

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 15th FEBRUARY 2017

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[9:30]

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

**PUBLIC BUSINESS - resumption**

**1. Senators and Deputies: candidates' qualifications (P.1/2017) - resumption**

**The Deputy Bailiff:**

Very well, we resume the debate on P.1/2017 - Senators and Deputies: candidates' qualifications - and the next person noted wishing to speak is Deputy Mézec.

**1.1 Deputy S.Y. Mézec of St. Helier:**

Good morning, everyone. It is always nice to start in the morning because you are guaranteed an audience. **[Laughter]** Good morning. So, let us say what we all know to be true right from the very outset which is that Jersey is incredibly privileged to be where it is today socially, culturally and economically because of the incredible contribution that immigrants have made to our Island over the centuries. We accepted thousands of Huguenot refugees in the 17th and 18th centuries, English merchants in the 19th century, Breton farmers in the 1940s, and that is particularly important because without them I would not exist, and today there are over 7,000 Portuguese people on the Island, there are 3,000 Polish people and 2,000 Irish. In fact, almost half of the population of Jersey was born somewhere else, yet we have an incredibly cohesive society where not only do we get on well but we actively celebrate the cultures of our minority communities with their involvement in our civic functions and their food and cultural festivals in the summer. I think there are probably not many other places in the world that have such a large proportion of their community who was not born in the community and that is part of what makes Jersey unique and special. I think it is why we should be willing to consider legal provisions which would see the facts that we have an unusual demographic makeup recognised in our political system. There are not many other countries that have that sort of demographic makeup, so it is not something they need to consider. Many of the people who come to Jersey are intelligent, talented and hard-working and I think we would be fools to shoot ourselves in the foot by erecting barriers or, dare I say it, building walls to stop the talents of these people being utilised for the public good in our political system. Yesterday Deputy Tadier outlined the progress that there has been over the years in opening things up like jury service, the Honorary Police and the right to vote and we now benefit from the contribution of immigrants in those areas. I think that the natural next step is surely to recognise the demographic peculiarity of Jersey and end the citizenship requirement for service as a States Member, or not even just as a States Member, just for Deputy and Senator, because it is not a requirement that already exists for Constables, so it is about creating a level playing field. I think there will be a much better parliament when we look more like the people that we are meant to be representing and will make decisions which are more in touch with the desires of our community. Ultimately, that means having a parliament that has more women in it, more working-class people and Portuguese and Polish members as well. Now, I am a British citizen, some people like to say that they are proud to be British. Well, I am both proud and grateful to be British because it is an incredibly lucky accident of birth that I happened, without asking, wanting or earning it, I was given citizenship of a prosperous country and I can benefit from all of the rights that that entails. Many people across the world are not so lucky to have that. But the nation state which governs my citizenship is not the same state which governs this Island. Jersey is not a nation state, it is not technically part of the U.K. (United Kingdom) but it is the U.K. which gives us our citizenship and our passports. I have got my passport and if you turn to the opening pages of it, it says that: "This passport remains the property of Her Majesty's Government in the United Kingdom." Now, there is no such thing as Jersey citizenship in any legal sense. We talk about Jersey citizenship but it is not a legal construct, it is more something we talk about socially. I think some people might think

that the closet thing we have to citizenship in the Island is maybe housing qualifications. So our citizenship is given to us by another state and so by that very fact we cannot be like other countries and restrict membership of this Assembly solely to nationals because there is legally no such thing as a Jersey national. For me, I just think it is bizarre that we restrict membership of this Assembly to nationals of another state. What other country does that? That, to me, seems very strange. If you want to become a British citizen, you have to pay a pretty handsome sum of money to do so which many people might not having going spare; you have to do a test which asks questions on U.K. history, not Jersey history; and you have to swear an oath of allegiance to the Queen as head of state of the U.K., not as *La Reine, notre Duc*. It is because of these facts that I simply cannot accept the argument which has been made by some that possessing British citizenship is an essential requirement to demonstrating your commitment to Jersey and I resent some of the language that was used yesterday and in particular the use of the word "loyalty". There are nearly 70 million British citizens in the world, less than one-seventh of 1 per cent of them have any commitment to Jersey, yet we place those potential immigrants on a pedestal above immigrants from other countries who have contributed to Island life for decades. So what passport you hold - and I feel this point incredibly strongly - has no bearing whatsoever on your commitment to this Island and our community. To say that your citizenship matters is to put a big question mark above the status of the Portuguese and Polish residents of our Island and I think that that is incredibly wrong. It is absurd because we are not even talking about citizenship of Jersey, we are talking about citizenship of another state. Now yesterday Senator Bailhache spoke of conflicting national interests; so what happens if you are a Jersey-based naturalised British citizen and an issue crops up where the U.K. national interest is at odds with the Jersey national interest because you have just sworn allegiance to the U.K., so who comes first: the U.K. or Jersey? I am sorry, but it is not a sensible thing to say that because you have British citizenship you are automatically loyal to Jersey like that. So, for me, I do not think that it is your loyalty to a geopolitical entity that matters, it is surely your loyalty to the principles upon which we think are special in our Island. For me, the principles that I am loyal to are equality, justice ...

**Senator P.M. Bailhache:**

Will the Deputy give way?

**Deputy S.Y. Mézec:**

Okay.

**Senator P.M. Bailhache:**

It is not a loyalty to the country about which I was speaking, it is a loyalty to the sovereign, to the Queen, and we would need to change the oaths of Deputies and Senators if we acceded to this proposition.

**Deputy S.Y. Mézec:**

Of course it is an oath to the Crown and it is an oath that you have to swear if you want to become a police officer, it is an oath that you have to swear to become a States Member.

[9:45]

Now, I was given this at birth, I swore nothing to nobody when I was given this, but I did swear an oath when I became a States Member, so how is that not good enough? A foreign national who would become a Member of this Assembly would have to swear allegiance to the monarch and all of the monarch's descendants. I did not have to do that to get my British citizenship, it was given to me when I was born without asking for it, without swearing any oath. So, if that is covered in the oath, an allegiance to the head of state, I really do not see how possessing citizenship is an automatic guarantee of that. So, my main reason for opposing the *status quo* is not because of my

loyalty to my Island or to my country or to humanity in general, it is because of my loyalty to the principle of justice. I think there is a clear injustice where we have rules that confer more rights to people than others based on their possession of something which has no impact whatsoever on their ability to do the job. So a person who was born in Madeira but moved to Jersey at 4 years old considers Jersey the only home they have ever really known, speaks perfect English, went to school here, worked for decades and paid tax here, served in the Honorary Police and volunteers for other community organisations cannot stand for election to serve their community. Yet, somebody can arrive from the Outer Hebrides, a place that culturally has very little in common with Jersey, they can kick up their feet for a couple of years, not work, not pay a penny of tax, not contribute a single thing to our community, yet they can stand for election after 2 years no matter what, and I cannot accept that that can be fair or right. So, what makes you a Jersey person is not what passport you carry, it is based purely on whether or not you love this Island. Not what document you hold, not what passport you hold, not whether you were born here, the only thing that matters is whether you love this Island. I think that that should be the only criterion to stand for election. The only thing else that should matter is whether the good people of this Island want to turn out to vote for you. If they do not want you in our Assembly, they will not vote for you. If they do, they will, and I trust them to make the right decision. So I ask Members to support this proposition and give them the rights to have that decision at the ballot box. Do not restrict it, let anybody who is fit to be a Member of this Assembly and wants to serve their community take part and recognise that Jersey in its demographic makeup is different to other countries. We do not have a Jersey citizenship, so let it be open to those thousands of Portuguese, Polish and other nationalities who serve our community so well and let us not make this exclusive based on what I think is a flimsy argument about loyalty based on something that there are 70 million people in the world who got given it without asking and have not sworn any oath of allegiance to anything.

### **The Deputy Bailiff:**

Before I call upon the next speaker, I will just note that the Chairman of the P.P.C. (Privileges and Procedures Committee) I think will be making the customary fine, as indeed will Senator Farnham, for an interjection by his phone during the roll call. Deputy Andrew Lewis.

#### **1.1.1 Deputy A.D. Lewis of St. Helier:**

I nearly always enjoy Deputy Mézec's speeches because they are said with such passion but on this occasion it is all the right rhetoric but I am afraid for some of the wrong reasons, and I will expand on that a little bit more. I was also fascinated to hear the Constable of St. Martin, who I always enjoy listening to, saying that people cannot stand. Well, they can, they just need to naturalise first. So, anybody is eligible, they just need to naturalise first. I think that shows a massive commitment to any country that they may be living in and it would be an expectation of most other countries to do that. At the end of the day we are a Legislature here, so we are making laws for a country that we should be citizens of to make those laws, in my personal view, although I think Deputy Mézec may have a perfectly convincing argument for equality and having more diversity in our parliament. I would agree with all of that. I think we should have more women in our Assembly, we should have more from our other minority nations citizens of this Island, Poles, Madeiran descent, we would be delighted to have more of them in our Assembly but there is a bar they need to cross first, or get over, and that is become a citizen of the country that they clearly love and are committed to and I see no problem with that. But I did a bit of research anyway because I was starting to wonder: "Maybe we are wrong here, maybe something different is happening elsewhere that we do not know about." The only one I could find was Guernsey and even that was in some dispute yesterday but has been clarified by the Greffier today. So I had a look around and I found some interesting facts. Australia, you need to be a citizen. It was intimated to me yesterday by a Member that that was not the case. My research suggests that that is the case. India, you need to

be a citizen to stand for parliament. I thought I would look around at some other countries, other continents, perhaps a bit more diverse. So, Afghanistan, a troubled country, now a democracy, you must not be a citizen of another country, let alone be a citizen of that country. In other words, you cannot have dual nationality to be a member of the parliament in Afghanistan. In Argentina it is quite interesting, you have to be the son of a national of the country that has been a citizen ... sorry, if you are not born there, your father has to be born there in Argentina. If you do get nationality, you have to be living there for 6 consecutive years before you can stand for election in that country but you also have to be a citizen. Germany, you have to be a citizen. Estonia, you have to be a citizen by birth. France, you have to be a citizen. Imagine us, many of us have spent lots of time in France, and a lot of Jersey people have homes in France and people talk about retiring to France. I cannot quite imagine the French Government saying: "Yes, come and be one of our Deputies too" unless you are nationalised or naturalised, I think is the term. In Korea, South Korea, I have to add, you have to be a resident for 5 consecutive years. In the Philippines, to be President you have to be the age of 40 - the Chief Minister just about makes that - you have to have been born there; be a citizen but be born there. If you want to be a Senator in the Philippines, you have to be a natural-born citizen, over 35 years old, be able to read and write and be resident for not more than 2 years. I am afraid, I cannot find, apart from the example that was given of Guernsey, anywhere that suggests otherwise. So there must be a really good reason for that and I think I articulated that earlier. Diversity as a parliament I think is a great idea but taking citizenship of our country, which is obviously British citizenship, is important and we then lay loyalty to our sovereign which was also mentioned. So I will bring up the example of Australia. In Australia you do need to be a citizen to seek election but if you want to vote in an Australian election, you have to be an Australian citizen, but you can also be a British citizen and vote in an election in Australia which I thought was quite interesting. Likewise, in the U.K. you must be over 18, you must be a British citizen or a citizen of a Commonwealth country, or the Republic of Ireland, maybe the European Union as well. Now that is all going to change soon. The Constable of Mary is correcting on the E.U. (European Union) matter. But my point here is that perhaps if we are making an amendment, we should be looking at that. We should be looking at should members of the Republic of Ireland, or citizens of the Republic of Ireland and citizens of Commonwealth countries, as it is in the U.K. can stand for election. Perhaps we should be considering that here, not the amendment that is being suggested today which is a blanket everybody. I think people would be more comfortable with that. That might be a bit of an evolution, and it might be more inclusive along the lines that the Deputy was intending, but otherwise I cannot support this for some of the other reasons that were suggested yesterday by Deputy Norton on item (b). But, more importantly, if you are going to act in a Legislature capacity in an Assembly such as this, you really do need to be a citizen of that country, nation, call it what you like. We are British citizens, we are proud of that, and those that live here and make it their home and are proud of being here too, why would they not wish to become British citizens? That does not mean they have to give up their citizenship elsewhere. I know of one person that stood for election in recent years in Jersey that naturalised so that she could stand for election and thought nothing of it, thought it was a perfectly reasonable request to have to adhere to. So if you do want to stand for election - and I must correct the Constable of St. Martin here - you can, you are not barred, you simply have to naturalise first. I think that is something we should be proud of, we should continue with and we should not make an exception. Thank you.

**Deputy M. Tadier:**

Would the previous speaker give a point of clarification? Would he define what a citizen is in the Australian context and would he confirm that being an Australian citizen is not the same as being an Australian national?

**The Deputy Bailiff:**

Are you able to clarify, Deputy?

**Deputy A.D. Lewis:**

We may require the Attorney General from the Australian Parliament to be here to answer that one. I do not think our Attorney General could quite manage that one. I think we are splitting hairs beyond semantics. The point I was making is that you need to be a citizen of a country ...

**The Deputy Bailiff:**

Well it is not a question of repeating the point, are you able to offer the clarification?

**Deputy A.D. Lewis:**

I cannot make clarification on that, Sir, no.

**Deputy M. Tadier:**

Can I just ask one more point? Could he clarify that if you do a quick Google search, do you realise that an Australian resident ...

**The Deputy Bailiff:**

No, that is not a legitimate point of clarification of the speech, Deputy. Senator Ferguson.

**1.1.2 Senator S.C. Ferguson:**

I am delighted that Deputy Mézec recognises the value of immigrants like me. The internet is a wonderful thing. Last night I wandered around to compare the approach taken - like Deputy Lewis of St. Helier - to compare the approach taken by other countries with regards to the nationality status of candidates for election. I found the Australian lady who got herself elected to the Senate and then it was ruled to be invalid on the grounds that her Australian/British dual citizenship constituted an allegiance to a foreign power: "All candidates for the Federal Parliament must take reasonable steps to renounce any foreign citizenship." Then there was the fact that you have to be able to speak and converse fluently with a degree of proficiency in English in Mauritius. In actual fact, the Commonwealth seems to take a pretty standard approach. What is apparent is that most countries require candidates for election ... I did not go through them all, so I will not want to say "all countries" before my comment is queried. But what is apparent is that most countries require candidates for election to have the nationality of the country where they are standing for election. There is a recognition internationally that to retain a foreign nationality while standing as a nationally-elected representative is effectively serving 2 masters and, as the saying goes, no man can serve 2 masters. Several times yesterday I heard the phrase: "It was unfair if nationals of other countries could not stand within a short time as candidates in our elections" and all I can say is: why is it unfair? It takes time to absorb the mores and culture of another country. Even if it is a qualifying period of 5 years, then to some degree it is perhaps too short a time for candidates to absorb this in a fairly complicated jurisdiction like Jersey. It took me about 30 years to catch up with it. Frankly, if people are committed enough to take up British citizenship and then stand for election, I have no problem with it. This demonstrates a degree of commitment to the Island. Now the Connétable of St. Martin has commented that the current system seems unfair but would his parishioners want to be represented by a Connétable who lived in St. Brelade? I wonder. No, if you live in this Island then you will want to commit as a national. This is a well-meaning proposition but it is fraught with problems and I ask Members to reject it.

**1.1.3 Deputy J.M. Maçon of St. Saviour:**

With this proposition, it is becoming difficult for me because my first instinct, my gut reaction is let the electorate decide who they want to represent them and that we should remove all the barriers for candidates to stand. But on the other hand, and being a Jersey person, and it is a bone of contention

in my passport where I have a stamp that says: “The holder is not entitled to benefit from E.U. provisions relating to employment or establishment”, certainly I know many people who will see that as a mark of being a Jersey person. Of course, with Brexit that is going to apply to a lot more people in the short term. But I think the biggest issue for me is ... although the conundrum that is being put forward is why can British nationals come here and stand after 2 years whereas those from other parts of the world cannot?

[10:00]

Of course, the issue is it is reciprocal because we can go there and do that. If a Jersey person went to another country, Portugal or Poland, for example, are we going to be afforded the same rights? No. Of course they are going to turn around to us and say: “Unfortunately, here is the barrier, you need to become a citizen.” My problem here is the decision which we are being asked to make is not reciprocal, so once again it is not for the benefit of the Jersey person that this decision is being made. Because it is not reciprocal that, for me, is a big stumbling block because it is not in the interests in that regard. I totally agree with the points made by other Members to say immigrants of course can contribute a great amount to our community. I do not think anyone is denying or questioning that. The issue is partly about loyalty, partly about commitment, partly about demonstrating those types of things. But again, as I say, my biggest issue which I find myself unable to support this is that it is not reciprocal and therefore, while it is attempting to create fairness and equality, at the same time it is continuing another unfairness and inequality against the Jersey person. Therefore, on those grounds, I do not think I can support this proposition but I will wait for the proposer to sum up. Thank you.

#### **1.1.4 Senator P.F. Routier:**

I have been thinking overnight on the point which was raised by Deputy Norton about the different meanings of 5 years that abound around this Island because there are different meanings to it in various places. For instance, yesterday I was questioned about the issues regarding population increases and the rules that we have regarding that, so someone has to be continuously in Jersey for 5 years before they have free access to work. In some people’s minds that is not even long enough. In some people’s minds. But if this proposition is passed, it could mean that someone could be elected to this Assembly but not have free access to work in the general community. It would be inconsistent. It would just not stack up. Of course, this Assembly, when the law was being developed for the Control of Housing and Work Law it was decided to exclude this Assembly from the rules of that legislation. So it may be, if this was to be passed, we might think about having to adjust the Control of Housing and Work Law. It would be fairer for the whole community ...

#### **Deputy M. Tadier:**

There is a point of order. I think the Senator ...

#### **The Deputy Bailiff:**

Sorry, a point of order is something on which the Chair must be asked to rule. Is there a matter ...

#### **Deputy M. Tadier:**

Well I think that the Senator knows he is misleading the House ...

#### **The Deputy Bailiff:**

Deputy, you cannot say that he knows because that means he is intending to mislead the House. Do you mean ...

#### **Deputy M. Tadier:**



Can I rephrase it? I think the Senator should know that what he is saying is not correct because he knows that currently the Housing and Work Law does not apply to States Members and that you can be a States Member after ...

**Senator P.F. Routier:**

That is right, that is what I was just saying.

**Deputy M. Tadier:**

If I misunderstood ...

**The Deputy Bailiff:**

That is what I understood the Senator just to have said, that it does not apply.

**Deputy M. Tadier:**

Okay, that is fine. I will sit down because I misunderstood.

**The Deputy Bailiff:**

Very well, please continue, Senator.

**Senator P.F. Routier:**

That was the point I was just making, that this Assembly is not covered by the Control of Housing and Work Law. Is that consistent with the way we treat the rest of our Island population and the businesses community who are not able to freely have access to people who have been here less than 5 years? Some people consider this to be a job. If we were to be hard line about controlling of work and housing legislation, we perhaps should include this Assembly. If people are concerned about population, that is a matter that we could consider. I think that what is being proposed today is inconsistent, it does not meet the desires of a lot of our community who want us to control population and we have those controls in place to deliberately make it difficult for people to employ staff, so I do not think we should water it down. I hope Members will not support this proposition.

**1.1.5 Deputy M.R. Higgins of St. Helier:**

I was originally minded to support the proposition put forward because again we do have a lot of people within the Island who make a great contribution to it and you would expect them to be able to offer their services for the benefit of the community through the States. However, like others, I also did some research into the rights of, let us say, Jersey or British citizens in other countries and the ones that were not mentioned were Portugal and Poland where the largest number of our foreign residents come from. In the case of Portugal, there is no general voting right in any elections or referenda for third country nationals who do not come from countries with ... I cannot even say it now. I will use "reciprocal" now versus the word they have got here but basically reciprocity. In other words, you have equal sorts of rights between them, although under a European Community directive people who are members of the European Community, any country in the European Community, can vote in municipal elections and so on but when it comes to national elections, they do not have voting rights. I was also looking at Poland and again the right to vote and to be elected on the national level is limited to Polish citizens only. Although sympathetic to the idea, if there was a level playing field and Jersey citizens could vote in, let us say, Poland or Portugal, then I think that would be acceptable. But at the present there are no reciprocal arrangements and therefore you can ask the Minister for External Relations to see what he can do to try and achieve parity and, if he does, then perhaps it is a matter for bringing it back to the States at that time but I cannot support it at the moment.

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

I am not going to repeat hopefully any comments made on quite a lot of the proposition so for a lot of reasons already stated, I will not be supporting part (a). However, part (b) I did find rather attractive because of a lot of comments being made about the anomalies between essentially somebody turning up from the U.K. after 2 years and potentially standing and not necessarily having had time to absorb. To be honest, the reason I wanted to stand up and just say this, because I believe the proposer is taking it in separate parts, if I have understood that correctly. If he is not, I will be voting against the whole proposition but if he is, I am willing to certainly vote on part (b) and part (c). But in saying that, obviously there is a wording that has been used which I think is from the States of Jersey Law 2005 and talks about “ordinarily resident”. All I would say in voting for part (b), I am just going to leave it with P.P.C. who would have to consider that matter. If they come back with what is meant to be a better wording, I am very easy on that. I do take the point that let us be consistent with the points that Senator Routier has made and I think perhaps we should increase the period to 5 years. That is where I stand. Thank you.

#### **1.1.7 Connétable J.M. Refault of St. Peter:**

It was only in the last sitting that we voted on a very complex change in the way that this Assembly runs and there were some Members who were so confused with the number of propositions and withdrawals being put forward, they ended up voting the wrong way because they were unsure exactly what they were voting for, and I fear we are going down the same path here on this particular one. Item (b) gives me considerable concern. For example, I could have arrived in this Island with my parents at the age of 10, lived here for 5 years, gone off to the U.K. and I can come back now in my mid-40s, late-50s, whatever sort of age it is, and say: “I cannot get a house, I cannot get a job. I know, I will stand for the States. All I have to do is live in a black economy for 6 months’ sofa-surfing [or whatever way people want to do it] and get myself a nice little job and free access to housing without any problems whatsoever.” We have enough of these anomalies already in the system, in Health, for example, and Social Security. We have differences there where Social Security say that as long as you have accumulated 6 months of work in Jersey, then you can have free primary care and people come down to the hospital expecting that to include the secondary care at the hospital. With the hospital we have a different requirement. You have to be here continuously for 6 months and working before you can have free healthcare, and that is just one example of these anomalies that exist all the way round. Certainly, Senator Routier has mentioned the issues with regard to the housing and work regulations there as well. I think all we are doing potentially is adding another layer of confusion for us to make the wrong decisions. If I look at the proposition in general in whole, I am not entirely comfortable with it. I am not saying I would vote against it in the whole but I cannot vote for it as it currently stands. I did speak to Deputy Tadier earlier this morning, very briefly in the coffee room, and asked him whether he could consider changing it and he said he cannot. If he cannot, then I cannot support the proposition. Thank you.

#### **1.1.8 Deputy D. Johnson of St. Mary:**

It seems to me this proposition raises 2 distinct aspects: the first is the British citizen requirement and the second is the residential requirement. As far as the former is concerned, I have to say I am minded to accept that there are very strong communities from outside the Island who add a lot to our community and it seems to me inconsistent that they should be expected to vote for us if they themselves are not eligible to vote. If we do wish to broaden the franchise, it would be helpful if they were given the right to stand. But to a certain extent that pales into insignificance as regards the second point. I appreciate that Deputy Tadier has effectively borrowed some of the wording from the present law in his requirement but I do find it difficult to accept that someone who can have been here for a total of 5 years on and off over whatever period it might be should be allowed to stand. In fact, it goes against my own family. Of my 4 Jersey-born children, one is pursuing his

career in London. On the basis of the present law he can at some stage in future, as the Connétable of St. Peter said, come back and stand, having been here for a period of 6 consecutive months, no matter he may not have been in touch with what has been going on in the Island. That seems to me to be wrong and I believe that the present law needs to be reviewed and revised. For that reason, and that reason only, I am afraid I shall be voting against the proposition.

#### **1.1.9 Deputy S.M. Brée of St. Clement:**

For some this proposition will be very seductive. It goes to the heart of living in a cosmopolitan Island with many different cultures and races and nationalities represented. So why not support this proposition? One word: commitment. Deputy Tadier stated that this Assembly should be representative of the Island. Well I would suggest that this Assembly is representative of the Island. We come from many different backgrounds with many different experiences and histories but the one thing that unites us is a commitment to Jersey and the fact that we are British. We are law makers. We pass laws here that will affect everybody without fear or favour to any particular segment of the community and we pass laws that then are placed in front of the Privy Council so we are looking to the Crown in that instance. That is where our allegiance lies. We have all made a commitment to this Island, a very long-term commitment on the part of some, shorter term on the part of others, but we have accepted the conditions that go with that commitment. One of those is that anybody who wishes to stand for election in this Island is a British citizen. Now, Deputy Tadier in his proposition mentioned the C.P.A. (Commonwealth Parliamentary Association) Benchmarking sub-panel that I was on and we did talk about this, my recollection is at great length, and we were not necessarily unanimous in our thoughts. Irrespective of what I thought at the time, since this proposition has been lodged quite a number of my constituents have spoken to me, contacted me to give me their views on the proposition, and it is a unanimous view that to stand for election we need to be a British citizen.

[10:15]

As I am here to represent them, that is the stance that I am taking. This is not Jersey being racist or xenophobic or nationalist, and I would hate for any of those words to ever be used in this Assembly. To ask somebody who comes from another country with another citizenship to take on dual citizenship in the main does not strip them of the citizenship of their birthright. Now I asked Deputy Tadier this particular question yesterday and he very kindly gave me some information. I have not double-checked it so I cannot attest to its accuracy, but bearing in mind that I trust that he would not seek to give me inaccurate information, I think it is very important that we look at it. There are very few countries in the world who do not allow dual citizenship. Looking at the list that he kindly gave me, possibly the only exception to the rule that may affect us is the stance of Poland which may need to be looked at as they do not at the moment recognise dual citizenship. I have now been corrected so the information that Deputy Tadier has told me is that they now do. So that is even more weight to the argument. We are not looking to take away anything from anybody. We are not looking to strip them of their birthright. We are asking them to make a commitment and that commitment is that you take on British citizenship. With regards to the 5 years, the part (b) of this proposition, I agree fully with that concept. Unfortunately, I cannot agree with the wording that is used in the proposition. I believe that anybody who stands for election to this Assembly should have lived in the Island continuously up to the last 6 months who wishes to stand. Why somebody with a British passport can come over here and after 2 years think they know everything about the Island and to be able to represent people is beyond me. Five years is the least amount of time it takes, I would suggest, for anybody to fully understand Jersey's unique history, our unique traditions, our very unique legal system, and our culture. Now by "culture" I mean everybody on this Island contributes to our culture. This is not suggesting that the immigrants who have come to this Island do not benefit our culture greatly. They do. With regards to our status as

British citizens, we owe allegiance to the Crown and by virtue of that fact, we are afforded British citizenship. It is a very proud and old allegiance. Many centuries ago we chose the Crown as the body to which we give allegiance. Now, allegiance means many different things but we are loyal subjects of the Crown and that is very important in this debate to understand why we are British and that is why. It does not matter that we hold a British passport, what matters is our allegiance to the Crown and we make a commitment by being British citizens to that allegiance. I am very proud to be a Jerseyman and I am proud to be British but above all I am here to represent the majority view of the parishioners who elected me to this Assembly and that above all is why I will not be supporting this proposition. Thank you.

#### **1.1.10 Deputy R. Labey of St. Helier:**

What should be an in principle debate has now been bogged down in the nitty-gritty of unacceptable detail, it seems, for most Members and that is a shame. It is the reason why I believe that Deputy Tadier should withdraw the proposition because I am worried about the negative message that will go out from the inevitable vote against it today, in the same way that yesterday Deputy Southern wanted to give the Minister for Education a ticking-off. The result was he got a resounding vote of confidence and in the same way I feel if this is not withdrawn, it will send out a bad message because this is audacious and interesting and, do you know what, it is reaching out to areas of our community that we all should be reaching out to. Not just the Polish community or the Madeiran, Portuguese community but the U.K. community, the recent U.K. community. The fairly recent U.K. community does not engage as much as we would like it to with our election processes here. The Jersey-born are in the minority of the population now but probably in the majority of those engaging with the election process and it is not a good place to be in. We have to do things to reach out to all members of our community and we have to show them that they are valued. I do not know, there are so many people with so many worries about this and misunderstanding. Can you accrue the 5 years by coming here on summer season over 10 years and have enough? That does not seem right to a lot of people because the commitment should be that you live here permanently and the seasonal worker generally is working here and sending the money back home, building their houses back home in preparation for permanently going back home. In general, I do not have a problem with this idea of trying to enfranchise members of the community here who are not necessarily - I do not know what word to use - indigenous or first nation or what have you, and I think it is an important thing that we should be looking at. But it seems to me at the moment that I do not know what there is to fear here but it seems to me that fear is playing a large part in that debate and so we go to extremes. I really do not think we can compare the Island with Afghanistan. There are probably very good reasons for why that particular nation ... I know, it was an extreme. Similarly, with the loyalty card being played. I do not know what that means. When is the loyalty tested? When we go to war with Portugal? When it is the World Cup? Are we expecting if members from the Portuguese community sit in this House they should suddenly start supporting the English football team? Well that is not going to happen with the Italians or the Portuguese or the French for very obvious reasons. The Constable of St. John said earlier in this debate that you have to be a member of the club to be on the committee of the club, and I take his point and I know what he is saying, but one has to appreciate there are many people in this Island making a huge commitment to the Island, contributing to the Island, doing jobs that lots of other people in the Island would not want to do, and we need them desperately. They do not feel, some of them perhaps, that they are members of the club. So anything that we can do to break down those barriers and reach out, we should be doing. In a world which has voted for Brexit and Donald Trump and Marine Le Pen possibly later this year, it would be a fantastic message that we would send out if we found a way to include foreign nationals, if that is the right expression, being able to participate in the Government. Senator Bailhache I think said: "Well it is not done anywhere else." I do not know if that is true but so what? What is wrong with for once being at the vanguard of

finding a way in which foreign nationals who play an important part in the Island can also play an important part in the Government? Why can we not find a way to do that? As far as I know, we are not citizens, we are all subjects, and as subjects we swear allegiance to the Queen. I have to say Deputy Mézec came right back at Senator Bailhache with a good point that to be a police officer here of course you have to swear allegiance to the Queen. But why can we not invent a Jersey citizenship? Why can we not find a way to do that? Maybe we can bestow a Jersey citizenship upon people who are from foreign countries but have worked here and made a commitment here? As always with these things, if you want to oppose it there are lots of ways to oppose it and perhaps Deputy Tadier has been too audacious in the detail of his proposition and it should have been perhaps a little bit more vague and in principle so that we could start working on a way to reach out to our communities but that has not happened and we are where we are. So, in principle I would love to be able to find a way to work on this to make this situation better, include more people. At the last debate on the electoral reform, speaker after speaker were mentioning the election observers and I was thinking to myself: “What on earth has this got to do with the price of fish? I do not understand why we are talking about election observers in terms of electoral reform.” Then I suddenly got it when I was thinking about what to say on this speech in that election observers obviously would come along and look at our elections in May next year and say: “Well, okay, let us look at your figures for voter turnout, *et cetera*. Oh, here what is wrong, clearly you are not reaching out to large sections of the community” and so we should anticipate that and try to do something about it. Again with the Constable of St. John, he says: “This takes the cake.” Or takes the biscuit or takes the sweet. I think the trouble with the Constable of St. John’s position is he wants to have his cake and eat it in terms of this argument: Jersey is special. Jersey is a special country, we do things differently here. We have Connétables elected in this way. We are not ever going to be Venice-compliant when we have the Connétables and yet a lot of us believe that they should be here and the majority of the Island does too because that is how they voted, so that is what we have got. So on the one hand, similarly with the position of the Bailiff, *et cetera*, the argument is that Jersey is special; this is our tradition; this is how unique we are; this is what we have done. So, yes, that is fine, but we can be special in other areas too. We can make a difference. We can be the first to enfranchise our foreign nationals if we find a way to do it without fear. As Roosevelt said: “The only thing to fear is fear itself” in a situation like this. But I urge Deputy Tadier to withdraw the proposition so that we do not have to take it to a vote and we do not send out a negative message in the headlines tomorrow.

**Deputy A.D. Lewis:**

Can I clarify, was the Deputy proposing the Deputy withdraws this?

**The Deputy Bailiff:**

No, he was urging Deputy Tadier to consider it. It is not capable of being a proposition because the States cannot require someone to withdraw something, they simply vote against it. Deputy McLinton.

**1.1.11 Deputy P.D. McLinton of St. Saviour:**

It is always an honour and pleasure to follow Deputy Labey who speaks eloquently and well; if only he would speak up a little. **[Laughter]** I was taking the children to school this morning and I said to them: “I am back in the States again this morning” and their reaction was: “Oh, yes?” I said: “Yes, we have got an interesting debate going on.” I said: “I just want to run it past you” because I thought without telegraphing this, I will get the children’s opinion because children are very clever indeed. Mine particularly, I think I will get that on record. **[Laughter]** I said to them: “Just imagine this, an Italian man arrives in Jersey. A proud Italian man opens a restaurant; it is a very popular restaurant. He is well-loved by the local community and come the end of it, he is

thinking: ‘Maybe I will stop being an Italian restaurateur because I am interested in politics.’” I said: “Do you know what? He can vote, he can pay his rates, he can pay his taxes, he can do all of these things but right now he cannot ...” I did not mention about citizenship at this point.

[10:30]

I said: “He cannot just stand for election. What do you think of that?” James, being James, he said: “What do you think, Dad?” I went: “Not for me, I am interested in your view” and he and my daughter said: “That is really stupid, is it not?” I went: “Hmm, thank you, that is kind of what I was thinking, really.” Citizenship costs over £1,000. People seem to skirt over that. If you are really committed you should become a dual citizen but there are many very, very clever people who could be of huge benefit to this Island through this Assembly, who have not got that kind of money rocking around plus the expenses of standing for election. It is a huge punt on their behalf. So the community we are in ... I would far rather there were people in this Assembly who were intelligent, people centric, representative of some of the ... we call them minority communities, it is not really a minority on this Island nowadays, who served the people of the Island well, whether they were born here or not. I do take a certain umbrage to a mention in this Assembly that this is not in the interests of Jersey people; that I am not allowed, for example, to go and stand in the Polish Parliament. **The interests to Jersey people** are served by this Assembly and the people in this Assembly and not where they can wander off to. Good people serving good people in a world of divisiveness, in a world of Brexit, in a world of nationalism, in a world of Trump, in a world of “we are better than you”, in a world of walls; it pains me that we could think of ourselves as divided. We are all the same. We are spinning around the sun on a rock, equal in every way that we can be. Where we decide to live our lives, where we want to get involved in the community, the tribe of where we are, will be a wonderful thing if we were just able to do best benefit to the people we share, wherever we live, with. I would say that if we allowed foreign nationals into this Assembly we would serve the people of the Island of Jersey. What is Jersey people anyway? I am French. I am Irish. I am Jersey. I am a mongrel. We are all mongrels. We are just talking about the mongrels who think, by some reason, they have stepped across a line, can turn back across the line and say: “And you guys over the line, you can have nothing to do with this. We managed to get across the line; we did.” This is a movement of the line. A more sensible movement of where the line should be in my humble opinion. The Constable of St. John. I will tell you a story which does not involve food. When I was campaigning I rang a doorbell, an elderly lady opened the door and I went: “Hello.” She said: “I do not know why you bothered.” I thought: “Oh, dear, one of those.” She said: “Yes, I was going to vote for you anyway.” So I resisted the urge to say: “I did not know that before I rang the doorbell” but I thought I would zip it and I said: “Do you mind me asking why?” and I thought: “Oh, it is because it is him from radio, or went to school with his dad” or whatever. She said: “No, always vote for the new ones.” So I said: “Does that mean that I am not to bother ringing your doorbell again, should I stand again?” She went: “No”, I went: “Okey-dokey.” Must log that one. Now, ding dong, she opens the door: “I do not know why you bothered”, “Why is that?” “I only vote for Russians.” It is the most stupid argument against this I have ever heard. “I only vote for good people I believe in and I do not care where they come from” would be a better argument, I would say. I have been known my entire life for not playing it the same way as everybody else and I am proud of that. I am proud of being individual. I am proud of this Island being a unique little lump of pink granite in the Channel. I am proud of the community that has built up. I am proud of the people that have been welcomed in this Island over the many hundreds of years who have benefited this unique place. Yet in here I hear the argument: “Yes, we are unique but we should do it the way everybody else does it.” What? Be unique in a world of divisiveness and I cannot believe the world is getting more divisive with all the inclusions, all the ability to contact, to see what the world is about. We are getting more and more tribal, building more and more walls and we have a chance here to reach out, not to be a minority part of our

community but to a substantial section of our community and say: "Come on in. Have a right to a say as to how the Island you have chosen as home is run." It makes eminent sense to me to not be a citizen of Jersey, to be a citizen of this planet, which we all are, to have our chance to have a say in this Assembly and to be proud of it. I would rather that Italian restaurateur that I have imagined up, who is a good man, who has got good intelligence and understanding of his community, I would rather he was sitting in this Assembly than somebody who rocked up, stood, got a British passport and will do an okay job. Good people. It is people. It does not matter where your passport is from. People, and let us not draw a line to say: "People, but only if you can afford over £1,000." That is not the right line. That is discriminatory and remember, we do not do discrimination anymore, do we? Let us give everybody a chance.

**1.1.12 Mr. R.J. MacRae, H.M. Attorney General:**

I want to, if I may, say a few words about the position of Constables because it has been suggested in the course of debate that because the law we have been looking at is silent in relation to their nationality then it is the case that persons of any nationality can seek election to that role. That may be the case but the law is unsettled. This is a question of customary law. There is nothing in statute upon it. Certainly customary law used to draw a distinction between nationals and aliens and thus when the law was passed in 1966 I have no doubt that at that stage the court would have held that Constables would have needed to have been British nationals. But of course things do change and, has been said by, I think, Deputy Tadier in the course of this debate, Honorary Police Officers have been sworn in by the Royal Court from other jurisdictions. The point that I would like to draw the Assembly's attention to is simply that this is not yet settled and it would need a ruling of the Royal Courts if a foreign Constable would stand for election to determine whether or not non-British nationals can be Constables.

**Deputy M. Tadier:**

I thank the Attorney General for what I think was helpful advice. Could he confirm - obviously, he cannot give necessarily a categorical answer but he may have hinted at the fact - that things may have changed since 1966 and nowadays would there be a likelihood that a candidate rocking up, without British nationality, for Constable may be allowed to stand?

**The Attorney General:**

It is certainly possible. I cannot say it is likely but certainly things may well have changed since the time this law was passed.

**1.1.13 Deputy G.P. Southern:**

How very interesting this debate is becoming. What I was struck by was Deputy Labey's words: "Let us lead. Let us be the first to do this. Let us, as a reflection of a cosmopolitan society", and it could not barely get more cosmopolitan. Should we not be considering this as an enlightened, as a progressive, as a liberal view that that is the way forward? I was just looking at the number of cards, let us not call them identity cards, registration cards, applied for last year and the numbers are indeed very interesting. This is people who wish to work in Jersey or they may have changed jobs recently or changed house. We look down the table and here we have; British, 13,900, of whom 6,800 are Jersey born; 6,800 Jersey born, on this particular list. Then we look down the list; Portuguese, 2,700; Polish 1,700 and we are down to Romanians 591 and the list goes on through South African, Italian, Filipino, Hungarian, Czech, Kenyan, Canada, American, New Zealander, Slovak and by the time we get to the bottom of that first column we have got 6,800 foreigners, foreign nationals, to match the 6,800 locally born candidates who are applicants for a registration card. So we are cutting out that many people from this particular opportunity. As Deputy Tadier said in his introduction, his proposal: "These people may be called for jury service. They can become part of the police despite the oath to the Queen. They can become part of the honorary.

They do pay their taxes. They do pay their social. They even, probably, pay their long-term care charge for should they become a burden later on in life. Yet we say: "But you cannot stand to represent other people in our community because you are not a British citizen." It seems to me that that, given our society, is not a logical position to take nor is it a sound position to take. It has been proposed that instead of leading on this particular issue we follow and from the front bench there came the suggestion that we should be following Korea and possibly Afghanistan and I ask whether we really want to follow Afghanistan as a liberal democracy; well, it is not one yet and it may be a long time before it is. Yes, we have this fear that somehow the Russians are going to take over, the Russians are coming, as they used to say. On that list they are on the second half. There is not very many of them. I think the Constable of St. John can sleep easy in his bed. He will not be taken over by the 26 Russians who just applied to work here nor would they swamp our benches. At 26 they would be just quorate. Never mind. Do not go there. It has been pointed out by a previous speaker that it is relatively straightforward for us to say: "Let them apply for dual nationality. Let them spend over £1,000 before they get to election expenses in becoming dual nationality in getting British citizenship despite the difficulty for Jersey people of that particular test." We have had that pointed out to us. So no guarantees there. Yet we have got this £1,000 plus barrier in the way of doing that. So I think, without doubt, as Deputy Labey pointed out, the debate has got mixed. There are Members in this States who are, I would say, hung up on part (b), what is the definition that operates there and therefore are thinking: "Well, I do not think that is the right way forward." The principle, I think, is absolutely sound but the mechanism by which we apply it ... perhaps enough people in this Chamber have reservations about that and seek clarity on that. So like Deputy Labey I think I am in a position ... I will support it because I will support the principle. I think it is the right direction to go in. But I think I would be requesting my colleague, Deputy Tadier, to withdraw, consider withdrawing, the proposition, consulting with the S.G. (Solicitor General) and P.P.C. and bringing back, in short order, something that tidies up the qualification period and makes it crystal clear that we are not opening the gates to Rag, Tag and Bobtail; that we are getting the right people.

[10:45]

Where did that come from? It come from: "Are you listening comfortably. Are you sitting comfortably? Then I will begin. Listen with mother." I think it was: "Listen with mother." Anyway. There I will stop with that encouragement to withdraw and bring it back.

#### **1.1.14 Connétable J. Gallichan of St. Mary:**

It is just a couple of very small observations because this is a very interesting topic and I do not think we are doing it justice with the way we are attacking it here but anyway... Deputy Labey talked about enfranchising these people who are part of our community. I just want to make it clear, Members obviously realise, but just to make it clear for the record, that we do enfranchise these people. We have a system that allows people with 5 years' residence or 2 years in other circumstances to vote and participate in our system. We are ensuring that people who have come to the Island and are working here or who are being part of our community can have a voice in this Government. There is a big difference between having a voice in the Government and being a member of the Government or let us say the Parliament and the Legislature because there are many instances where the people who come here who have a vote do not lose their ability to vote in the country that they came from. They are effectively able to keep up with both jurisdictions. They are able to have a say in the future determination of policy through their votes. So enfranchisement is not an issue here. That is already done and we do it without requiring any citizenship change or nationality change or whatever. We let anybody who has come here and has been here for the required amount of time to participate in our elections and that, I think, is an extremely good thing. I have to say that in the ... I think it is about 15 or 17 years now that I have been involved in getting



people on to voting registers and doing things like that, that it was jolly hard to encourage any of the minority groups, as we called them, to get involved and become registered to vote. That was a really difficult thing to do. So without even thinking about how we get people into this Chamber, have we really done everything that we can to get people involved in the process at the first level that we have already come to? I do not know. I mean Deputy McLinton... Suddenly I was faced with his radio name and that was not going to go down very well. Deputy McLinton was very clear about the Italian restaurateur who is a great part of the community and working very hard. Well, yes, he is. He is working very hard and you ask that Italian restaurateur, is he registered to vote and probably he is not because he is too busy being an Italian restaurateur and doing a very good job about it too and he is not very interested in it or if he is interested in it: "Why do you not stand for the Assembly?" "Well, I am too busy. I am doing the job that I came here to do and I am enjoying doing that and I am putting my trust in people that I am voting for." But the other thing that people have said is that there is a huge financial impediment to people coming here and taking up British citizenship. Well, anybody who, like I do, and I know the other Constables do because we have lots of elections and lots of reasons to attend swearing-ins, but many Members, I am sure, attend court on a Friday morning and there are a considerable amount of people every week who are taking up British citizenship. They have been through the procedure. We see them standing to take their oaths. It is standing and they are not all sort of ... they are not all people from the groups we have discussed. I see lots of Thai people. I see lots of Philippine people. I see Canadians. I see Americans. I see all sorts coming through and taking up British citizenship. Very few of them go on to then stand for the Assembly. We have had some naturalised person standing. So I do not think we can say that there is a financial barrier. It is like saying: "I am being discriminated against from driving a car because I cannot afford to take the driving test." There are always things we set ourselves in processes that require a fee or require some sort of test. I think we have to be careful that we do not devalue what is a very important thing and a process that is taken up already by a large number of people and those people, we may see them come through the court on a Friday morning, and I may never see them again in any kind of public role or whatever, but they are here working and living in our community. They have not lost the identity or the culture or the history that made them who they were before they became a British citizen. They are still the same person. But they, for one reason or another, have become committed to living in this society that we are in and have decided that part of that commitment for them will be taking British citizenship. For those that do not want to do that we are allowing them still to be part of the system by voting and we do not ask any questions about nationality for that. Do not dismiss the huge number of people who do become British citizens and who choose to take the test and then say that it is too expensive and that is a barrier to being part of the Island life. Well, it is not. It quite clearly is not. I would just like to say that I feel that one distinction that has been missed here in this debate is the difference between serving the community in various ways, whether it is a police officer or an honorary officer, whatever, and being part of the law making body of that jurisdiction. It is a very different thing. It a very specialist thing. If we decide that we set a slightly higher barrier to that or a slightly higher requirement to that then I think it is not necessarily a bad thing especially when, I am no lawyer obviously, but especially when so many of the laws that we make in this Legislature have direct relevance to British laws that already exist where we are bringing things into line with standards that have already been set. I look back at a law that has been set up over 100 years ago about explosives and that started out, the preamble in French, that it is desirable to bring the law into line with standards set in the United Kingdom. We are, by definition of being part of the British Isles, inexorably linked with Great Britain, inexorably British. Therefore, we have to assume that there is a reason why the Legislature would have a British undertone to it. I think that if we allow, make provision for, anyone who wishes to, to take that step that we require then I think we have already gone quite a long way to welcoming the people who make up such an important part of our Island to welcome them on to all levels of Island life.

### 1.1.15 Senator I.J. Gorst:

These debates often, for me, are quite difficult because, as Members know, I am myself an immigrant and must count myself privileged to be able to call this Island my home. We are living in a changing world and we should consider that changing world and in that consideration we, like the rest of Europe, like America, should consider what we, as a Legislature, are being told by those who put us here. We have heard this morning, it was no surprise because the international media is full of it, President Trump, the Brexit vote, the pros and cons of immigration. But we, of course, come to that conversation from a unique vantage point for all the reasons that Deputy Mézec said in his opening speech. For generations we have enjoyed, we have benefited from, we have welcomed others into this community. Some of that has been offering refuge. As he mentioned, went as far back and talked about Huguenots. Some of that has been because we have had economic requirements that have matched the economic ideas of those who wanted to come here and that has been a ... I say beautiful but a good marriage of perhaps requirements from different ends of the telescope. I think, as we stand here today, we can be proud of the integrated community that we enjoy but we should not take it for granted and we should be mindful that while communities around us are getting into divisive arguments and are saying things and basing policies upon points of view that we would wish to reject that we should not take for granted the cohesion that we currently enjoy. So if we remind ourselves of how our community came together in recent times around the terrorist atrocities in France; we came together, not only nationalities but also from different religious standpoints to say that we would stand against evil. That we would show quite clearly in our community the difference between a religious standpoint and those who wished to take a religious standpoint to do evil and brings acts of terror upon the communities which either they were living in or they just visited those acts of terror upon. Some of those acts of terror have been used by some in the political classes in some parts of the world to bring division, to build walls, whether they be physically or metaphorically. We do not want to do that in our community and I think never has the need been so great for politicians to be careful with their words as it is today because they can easily be misunderstood. We can easily say things which bring division. We can easily say things whereby members of our community feel that perhaps they look around the world and think that some of the things that we might say mean that they are not welcome. I know that by saying as far as I am concerned and this Government is concerned those people who have come to this Island as immigrants - some with their families, some without their families, some for escape from difficult situations but some just to better themselves and their future and the future of their families - they are welcome. We want to ensure that they feel welcomed in our community. That is why one of the issues at the heart of Brexit is how are we going to respond, together with the United Kingdom Government, to European nationals living in our community who are invaluable parts of our community and how are we going to continue to make sure they feel welcome and continue to ensure they have rights into the future but at the same time we must be mindful.

[11:00]

Deputy Southern says: "But it is a but" because we must try to understand the message that people are telling us. At the same time we must understand that in coming to a community there is ... perhaps obligation is the right word ... but I think for most people that obligation is a desire. There is a desire and an obligation to take part in that community, to understand that community and to recognise how that community acts, behaves, to understand its history. To understand its culture and to work with those and not to expect that that history and that culture should be disrespected or in some way broken down. To me, the argument that Deputy Tadier is putting forward; it is not about whether immigrants feel welcomed or not; it is not about whether we are building walls or not; it is about whether the threshold that is currently in place in order to stand for election to this national parliament, because that is what it is. Yes, we have to deal with issues that in the United

Kingdom a Parish council would deal with or a city council or a county council but we also, importantly, deal with issues that a national parliament would deal with. That is asking ourselves, in that role, as a national parliament, are the thresholds over which one has to stride appropriate. Is the requirement that one should be a British citizen before being able to stand for this national parliament, which has a long and proud history? It is part of what makes us unique? We might argue about the Venice Convention. We might argue about how it might look odd outside to having the role of Constable in this Assembly. But in this Island we understand how history has brought us to this point and in this parliament we understand the benefit of being connected with that history. Is the threshold of having to be a British citizen an appropriate one? Let us not get confused about what it says in the passport that we have. We could easily be confused by that because it is a European-style passport with measurements and arrangements as approved by European directives. Deputy Mézec is right, on the front it says that it is a Jersey passport and it is issued by Her Britannic Majesty's Lieutenant Governor of Jersey but on page 2 or 3 in the small print it says it is the property of the United Kingdom Government. So let us not confuse ourselves with where the passport emanates from or all of those details. The important point is that we, in this community, are loyal to the British Crown and long, in my view, may it be so. Her Majesty, in my view, is not simply the head of state of the United Kingdom as one speaker tried to suggest. Her Majesty is the head of state for the Island of Jersey and long may that remain. Therefore, while welcoming all who want to choose Jersey to be their home, all who see their future here on this Island, while welcoming all it is appropriate that we have a threshold over which one must reach in order to stand for this national parliament of the Island that we all love. The only argument that I have really heard that suggests anything other than that is not the argument about division. It is not the arguments about wars. It is not the arguments about making people feel welcome. It is the arguments about, is the cost of getting that dual nationality, if your nationality of birth is something other than British. Of course we must be mindful that we do not cost people out of standing for our national parliament but I do not think that that argument today stands up or is sufficient reason to lower or to change that threshold. That is why, perhaps, I join with Deputy Labey and ask the mover to withdraw it because I do not think that any Member who would vote against this today is sending any message that we do not welcome people because we do. There is another issue connected with welcoming people and that is the language we use about managing migration. That is about the language we use about whether we have got an open door or a closed door. That is the language we use about recognition of the benefit of migrants and migration into our community. Perhaps all of us should consider how we carefully use the language around that issue because I think that that issue is an issue where people, if we are not careful, can feel unwelcomed in the words that we use. I think we can be proud of the cohesive community that we have here. It has not happened by accident. All members of our community have been part of it. But there is an understanding that reciprocal arrangements are important in the mind of the public. There is an understanding that when people move into a new community we want them to feel welcomed but there is also a desire and an obligation to understand and to respect the community into which people have moved. This threshold of being a British citizen, I think, is appropriate because that is what it is and therefore I ask the Deputy to withdraw his proposal today. If not then I think it will be, and I hope it will be, rejected but simply on the ground that the threshold is appropriate and no others.

#### **The Deputy Bailiff:**

Does any other Member wish to speak on the proposition? No other Member wishes to speak then I call on Deputy Tadier to respond.

#### **1.1.16 Deputy M. Tadier:**

Again, I will just make myself comfortable. If I can thank Members who have spoken. I think it has been a useful and interesting topic for debate not just academically but I think practically because ... and I do hope that notwithstanding some of the sentiments that have been suggested about a 5-year period, *et cetera*, which we will go into I will ... can we just find out what that noise is?

**The Deputy Bailiff:**

Yes, I was about to ask if you could pause. Is any Member using an electronic device that might be causing feedback or something over the ... well, it has gone silent now so ...

**Deputy M. Tadier:**

Let us give that another go, shall we?

**The Deputy Bailiff:**

Yes. Feel free to start again if you wish, Deputy.

**Deputy M. Tadier:**

I accept no responsibility for that. I am joking. I will happily contribute the customary. That is in airplane mode now so it is good to know. So let us just correct something I said at the beginning. I was under the impression that in order to be an eligible candidate for the U.K. Parliament, so the House of Commons, you could either be a British citizen, a Commonwealth citizen or a European citizen. I found out the European citizenship does not apply so in order to be a member of the U.K. Parliament you either have to be a British citizen or a resident citizen of Antigua and Barbuda or Australia or the Bahamas or Bangladesh or Barbados or Belize or Botswana or Brunei or Cameroon or Canada or Cyprus or Dominica or the Fiji Island or Ghana or Grenada or Guyana or India or Jamaica or Kenya or Kiribati or Lesotho or Malawi or Malaysia or the Maldives or Malta or Mauritius or Mozambique or Namibia or Nauru, I think people can guess it is going in alphabetical order, or New Zealand ...

**The Deputy Bailiff:**

Can we possibly take it that you are going to read out all of the countries of the Commonwealth?

**Deputy M. Tadier:**

That is right and I think it is important, as proud members of the Commonwealth, to remind ourselves now and again who our Commonwealth cousins are. It also includes Nigeria, Pakistan, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Sri Lanka, Swaziland, United Republic of Tanzania, Tonga, Trinidad and Tobago, Tuvalu, Uganda and the United Kingdom of course. I am glad that they got a mention there. They were getting crowded out for quite a while. Vanuatu, Zambia and Zimbabwe. So any of the nationals of those countries can stand in the House of Commons if they have the other eligibility requirements. Yet in Jersey we are saying: "None of those can stand. It is only British citizens." So a Scottish person, a Welsh person can stand, a Northern Irish person, somebody from the Isle of Man, somebody from Guernsey, but none of those other countries. That is the *status quo* so we do not even have parity with the U.K. on that. I think what I want to do is address part (b) first, so I think that is what has been made into the issue and I think some may have some genuine concerns. I think there may be some specious comments that have been put because looking around ... people came up to me in the coffee room and said: "Well, if it was not for part (b) I could support this" but then I saw them nodding their head in agreement with people speaking against part (a) saying: "You should have to be a British citizen, that is absolutely fine. A foreign nationals should not be able to stand" and they were nodding their head in agreement there. I would like to explain why I put part (b) in

because it is not something that I have come up on the back of a fag packet with. This is something which I have been considering for many years, which I have discussed with P.P.C. when I was on P.P.C. and I genuinely think people who say to me: "Oh, if you had just gone for the principle today and not had part (b) or not put the meat on the bones then we would have voted for it." That is simply not the case. People would have said: "I do not think we can allow foreign nationals to stand even in an in principle vote. I do not think I can agree with that because we would need to know how long they have been living in Jersey for. We need a qualifying period for them to live in the Island." That is why it would not have gone through and I think Deputy Martin has effectively said that much: "I cannot vote for part (a) without part (b) because that is one step too far." Now I hope that is not the case. The reason that I have put that in there is for 2 reasons. First of all the 5-year rule, I have explained. We do have a type of citizenship that we use. We have a rule of thumb in terms which is translated into the law which says that after you have been in Jersey for 5 years, you have lived and worked here in Jersey for a period continuously for 5 years, you can work here. It is a bit of a conundrum because you essentially have to live and work in Jersey for 5 years before you are allowed to work in Jersey but that is the way that the law works and after that you do not have to obtain a licence from the employer or work for somebody with a licence.

[11:15]

So that is where the 5-year comes from and I fully agree with people who stand up and say: "No, it is absolutely right that you should have to be a citizen of the country that you are living in to be able to stand for their parliament." Absolutely agree and that is exactly what I am proposing here. I fully agree that you should have to be a citizen of Jersey before you can stand for election to the Jersey Parliament. Now we are being told about: "We are a national parliament." Now, I do not know if that is a legal definition. I do not know when Jersey became a nation state. I know that Jersey has been looking to develop its international identity, personality, and I know that previous Senators, who have been going round the world representing us, refer to us often as an island and a nation state but I do not know if that is technically correct but we are the parliament. We are the Assembly for Jersey. In fact we are not a parliament and there is a good reason for the fact that we do not call ourselves. We are the Jersey Assembly and it is absolutely quite right that in order to be a Member of the Jersey Assembly you should have to be a Jersey resident, a Jersey citizen. Now to look at the argument that the Constable of St. John put forward about the yacht club. It is a bit strange because the yacht club does not say: "You have to be a member of the yacht club to be on the committee but you also have to be a British citizen to be on the committee." Perhaps a better analogy is to say that there is a yacht club but there is a snooker club or let us make it the other way round. You have got a snooker club which is part of a bigger group which is part of the yacht club; it is administered by that. It would be like saying: "Well, in order to be on the committee for the snooker club you need to be a member of the yacht club." You would say: "But hang on a minute, I have got no interest in yachting. I pay my membership for the snooker club. I turn up every week. I am your top player when it comes to snooker. I have represented you several times, international level. I have got 147 breaks but you are saying I cannot be on the committee now that I have retired and I have stopped playing because I am not a member of the yacht club. That sounds like a very strange constitution to have. Can I amend that constitution because I really want to be a member of the snooker club committee?" "Oh, no, sorry, you have to be a member of the yacht club." "Well, I am sorry I cannot afford a yacht. Do I have to genuinely become a member of the yacht club because they will not let me in without any yachting credentials?" "Sorry mate, then I am afraid that is closed to you. You can certainly vote for who the committee members are in the snooker club but you cannot stand to be on the committee of the snooker club yourself." It is complete nonsense and that is why even children, or especially children, that Deputy McLinton referred to, can see that as complete nonsense. They are not caught up in all this political bureaucracy that as some people get older find themselves defining themselves purely by

nationality. We are Jersey. We are the Jersey Parliament and the test should be whether or not one has Jersey citizenship. The reason I have used the same wording as that we have in the Electoral Law and in the States of Jersey Law is that it is already there. We cannot reinvent the wheel for this one. I cannot pluck out the air and say: "Well, I think we should have 5 years' continuous residency", and the Housing and Work Law and the population, the various tones that govern that particular legislation, which is completely separate, should be copied and pasted over to Election Law because that is not the way we do things. We have a concept which is readily understood and administered capably by the Parishes when somebody goes to apply to vote. It says that you must have been in Jersey for 2 years, ordinarily resident, to be able to vote and we already do that for candidates. So if a candidate rocks up from the U.K., never been in Jersey for more than 2 years, I have been an ordinary resident in Jersey for 2 years now I can stand for election. That is administered, again, by the Parish Hall. So the idea that all of a sudden we do not understand what "ordinarily resident" means or that we do not think "ordinarily resident" is a sufficient test, cannot hold any water because it is something that we already use. We are very accustomed to it and so it seems sensible in order to make the bar higher and to say that: "Yes, we should have a Jersey residency and a Jersey citizenship test, what should it be?" It should be 5 years. Now, I have not heard anybody saying strongly, apart from maybe one person, that the 5-year period is wrong. I have heard some people say to me privately: "I think 5 years is a bit too long, is it not? What if somebody has been here 2 years and they find out they are a good candidate?" I have heard a couple of other people outside the Assembly, and perhaps one in here, saying: "5 years is too short a period to stand because if you have only been in Jersey 5 years how can you possibly have the knowledge to stand for election?" But, of course, the current *status quo* that we have only says 2 years. So which is it? We are quite happy for somebody, as Deputy Mézec said, from the far-flung regions of the Outer Hebrides, and I do not think he was suggesting that all people from the Outer Hebrides who make their home in Jersey are necessarily sponges or good-for-nothings, but I suspect that it is quite right that you could have somebody come from a far-flung point of the British Isles or indeed a British citizen who has no knowledge of Jersey and has not acquired it in 2 years standing for election. But that brings it back to the practical test. People talk about bars, needing a higher bar. We already have a very high bar to become a States Member and that is called an election. I do not think that people go into elections hopefully in any way without knowing what they are getting themselves into. Some, no doubt, do and when the public look at who is getting elected I think it is generally right, people do not knock on a door and say: "I am sorry I am going to slam the door in your face because you are not a British citizen." I think they are more interested in what the ideas are, what their values are and what they would seek to get done if they became a States Member. I go back to the point that I made earlier, is it conceivable, is it possible, is it likely that there are people out there who would make good States Members? I think it is absolutely the case in those 3 answers. Now, when people stand up and make what I think are essentially outdated statements about loyalty but also about national conflict and the idea that how would somebody possibly serve in this Assembly if they did not have British nationality? Let us say an Argentinian, shall we, and that something happens with the Falklands; perhaps that is not the best example, it might put people off. But it ignores the fact that currently there is nothing to stop people having dual nationality and being eligible to stand in our Assembly. So you could have an Argentinian and a British dual national who stands in this Assembly and they would have to take the oath. I mean that is the only way we have of conferring our loyalty as States Members to the Crown and that would presumably preclude any British republicans from being able to take their seat in the Assembly as well. Anybody who is not prepared to take the oath of office cannot take their seat in our Assembly but that exists already. We could have a German national who has also been naturalised British or who has married a German national, British national in this Assembly. We could have somebody who is married to a Swedish person in this Assembly. We could find out that that Swedish person, who also has British nationality by virtue of the marriage

and being naturalised, then becomes a British national and a States Member because she has been elected to this Assembly. We might have trade negotiations or, worst case scenario, a war breaks out between the U.K. and Sweden and that person has to try and resolve that conflict but we know the code of conduct for States Members says: “Whenever a conflict arises you must resolve the conflict in the public interest” and you would presume that a Member of this Assembly would always go with the interest of the Island and the interest of Islanders. So I think these arguments about nationality are outdated. I would have expected them in the Cold War and I think Deputy Southern has already highlighted that the chances of us ever having 48 Russians presiding in this Assembly is probably rare. It is probably quite a long shot. I know we live in a post-Brexit post-Trump world but if the Constable were to give me perhaps 10 million to one odds on that I would prefer to keep my pounds than accept the bet because I think that would be a more lucrative proposition in the long run. There is a practical problem of course because there are only 26 Russians in Jersey currently so we would need to supplement that with the 10 Egyptians that are here in the Island to get that up to 36 and then to add the 12 Bangladeshis or the 12 Mauritians to get that up to the magical total of 48 but I agree it is entirely possible. Now, under the *status quo* of course we could have 48 Welsh speakers currently elected to this Assembly who speak Welsh and no other language or choose only to speak Welsh. They would struggle in this Assembly of course because we are an English and French speaking Assembly but we could easily have 48 French nationals who get elected and they would be conversing quite happily in French which is one of our national languages and we would not need to change Standing Orders or anything for them to be able to do that. The Italian restaurateur is an interesting one, is it not, because on the one hand we have Deputy Mac’s, Italian restaurateur, who is probably quite interested in politics? He has seen people come in. He has seen politicians come to dine back in the days when they used to have ...

**The Deputy Bailiff:**

Deputy, you must refer to the Deputy by his proper name. You cannot use a short version.

**Deputy M. Tadier:**

Sorry, what did I call him?

**The Deputy Bailiff:**

Deputy Mac.

**Deputy M. Tadier:**

Sorry. It is my note; that is what it was. I should not use shorthand. Deputy McLinton. We have his Italian restaurateur on the one hand who is interested in politics. Over the years he has probably seen people coming, politicians back in the days of the gravy train when you could put everything on expenses, when they were unpaid but they went out for really good lunches and where it was completely acceptable to drink lots of wine and then go back into the Chamber in the afternoon. He got to know politicians. He got to know how politics worked and he said: “Well, some of those politicians are really good. I can see that they are doing a good job but some of them are talking complete rubbish. They have not got a very good work ethic because they go back to work in the afternoon and they are half inebriated”; that is probably the parliamentary expression, and he thinks: “I could do a better job than that” and after this period of time he has now retired from the restaurant and he thinks: “Well, I want to put my name forward. I think there are lots of issues that are not currently being addressed in Jersey, like the housing issues, like the people living in unqualified accommodation, like the 5-year rule which I have got some really interesting ideas about, population and how we could be a welcoming Island but put in things which would be acceptable both to businesses and to the wider community including the foreign community.” That is the kind of person I want in the Assembly but then we have got the Constable of St. Mary’s Italian, same restaurateur, but he apparently is not registered to vote. He has got no interest in

politics whatsoever, like the majority of Islanders irrespective of where they come from. Because that is the Italian restaurateur that she knows there is no need to do this because apparently foreigners are not interested in politics anyway and they would not want to be in the States Assembly even if they could be. I do not take that. I say just take down the barriers and let the public decide who they want in this Assembly. I thank the Chief Minister for the sentiments that he has conveyed because I think that is a really important message. Even though he is not voting with me on this occasion I do think it is a very important message to send out. I would also like to put on record that it is completely unacceptable, especially as it often occurs on Facebook, when we try and get discussions going and I have tried to ask people, when the Chief Minister comes in for abuse for anything other than his politics, I could probably phrase that better. What I mean to say is that there are people out there in Jersey today who criticise the Chief Minister for not being a Jersey person and I think that is completely unacceptable. I think we are not any better or worse served by the fact that our Chief Minister happens to be an Englishman who has made Jersey his home than if he were a Jersey-born person or anyone else for that matter who came to Jersey. I will take exception with the politics and the policies that I happen to disagree with, and I have no problem with people doing that, but as soon as it gets down to the argument: "He is not from Jersey or anyone is not from Jersey, what do they know and what do they have a right to say about how our Island is governed", then I think that is completely unacceptable and fundamentally wrong. But unfortunately these are the same people who still use the same argument which is applied to other foreigners. They say: "Well, they are not from Jersey. They are not even British. How can they possibly have anything to give of any worth to this Assembly?" I would simply remind Members that things do change. We have policemen, we have Honorary Policemen, we have foreign nationals who do not have their British nationality, who maybe will never have it, who do not have the money or necessarily the inclination to get that who work in our charitable sectors, who work in the hospital, who look after our elderly parents, who give birth to our children whenever they are called upon to do that. They clean up after our children or our elderly parents. They look after the disabled in our community and to say that they do not have anything valuable to contribute to our Assembly purely because they are not British is putting up a barrier or maintaining a barrier which is completely unnecessary in the 21st internationalist world. I think many of the arguments that I have heard are outdated. They belong in a past world where there was a cold war going on, where there were isolationist tendencies happening which I hope we will not slip back into as a global community. I think I am going to leave it there because I think the argument for part (a), at least in theory, has been won. I think the majority of people in this Assembly realise that we are better served, even if technically we are still allowed to do it, even if technically we are part of the U.K.

[11:30]

In fact we are part of the Greater British Isles. We are a British island. That is absolutely correct and that does not stop. We are not taking anything away, I would answer to Deputy Maçon and perhaps others. This idea of reciprocity, you know different countries have different arrangements that work for them and what I am asking is that we put in place something that works for us. We are not defined solely by our Britishness. We are defined by the fact that we are a welcoming community which for centuries has been welcoming people and which of course was not always part of the U.K. apart from an accident in 1204 and previously in 1066. I would ask Members if they agree with this principle, and it is an in principle debate, to vote for part (a) if Members genuinely believe that we should remove the British nationality exclusivity clause so that we can perhaps one day have one or 2 non-British residents who pass through the electoral barrier and get elected to the States because people put their confidence and their faith in those individuals to take down that barrier. Not to get fixated on part (b) because, as I said, we have that requirement already. We have a definition, I should say, which is in the law. This will go to P.P.C.; it is an in principle position and if somebody or P.P.C. in their wisdom thinks that there is a better way of



doing it they can certainly take the legal advice. They can talk to the Attorney General and say: "Is it possible to apply another residency test for this? Is it possible to graft the Housing and Work Law on to this? Or do we need to stick with the current definitions of "ordinarily resident" which are generally well understood and well administered?" I suggest that we can do that. If the 5-year rule is acceptable to most people as the test for Jersey citizenship then they should go for both parts (a) and (b) and if there are general concerns they can be conveyed to P.P.C. who will be putting the meat on the bones and when that comes back for the final reading of course, there will be an opportunity for amendments. I would suggest that today is the time to send a positive message out to the Jersey community and to the wider world that we are an inclusive Island, that we can vote for the principle of foreign nationals standing for our Assembly - Jersey citizens who may happen to be foreign nationals - and that we can work on the detail in time for 2018. So I do ask for the appel and I do ask for both parts to be taken separately. Part (a) and then we can have a pause after part (a) and then go on to part (b) and (c).

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

I was going to ask the Deputy for a point of clarification.

**The Deputy Bailiff:**

Yes, if the Deputy is prepared to.

**Deputy J.A. Martin:**

The Deputy has just said it is in principle, but I think the Deputy is missing the point that the in principle that I am reading hangs together with (a) and (b). Even in the Deputy's summing up he said the 5-year test. But he did not explain what the Deputy is talking about. Can he explain to me what I think he is talking about a 5-year test and what he has written down here are not married-up? I think that is concerning a lot of people and I think the Deputy is missing our point completely.

**The Deputy Bailiff:**

That sounds like there is a real desire for clarification on that point, Deputy, so are you able to help the Assembly?

**Deputy M. Tadier:**

I have got various tabs here and I have lost my proposition. Thank you. I will read the wording for part (b). As I said earlier I tried to address it; I am sorry if it remains unclear. I put part (b) in deliberately because I think that some Members find that it is one step too far to allow both foreign nationals or to remove the British nationality requirement and not to have some kind of Jersey substitute of citizenship. Now what I have said in my report is that: "What should the rule of thumb be? Should it be 2 years; currently? Should it be 5 years? Should it be 10 years? Or should it be never?" I mean, those seem to be the figures that we could have some kind of logic to. We have a 2-year period currently. We have a 5-year work rule and we have a 10-year residency rule for the housing market. So I have chosen the middle of that. In my report while I do refer to the fact that we have this 5-year rule, clearly I have said that we need to amend the Election Law and the States of Jersey Law to change the 2-year residency to a 5-year residency to reflect. It does not copy and paste it. It is not the same law. It is to reflect the fact that there is a 5-year period. Now the Election Law says that you have to have been ordinarily resident in Jersey for at least 2 years in total for a period of up to 6 months before and including the election date. That is what the law currently says and that is what it says for voters. What I am saying is that that 2-year rule is too low for most Members. I do not necessarily have a problem with it, but I think it is too low in order to make this proposition viable. So I am saying change that to 5 years. So rather than having been ordinarily resident for 2 years in Jersey you have to be ordinarily resident for 5 years in Jersey. Now if people have a problem with the ordinarily resident concept that is something I would

suggest they need to take up separately. It is something that they need to tell P.P.C. about and say ordinarily resident is not satisfactory. How do you define it? You can talk to P.P.C.; you can talk to the Constables about it because they currently administer that law when they register people for election. The bottom line is I think Members can vote for part (a); they can vote for part (c); and I would encourage them of course to vote for part (b) as well because I think that is perfectly fine; as it is worded it gives us the sufficient safeguards in there and it will go to P.P.C. anyway to put the meat on the bones. If people have got a problem with (b) as it stands I think they simply vote against it. So people who like the idea of foreign nationals being able to stand for election in Jersey, vote for part (a), vote for part (c); by all means vote against vote (b) if you want to. I do not think I can clarify it any further than that without perhaps asking for legal advice. But that is certainly very clear in my mind.

**The Deputy Bailiff:**

Very well, thank you. You have called for the appel. You have asked for the various subparagraphs to be taken separately.

**The Deputy Bailiff:**

Very well. I invite Members to return to their seats. The vote is on part (a) of Deputy Tadier’s proposition. I ask the Greffier to open the voting.

<b>POUR: 8</b>		<b>CONTRE: 31</b>		<b>ABSTAIN: 2</b>
Connétable of St. Brelade		Senator P.F. Routier		Deputy J.A. Martin (H)
Connétable of St. Martin		Senator I.J. Gorst		Deputy M.J. Norton (B)
Deputy G.P. Southern (H)		Senator L.J. Farnham		
Deputy M. Tadier (B)		Senator P.M. Bailhache		
Deputy S.Y. Mézec (H)		Senator A.K.F. Green		
Deputy R. Labey (H)		Senator S.C. Ferguson		
Deputy of St. Mary		Connétable of St. Clement		
Deputy P.D. McLinton (S)		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Connétable of St. Ouen		
		Connétable of St. Saviour		
		Connétable of Grouville		
		Connétable of St. John		
		Connétable of Trinity		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		
		Deputy of St. John		
		Deputy J.M. Maçon (S)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy A.D. Lewis (H)		
		Deputy S.M. Wickenden (H)		
		Deputy S.M. Bree (C)		
		Deputy T.A. McDonald (S)		
		Deputy G.J. Truscott (B)		

**Deputy M. Tadier:**

Could I ask to withdraw part (b) if I am allowed to do so with the leave of the Assembly.

**The Deputy Bailiff:**

To withdraw part (b) would require, as you rightly say, the leave of the Assembly. Is the Assembly agreed that the Deputy may withdraw part (b)? Very well. Unless I am mistaken in the mood of the Assembly part (b) is withdrawn and then part (c) automatically falls away. Very well.

**2. Brexit Report: steps taken by the Government of Jersey before notification by the Government of the United Kingdom under Article 50 of the UK's intention to withdraw from the EU (P.7/2017)**

**The Deputy Bailiff:**

The next item is the Brexit Report: steps to be taken by the Government of Jersey before Notification by the Government of the United Kingdom under Article 50 of the U.K.'s intention to withdraw from the E.U., P7/2017, lodged by the Minister for External Relations. As the proposition has not been lodged for long enough to be debated at the present meeting without the leave of the Assembly, so Minister, do you ask the Assembly to reduce the lodging period?

**Senator P.M. Bailhache (The Minister for External Relations):**

I do ask the Assembly in accordance with Standing Order 26(7) to reduce the minimum lodging period and that the test for the Assembly is whether it is in the public interest to do so. The constitutional importance of this proposition is that it asserts the responsibility of the States Assembly for enacting legislation in Jersey. It is not for the United Kingdom Parliament to enact legislation for Jersey. It is for the States. The public interest in debating the proposition today is that it is highly desirable in my view that the proposition should be adopted before the United Kingdom gives notice under Article 50 of the European Union Treaties to leave the European Union. The Prime Minister, Mrs May, has indicated that the trigger of Article 50 will be pressed before the end of March and at the moment the proposition is down for debate on 14th March. The difficulty for us is that the speculation in the media is that the Prime Minister might very well take the opportunity of the European Council on the 9th, I think, or 10th of March to give notice to her European colleagues that the United Kingdom is leaving the European Union. We know that the House of Commons has adopted the Bill which will give authority to the Prime Minister to give notice. The Bill has now gone to the House of Lords, but the expectation is that the Bill will have received Royal Assent by the end of February. Therefore it would be open to the Prime Minister to give notice at the European Council at the beginning of March. As I say, I think it is highly desirable that the proposition be adopted before the formality of withdrawing from the European Union is activated by the United Kingdom Government and that is the reason why I request Members to deal with the matter which I do not think is particularly controversial, this morning.

**The Deputy Bailiff:**

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition to shorten the lodging period to enable this proposition to be dealt with today?

**Deputy M. Tadier:**

Obviously the public interest test needs to be made and while the Minister has suggested that it is of constitutional importance, he has not explained, I do not think, why, because the wording of the proposition could easily be rephrased to wait for the U.K. to withdraw from Brexit and trigger that.

Then we would have the added advantage of having certainty of knowing that they have done that. So the wording could be changed to read: “We have noted the fact that the U.K. has triggered leaving the European Union” and as a consequence, *et cetera*: “We ask Ministers to go ahead and make the relevant preparations in Jersey.” So I do not think that, in my mind, has been made for reducing the lodging period, something which is becoming increasingly common in the Jersey Assembly; only on the part of the Ministers: they seem to be the only ones who are allowed to use that mechanism.

**Deputy G.P. Southern:**

Like Deputy Tadier, I do not see the public interest in asserting our rights beforehand, or asserting our rights after the Prime Minister has acted. I cannot see that it is one absolutely needs to be when we cannot assert our rights.

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

Briefly, it is a very short lodging period. But what the Minister for External Affairs is asking I think, you know, events have overtaken us. We do not know where we are and I would not want us to be there with saying we have to wait and vote on the 14th March, if it is. I do think this one does pass the public interest test for Jersey [**Approbation**] and I support it.

**Deputy A.D. Lewis:**

If Deputy Southern and others had attended a briefing that the Minister for External Relations gave last week, they would fully realise the importance of this. It should be done as soon as possible. I think the Minister, when he gets the opportunity, will explain that very clearly when he comes to the standard proposition. This is a matter of urgency. We have got but a few weeks before the U.K. Government takes action which could change the world for ever, let alone what it will do with Jersey. So to be on the front foot with this I think it is absolutely imperative.

**The Deputy Bailiff:**

Does any other Member wish to speak on this proposition? I call on Senator Bailhache.

**Senator P.M. Bailhache:**

I am grateful for the support from some Members for the proposition that we should proceed with it today. I do not think I really have anything more to add than I said in my opening, and I ask Members to support it and ask for the appel.

**The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting. The vote is on whether or not to reduce the lodging period to permit this proposition to be dealt with today.

<b>POUR: 34</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham		Deputy of St. John		
Senator P.M. Bailhache		Deputy S.Y. Mézec (H)		
Senator A.K.F. Green		Deputy A.D. Lewis (H)		
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				

Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

[11:45]

**Senator P.M. Bailhache:**

I am grateful to Members for agreeing to take this matter this morning. There are 2 ...

**The Deputy Bailiff:**

I am terribly sorry. The Greffier has not yet read the proposition.

**Senator P.M. Bailhache:**

Oh, we have not read it. I beg your pardon.

**The Deputy Bailiff:**

I am afraid I nodded rather too soon in your direction. Greffier, would you read the proposition, please?

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion - (a) to recognise that the Government of the United Kingdom is likely to issue a notice under Article 50 of the Treaty on European Union to withdraw from the European Union; and (b) to endorse the Council of Ministers' intention to propose the repeal of the European Union (Jersey) Law 1973.

**2.1 Senator P.M. Bailhache:**

I repeat my gratitude to Members for agreeing to take this matter this morning. There are 2 purposes of this report and proposition. The first purpose is to bring Members up to date on what has been happening on the Brexit front since the report of the Government was lodged in the States or presented in the States on the 27th of June. The report does 3 things, as is explained in paragraph 1. It sets out the background to Jersey's external relations' policy so as to provide the reader with the context for the E.U. withdrawal process that is taking place. Secondly, it summarises what the Government has been doing since the Brexit vote on 23rd June; and thirdly it

sets out the steps which the Government will be taking in the light of the U.K. Prime Minister's statement on 17th January and in anticipation of the triggering by the U.K. Government of Article 50 following approval by the United Kingdom Parliament by the end of this month. Secondly, it addresses a constitutional issue which arises from the United Kingdom's decision to leave the European Union. The constitutional issue is ... perhaps I should just say that I do not propose to say anything more about the contents of the report, although I should be very happy to answer any questions that Members might have on the report. As Members will know, my ministry has been doing its best to keep Members informed. The first of a number of workshops has taken place and those will continue in order that Members may be fully informed as to the way matters are proceeding. Constitutional issue is very simple. It is that this Assembly is responsible for the enactment of legislation having effect in Jersey. It is not the United Kingdom Parliament that has this responsibility; it is the States Assembly. Yet the decision of the United Kingdom Government to give notice under Article 50 of the Treaty will set in train a process that will involve the United Kingdom leaving the European Union, Protocol 3 which governs our own relationship with the European Union falling away and if we do nothing, our own European Union Jersey Law of 1973 becoming otiose or ineffective. That would be constitutionally wrong. It is not for the United Kingdom Government or indeed for the United Kingdom Parliament to set aside a law which has been adopted by this Assembly, even if the setting aside comes about by a side wind or indirectly. The proposition therefore protects our constitutional autonomy by acknowledging or recognising to use the technical term that the United Kingdom in the exercise of its sovereign power will withdraw from the European Union and asks the States to endorse the intention of the Council of Ministers to propose the repeal of the 1973 Law. We would, therefore, in adopting this proposition be asserting our authority and our responsibility to decide to repeal the European Union Law. It is a small but important restatement of the constitutional principle that we in this Assembly have the sole power to legislate for Jersey. The people of Jersey have no other parliament upon which to rely. They do not elect representatives to the House of Commons; they elect representatives to the States of Jersey. It is, therefore, our responsibility to decide how and when and in what circumstances to repeal the 1973 Law. The Government of Jersey or the Council of Ministers will bring forward a Great Repeal Bill, as it has been designated in the United Kingdom for U.K. purposes, which will invite the States to repeal or to adapt all legislation relating to the European Union. In the meantime, and before the United Kingdom gives notice under Article 50 and sets in train the whole process which will result in the United Kingdom leaving the European Union, I am asking the Assembly to endorse our centuries-old autonomy and to adopt the proposition. I move the proposition and would be glad to answer any questions that Members might have.

**The Deputy Bailiff:**

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

**2.1.1 Deputy J.M. Maçon:**

Just for clarification, the debate in the U.K. about the Great Repeal Act is about whether the current legislation that works from the European Union, whether (1) it will just be repealed, or (2) it will be converted into domestic legislation and, therefore, it allows the U.K. to hold where it is and then change as and where it goes along. Just to clarify, is that the approach that Jersey would be taking in future?

**2.1.2 Deputy C.F. Labey of Grouville:**

I am just slightly confused and I am standing here to ask for some confirmation because in the clause (b), as the Minister has said, he is asking us to endorse what the Council of Ministers are proposing, but in the Supreme Court recently they ruled that the Scottish Parliament had no right to veto the triggering of Article 50. The Minister for External Relations is asserting in (b) that the

States Assembly, as he said, we are asserting our authority, but in doing so he is also asserting that we have a right to veto Article 50. It does seem a very strange position to be in that we would have some sort of right to veto it now when we had no right to vote whether we stayed in or left the E.U. Also, and I make no apology for continuing my persistence in this, I notice in the report that 4 working groups have been set up to pursue Brexit, this issue; could the Minister say whether he has considered setting up a grand committee? For a subject such as this it should not remain the preserve of a few that happen to sit in the Council of Ministers or whatever, but the 4 working groups, could he confirm who they consist of and if it is going to be opened up to other elected parliamentarians. Thank you.

### **2.1.3 Deputy S.Y. Mézec:**

I will be voting against both part (a) and part (b) on this. They say that a week is a long time in politics and, therefore, 2 years of negotiations is going to be an incredibly long time. It is my view that the Government of the United Kingdom - and I am a registered voter in the U.K. so I am entitled to an opinion on what they are doing - I think that so far their conduct since the referendum has been embarrassing, unprofessional and shabby and I have no confidence in them to deliver a good result from those negotiations with the European Union. But this proposition, part (a) says: "To recognise that the Government of the United Kingdom is likely to issue a notice under Article 50." I do not want to support that for the simple reason that it is presumptive and that the House of Lords is next week going to begin debating amendments to the European Union (Notification of Withdrawal) Act. Those amendments may well alter the nature of those negotiations quite substantially and, of course, there are moves in the Houses of Parliament to make sure that the final deal that arises from those negotiations is then put again to the public of the U.K. for another vote to endorse. So the road to Brexit is not a straight and clear path, there are many things that are going to get in the way and I think it is wrong right now to presume what the Parliament of the U.K. is going to do and what form that takes right now. I personally do not see the harm in waiting until after that Act has been approved by both Houses of Parliament and we know what shape and form it is taking and what amendments do or do not get accepted to it before passing a proposition that simply recognises that something has happened. I mean, on its own I think that is a bit of a strange proposition to ask. But then part (b) asks us to endorse the Council of Ministers' intention to propose the repeal of the European Union (Jersey) Law. Well, of course if the U.K. goes for some sort of hard Brexit then we know that will obviously be necessary for the reasons that Senator Bailhache has outlined. However, we do not yet know when the date of the triggering of Article 50 may be. It could be a substantial time from now if the Government of the U.K. wishes to do more work to prepare itself for those negotiations, and then there will be a 2-year period of negotiations which may or may not end up with the U.K. leaving the E.U. because if some of the attempts in the U.K. are successful for a second referendum then it is entirely possible that nothing would end up happening anyway. But assuming that everything goes according to the plan of the Prime Minister in the U.K. it will be 2 years before the U.K. does leave the European Union, before Protocol 3 ceases to exist. That will be in the term of the next States Assembly and I fail to see why it is so important to endorse a position of repealing a law that in the long game is entirely possibly it may not be necessary to repeal, and if it is necessary to repeal there is plenty of time to get on with it. So I see no point in either parts of these propositions, I will be voting against and of course I want it stated on record, my right as a U.K. citizen and voter, the absolutely appalling and embarrassing way that this whole affair is being conducted.

### **2.1.4 Deputy R. Labey:**

I am not quite sure why we are having this debate on this report and why the Minister is not just proposing the repeal of the legislation. But that is probably me not understanding parliamentary process. I just have one or 2 questions for the Minister, and observations.

[12:00]

The glaring void seems to me to be no discussions with the Parliaments of Brittany or Normandy. Should this not be a priority as their senior representatives could influence the French Government position in our favour possibly? Is this not an oversight which should be corrected before we offend our nearest neighbours, who are perhaps surprisingly resistant to Paris, very anti-Brussels, and could be very useful? They say no man is an island; well no island is an island anymore and we cannot just sit here expecting in the Island to have influence or our best interests advanced, or be attractive to inward investment. That is perhaps why the External Relations Department was formed and why we had a kind of flying bishop or flying Minister in Senator Ozouf before recent events. Perhaps the Minister for External Relations would agree that in that role Senator Ozouf networked with as many U.K. Ministers as he himself or the Chief Minister. By the way, I think that was a much misunderstood role. The public of Jersey were never explained the value of that role, and one can see from Facebook - if you happen to look on certain pages - that it was deeply misunderstood. It is a fact that it was carried out with great elegy and skill. It is an awful role, I am not vying for the job, but I would like to know who is doing that now. Do we have a void in not having somebody so energetic, so good at networking, acting on our behalf? The whole thing seems to be very External Relations Ministry centric now. Does the Minister not consider that we should perhaps do as we did in 1973 and have a kind of grand committee of Ministers, and perhaps non-Ministers, as opposed to a kind of Ministry of the Jersey Foreign Office, which makes it look now like the U.K. is a foreign country. Those are my observations and I would be most grateful to hear what the Minister thinks of them.

### **2.1.5 Deputy J.A. Martin:**

I am glad that this debate did go ahead and I absolutely endorse it. It is a matter of real public interest. My problem is now I have real difficulty to support what the ministry is asking of us. I do not agree with the comments of Deputy Mézec - who is holding out for the cavalry in the U.K. for a second referendum to overturn the first - and I do recognise the Government of the U.K. is going to trigger Article 50. But my problem is really with part (b) which says "To endorse". Now all of us here really do not know what is going on behind the scenes, and I am sure a lot of the other Ministers do not, but we are today: "To endorse the Council of Ministers' intention to propose the repeal of the European Union (Jersey) Law 1973." I trawled the report and it is just the last paragraph on page 10 and it talks about: "As previously mentioned, the Law Officers' Department has undertaken a review of Jersey legislation in the light of Brexit. This is a major exercise which will continue for a considerable period. However, it is clear that Jersey will need to repeal the European Union (Jersey) Law 1973, which implemented Protocol 3 and created certain rights and obligations in Jersey." I would say "for Jersey" as well. "Accordingly, the States of Jersey are asked to consider the above proposition." Well that is where I have great difficulty, and the only part I agree with Deputy Mézec, it is very early days. I listened carefully to the Minister speak when he was proposing this and I got the sense of: "We are a sovereign state, we must basically jump before we are pushed." I heard that. "We must maintain the right to repeal this law before the U.K. ask us to repeal the law" because they will have to negotiate with us and on behalf ... I have been told here that now the U.K. are coming out of the European Union we could stand alone and talk straight to the Union and we may have different rights. The Chief Minister is nodding his head. But, again - this is why I come back to today - the real clear endorsement this asks for in paragraph (b), I mean, (a) is a given to me, yes, we recognise the Government is likely to issue the notice under Article 50. But then to endorse the Council of Ministers and to propose the repeal of the law which protects us under Protocol 3, the European Union (Jersey) Law 1973. I do ask - like probably the Deputy of Grouville and Deputy Labey - we do not know enough. I apologise I was not at the Brexit meeting last week but I doubt if many people there understood where we are going to be. This is what I want to know, are we any further down the line to knowing what will replace



the European Union (Jersey) Law 1973? My answer is no. I do not think I could attend, I was at a different meeting, but this is to me a massive, massive step for Jersey that has been here since 1973. We do not know what the U.K. is going to do with Jersey, we do not know what the European Union is going to suggest where Jersey fits. But today, on a very flimsy report and proposition, we are being asked to endorse to repeal the law, and I am very concerned. So the jury is not out, at the moment I am not going to support (b). (a), to me, as I say, is a given but I will listen to the Minister when he is summing up very closely because I absolutely agree we are sovereign state and I did get in his opening speech that he wants us to do this because he wants us to do it and not the U.K. Government. Well, if we give the U.K. Government 12 months they might give us a deal. We do not know, but the Minister might know because, as I say, there are a few more people around the table than we are and I look forward to his explanation. But I would say be very cautious. It is a massive, massive question they are asking us today. Thank you.

#### **2.1.6 Deputy M. Tadier:**

Not too dissimilarly to my colleague, Deputy Mézec, I would question why we are even debating this at all given the wording of the proposition. If we look at both parts: “To recognise that the Government of the U.K. is likely to issue a notice under Article 50 of the Treaty on European Union, to withdraw from the European Union.” It seems completely unnecessary to even bring that to the Assembly, given the fact that it is simply a truism. We might as well have a proposition that says to notice that the sky is blue or that when it rains that people get wet and, therefore, part (b), to issue umbrellas to people. It is simply something that is very obvious. The second part is: “To endorse the Council of Ministers’ intention to propose the repeal of the European Union (Jersey) Law 1973.” We are not being asked to endorse the Council of Ministers’ proposals, it is the intention that they are going to propose the repeal of the European (Jersey) Law 1973. If we had that in front of us we could endorse that, but presumably they are going to do this anyway. Do we get into the situation now where we have to endorse everything that the Council of Ministers is intending to do? I mean, the Council of Ministers is intending to put this proposition in a year’s time to deal with this issue and we are asking for the endorsement of the Assembly that they can carry on with their intention to lodge a proposition, which does not mean you have to vote for the proposition anyway and you can amend it. Completely nonsense. I did attend the hearing at the Town Hall. I was interested by it and I was probably even more confused when I left than when I went in because I did not receive a convincing answer as to why this was even proposed, why we had to debate it today, why we could not wait for the U.K. to withdraw and then just have a retrospective proposition saying: “We know that they have withdrawn and, therefore, we have to make some consequential changes. We have some housekeeping that goes in line. We did not decide to leave the European Union but there are consequences that go along with it so we need to repeal some laws, some regulations.” It is just basic housekeeping. It became quite apparent that what is going on here is a desire to affirm the fact that we are essentially an autonomous Assembly. It is that which points to the fact that I think this proposition is self-indulgent. I think it is superfluous. We do not need to debate this today, if we did not debate this and it does not get passed today nothing would happen, nothing would change. The European Union would still be left by the U.K., that would go along and we would at some point say: “Well, these laws, probably get rid of them now because they will become otiose, they will become redundant, so we should probably just get rid of them anyway or be perhaps proactive in other ways to make sure that the relevant changes are being brought in.” That is being done anyway, we are being told. So it seems to me that this is just a little bit of nationalistic positing. There has been no discussion with the U.K., even out of courtesy, to say: “By the way, we are lodging this, just so you know.” We would not expect that of the U.K., we have a policy which says nothing about us without us and the U.K. do at least consult with us in any areas that our interests are triggered or put on the table. We may as well just have a proposition today which says: “The States of Jersey is asked to agree and to

remember that we are an autonomous Assembly and that we can make our own decisions and that we will not be bossed around by the U.K.” That is essentially what we are being asked to do and it seems a bit churlish to do that, given the fact that we already know that is the case and that is not under any threat. So I will not be supporting this proposition. I think there will be relevant changes that will need to be probably endorsed by this Assembly in due course, but now is not the time that we need to do that.

### **2.1.7 Deputy A.D. Lewis:**

I rise to support this in its entirety. We are all inundated at the moment with media reports about what might happen, what could happen, what will happen. We really do not know, but what we can do here is give a degree of certainty that we are doing an awful lot to negotiate that ahead of time. We are getting regular updates from the Senator about what Senator Bailhache’s team is doing in terms of Brexit, we are being kept well informed. There is an awful lot going on. David Davis yesterday said that they were definitely going to be triggering things by the end of March. Speculation says that it may well be before that. You may not be aware, but there is a summit on 25th March where all the E.U. countries are getting together to celebrate 60 years of accession to the Union. I do not think they are going to trigger it then. So it is highly likely to happen very, very soon so we absolutely need to be on the front foot with this. So I think the Senator and his team are absolutely right to bring this to our attention and we should be doing exactly as it says in the proposition and preparing for the unknown because the U.K. Government do not know either, they have not started negotiations. It is vital that we get on the front foot. There are lots of work streams that have been told to us that are going on currently behind the scenes. I do not see one listed here about negotiating with our near neighbours - I am talking about Normandy and Brittany - but I am sure that is something that will come. But that just demonstrates how much there is to do. So the more we can do now and do things like this, proving our sovereignty now - because we do have a degree of sovereignty here - but the thing that we benefit from Protocol 3, once it is gone what we benefit for currently is customs union by not being a member of the E.U. So we do not want to lose that, so everything we can do now to prepare for that possibility we should be doing. That is hoping that the U.K. Government will negotiate not necessarily on our behalf, because they want to do this anyway, they want a good trade relationship with the E.U. post-Brexit, and they want freedom and movement of labour to an extent as well and so do we. There are industries here that desperately need labour and they are going to come from the E.U; these are all things we need to be doing now and we are preparing. So this is exactly the sort of thing we should be doing now, getting ready for that on the front foot, not waiting for the U.K. Government to tell us or lead us as to what we should do next. So I think the wisdom that External Relations is showing us by getting on the front foot we should be fully endorsing and fully supporting and getting behind this proposition, starting that journey. Nobody knows where it is going to go. The U.K. Government do not know where it is going to go, and we have little control over it but we can make a plan and this is part of that plan.

[12:15]

So I would urge Members to fully support this and then get behind the whole process that the Minister for External Relations is engaging. I fully understand what the Deputy of Grouville is saying, input from all Members I am sure will be valuable and I hope will be welcome. The Minister has already indicated that and I would strongly urge him to continue with that vein as it is such an important issue to all of us. Thank you.

### **2.1.8 Senator I.J. Gorst:**

I do not want to say too much because I know that Senator Bailhache will be able to cover all of the points that Members have raised more than adequately and eloquently. But let us be clear, this is a

cross-government piece of work. Ministers and departments are engaged in working together, not only with the Ministry of External Relations here, but with their counterpart departments in the United Kingdom. We have had the first of our workshops with States Members and I appreciate that not all States Members were able to attend those workshops or were able to attend the first one, but there was a good turnout and that will continue to be the case. We will continue to revise and review how we are engaging with States Members, the concerns that they have got on particular issues, and then how we feed them into the working groups which the U.K. Government ... let us be clear, the 4 working groups are groups which we have worked together with the U.K. Government to allow engagement and to allow understanding of our positions in those particular areas. I am not sure that all Members have necessarily understood what is happening. The United Kingdom voted in its referendum to leave the European Union. The United Kingdom is the member state of the European Union, and our relationship with the European Union is governed, as we all know, by Protocol 3 which is a small couple of paragraphs connected to the U.K.'s accession to the European Union. They are the member state which over the course of the 2 years, once Article 50 has been triggered, that will be negotiating their exit out of the European Union, therefore, they will no longer be a member state of the European Union. They are the member state and they will be representing our interests. Of course we will continue to work with our Norman neighbours and build good relations, over the last number of years. We strengthened the B.I.A.N. (Bureau des Îles Anglo-Normandes) office in Caen and that is acting as a bridgehead into Paris as well. So we are doing all of those things. Of course the Channel Island Brussels office is negotiating and helping not only the Commission but also the permanent representatives which act on behalf of the council as well, and parliamentarians. So we are doing all of those things that I think Members would expect us to do throughout the course of these 2 years. But it is important that we understand that it is the United Kingdom that is doing the negotiation around their exit of the European Union. We have something in Jersey called the European Union (Jersey) Law 1973, which gives effect to our relationship with Europe. That was a piece of legislation that was agreed by this Assembly and, therefore, it is right that it is a piece of legislation which is repealed by this Assembly. The approach that is being taken mirrors the approach which the United Kingdom Government is taking, and that is the production of a Great Repeal Bill. I am not sure from some Members' speeches, we seem to have had the "we are not involving Members enough", and then other Members saying they are not going to vote for what the Minister is proposing because they do not feel that they need to be involved in it. When the United Kingdom went into Europe and this Assembly and committees had to decide what our relationship was going to be, there were a number of debates in this Assembly about how that would happen and how it should take place. This now is one of the first debates leading us ultimately to that changed relationship and to the U.K. leaving. It is not a commitment to what that law will say, it is simply this Assembly - which is right because it is the sovereign parliamentary body for our autonomous Island - not just simply for Ministers to be making the decision, or the Executive, but for Ministers to be getting the support of the Assembly because that is a constitutionally correct approach to take to say that we recognise that the United Kingdom is likely ... so the concerns that Deputy Mézec had are covered by that because we are recognising that they are likely to trigger Article 50. He is nodding his head but that is the accurate position today. The parliamentary process in the United Kingdom Parliament has already started. It may get amended by the House of Lords, the House of Lords may drag their feet, but there is still now a parliamentary process in the United Kingdom in place to give effect to trigger Article 50. The British Government no doubt have made statements publicly about what they will do and how they will handle the situation if the House of Lords does amend it beyond what they wish, or if they drag their feet. But let us remind ourselves that there were those in the House of Commons who said they were going to amend the Bill to trigger Article 50 but none of those amendments got through. So those who do not want Brexit to take place must be careful what they wish for, or perhaps what they say. So that is happening. It is right that we, in this

autonomous parliament, recognise that fact. That is why the Minister is asking the Assembly to make a positive recognition. It is appropriate that the Minister as part of the Executive asks the Assembly to endorse the intention to bring forward a Great Repeal Bill to remove the European Union (Jersey) Law 1973. Autonomy, as you know, is not a static state. It changes, it has been built up over 800 years, we talked about that decision in an earlier debate this morning. It has to be nurtured. We have to consider it in our engagement with the United Kingdom, in our engagement with other foreign states, and we have to be careful that how we act and what we do does not impair it, does not undermine it. By bringing forward this proposition today what we are doing is recognise that autonomous position, being respectful to this Assembly, and saying that from our constitutional autonomy is enhanced by taking this approach, is not undermined by taking a different approach. That it is why some of the wording might seem to be slightly different from how we would normally word a proposition to this Assembly. But I know that the Minister in briefing to States Members explained that, and I know he will go on and explain it again in his summing up. But it is important that Members understand that is what we are doing; this Assembly being rightfully, constitutionally, autonomous, and rightfully endorsing this approach which will enhance our autonomy. It is not a veto, as the Deputy of Grouville tried to suggest, and nowhere in this report is it suggested that it is anything other than what I have just explained. Deputy Labey said some very wise words - that is not unusual of course - about the role of Senator Ozouf. That is why I have made no excuse for saying Senator Ozouf not being an Assistant Minister in my department is a hard position to fill and there will be some gaps left because of his engagement across Whitehall and across Parliament. But other Ministers at this moment in time are endeavouring, striving to build on the relationships that we have as well to try in some small way to fill some of those gaps. But he is missed, particularly in that regard, and he was and has been throughout our Brexit considerations right at the heart of them alongside the Minister for External Relations and myself with regard to his responsibility for financial services because it is so important and so connected with what happens throughout this Brexit process. So I say to Members who are thinking of voting against this, I do not think they have given good reason to do so, I do not think they have presented evidence to do so. This is a proposition which nurtures and enhances our autonomy. Be very careful, I say to those Members at the back who are shaking their heads, actions have consequences, just like omissions or omission to act has a consequence. This is an autonomous Parliament; it is right that this Parliament gives approval and recognises actions being taken elsewhere. Thank you.

**The Deputy Bailiff:**

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

**2.1.9 Senator P.M. Bailhache:**

I am grateful to all those who have participated and in particular to Deputy Lewis and to the Chief Minister for supporting the proposition. It is, as I said in my opening remarks, in essence a very simple proposition and I will come back to the simplicity of it in just a moment. But underlying all the simplicity of this proposition is of course the huge complexity of the United Kingdom's decision in the referendum to leave the European Union, and the consequences that that decision does have. Deputy Maçon asked whether our Great Repeal Bill would replicate what is being talked about in the United Kingdom in maintaining the relationship in certain respects and, as it were, elongating the process by replicating in the Great Repeal Bill some of the provisions relating to the European Union and then replacing them over a period of time. The United Kingdom's position of course is very different from ours because the U.K. is leaving the European Union, we are not leaving the European Union because we already outside it. Insofar as Jersey's own Repeal Bill is concerned, I do not anticipate that it will have the complexities of the United Kingdom Act but, nonetheless, there are a surprisingly large number of laws which touch upon the European

Union in one way or another and each of those has to be considered. We have to make a decision as a Government first of all and then a decision in this Assembly how we decide to treat a number of different relationships. Data protection, for example, do we wish to remain within the European Union's data protection umbrella; and numbers of other matters as well.

[12:30]

I think that the Chief Minister has probably dealt with most of the points raised by the Deputy of Grouville, but one thing I think it is important to emphasise, we are not asserting any right to veto what is happening in the United Kingdom. Quite the contrary. Paragraph (a) of the proposition recognises that the United Kingdom is likely to give notice to leave the European Union. We are not in the same position of Scotland. We did not take part in the action before the High Court and ultimately before the Supreme Court, at which the Government of Scotland was represented. That was a deliberate policy decision on the part of the Jersey Government. It might help the Deputy to repeat the structures we have put in place in order to deal with the numerous matters arising from leaving the European Union. We have in the Ministry of External Relations what is called a Brexit Unit. It is very small, consisting of 2 or 3 people, and the responsibility of the Brexit Unit is to ensure that across the Government of Jersey in all those departments that are affected by leaving of the European Union there is a full understanding of the processes that are in place. There are 4 working groups of officials that are working with officials in the United Kingdom Government and those meetings take place regularly in Whitehall, at which we emphasise again and again what is important to Jersey and what we hope the United Kingdom will be able to achieve on our behalf. In Jersey those 4 working groups are replicated by 4 equivalent working groups of officials across the different departments in the Government of Jersey that are working to understand what the details of our requirements are and what the detail of the implications of leaving the European Union are. Sitting above those working groups is a group of Ministers coming from those departments that are concerned with leaving the European Union. The group of Ministers is chaired by the Chief Minister and it includes the Minister for Environment, the Minister for Home Affairs and a number of others as well. Then we have the engagement with States Members and a number of presentations have taken place responding to the views of some Members, including the Deputy of Grouville. It was decided that these engagements should be more interactive and the first of the working groups - neither the Chief Minister nor I can remember what these groups are called but I am sure Members will - in relation to the different issues under discussion. The first of those has taken place and they will be followed by others, at which Ministers value very much the input of Members of this Assembly. I am not sure whether that answers the Deputy of Grouville's desire for a grand committee. It seems to me we have several grand committees at different levels dealing with all these issues. Deputy Martin asked whether this was a little bit premature and suggested the U.K. might get us a good deal in due course. I hope she is right. I hope the United Kingdom will be able to negotiate for Jersey as close as we can get or as close as they can get to the relationship with the European Union that we currently have under Protocol 3, which is what we have decided is our aspiration. I come back, in conclusion, to pick up where the Chief Minister left off in relation to our autonomy. Our autonomy is not given. It is not certain. Our autonomy is not set down in any written constitutional document. Our autonomy depends on what we do and what the United Kingdom does. It is an organic relationship. It matures and grows over the years and over the years our autonomy has expanded because we in this Assembly and our Government have assumed much greater responsibility for the affairs of Jersey, not just domestically but now and increasingly on the international stage. It is because our autonomy is an organic instrument that what we do and what we do not do are important. If we do nothing about the process that is unfolding in the United Kingdom it might be implied in years to come that we are content with the proposal that the United Kingdom Parliament should in effect legislate for us in Jersey. The rhetorical question I pose to the members of the Reform Party and to Deputy Martin is; are we

content with that? Would we be content if the United Kingdom Parliament were to begin legislating for us in Jersey even though Members of the United Kingdom Parliament are not elected by our people in Jersey and have no accountability to our people in Jersey? Would we be content with that? I think we would not be content. I think we all feel in our bones that our autonomy is of vital importance to the well-being of this Island and to the well-being of its people. **[Approbation]** That is why we bring this proposition before the Assembly. We recognise we are not a sovereign state. We recognise that the United Kingdom as a sovereign state has the power and the responsibility to decide for itself whether it is going to leave the European Union. But we also assert that it is for this Assembly to decide whether or not the European Union (Jersey) Law 1973 and all the other legislation that affects Europe that we have not specified but we will be considering in due course should be set aside. It is a very simple proposition. Do we believe in our autonomy or do we not? I hope this vote will be in effect a unanimous vote for the autonomy that we enjoy in Jersey and for the responsibility to the people of Jersey that we as the elected representatives of the people hold in this Assembly.

**The Deputy Bailiff:**

Would all Members in favour of adopting the proposition ...

**Deputy J.A. Martin:**

Can we have the appel, please?

**The Deputy Bailiff:**

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

<b>POUR: 40</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham		Deputy S.Y. Mézec (H)		
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator S.C. Ferguson				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				

Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

## FAREWELL TO THE DEAN

### 3.1 The Deputy Bailiff:

That concludes the public business but before dealing with the arrangement for future business Members will know that this is the Dean's last sitting as an unelected Member of this Assembly and it falls to me, and it is a great pleasure - the Bailiff had hoped to do it but he cannot - on this rather poignant occasion to say a few words. On this occasion I wish to pay tribute and to thank you for the way you have discharged your duties within the Assembly over the last 11 years plus, since 2005 when you first took office. Your contributions to the Anglican community and to the wider Island community are well known by all but there will be another occasion on which a fuller tribute can be paid for those and in other areas. You will be remembered in this place, however, for your not infrequent contributions to the debate in the Assembly that have been well-placed and all the more for the ecumenical and inclusive view you have taken of your role and the fact that you have consulted with and seen yourself as speaking for all the faith communities within the Island. This, I know, has been much appreciated. I believe Members have valued your contributions because all your contributions have been careful, they have been measured and they have drawn the attention of Members to the ethical considerations that apply in relation to any particular proposition. On a personal note I would like to say how much I enjoyed sitting next to you when I was Solicitor General and Attorney General and the conversations we had, not always about the business of the Assembly, during that time. I have also enjoyed, sitting from a rather different vantage point, the contributions I have heard you make since then. But, of course, all this was done as part of a partnership and it would be remiss of me not to thank and pay tribute also to your wife, Daphne, who I am glad to see. **[Approbation]** The 2 of you have operated as a team and this in the face of challenges not faced by your predecessors. At no time did you take your collective eye off the ball and at no time did you falter in the duties of your office and to the Island. You will be missed in this place and we wish you both a rich and enjoyable future and every success in your new ministry. I call upon the Chairman of Privileges and Procedures. **[Approbation]**

### 3.2 Connétable L. Norman of St. Clement:

I speak on behalf of the elected Members and I recall at the last sitting of the States in 2006, just over 10 years ago, the longest serving Senator, sometimes called the Father of the House, was taken ill a couple of hours before delivering the traditional Christmas greeting speech. As the second longest serving Senator at the time I was delegated to make that speech. I recall the theme I selected was newness because at the time we had just embarked on ministerial government, therefore that was new, and we had a new Lieutenant Governor. Why do I mention this some 10 years later? I recall with absolute clarity that the Dean was not in the Assembly when I made my

speech and this was important because I went on to say, and I quote: “I will stretch newness a little but we also have a nearly new Dean who was sworn in towards the end of last year but he has just completed his first full year with us and I would like to reinforce the welcome that we gave at that time, although I was disappointed to discover that Robert Key was not the Kent and England batsman that I was hoping to meet.” **[Laughter]** I went on to say: “Having said that I am sure the Dean would have been more welcome in Adelaide a couple of days ago than many of the current England batsmen.” **[Laughter]** Clearly our cricketers had had a bit of a thrashing on that occasion. Robert Key, the cricketer, has now retired from the England team and Robert Key, the Dean of Jersey, is about to retire from Jersey and to move on to pastures and challenges new and I am very glad that he is in the Assembly on this occasion to hear me. The office of Dean goes back to 1620, nearly as far back as the office of Connétable, but not quite. I was surprised to discover that only 18 people have held the post of Dean. There have been a lot more Constables but only 18 Deans.

[12:45]

Until 1948 the Dean was a Member of the States by virtue of being a rector. When the rectors were removed the Dean was given a seat in his own right but not able to vote. The report on the reconstitution of the States at the time said, and I quote: “When the standard of general education was low the rectors brought to the public life of the Island a culture and ability which could not have been easily found among other classes of Island society.” We make of that what we will. Searching in Hansard it seems that the Dean, this Dean, Robert Key, has spoken in the States on 70 or more occasions. That is more than many Members have that I can name. Probably more than I have. He has spoken on many and diverse subjects with a religious or moral perspective. He has also spoken on social and economic issues or reminding us how the political world seems to the people out there, inflicting on us a dose of reality sometimes. In doing that he sometimes courted controversy. He has also left the Assembly with some striking images, like during the most recent composition of the States debate the description of him and his friends sitting in 1970 strumming their guitars to Joni Mitchell’s “Big Yellow Taxi.” That image will stay with me for a long, long time. **[Laughter]** The Dean also played a keen role in the introduction of revised rules for the Church in Jersey, known as the Canons of the Church, a massive and important piece of work. Of course, the Dean leads the annual service at the beginning of our parliamentary year and much cash changes hands on the sweepstake concerning the length of his sermon. He also speaks at Liberation Day and other significant events in our calendar and many Members have praised his pastoral role, which is always unheralded but has helped many States Members past and present when they have endured difficult circumstances. **[Approbation]** I shall break the Standing Orders to speak directly to the Dean, because I want to say, Mr. Dean, these comments are to do 2 things; firstly to thank you for your ministry in this Island, your support for the ancient Parishes, your moral and Christian guidance, your support for individual Members, your chaplaincy, your friendship and your contribution to our debates. Secondly, we shall wish you and Mrs. Key... who has been a rock to you during some of the more difficult times you have endured, and equally she has been a great friend to us. We wish you every best wish for the future wherever that might take you. We are all going to miss you both very much. Thank you. **[Approbation]**

### **3.3 The Very Reverend R.F. Key, B.A., The Dean of Jersey:**

Thank you very much indeed. There really is no way I can adequately respond to your very kind words and those of the chairman of the Privileges and Procedures Committee. I am not often lost for words, it has to be said, but I think today may be the exception to that. When I was made Dean 11½ years ago and sworn in in the Royal Court as I presented the letters patent from Her Majesty I was conscious so much of an immense sense of welcome and friendliness and advice, advice from the then Bailiff, now Minister for External Affairs, on the speech I should deliver in the Royal



Court. Advice on just how the church is linked to the other side of the water. He said to me then: "Mr. Dean, you must remember that we may be annexed to something in England but we are not part of it." I have remembered and sought to follow that guidance down the 11 years since. I am grateful to then, as he was, Senator Jean Le Maistre, who took me through the French prayer on a couple of occasions before I had to deliver it for the first time, making sure that my rendition, while very, very far from perfect, was at least recognisable as French and people could understand what was being said. I thought I must be getting it reasonably okay when BBC Radio said: "Please leave your microphone on because you are the only one we can hear pray and it is quite good to be able to broadcast the Lord's Prayer." I do want to thank the Members who have been such good friends. The conversations in the coffee room, the conversations over lunches or shared glasses of wine. It has been an immense privilege to serve as Her Majesty's Dean of this bailiwick. I am also aware that people have quietly and unobtrusively, in moments of difficulty or joy sought a conversation and generously shared of themselves with me. I also want to say that has been a 2-way street, for despite difficult days I have always known the support of the Members of this House, for whom the vast majority it was quite clear that there was never a moment where I ceased to be Her Majesty's Dean and where I have always been the Island's Dean. You could not last in this job 5 minutes if you were the visiting Englishman. You have to, as my colleagues across the water tease me, go native, because if you do not, as near as you can become Jersey, then you are sunk. One of the greatest compliments ever paid me was by the former Connétable of Trinity who, when speaking with a group of other Constables said: "Mr. Dean, you really do have as much common sense... well, let me put it like this" he said: "You could become a Jersey Constable." [Laughter] I took that to be a great compliment from him. There have been wonderful memories. I want to apologise if there have ever been moments where I have stepped over the line. If I leave this Assembly with you unsure as to whether I am a Blairite, gentle left-of-centre or a one nation, Ted Heath, Tory gentle right-of-centre then I will be very happy for that confusion because certainly I have never intended to let whatever political views I have show through. I have great faith in this Island and I have great faith in the Assembly of this Island which, it seems to me, has always been composed of people whose integrity really shows, who have sincere beliefs of different opinions and political views but it is that rainbow coming together that gives us the strength that will plough, I think, good straight furrows for the future of our Island through what are bound to be uncertain times. I know I speak for my wife when I say how much we are grateful that the Island has taken us to its heart as we have taken the Island to our hearts these last 11½ years. For those years I have sat in this historic seat looking across at the Bailiff, the Governor and the mace. The mace has become very precious, for atop the mace are 2 wonderful symbols; the crown and the cross. My farewell prayer for this Assembly is that this Island and its people, this Assembly in all its tradition, retains its faith in both the crown and the cross, the monarchy and the faith they represent and find in Her Majesty the example of how service and faith go together. May God bless this Assembly and this Island in all the years to come. Thank you. [Approbation]

#### **The Deputy Bailiff:**

We now come on to arrangements for future business.

### **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

#### **4. The Connétable of St. Clement (Chairman, Privileges and Procedures Committee):**

The arrangements for public business are as per the Consolidated Order Paper with an addition on 14th March, Projet 10 - Electoral Reform - in the name of Senator Farnham, on 28th March, Projet 11 - Draft Employment of States of Jersey Employees (Amendment) (Jersey) Regulations - in the name of the States Employment Board, and on 2nd May, the Draft Law Society of Jersey

(Amendment) Law, which we commenced debating yesterday and was referred to the Corporate Services Scrutiny Panel. On 14th March I would remind Members that we will have a special sitting at 9.30 a.m. to welcome the new Lieutenant Governor and we will resume after that at 11.00 a.m. for normal business. I believe we should be looking for 2 days for the sitting of 14th March.

**The Deputy Bailiff:**

Do Members agree to take the order of business as proposed by the chairman? Very well, that concludes the business of the Assembly and the States stands adjourned until the special sitting, as the chairman has mentioned, at 9.30 a.m. on 14th March.

**ADJOURNMENT**

[12:55]