless bunch of Members are.” Can I just say, I have worked with you now for a number of years and Members really are not that bad. **[Laughter]** I do think that Members need to take some confidence in realising that they are people of character and whichever way this particular vote goes to have some confidence in their own ability to take decisions that will be for the importance of the Island going forward. Lastly, I was delighted to hear the Deputy of Grouville’s speech. It seems to me that to most folks who stop me in King Street and talk to me about what is right and wrong with the Island, when they talk about the States it is not primarily the makeup of this body that is their concern. It is the way in which this body operates. It may well be that we get this Commission absolutely right, but unless we work with at least equal if not more effort at making sure we are collaborative rather than confrontational, that we are purposeful rather than prevaricating, and that we are engaged with society not estranged from it, then the Commission is likely to be a waste of time no matter what it says and no matter who makes it up. If the Assembly can work at those things then I think we have great hope going forward. **[Approbation]**

6.2.26 The Deputy of St. John:

I love following speeches from the Dean. It gives me an opportunity to congratulate him on a clear and concise speech. It is probably the best way that I might be able to get some house points from the Almighty, so I love that. I do agree with a lot of what he said, in particularly with his references to the Deputy of Grouville, who I joined the States at the same time as, some 9 years ago, although I missed the last 3 years. Many people have said to me I was very lucky to have missed the last 3 years. To move on, I think the Deputy of Grouville and the Dean are absolutely right. I think that there are many things that the people are worried about. Only one of them is States reform. I think there are things like the economy. There are things like immigration. There are things like jobs, which are much more taking up the majority of people’s minds at the moment. On Sunday afternoons I am one to turn on the television occasionally, particularly if Manchester United is playing and watch the Match of the Day. I did so last Sunday. Was that not a good game? Anyway, I digress, although not really, because when I watch football I see that there are 4

officials, an even number. When you look at P.P.C.'s proposition there are 6 officials that are in charge. But the big difference is that the referee in a football match has the casting vote. Of course, one can imagine what it might come down to if he did not when Liverpool were playing Manchester United and it was a question of a penalty or not. We have to be realistic. There are entrenched positions in this Assembly. It is not quite like a football match, but there are those who believe in removing the Constables from the Assembly and there are those that do not. Those positions can be quite entrenched. Later on in the summer - there is one further point ... let me just develop that. I think it is probably inevitable that if you have 6 members on an Electoral Commission the Chairman is probably going to have to have a casting vote, I would have thought. However, if not, let me just return to the football analogy for a moment. One thing I do know is this, later on in the summer England are going to be playing Germany in the final of the European Championship, are they not? At least I hope they are. One thing I do know for sure, when they do, none of those officials will come from England or Germany. I rest my case there. I will be supporting the amendment.

6.2.27 The Deputy of St. Peter:

I am a little confused by the Deputy of St. John's football analogy. I was going to say that I thought it was a good example of how an equal number of people on a committee or commission could make a harmonious decision. I hoped that that was the point he was making. I would just like to say that we have tried an independent Commission and the case has been well explained today; 65 debates later, here we are still discussing the same issues. I think it is the endless debates that we have seen in this House that have driven people to despair. I agree with the Constable of St. Brelade. He says parishioners had lost faith in this Assembly. I feel that this is an opportunity for us to show leadership. I would like to suggest that the 17,500 people who voted for Senator Bailhache will all agree that there should be reform and the number of States Members should be reduced. I think we all agree on that too. The question is how. That is where the split always occurs. I do not think it is a question of bias or vested interest; it is just coming to a compromise decision. It is perhaps like a good marriage; compromise is always a good thing. That is what democracy is about. We need a strong Commission, one that reflects the true feelings of the population. Who is best placed to lead it than a poll-topping politician with a strong background of public service at the highest level? Let us seize this opportunity and demonstrate that we can make a decision and we can put an end to 12 years of debate. Decisive leadership would enhance public perception. Let us show that we can do what we are elected to do.

6.2.28 Senator I.J. Gorst:

It is difficult to think of anything that one can add so late in the day, although I was delighted to learn only a number of speeches ago that a lady can undertake the work of 2 men and complete it satisfactorily. Politicians, in common with members of most professions, have some, shall we say, vices or faults. I believe that one of our faults is that we sometimes like to believe and sometimes pedal the belief that the problems facing our community have easy answers and easy solutions. I do not believe that any of the big decisions that we face in the coming 3 years have easy answers or easy solutions. We have to deal with population. We have to deal with investment in our infrastructure. We have to continue saving. We have to ensure that there are jobs for our community. We have to ensure that members of our community are housed and we have to ensure that we reform our health service. On top of that, we have to ensure that this Assembly is reformed. I believe that we would be misleading ourselves and misleading our community if we peddled the idea or the belief that any of those issues have easy answers or that this issue that we are debating today has an easy answer. It does not. Other Members have said, and they are quite right to say, that whatever happens with the Commission, this Assembly is going to have to lead and make decisions and drive forward change. One of the other problems that I believe we face

over the next 3 years is to stop our constant looking to the United Kingdom for solutions to the problems that we face. **[Approbation]** We have to scan the horizons of other countries to see solutions that work elsewhere and to see whether they cannot be incorporated into our community to provide better answers and to provide better solutions within a Jersey context. That is going to require a very difficult balance. I do not like being personal when I speak in this Assembly, but I feel that perhaps today there might be reason for me to be so. I was not born on these shores. Some may think that is a good thing, others not. Why do I raise that point? It is because the early experience of my life was one that was U.K. centric. When my lovely wife suggested that we move to her homeland, I came with that U.K. centric experience and mind-set. I, therefore, do not believe that we can find a solution to the issues that we face by importing our independent individuals from the United Kingdom. We have done it before. I took time only again at lunchtime to look at this particular document, the Clothier Report. As P.P.C. point out in their report, not one of the 6 recommendations around the composition of this Assembly, which let us face it were based on a U.K. centric solution, has been able to be introduced. I think that is fundamentally important. I believe that the reason that we need to reconsider the decision that we made last year is around this particular area. That unless we have a Commission that fundamentally understands our community and understands the history of our community and I believe that we can do that by asking States Members to serve on this Commission. Unless we do that, we are not going to find a solution that is acceptable either to this Assembly or, more importantly, to our community at large. Other Members have said: "Well, we can give that particular slant by running a campaign or issuing submissions." I have to tell this Assembly that if you have an individual or individuals who are schooled in other jurisdictions and their experience is other jurisdictions, no number of submissions and campaigns are going to give that deep understanding of our history and of our traditions. Unless we start from that understanding as I said, we will not deliver the change which will be acceptable. Other Members have said: "Well, we cannot, of course, have States Members on this Commission, because they come with preconceived ideas." I hope that I have made it clear that every member that we ask to serve on this Commission, whether they come from the United Kingdom, whether they are a local person who is not a States Member, will come with preconceived ideas. That is why it is important that we have members who understand how to lay those preconceived ideas aside and to gather evidence and to put forward a change which has been proposed by the majority of that Commission and a change which will be acceptable and a change that we can act upon. I am positive. I am by nature an optimist. I accept absolutely that the last Assembly was not up to this task that we are asking of it today. But, I believe wholeheartedly that this Assembly is up to that task.

[17:00]

I have tried not to be personal so far, but I believe that this Assembly is up to that task and just as importantly, Senator Bailhache is the person with those qualities that I have outlined that can drive this change forward, so that we can move on once and for all and get on with delivering those other important issues that each one of us wants to see change and are fundamental to the future well-being of every member of our community; fundamental to delivering once again the vision for the future of our community.

Deputy M. Tadier:

May I ask the Chief Minister - and a good speech, incidentally - a point of clarification? The Chief Minister warned against using experts or non-experts from the U.K. because they would not understand the Jersey system and then went to say that even people from the U.K. would come with preconceived ideas. Is there a contradiction there? There seems to be. Presumably, if we do not know the system, you cannot have preconceptions about a system.

Senator I.J. Gorst:

Their preconceived ideas are based upon and born out of their own system. They have the preconceived idea that the system that they are in probably can be transferred elsewhere, as we saw in the Clothier Report.

6.2.29 Deputy T.M. Pitman:

Playing a game here of who could go last between myself and the Chief Minister. I managed to win for once. Might be the only thing I win, but there we go. Billy Connolly famously said that anyone expressing the wish to be a politician should probably be automatically excluded from being one. The fact that we are having this debate again probably says he was right, I believe. I thought shall I do a firebrand speech or shall I do a nice cuddly speech. I am not going to do either, because I am trying to cross out things. I have not come with a prepared speech as some Members clearly have. I do not want to go over things, unless I feel they have not been stressed well enough. I do have to start by saying I think it is very disappointing that the Chief Minister has just touched on about being personal. I found it was very disappointing from Senator Bailhache and the Deputy of St. Martin in front of me this talk about the old House as if there was something wrong with it, especially these attacks on Scrutiny. I have to say, I was one of 11 Members who saw Scrutiny through. Everything I did and all the people I worked with were thoroughly professional. To have words like “destructive” used I think does this House a disservice. I had to get that off my chest. Where to start? We have had talk sort of dismissing Clothier and the Carswell reports. I have to say, the fact that they were not enacted did not highlight something that was wrong with the actual views, they highlighted something that was wrong with States Members. That is the reality. We could not resist ignoring the evidence. We wanted to tamper. When we look at this debate, without party politics, it is very hard not to get personal, in as much as it is hard not to link policy with personality. Sadly, Senator Bailhache will obviously be bidding for this, because I think he is the only one who wants to be Chair of this. It is not about him as a person. I would say that when you look at the issue of independence, you look at States Members’ salaries, why have we got an independent remuneration panel? It is because we should not be involved in it. We all agree that now. I would say the same principle applies here. I would also like to talk about this myth about not understanding Jersey. It is not about not understanding Jersey. It is about understanding democracy. I think that what some people mean is that they do not understand the Jersey way. The Jersey way, as I say, having evidence presented to you, it is quite clear but not wanting to accept it. That is the problem with all Houses, I think, that I have ever observed. That is something that we have to overcome. One other thing I have to add on the past House. It is very disappointing when I think we are sort of being derogatory about the past House. The person who did so much work, the former Deputy of St. Mary, he would have walked into any House in terms of quality; a very articulate man and a very analytical man. I think of other people like the former Deputy of St. Martin and Deputy De Sousa. They served this House well. I think, let us put that to bed right away. There is nothing special about this new House. I hope we can progress, but I think that is disrespectful to former Members. I would like to look at this sort of myth that is being spun - I do not mean that in a disrespectful way - that Senator Bailhache has a mandate somehow to lead the Electoral Commission. I am glad Deputy Le Hérissier did touch on this because when you think of former Senator Syvret he was - love him or loathe him there are probably people who have a bit of both - the most popular and successful politician for a good 15 years. He could have rightly expected, if this is consistent what we are hearing now, to be Chief Minister, but that held no water as we know with the Members in this House. We cannot suddenly shift that just because it is someone who is very well-known, an esteemed member of the public who served the Island well over many years. We cannot have those sorts of moving the goalposts. The other point is, and what really gets to me about what we are doing here or risking doing here, if we do not support Deputy Le Hérissier, the whole point of going to an Electoral Commission was that it would be a blank canvas and the big problem through what is happening now with the proposal to have a

political chairman, probably the Senator, is that he has already made his position clear and you are not going to get that blank canvas. I think, with due respect, if the Senator had never become a Senator, if he just stepped down from his previous role, he had a much stronger case. Now he is one of us, like it or not, and I think he is conflicted. I do not want to say too much at this point because I think Deputy Southern or someone certainly touched on it, there are Members in here who have been elected not once but twice, 3 times, 4 times, perhaps 5 times on reform platforms. Does that not count for anything? But I think most of us would say: "Actually I can be detached enough to say that with my strong views I should not be sitting on this Commission" because perceptions at least are going to be hugely important to how this progresses. I was a bit disappointed with the Constable of St. John when he said that this was a myth that people do not want politicians. I am sorry, what is the point of having Parish Assemblies if you then just throw out the window what the people said. It was a good turnout at St. Helier, about 100 I think, and it was overwhelmingly that people did not want politicians involved. That was not aimed at Senator Bailhache, although obviously Deputy Martin had to mention him, because of this issue about whether people had voted for the Senator because he was going to chair this reform commission. As the Deputy rightly said, not one person put their hand up. That just is not true. People vote for you for all sorts of reasons. Everyone knows that. I had a lady who voted for me the first time I got elected because she found out her mother had the same name as my grandmother. So evidently it would not have mattered if I had been a member of the extreme right or whatever, people find strange reasons. Very strange reasons. That will be the same whatever Parish you go to, whichever District you go to. Why should we go down this route of having States Members on board? If we are going to do this half-hearted - and it would be a fudge actually - why do we not get rid of the Electoral Commission altogether and just let P.P.C. do it. It would not cost us anything. Where is the logic if there is no pre-judged ending place to say: "Well, we will have 3 members" and I do share other people's concerns. How are these other members going to be concerned if Deputy Le Hérissier's ... how are they going to be elected if Deputy Le Hérissier's amendment is rejected? We are going to be asked on the spot. Has anyone considered it? Our names are already lined up. Nobody has rung my phone certainly. I have to say, thankfully, I am proud to say I would not accept anyway because I would be a hypocrite. I cannot criticise Senator Bailhache if I would then accept a role myself. Is there an alternative to an independent Commission? What about a Royal Commission? I listened to the Deputy of St. Peter's speech and, with due respect, if anything we should have all learned following politics for 10, 20 years, we get nowhere. We get next to nowhere when we are left to have that decision, and that is the real frustration out there. Of course the population is more of a concern. Of course employment is more of a concern. But one of the reasons why those issues exist and those problems exist in Jersey, is because we have never been willing to grasp change. We just hang on to outmoded, outdated ways of work. It is interesting that after we had Professor Lee over, who was absolutely fascinating and a man with an awful lot of knowledge and information, and in going out for a few drinks with him afterwards, which I was very clever about, I said I had no money so I did not have to pay for. I think Deputy Le Hérissier paid actually. Was it tea? Must have been me afterwards. Why these get to be a bit of animosity or it seems animosity is because we have this system of 3 Members in the States and, I am honest, there are people I disagree strongly in politics but I can see there are good Senators, there are good Constables, there are good Deputies. There are people I do not think are particularly good. They might have the same politics as me but I do not particularly think they are effective. That is okay. But it is when we have this absurd system, and I am not going to go into it because we are not here to debate that, but as the Professor was really saying, the problem you have got in Jersey is ... I mean he used Bermuda. It is a very interesting example, and how they worked their system out very well because they only had one type of member so it was easier to get that equality of representation. I said, talking to him, the big problem is the Constables, not as individuals but it is because there is huge disparity between the Constable of St. Helier with 35,000 people in St.

Helier, right down to the smallest, which is St. Mary. Nothing to do with them as individuals but, I am sorry, when Senator Bailhache has come out with this statement that he believes the Constables have to stay he is going to end up, whether he likes it or not, subconsciously you are trying to fit square pegs into round holes. You are trying to make the best you can out of something that can never be as best as it could be, if that is good English. It may well not be. I am sure Deputy Southern or Le Hérissier will tell me off. My only actual real beef with - if I can use that word - Senator Bailhache over this is one thing he certainly did say in his election campaign is that he wanted to stop the States wasting time going over things that had already been decided. I agree with him, but as soon as the Senator is elected - yes, he topped the poll and I respect him for that - he wants to go over old ground that was decided less than a year ago. Less than a year ago. Is it any wonder people have a lack of respect for this House. There is a lot more that could be said and if we are going to have another debate, which I hope we are not, because I hope this is going to be all agreed nicely, the key that people should think about, if they have just faced an election, what did they say to those members of the public. I am going to be true to what I said to the members of the public. I believe there should be one type of member. I believe that we should have the same terms, *et cetera*. I am going to be consistent with that, I am going to vote. Because if you look at what happened at the last election, we had 2 Members sitting just behind me that did the exact opposite of what they said during their election campaign; 3 years later they were gone. I would say to people, do remember what you said and stick to it whether you agree with my view or not. This thing of having 6 members only, I think Deputy Le Hérissier's idea is much better. We certainly cannot have the chairman, who might be a States Member, having a casting vote with 6. That is a recipe for a pre-ordained decision and it would, I am afraid, erode in the public's eyes the quality, the validity of what was decided. Possibly unfairly but perceptions are very important. I think all Deputy Le Hérissier is asking us to do is to go back to the decision that we made by quite a big margin in only May last year, I think it was - March, May, certainly not that long ago. I am only into my fourth year now as a States Member and I have already sat through more reform related debates than I can remember. I repeat again, if really we are not going to go with Deputy Le Hérissier then we should throw this whole thing out and just let P.P.C. come up with a proposal, and we all know where that gets us with P.P.C. The problem is us. Let us go with some independence and States Members will have an input. To suggest we are not going to have an input is absolutely ridiculous. Every one of us should be putting in ideas.

[17:15]

Every one of us should be offering to take part in interviews with that Commission. We should all be making our case. If necessary people should be taking it to the Parish Halls, but we should not be seen to be leading it. We have got entrenched views and I do have to say to my Constable, it is remarkable that he said it was not a problem. He said at P.P.C. the other day that he was not going to bring forward anything he did not agree with, so if that is not an indicator of being entrenched I am not sure what is. I would urge Members, blank canvas. That is the key to everything: a blank canvas. Let us go back to what we agreed just a short time ago. Let us bring some good people in. It is going to come back to us in the end anyway, but what should really happen is proposals are put forward and we put them straight to the public, because they are the ones that really matter. I am happy to abide by whatever they say. I do not care if it is 42 Island-wide mandate. I do not care if it is 42 Constables. It might be a bit odd, we will invent new Parishes, but it really does not matter to me. What I want to see is it go to the public to let them decide, but I think it has got to be independent led, to get to that stage. I will leave it at that, thank you.

6.2.30 Deputy T.A. Vallois St. Saviour:

I will just be short because I feel the need to rise and speak after the Chief Minister's speech. What concerns me, and I think what concerns many of the public, is the hypocritical approach of many

Members and the one rule for one and one for another situation that not only do we have in here but we have throughout much of Jersey as well, unfortunately. The last 3 years, no doubt there have been personal taxes, been extremely negative reporting on the media's behalf, and we are now sitting here saying that we would like States Members to sit on what should be, in my view, an independent Electoral Commission. The reason why I say that is because of my experience of Scrutiny and how many times over the time that I was in Scrutiny did we have Ministers consistently complaining to other Members saying that this person is conflicted, that person is conflicted because they have already judged what they want to come out of the report, *et cetera*. Scrutiny was completely blasted away as if it did not matter. Well, in actual fact, you read through the Ministerial responses, you read through some of those recommendations, those problems are still here and those issues are particular things that Ministers are addressing because that was exactly what needed to be done back then. It is ridiculous. The Chief Minister mentions that the outside influence... how not understanding how Jersey works. I hope that the Council of Ministers listen to that view when bringing in large amounts of consultants that we pay £500,000 for to tell us how to run this and how to run that. I hope that carries on throughout the next 3 years. That, I think, is the main concern, is the constant changes that we have in our decision-making in this Assembly, which causes uncertainty for the public. It is the same as the economy. I am sure the Minister for Economic Development would agree and the Minister for Treasury and Resources would agree. How many times have we had briefings where if we have uncertainty in the economy, if there is no comfort within the economy, the unemployment rates, *et cetera*. They are serious issues and those are the kinds of things we should be debating now. Those kinds of things in this House that we are put here for to help the public. But we are here talking about our constant changes and decisions about the uncertainty that it provides for the public. About the direction we are setting for the public, and in my view if this amendment does not go through, I would say rescind the decision from last year because P.P.C. might as well do it and we will save ourselves £87,000.

The Deputy Bailiff:

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

6.2.31 Deputy R.G. Le Hérissier:

With a bit of luck we will get the vote. I do thank every Member. I am afraid I am not going to be able to reply. I will try and wrap it up in a few themes and attack some of the very carefully cultivated urban myths that have been allowed to run riot. I do thank very good speeches from several people, and I thank Deputy Vallois for bringing us down to earth, Deputy Pitman for behaving himself and giving some very measured comments. But let us look at some of these myths. Senator Bailhache, what an old misery I am. What a counsel of despair I do preach. I have never heard such a load of fluff. As far as I am concerned, we have analysed how this House has worked. It is not 3 years, it is 10, 12 years. We have analysed it and we got nowhere. We have wasted time after time after time. We have got a decent way forward. That is what this is. It is a decent way forward based on very measured consideration of what has happened. But the idea that a Messiah has come to earth, that we have a great new bunch of people, and we have. They are wonderful. It is great to hear a lot of them, those that do speak. The idea that we have got a great bunch of people here, but there is going to be the sudden transformation, is absolutely pie in the sky. We were offered by the Deputy of St. Mary a way forward. He analysed what had happened and he said if we remove this from politicians because I will have to tell Senator Le Marquand politics, as General de Gaulle said, is too important to be left to the politicians. If we remove this from politicians we will have a much better chance of getting credibility. We will have a much better chance of selling it to the public and we will not, as has happened on every occasion, fragment into 300 different points of view, as Members seek to amend it to pieces. And that is

where the Constable of St. Clement was wrong. He gave the counsel of despair. What are we going to do? We have always messed it up. We have always messed it up, so you may as well leave it to yet another bunch of politicians to keep messing it up. That was the logic of the Constable of St. Clement, I am afraid, who I much admire and who always gives us a good laugh but I am afraid on this occasion he missed the target completely. We are not abdicating. We have the right, as a lot of Members have said, to be witnesses, we have the right to lead campaigns, and we have a right - rather than try and solve things in corridors and in coffee rooms, which sadly Senator Bailhache mentioned - we have the right to engage in vigorous open public debate, that is what it is about and that is what we should be doing and we should have done because surely the question all of us who have been here a long time have to ask ourselves - and they have not sorted this out, and it was only Senator Farnham that picked on the question - is what has materially changed? The fact that we have got a better bunch of people or an apparently better bunch of people who do not squabble as much is, I do not think, the issue. It is not the key issue. The other urban myth, which the Chief Minister launched, and which Deputy Vallois fortunately spotted, was this notion that we are getting totally saturated with U.K. advice. He mentioned and kept mentioning Clothier. Clothier had 4 locals who outnumbered the 3 outsiders. The 4 locals were a lady of the land, Anne Perchard, an absolute pillar of the St. Martin's community, like Deputy Lewis, who has chosen to reach a different conclusion to her. John Henwood, a businessman, whose whole business life was in Jersey and who was mentor to eminent Members of the States, like the Deputy of St. Peter. Advocate Kelleher who has written one of the most definitive books on the history of Jersey and who is absolutely the triumph for the country and who is utterly immersed. And Advocate David Le Quesne, an eminent Jersey lawyer. Those were the 4 Jersey people who had the numerical advantage on Clothier, and who apparently, if we are to believe Senator Gorst, were totally hoodwinked by these 3 U.K. representatives, so what hope is there for Senator Bailhache. He is going to be hoodwinked as well by outsiders. Surely that is the logic of what you are saying. As far as I am concerned, the case has not been made. I am afraid the elephant in the room ... I said the elephant in the room was Senator Bailhache, but the elephant in the room is there are people here who are so frightened that they are going to lose the traditional agenda. I am like Deputy Pitman. I do not care if we end up with 42 Constables, if that is the finding of the Commission so be it, and that is how we will attack it because we are setting up a procedure which is not perfect. It is not the silver bullet. No way we can come up with that, but we are setting up a procedure, which is as rigorous as we can make it, which is as detached as we can make it, from all the pettiness of vested interest politics, and I think we have got to give it a fair chance. I think we have got to give it a fair chance, and I would like to go to the appel.

The Deputy Bailiff:

The appel is called for and I ask Members to return to their seats. The vote is on paragraph 1 of the amendment, subparagraphs (a), (b) and (c) taken together, and I ask the Greffier to open the voting.

POUR: 22		CONTRE: 25		ABSTAIN: 1
Senator A. Breckon		Senator P.F.C. Ozouf		Connétable of St. Lawrence
Senator F. du H. Le Gresley		Senator S.C. Ferguson		
Connétable of St. Helier		Senator A.J.H. Maclean		
Connétable of St. Brelade		Senator B.I. Le Marquand		
Connétable of St. Martin		Senator I.J. Gorst		
Deputy R.C. Duhamel (S)		Senator L.J. Farnham		
Deputy R.G. Le Hérisser (S)		Senator P.M. Bailhache		
Deputy J.A. Martin (H)		Connétable of Trinity		
Deputy G.P. Southern (H)		Connétable of Grouville		
Deputy of Grouville		Connétable of St. Clement		
Deputy J.A. Hilton (H)		Connétable of St. Peter		

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

Senator P.F.C. Ozouf:

In the absence of the senior Member, may I propose the adjournment?

The Deputy Bailiff:

I wonder if we might just do 2 procedural matters before then. The first is that in relation to part 2 of Deputy Le Hérisssier's amendment, there is an amendment of Deputy Le Hérisssier to his own amendment. The usual practice is to permit the person to put forward the proposition as amended, but it may be that Members would wish to debate the amendment to the amendment separately. I just really wish to ascertain whether there are Members who feel strongly about that and wish to debate separately Deputy Le Hérisssier's amendment to the amendment.

Senator B.I. Le Marquand:

As he has just lost his amendment, he must have lost his amendment to his amendment. How can you amend something he has just lost?

The Deputy Bailiff:

He has not lost part 2 of the amendment.

Deputy M. Tadier:

I would wish to make comments on this.

The Deputy Bailiff:

You wish to debate it? I think it is a matter for Members. Perhaps I could ask Members to show, do they wish to debate the amendment to the amendment separately? If so, would Members kindly show. Those Members not in favour of debating the amendment to the amendment and allowing Deputy Le Hérisssier to propose the amendment as amended kindly show. Very well, then I think the position is that, Deputy Le Hérisssier, tomorrow morning you are entitled to propose your amendment as you would wish it to be amended.

Deputy R.G. Le Hérisssier:

Can I just make a slight correction, I got my overall fact right about Clothier, it was in fact 4 to 5, with the locals in the ascendancy. The one local person I missed out was Colin Powell.

The Deputy Bailiff:

There is one further matter I wish to deal with and that is I should announce to Members that the Draft Loi (Amendement No. 2) sur l'atténuation des peines et sur la mise en liberté surveillée -

P.22 - has been lodged by the Chief Minister and also presented is the Land Transactions under Standing Order 168(3), Le Braye Café, presented by the Minister for Treasury and Resources. The adjournment is now proposed. If Members agree the States now stand adjourned until 9.30 a.m. tomorrow.

ADJOURNMENT

[17:29]