

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 20th MAY 2014

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

PUBLIC BUSINESS – resumption

1. Draft States of Jersey (Amendment No. 8) Law 201- (P.33/2014): third amendment (P.33/2014 Amd.(3)) - Article 8 - resumption

The Bailiff:

We return to the debate on Projet 33 and we were debating the amendment lodged by Deputy Young. Does any other Member wish to speak? Yes, Deputy Martin.

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

I am glad we did adjourn because I think this amendment does have a lot of merit. I, along with the other Members of P.P.C. (Privileges and Procedures Committee), met by video conference with Cornwall and they explained to us how exactly they had gotten here. It was because of a lot of what I hear around the States Assembly and in this Chamber, that people are disillusioned that they are not involved in making policy. They are not given enough information and this amendment brings people into helping, a watchful eye on the Minister, helpful to the Minister. We have already agreed that we are going to keep the amount of people in Government, if it all goes through at the end, to the Troy rule, whenever that gets put back in, but we know in theory that is what we have agreed. Unlike Deputy Baudains, I do not long for the days of the committee system, but I did find them all inclusive. I must not mention that this is anything like a committee system because it is not, but you have more than one head or 2 heads looking at multi-million-pound budgets, the policy that underpins that budget, and you then are holding the officers to account. Now, I said the other day somebody said to me: "I am not fussed either way whether this goes through." I have been on both sides. I have been in Scrutiny and I am now an Assistant Minister. I do not believe that you do get the information as timely as you do when you are an Assistant Minister or when you were sitting in the room with the officers on a weekly basis, fortnightly basis, on a committee and asking them to explain why they have come up with 3 recommendations and probably 2 sides of A4. You would say: "Where are recommendations 4 and 5?" and you want the evidence. You have the time to do that. They might not like it, but often recommendation 1, 2 or 3 were not acceptable and we needed to know where the other options were. Then right at the decision time when the Minister is making a policy these panels would be there to help, and that is how they explained it in Cornwall. It has gone too far the other way. Everybody except I think it was 10 people - yes, 10 people - felt like they were doing something. The others - there are 113, I think, in their council - felt like they were completely sidelined. I think this Chamber is in danger of getting more and more like that. I would support this. We nearly got there a few years ago with Senator Breckon's ... I think they were called shadow boards. We nearly got there and I just think this is a very sensible amendment. I really think people should consider, as I say, where we are. We have now a small Government. People say to me: "It would compromise my politics." Well, would it? Because you can steer your policy right at the beginning or have an input. If your policy is wrong and it does not add up, and add up financially as well, you will be told in no uncertain terms why. There are 2 ways of coming at something, and Deputy Southern might get there but he has the budget, and somebody else might get there the other way. Now, is it more of this and a bit less of that and then we will give it to these? All the expertise on what people come into this Chamber for is to be involved in making decisions that will affect people's lives out there. I think this amendment goes a long, long way to getting more inclusivity. For people who say: "We want inclusivity" it has to be supported. What is the worry? What is the worry that people are going to

sit with the Minister and make decisions and discuss the decisions? Not when you are in Scrutiny, you are calling in this and: “Why did you make that decision then?” It has already marched along.

[9:45]

It has been announced in the media: “We are going to have this there. We are going to have new sewerage. We are going to have all this” and it has already been made. If this system carries on, the majority of us in here will not be in the decision right at the beginning. Now, if you want that, as I said last week, do you want to be part of government and policy making or do you just want to come in here and look at the lot? That is the way I look at it. I really think this amendment is worth a good debate and to be supported.

1.1.1 Senator A. Breckon:

Just a couple of points. Something that Deputy Martin mentioned there was why this had failed previously, and what happened was Scrutiny members had seen it as a weakening of the scrutiny process and then Assistant Ministers and some Ministers had seen it as a weakening of their authority, if you like. That allegiance led to us going round in a big circle and finishing up where we were. Where we are is that lots of questions get asked and answers are sought. Perhaps if there was this bit more inclusivity then that would do away with that. I do not think that the brain power has all been suddenly delegated to Ministers or Assistant Ministers. I think it is good if things can be questioned. I noticed in some of the papers that Deputy Young had circulated we even had members of the public asking questions of the local authority. Heaven forbid, could we see the line-up there where it would happen? Because usually when these things happen they are stage-managed. We are looking for where there might be some opposition here and if people are inclusive then the policy is theirs. It does not belong to anyone in particular. It is about what is best in the public interest. Although I have a great deal of sympathy with Deputy Young and the work that he has done, that is generally why these things are doomed to failure because Scrutiny can still do things and do do, but with this there is an involvement. That is something that was said pre-Ministerial government, that some of the scrutiny will be policy in development. Of course, that is all embargoed now. Do not go near there, we cannot discuss this. It is policy in development. Of course, if you are going to do that, then you are getting ideas from somewhere and my train of thought is the more the merrier. Sometimes it can be inconvenient if other people have different views and opinions, but that is good and healthy and should be embraced. I think that is what Deputy Young is trying to do with this. I would ask if Members would give this careful consideration and not just see it as a bit of a nuisance and say: “We cannot really get on and do what we want to do” because it is not about what we want to do, it is what is in the public interest. There might be views and opinions that are in vogue at the moment that might not be in 3 years’ time, so generally we have gone down the middle road and that is good and healthy, but we have had people contributing from all over the place, including the community. Just to finish on, it is not necessarily restricted to us, to politicians. We have been fortunate in many areas, and school governors is a good example where you have people from the community who give their time freely and willingly and make a valuable contribution to the running of the schools. As I say, that is their contribution. Now, that does not fit exactly with this but it is a way that a wider view and experience are embraced. I think that is an example. I know from years ago Deputy Duhamel will remember we had a Trade and Industry Sub-Committee and we had some senior figures from the local community who, to be honest, we could not afford to have paid. They gave their time freely and willingly and made a significant contribution. That is where something like this could go. It would be perhaps a leap of faith, but I would ask Members to give it some serious consideration and not just dismiss it because they happen to have a view about Scrutiny or they happen to be an Assistant Minister and see it in some way or other as a diminishing role because I do not think that is the case. It is something that is very worthy of consideration.

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

I think Deputy Young's proposition gets again to the nub of an issue that has been a problem since we moved to Ministerial government. That is the difficulties in passing over too many powers to a government body to ride roughshod over the majority of Members in this Assembly. In any government situation, whether it be for small islands or big countries, we have to have mechanisms in government to determine the flavour and the direction of travel, using the fancy words that are common these days to describe this process, to decide what type of government we are. But not just what type of government we are generally, but in particular for particular issues. These are the difficulties that I find myself faced with as Minister for Planning and Environment in trying to seek to influence the Assembly and other Members of the Council of Ministers in order to come to a central forum to discuss whether or not the direction of travel in relation to particular issues makes sense in general environmental terms. These, I feel, are the issues that I, along with other Members, find ourselves in great difficulty in bringing them to be openly discussed with the support of the public and to decide collectively - on an Island-wide basis if necessary through a referendum or whatever - exactly what we want to do. If we want to be a society that puts all of its eggs into a financial services basket, that is all well and good if that is the decision that we are going to make and decide upon, but if indeed we have other policies that are brought to this House suggesting that we are going to diversify our economy into other areas, we have to know exactly what that means. We have to have the courage of our conviction if, indeed, some of these new pathways of travel are things that we have not done before. It is about societal change and there are no mechanisms at the moment, I feel, since the introduction of Ministerial government to have on a regular basis, strategic debates to settle these issues once and for all. It is all very well saying that in the first 3 months of the setting up of a new Ministry or new government we are going to have the Chief Minister, one person, to come forward and tell us whatever he thinks he can get away with - maybe there is no voting structure to kick it out anyhow - as to what the long-term proposals are going to be, but that is not satisfactory. It leaves an empty feeling in the stomach and a bad taste in the mouth. We all have to be involved. There are other ways of dealing with the lacuna that we find ourselves in in trying to establish protocols and ways of working within this Chamber to encourage every Member not just to feel... because we are persuading them to do something that everybody knows is wrong that everybody feels involved and included. My own committee or my own department through the Island Plan process operates in the old-fashioned way. I think it sets itself up and is set up as perhaps an example - I would say a shining example - of how we can all be included in the process in deciding where we want to go, what we want to do and how we are going to do it. That is why I find myself sometimes in difficulty with my other colleagues on the Council of Ministers in wanting to bring propositions to this House in order to seek the endorsement and the full buy-in of all Members of this House in equal measure to those issues. It is fundamentally important, not for everything, and there is a certain bar with the working of departments below which it does not make sense to have 51 Members all seeking to do different things. But for the very large issues, the big strategic issues, what type of society we want, what type of hospital service, what type of education service, to what extent does the Government wish to set up support systems for those who are disadvantaged, all of these are really big issues and should, I think, be discussed at regular intervals in the context of strategic plans for a particular period of time. It might well have been that an alternative way of doing things would have been to have set up the Island Plan process of the 10-year plan for other departmental areas. We could have the 10-year health plan. We could have the 10-year social security plan. We could have an even longer plan. One of the propositions that I am about to bring to the House is an even longer energy plan, and that is another case in point where I am asking the House, everybody having had the opportunity to participate in the consultation phase and the putting together of the policies over a long period of time, to give everybody the opportunity to have the security that we are all marching in step in a particular direction for a particular period of time. So where are we with Deputy Young's

proposal? Well, I think it goes some of the way in trying to re-establish this link with the ordinary, if I can call them that, Member of this House who wishes to be included in the big decisions that the Island is going to make. What it does not do, under 26A(1) it says: "The States shall, by Regulation, provide for the establishment of panels to advise Ministers" called advisory panels. Now, there is absolutely nothing wrong with that *per se* and it might well be that when Regulations, if indeed this proposal is supported, come forward we can set it up in a way that offsets my criticisms that I am going to make. In saying that we need panels to advise Ministers, we have to realise that we are still in a situation that we have a Council of Ministers headed up by a Chief Minister who may or may not be in a position of telling everybody what the overall long-term strategic proposals are going to be without going through the process of including the advisory panels or other States Members or the public or anybody before those decisions are taken. It is a difficult place to be in. If by voting for this particular Article we end up in a position whereby individual Members of the House can come together to express their collective points of view in order to twist the arm of the Minister, it would still be perhaps up to that Minister to sell that particular set of consultation to the Chief Minister. If the Chief Minister decides he does not want to do that because he is a right-leaning Minister or a left-leaning Minister in particular, and the proposals and the advice that are coming forward is to have extra input on the left or extra input on the right and it is not satisfactory, we will find ourselves in a situation where we have a structure set up which does not deliver the certainty of operation, which is what we all want. So, as I say, I think it is a step forward but I think we really do need to think that if we are going to support it, and I think perhaps I shall, that by amending the Regulations when they come forward we can find ourselves in a position that does bind the hands of the Chief Minister and of the Council of Ministers. That is something that I referred to in my short speech a number of days ago on the original proposals for the proposition in that this House has lost its capacity, I think, to strategically direct the Government or the Chief Minister or the Ministers. I think that really for me is the bit that has been missing from day one. As I say, it is a step forward but if those considerations could be taken into account by the proposer then I think it is worthy of my support.

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

This debate, which I anticipate will go on for some time because the previous ones have always done that, is in my view a symptom of the way we go about this. Because the reason we have been struggling for the last few days to get even the smallest of changes through is because in my view as usual we are avoiding the fundamental failings of our present machinery of government and only changing little bits and pieces that might make it slightly better.

[10:00]

One of the fundamental issues probably at the top of that list is inclusivity, which we lost when we moved from the committee system. Taking up the thrust of Senator Breckon's arguments, I do wonder sometimes - and I hope I do not offend people by saying this - if the members of Scrutiny are being slightly too precious in believing that: "If we have inclusivity, then my job will be marginalised." In my view, that is simply not true because I think their job would be enhanced and improved, probably very much more rewarding as well, because the people doing this will be doing as committees used to do, scrutiny in real time. Instead of reviewing something that somebody else has already decided with possibly not complete information, you would be helping to create that policy in the first place. I will give an example. As Members will know, I am on the Planning Applications Panel. Well, we are not always unanimous. There might be 3 of us decide that an application has merit and 2 of us decide that it does not, and it is approved. Now, if one of those 3 had been a Minister of the day it would have been approved. If one of the 2 had been a Minister of the day it would have been rejected. Is it not better to have more minds than one looking at issues, especially looking at policy? I believe this amendment goes a long way towards reducing the

deficit we created when we moved away from a committee system. It is a pity that the ... in fact, I thought it would have succeeded but unfortunately it did not. The proposition that was brought by... I think it was Senator Le Sueur or was it Senator Breckon? I am not sure, P.120 was it? I thought that would have helped enormously, but sadly it was rejected. I am hoping today we will at least take a step towards helping to replace some of the benefits that we lost previously.

1.1.4 Connétable J. Gallichan of St. Mary:

Just very briefly, just to pick up on a couple of things. On the face of it, this is a proposition that normally I would have wanted to support because I have been on a number of working parties in the past and worked very closely with Senator Breckon in the past when he was bringing his Ministerial boards position. But the difference here is that for me too much is left unsaid. I do not have the certainty that there has been... simply because I think this has come as an amendment and not as part of having come out of working very closely towards a particular aim, there has not been the detail put here as to how things would work. Somebody has talked about Scrutiny and saying this is not a threat to Scrutiny. Well, it is not but we have not addressed, in looking at this, how scrutiny would go forward and how things would work. So while I still adhere to the belief that we need to be more inclusive, and I think the day will come when we do find a mechanism for that, the time certainly is not now to change the balance. But certainly we need to look at that once we have a government which works in a more efficient way and is questioned more robustly. But for now we cannot upset the Troy rule. We cannot change that. I think that would be a step far too far for now. This proposition does not give me the certainty as to how the checks and balances in Scrutiny would be enhanced when so many more Members would be involved in developing policy and could not challenge it for that reason. While I have worked so hard before towards the Ministerial board system, this is not the system that I was working towards then and, therefore, I will not be supporting it.

The Bailiff:

Does any other Member wish to speak? Deputy Southern. No, sorry, Deputy Southern, you have already spoken on this.

Deputy G.P. Southern of St. Helier:

Oh, did I really?

The Bailiff:

You may have forgotten.

Deputy G.P. Southern:

For the life of me I cannot remember a single word I have said.

The Bailiff:

Does any other Member wish to speak? Oh, perhaps you were down to speak but you did not speak. **[Laughter]** Greffier, according to your records, did he speak or not? He is down here. **[Aside]** Deputy, I am so sorry, the Deputy Bailiff was presiding. He had you down but I see there is no time against it so you presumably did not speak.

Senator L.J. Farnham:

Are you absolutely sure about that? **[Laughter]**

Deputy G.P. Southern:

So long as the authority is sure about it.

The Bailiff:

I think on that basis the answer to your question is to like effect, Senator Farnham.

1.1.5 Deputy G.P. Southern:

I am pleased to be able to speak because from thinking about my attitude a few days ago to today, I think I have changed my mind. I have always voted against these mish-mashy, wishy-washy compromises to try and make the system work in the past. However, I am coming down to a desperate need to do something about inclusivity. It is one of these weasel words like sustainability. We are all in favour of sustainable development, sustainable answers. We are all in favour of inclusivity, and yet we are markedly probably the least inclusive of Chambers that we could possibly be. We have concentrated powers, no doubt, in the hands of a few Ministers, not even all 10, and a group of Assistant Ministers who seem to do nothing but run around agreeing with their Ministers. People say yes but do not have really beefy arguments. It is not the impression I am given. I am thinking about the whole issue of the way in which we operate, the style in which we operate. I am thinking back to the old committee system and even within that there were committees that were inclusive where the President would say: "We are not going on with this any further until we get agreement. Now, what is it we can agree on and that will become our policy and we will all unite behind it." Or you had Presidents who pretty much made their mind up with their Chief Minister and if you did not like it you just had to lump it. You would register your opposition but that was it, we are not addressing you. So within the context of any structure you have a choice as to how you operate. We seem to be spectacularly good at avoiding inclusivity. It seems to me time and time again we do not get to the position where we see - as Back-Benchers, as ordinary Members, and certainly as Scrutiny members - the 3 options that the officers have come up with as ways to do this particular policy aim. We never get to see those 3 options. We get to see the one. What we get when we are at that stage with 3 options in front of us to examine and test, we get (xiv), the 3 dread letters, exemption 14 - "Policy in development", so you do not get to look at it. As Scrutiny, certainly the number of times we sit there going: "What are we going to do? We could look at this, it is a vital issue. Oh, it is policy in development. We could look at this. Oh, no, the Minister has not decided on that yet and it is still in development. Oh, we could look at that or we should go over there. Oh, no, it is in its early days. That has hardly been developed. It is hardly neonate." So you get bogged down and stuck. There is nothing meaty you can look at because it is all policy in development. Believe you me, Minister after Minister can take the best part of 3 years to come up with policy that is not in development, by which time the Scrutiny Panel has probably fallen asleep or fallen off its chair waiting in order to get hold of something. So, in principle, the ability to look, examine, challenge - that is the word, I think - policy in development so that we know we have had a rounded debate before it comes to this Chamber is probably worthwhile. But it has to be in the context of a change of mindset, and thinking about how we operate now it seems to me that if I think policy needs to be challenged then I take a simple choice. I put up a proposition or I make an amendment and we have the debate here in this Chamber. But on a number of occasions, and you have seen it happen, a proposition, say, brought by me or by another Back-Bencher is vehemently opposed on the floor of the Chamber for a couple of hours and then somebody says: "Hang on, there is absolutely no reason why we should not accept this. It is very close to what our policy is anyway" and all of a sudden it flips. People suddenly have listened. Ministers occasionally listen. In the majority of cases they do not until you get it to the Chamber. If you want a debate on something, bring the proposition, bring the amendment, and that is how you have the debate. If that opportunity were enabled at a stage prior to Ministers coming into the Chamber with a fixed idea and prepared to go to the barricades to defend their idea, then that might be useful, and very useful particularly for the Back-Bencher who is determined to influence the direction in which people go. Now, sometimes as a Back-Bencher that takes 2, 3, 4 years before you finally get something that you first tried years back knowing that as you hear the arguments you know the way to go in order to get something like what you set out

to do delivered. It is possible to do that but by golly it is difficult. It is a difficult system that we are operating at the moment. If we were to have a more open channel of communication where advice was taken in the context of attempting to go forward in a unified way and not just having the argument: "We have had the argument/discussion. We do not like your idea. We do not like what you are bringing to the table. Therefore, we will just ignore it" if it is more of the same then, of course, it will not work and we will just end up frustrated and feeling incapable. However, if there is a chance that the mindset has changed and it becomes more open and more - key word - inclusive, then I am prepared to give my support to this.

The Bailiff:

Senator Farnham, do you wish to speak as I made the same error for you in relation to you already speaking.?

Senator L.J. Farnham:

Yes, I will just pull out my notes and I will give way to Senator Maclean if I may.

1.1.6 Senator A.J.H. Maclean:

Senator Farnham is so kind. I think Deputy Young should be congratulated for bringing this amendment. I certainly agreed with the principle of it. He is clearly trying to do something which I think we would all sign up to, and that is to improve decision-making by seeking to put in place a structure that will help the Minister have better advice. It is interesting that we can look to other examples - Cornwall has been mentioned - but much closer at home to our sister island in Guernsey who operate a Ministerial system - under that name at least - with a board sitting underneath the Minister. Interestingly, those boards or Ministerial departments also contain an adviser, and it is a private sector adviser which sits on the board and gives advice to the members and, indeed, the Minister himself. I think in some respects that is interesting. Having said that, I have witnessed the Guernsey system in operation and it is, to say the very least, cumbersome on the decision-making process. The advice may be good but the time process and suchlike to reach the final decision does seem to be somewhat protracted. I think that is one of the advantages that we have seen since moving from the committee system, which undoubtedly had its benefits, to the Ministerial system that we currently operate under. Without doubt, though, the idea of utilising the talents and experience of other Members within the Assembly is a good and positive thing and certainly I often seek the advice of Members on particular matters.

[10:15]

I think in a more formal structure there is some use and validity in developing this idea further to ensure that more Members have a useful contribution to make with regard to policymaking within individual departments. But I do think equally it is important to consider the utilisation of external advisers. I have some experience, as Members will know. We have set up through Economic Development a number of boards, the Shadow Tourism Board, for example, the Ports Shadow Board. Those are both advisory, as Members will be aware, not supervisory boards. They contain private sector expertise and I can tell Members that it is invaluable to have that breadth and depth of professional experience to provide advice when considering policy formation and strategy. I think Ministerial departments would benefit in a similar way to a similar type of structure. In summary, I think that it would be useful to take this idea of Deputy Young's and develop it further. In fact, I note that in his amendment he does not make it clear whether he is referring to Members of the Assembly or external advisers to form part of the advisory panels to which he refers. It is silent on that. I think there is a view by Members, the way that a number have spoken this morning, that it is indeed solely States Members that Deputy Young has in mind to populate such an advisory panel. Perhaps he might clarify that point. It would be interesting to know what exactly he had in mind for the constitution of the panels to which he refers in his amendment. But I

go back probably to the Connétable of St. Mary's point about the lack of detail. I think I would like to see this idea taken away and worked up in some more detail. I fully support the principle of improving decision-making. I fully support the idea of advisers being utilised by departments. There are cost implications, we do need to be conscious of that, but if it improves the decision-making process then that would represent in my view potentially a good return on that investment. Not all advisers necessarily would need to be remunerated in any event. So I cannot support the proposition as it stands or the amendment as it stands, but I would certainly take away the idea and be prepared to look at it again in more detail to ensure that we have something more workable, perhaps with the detail attached to it, that would be supportable in the future.

1.1.7 Connétable L. Norman of St. Clement:

I think the fact that we are even talking about creating a new and additional level of political bureaucracy, which is effectively finding new jobs for us to do because some of us do not feel included, indicates to me that we really have too many States Members. Because really, have we not already got enough to do? This proposal would undoubtedly create work. It would delay decisions and it would, as Deputy Southern intimated, cause wishy-washy compromises, which is not in the best interests of the Island and is certainly not good government. Many Members have spoken about inclusivity and that, of course, is important, but this will not create or assist any inclusivity. It cannot because this would not create any decision-making powers for those Members who were elected to these boards. What really compromises inclusivity, in fact, is the Troy rule. We cannot have it both ways because the Troy rule insists by law, or by Standing Orders as it will be, that only 21 or 22 Members can be decision-makers, can only be Ministers and Assistant Ministers. If we remove that, more Ministers could have more Assistant Ministers; therefore, more Members would be involved in the decision-making process. That is the only way. You cannot have a rule which says you are excluded and then demand inclusivity. It really does not work.

1.1.8 Senator L.J. Farnham:

Well, I align myself with the Constable of St. Clement almost completely with his views and a good point made that Members must not lose sight of is the issue relating to the Troy rule. We have to think about this logistically as well because to the best of my figures I think there are approximately 40 Members involved in the Government and in Scrutiny, which does not leave many Members to populate these panels. Over and above those who are not involved, the few Members who are not involved in any of the Scrutiny or the Government, then they are certainly sitting on other committees, boards, trusts, advisory panels and so on. But then I would also agree with some of what Senator Maclean said. We do have to make sure that our decision-making is as inclusive as possible, but it would be a good idea for us to reshape the next Government and see where we stand then. Another concern I have is - and we have seen it before, it is sort of the nature of the beast a little bit with politics - how confidentiality could undoubtedly - and I am sorry, I do not mean to offend Members - be compromised. We have seen it before. There are leaks and so on. I think sadly some Members who may not be aligned with a Government or a Ministerial policy might feel obliged or loyalty to their political leanings or party to use information in a way that would not be productive. These sorts of things can end up doing more harm than they can good.

1.1.9 Senator I.J. Gorst:

This is quite a difficult debate for me because I think that had I been speaking 3 years ago I might have been taking a different view from the one that I will be taking this morning. I want to start my remarks this morning by saying that, as far as I am concerned, I think the Scrutiny function throughout the last 2½ years, led obviously by the President of the Chairmen's Committee, Deputy

Vallois, but with some excellent Chairmen of Committees and Members, have worked very well. I think that they have, among the Members of this Assembly, transformed the view that Scrutiny can work well and can hold Government to account and can to some extent mean that Ministers are rightly cautious because they know that Scrutiny are going to ask the difficult questions and are not going to be afraid of holding Ministers and departments to account. That does not, of course, mean that Ministers will always accept the view put forward by scrutiny and sometimes Ministers have so nailed their mast to a particular policy direction, as we saw during the population debate, that the only answer is for this Assembly ultimately to consider what a Minister might be saying and what a Scrutiny Panel might be saying about the issue and for this Assembly to decide. That, I believe, shows that Government, both the Executive and the Scrutiny function, is working well. I think that those Members who have been responsible for delivering this change should be congratulated.

The Bailiff:

I am so sorry, there is too much talking going on on the bench. I cannot hear what is going on. Can you please listen?

Senator I.J. Gorst:

Perhaps that is of benefit. Why do I say that? Because I started this session being very concerned about a word that a number of Members have spoken of and I understand that concern, and that is “inclusivity”. I think the issue is that when we often have used the word inclusivity in the past, we have without realising it been thinking of the way that the committee system functioned where every Member of this Assembly was, in effect, in the Executive and in Government involved in those decisions. But the process that we currently have, when you step back from it and analyse it, there is inclusivity but it is just undertaken in a different way. I believe that it can make for good decisions which obviously affect our community. I fear that accepting the proposal, albeit I understand Deputy Young’s reasons for doing so... because they spent 2 years trying to understand how they could develop a system that was more inclusive, and to be fair to the Machinery of Government sub-group they put in a section that they called non-Executive boards and they felt that that dealt with one of their concerns about inclusivity. But during the in committee debate this Assembly, those who spoke should I say, largely said that they were concerned about those non-Executive boards and the effect it would have on a proper and good functioning Scrutiny. At the same time, of course, included in those recommendations was a change to scrutiny to allow Scrutiny to act more flexibly. Interestingly, again, in that in committee debate many Members stood up and said yes, they would support Scrutiny in allowing it to be more flexible. Of course, when we went into the second stage and then referred back to the President’s Committee a number of chairmen then felt that they needed more work to be done around that flexibility to understand what it would mean for the standing committee structure, what it would mean for being able to pick topics and scrutinise them in an effective and timely way. Therefore, that led me in the amendment 8 to change the law which will allow Scrutiny to go away and think again about those areas of flexibility. The reason I highlight that is because I think that that is the place in which the President of the Scrutiny function can work with Deputy Young if he so wishes, and the members of the sub-group, and consider how their concerns about inclusivity and looking at other models can create flexibility in the Scrutiny function which is working so well. So, after reflection, again I suppose I understand Deputy Southern’s frustration that this morning we hear him moving from a very long held view - he stood up in this Assembly and supported Scrutiny and said that this Assembly needed to respect it more, Ministers needed to respect it more, Ministers needed to engage with it more - he seems to have changed his view. I would ask him just to hold on to the view that he has historically held because I think that was the right one and I think that he again can work with the President of the Chairmen’s Committee to deal with some of the concerns that he has. I do not believe that we today want to make a decision which is going to undermine Scrutiny and undermine

the great work that they have been doing over the last 2½ years. If I stepped back and was a little bit partisan in my role, I could be encouraging Members to support this amendment because I think that would make life easier for Ministers. That is not good Government. It is good Government that Scrutiny is strong, that they are independent and that they are able to challenge Ministers in an appropriate way. Therefore, I ask that Members do not almost by sleight of hand do something this morning which undermines the great work that Scrutiny have done but allows the Chairmen's Committee now to go away and consider those issues that Article 10 - hopefully we will get to that shortly - will allow them to go away and consider how they wish to structure themselves to create the flexibility and perhaps enable a bit more inclusivity, which I know is at the heart of the mover of this amendment.

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

Very briefly, it is really encouraging to hear the Chief Minister extolling the virtues of Scrutiny. However, I would say to him for Scrutiny to work properly and efficiently it needs to be allowed sufficient time to undertake its work and it needs the States Members to be able to have time to not only read and digest reports but equally to see Ministerial responses before debates are had.

[10:30]

However, I do think that there is one thing that perhaps the Chief Minister and I do agree with, is that to dive-in and adopt this particular proposal at this moment in time would be a little bit premature. But I was hoping to hear a little bit more from the Chief Minister about saying: "Well, okay, this is perhaps the wrong time to be introducing this but let us give it a go." What is wrong with a pilot? What is wrong with setting up some form of shadow system which was encased with scrutiny? I think if there is a way forward it is not pick it up and kick it in the long grass and tell the Chairmen's Committee and Deputy Young to come back with it at a later date with additional proposals, but it is charge P.P.C., maybe with the Chief Minister and to look at how we could pilot some form of scheme to see if it works. If it does not, or there are lessons to be learned, that is the time to do it, and then we can make proper informed decisions about the way forward. Perhaps I would like to suggest to the Chief Minister and others that that would be, I think, a positive way forward where we build on what we have got; because I do believe that Scrutiny is good, it is necessary and very important as a balance to Ministerial government, however, I do think that perhaps there is an opportunity to have some form of system that does allow an involvement of States Members in policy development.

The Bailiff:

Does any other Member wish to speak? Then I invite Deputy Young to reply.

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

Thank you to Members who have spoken because I think the adjournment was useful to help reflect because we have an opportunity today, I think, to make a major change which, as the Constable of St. Mary summed up beautifully I think, that it has the potential to change the balance between the way this Assembly works as an Assembly and we fulfil our political roles that we were elected to do, and the Council of Ministers. I think there have been a number of occasions since Ministerial government was introduced where the problem was absolutely staring everybody in the face, lack of inclusivity and weakness in Government which, effectively, has resulted 8 or 9 years later in a disconnect with the community. This proposal is a decision in principle, because the detail can be worked up in the Regulations. The Regulations can deal with many of the issues of implementation, questions that the Members have raised in their comments but, of course, if the opportunity is not taken to put those powers in the law now there will not be, I do not believe, an early opportunity, certainly I do not think for the next 4 or 5 years in any event, and I certainly shall not be in the Assembly, but that is not an issue. I see it as my public duty to make as strong a case

as I can now as to why Members should search their hearts and not wreck this constructive solution and consign it to the bin for some of the reasons that have been aired today. Throughout my working life I have looked for practical, pragmatic solutions, outcomes that matter. You have to accept compromises on the way, you have to accept details that have to be sorted out subsequently but, without those constructive solution-makers in life, we will always find reasons why not to do things. Of course, when I look back on the States debates, I had a chance to read back over the transcript of the Ministerial debate, look back over what happened in previous debates and I see the same elements happening here again. There are a number of camps from which Members come at this concept; some of them I think fortunately have not manifested themselves as strongly as I feared. I know, for example, there are those with perhaps a more radical tendency who do not want to see, may not want to see our consensus government work, ultimately because it will lead to party politics and a mirroring of what happens in assemblies elsewhere. Fortunately, that has not happened, I am delighted that Members who have spoken have been prepared to go with the principle and give it a try. Of course, there are those who want the power; I love Senator Norman to bits but, my word - sorry, Constable Norman, my apologies - but I still think he has one complete extreme view. Of course, if you follow Constable Norman's argument, what is the point of being an elected Member? What can you bring? All we need to have is a Council of Ministers to get on with the job and rubberstamp. That is not a vision I share, nor do I believe it is a vision the public share and there have always been those, but that is an extreme view of Constable Norman, the Constable of St. Clement, but of course there is the Council of Ministers. I am delighted that our Minister for Planning and Environment, Deputy Duhamel, gave us an honest and open view of his view as a Minister, the difficulties he has and the potential benefit he sees, but I know there are other Ministers where that is an anathema to them, they absolutely want centralist power. I am in the middle, there is a middle-ground of reasonable people ... sorry, reasonable viewpoints; I do not want to personalise this. The Chief Minister, unfortunately, sits in that camp. I am really disappointed with the Chief Minister, what he said just now. What we have got is an alliance between the Chief Minister and Deputy Vallois about how this proposal will wreck Scrutiny. It will not. No. I am being told to calm down from the Minister who is known for his animated approach, and I have seen him get through stuff in this Assembly by his sheer power of oratory. **[Laughter]** I am going to try and say to you: "Think." **[Interruption]** Apologies if I bang, Sir. Thankfully we had the adjournment because, I will be honest, after that start, I thought this debate was lost. Trying to engage Members with the importance of this subject, late in the hour when we have had 3 days of absolute purgatory **[Laughter]** and I am sorry if that is not a parliamentary word. Of course, I put a written question to the Chief Minister on 4th March, not too long ago, and in it he talks about the Machinery of Government Committee and so on and he says: "Members might benefit from a formal mechanism where they might express an interest in serving in a particular Executive or non-Executive capacity, supported by a brief rationale for wishing to pursue those roles. This recommendation has been supported by the steering group." Then he says: "I hope this will gain the support of the States Assembly." Written answer. What do we hear now? So I thought: "Well, what else can we get?" so I also put a couple of other questions, I put a question on 4th March, it was a written answer, and I asked about the number of groups established by the Council of Ministers who influence policy. I do not know if Members have read the list, but I counted them up: 184 groups, nearly all populated by civil servants. We need civil servants **[Interruption]** **[Laughter]** ... well, certainly if we go this way, we will need ... anyway, 184? So I thought: "I am going to do analysis of this. How many involve States Members?" and I counted, there are about 2 or 3. I think Deputy Duhamel, to his credit, follows his words. He has got inclusive structures. Of course, I asked: "Well, how many of these are policies?" the answer says: "They are all operational. They are not policy." When you read through some of the subjects you think: "Well, these are the people that should be standing for election, not me." It was summed-up when I went on the radio on Sunday and somebody sent an email in and said: "The States Members

have less of an influence than ...” in this particular case it was the Chief Executive of the States of Jersey Development Company; jolly nice chap, and he said: “Well, they are right”, we are in a situation where the elected Members of this Assembly, have less and less influence, and it is not about decision-making. Nobody wants to retreat back to the committee system of Acts and decisions on every minor point, it is about setting the policy direction, as Deputy Duhamel says. I absolutely thank him for his remarks, because he summed it up so beautifully. We have got an answer from the Chief Minister who says he is committed to the principle but he says no because he joins with those who take the view that Scrutiny would be undermined. Also, one other thing while we are on the Chief Minister, I thought: well, there are these things called Ministerial Steering Groups. I put another question on 4th March and I said: “Please can I have details: there are a number of these groups, oversight or Ministerial groups, that have been established by the Council of Ministers for a development or revision of policy, and tell us the details of the constitution, the terms of reference, the membership of Ministers, Assistant Ministers, elected Ministers, frequency of meetings, whether there are minutes, whether the group has delegated authority and date of the last meeting.” The answer was - a very nice answer - that the Council of Ministers: “Accepted the recommendation of the Machinery of Government interim report that said they should be required to publish and keep updated a list of all these advisory groups formed to progress the development or revision of policy.” Then it says, the punch line: “The list will be published during March 2014 responding to all these points.” Where is it? Where are we now? What is today’s date? Where is it? That is the degree of disregard that we have as ordinary Members. The public cannot understand when they come to us with issues, we put questions, we raise issues, and we are treated with dismissal: “This does not matter. What does it matter? Deputy Young; we have probably seen that.” It does not happen. Deputy Southern spoke about a change of culture and the Constable of St. Mary, absolutely right: the proposal I have brought is an in-principle decision which allows the Assembly, through the mechanism of P.P.C. and this House, through Regulations, to set the way, the practicalities of how that would work. It is a fundamental tool that we do not have. I think I have lost my way now in my passion. I also looked at another little clue about this ... I have found my notes; I had left them in the vacant seat next door. I could not attend the report on accounts presentation because obviously I had to prepare for the debate we had proposing this. Of course, I commend this document, this is a gem. In the notes there are all sorts of secrets. This is a mine of information. Appendix A at 5.7 in the report and accounts, page 100, tells us about our corporate government framework. There are some really good principles here: “Focuses on the purpose and the outcomes for the community and creating an implementation of vision for the Island” that is one of the objectives, and then: “States Members and officers working together to achieve a common purpose” and then: “Demonstrating the values of good governance” and then: “Developing the capacity and capability of States Members to be effective” and officers, of course: “In engaging with Islanders and stakeholders to ensure robust accountability.” Fabulous objectives. But then there is a little colour chart underneath and it tells you, in its nice colour-coded system, where our various bits of government come in this ranking, and Scrutiny is one of those. Scrutiny is, I suppose, straw-coloured.

[10:45]

They are ranked. First of all, there is: “Openness and inclusivity”; well, do Scrutiny get ranked as openness and inclusivity? No. What comes under that is internal newsletters, accountability.

Senator L.J. Farnham:

Sir, is the Deputy meant to be summing up some time today?

The Bailiff:

Carry on, Deputy.

Deputy J.H. Young:

Thank you, Sir. I am grateful for that. At 6.00 a.m. this morning I was having an enjoyable read of this; I am enjoying it too much, and I am sorry. Then it has got: "Accountability" here in blue, and I will sum it up, but the point is this, on every one of these charts Scrutiny processes are stuck at the bottom of the list on one criteria only: integrity. Nothing wrong with that, but do they not count for openness and inclusivity? Do they not count for accountability? No. It really is fickle. States published accounts; now we know. More care, I think, taken with that. Of course, there were those theorists, and I think hopefully they have not surfaced in this debate so far, but I did read through the in committee debate on this section of what was then the proposal for non-elected members, which were described as kind of a groupie tendency. I am hoping that the enthusiasts, or those who see it as a group tendency, will not oppose this amendment. Cornwall, I think, have demonstrated that you can have processes that work and retain the independent culture of our community and you do not have to go the whole hog, as going back to committee. Now, I really like Deputy Vallois, I really enjoyed working with her on the Chairmen's Committee but my experience as Chairman of the Environment Scrutiny Panel says that there are real issues about the effectiveness of Scrutiny, and it is not Deputy Vallois' fault that those issues are still there after 8 years. What happens? We have had some dreadful situations in this House with really excellent reports, a fantastic amount of work had been done, and those recommendations are not even listened to. Timetables are set that are sheer impossible. We all know what it is like and, in the end, one feels: "What is the point?" Then we have got this limited capacity; I see it as like an hour glass, access to information. Deputy Martin spoke of this. The civil servants and the departments and the Ministers have got all the information, the Scrutiny Panels have to go through a narrow channel with one civil servant ... I have got one, everything has to go through that channel to get the information and, of course, it is slow and it is narrow. Your Scrutiny officer goes on holiday and you are stuck for 2 weeks, civil servants try and cover, it is impossible. So you have got a critical capacity. There were loads of things I wanted to do in Deputy Duhamel's department: cannot do them, it has just run out of time, it is impossible. We just do not have the resources. That is really not good. So if we have got a function that is already weak, it is not because there is a lack of commitment on behalf of the people running it. Because Deputy Luce and I spoke, he is chairman of another panel ... I absolutely agree with him that working with Ministers co-operatively is the best way, but the problem is that one is caught between working constructively with Ministers on policy under development or one is then criticised for going soft. I have had talks of: "Well, I will bring a vote of no confidence in you as Scrutiny Chairman." Why? Because I am trying to work with one Minister, trying to get information, working on policy development. That works well, but you cannot do that and then turn round later and do an independent review as if you had had no input to it. That is the choice every panel has to make. So my solution says: "Let us have real effective Scrutiny. Let us take out the bit that causes the conflict, the policy development role, and put that into what I call advisory panels." Cornwall call them P.A.C.s (Portfolio Advisory Committees), previously they have been called boards, or whatever you like, but take that out and so your Scrutiny Panels will then be much more effective. So it certainly does not replace Scrutiny, it absolutely strengthens it. Now, I agree with what the Chief Minister says and Deputy Vallois says about this thing called a Scrutiny Management Committee. Yes, during the process of discussion with these issues I certainly had a problem because members of my panel and others did not like it, but I think we have been down a journey where we have come to a view that there are elements in Scrutiny that can and should change. I look no further than the Scrutiny rules in Cornwall. I do not know if Members have looked these up. What have they got? They have got powers whereby the Scrutiny Panels can call or require matters to be considered by their cabinet. How many times have I met the Council of Ministers since I have been a Scrutiny Chairman? Once. Cornwall has rules: issues that cannot be resolved go through that route. There are call-ins when things go wrong, officers called to account. It is all there. It is possible to have Scrutiny rules within the framework

of those bodies and make them work; they have proved it. Of course, there is an issue I have to confess to: if you adopt my amendment, there is no question, Members already work hard in this Assembly, but they are going to have to work a lot harder and it may be that some Members find that ... I have got to be frank about it: it is an extra commitment, Members will need to double up their roles and multitask. The rules for that will have to be worked out by P.P.C., but when we met and spoke with Cornwall, they do that very successfully, there are members that feel much more preferable doing that Scrutiny function and those that are better at policy development, so a dual role. I think those jobs are entirely separate. I plea with Members, this is the third time a proposal has been on the table to give that inclusivity, to solve or at least give the capability of the solving of problems, detail goes in regulations, without breaching the Troy rule. There are those who may say: "Well, this is not the answer, get rid of the Troy rule and then we can all be Assistant Ministers, we can all be members of the Executive." I do not think that day will ever come and we will carry on, Members like myself - it will be other Members - bringing constructive proposals to give an extra tool in our armoury of making this Assembly really effective. Of course, why did I bring it? I did P.33; looking at what we have approved, the substantive debate, how does my amendment relate to that? Well, you can ask, I suppose: "Was it worth it?" I do not know, but I am absolutely sure that my amendment will improve it. We will get something very substantial for this community if my amendment is approved. It puts in checks and balances that are not there if we vote P.33 in third reading. The detail: we have the power, this Assembly will approve it through regulations and, when we have to come to press our button on pour or contre for the final P.33 where we finished up ... I can see the Chief Minister is not listening, I want to know that in these proposals is this amendment with its radical change. Certainly, that will be a major factor in my Third-Reading vote. I ask Members: please, do not consign these ideas to the dustbin, give them a chance. I could go through all the points of detail: Senator Maclean ... the proposal was drafted by the Law Draftsmen for me, it is open; if Members want to go a whole mile later on to widen it out, I personally say, for my proposal, that was not my intent. My intent was to get the principle established and then those details can be revisited at a later date. So, Sir, I ask for the proposition and I ask for the appel.

The Bailiff:

The appel is called for in relation to the amendment of Deputy Young. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 16		CONTRE: 26		ABSTAIN: 0
Senator A. Breckon		Senator P.F. Routier		
Deputy R.C. Duhamel (S)		Senator P.F.C. Ozouf		
Deputy R.G. Le Hérisier (S)		Senator A.J.H. Maclean		
Deputy J.A. Martin (H)		Senator B.I. Le Marquand		
Deputy G.P. Southern (H)		Senator F.du H. Le Gresley		
Deputy of St. Ouen		Senator I.J. Gorst		
Deputy J.A. Hilton (H)		Senator L.J. Farnham		
Deputy J.A.N. Le Fondré (L)		Senator P.M. Bailhache		
Deputy M. Tadier (B)		Connétable of St. Helier		
Deputy J.M. Maçon (S)		Connétable of Trinity		
Deputy G.C.L. Baudains (C)		Connétable of St. Clement		
Deputy J.H. Young (B)		Connétable of St. Peter		
Deputy of St. Mary		Connétable of St. Mary		
Deputy R.G. Bryans (H)		Connétable of St. Ouen		
Deputy N.B. Le Cornu (H)		Connétable of St. Brelade		
Deputy S.Y. Mézec (H)		Connétable of St. Martin		
		Connétable of St. Saviour		
		Connétable of Grouville		

		Deputy of Trinity		
		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy A.K.F. Green (H)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.J. Rondel (H)		

1.2 Draft States of Jersey (Amendment No. 8) Law 201- (P.33/2014) - resumption

The Bailiff:

Very well, then we return to the main proposition, and the next thing would be Article 9, but I understand, Chief Minister, that is not being proposed, is that right?

Senator I.J. Gorst:

That is correct, Sir, I would just like to propose Article 10 now.

The Bailiff:

So we then come to Article 10. I invite the Chief Minister to propose that.

1.2.1 Senator I.J. Gorst:

This Article amends an existing prohibition on delegations which will mean, if that is amended, a Minister will in future be able to delegate to an Assistant Minister a power to make an enactment or a power to decide an appeal which can only be decided under an enactment.

The Bailiff:

Is Article 10 seconded? [**Seconded**] Does any other Member wish to speak on Article 10? All those in favour of adopting Article 10, please show. Those against? Article 10 is adopted.

1.3 Draft States of Jersey (Amendment No. 8) Law 201- (P.33/2014): eighth amendment (P./33/2014 Amd.(8))

The Bailiff:

Article 11, I think you are not proposing, Chief Minister, is that correct?

1.3.1 Senator I.J. Gorst:

That is correct, Sir. Article 11 will not be proposed, which then means I think we come on to the proposed new Article 11.

The Bailiff:

Yes. Very well. Then the next matter is the eighth amendment lodged by Senator Ozouf, which proposes a new Article 11. I will ask the Greffier to read the amendment.

The Greffier of the States:

The proposed new Article. After Article 11, insert the following Article and renumber the remaining Articles accordingly: 12, Article 44 repeal. Article 44 is repealed.

The Bailiff:

Before that can be proposed, Senator, I think it is necessary for a proposition to suspend the Standing Order.

Senator P.F.C. Ozouf:

Sir, I have just been advised by the Greffier that because this is a matter which affects Members the Standing Order in relation to, I think it was Standing Order ...

The Bailiff:

106.

Senator P.F.C. Ozouf:

106, needs to be lifted. So I propose for Standing Order 106, because it related to a matter which could directly affect Members' remuneration, be suspended.

The Bailiff:

Yes. So the proposition is that Standing Order 106, which deals with the declarations of interest, be suspended on the basis that Members have a direct financial interest in the discussion. Is that proposition by Senator Ozouf to lift Standing Order seconded? **[Seconded]** Does any Member wish to speak on the proposition to lift Standing Orders?

Deputy M. Tadier of St. Brelade:

I think there is a longstanding precedent that we do not discuss our own pay in this Assembly. Whenever remuneration amendments have come up, I think it has been consistent recently that we do not do that because it is unseemly. It would seem to me that, if the States were minded to change the substantive proposition that Senator Ozouf is putting forward, then that should come from objective independent advice and recommendations. I know that is perhaps slightly complex, but that has not happened, so I see no reason for us to be lifting this Standing Order but to be consistent, as we have been in the past.

The Bailiff:

Does any Member wish to speak on the proposition to lift Standing Orders? Do you wish to reply, Senator Ozouf?

Senator P.F.C. Ozouf:

I would respectfully point Deputy Tadier to the own observations of the independent body which expresses the hope that the opportunity would be taken to address the issue of an appropriate modern remuneration structure for States Members. They have said that they are unable to discuss effectively the issue of remuneration because of the restriction of the Article that is being put forward.

[11:00]

So, not only do I think it is appropriate that Members agree to lift Standing Orders, but it is appropriate to have a debate on something that the independent body has effectively, *sotto voce*, asked for us to do. So it is appropriate and I stand by the proposition and ask Members to vote in favour of suspending Standing Order 106.

The Bailiff:

Do you ask for the appel?

Senator P.F.C. Ozouf:

Yes, please, Sir.

The Bailiff:

The appel is asked for then in relation to the proposition of Senator Ozouf to lift Standing Orders by suspending Standing Order 106 concerning declarations of financial interest. If you want to lift Standing Orders, vote pour, if you do not, you vote contre. The Greffier will open the voting.

POUR: 25		CONTRE: 15		ABSTAIN: 0
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Deputy R.C. Duhamel (S)		
Senator A.J.H. Maclean		Deputy R.G. Le Hérisssier (S)		
Senator B.I. Le Marquand		Deputy J.A. Martin (H)		
Senator F.du H. Le Gresley		Deputy G.P. Southern (H)		
Senator I.J. Gorst		Deputy of St. Ouen		
Senator L.J. Farnham		Deputy J.A.N. Le Fondré (L)		
Senator P.M. Bailhache		Deputy M. Tadier (B)		
Connétable of Trinity		Deputy T.A. Vallois (S)		
Connétable of St. Peter		Deputy J.M. Maçon (S)		
Connétable of St. Mary		Deputy G.C.L. Baudains (C)		
Connétable of St. Ouen		Deputy J.H. Young (B)		
Connétable of St. Brelade		Deputy R.J. Rondel (H)		
Connétable of St. Martin		Deputy N.B. Le Cornu (H)		
Connétable of St. Saviour		Deputy S.Y. Mézec (H)		
Connétable of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

The Bailiff:

Very well, then we move to the amendment which has been read, so I invite Senator Ozouf to propose it.

1.3.1 Senator P.F.C. Ozouf:

It is a shame that Deputy Tadier is going to leave; I hope he is going to take part in this debate. I do stand with a degree of trepidation because I know this issue is a matter of a significant wide tableau of opinion, and it is also an issue which we find uncomfortable, Members find uncomfortable to discuss. It is also, of course, something which has a very strong public interest. The level of Members' remuneration recently attracted attention with the proposition of the Connétable of St. John last year, who attempted, effectively, to bring forward a proposal to not allow the independent remuneration body to award an increase. Members should clearly not be, as Deputy Tadier said - which I will agree with - engaged in setting our own pay; that is a widespread and accepted precedent and it is the wise thing to do. Pay and politicians do not mix. However, what we do is we set, effectively, the parameters by not only a piece of law which sets up the independent body, but we also have an independent body that has terms of reference. It is probably true to say that 30 or 40 years ago this Assembly was made up of Members who were largely Members who could stand for the Assembly because they could afford to do so. It may well be that the time commitment has changed but, certainly, it was an Assembly of Members that could afford to be there, either by retirement or by personal wealth or by other means. Over time, there has been an

evolution of States Members' pay, there has been an acceptance, rightly so, that States Members' pay should reflect an ability to attract a wide class of people and, irrespective of means, an individual should be able to stand for the States and receive an effective and proper level of remuneration. When I first joined this Assembly 15 years ago, it was not remuneration, it was income support, and, like a number of Members, effectively every pound that was earned was offset by a pound in reduction of pay. I say that because, even when I joined this Assembly 15 years ago, the issues of remuneration obviously attracted a very emotional and very clear response. I have quoted on a couple of occasions, but it is relevant to say it, a quote from the late Tony Benn that said of change: "When you first say it, people ignore you, then they say you are mad, then they say you are dangerous, then there is a pause and you cannot find anybody who would disagree with you." I think that is probably a quote that is relevant to States remuneration. Could it possibly be right for Members to stand for the States and receive income support in the way that existed 15 years ago? Could it even be appropriate that no remuneration would be paid? It would be inconceivable. The reason why it attracts public attention, and I am going to say what this debate is not about, but perhaps explain the context why it is going to provoke certainly some very strongly-held views and some emotional views and some views that Members might display saying they do not want to tackle it. I want to say something in defence of Members generally. The proposition by the Connétable of St. John last year said that Members should not get an additional award. I was reading the Privileges and Procedures comment to that proposition, which I strongly supported, and in it was an interesting chart which showed that States Members' pay has, effectively, over the last 10 years - and I have been here for 15 years - fallen in real terms to a quite significant extent. Now, we say that on one side and yet, on the other side, we understand that a remuneration level of £42,000 and £4,000 of expenses is indeed a very high amount of income for the average Jersey individual; it is well above average earnings. Of course, there will be a wide variation in terms of the comparatives of remuneration. Members do not have any pensions, Members have a requirement for - without any question - improved facilities and research facilities to fulfil their duties. There is, effectively, no certainty in remuneration. I am sure that many Members will be returning after the elections because they have got the confidence of the people that they serve. Other Members will not, for whatever reason, and they will effectively end their level of remuneration. Members will have... as all of us have to go through life, of course, effectively engaged in planning by taking financial obligations, mortgages, *et cetera*, and other arrangements. This is a very difficult issue because it is embarrassing. I say to the media that have hounded States Members to find out whether or not they were going to get previous awards by the independent body: it is embarrassing and it is wrong for Members to be somehow segmented into those that can afford and those that cannot afford. It is, and has been increasingly, embarrassing and it is unfair, it is pejorative, it is targeting issues which are unfair to those Members who do not have private means or who do not have the ability to live on other incomes. Many Members will; that is not a criticism, but effectively this Assembly should be blind to all people's private incomes outside of Members' responsibilities outside the Assembly. The majority of Members work incredibly hard and, while the public is uncomfortable with a level of remuneration that is awarded, but has fallen significantly by probably 20 per cent in real terms in the last 10 years, I have no doubt that the public does not recognise the amount of hours and the amount of work that Members do in serving their communities, in serving their Island and in serving in Scrutiny. We should not be afraid; there is somehow a triviality in terms of States Members' pay. I recall the debate on States Members' lunches: States Members were not entitled to a sandwich lunch, costing probably £2, to be provided at lunchtime in order that Members may gather and discuss matters of public importance over the lunchtime. I am afraid that we think so little of ourselves that we do not ... and this is not about States Members' free lunches, and I can hear people across the Island thinking: "How dare Senator Ozouf, as Minister for Treasury and Resources, say that there should be a free lunch for States Members?" but I think it is a statement of how we regard ourselves and what we say about

ourselves that ends up getting decisions ... that we feel embarrassed by the fact that we cannot even be provided with a sandwich lunch over lunchtime; not to discuss trivial issues, but to get together to meet. We have just had a debate about Deputy Young: talking and meeting as a group and discussing Members. I have never seen a Members' lunch in which important matters of public concern, important matters of constituency, Ministerial responsibility were not discussed. I take that as a symbol of how emotional and how trivial the issue of States Members' pay can be. I take it very seriously. Most Members of this Assembly take their responsibilities incredibly seriously and there are, of course, different levels of time commitment for different positions with this Assembly. Without mentioning any names, I have served as a Deputy of the largest constituency, like Deputy Hilton, Deputy Rondel and others. I think I can speak with some authority if I was to say that a Deputy such as Deputy Hilton will be doing tens of hundreds of hours during the course of a year on constituency work. There may well be Constables with different levels of time commitment. There may well be Constables that have smaller Parishes that do not have ... I am not saying Parishes have armies of staff, but have staff in order to discharge all of their other functions. The Constable of St. Helier has a larger staff; he has 33,000, compared to other Parishes who are a third of the size. It may well be that the time commitments between Parishes are different. It may well be also that it is a reality that the time commitment for different positions in this Assembly, Scrutiny, Ministerial, have different time commitments. A Member who chairs a panel will be expected, I am quite sure, with no disrespect to a panel member, to be spending more time than a committee member of that panel. They will be responsible for writing the foreword, they will be responsible for overseeing the scheduling of meetings. I make no apology for saying that I am aware of Ministers' time commitment. I am sure that he would not mind if I said: I live in Cyril Le Marquand House (probably a little too long) but I see the commitment of the Chief Minister in terms of what he does in terms of time commitment. I do not know, because I have not estimated it recently, but I imagine the Chief Minister doing the job that the public and this Assembly would expect would be probably doing 70 or 80 hours a week of work. I make no apology for saying that. There is a public view, a media view, that Ministers and other States Members discharging C.P.A. (Commonwealth Parliamentary Association) A.P.F. (Assemblée Parlementaire de la Francophonie) responsibilities go on jollies. Senator Maclean was in China last week. Do we think that Senator Maclean was on holiday? Do we think that the Chief Minister was on some sort of jolly 2 weeks ago to the U.A.E. (United Arab Emirates)? I do not think so. There is a huge and significant time commitment for different roles and different responsibilities on the Ministerial side, Scrutiny side and constituency side as well. Remuneration has evolved and it inevitably needs to be examined to be fit for purpose. We have set up an independent remuneration body. We should not be discussing the level of pay, but we currently have a restriction in the law, which is a statutory provision, which requires the remuneration body to be completely opaque about different responsibilities of this Assembly. They are not allowed to look at different time commitments. So I would ask Members what other role, what other job, what other position in terms of caring professions, nursing, policing, teaching, what other role would ask an additional responsibility in terms of time commitment to not receive some sort of compensation for that time commitment? We would not contemplate a situation of rewarding a public sector worker, a nurse being asked to take on additional responsibilities with additional time commitment, to take the same level of remuneration. The States accounts published the remuneration of our most expensive, most highly-paid individuals; and chief executives, dare I say it even Bailiffs, are required to do the job.

[11:15]

I am sure that you, Sir, do as many hours as the Chief Minister, but I am afraid to say that, as far as law officers or chief executives, the remuneration level of States Members is nothing like that kind of level that would require a single payment to do the job, come what may. I say that delicately and carefully because I am not here asking for more pay for Ministers. I am not asking for, personally,

any more pay for the additional responsibility. I want a system where an independent body can look at the responsibilities and the time commitment of different levels. We would not accept it for anybody who we would employ, no other parliament in the world that I am aware of does not allow their independent pay-setting body to look at responsibilities, no other charity sector organisation, that I have ever seen, allows a single remuneration restriction to be put on. At the heart of the original proposal for the restriction was a worry about the fact that it could attract some sort of cosy club of reward. So I ask Members in thinking about that, firstly, whether they really think that in any other profession, in any other confirmation of an individual or request for them to do more time, or to serve a different type of constituency, whether we would accept a situation that they would only receive, effectively, a patronage payment. Do we think that, really, we have come to the stage where in a democratic, open, transparent parliament, that additional remuneration or looking at the responsibilities has been effectively downgraded to a bonus or patronage payment? I can see Deputy Mézec ... with the greatest of respect, Deputy Mézec has only been here for a couple of months, so he might not have understood quite how the dynamics and the ferocious nature of this Assembly is when this Assembly does not believe that a Minister or somebody is doing the right job. Members are expected to know their portfolios, know their Scrutiny reports and do the job of their constituencies. It is not a bonus payment, we do not regard an additional payment for a police officer, a teacher, a care worker, a nurse, for taking additional hour commitments to be a bonus payment. I am almost, if I may say, a little advantaged in now proposing this removal of this restriction at this time of the debate because, lest there was a concern of patronage, this Assembly has decided that it is not the Chief Minister who will appoint Ministers, it will be this Assembly. Now, I personally would have liked the 3 strikes and appointment, but the Assembly has not accepted that. The Assembly has voted and has decided that the Chief Minister will propose and this Assembly will decide. So the arguments of patronage in terms of putting your friends forward for an additional bonus payment, which could have been argued and which I totally do not understand and do not accept ... I do not believe that any Minister has been paid a bonus for effectively having a job. This is not a title, this is not a bonus, this is a proper reflection of time commitment. It is, in my view, and always was, an unreasonable restriction of the independent board to set one level of remuneration or the requirement to not even consider different levels of remuneration. We should not prescribe wrong, artificial and unfair rules. They have indicated a willingness to look at it, but they will not look at our different responsibilities and time commitments because of the restriction. I am not here to suggest levels, I am not here to suggest what is right and what is wrong; what I do know is that the independent board which looks at remuneration, which should result in public confidence in remuneration, should be able to look at it. I would say there are many Members of this Assembly who do a great deal of work, hidden work, work that the public would never understand. This is not about Ministers. Most Members, the vast majority of Members, do what the public expect them to do for their level of remuneration, but there will be some that perhaps do not. Is that right and is that fair from an earnings and remuneration basis? Is it correct? I would have thought that at least the default position of any Member is attendance at this Assembly and at least the membership or serving of their constituencies, which may have different sizes. Not an easy issue to deal with, but we cannot even ask people to look at it. We cannot even ask the remuneration body to effectively look at the responsibilities of individual Members. Remuneration should command public confidence, it should command public respect in terms of what we are paid and what we are not paid to do. Many Members will be worried that this issue is not an issue that should be discussed now. Many Members will be thinking, quite naturally, without casting any aspersions at all, at: "How it may affect me in the longer term." Thirdly, they will be thinking what the public think. Those Members who are concerned about themselves ... I think that I would say all Members - and the Remuneration Board would understand - that there is inevitably going to have to be a public consultation by the Remuneration Board, and any change to remuneration is not going to happen

overnight. It is probably not even going to happen before the election. Members will have entered into financial obligations with a reasonable expectation that that may continue. Of course, the public decides on whether they get voted in, but I do ask those Members to think very carefully as to whether or not they really think that it is appropriate for no differentiation in terms of time commitment of any Member should be considered. If the restriction is wrong and if they believe the restriction was wrong and is not working, then they must surely vote for removing that restriction. The second question is that of the issue of time. I think I have just explained that. It is always the right time to change something which is unfair. I do not think that the public is confident about the level of remuneration, for all sorts of reasons. Thirdly, and the last point that I would make in proposing this, is what the public think. Members will be aware that I try and use social media in order to gauge feedback and an understanding of certain issues, and Members may be aware that I did a SurveyMonkey, which is effectively a survey, on what the people who read my social media output ... and any Members who think that it is just followers in a positive sense that follow my social media outlet will know that there is a very widespread following; one is careful sometimes and one perhaps wishes one did not put messages out on social media, because I get as much criticism as I do approbation for my work. Good; that is democracy, that is free speech, and long may that continue. I can say to Members what the results of my survey was. I asked 4 questions. The survey, which had in excess of 100 people; I do not know quite how many more because I did not pay the additional amount of money for the premium service for SurveyMonkey, but it was more than 100 over a period of time. The results were, if the Members of this Assembly are thinking about public opinion, I think quite compelling. Were Members of the public aware that there was one level of remuneration? I am not sure that many Members were. There was an 85 per cent response that they understood that there was one level of pay, one level of remuneration. The second question was: "Do you think that States Members, regardless of time commitment, should have one level of remuneration?" The answer was 70 per cent said no, 70:30. The third question is: "Do you think a Back-Bencher that has no additional responsibilities should be paid £42,000?" It may be misleading, but it is the question and I have got the answer, and indeed the answer to that was 55 per cent. More strikingly is: "Should a Member that has more time commitment be expected to receive a different or higher level of remuneration?" and the answer to that question was more, by 65 per cent, the same, 30 per cent, less, 2 per cent. So, if there is an indication of public opinion, then that is a small one, Members can take it for what it is, but I believe that there is a compelling public view that the Board should be given the ability to look at different levels of remuneration. So this is a delicate, personal, incendiary, emotional issue. All I am asking is for the Remuneration Board that sets pay to not look at all at time commitment restriction. This is not the end of the matter; further matters would need to be dealt with with the terms of reference, effectively in a discussion on budget. Clearly, there would be a concern of the overall pay bill going up significantly, but of course we are losing 2 Members and a consultation with P.P.C., and indeed the Treasury perhaps on overall budget limits with the Council of Ministers and a wide public consultation, should happen. The original reason to put this restriction in was patronage. I would argue that that is not a sustainable argument in relation to certainly Ministers and the ability to appoint Assistant Ministers and, in the process that goes through, would effectively not be sustainable to a patronage-based argument. If we really think that patronage is about putting Members in charge of Scrutiny or in charge of different responsibilities, then I think that it is a sad state of affairs that we regard ourselves with such disdain and such little respect. This is a long journey of evolution of what is fair to reflect different people's time commitments. This is not a bonus, this is not a "them and us", this is not a Left and Right, this is not a professional versus non-professional. This is a fair and reasonable de-restriction, de-shackling of an issue that should be properly dealt with that at the moment is restricted, and that has been requested by that body themselves to be lifted. I move the amendment.

The Bailiff:

Is the amendment seconded? [**Seconded**]. Deputy of St. Martin.

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

As Members will know, I am not short, neither am I particularly sweet, but I will attempt to be both in speaking to this amendment. I have always believed, as I am sure we all do, in a fair day's pay for a fair day's work. For that reason, I am going to support this amendment. However, I warn the Minister, and I have already done so privately, that this issue is nowhere like as straightforward as he might think. Having said that, it is an issue that needs addressing, at least in this first instance, and it is only right that the fully-independent panel look at this well away from political interference. What I have already told the Minister is that it is wrong to just assume that a lowly Deputy works less hours than a Senator [**Approbation**] just as it is wrong to just assume that a Minister does more than a Back-Bencher.

[11:30]

However, it is also very wrong to just assume that we all work the same hours every week. Then there is the quality of the work we do. Working hard and putting in the hours does not necessarily lead to achievement and people need to be paid what they are worth, but how do you judge quality? As we all know, some can take a long time to get nowhere while others come up with very good decisions very quickly. All these subjects need to be looked at. I welcome this amendment but I am under no illusions that there will be some, shall we say, discussion before we arrive at varying rates of pay for Members of this Assembly.

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

I agree with the principle of this proposition. The States are currently undergoing a vast reform programme across all States employees' positions with regard to payment and fairness, so why should the same not apply to States Members. There is, after all, a lot of diversity in the work that we all do. That said, I do not believe that this is something that we should be debating in detail. This has got to be done by an independent body, which is already set up for that purpose. However, that does not mean that Members should not have a say on the matter, it just means that any views should be made known to that panel, preferably in writing. The public should also have input, after all they - the taxpayer - pay us. Maybe a starting point should be on the election results with payment based on the number of votes received by each Member. [**Laughter**] That base level should not be greater than the average wage. This would also be a fair system of representation. There would also, however, need to be a factor applied to allow for Senators on an Island mandate. Obviously the Deputy of St. Mary could suffer the most, St. Mary having the smallest population. But that would not necessarily be the case as the recent election in St. Helier was lower than that in the St. Mary election 3 years ago. Number of votes would give a base level payment, so a smaller number of votes would also mean smaller approved representation, therefore, lower base payment. It would then be up to the individual to take on positions of responsibility in either Ministerial or Scrutiny to gain increments of payment. A lot of Members will not agree with this. They will say that being a States Member should be achievable by all, including the lower paid. Those comments have no logic. If a person is on low pay then it is because they have found a station which suits their ability. Why would you double their pay and expect them to help run the Government? This attitude has the reverse effect on the people that should be in Government, the high earners in our community who are used to responsibility and the need to be productive and inventive in order to keep their jobs. How can these people take a drastic cut in salary? They have commitments and mortgages to suit their earnings. That is where the unfairness lies. It is easier to step-up in salary rather than take a drastic cut. This should be reviewed but certainly not within or by this Assembly. We should vote on the principle but leave the detail to the independent body. Thank you.

1.3.4 Deputy G.C.L. Baudains:

My good friend, or maybe ex-good friend, I find myself disagreeing with quite a lot of what he said. I will start off by saying I have to applaud Senator Ozouf for sticking to his long-held views in bringing forward something which is potentially unpopular with the public. I admire him for that. Also I agree with much of what the Deputy of St. Martin said. But first of all I would like to refer to the ... I am slightly uncomfortable with parts of the report, about one-third of the way down the page something I am concerned with, it says: "At present a Member who sits in the Assembly and takes no additional Scrutiny or Ministerial responsibility receives automatically the same level of remuneration. It has to be unfair that those that take more responsibility, and overly generous for those that do not." That seems to suggest that a Minister should be paid more and I am uncomfortable about that. It does have an unfortunate condescending ring to it. I mean, there are some Ministers, for example, who do less than some Back-Benchers, so how does all that work? How do you measure commitment? Our job is to represent our electorate, not to feel important or superior by increased salary. Yes, the Minister for Treasury and Resources works incredibly hard, although apparently has sufficient time to indulge in social media, but Deputy Southern, I would say, works probably just as hard as well. All sorts of problems would arise from adopting a differential pay. Leaving aside the issue of potential patronage, this is not a clock on job, it is not a job with performance-related criteria, how on earth do you measure the input that a Member has, never mind as the Deputy of St. Martin alluded to, the difference between work input and actual success in achievement. It is pretty obvious that the present situation is far from perfect, but what I am concerned about is the usual unintended consequences that we do not always appreciate, because in my view differential pay will probably create more inequity than it solves.

1.3.5 Deputy R.C. Duhamel:

I am pleased to follow the last speaker. I think inevitably I am not surprised that the Minister for Treasury and Resources is bringing this proposition because he does have a genuine interest in looking at the financial bottom line of all issues. But in my thinking that approach is essentially one-dimensional and there are other issues that really need to be considered before we move in the direction of increasing the pay differential limits. To my way of thinking this is really the essence of the argument behind the proposition, which we may or may not discuss today, I do not know. In any situation there is a wide range of issues and solutions as you run across the political spectrum or the argument spectrum, from left to right or up to down or however you are measuring it. The issue that comes to mind is the one of pay differentials. Do we wish to be a society that supports the overall stance of the United States of America where we move to a meritocracy and we pay people, on a pay performance basis, outrageous sums compared to those who are doing equally useful jobs at the lower end but are not able to command those particular rewards? I do not want to be part of an Assembly that ties itself into performance pay and pays *prima donna* stars, political stars, according to their ability to tweet or twitter or to advertise themselves for the success or the successes that they are encouraging their civil servant officers to do on our behalf. I certainly do not want to be part of a system that begins to move in the direction of performance pay that would perhaps consider some of our top performers moving towards the £1 million a year mark for playing a couple of football games. But some people say: "You do not support football and you do not support rugby, so what is the problem?" We do have a society that look very, very carefully at the differences between those at the top-end of the earning spectrum and those at the bottom. I have always admired for a long time the Japanese society who, for a long while, worked to the idea that a person at the top is worth no more than a certain number of times as those at the bottom. What an adherence to those policy principles does is that it engages society in a particular way and suggests that we are all as important as each other, and builds up the idea of inclusivity because we are team and the team is only as strong as its weakest link. So everybody is important. The American system is hierarchical, it allows those at the top, for whatever reason, to scramble on the

backs of others and to pay themselves more and more for the privilege of being able to do so. So I would like to be part of a society that decreases the differences, decreases the differentials, and sticks with the principles that this House endorsed in setting up the remuneration system that we have at the moment. Members must be reminded that system was to set the lowest figure that was possible to enable all members of society to be able to come forward as States Members. The reason for doing that was not as is perhaps being intimated within this proposition, to seek only to engage the services of those who have a particular skill list or a certain remuneration at the moment in the business sector, but to provide an overall quality of candidature that allowed a whole spectrum of different talents and strengths and weaknesses to be represented in this House. It is a fairer system. For me, if we do adopt this policy we will be striking out that very basis on which we have operated for quite a long time in terms of the remuneration packages that we have set up. Whatever happens, if we do move forward I think it will heighten differences between Members. People will say: "Well, okay, fair enough, you are only human." A lot of people think perhaps we are not at times. It must be wrong, as has been expressed to me on several occasions, that people are looking over their shoulders, for example, at senior civil servants and stating perhaps that there is an inequity in the system at the moment in terms of the remuneration scales for our senior civil servants in comparison to the senior Ministerial positions who are overseeing their particular functions. Which is worth more, the idea input and the strategic direction or the policy directions that have to reflect society and the electorate through the system that we operate, or the ability of a civil servant to actually carry out those functions as part of the job to deliver those very ideas? If indeed this happens we do have Ministers who are looking at their top civil servants and saying: "How can it be right that a senior civil servant can be earning 4, 5, 6 times a Ministerial wage?" If we have to look at the remuneration scale as a wage, how do we start to determine whether or not we are going far enough in suggesting that Ministers compared to non-Ministers or non-Executives should be paid an extra £1,000 or £2,000 when perhaps there is substantially larger differences to the civil service grades who are doing, in essence, a similar job. I think it is the wrong way forward and certainly in my mind it will do nothing to encourage what was being debated in the previous debate, which was the attempt on behalf of a number of Members of this House - myself included - to try and increase the fairness and the ability of everybody to feel that they are wanted, they are able to make a useful contribution, from whatever background they come from, whether it be humble or rich or privileged or whatever. I do not think there is much more to say. In essence, I think that is the real issue. I would like and prefer to be part of a system that does parade its success in being inclusive and encouraging as wide a range of abilities within this Chamber, and not to set one Member apart from another on the basis of their ability to think they are worth more than those less fortunate Members.

[11:45]

One final point, and perhaps there is an interest. For some Members of this House who have been in the job, if you like, for a long period of time and who have lost their ability to do other things, we do have further considerations as to the type of remuneration packages that we should be thinking about. What about severance pay if you are not re-elected? What about pensions? Pensions have been looked at by Members of this House and committees of this House for a number of years and we have made no progress or virtually no progress on that. In fact, one last point, it saddens me that some Members of this House who are no longer with us who did spend an appreciable amount of time in this House and were not re-elected, having done successful things while they were Members, are in the unfortunate position now - because we do not have those support systems - of having to go cap in hand to the social security system for income support. So if we are going to begin to move in the direction of wanting a fair pay for a fair day's wage, and going further to strengthen and heighten the differences between Members at the top and Members at the bottom, then I think we have to take these other issues into account and decide whether or not it is going to

be the full Monty, if you like - and he has not spoken yet - in coming forward with a solution package that solves the problem once and for all, or just picks in this one-dimensional fashion that I mentioned at the start of my speech, just picks at one issue and suggests that is the only thing that is of importance. It is multi-dimensional, and I think I have said enough for Members to know which side I shall be voting.

1.3.6 Connétable M.P.S. Le Troquer of St. Martin:

I accept this debate is not about what States Members should or should not receive in the forthcoming year. We know that has been discussed many times, as Senator Ozouf has explained again this morning, and it has been well tested in this Assembly many times, and even again this morning. I accept the debate that we are carrying out now is not on the remuneration body, how they are selected and how they should operate. That too has been aired in the past. This amendment today obviously is just to allow the different amounts for remuneration for different roles that Members may undertake, and the Senator is just asking that the confines that we have at the moment are removed to allow the review body to have a greater remit in the future. Members will know that it is one issue that has caused me a lot of concern since I have been a Member of the States, and I will not bang the desk like the Deputy did this morning but I really feel strongly about it. My first involvement was when the Privileges and Procedures Committee lodged P.44 in 2012 and that was in relation to the revised terms of reference for the remuneration body. I made a speech during that debate, that was in June 2012. Deputy Tadier replied to the various concerns that I had, including that States Members being involved in the selection of board members, albeit it through the Appointments Commission. The Deputy Chairman replied at that time to my queries and gave examples of how things could be challenged if a Member was not satisfied with an issue. During 2012 I made a written submission to the Electoral Commission on a number of issues and among them it included my concerns on States Members' salaries, their remuneration. One of the concerns I raised with them there was that all Members received or were entitled to the same level or remuneration, whether they were a Senator, Deputy, or Connétable, that they were entitled to the same expenses allowance, although the Ministers were served by staff whereas the Deputies were not, and the other Members who were not Ministers, and had the support of the relevant departments. I told the Commission that the experience as a States Member did not seem to make any difference. My colleague, the Connétable of St. Clement, 31 years' service in this Assembly - I have 2½ years' experience - what a difference, yet we can take the same remuneration. I told the Commission that the different roles played by the Members did not matter whether they were the Chief Minister, the Deputy Chief Minister, an Assistant Chief Minister, or any one of the Ministers. I explained that the Members - and we have heard again this morning - that many were earning less than civil servants, less than middle managers, not just senior civil servants. Let us remember, it is the Minister who falls when things go wrong, the Minister who is expected to be on the radio early in the morning, late in the evening, at the weekend, Saturdays and Sundays, answering to the public and to the media themselves. I do accept many civil servants go beyond the call of duty, and we do get emails from them and support and advice throughout the weekend and late into the evenings too. I identified to the Commission there was no additional remuneration to those Members undertaking additional roles, and this is what the Senator has brought up this morning, any additional roles of States Members. I identified my concerns that many Members could earn far more outside the States Assembly in a private capacity. In saying that, I accept it is an honour to serve as a Member of this Assembly, to represent the parishioners of St. Martin, but also to represent the electorate of the Island because I do not just vote for the people of St. Martin, I make decisions on every other issue that comes to this, as well as working on the Overseas Aid Commission and also on a Scrutiny Panel. It is an honour to be able to do that. Having had that opportunity it will stay with me for the rest of my life and with my family. In September 2012, like other Members of the Assembly, I received a letter from the Chairman of the Review Board asking

for submissions we had to make in relation to the Board's work in setting the 2013 Board. I was one of only 12 Members who made a submission in October 2012 to the Chairman regarding the various concerns, and in my letter I copied in the things I had given to the Electoral Commission. Also in that letter I suggested it was time for major changes to be made in the way States Members' remuneration was calculated and should be implemented, depending on the results of the Electoral Commission. But their hands were tied to some degree, the Board did their work and the award was made for 2013. We can all recall - and the Senator did not mention it this morning - but in January 2013 the Connétable of St. Saviour brought a proposition to this Assembly asking Members to decline the award. I prepared a speech for that debate, but of course we could not debate it, we had a vote on whether we could debate it or not and, no, it could not happen. I was going to oppose the proposition of the Connétable of St. Saviour and intended to highlight my concerns, but the debate could not take place. I am sorry I was unable to find it last night but I am sure it was either the Chairman of P.P.C. or the Chief Minister who made a statement around that time to the effect that the role of the remuneration review body was to be reviewed and changes were likely to be made on the very issue we are discussing today. We fast-forward to P.128, in 2013 the Connétable of St. John, which the Senator has mentioned this morning, and *déjà vu*, we were not allowed to debate his proposition. As I have said, I know we are debating the issue on States remuneration, fixing the sum for the following years, not what Senator Ozouf is proposing today. But much of what he says is what I said in those debates. There are areas of the Senator's amendment that I do not really accept and I am in line with the Deputy of St. Martin, and we have not discussed this prior to today. When he states he believes that it is possible for an individual to stand for the States and to continue a part-time career, call me old-fashioned, maybe I am just a bit slow, I have not enough hours in the day, come and see my garden, and I am certainly not part-time. The majority of the public do not see what I have seen since becoming a Member of the States of the work being undertaken by all the Members in a wide variety of roles they undertake on behalf of Islanders. There is no need to go around the Assembly this morning, but I look over - and the Deputy is not there at the moment - Deputy Southern, he is not a Minister or an Assistant Minister or Scrutiny Panel member at the moment, but he does not just turn up at this Assembly every 2 weeks, give us his thoughts, he has very good debates in his speeches, and then take a week off before he turns up at the next one. There are others, Deputy Tadier and Deputy Higgins, there are many others. We all do different things in this Assembly. I do not believe there are any part-time Back-Benchers. There will be Members in today and members of the public who will say: "It is okay for the Constable to speak, he is on a pension, he has probably paid-off his mortgage and his children have grown up and have left home." Some might even say: "He gets fed and looked after at Parish meals, at the fêtes and the baby competition." That is not so. I am in a very fortunate position and I accept that, but time in the States has been very expensive to me personally. Like many I have my own arrangements with the Treasury regarding my remuneration, and I know there are other Members here today in a similar position. The argument could be - and far better for me in the media reporting on a personal basis, and for Senator Ozouf too - seeking to reduce Members' remuneration and only have add-ons to the various roles to bring us up to current levels. I am not seeking for that to happen, and I do not believe the Senator is seeking that either. What we have at the moment is a benchmark which has to fit everybody, and that is set by the panel. I am not seeking a reduction of remuneration package but I do support a realistic remuneration and, therefore, different scales of remuneration for various responsibilities and the roles undertaken by some Members. I can understand the arguments of those who oppose this proposition for the reasons that they have given, and that really a reason to prevent capable people standing for high or higher office and taking the responsibilities that go with the role. It surely is common sense and integrity of the office that we hold that we are not going to be looking for favours or Ministers will not look for favours to have somebody else supporting them and then get a higher remuneration. I mentioned earlier the suggestion of the Chief Minister that he would look at the issue when

reviewing the role of the body, and the Chairman has now provided P.P.C. with a letter and is ready to start work on reviewing the remuneration and make different recommendations. In conclusion, accepting and approving this proposition today will allow that to happen. It will not necessarily mean a reduction, it may quite be the opposite, as we have seen at the moment, just to have this baseline that we have, it may go up. The panel may come back with other ideas and some lateral thinking. The public of this Island want the best representatives and I think we are fortunate to have Members who are indeed giving themselves up, giving up efforts in a role that I know totally overtakes our lives, in particular our home lives and sometimes even our health, and this is a benefit to the community. I will, therefore, be supporting the amendment. Thank you.

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

Where to begin. I think we need to go back a little and look at the terms of reference for the Remuneration Review Body and how that fits into this particular Article in the law. The thing I want to highlight for Members in the terms of reference from that body is the particular clause that says that in order to stand to be a States Member that remuneration is: "To be sufficient to ensure that no person is precluded from serving as a Member of the States by reason of insufficient income, and that all elected Members should be able to enjoy a reasonable standard of living so that the broadest spectrum of persons are able to serve as Members of the Assembly." So this is where we start off. The remuneration is set so that people can stand as candidates to this Assembly. What they then do once they are in the Assembly is another matter. In order to assess a basic level, which is what is going on here, there is a restriction within the law which was brought in, in order to prevent - as Senator Ozouf has alluded to - aspects of cronyism. Whether you agree or not whether that is happening in the Assembly do you really want to open up the possibility to start letting that happen, whether you agree with it or not? Where will that put the reputation of the States if that clause is removed? It has been a bit difficult listening to this debate in that some of the arguments that were raised in Senator Ozouf's report did not seem to translate through into his actual proposing speech, which is when looking at P.P.C.'s response to Senator Ozouf's report, some Members may be wondering what has been going on. I think we do need to go through this and look at some of the arguments that are contained within there. It does very much circulate around the issue of responsibility, and although Senator Ozouf has said: "I am not seeking to do that" in his report he says quite clearly, as Deputy Baudains said: "This is something we want to look at." He says that if you are a Minister or a Chair of a Scrutiny Panel you should be able to expect a greater level of remuneration. You cannot have it both ways. It is there in black and white in Senator Ozouf's report.

[12:00]

Other Members have said: "Just because you get a title does not necessarily translate to work done, commitment of output." For example, and I make clear, unfortunately some members of the public listening to these debates may have the thought: "They are only saying that because they will never obtain these positions." Of course that is not true in my case, I have been a Chair of a Scrutiny Panel, I have sat on the Chairmen's Committee, I am now Chairman of P.P.C. I have seen it from all different sides. You cannot tell me that I have produced less work when I was a member of one or 2 Scrutiny Panels than what I am doing now. The fact of the matter is, because I have chosen to come into this Assembly I have taken every opportunity that has been there to contribute to whatever is happening within this Assembly. I have been on the Planning Applications Panel for I think ... too many years - thank you, Deputy Le Hérissier - and there are aspects of when you want to divvy things up among responsibilities how do you calculate it? Do you then - as we talked to in our comments of P.P.C. - go around collecting all these lovely titles but not performing the functions? For example, we could go around and I could sit on the Jersey Human Rights Trust, we have a position there, Overseas Aid, Planning Applications Panel, Bailiff's Advisory Panel, Police

Authority, thank you very much, and I can gather all these lovely titles but it has no bearing on the actual work or output or commitment to what is performed, unfortunately. So how can you calculate how much an individual does get paid if you are going to go to a system of differential pay and keep it fair and reasonable and all these types of things? Not only that, but - and tentatively I will go there - when we have always had these debates about pay we have always been told, with regard to the Constables, the Constables' work is and always has been an honorary service and that by the fact that they are also States' Members they get paid and remunerated for their States Members' work. What happens when you have a constituency issue, is that States Assembly work or is that Parish work? What happens when a resident has gone to a Constable and says: "I am concerned about the speed in a minor road of the Parish." Is that constituency or is that Parish? Of course, it is a crossover. It is one way or another. But how is that going to be factored-in and calculated, which is an important responsibility that we have to discharge as members of the public. I feel perhaps in Senator Ozouf's report he is perhaps a little bit too dismissive on the matter of constituency work. It is very important. It is one of the key things that we have to do as States Members, especially when repairing some of the feelings and attitudes towards the States Assembly that individual members of the public have. Constituency work is one of the most important things that we can be doing in order to repair that trust. Again, how would you calculate the commitment of constituency work? You can have lots of places which you can just ping off to a Minister and say: "Please can you deal with this?" You might have others which take hours and hours with someone - I am sure we have all been there - who is in tears, falling apart, very difficult circumstances, has come to you for help, how do you calculate that? Or do you dismiss it? Should we even go there? I think it is very interesting that there was this argument of would we pay or ask a policeman or a nurse to have the same pay or a differential pay. But the difference there is in this Assembly we do not ask, in those situations, our colleagues to perhaps be our assistants, or to be on the same Scrutiny Panel, or something like that. The thing is when you have a more robust human resources merit-based kind of employment system then it is much more safe and arguable to have differential pay. But when you are in the situation whereby in theory you can pick... or now that we have not approved Deputy Martin's amendment to what we are debating, and it still gives the Ministers the ability to appoint and choose who they want to be as their Assistant Minister, again you still have that issue of... again, it is moving away from this principle of do we want States Members to do what they think is right for the Island or: "Well, I will toe the line with my Minister here because I do not want to be dismissed and I do not want to lose my extra whatever amount that I get remunerated." Not only that, but then you have the issue of the bureaucracy behind the differential levels of pay. So, for example, when we have someone who is elected to a Minister, as we saw in the last term, did not survive very long as a Minister, had to step down, again, that is all having to be recalculated again and you are adding more work into a bureaucracy. Is that really efficient? That is every time someone takes on or does not take on a responsibility. So what happens, for example, I opted to join the sub-panel of P.P.C., or other *ad hoc* Scrutiny reports, do I get a little bit more money because I have happened to choose to go on them or not? It just makes an absolute nonsense of the whole system. Not only that but at the same time it can be very easy - as we have seen beforehand - for example, as Members will know in the last term I brought to the attention of the media how often Members have been present in the Assembly when votes have been taken. Just for the record I will remind those that are listening that this can all be accessed and all be viewed on the States Assembly website, which is all public information. But we had an individual there, as referred to in the P.P.C. comments, again saying: "It should be done, we should do away with these restrictions and we should basically do it on title and responsibility, give remuneration on those grounds." Again, it does not demonstrate how much work an individual does. You can be very populist and very safe in this Assembly in order to retain your nice little pay packet, when that is not what we are here to do. We are here to do what is right for the Island, and sometimes that means we will have to make very unpopular decisions that will risk our seats. But

we should not be looking to not be making decisions because we are worried about what remuneration we should or should not be getting. So take it out of the equation. Also we are forgetting the point that when it comes to the level of responsibility in our Assembly, we choose to volunteer ourselves to come forward into those positions. No one forces this upon us. So if you want to put yourself forward as a Minister or as a chairman or whatever, you are doing that voluntarily because you think that you can deliver something very beneficial for the public in that role. It should not be about: "Well, I want to be a Minister or a chairman of a panel because I might get x amount more money." I do not believe it should be. Maybe other Members do but I do not believe it should be about that. There is one other point which is very interesting, raised in Senator Ozouf's original report, which is I think talking about: "The reality is that the current single level of salary is not commensurate with levels of remuneration for similar posts available in the private sector or not-for-profit sector." The point is when you stand for election to the States you do not know what position you will be elected into. Absolutely no idea. So how can you make that decision to stand to be a States Member because you might get the Minister for whatever, and you think: "Well, I will be remunerated this amount and that is similar to what I get now." But then you get elected, the process happens, you do not get Minister, you might get just the basic amount for being a Back-Bench Member. Do you then turn around and say: "This is x amount less than I was expecting, I do not think I can carry on living my lifestyle it has turned out that I have now, and so I am going to stand-down and cause a by-election and more expense." We do not know. Another aspect which we have asked to bring to Members attention is on this aspect that there will be no financial or manpower implications. Of course I have already demonstrated how potentially there could be some. But not only that, if we were to move to a system where you had differential pay it would be totally up to the remuneration body to decide what that should be. So we cannot say that it will be restricted into the current pay envelope. We cannot say that. They are a totally independent body and they should be able to decide whatever the amount should be totally independently. So there is no way of saying that the envelope will have to be bigger or will have to be smaller. We simply do not know because it is for them to make that determination. Finally, looking at this particular amendment to repeal this particular aspect of law or not. Again, I think other Members have decided it. We have already had a lot of debate discussing about how we want more inclusivity and how we feel perhaps the States is divided, as it is now. It is often a concept that we return to, it is something that we talk about. Why would you want to introduce yet another measure that only yet divides Members more often? I do not think we should go there. I do not think it is sensible. It is riddled with flaws. Now, do not get me wrong, I would love to see a system whereby those Members who do not pull their weight do not necessarily get remunerated as much as everyone else who is contributing but the fundamental question comes back in saying, how do you calculate it? How do you decide what is a decent, credible amount of work, and not whatever? Unfortunately the only mechanism that we have in a democracy without a political party system is for the electorate to decide whether they feel that that Member has been doing effective work in whatever they have been doing. I would love to see the media perhaps doing a lot more and saying what individual Members are doing. I think that would be very useful to get the information out, because as the Constable of St. Martin quite rightly said, the majority of the public do not often always realise what we do as States Members. I mean, when I tell individuals I have been contacted by a constituent on Christmas Day, on New Year's Day, at 1.00 a.m. in the morning, that is just what happens, we are on call 24/7 and that is how it goes. But not everyone appreciates that is what it is and that is what we have to do. So for those reasons I will not be supporting this measure and I would urge other Members not to. Thank you.

1.3.8 Senator A. Breckon:

Differentials is not an absolute science, and as Deputy Maçon has just mentioned, there are some real problems in defining or putting things into pigeon holes. It is not quite that easy. When I

looked at this I thought maybe they have thought of creating a sort of Manchester United here, people are going to slot-in to their team and we are going to take on the world. But you could well end up with something a bit more like Hartlepool United than Manchester United, and I can say that because I have family connections with Hartlepool. It is a lovely place, there are some lovely people. But in football terms they are not quite at the same level as Manchester United, even in their current state which is not that bad. But going back not that far to the good old bad old days, States Members had some expenses and then we brought in an income support thing which was means tested, pound-for-pound you could earn and then over that you did not get anything or it was reduced. Senator Ozouf may well remember sort of that being phased-out. Then of course some Members had private means, others did not, and some held directorships of finance houses, banks, whatever they were, and they also held positions in the States. When that was looked at by organisations outside they said: "Well that is really not compatible, you cannot be part of the regulator and also be getting some income from being a director of some of these things." That happened, if Members want to look back they will see that it did and it was members of the Finance and Economics Committee who also held directorships. When it was looked at, as I say, by others outside it was found probably not the best way to do things. Also the Constables were not treated as the other Members because they were not able to apply for the full allowances that were available.

[12:15]

That was changed so that in the eyes of this House we were all the same, and then it was up to any individual - nobody has to take whatever it is - to decide themselves what they wanted to do about that. So that is how things have evolved a little bit, that is part of the background. The idea is that things were set at a level where it was not a wage but it was a compensation for not having a wage. But of course - and I will touch on that in a minute - it does not take into account other things. The other thing of course is if somebody is on their own and they are semi-retired their circumstances will be different to somebody else who has 3 children under 15. How do you assess that? Should it be ramped-up because, as we know, 3 children under 15 can empty the fridge, they are always wearing shoes out, fashions change, it is phones, it is whatever it is. You would not be able to print enough money for 3 Members to satisfy that. But how does anybody judge remuneration and take that into consideration. The fact is, they do not. It does not happen now and it has not happened in the past. The other thing, as other Members have mentioned, we have all got different workloads. Phones can ring at 7.00 a.m. in the morning and phones can ring at 9.00 p.m. on a Saturday night and what do you do? Clock on? "Well, I am only part-time, I am not on duty now, go somewhere else." You cannot necessarily do that. Deputy Maçon has just mentioned, sometimes people are in difficult and stressful situations and they do not want to be told: "I am not on duty at the moment" and we are a bit in that. The other thing we have not got, we have not still got, I would say, a clean system that deals adequately with complaints. Sometimes somebody comes to you with something that has been festering somewhere for 3 or 4 months that you try to assist with. The other thing is the workload of individual Members. If, for example... I was talking to somebody the other day and for my sins I used to have a little office and I had shelves everywhere and they were just the small files then, but if you wanted to look at something, say, for example, Sunday Trading, you would have to sort of climb about, get the files down, see what was what, what year was that, and we are ... unless I use the term with the States Greffe, the Greffier and his staff who provide considerable resource for people like me, who are looking around for things because it does point you in the right direction. Not many years ago we did not even have access to a photocopier. I know that sounds crazy now but we did not. States Members did not have access to a photocopier so if you had a letter I used to have to run things through a fax machine, eventually I bought one. But we did not have any of that and so things have really moved on. The technology now with iPads or whatever it may be or laptops, as it was, has really advanced things and that has helped all

Members to do whatever it is they do in a better way. But also we are approachable, like we have just seen an example with the Constable of St. Peter where there was an issue there. He organised a meeting, he got people together, he had done whatever, but then he had done that because that was the thing to do and he did not say: "You do not live in my Parish, you cannot come." Anybody who wanted to went. Numbers were allowed to speak and that is an example. Now how could you say how much time did he spend on that? Well, probably 40 or 50 hours, plus complaints have come in or people have had views on it, whether they have been traders, individuals, people who have got mad. How can you say it was nowhere of his official responsibility but it was something that was going on in the Parish and he tackled the issue and had done something about it. You cannot necessarily put a price on that. Then you have got other things where if you take perhaps St. Mary, St. Ouen and Trinity. The Deputies from those Districts will not necessarily have lots of people coming to them with problems about housing or income support. They probably have not. Deputy Hilton was mentioned before, but I know the town Deputies and with St. Saviour, it happens where people do contact you about these issues but then if you look at a Deputy's workload and you look at St. Ouen, St. Mary or Trinity, it is probably non-existent and if you look at, say, Deputy Southern or other town Deputies, it is probably a big part of what they do. The classic thing is you can get a phone call and somebody says: "I wonder if you could give me some advice or help me with this." It can take weeks of your time to do that, to meet with them, get the paperwork, study that, make an approach, what are you going to do, who are you going to speak to. How do you put that in a bracket where you get some money for doing it? I do not think you can unless there has been literally, and there are cases we are alluding to with it happening, as I speak, but it can generate a great deal of work for somebody. There are many issues that people think: "This should not have happened, I would like to try and help ... I would like for us to try and help sort it out." The other thing which has been generally encompassed is expenses. Senator Ozouf knows because he had done it himself. He rented an office and I have been to other things, I have been to the British-Irish Parliamentary Assembly and colleagues, say, from the Welsh Assembly cannot believe that we have not at least got somebody to give us a hand and say: "Who answers the phone? Who generates your mail? Who does whatever?" Well, you do it yourself or you do not do it at all. You have nobody in situ to do that and sometimes they have got ... each member of, say, the Welsh Assembly might have 2 or 3 people to assist them in their constituency stuff but also research if they are doing various things. We have got an expense allowance that does not allow you to rent anywhere, although we do have use of facilities now that we did not have, it does not allow you to employ anybody. So there are issues around this. I think maybe if there was a root and branch look at this again in the next Assembly, looking at all these issues about facilities. If there is research - I do not want to pick anybody up in particular - but supposing we had 2 research assistants available to the Members of this Assembly and the former Deputy of St. Mary had really got his teeth into an issue the rest of us would not get anywhere near the research assistant because they would be working night and day and all in between to generate what he wanted from wherever he was going with this research. We have seen it. He did some really detailed stuff. So even on that, if we had something ... I just looked at something the other day and it talked about the Members library from the House of Commons and the researchers had looked at something, and all the Members have gone: "Oh." Well maybe within this thing, with money that is available within, whatever, where Senator Ozouf is, we could generate something that did that, where there were documents there we could refer to. There was somebody there. There was even a central switchboard that was for States Members who said where you were. Not available, we are in here, took messages and done whatever. There are things that could be done with money and resource that could make us more effective. I really do worry, if this becomes divisive because I do not think we should go there because we could go back to some of the good old bad old days where we are talking about setting a level, people come from different backgrounds, they have different things to offer and I do not think it is for us to say we need to attract high-flyers, they need to have

all this money, they need to be doing this, they need to be driven about, and whatever else. I do not think that is the case because we all have things to offer in different ways and if we have a base line then that is where it should be. I can understand what other Members have said: "Well, if you look at what other people get" but we are not civil servants, we are not officers. It is a sort of hybrid. We are available. We are of the community. The other thing is of course, we do not have to do it. We can go away and do something else. Elections are coming up, anybody who is not happy does not have to stand again. It is as simple as that. They can go and do something else. For those reasons, I can well understand Senator Ozouf bringing this forward because it is a thorny and, indeed, delicate issue but I think as well it could be divisive and I think it is something that perhaps not just for the remuneration because it is wider than that. I have made submissions virtually every year since they have been in existence. We have divisions, for example, in Social Security. Married women could opt out and not have to pay anything. Then some Members who are of an age get an allowance and then it is taxed as a benefit in kind. Social Security given to States Members is taxed as a benefit in kind, but it does not apply to everybody. It is inconsistent. The other thing that somebody else mentioned, and I know this with parliamentarians from the U.K. (United Kingdom), at the last election there was what was called a resettlement package that was available in that election and was not available after that, and some Members did not stand again because it was fairly generous. Now there are people, not so much me, but there are younger Members here who are giving time in the community but it does not accrue pensionable service and that is something, we could become a - I forget the term for it - delegated group or whatever; States Members could fit into that category but it is something perhaps that should be looked at for the younger members so that they do not give a long service to this House, and that does not get recognised. I think Senator Ozouf has taken an issue here but I think it is wider than that and for my mind, it is something that could be looked at as a whole and it is a thorny issue because the media love it. If we are talking about ourselves and we are talking about paying ourselves, and then it can be pensions get 1.5 per cent, we look at whatever else it is. I think it does need a good review, it needs a team together, any Member of this House could propose that, bring a proposition to do that, and look at it - it is probably the wrong time to do it now - for the next Assembly, but it is something they could take into consideration what Senator Ozouf is proposing, but for now I will not be supporting this.

1.3.9 Deputy S.Y. Mézec of St. Helier:

I am grateful to Senator Ozouf for taking the opportunity in his speech to remind the Assembly and those listening on the radio for how little time I have been a Member of this Assembly. Ignoring the patronising undertones I felt there, I - like most Islanders - for years have been paying attention to what goes in this Assembly and I do not think the public are stupid. I think they know exactly what happens in this Assembly and how Cabinet Government works. I was quite struck during my by-election campaign just how many people on the doorstep wanted to tell me how outraged they were at what they thought was the disgraceful way that Deputy Duhamel was treated at the beginning of this year and I think that this ties-in with this issue. I also find it very surprising how one Member of the Assembly can bring forward a proposition to discuss pay and the States will say: "No, we will not talk about it." Another Member does the same thing and the States does the exact opposite. I find that shocking. I made my views clear on P.33 in the debate last week and I made it clear that I think that it is very dangerous for democracy. What this amendment does, I think, is make a bad situation unimaginably worse. If Members have concerns or misgivings about P.33 but on balance they are in favour of giving more powers to the Chief Minister, just imagine what it would be like if this form of legalised bribery is accepted. Not only will Ministers lose their titles and responsibility if they do not toe the line, but they will also lose a big portion of their salary. If Members think Ministers will still retain any independence or challenge the more senior Ministers from time to time they are absolutely dreaming. Now imagine this Minister - I will not

say it is a hypothetical Minister because I think they do exist from time to time - a Minister whose politics are broadly centrist, who has respect from all sides of the political spectrum and is appointed with support from both sides. Someone who takes a balanced approach to things and does speak their mind from time to time but crucially is somebody who is not independently wealthy. Say that they are somebody who has got a family, they have got kids who are intelligent and talented and aspire to go to higher education, that Minister will need to be confident of their future income for the sake of their child's education. All it would take for them is to speak their mind a few times too many, to oppose the Chief Minister a few times too many, to be taken aside, to be told: "Listen, you had better stop causing trouble or you are out of this job and your £20,000 a year short" or whatever it ends up being. What will that Minister do? They will be in a position where it is a choice between doing politically what they believe is right or facing losing the income and potentially losing their ability to support their family in the way that they should be doing.

[12:30]

Some Members seem to think we have got inclusive government at the moment, I do not think we do. But even if we do have it, if this passes that will be the end of that, without a doubt. For ever we will have governments purely of "Yes" men. I think it has implications for the principle of the Troy rule because with collective responsibility, okay it is not binding for Assistant Ministers unless it is on an issue that is under their portfolio, when pay becomes a factor you will not get Assistant Ministers who are going to constantly oppose what the main Council of Ministers say. They are just going to go along with it in the hope that one day they may be the ones that get promoted to a Ministerial position with that extra pay or they will be wanting to avoid a position where they lose their position as Assistant Minister and the presumably slight degree of extra pay that that will get. We will have this effective block vote and the Chief Minister will only ever have to convince 4 other Members to get anything through whereas the Opposition will have to convince 25 Members. Senator Ozouf says that this will encourage people with talent and experience to potentially leave well-paid jobs and enter politics. I completely agree with that aim; who would not agree with that? I think the public are crying out for a better calibre of politician for potentially leaders of industry to come in and bring their experience and their views to politics here, regardless of what side of the spectrum their politics fall on. But there is one huge flaw in the argument from Senator Ozouf, and that is when one of these people stands for election to this Assembly potentially motivated by the fact that they will have a better remuneration to justify that, how do they have any clue that they are going to end up a Minister. They have no clue whatsoever. They could stand for politics and end up not put into any position by this Assembly and find themselves with commitments to be on the Back-Benches for 4 years when that was not what they wanted to do. There is only one way that you could get around that, and where somebody could potentially take that gamble and have it be reasonably safe, and that is if they knew the likely successful candidate for Chief Minister before the elections and came up with some sort of agreement with them for mutual support for those positions. What is that? That is party politics. It is as simple as that. That is effectively what it is. If that is the system we are going to have then I repeat my challenge that I made to Senator Ozouf and Senator Gorst several times, and that I will keep repeating, is that if they want this system, if they want more power, if they want more pay, form a party. Put your slate together and get it on the ballot paper. Treat the public with respect. Have things as they are and not in the backroom as they currently are and what will become even worse if this is passed. I want to reference 2 of my political heroes now. Senator Ozouf referenced the first of those and that is the late great Tony Benn. Tony Benn would have never supported a proposition like this in a non-party system. Tony Benn was a democrat and a socialist. He would not have supported anything that could potentially give politicians an incentive to ignore their political principles for the sake of extra pay. Tony Benn would have never done that and that is one of the reasons why he is one of my heroes. The other hero I want to reference was another democrat and socialist. That

was the late great Norman Le Brocq who was a politician for many years here in Jersey. During my by-election campaign I met lots of people who had formally supported Mr. Le Brocq and who had voted for him or been part of the Jersey Democratic Movement, the party that he led. Some of these people had to donate money to Norman Le Brocq so that he could be a politician here because he was a politician at the time where there was no remuneration, and for him to sustain his family and his livelihood he had to accept charity from his supporters to give to him for the time that he dedicated to be a States Member. I have got copies of some of the manifestoes that Norman Le Brocq stood on in the 1940s. This was shortly after he had essentially led what resistance there was to the Nazis and the Occupation in Jersey. I have got a copy of a manifesto that he distributed in 1943 illegally where people doing that may well have ended up being shot if they had have been caught doing that. On that manifesto it had things like remuneration for States Members, had things like a fair voting system, had, believe or not, a living wage, something that we still have not achieved today. Politicians like that under this system being proposed, whether pay for Back-Benchers is inevitably going to be slashed, would not have the incentive to go into politics. I think it would be a terrible thing for this Island to go back to a situation where working class people were not able to become Members of this Assembly. I think we need more representation for working class people in politics, not less. So I think that this is a very dangerous amendment to a very dangerous proposition, and I hope Members will reject it.

1.3.10 Deputy J.A. Martin:

It is good to follow Deputy Mézec because he made reference early on his speech about is it not quite extraordinary when somebody asks for a Standing Order of an interest to be lifted twice, it did not get through, and that was the Constable of St. Saviour and then the Constable of St. John, and the absolutely opponent against lifting it, because we have an independent body out there, was Senator Ozouf. Now I say this because I tell you to be very careful. 166, the effect of a suspension of a Standing Order: “The suspension of a Standing Order shall cease to have effect as soon as the purpose of the suspension has been fulfilled or the matter to which a suspension relates has been concluded as the case may be.” Now we have lifted the Standing Order to repeal Article 34, to take it back to the remuneration body so they can discuss all these things. Now we are a bit confused because we do not know what we are discussing because there have been some things brought up why people are supporting this. Do you take the age of a States Member? Do you take the fact that we are not even all equal at the moment? Ministers have officers, they have secretaries, they have support workers, they have speech writers, they have communications officers, and that is without anything else they have to assist them. They even have ... I mean I have noticed somebody who was not a Minister who became a Minister, they have their States papers all nicely assembled for them, which Assistant Ministers, ordinary Scrutiny teams, it is your - and the Constables are the same - job to do those. It is part of your States work. So are we all equal? I did not say the Constables. I said the Constables do them themselves, which is part of their States work. They assemble their States papers. But, no. So we are not all equal today. It is like as other people have mentioned. I wrote a little list, so where is the top? The top paid job has got to be the Chief Minister, then the 10 Ministers, but who comes under them? In here, and I am holding my Standing Orders, as it was pointed out by Senator Le Gresley last week, not even a mention of how you appoint your Assistant Ministers. We have thrown that one out so where do they come? Where do they come? If I was just looking today and thinking: “Who has done some really good work?” It just happens to be the Scrutiny Panel who scrutinises the Department of Health, Social Security and Housing and look at the massive pieces of legislation that they have scrutinised in the last 3 years, with a couple of Scrutiny Officers and some, yes, paid - and it is paid - expert advice - very excellent expert advice. But should they or would they come above Assistant Ministers? They probably should. But it comes down to are we going to believe that the words in Senator Ozouf’s amendment proposal says, in the paragraph in the middle: “It was argued that the intention

of the provision was to ensure that Members were not appointed or given additional responsibility on the basis of patronage rather than merit. Such a suggestion would mean the accountability mechanisms of the States to hold people to account are ineffective.” I believe they are ineffective, so why would I, like Deputy Mézec and others have said, not only am I ineffective as Scrutiny or if I am on Scrutiny or somebody trying to hold a Minister to account, but then you have to consider that they... they will consider it themselves. They are going to lose money. What is the right salary to entice or induce all these captains of industry to come into the States? The Prime Minister of England I think is £120,000 a year but he gets a house, a car, da da-da da-da, on top of this. Are we going to go that far? Do we need to buy our Chief Minister a house? This one might have one. But if you are enticing people into this House you give them a house. You give them a chauffeur. You give them domestic staff. You even give him a policeman stood outside their front door just to make sure they are safe. This is not what we do in Jersey. Do you know what really ... I mean I think we have had the word “hypocrite” thrown around this House and what the meaning of hypocrisy is. Now this is coming from the Minister for Treasury and Resources. We on P.P.C. are presuming it would be in the envelope of what States Members are paid now. Obviously on the Senator’s speech, it is not. So we can find extra money to entice States Members to come to this House because if it is not in the same envelope and you are somebody who perhaps does more constituency work, works tirelessly on Back-Benchers’ propositions, you will get less pay but because the others who look like they are clocking in: “When did you clock in?” “I attended that meeting, I was there for 4½ hours, I took a phone call on Saturday from a distressed constituent, on that phone call for 2 hours.” Who is going to justify that? So who pays me? But they are obviously looking for more. Sorry, if someone is getting more, someone must be getting a lot, lot less because how can the Minister for Treasury and Resources in this time, when we have cut back everybody else’s wages, we have cut back many differentials in the reform of the public sector. We have cut all this back. He wants to introduce differentials for us. The Minister for Treasury and Resources with a hat on as Senator. I just went out, I looked at the 2011 directory and Senators are all in it, and their home phone numbers. In the 2013 telephone directory, 5 are in. That does not go... the other 5 have got their office numbers. So you do not get them after work and you do not get them before work, and you do not get them Saturday or Sunday. They are in the front and the Senator [Aside] ... they are in there under Senator, either Cyril Le Marquand, da-da da-da da-da, whatever. But it does not follow that because they are a Minister. Some Ministers are in there with their home address and phone number. It really is not even. We have started off unequal because it always was going to be. I said it when we appointed the Minister for External Affairs; I said where is the budget coming from? There was going to be no increase in budget. I know he must have a much more better budget than I do as Assistant Minister for Health. I have a shared computer with the Minister and the other Assistant Minister. Most of the time I cannot get in the office because they are so short of office space that there are civil servants in there doing their work. So I then pack up my stuff and come back to the States Assembly, which I am very grateful for, to have a computer here and I have my laptop of course as well. But we are not equal. This to me is ... you will find if this goes through, we have suspended it today, wait until something does come back. Some people think they are going to pick at this and some people are going to pick at that. People out there, the media, the public love us when we talk about our own wages, so try bringing amendments to the bits you do not like, and there will be a lot of them. I mean the system is not great. We are not all equal. I certainly accept we are not all equal. But how far do you have to go up to make a worthy Minister, a worthy Chief Minister, great Scrutiny, and then wherever an Assistant Minister fits in. I think this is a very, very, very dangerous proposition. I hope when the Minister does sum-up - he is doing this as Senator but he also does have the hat on as the Minister for Treasury and Resources - when he sums up that the worst that this could be, how much more would this cost the taxpayer? I am being told: “We do not know.” But I am absolutely amazed that the Minister for Treasury and Resources could bring a proposition and then he is going to stand up

at the end and say: “I do not know. It may save a bit of money.” We are already losing 2 States Members, £80,000-odd, but we do not know where the level is going to fall, do we?

[12:45]

As I said, you start with your top and then your Ministers, then your Scrutiny, your Assistant Ministers and then what is this pay bill going to look like? I think the Minister for Treasury and Resources, of all people, should not have brought this. I believe him politically where he says he has always had the principles that he thinks people should do... an honest, did he say? An honest day's work. As you say, it is all different. Who can decide what the amount of hours that some people do put into Back-Bench propositions and everything else like that. I just think the absolute premise of going down this road or the promise of going down this road when, as I said, when it comes back to see who will lift Standing Orders, because nobody will want us talking about: “I like this bit, I like that bit.” It will either all go through or it will not. It will be a cost. It will be a very, very expensive move that we do not need. I really cannot support this, and I really hope other Members do not.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is proposed. The Assembly will reconvene at 2.15 p.m.

[12:46]

LUNCHEON ADJOURNMENT

[14:16]

The Bailiff:

Could you summon, Members? Members, we were not quorate but I think we now are. Deputy Tadier.

1.3.11 Deputy M. Tadier:

Is it me already? One has to admire the brass neck of the ruling elite. Let us put this in context. First of all, we have a complete gerrymandered referendum process. We have an Electoral Commission which has been commissioned to be independent then that gets overturned and we have an attempt to make sure, contrary to what the Chartists were asking for in the middle of the 19th century, of equal constituencies securing the same amount of representation for the same number of electors. Instead of allowing a small number of constituencies to swamp the votes of larger ones, we have an attempt to enhance and entrench the conservative rural vote to allow and enhance the small constituencies to swamp the votes of the larger ones.

The Bailiff:

What does this have to do with ...

Deputy M. Tadier:

This has to do with understanding the context of what has been proposed today. It is the same theme that has been brought forward; it is about patronage and it is about a power grab.

The Bailiff:

If you could come to this amendment rather than a debate which took place ...

Deputy M. Tadier:

As I said, it is to put this in context because it is the same philosophy that is underpinning the whole process. We have an attempt here by a Back-Bencher, who happens to be a Minister, after an attempt from the Council of Ministers to say: "We want to be able to pick our own people for the jobs and the States will have no say over that, apart from to rubberstamp." That has been kicked out, quite rightly, for the same reason I believe that this should be kicked out. It is because it will lead to patronage. It is not the right time to do this, even if it were something that wanted to be pursued. While I was doing some research into the background of politics for a course I am running at the moment, I came across some interesting papers to do with the Romans' view of politics and, in many ways, that underpins many of the aspects of the modern democracy that we have these days. This is what one writer says, and I will show how it is relevant. It was Sallust, when he was writing, who talked about: "After the restoration of the powers of the tribunes in the consulship of Pompey and Crassus, this very important office [he was talking about 'Senator'] was obtained by certain men whose youth intensified by their natural aggressiveness. These tribunes began to rouse the mob by inveighing against the Senate and then inflamed popular passion still further by handing out bribes and promises whereby they won renown and influence for themselves. The whole truth - to put it in a word - is that although they were disturbers of the peace in this period, they put forward specious pretexts claiming either to be protecting the rights of the people or accentuating the authority of the Senate. This was mere pretence. In reality, every one of them was fighting for his personal aggrandizement." Why do I mention that? Because, if we look at the report of Senator Ozouf in the eighth amendment, what does he do? He tries to tell us that this is an issue of public importance. He tries to make out that the level of pay should command the confidence of the public but that the current arrangement does not. I do not hear this argument being put forward. I do not hear the public saying: "We have so much confidence in our Ministers, in particular, our Minister for Treasury and Resources. We like the way that the Minister for Treasury and Resources reneged on his promise over G.S.T. (Goods and Services Tax). We love him so much that we think that any Ministers who are doing a difficult job, making difficult decisions and reneging on their promises and we feel that lying to us ... pay him more, please." I am saying - I have heard this - the public think ...

The Bailiff:

You cannot use the word "lying" about another Member.

Deputy M. Tadier:

I am simply quoting what a member of the public has said to me.

The Bailiff:

You cannot infer that another Member is lying. Please withdraw it.

Deputy M. Tadier:

I withdraw that. I emphasis I do not think that he lied but the public does not always agree with my opinion on that and that is simply fact. We cannot even speak the truth in this Assembly and that is a bizarre state of affairs, but I appreciate the Standing Orders are there. There is not a public demand out there for this but it is interesting that we have found an ally of Reform Jersey in Senator Ozouf because he is a supporter of the living wage. What he has told us is that his poor friends, his poor wealthy friends or associates who might want to stand for election in this Assembly; they cannot afford to do that for £45,000 a year because it is not enough for them. We need to make sure that those who would want to stand for election to this Assembly, the wealthy elite who would want to be put forward and, no doubt, ushered into the correct jobs, because they are the ones of calibre, need to be paid a much higher inducement. Of course, the Privileges and Procedures Chairman has reminded us in the report that we put forward that once an individual is elected to this Assembly it is the Assembly who chooses and that will still remain the case,

thankfully, because we have kicked out the proposition which would have otherwise meant that the Chief Minister could appoint his or her preferential candidates with very little say from us. There is no guarantee. For example, if an executive of a bank decides: "I want to stand as a States Member but in order to do that I want £80,000 a year." He gets elected and finds out that the other States Members who have been elected in various constituencies say: "Well, we do not think you are the best person for Ministership. Maybe you should do your first 3 years on Scrutiny, mate. Get to the back of the queue, get some Scrutiny experience and, by the way, you will only be paid £25,000 a year because we do not want the overall envelope to be increased." Let us not try and fool ourselves. I have spoken to people who think that we can pass this because it simply asks the Remuneration Body to go away and do some work. But I do not think that is the case. What it is saying is we should not be asking the Remuneration Body to do work that we do not want to be done, in the same way that we should not be holding referendums on things that we do not want to do. What we should be saying is that under the current system where everybody arrives in the Assembly, presumably for the correct motives and presumably to do a body of work (which is difficult to look at), we should not be changing the system at the moment. If people go into the jobs for the right reasons and if you want to become a Minister, or even Chief Minister, you presumably would do that job, as the current one does, on the same level of pay as everyone else. We do it because it is a vocation. I think the comparison to private sectors is limited. You cannot keep on making comparisons to the private sector because Government is not about comparing apples with apples. We do this job as vocation. I think many of us would do it even if it was not paid. We would struggle probably to survive; we would perhaps be in difficulty, and I think the current arrangements that we have are correct. Just to address a couple of the comments in the report, what does the following mean: "It should be perfectly possible for an individual of calibre and ability to stand for the States as a Back-Bencher and commit to a part-time role and to pursue a part-time career." I am not sure that is true. I struggle to see in these days of increased pressure, the increased workload on every Member, whether that is Scrutiny as a Back-Bencher, as a Minister, as an Assistant Minister, how this job can be seen to be part-time. If anything, it is overtime. I suspect that most of us are doing overtime when we are doing hours and it is not the usual job. Then again, this is not self-indulgent talk about how many calls we have received after 6.00 p.m. when we are trying to eat our dinner; it is much more than that. What does it mean when we are told that -let us find the best place to quote: "Those with important responsibilities should be treated on a different basis from a Member who simply turns up to a States sitting and purports to deal with the occasional constituent issue." What does that mean? Who are these States Members who are purporting to deal with the occasional constituent issue? The tone in itself is insulting. Surely you could also say that there are Ministers out there who purport to have control over their Ministerial portfolios when in fact it is their 2 Assistant Ministers who are doing the real work. We all know this to be true. We all know that even under the current system without enhanced patronage there are Ministers there who are not the best people for the job. That is simply fact. It is also opinion but I think it is fact and I think we would all agree with that opinion, we can think of individuals. We also know that there are Assistant Ministers who essentially run the departments. We know that there are Chief Officers who essentially run the departments in the absence of political steer. What we are saying is that we should be paying Assistant Ministers ... those Assistant Ministers should be paid more than Ministers because that would be logical if they are the ones who are running the departments and we have got errant Ministers who are not necessarily there. Are we simply paying them on the basis that they are corporate soles and they are legally responsible? It does not seem to make sense that we should be paying them. Do we pay them in terms of their blood pressure? We heard that Deputy Higgins had high blood pressure the other day and it was not so high before he came into the States. You might reasonably think that it was caused by the States, therefore, we should be charging people ... have some kind of co-efficient, an equation, if you like, which could be measured on how long you have been in the States, whether

you have got a degree or not, perhaps - although that might be controversial - whether you are on the left or right. Clearly, if you are on the left you should probably not be paid at all, that seems like that is the intention. I do not know why Senator Ozouf does not come out and say: "If you are on the left, if you are in the minority we will not pay you, in fact, you will be levied to be able to have the privilege of coming to this Assembly. In the meantime, anyone else who sits there, presses the button and votes the correct way, is a *de facto* party member of the party in name but not in fact, you will be paid more, you will be offered privileges, you will be offered inducements." Is that really the debate that we want to be opening up at the moment in the middle of what otherwise are some very serious recommendations that are being put forward in P.33? The other question is why is this even appearing now? This does not seem to bear any direct relation to the substantive proposals in P.33; this could quite easily be something separate. It is not something that P.P.C. or the Machinery of Government Sub-Committee looked at. If this really needs to be brought forward, and I have heard some Members say: "I do not really like this but I think we should have consultation and the public should be able to decide and they will kick it out anyway." Surely the correct mechanism to do that is via P.P.C. We should consult as a body, both with States Members and with the public, and if it is decided that we want to have a differential pay system, by all means, there are definitely arguments that can be put forward for differential pay. My position is always that in a non-party system where we elect people in a composite election in so many different ways and different sized constituencies, it is a very dangerous route to go down this road, especially now when we do it without any public consent. The idea that it is okay, we are simply allowing them to look at it. No, we are telling them: "We want you to look at this. Go away and find the way for us to implement differential pay." Of course, the danger of that is we set hares running and so when the public are asked to consult on it they will be writing in letters saying all sorts of things.

[14:30]

First of all, Constables, they definitely should not be paid or if they are they should not be paid the full amount because they are only part-time Members. That is because the public do not understand that Constables are full-time Members of the States; they are time-and-a-half, if you like. They are doing 2 jobs. They are doing a full day's work in here and on Scrutiny, we know that, and on P.P.C. in the past, and they are also running the Parish for free because the public will conflate those 2 different issues. They will just think Constables should be doing the job for free - 2 separate issues. But those are the kind of demands you are going to get and there will be an expectation that the Parishes should be paying for the Constables to be in the States. Then there will be arguments that the rates should be going up because the Parishes have already got Deputies and the Deputies are the ones who represent the Parish in the States, they are our representatives, the Constables are there to represent the Parish. You get all these sorts of arguments coming up and I think it is going to lead to a mess. My advice to the Assembly is that if this does need to be debated, it is certainly not the priority that we need to be debating today. It is divisive, as we have heard. It is self-indulgent on occasions when we hear painful speeches of Members standing up trying to justify what kind of work they do and I think it is also demeaning to suggest somebody who has been here 5 minutes is necessarily less valuable than somebody who has been here for 20 years. I do not think it works like that; it is not a 'one-size-fits-all.' I feel very uncomfortable asking the Remuneration Body to go away and do a body of work that we would not even know how to start ourselves and we would not even know what the unintended consequences of that body of work would be. I think the best thing to do is simply kick this out. It is not the right thing for now. It is not the right thing to ask the Remuneration Body to look at. If they want to have things to look at and if we genuinely want to find a way to make our system more attractive to those who might be minded to join us from the business community - but not exclusively - but also from other sections of civil society, from charities, from church groups, single mums, for example, what we

can do is make the States more attractive, more open, engage in better levels of debate, have higher levels of professionalism, have better facilities, for example. Maybe each States Member could have access to their own office or a shared office. Maybe we could even have a separate changing room for men and women if they want to use a shower, if we want to attract very good calibre females to come and work for the States of Jersey as Deputies, Senators, or even Constables. They might expect to have their own private shower room for women when they cycle in from Trinity after they have put their daughter or son into the nursery for the day. We do not even have those basic things which, quite frankly, other jurisdictions and other parliaments would be very surprised at when they receive our flimsy little business cards when we are going on States dos. Let us concentrate on the low-hanging fruit, the things that we can do to raise the esteem of this Assembly without going down this route of patronage and the insidious mechanisms which I think have been pursued up until now. I would ask Members to reject this. It is not the focal point that this debate should be about. If it needs to come back another day, let P.P.C. or the P.P.C. of that day look into it, but it is not something we should be focusing any more time on at the moment.

1.3.12 Senator P.M. Bailhache:

The speeches of the last few speakers seem to me to have been a little bit over the top, which is usually an indication that the Members concerned have lost the argument. Deputy Tadier refers to this being a plan of the “ruling elite” and the Chief Minister was asking me whether he was a member of the ruling elite. He may be. I am sure he is a member of the elite but he is certainly not a ruler. He cannot even appoint his own Ministers and if he dismisses a Minister the Assembly can put that same Minister back again, so he is hardly a ruler in that sense. Deputy Mézec referred to a “dangerous amendment” and Deputy Martin upped that to a “very dangerous amendment”. Deputy Mézec talked about legalised bribery and this is the introduction of differential remuneration. Deputy Mézec suggested that the Chief Minister might take me aside and say to me: “You had better support this particular proposition or your days are numbered as the Minister for External Relations.” Can Members really imagine that happening? Or Senator Le Gresley - that someone would take Senator Le Gresley aside and tell him what he has got to do about Social Security, or the Minister for Planning and Environment. I do feel strongly about one issue in relation to this proposition and that is that the very worst body to be discussing States Members’ remuneration is the States Assembly itself [**Approbation**] and that has become obvious during this debate. It should be done by an independent body and, of course, it is, that is why we have established the States Members Remuneration Review Body. That body, not Senator Ozouf, has suggested that Article 44 should be repealed so that they can consider, if they think it appropriate, whether the different responsibilities of different Members should be appropriately rewarded. They have made that suggestion because it is what happens in the real world and it happens in every other parliament, so far as I am aware, in the civilised world. Perhaps in Stalinist Russia all members of the Duma were paid the same, but I doubt even there whether that was the case. I do not think that this amendment has anything to do with States Members workloads or, indeed, of assessing how hard States Members work. For my part, I am perfectly prepared to accept that all Members work extremely hard in the interests of the public. What this amendment is about is about allowing the Remuneration Body to consider whether it would encourage Members to seek responsibility, not just Ministerial responsibility but other responsibility by introducing differential remuneration and, more importantly perhaps, of giving the opportunity to encourage good people outside the Assembly who hold positions of real responsibility in the real world of thinking that it might be possible for them to stand for election and become a Member of this Assembly. I think that the motives of Senator Ozouf are very easy to misrepresent and, for my part, I applaud his courage in bringing this amendment and I shall support it.

1.3.13 Deputy G.P. Southern:

It is always a joy to stand and debate after hearing from the good Senator. He goes a stage further than the proposer of this amendment and suggests that it is the Commission themselves who are demanding this right, which is not in the report submitted by the proposer who says ...

Senator P.M. Bailhache:

Will the Deputy give way?

Deputy G.P. Southern:

No, I am on my feet. The report says since that time the States Members Remuneration Review Body has been unable to consider how best it would be appropriate to remunerate different responsibilities within the States, it has to put forward a level of remuneration which is designed as a one-level fits all. No comment there that says the Remuneration Body itself wants to have this as part of its remit but the statement from the proposer is that that is the case, a statement of fact that is the case. As for an extremity of arguments which suggest that Members have gone over the top and, therefore, are in danger of losing the debate, that is absolutely far from the truth. In the past over the years I have enjoyed listening to Senator Ozouf and debating with him - we have had some good dingdongs over time - but, quite frankly, today I think his argument is rather weak. If we are escalating from dangerous to very dangerous, how about the most dangerous proposition I have seen, in my almost 12 years in this Chamber, and one that is very reminiscent of arguments in the past? I remember having this debate when we first started debating paid membership and the Clothier reforms, and the argument was very strongly held by the current proposer that differential remuneration should be enabled and it was argued most strongly, and the opposite viewpoint came from Senator Syvret and that was indeed a mammoth and a heavyweight debate. We have not had that debate today but, nonetheless, I am firmly convinced that the right decision was made back then that the principle of equal remuneration is an advantage because Members do not volunteer to become politicians in order to earn money, they become politicians in order to do their best for their society and to commit themselves wholeheartedly to representing their electorates. That is the reality and I think that is the reality that should be seen to be acting in this case. I too, like Senator Breckon and Deputy Duhamel, go back to the old days when we were not paid, we had an income replacement scheme, and I remember that debate because it was one of the first debates we had when I first came to the States. What happened was you had income replacement to the maximum of your last year's income and when I came into this Chamber the previous year I had been a support worker at the Shelter doing night shifts and all sorts of mixed shifts and thoroughly enjoying it but, nonetheless, that meant that my maximum reward would be a year's salary that I had just left and that, obviously, was markedly different from many other Members in that particular House who earned many times more than that. I remember that debate very strongly because Senator Ozouf played a lead in that debate, it is not on Hansard so I cannot quote him accurately, but he suggested that unless we were to go to a properly paid post he could not do the job. He said: "I will leave. I cannot exist with the Income Replacement Scheme. If you do not pay the going rate for the job I will not be doing it." Words to that effect, and here we are some time later and we are in a similar theme talking about extra remuneration for doing the more onerous tasks or taking on more within this Chamber and I think that would be a retrograde step absolutely. For example, let us take me as an example. At the moment I have no position of responsibility in the States. I have held many positions of responsibility in the past but at the moment I do not have one. Does that mean that my pay should have gone down when I left the Education and Home Affairs Scrutiny Panel? Does it? Does it really? Am I doing any less than I was then? Perhaps marginally, but Members may have noticed this morning I was in and out of the Chamber looking rather anxious because I had made an appointment to see a constituent at 12.00 p.m. How should I log that, in terms of proving I do my job? Should I log the time in the Chamber debating as well as

the time that this piece of casework may take me and here it is, here is the start of it, permission to disclose, problem with Social Security, first 18 sides of the case.

[14:45]

I may get that sorted with one email to the department if somebody responds and sorts it for me. I may get it sorted. If that fails, by going to the Minister and saying: "Have you seen this case? I think it is completely wrong, what do you think? Are you prepared to do something about it?" I may have to take it to appeal, in which case I am talking about between now and some time, perhaps 6, 8 weeks minimum time away, having prepared a case to suggest that what has happened is wrong, hours of work, and having read the usually 200 pages of response that comes from the department justifying their decision. Do I log that on my punch card, another 18 hours of work in order to take an appeal through to finality? Is that what we want to be doing, have a punch card, have a time card there, clock in, clock out. We have seen clock in and clock out working in the House of Lords, have we not, recently, where one of the Lords was sacked by coming in and clocking in and clocking out in about 5 minutes. We are told similar practices happen here. There are some who do not do all they can, we are told by the proposer. Those with responsibility deserve to be treated on a different basis. Do they? They purport to represent their constituents. Is that really what we are talking about here? If they are purporting and if they are not pulling their weight then their accountability is not to the amount they are paid, it is to their electorate and, do not forget, that is where we all will be judged one way or another. If we are not pulling our weight it is up to the electorate to get rid of us, not for us to say: "Whoops, that is a fine. Let us take a reduction in pay - for you." The argument has been put forward that this is not patronage but is half the argument. We denied the Chief Minister the ability to appoint his Ministers without our say so. We did not deny him the right to sack Ministers and, indeed, that is when the crunch-point comes, is it not? We did go for collective responsibility. That is the pressure on people and, by the way, if you do not go along with this piece of collective responsibility perhaps I might have to see you go. If that is attached to whatever the Assistant Minister extra gets - £2,500, £3,000, I do not know - then that is an extra pressure. The key word here that has not been used yet at all in this in this debate but was used endlessly in the previous debate when we were setting up the system we have got was "perceived". The perception of the possibility of patronage or the possibility of some extra pressure being put on a particular Member to vote this way or to follow this policy that way. The proposer talked a lot about public confidence and respect. Where is public confidence and respect now for what goes on in the States? We have had a survey, a social survey, saying that is at rock-bottom. Would a proposition to open the field to paying Ministers, Assistant Ministers, Scrutiny Chiefs, more, in some manner or other, increase that public confidence, that respect? I do not believe it would in the least. In fact, on the contrary, I think it would further reduce the respect and confidence. I can almost hear the voices now as voters say: "This is just a back-door way of them getting some more money." That is the reality. As I was listening to the proposer go through his speech, time and time again he proposed that his version, the enhanced differentials, was the fair way to do things; the implication that anything else is totally outrageously unfair. No, not at all. This is one way on one ground that says this is a fair way to do things. Equally, there are other arguments like the system we have now, equal pay for all Members, get on with it, which, on a different ground, is equally fair. It is not a question of fair and unfair, that is a simplistic argument, and yet it was there all the way through. "This is the fair way of doing things," the proposer says. No, there are other fair ways; we have already got a fair way. It is almost as if the Minister - the proposer - is inventing a new way of making sure that we are kept accountable in the sense, I do not know, I suppose an accountant's viewpoint on things, it comes from somebody who I believe knows the price of everything but the value of nothing. That is not the way to get accountability; accountability can be achieved in much different and fairer ways. We then came the weakest of all possible arguments from the proposer when he suggested that he had done a survey, a survey on the

internet which got something like 100-and-something responses. A survey of social media with 100 and some responses with, it must be said, leading questions directing people to answer one way and not another. They were leading questions. I suggest the proposer gets a researcher to do some research as to how to get neutral questions in his questionnaire, but that is neither here nor there, that is a minor point compared to what response do you get on social networks, on social media. You get some trolls in a false name and you do not know whose false name is who. You have got anonymity and you may get the same contributor a dozen times under his favourite dozen names. You have got nothing. You have got no evidence at all that even on social media there is a wish that this should happen, and certainly not members of public, there is a wish: "We cannot go on like this, with equal pay for all Members of our States, we have got to pay some of them more." That demand, sorry, it may be there but it has not been shown as evidence here and I certainly have not heard it on the street. There is no underswell to say: "Pay some of them more." Quite the opposite. We are told that we should not argue; that this is the wrong time for this particular argument. Well, I would argue that it is exactly the wrong time. Why? Somebody mentioned it earlier but I will repeat it now, at a time when we are examining the differentials and the arrangements of pay, equal and unequal, of our entire workforce and trying to reduce those differentials, to squeeze them so that it is not possible to earn more in your overtime rate or by doing your awkward shift allowance, *et cetera*, by squeezing our own workforce at the same time we are proposing that we stretch differentials for us because we are different, we must be worth it. Somehow I do not think that will wash with the public out there. This is absolutely the wrong time to be doing it; we should not be going there now. To sum up then, I believe the perception out there that this increases the possibility of patronage puts an artificial squeeze on some Members and their ability to represent their electorate and to follow their manifesto which they give to the public, the perception that that would get more difficult is the overriding issue that I believe we should go with. This is divisive, this does not increase accountability. This is a dangerous move, should we go with it. Please reject this particular amendment.

1.3.14 The Connétable of St. Mary:

I try to bring some logic to something and I came very close to saying then that logic did not seem to have any place in the Assembly, and I held back. The more I listen today the more I am convinced that I was not that far wrong. I have to say it grates with me that I do see some Members who I think do not pull their weight. But it is not Members of a particular type; it is not Members in a particular position. It is because human beings all work differently and I see different things perhaps at different times of different Members. But I would like to try and bring this back to logic because on the face of it, it is quite logical: the more work you do the more you should be remunerated. Does that mean I am going to support this? No, I am afraid it does not, Minister; I am not going to support this. But I am going to not support it because I think we are looking at this from completely the wrong angle, because when I was Chairman of P.P.C. I worked obviously with the Remuneration Board and I have a huge amount of respect for what they do. They have been tasked to ensure that, in a nutshell, no member of the public should be disbarred from standing for office as a States Member on purely financial reasons. As the law stands at the moment we all have to have the same. So if you look at that logically, what they said is the salary that we are awarded currently is a fair salary for the work that we do as States Members. This proposition, if we adopt it... well, let us look first of all at some of the names that are in the report. Like a number of other Members I think I was a little confused by Senator Ozouf's proposition as to whether he was really talking about responsibilities which is what seems to be in the report, or time spent which is really what the gist of his proposal was. But if we look at... there are lots of things that I could say that would, I think, counter some of the things that the Senator made in his proposal about attracting people and having a salary and lots of other people have said that. There is no guarantee when you are here the position you get. That is not in our own hands but the hands of the rest of the

Assembly. The whole point of that is Members who have made their speeches and gone into detail about one aspect or another, have been confusing a debate on the law pure and simple, where the actual kind of submission that they would be making to the Remuneration Board outlining their concerns and outlining how they see things working at any time when the Remuneration Board asks for input. If we were to remove Article 44 now and throw things open, we would be saying effectively to the Remuneration Board: “You can come back to the Chairman of P.P.C. and take to the committee a proposal for remuneration in future which could include differential pay.” Historically we have always decided, even if we did not always do it without arguing first, that we would accept the recommendation because that was what we decided to do. So we would not be having the bigger debate on the principle of whether we should be differentiating the pay. I think the States Members Remuneration Board has the tools they need already, and if they do not what we need to do is amend the terms of reference, rather than amend the law. But if Members were to look back at some of the previous reports - I am looking just at the recommendations for 2012.

[15:00]

This is from the Remuneration Board: “We noted with interest that a number of thoughtful responses both from members of the public and States Members themselves raised the issue of pay differentials between Members. This issue has been raised in response to our discussion document in 2009. At present this is not allowed under the law.” I am paraphrasing, but we have previously offered the view based on the comments received in response to several forms of consultation, that consideration of differential pay for States Members, for example, to reflect extra responsibilities of the Minister or Committee Panel Chairmen might be appropriate from a pay policy point of view. That may be true. But that is for a piece of consultation for the board if they are willing to undertake it because it would be extra, to do and then to come back to this Assembly with a report through the Chairman of P.P.C. explaining what had come out of the consultation, what States Members had said, what members of the public had said after the engagement process and, having looked at all of this, this is what we have and we think that we could make this work. We should debate that out of the context of a pay debate and we should then decide whether we agree with that recommendation or not and then empower the Remuneration Board to come back and then decide if we are going to change the law or not, to enable them to come back with a firm proposition. But we should not be debating at any time the minutiae of: “There is an extra £5,000 for that or an extra £2,500 for that.” We need to have evidence, not our own opinion - that we are very good at spouting here. But we need to have the evidence from members of the public, from people in industry, from H.R. (Human Resources) representatives and of course from ourselves. We always are invited by the board to make that submission. So I believe we could ask them probably - the Board - to do it now under the terms of reference they have already. Because I think the law simply says they cannot come back with a differential proposal. If we are concerned that the terms of reference are not loose enough, or tight enough if you like to say, because it does give them a certain amount of leeway, then that is what we need to change. Because otherwise, if we just simply change the law today and enable the Remuneration Board to come back with a proposal for next year’s salary, for example, which includes differential pay, we will not be able to take the distant stance that we do now and say: “This body has been set up to do this. We understand why they have done it” and all they have done is pitch a level. We would have a political argument as a basis of the Remuneration Board and that is not what we want to do because the Board are not political. We have always distanced politics from that. So this may well turn out in the fullness of time we do this, that we do make a differential pay scale, but for different reasons to the ones Deputy Southern raised. I believe fundamentally this is not the right time because I have been extremely unhappy with the debate on P.33 on one facet, because Members did not seem to know half the time what they were debating; but on the other facet because it showed a deep division between Members. Not between this side and that side, but between Members generally. I think

this is another ... this will not bond the States into a working group, I think, the way it should do. I really think that we are looking at this wrong way. There is a procedure we could follow. We could ask for the evidence to be gathered and then decide whether we think this is a good thing to do. But fundamentally, making this change now will lead - I will eat my hat if I am not right - but it will lead to a future debate which is divisive and which brings in all the minutiae that we have decided a long time before I joined the States: Deputy Southern revisited it, it must be the 3 years before that we decided we would take this out of the arena, and I think that was the best decision. I think it was the only decision and I think if we are not careful we will risk unpicking a lot of that work. Also, are we saying if we do this: "States Members Remuneration Board, we do not think you have got it right because we are now saying that we could pay States Members a lot less" because this proposition categorically does not include any increase in financial manpower. Removal of this provision would enable the independent pay body to set a Members pay scale without costing taxpayers more. In fact, it could cost less in future. In other words, we are simply going to divide the same amount up less which other Members have said. We have already decided we are not, but the States Members Remuneration Board has set the level that is necessary for a reasonable standard of living. So to remove that we are saying you are taking the possibility of standing for election to this Assembly out of the reach of a certain number of people, a certain group of people. The people who stand for the States will have financial commitments - varying levels - but whatever they are they take a leap of faith because they effectively give up any security for a short-term fixed contract. Not pensionable. They already take a financial gamble, but at least they do so knowing what their remuneration for at least the next 3 years will be, or for the next year. They have a level of commitment and they are able to make their financial arrangements accordingly. But to take the certainty away from the basic level would be, in my view, wholly wrong. The only way that it could work and I am not advocating this, I simply raise the logical step, is to increase the pot if you are going to pay people at certain levels more. Otherwise we eat away, we erode the principles that we undertook when we set this body up. I think that would be a sad mistake. I just want to make sure ... a couple of other things. I am not going to go into the arguments because they would be my arguments to give to the Remuneration Board in my submission and this is the whole point: no matter even if we are not debating pay, we cannot resist bringing the personal feelings into it. But a number of Members have challenged why we lifted Standing Orders today to debate this. One Member - he knows who he is, I will not give him this publicity - has accused us of being an Assembly of poodles for having done it. Totally disrespectful, but there you go. This is not a debate about pay. That is why I felt quite clear that I should raise Standing Orders. This is a debate on the principle. It does not go far enough, the principles. We need to debate the principle once we know the whole facts. I have said enough, and I will not be supporting it although I do not under any circumstances think this is patronage. I just think it is mistimed and it is not evidenced.

1.3.15 Senator L.J. Farnham:

It is a very difficult debate. I mean, we are damned if we do, damned if we do not. I did start today by hoping beyond all hopes that this would not turn into an all-day debate about Members discussing their own salary. But here we are. I only intend to contribute to that by a couple of minutes. But I think there is no winning over the public with this because I believe the majority of them think we are overpaid as it is, and that is down to, I think probably, when they look at debates like this, you know arguably, although this is an important matter... and I compliment Senator Ozouf for bringing it because it has to be addressed. We certainly cannot accuse the Senator of electioneering for bringing it in an election year. But how many Members here do this job for the money? I do not believe anybody does. If we were all driven by money, as some Members have suggested, and have talked about the importance of the remuneration as being the motive and the driver and the reason the Chief Minister or the States Assembly itself might appoint or fire

Members, I think is completely the wrong track to be debating this on. Because what we must remember is when any of us is appointed to chair a Scrutiny Panel or become a Minister, it carries responsibility and accountability. That is why people are remunerated. You could look at the Assemblies and, if you will excuse me for saying it, if we look at the Bailiff today and the Usher, one might say the ushers are working far harder today than the Bailiff; they have been running around all over the place and with due respect, Sir, you have been sat there most of the day, patiently. **[Laughter]** I think you have earned your money today, Sir, but we are getting very tied-up with people clocking in and out and really we are just setting hares running because that is not important at all. As it is said, whether you are a Back-Bencher or a Minister or Chairman of a Scrutiny Panel, it is really quite irrelevant. It is important we do all this because we do have to put policies in place. We are not talking about how much we are going to get paid or what is going to happen, or pensions. We have gone off in all sorts of different directions. We are simply removing a Standing Order which quite rightly allows for an independent body a bit more scope in their approach to the important work on States Members remuneration. In my opinion, it will deliver a far fairer, balanced and representative States Assembly if we allow these sorts of propositions to succeed. We can put it in the hands of other people so they can make these sorts of decisions without fear of political interference.

1.3.16 Deputy R.G. Le Hérisier of St. Saviour:

I wonder if I could move the proposition to move on.

The Bailiff:

Yes. You wish to move to the next item of business. Is that right? Is that seconded? Not seconded.

Deputy M. Tadier:

Is that just for this amendment, not the whole proposition?

The Bailiff:

Wait a moment. We are on an amendment. No, of course, then we would return I suppose to the main proposition. Is it seconded? **[Seconded]** No debate is allowed on this. I do not consider it an abuse of process or suppression of the minority. A large number of Members have spoken. Therefore it will be put straight to the vote. We are voting to move to the next item of business which would mean you would move back to the Article 12 for the next matter. Very well. I invite Members to return to their seats. The matter before the Assembly then is a vote to move to the next item of business which would mean in effect that this amendment would fall away for the time being and we would move back to the law in its unamended form. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 13		CONTRE: 26		ABSTAIN: 0
Senator F. du H. Le Gresley		Senator P.F. Routier		
Deputy R.C. Duhamel (S)		Senator P.F.C. Ozouf		
Deputy R.G. Le Hérisier (S)		Senator A.J.H. Maclean		
Deputy J.A. Martin (H)		Senator B.I. Le Marquand		
Deputy J.A. Hilton (H)		Senator I.J. Gorst		
Deputy J.A.N. Le Fondré (L)		Senator L.J. Farnham		
Deputy M. Tadier (B)		Senator P.M. Bailhache		
Deputy T.A. Vallois (S)		Connétable of Trinity		
Deputy A.K.F. Green (H)		Connétable of St. Clement		
Deputy J.M. Maçon (S)		Connétable of St. Mary		
Deputy J.H. Young (B)		Connétable of St. Ouen		
Deputy R.J. Rondel (H)		Connétable of St. Brelade		

Deputy S.Y. Mézec (H)		Connétable of St. Martin		
		Connétable of St. Saviour		
		Connétable of Grouville		
		Deputy G.P. Southern (H)		
		Deputy of St. Ouen		
		Deputy of Trinity		
		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		
		Deputy G.C.L. Baudains (C)		
		Deputy of St. John		
		Deputy S.J. Pinel (C)		
		Deputy of St. Mary		
		Deputy R.G. Bryans (H)		
		Deputy N.B. Le Cornu (H)		

The Bailiff:

So we then continue and I have seen next the Connétable of St. Brelade.

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

I will not be speaking for very long, so hopefully you will not have to wait too long to move on. The Connétable of St. Mary said that she took a logical approach which was, I suppose, the Mr. Spock approach. I am going to take the Captain Kirk approach and use the illogical way to look at it. But I have to say in saying that, I have got to the point with P.33 that I wish somebody would beam me up, but it is not going to happen. In the last paragraph it does say: "Removal of this provision [I presume] would enable an independent pay body to set a Members pay scale." It is how they are going to get to that stage where they are going to be enabled and review it and get to the stage where they can agree this. Above that it says: "States Members pay is rightly an issue of public concern." I think the Remuneration Board, and it would be wrong for any States Member or group of States Members to tell them what to do, but part of that would, I presume, and I would expect, be public consultation because it is clear the public do have a view on this and one of the views that the public have on us talking about our pay and talking about our pay generally is a sick to the stomach a bit and they are sick of us talking about it. But nevertheless, if we were going to go down this route, I certainly would expect the Remuneration Board to take up or find out what public opinion was on what is quite a huge move away from what we currently do. I am not going to go over all the issues that we have brought out today, but one issue does concern me. I do not know how you get around this and I know some people did not want to talk about how you assess what people do and how they go about their work. But for me it is an absolutely impossible position to try to compare what Deputy Southern does to what the Chief Minister does to what one of the Constables do. We all have different roles, we all give it 100 per cent and I do not think anybody gives any less than 100 per cent. All the Members I have worked with, and there are a broad range of people from ... I have had an opportunity to work on a Ministerial group and I see how hard the Chief Minister and his Ministers work. I have also had the opportunity to work on Scrutiny Panels with Back-Benchers and they all work extremely hard. I think it is an absolutely impossible job for anybody to try to assess what they do.

[15:15]

While I was listening to the debate I just had a look to see what Westminster had been doing recently and they have had an independent Parliamentary Standards Authority that looked into their pay, which is, just to let you know, they have increased their M.P.s (Member of Parliament) wage up nearly 11 per cent from £66,000 to £74,000 which I find quite amazing in this time of economic

times. But nevertheless they have done that. But some of the comments that were made by Sir Ian Kennedy, the chair of that, were that he considered there was no easy way forward and there is no easy way forward with this. The other comment that he made was that it was clear that the public does not know what M.P.s do. I think it is the same with us. I think it is clear that most people that I talk to do not know what we do. I ask some people sometimes what my role does when I am in the Parish. They clearly do not understand what Constables do on a day-to-day basis. I think some people think I sit in the States for 3 days and after the 3 days I go home and I do my garden and I come back in 2 weeks' time. The Parish Secretary runs the Parish and I sign papers and that is all I do from one week to the next. Some people may agree with that. I do not know. I am looking at some with a smile on their face and that is obviously what they think. But I can assure them that is not true. But for me it is about public consultation; it is about the public having their say on this. There are some comments made in the report that I do not agree with. When Senator Ozouf talked about members of the public he had spoken to, they seem surprised that we are paid at one level. That is certainly not the response I get from people and I do live in ... I know Senator Bailhache talked about living in the real world. Well, I do live in the real world, and in the real world - and that is the bowls club, the football club, the Parish Hall, all things - where I meet hundreds of people every week, certainly it is not the top of their agenda. I do not think that people are surprised about that. I do not agree with the comment that the level of remuneration, and I think Senator Farnham just said it, cannot attract decent individuals to come forward because I think they will come forward. I do not think the rate of pay has anything to do with it.

Senator L.J. Farnham:

Just for the records, I did not say that.

The Connétable of St. Brelade:

I think he did.

Senator L.J. Farnham:

If I said it I did not mean it. [Laughter]

The Connétable of St. Brelade:

If he did not say it I apologise, and if he did I endorse it. [Laughter] So there are issues around that. Something Deputy Tadier said, and I totally agree. I do not think this is a priority by any means. But do I think it needs to be debated, or does it need to be reviewed by the Remuneration Board? It is not going to go away. I think it probably does need a review. But like I say, I think it needs to be the right review and it needs to consult the right people. Some comments were made again by Senator Bailhache, and I think he is right in many regards, saying some Members thought this was an extremely dangerous amendment. I do not think it is that. Do I think it is a dangerous amendment? No, I do not think it is a dangerous amendment, but I think it is a slightly dangerous amendment and I think it has consequences. But I am prepared to live with those consequences if we finally get an answer about differential pay. Personally I do not think it is the way forward, but I am quite happy to have a debate. So although I have to go like that and hold my nose, I am going to vote for the proposition.

1.3.18 Deputy N.B. Le Cornu of St. Helier:

Senator Ozouf's speech was a eulogy and his proposition is a panegyric to inequality. Inequality is a fashionable issue at the moment and in particular many will have heard of Thomas Piketty's book about *Capital in the Twenty-first Century*. It begins by citing Article 1 of the 1789 Declaration of Rights of Man and the Citizen. Social distinction can be based only on common utility. Now I could have a long lecture on what that means, but what it means for me is that inequality is not acceptable in this modern world. That is what Piketty's book is all about. I do not think it is

acceptable for States Members pay that there should be inequality. The Senator's proposition in fact has a typographical error - instead of differential pay or remuneration it should say "deferential pay" because it is effectively going to create patronage. It is going to mean that Ministers will be more reluctant to step out of line than they already are. There will be too much to lose. Senator Farnham asked the rhetorical question: "Who does this job for the salary?" or "Who does this job for the money?" Never underestimate the banality of the political class. If one remembers Jerome Cahuzac's act in France, the plastic surgeon who was appointed in order to deal with corruption. It was later found that he had a large Swiss bank account and also one in Singapore with between 600,000 euros and 15 million euros, and that list could be added to. Patronage is something to be worried about. The question is how much should the States Members be paid; what are they really worth? It has always been discussed on the left since the States or the Parliament should only be remunerated on no more than the wage of a working man. Or perhaps we should say it should be no more than a median wage. In fact, we are probably remunerated around the rate of a trust manager in the finance industry. You could have other bases for remuneration. How about - here is one - tying it to a multiple of the State pension. That would ensure that States Members, if they wanted a pay rise, would have to increase the pension for pensioners and would keep them very much in touch. In terms of keeping people and States Members and parliamentarians in touch with the electorate, one can recall Norman Le Brocq, who at a time when there was no remuneration, there was no salary, had to go round his constituents and ask them for half a crown or 2 shillings or whatever. That is what he lived on; that is what enabled him to be a States Member. But it kept him intimately in touch with the electorate; otherwise people simply would not give him money. But now you have a political class and you see this proposition that wants to be even more removed and distanced from the ordinary working man and woman. That story about Norman Le Brocq is of course political folk lore. The problem for the establishment - and that is why they are introducing this proposition - that is why it has been brought up. It is not the first time. It was echoed by Senator Bailhache when he said he wanted to encourage good people who hold real positions in the real world to stand for election. Politics is an unconventional career for a bourgeois. Why would they want to go into politics when being a bourgeois is all about making money? Just a little illustration. My wife is Ukrainian and she comes from Sebastopol in the Crimea. She was one of the early entrepreneurs after the collapse of the Soviet Union in the new capitalist economy. She was back there a few years ago and she met one of her former business people, a man, and he told her that he was now a politician in the Crimean Parliament. She was very surprised, very shocked and said something like: "Sergey, but you are a business man. Why would you go into politics?" and he said: "Well, that is precisely the reason. I want to protect my business interests." So that is the cynicism of the political class in the Crimea and that, I am afraid, is how the world and politicians are viewed in Jersey equally. They are not held in respect. When we call, as is being called for here, for higher salaries for the few, I am afraid it just will not go down well. But just to go back to the point Senator Bailhache was making: why have this increased salary? The great problem for the establishment is recruiting talent. You can see the way that Deputy Mézec is lauded in this Assembly. He is a young man with talent and clearly a future before him, but he is lauded not by the left from which he says he is, but he is also lauded by the establishment. Why? Because they are desperately short themselves of talent. They hope in the future perhaps, to co-opt Deputy Mézec to run the system for them, but at the moment they are going to look for people to run the system and they cannot attract them on the current salary. That is why there needs to be this increase in the salary to attract the good people. Who are these good people? They are the wealthy, they are the lawyers of course, advocates, who are not going to give up salaries of several hundred thousand pounds to come and sit in this Chamber next to boorish people giving long speeches like myself **[Laughter]** when they could be engaged in making money, because that is what it is all about if you are a bourgeois. I will just finish perhaps, because I voted ... okay, yes, thank you. It is an article by a chap called Perry Anderson. He is writing in

the London Review of Books. He is writing about Italy and the corruption in Italy and generally, and there is a general comment about the positions of the European Union. It is not just aimed at the European Union. It is about the political clout, he says: "In a neo-liberal universe, where markets are the gauge of value, money becomes more straightforwardly than ever before the measure of all things. If hospitals, schools and prisons can be privatised as enterprises of profit, why not political office too?" The 18th century was full of sinecures; one only has to read the literature of that period and it is all about people wanting to have positions of power in order to make money. That was the source of wealth. Now, I am not suggesting that is necessarily the case in Jersey and I hope it is not. It has not become that desperate but the idea and the principle of equality does keep the feet of certain Members on the ground, which they might not otherwise be.

Senator L.J. Farnham:

Would I be able to just clarify a point to Deputy Le Cornu? When I said I did not believe any Member was here for the money, I meant that I do not think the money is a motivating factor. I did not mean that people chose the money first but I believe Members are here out of a sense of duty first and the salary is an enabling factor.

Deputy N.B. Le Cornu:

Thank you for that clarification. I was using it as a rhetorical device to hang my argument upon.

The Bailiff:

Before I call on the next speaker, can I just remind Members that we have a very long agenda with a lot of other matters of considerable public importance [**Approbation**] and many, many aspects of this particular amendment have been mentioned by Members so I do hope Members feel they have something new to contribute if they are still going to speak. Deputy Le Fondré? [**Laughter**]

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

I am sure, Sir, that your experience and wisdom in this matter might lead you to be somewhat disappointed very shortly after that comment. I think, to start ... anybody else? I certainly did not come into the Assembly based on a financial assessment of whether I was going to be better off or not. I tell you, as a financial decision, this choice of vocation - this is not a career yet, thank goodness - was probably the worst decision I have ever made. I really want to endorse some of the comments, because I think we muddied the water somewhat recently in this whole debate which has been going on since goodness knows what time this morning. The Constable of St. Mary, I thought, was absolutely spot on and I think the summary of her whole speech was: "Do it properly." It was do not go for what is effectively a knee-jerk proposition that was lodged at the last minute as an amendment to what has been ... how long have we been here now? Three and a half days or something? What message is it going to send out? To me, to the public, it is going to send out the message that if we endorse this, we are saying we want to see Ministers have better pay rises. I know there is other detail around it but that will be how it will be perceived. It was an interesting extract, which nobody has referred to yet so it is an element of new information, from the editorial of the *J.E.P. (Jersey Evening Post)* in April. The last paragraph or so was: "Simply paying Members more is unlikely to make the job much more enticing for the high-flyers that Senator Ozouf hopes to attract. It is more likely we will end up paying far higher salaries to the usual suspects with dubious credentials, many of whom prove to be all but unemployable when they lose their seats. [**Laughter**] It is only when States Members want to be treated with respect and act in a way which commands that respect that more people will come forward."

[15:30]

In other words, salary is not going to be the panacea. Sadly, the quick fix of higher salaries is unlikely to work. I know there is at least one person out there who thinks this is a quick fix as well.

Again, we are talking about ourselves 20 weeks, give or take, before the elections. That is a great message to have, is it not? I think it is also how do you get down to the specifics of, well, we are going to do some form of pay differential and what everybody does. I was thinking about my present position and a past position. In my first 3 years, when I was Assistant Minister in Treasury and Chief Minister's ... is that 2 roles or one role? I was responsible for Property Holdings and I, very sadly - just to kind of give an indication of the volume of work I was doing at the time - counted up the number of Ministerial Decisions I had done. There were more than those signed by at least one Minister. Where does your differential pay go there? If you look at it now, I am on the A.P.F., I am a Representative of the British-Irish Parliamentary Association, I am the Assistant Minister for T.T.S. (Transport and Technical Services) and I have sat on 2 sub-panels, one of which was the result of what we are debating here today. There are 5 positions there. Where are you going to put all these various differentials and positions in? That, I think, has been made as a reference by P.P.C. I think 2 very final points and just to remind people and expand on it slightly. This, as far as I am aware, is basically deleting an Article in the law but it does not do anything about the terms of reference from the remuneration body themselves. The summary of those is that: "They will have particular regard to the principles that the level of remuneration available to elected Members should be sufficient to ensure that no person is precluded from serving as a Member of the States by reason of insufficient income." So, when we get back to the comment on the report: "It could be said that the current single salary level is too high for a part-time commitment." I think there is a conflict between that comment and the responsibility of the Remuneration Board, let alone the fact that it has been argued that the intention of provision was to ensure that Members were not appointed or given additional responsibility on the basis of patronage rather than merit. Such a suggestion would mean that the accountability mechanisms of the States to hold people to account are ineffective. I think if you went out to the public - and I am thinking particularly of a letter that they have done recently in relation to the Appointments Commission - I think you would find that some experienced commentators out there think that the accountability mechanisms of the States are ineffective. If that is the case, the last thing you want to be doing is adding, at the very least, to the perception of increasing the risk of patronage around this issue. Finally, the one thing I have found very disappointing in this proposition, particularly because it is coming from the Minister for Treasury and Resources, were the financial and manpower implications. Yes, I suppose, strictly speaking, there are no financial and manpower implications for the States arising from this amendment is strictly true. It is either naïve or disingenuous in my view because the paragraph immediately above is: "Removal of this provision would enable the independent pay body to set to Members pay scale without costing taxpayers more." That is supposition, particularly given the paragraph I have just read out, because in theory, the baseline has been set. It cannot be reduced and therefore you are looking at increasing the overall course of the States Assembly. Twenty weeks before we all get voted in again ... or sorry, voted on again. Perhaps I should put it that way around. In fact, it should be less in the future. My goodness, that is a good bit of crystal ball gazing, is it not? I think that public perception-wise, this will be about paying Ministers now. I agree entirely with what the Connétable of St. Mary said about the timing being wrong. I would be open to a proper process done under the auspices of P.P.C. in the next Assembly and do it properly. We do not do a knee-jerk reaction. I am not supporting this proposition.

1.3.20 The Deputy of St. Ouen:

Very briefly. I really do want the Senator in his summing up to deal with a couple of matters. First of all, whether the States Members Remuneration Review Body is the right body to look at the different time commitments and responsibilities as States Members and who is going to determine how they approach our work if indeed they are able and if it is within their remit. Because taking it to the natural conclusion, we have the Constable of St. Helier; certainly some would argue from

afar that he has far more responsibility and time commitments and perhaps a real Deputy. The same goes for Ministers. We have certain Ministers with a much larger portfolio than others. How are all these matters going to be determined and within what parameters because we are moving Article 44 remove any parameters that the States have set for the remuneration review body. In fact, it goes further than that because if you look - and the Senator will correct me if I am wrong in summing up - at Article 44, not only does it speak about the no differential in pay but it then goes on to say that remuneration - obviously the specific matter of Members' pay - does not include payments out of the Consolidated Fund into a superannuation fund or pension scheme for the benefit of an elected Member. It goes on to say: "Or allowances paid to a Member to provide for a superannuation fund or pension fund." So, on the one hand, the Senator seems to be wanting to deal with one problem but taking another issue that already the review body has been tasked to look at, and indeed the Senator mentioned, out of the picture. I come back to how much. The Senator argues it will allow a more diverse group of candidates to stand for elected office and yet he does say - and I am only repeating the words the Senator uses in his report - without costing taxpayers more. I am struggling to really understand how by fiddling around the edges that we are going to encourage a more diverse group. In fact, it does not deal with the real problems because we need to encourage people to enter the States because they feel that they are valued, not only by those that are elected to this Assembly but to the public. Indeed, unless we develop and create a greater sense of feeling around this Government and the connection with the public, changing and adjusting salaries is not going to help encourage people to get involved. One last point: many people think back 15, 20 years ago and look at the calibre of States Members. Most of them were influential businessmen who entered the States for all sorts of different reasons but were not paid. We now have a situation where there is remuneration available and yet for various reasons, and I have not got the answers, we cannot seem to attract the self-employed businessmen. Yes, we can start targeting employees but let us not forget, this is not a job for life. This is simply a short-term contract with no security. So money is not the driving force and will never be. It has to be something more and I think perhaps that is what we need to focus on as we look to the future.

1.3.21 Deputy J.H. Young:

I will try and make it a one-minute speech. I agree entirely with the Constable of St. Mary. I think she hit the nail on the head spot on. Remind ourselves that the purpose of the remuneration is to prevent candidates from being unable to come forward because of their personal circumstances is to enable them to stand. That was the purpose. I do find the arguments in the Minister for Treasury and Resources' report for why we need to pay more money and so on, I find them deeply troubling. In my experience of several careers, pay is not the motivator. I believe it is non-financial rewards. All the evidence indicates that. It keeps people going in their jobs and, in our case, it is the value of public service. I think this is the wrong debate, the wrong time and I cannot support it.

The Bailiff:

Does any other Member wish to speak? If not, I will call on Senator Ozouf to reply.

1.3.22 Senator P.F.C. Ozouf:

I always knew this debate was going to be difficult. I hoped that it was not going to be personal. Indeed, if my report itself has raised any particular strongly held views by Members because they do not agree with it, then I have to say that I did rush the report because I was quite surprised that no other Member brought what is a fundamental issue of what I believe as fairness in terms of States Member remuneration and fairness of process, which I will come back to. This is not about whether Members agree or disagree with my report. It is not about level, it is not about whether, it is not about how, it is about the removal of a shackle, of a requirement not to look at the facts. We hear a lot in this Assembly about evidence and what I am asking for is the removal of a restriction

for the independent remuneration panel to look at the evidence. Currently, they are not allowed to do so and I will come, with the greatest of respect, to the Constable of St. Mary in a minute. I am grateful for all Members who have spoken. I am grateful even for those Members who have spoken against the proposition and I will deal, if I may, and I hope politely but I hope with a degree of force of argument with their concerns. Because I agree with some remarks of some earlier speakers that I think that the opposition to the removal of this restriction has, if I may say, been somewhat overplayed. The Deputy of St. Martin said that we should be free ... that the setting of pay, effectively, should be free of political interference and that is absolutely right. Pay should not be a political interference matter and the restriction that we are setting, the independent body, is a political interference on looking at the evidence and looking at their ability. I am grateful to the Deputy of St. Mary. I cannot agree with everything he says but that is the joy of being in a parliamentary democracy and the joy of debate. He does support the issue to be looked at. I do not know whether his solution is right or wrong. I suspect that some of the things that he said might have been correct and others might be wrong, but that is not the issue. The issue is that he was saying that the matter should be looked at. A number of Members who spoke fairly gently against the proposition, which I would include to be Deputy Baudains and Senator Breckon, made an extremely good case for saying that the restrictions should be lifted. Deputy Baudains said: "It is not for us to set pay", among the same remarks on the other side of the argument under the Deputy of St. Martin. He is absolutely right. It should not be for us to set pay and it should not be for us to set restrictions. Deputy Duhamel spoke, and he was one of those earlier Members in this debate that started, if I may say, the fairly extreme positions of the debate and he spoke of the difference between the American system of economy and the Japanese system of equality. He asked whether or not we have a meritocracy. I would ask him to think about whether we really can have a meritocracy, whether or not people who are like the Minister for Planning and Environment, like the members of his panel, are given the opportunity to be meritocratic in their service of the public. I agree with him about Japan. Japan is a much more equal society but I have checked the Japanese Parliament and I was fortunate enough to be in Japan 2 years ago and I noticed that there is no restriction put on parliamentarians in Japan.

[15:45]

So this is not against anything to do with equality. It is, effectively, an attempt and a realistic objective not to always believe that there is a common denominator, which somehow must lead to division. Deputy Mézec, and I will go to his remarks, because he was one of those that really, if I may say so, might have frightened Members. He spoke of a legalised bribery if we go about removing this amendment. He said that it was shocking. He was one of those Members like Senator Bailhache that said that there was increasing vociferousness, increasing fear in relation to the reasons for supporting this amendment. We moved from dangerous to very dangerous to the most dangerous. We, of course, heard him speak about his 2 political heroes. I would remind him, if I may, that dangerous to very dangerous to the most dangerous sounded pretty well like Tony Benn on the subject of change. It said that you are certainly bad and he certainly said that it was dangerous. I believe that in time there will be an evolution and there will be an acceptance, and there is no disrespect. There is nothing wrong with an independent body independently looking at the evidence. He said that this was a move towards party politics and he goaded me. He said that the solution was for party politics and that would be a fair way. If I may contradict that view, almost every other parliament in the world, as most parliaments have party politics, I would say that party politics means that Members are even less independent to give of their views because they will have a party whip. I notice that on social media the young Deputy, because he is young and I respect him for that - I have been young too and in this Assembly too **[Laughter]** - and I notice that in fact he said, during the course of the debate, that the Members of this Assembly said: "When Senator Ozouf says we cannot debate our own pay the Assembly agrees. When he says we

can debate it they agree. This is an Assembly of poodles.” Is this young Deputy well respected with a clear skill of oratory and a clear passion? Is he saying to this Assembly this afternoon that in debating an opportunity to ask an independent pay body to look at the evidence that this is an Assembly of poodles? We spoke and heard about a situation where a Minister, no less the Chief Minister, would be in a position to cajole and encourage another Minister, in the event of Ministers receiving a differentiated pay, that they would change their decision because of a reward and remuneration. Are we really saying that not only this Assembly is an Assembly of poodles but this is an Assembly now, past and in the future that will be a membership of an Assembly that has such poor levels of integrity in terms of decision-making that we will not accept an independent recommendation on, effectively, a pay scale that is looked at according to workload? Are we really saying that people in this Assembly and future elected peoples are so lacking in integrity that they will be, effectively, being charged to be encouraged in order to be in a system of patronage? I just simply have a better faith in Members. I have a better faith in the integrity of Members and I have a better faith in terms of the integrity of the reasons why Members stand in this Assembly and why they do their work. I say to Deputy Mézec I do not agree that party politics is the solution to dealing with fairness and independence. This is not an issue for today but it certainly is not a binary issue that you either agree with party politics and agree with the proposition or the other way around, this is simply not a case. I think that, if I may say, he rather overcooked the arguments. I think he protested a little too much. I believe and I respect his views. He has clearly got a great deal to contribute but I think that he really did quite overplay his hand. Deputy Martin spoke about the comparison of this debate and lifting of Standing Orders for the previous attempts by the Constables of St. Saviour and St. John for raising the Standing Orders. She criticised me for proposing this amendment and saying that it was similar. I would say that that is absolutely not right. What I was saying, in terms of not lifting Standing Orders, is that it was absolutely wrong for this debate on pay at that level to be, effectively, discussed because it would mean that there was a them and us situation in terms of people’s independent means, and that is a completely different system. I am not saying how. I am not saying the level. I am not saying whether I am right or wrong. I am simply saying that the legal restriction should be taken away. I absolutely stand, with the greatest of respect to the Constables of St. Saviour and St. John, by saying that it was not appropriate to lift Standing Orders because that would have been divisive. I think many Members agree with that and I hope that they will not use that almost as a reason not to vote it. She said that Ministers have people to organise their papers. She said that not all Assistant Ministers were equal, that not all the responsibilities of an Assistant Minister and Scrutiny Chair were equal. I can probably say she is probably right. But let the Independent Remuneration Panel look at it, at the moment they cannot. I say to Deputy Young, who I had a conversation with just over the lunchtime adjournment, that I think the whole issue of the standing of the work of the commitment of the facilities of States Members needs to be looked at and the current system is not fair. Yes, I do have my papers organised by my office so I do not have to spend the time putting my papers together. I plead guilty. I admit I do that. But if there is any Member of this Assembly that believes the Minister’s time is better spent organising papers versus doing and attending to their Ministerial duties then I would say that they do not think that we are doing our jobs. I would say to the Chairmen of Scrutiny Panels or to any other Member they should not be doing the kind of administrative work that requires people to put papers in a file. Our time, as parliamentarians, serving constituents, serving Parishes, serving Scrutiny Panels should be able to have the right level of support in order to do our work. It is a case that Members of this Assembly outside are not respected. The Assembly is not respected but we are making it worse for ourselves because we are not willing to have somebody look at what we do and what we do not do and the services and facilities that we need to do in order to perform our jobs and serve the Island better. At the moment there is a complete restriction on this thing, probably the services that I get from my office are not in the spirit of that legal restriction. It is certainly unfair. I feel that this is unfair but I feel that it is

also unfair that other Members that are doing jobs at Scrutiny and jobs in constituency work ... and I cannot remember which Member raised the issue of the comparison and I am not suggesting for one moment £100,000 offices for telephones or support, I think it was Senator Breckon. What are the facilities that Members do have? A cheap-shot remark was made that some Ministers have their phone number in the book of their home and others of their office. I doubt whether there is a single Minister that does not receive, and whose telephone number ... or the public who they serve or constituents or people that have got healthcare problems, teaching problems, T.T.S. problems or any other of the responsibilities, does not think that it is ... Are we really having a debate down to free lunches or whether or not our telephone number is in the phone book? This is a small community and a small community, I believe, that needs to raise the standards of the respect and work and efficiency and service of our Island. I believe that these debates where we are pretending that these things should not be looked at are doing a disservice to our parliamentary democracy. This is the last comment I will make on the apocalyptic view, Deputy Tadier certainly gave an apocalyptic view of the consequences of accepting the removal of the amendment. I was interested that he spoke of Pompeii. Pompeii, I am sure that Members know, was a city that was destroyed in AD79 by a volcano, certainly an apocalypse. I walked through the streets of Pompeii and I learnt about Senators in Pompeii. If Deputy Tadier is teaching the class that he is doing about democracy and if he is talking about the Senators that existed in Pompeii, with the greatest of respect, I do not think that Pompeii would be the place that I would want to compare the service of Senators because I walked around the streets of Pompeii and saw slave quarters. I saw an arena in which slaves were beaten to death and an arena whereby there were fights to the death. If that is democracy I think, with the greatest of respect to Deputy Tadier, we have moved on from AD79. I am happy to give way.

Deputy M. Tadier:

Just to correct myself, Sir, because it is actually the Consulship of Pompey and Crassus. I may have pronounced it incorrectly and it sounded like Pompeii, so it seems that we are all okay.

Senator P.F.C. Ozouf:

All right. Okay, whatever. The fact is, is that we have moved on substantially. I would say that life moves on and we must look at evidence and we do not simply have to move back to, whatever, Roman or other periods of time. Deputy Southern, in the last negative speech that was really personal, I regret what Deputy Southern says. I absolutely respect the fact that Deputy Southern does a great deal of work. But he cannot go to the remuneration body and explain what he does. He cannot explain and hope to get an adjudication and a fair treatment. He is certainly a Member that is known for his strong rights in terms of workers and so on. He cannot go to this body and say: "Look at what I do compared to this Assistant Minister or others." At the moment the body cannot look at the evidence. I would ask him to say: "Would he accept this restriction for anybody else that he had ever represented in terms of pay and conditions?" I would say not. He would never accept this in terms of a restriction for other pays and conditions. Why is it bad enough or restrictive enough for us said? He says it is not fair ... I will give way, Sir.

Deputy G.P. Southern:

If it were a living wage, yes, I would accept it.

Senator P.F.C. Ozouf:

I agree with a living wage but I will come on to that in a second. I do not think I say to Deputy Southern if he represents other workers, which I know he has with distinction and he certainly works hard of it, would he accept such a restriction for any other body that would set the remuneration for any other body? I doubt it. Why is it right for everybody else? He certainly would not have said it for teachers, he would not have said it for any of the other people that he

represents, and I will leave it at that. I believe in justice and I believe in proper adjudication of justice and evidence and looking at the evidence. I am not giving way anymore, Sir, I am going to just finish my remarks. To the Constable of St. Mary, I really want to try and see whether I can convince her to go with the restriction of this amendment because I understand the reasons why she is saying that now is not the time to do it. I would recall that she has also been one of those Members who is persuaded in other debates that the time is right to make a decision. She was a hardworking Chairman of P.P.C. that made a number of important decisions, right up to the wire of elections before the last election where we made decisions about Senators. Many of the remarks that I have been making today she was making when, effectively, asking the Assembly to make decisions on Senators.

[16:00]

I would say to her it is always difficult. The easiest thing for politicians to do is to put a decision off. What I am asking for is for this Assembly to make the decision that I think, reading between the lines, she believes in her heart of hearts. I want to say to her that I agree with everything that she says about the terms of reference. But as Chairman of P.P.C. she will know that the body that was appointed to look at pay did not want to look at any responsibilities until the law was changed. That is not to say that they will put a different measure on it and, of course, we must come back and do a terms of reference that meets the requirements of what she said, and so many others, that no Member should be prevented from serving. But this is about that and it is also about looking at the workload. I am afraid it is cart and horse. We have to remove this restriction to allow the terms of reference to be changed. The terms of reference cannot be changed without this legal restriction being taken away and that has been the clear situation from the previous remuneration body and, indeed, as I understand it, the reading of it. I would just ask her to go with the removal of the restriction because then there can be a proper debate for all the things that she wants to achieve, which I agree with, in terms of, effectively, what the actual details of the code of practice of what the Remuneration Committee will look at. I am absolutely clear that that is the case, that you cannot look at the terms of reference without the legal restriction being taken. The Constable of St. Brelade, I think, made one of the best and briefest, as has been his practice, on the issue of needing to look at this. He believed that this issue should be looked at. He believed that the evidence should be looked at and that independent body should do that and I absolutely agree with that. This issue is not going to go away. It is a real issue and I believe that we will strengthen public confidence in the States Assembly if we are going to allow the body the proper ability to look at the evidence and that is what this issue is about. I just have 2 comments to say about the Chairman of P.P.C. because I think the Chairman of P.P.C., with his important responsibilities for Members, made a number of important observations that lead me to the conclusion that he should be upholding. He is the Chairman of P.P.C. and he should be upholding Members' rights to have their say to an independent body. One of the things he first did in this Assembly, and he recalled it, was that he did a register of Members of their attendance in this Assembly.

Deputy J.M. Maçon:

If the Chief Minister would give way I would make the point that was after 3 years of being in the Assembly, so it was not the first thing that I ever did.

Senator P.F.C. Ozouf:

It certainly was one of the most memorable things that he did and, of course, he is another hardworking Deputy. But the fact is that he did, if I may say, criticise some Members for not being here. Some of the Members that he did criticise were, I recall, those Members who tried to have a job and also serve in this Assembly. He is shaking his head but I will not name them, but I think I recall some of the individuals that tried and they are no longer Members of this Assembly because

they stood down because they could not do a job and be a States Member. The thing that I think that ought to be looked at is that not all 51 Members are all 100 per cent full-time Members, not all of them are. I wonder whether or not we really believe that the right Parliament of Jersey is an organisation and a membership that has 51 full-time politicians, and that is the issue that I do not know the answer to. But I know that many Members and I know that many people, and this no disrespect to any Members' professional qualifications or careers ... The Constable of St. Martin spoke about the level of remuneration that Members get. I looked at it and it is about a grade 9 in the Civil Service. He said, and he is supporting this proposition and I looked at it and it was 37½ hours a week. I do not know many Members that work 37½ hours a week; there may be some but I think a lot of Members do a lot more than that. That is, effectively, a low middle-management position. He was right to say that it is a vast set of responsibilities to be a Scrutiny Chair, a Constable, a Minister, compared to middle-management. This system whereby we cannot allow even the remuneration body to look at this issue and this one size fits all does not exist in any other parliament that I am aware of in the world, party political, independent, coalition, right or left, not even in Soviet Russia existed a restriction for not looking at differentiated time commitment. It is not about what I think, it is about allowing the independent body to look at the evidence. I am grateful to the Constable of St. Martin, who is clearly somebody that works extremely hard in relation to his parochial duties, as well as his Assembly duties, for making the passionate and well-judged and fair - and that is the issue, fair - speech that he made. This is a debate not about whether, it is about how, it is not about certainty. It is about the removal of a legal restriction that does not allow the independent body that looks at remuneration that must consider the best level of remuneration to be set to allow all people to come and serve in this Assembly, irrespective of their means and irrespective of their background and irrespective of their own vocation, work of life and so on. This is a body that must be allowed to look at all of the evidence, both in terms of the attractiveness of the role and then the performance and the time commitment of the role. I may be wrong that there is no case that there should be differentiated pay, that there should be no difference between a Scrutiny Panel Chair and a Constable or whatever the time commitment, responsibility, Chief Minister or member of a panel. I may be wrong. All I am asking for is for the ability for that work of looking at the evidence to be looked at. The arguments of patronage I do not believe have been won. We are in a position, this amendment... and I was in the Assembly when the original proposal was put. This was not something that was originally proposed in the machinery of government. It was added by a former Senator and it was on the basis of patronage. If Members were worried about patronage and Ministers then they have now got an amendment that does not allow that in terms of Ministerial appointments. If Members believe that there is an integrity issue, that people could be attracted to being an Assistant Minister by somehow being attracted to a different level of pay, I would say that I have lost an awful lot of confidence, which I do not have. I believe that Members of this Assembly, irrespective of their views, are Members of integrity, of people who believe in doing the right thing for Jersey, independently and voting on our conscience every single time. I would say that the argument of patronage is a right fear to raise. It has been confirmed against the system that we have agreed because the Chief Minister cannot appoint Ministers. I think that the arguments of patronage, I would have had a difficult time perhaps in arguing it, but, effectively, they have gone away because of the decisions that the Assembly has made. This is a debate about fairness and about evidence and a non-restriction of the ability to provide evidence for a panel. It is about the first step in making a change and then setting an appropriate terms of reference, meeting all of the requirements of the Connétable of St. Mary and those other Members. I ask Members to support what is an important issue for many members of this community. It is a controversial one, it is an issue of fairness and independence and us not voting and deciding and making unreasonable restrictions on an independent body. I move the proposition and ask for the appel.

Deputy J.A. Martin:

Can I have a point of clarification, please? The Minister made some very large promises in his summing-up speech. What he did not tell us, and I asked him specifically in my speech, what is the budget for this and can we have the answer, please?

The Greffier of the States (in the Chair):

Do you want to raise your point?

Deputy J.H. Young:

Yes, I think so, a similar question, Sir. The Minister spoke about the unfairness of Members' facilities as being a reason why we needed to get rid of this Article 44. Could he confirm whether he was really saying that his argument to get rid of Article 44 was because currently drafted it prevents us providing Members' facilities, support facilities for Scrutiny and so on? He may wish, of course, to seek the Attorney General's view on that. But is he really saying that Article 44, we need to get rid of it to stop it?

The Greffier of the States (in the Chair):

Yes, he can clarify that. Thank you. One last clarification.

The Connétable of St. Mary:

Sir, it may be for the Attorney General. I would like to ask definitively, is there anything in the States of Jersey Law Article 44 that prevents background research being done? I would have thought the law was about bringing a proposition to this Assembly that, if enacted, would change remuneration level. My argument, I think the Minister understood it, was that the terms of reference might need to be changed or we might need a separate review body, indeed, if ...

The Greffier of the States (in the Chair):

I think your question is clear. Do you wish to clarify that, Attorney? Is there anything in Article 44 that prevents background research being done?

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

In my opinion, no, it does not prevent that in terms. Strictly Article 44(1) refers to a scheme agreement or other arrangement that remuneration or payment of any allowance to elected Members. It simply provides that such a scheme, agreement or other arrangement cannot provide for different elected Members to be entitled to receive different amounts of remuneration or allowance. There is nothing there from the face of the statute that prevents anything being done by way of background consideration. Whether any such background consideration could conceivably be useful in terms of Article 44 is a very different question but there is nothing in the statute that prevents it.

The Greffier of the States (in the Chair):

Senator, do you wish to answer the 2 points of clarification?

Senator P.F.C. Ozouf:

Yes, indeed. To answer the question, and I fully accept that, but the Constable of St. Mary, in answer to the Attorney General, will recall that the pay-Member body has not been feeling capable of researching it because the statutory provision is there. It is a high-level statutory provision. You can understand why the body will not look at it because as long as that statutory provision is there you cannot ... and it would be almost extremely unusual and disconnected that there would be a statutory provision saying no difference and somehow asking for the terms of reference to be looked at. It must be, in my view - and that is the tenure of my argument - that the statutory provision has to be removed so we can change the terms of reference and that is why I have been

asked to bring it. I apologise if I have brought it at late notice. Members do not have to agree with the reasons for it but that is my logic and, I believe, borne out by the practice of the committee that did not want to look at differentiated pay. I will answer the question of Members' facilities because it is really important. The fact is that, of course, the actual remuneration levels are the remuneration levels and allowances. But, of course, the reality for substance over form is that myself, as a Minister, and another Member - I did not speak to every response, of course - get better facilities than some other Members. As a Minister or as a Back-Bencher getting certain facilities I think the whole issue of remuneration and facilities and expenses are the same. Facilities are, effectively, expenses in non-cash terms. I think the whole thing needs to be looked at and the board needs to look at the balance between a Member having lots of facilities and lots of abilities to have somebody to put their papers together and research, as opposed to just simply an expense allowance. I am saying that the whole issue needs to be looked at, facilities, remuneration and allowances. Having a restriction, which is a partial arrangement, and Members will see, they may think it is unfair that I have an expenses ability to do certain things that other people could not, that I have an office, that I have a telephone that is paid for. That is unfair. I am saying get rid of the artificiality of the rule and let us look at everything. If we do not like the members of the remuneration board, in terms of the widespread range of their ability to look at these issues, then Members can change them. They should look at having a terms of reference that is proper, wide and fit for purpose.

[16:15]

I see Members remonstrating but I say these things with a degree of passion because I think everything needs to be looked at. I will finally answer Deputy Martin; as the Minister for Treasury and Resources I am more than conscious that this issue I am suggesting, the fact that there could be an increase in pay or not, I do not know. But we are doing a long-term revenue plan, we are doing an M.T.F.P. (Medium-Term Financial Plan) and we are asking departments what they need. At the moment the body cannot even have that discussion in terms of what the right remuneration level for Members is. There is a lot of public concern about it but, effectively, it is artificially set because it is one Member. I do not know that the level is. I do not know and I do not think I should be involved in it. But I think that we should ask an independent body, completely unfettered, to look at all of the evidence and then we can have a discussion about budget debate. This is not going to be an issue that is going to be fixed in 6 months. We have got to remove the statutory provision, put in place a terms of reference dealing with all the issues, the facilities and so on and the thing properly looked at and that is why I am asking for her support. If that means an increase in budget or a decrease in budget, I do not know, but let us look at the evidence, like we are asking all other departments. I think I have answered all of the questions.

The Greffier of the States (in the Chair):

Yes, I think you have. We will move to the vote. I think your question was answered, Deputy. It is not question time.

Deputy J.H. Young:

Obviously it is crucial to the Attorney General's advice as to if it is true that facilities are remuneration or allowance, then obviously the proposer's conclusions stand up, but I wanted clarification, Sir, of that and I have not had it.

The Greffier of the States (in the Chair):

Are you able to clarify, Mr. Attorney, whether facilities are covered by Article 44?

The Attorney General:

No, I do not think facilities as such are covered by Article 44. What is covered by Article 44, and only, is different amounts of remuneration or allowance. It seems to me there is a different amount of financial contribution. I would take it as axiomatic that facilities provided for States Members in general are available to all Members.

Senator P.F.C. Ozouf:

This is not a legal point, this is a political point, Sir. It is facilities in all matters. It is facilities that should be looked at in the wider sense of the word.

The Greffier of the States (in the Chair):

You cannot keep having speeches. Very well, the appel is called for. If Members are in their designated seats, the Greffier will open the voting.

POUR: 20		CONTRE: 23		ABSTAIN: 0
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Senator B.I. Le Marquand		
Senator A.J.H. Maclean		Connétable of St. Mary		
Senator F.du H. Le Gresley		Connétable of St. Ouen		
Senator I.J. Gorst		Connétable of St. Saviour		
Senator L.J. Farnham		Connétable of Grouville		
Senator P.M. Bailhache		Deputy R.C. Duhamel (S)		
Connétable of St. Helier		Deputy R.G. Le Hérisssier (S)		
Connétable of Trinity		Deputy J.A. Martin (H)		
Connétable of St. Clement		Deputy G.P. Southern (H)		
Connétable of St. Peter		Deputy of St. Ouen		
Connétable of St. Brelade		Deputy J.A. Hilton (H)		
Connétable of St. Martin		Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		Deputy M. Tadier (B)		
Deputy K.C. Lewis (S)		Deputy T.A. Vallois (S)		
Deputy E.J. Noel (L)		Deputy A.K.F. Green (H)		
Deputy of St. John		Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		Deputy G.C.L. Baudains (C)		
Deputy of St. Mary		Deputy J.H. Young (B)		
Deputy of St. Martin		Deputy R.G. Bryans (H)		
		Deputy R.J. Rondel (H)		
		Deputy N.B. Le Cornu (H)		
		Deputy S.Y. Mézec (H)		

1.4 Draft States of Jersey (Amendment No. 8) Law 201- (P.33/2014) - resumption

The Bailiff:

Very well. Chief Minister, it falls to you now to propose Article 12.

1.4.1 Senator I.J. Gorst:

I will not rush. Article 12 requires the Assembly to continue to make Standing Orders for the conduct of Scrutiny. It is the Article that I referred to erroneously in the previous amendment as Article 10; it is Article 12 that does that. It amends the law so that it ceases to be prescriptive about the number of panels and how they are appointed, but it says that it can now be done in Standing Orders, which will give time for Scrutiny to reconsider the idea of flexibility that was in the initial recommendations of the Machinery of Government Sub-group and which we spoke about when Deputy Young moved his amendment earlier. I have spoken to one or 2 Members who voted in

favour of Deputy Young's amendment. Even though it did not carry the day, I do think there is opportunity in giving effect to this to work with the President of the Chairmen's Panel, to work with P.P.C. and I am quite happy to be involved in that work as well to see how we can move these issues forward.

The Greffier of the States (in the Chair):

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

1.5 Draft States of Jersey (Amendment No. 8) Law 201- (P.33/2014): fifth amendment (P.33/2014 Amd.(5))

The Bailiff:

There is an amendment to this Article in the name of the Chairmen's Committee, and I will ask the Greffier to read the fifth amendment.

The Deputy Greffier of the States:

Page 47, Article 12 - in paragraph (1), in the substituted paragraph (4), for the words "the conduct of Scrutiny." substitute the words "Scrutiny, which shall include provision for the agreement of a code of practice for engagement for the purposes of Scrutiny between elected Members conducting Scrutiny and Ministers and Assistant Ministers."

1.5.1 Deputy T.A. Vallois of St. Saviour (President, Chairmen's Committee):

This is quite a simple amendment, I am hoping. As Members can see, this is purely to allow for a code of practice for engagement between Scrutiny and the Executive to work as endorsed by the States Assembly, because it will be under the primary legislation. Basically I will leave it up to any Members, if they want to ask me any questions, to do so.

The Bailiff:

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the amendment? Deputy Young.

1.5.2 Deputy J.H. Young:

Since the Chief Minister spoke of the potential for further work, particularly in following up the ideas in the amendment which I brought, which has failed, and he brought it up in the context of this particular amendment, an amendment which to me seems very common sense, that obviously codes of practice and particularly the question of engagement between Scrutiny and Members and Ministers and Assistant Ministers is one of my proposals on the Chairmen's Committee that I thought we have already got a code of conduct for the Scrutiny Panels themselves. I am not aware of a code of conduct for the Ministers, but certainly if they do not have one they certainly need one. Now we have got collective responsibility, there will need to be one and there needs to be agreement on what I would call the rules of engagement, because we have seen time and time and time we have no rules about the way in which Scrutiny reports will be dealt with, the length of time, how much notice Members are going to be given to papers being circulated, response being made. We have had debates where frankly those issues have not been dealt with properly and certainly it is my expectation by agreeing this amendment from the Chairmen's Committee we will have absolutely much tighter rules on that and that Ministers will not be able to abuse - whether it is intentional or accidental, I make no judgment - process to get things through. Of course there is a problem in getting work through, the sheer volume of work is enormous and there is a danger that things that are not properly thought through get through. This will help us. This amendment will help avoid that. Of course there is the potential in the rules, the code of practice - it is not yet written, there will be one - I pointed out earlier on in my amendment that Cornwall have instituted

Scrutiny rules and there are all such things in there about very prescriptive arrangements that have to be complied with by all parties, including their Cabinet and our Council of Ministers, so expectations are high. I shall support this. I trust the Chief Minister, as we all do. I hope ... I see certain Members a bit shocked. I hope ...

The Bailiff:

They are going to be surprised because you are on the amendment and the members of the Chairmen's Committee would perhaps expect you to support this.

Deputy J.H. Young:

Hopefully, Sir, I was explaining my support, but I was trying to link it to what the Chief Minister said, that he put in his speech in favour of it a reason for, if you like, following up the points and defects that I had highlighted in my amendment, which we did not get through, so I think he raised expectations that this amendment, which I support, will also achieve or put right those issues. What I am saying is that I trust him and I will be watching this slowly, carefully, and it is an important thing, and with that I will sit down and support this amendment.

1.5.3 Deputy J.M. Maçon:

Broadly in support, but I wonder if the President of Scrutiny could explain what teeth she envisages this proposal to have when the proposed code of practice does not work - not if, when - in order to enforce, in order to make sure that Scrutiny get their information on time, that whatever should happen should happen, because part of the problem in this Assembly has often been that there has been a lack of teeth in order to do something. I would just like to know what the President would envisage to happen in order to give this proposal some teeth, because otherwise it is just a piece of paper, I am afraid.

1.5.4 Deputy G.P. Southern:

I rise to my feet to support the sentiment of the previous speaker. It is all very well, but time and time again throughout the history of Scrutiny, I am afraid only token lip service has been paid to the value of Scrutiny and we have to find some way to get a response from Ministers and that requires some teeth - the word here is definitely teeth - some mechanism of enforcing at least a modicum of respect for what Scrutiny does and the provision of sufficient time for Scrutiny to do its work, even the response time from Ministers, that is not a week before a debate, so nobody gets to understand or read the thing anyway. There are all sorts of mechanisms by which Ministers over the years have slipped and slid and got out from under when the pressure is really on and we have to find some way, in the absence of a complete change of mindset, which says: "Oh, we are going to really do this and then pay respect to Scrutiny" which I do not see any evidence for yet; in the absence of a complete mindset, we have to get those powers.

The Bailiff:

Does any other Member wish to speak on the amendment? If not, I will call on the President to reply.

1.5.5 Deputy T.A. Vallois:

I will address the particular Members, the 3 Members, and I appreciate and thank the Members for speaking on this particular amendment, because although it seems very simple, it could add a lot to the way that Scrutiny can function in the future. I will jump specifically to Deputy Maçon's question about the teeth. What I envisage as teeth may be going slightly too far in some Ministers' view, because I have a 3-strike policy. This is how I deal with the Public Accounts Committee in particular. All chairmen deal with their own panels individually, but I have a 3-strike policy where I believe you can be reasonable and then give a little more reason and then turn around to the

Minister and say: “No, I am sorry, this is not acceptable” and by that means, I believe there are a lot of Members in the States Assembly that view accountability, ultimate accountability, as a vote of no confidence or a vote of censure against a particular Minister. Now, if that is what the States Assembly want Scrutiny to be doing more and more, what a code of practice will allow Scrutiny to do will have a set of particular expectations from the States Assembly as to how Scrutiny and the Ministers will work and then there will be a code of practice about how Scrutiny will work and a code of practice about how the Ministers will work. The reason why things have not been ... I feel that the vote of no confidence or vote of censure have not been used as often as they possibly could be is because everything is too woolly and everything is too ambiguous at the moment. The actual prime reason for bringing this was in recognising Deputy Young’s concerns with the problems he has had to deal with over the last 2½ years, and I have listened to those, and we have discussed this before and I believe that this is a prime way to move forward. If he wishes to make the rules much tighter, then I believe this is something that this current Chairmen’s Committee can discuss and put something in draft together to seek the views of the Chief Minister to move it forward. Deputy Southern, a token of lip service, and yes, absolutely, Scrutiny should have a modicum of respect, but it is not just from Ministers, it is from the whole States Assembly and I agree, there needs to be sufficient time, but that is why there has been a body of work set by an officer in the Chief Minister’s Department and an officer within the Scrutiny function to go and look at the issues surrounding the problems with regards to law drafting and the issues of all the legislation coming in at the very last minute. I would suggest that the Chief Minister has a look at better organisation within the Executive, because it has a massive impact on the way that Scrutiny can work efficiently and effectively.

[16:30]

On that basis, I recommend the amendment and ask for everyone to support it.

The Bailiff:

All those in favour of adopting the amendment, kindly show, and against. The amendment is adopted.

1.6 Draft States of Jersey (Amendment No. 8) Law 201- (P.33/2014) - resumption - as amended

The Bailiff:

The debate resumes on Article 12 as amended. Does any Member wish to speak on Article 12 as amended? Deputy Southern.

1.6.1 Deputy G.P. Southern:

It is quite an interesting day when we have the potential to revert to the way in which we originally organised Scrutiny, which was to build on the enthusiasm of particular individuals to gather a team who were interested in an area and not be bogged down by being stuck and unable to look at the heavyweight issues and the serious issues and the most urgent issues which were being debated at the time. I think it is a well-known piece of research that the most effective scrutiny is performed by panels who have an enthusiasm and a natural feel for the particular topic that they are investigating rather than feeling: “Oh, we have got to investigate this. It is a bit dull, but I will do my best with it.” The enthusiasm and the drive of a chairman is the critical element in getting successful scrutiny done, because that drive and that enthusiasm communicates itself to the team and in particular keeps the officer on his toes so that deadlines are met all the time and we make progress. Enthusiasm of a chair about a particular topic is the key element that makes scrutiny work.

1.6.2 Deputy T.A. Vallois:

I think it is appropriate for me to speak on this particular Article. Although small, it is quite significant, because what it allows us to do is to be prescriptive within Standing Orders about how many panels that the States Assembly wishes for Scrutiny to have. Now, there has been a lot of discussion on the Chairmen's Committee over the proposal that I originally put for the Scrutiny Management Committee and there was a division as to how to take this forward. I have the absolute belief - but this is myself, of course it is up to the States Assembly whether they want to be prescriptive about specific panels - that the way forward would be a Scrutiny Management Committee, as Deputy Young suggested from within his amendment, and the Cornwall model, which has some extremely good Scrutiny guidelines placed against them, but of course, like I say, this comes back to the States Assembly under Standing Orders as to whether they wish to be prescriptive, but it gives us the ability to think flexibly. What Deputy Southern has just suggested in terms of if somebody is really passionate about an area, really passionate about a subject, maybe they have gone for a Ministerial role, they have not got that Ministerial role, but there are specific issues that they have stood on and believe that they need to be aired in the open and evidence-based, then chairing that review will bring about all kinds of recommendations and findings and some views that possibly that person has never heard of before. It has happened to many people who have carried out Scrutiny reviews. I would ask Members to support this particular Article and we will see the finer detail, I am sure, under the Standing Orders when they come forward.

1.6.3 Senator A. Breckon:

Just a couple of points. I think it is a good idea to give this a bit of flexibility, because from Shadow Scrutiny to work through to Scrutiny, it has changed in that time and it was discovered fairly early on that some of the areas that the panels were being asked to cover were just impossible to do with the budget and the resources and what was required. There has been some breaking down in that. The other thing, I am still of the belief that if it is Scrutiny-based, because I did experience at one stage where I think with Deputy Southern we were looking at long-term unemployment and when we were going from Economic Development, Education, this, that and the other and then there was barriers that were put up: "Oh, this is not within your remit" and if it was subject-based areas like that, people would get interested and enthused about it. I remember we did things like a dairy review and it was a joint review with the then Chief Minister and it worked really, really well. There have been other areas as well, where if Members, whoever they are, have enough interest about a subject, then they will get involved and that will be reflected I think in the quality of the outcome, the work that is produced. Members with a variety of interests and backgrounds can come together and do this sort of thing and I think this is a way of achieving some of that. It is moving on to Scrutiny mark 5, and through the Scrutiny Officer, we have got some excellent officers who are capable of some brilliant work and we should harness that resource and make the best of it. They are able to move around into different areas, different subjects and have backed up also work of the States Greffe Committee of Inquiry. Whatever has been involved, people have mix-and-match and we should utilise that talent to get the best results which also gives some accountability to the Ministers, because just to take some areas, if I may, we looked at alcohol and drug services, mental health. They are easy to say, but somebody to look at that is a massive area to look at and if somebody picks that up as a topic subject, then if there are a number of people doing it, then they can get on and do that and somebody can do something else. I think it will benefit us in the system of government we have got to allow this flexibility and for that reason I will be supporting this Article as amended.

1.6.4 Deputy J.H. Young:

Yes, obviously Article 12 beefs-up Articles 48 and 49 under the main law, and I think it is absolutely right that these powers now to ensure that Standing Orders do embrace the provision for us to make Standing Orders for Scrutiny, the way it is done, and codes of practice both for the panel

itself and interchange with the Council of Ministers does give the potential, I think, to be able to do some of the things that you have seen in the Cornwall proposal, as the President of the Chairmen’s Committee has said. I think it also gets us towards this more what I would call Select Committee approach, put some real teeth in the rules, but of course it is all very well to have the power in a law to do that. What this needs is a commitment - and I am looking across the Chamber here, because we know that there will be a way that Standing Orders will get through this Assembly without the Council of Ministers’ support - so I think I am asking, if Members vote for this, do not give it lip service, please. When those Regulations come back, which really beef-up the role of Scrutiny, do not please be finding reasons why we change the balance and we are making Scrutiny too strong and we are going to slow things down, we are making it too demanding and so on; please back it. I think there are going to be, no question, resource implications and I think it has to be faced. We have heard in the previous debate admissions about the inadequacies and unfairness of resourcing and support facilities. All of that I think will have to come before this Assembly in some shape or form, so this amendment, this part of it, does give us better tools to be able to achieve those changes in the future, but they do need to happen.

The Bailiff:

Does any other Member wish to speak? Then I invite the Chief Minister to reply.

1.6.5 Senator I.J. Gorst:

I am not sure that really it is for me to reply. I think I accept some of the words and comments said about Scrutiny and hopefully this will allow enhancement now in due course, but it will really be for the Chairmen’s Committee to think about what the future holds and how they want to operate and then the Standing Order changes will be brought forward. I think Deputy Young, who is looking from me perhaps a little bit more, would find it inappropriate if I tried to unduly influence how Scrutiny wishes to operate into the future, but I am prepared to act hopefully in a positive and engaged way and I think that these changes will allow some of those enhancements that many Members want in principle, but the detail of how that might be delivered will need to be considered in the fullness of time.

The Bailiff:

The appel is called for then in relation to Article 12 as amended. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 31		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				

Deputy G.P. Southern (H)				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy T.A. Vallois (S)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

The Bailiff:

Now, Chief Minister, I understand you are not proposing Article 13?

Senator I.J. Gorst:

That is correct, Sir.

The Bailiff:

We then move to Article 14.

1.7 Senator I.J. Gorst:

Article 14 amends or repeals Article 5 of the States of Jersey 2011 Law. It is in effect a change that arises out of the approval of Article 7 around the Troy rule and the changes to Standing Orders.

The Bailiff:

Is that seconded, Article 14? **[Seconded]** Does any Member wish to speak on Article 14? All those in favour of adopting Article 14, please show; those against. It is adopted. You are not proposing Article 15, so we come to Article 16.

1.8 Senator I.J. Gorst:

Article 16 is the citation and the commencement of the law.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on Article 16? All those in favour of adopting Article 16, please show; those against. It is adopted. Then we come to the Bill in the Third Reading.

1.9 Senator I.J. Gorst:

Indeed we do. Perhaps I should simply wait for Members to make their speeches. I hope we do not need to spend too long on it. I know that some Members will still be opposed to it, even though it does not contain all the changes that were initially in there, and I hope that on balance Members will see that it was the right thing to do, to bring forward the recommendations from the Machinery of Government Sub-panel, it was right for this Assembly to consider whether it wanted to make enhancements to the system of government that we currently have, recognising that there are issues that needed to be changed and at the same time considering each of those measures in a balanced way. Some the Assembly has felt were not appropriate and wanted to retain powers unto

themselves; others have felt that there could be enhancements certainly in the Executive, and as we have just said in the Scrutiny role to deliver more effective, more efficient and more accountable Government. Therefore, I do ask that Members, even those whichever side of an amendment, whether it has been successful or have fallen, one might see that now we have some good changes which are worth approving so that in the next States Assembly, after the elections, we can move forward with more confidence around the system of government that we have got and therefore I maintain it in Third Reading.

The Bailiff:

Seconded in the Third Reading? [**Seconded**] Does any Member wish to speak in Third Reading?
Deputy Southern.

1.9.1 Deputy G.P. Southern:

Yes, just briefly. Having rejected 2 or 3 of the most noxious elements involved in this particular change, I cannot agree still that this is an improvement. It takes power away from the Assembly and concentrates it yet further in the hands of Ministers and I do not feel I can support this in the Third Reading.

1.9.2 Deputy G.C.L. Baudains:

We have certainly spent some time on this proposition and it obviously deserved the appropriate time that we have given it. I think this proposition goes to the heart of matters. As the Constable of St. Mary is only too well aware, Privileges and Procedures Committees in the past have struggled with these issues.

[16:45]

I think what it all boils down to is the fact that I do not think there is anybody that believes the machinery of government that we have at the present time is perfect or even good, but the trouble is for the half a dozen problems that we probably universally recognise, there are about 30 different answers to it and we can never agree on the answers so we end up back at square one. But in the vein that Senator Southern was just speaking, we are fully aware that the public have been complaining for some time, and with good reason, about the States Assembly. They say no one listens to them, but in this debate, what has bothered me a great deal is that we have frequently heard that these amendments increase accountability. I think they do the opposite. As Members will be well aware, I believe we started down the wrong path by adopting the Clothier proposal in the first place, but what worries me is instead of solving these fundamental problems, we seem to keep compounding them by making inappropriate adjustments when what we should be doing is looking at the fundamentals. I am slightly irritated that as a member of the sub-panel, we did not look at all the alternatives for one reason and another, lack of time and the concurrent electoral reform meant that we were not. What I would have preferred to do was to take Ministerial government, see how best that could be improved, park that on one side, take a committee system, see how that could be improved and then compare the 2 together and see which one was the best one. We never got round to the second part, we did not have the time. I was also concerned during the debate - what is that, last week now - the Chief Minister mentioned several times, and I hope I am not doing him an injustice here, that his proposals flowed mainly from the P.P.C. Sub-panel's work. I was on that panel and I do not recognise them, because we were very careful to ensure that there was a proper balance between the Executive and the non-Executive. We were also mindful of the fact that what we were going to propose had to be acceptable to the Assembly as a whole, hence the committee debate to flush out issues and find what Members were comfortable with and what they were not. I think that is probably the reason why this debate has gone on as long as it has and each amendment has been fought tooth and nail, because what the panel was suggesting and which obviously went to P.P.C. afterwards was essentially disregarded. I noticed Deputy Young said in

summing up one of his amendments - and I am paraphrasing here - that there are basically 3 types of amendments in this Assembly, those who have been pushing to dominate Jersey politics, concentrate power, which in my view started with the introduction of Ministerial government; then the second group are those trying to keep the balance correct and represent their electorate and not be emasculated when they are; but the third group is the one I find the most worrying, because they are the ones who do not see what is happening or why they cannot or do see what is happening. To me, it is especially worrying, because they are the ones on whom the vote often hinges, and that is terribly important. I agree with Deputy Southern that in trying to address the problems facing the present machinery of government, we seem to be giving more power to the Executive and I do not believe that is the way forward. We have given the Chief Minister power to fire Ministers. The panel did agree that was an appropriate way forward. We have agreed, was it last week again, collective responsibility. I believe as a result of that what we have done is create a political party, which seems to me in the future there is little point in a candidate running to be a States Member, there is little point in them presenting the electorate with a manifesto, because when he or she gets it, there is really not much you are going to be able to do about it. Since scrapping the committee system, we all know that decisions are no longer made by all States Members, so there is a lack of accountability. I am guessing it is probably about 95 per cent of decisions that are made have been delegated to civil servants and the rest made by Ministers, but even Ministers' manifestos are becoming meaningless because in future, they will have to abide by collective responsibility, so whatever they tell the electorate basically becomes redundant. I believe in our non-party political system we have created a *de facto* dictatorship, which is semi-acceptable under the present consensual Chief Minister, but who knows who the next Chief Minister is going to be, how he or she will behave? I am sad because I believe we have once again failed to address the major underlying failings of the present system and instead continue to move away from accountability and democracy and not towards it, as we have been told, as I said, by concentrating more power in the Executive. To conclude, I was especially upset that Deputy Young's amendment regarding the Ministerial systems that he was offering and the inclusivity of other Members in that policy-making, that that was not adopted. As a result of that, I will have difficulty in support this in the Third Reading.

1.9.3 Senator F. du H. Le Gresley:

I thought earlier this afternoon that we were in danger of creating what I think would have been a first, is that the Hansard at the start of this debate would have been published before we finished the debate, which means our colleagues, I think it is in Australia, who do the work, will be wondering what on earth is going on in Jersey. However, my own view, for what it is worth, is that we have not been wasting our time, because these are very important issues that we have been discussing. The public probably think we have gone a bit mad, but the reality is that this has been discussions about democracy in Jersey and the powers of the Executive and these are very important issues, not necessarily for this Assembly, but for Assemblies in the future and the Island as a whole. It is with great regret... because I think there are some quite good things in this proposition, which I can and have supported along the way. However, despite the fact that we managed - those who voted anyway the same way as me - to defeat Article 3, Article 2 was approved and Article 2, if I would remind Members, was about collective responsibility and also something that we have not really had much discussion about, unless I fell asleep, but I have been here all the time, as far as I am aware, was the ability of the Council of Ministers, after consultation with the Minister, to give the Minister directions concerning a policy for which the Minister is responsible. We have not talked much about that, but it does concern me. Now, why does it concern me? Because Deputy Young's amendment was all about having advisory panels to help Ministers develop policy, and really, I did not vote for that amendment because Article 2 defeats the object of advisory panels and why? Because an advisory panel may well sit with a Minister and decide on what is a policy they would

like to go forward, but the Council of Ministers veto that and the policy never sees the light of day or will be changed significantly because it is not acceptable. So I am sorry, but advisory panels would have been a complete waste of time. The only panel of any power, shall we say, would be the advisory panel to the Chief Minister. We are in a position where some Members perhaps are still uncertain, and what I would ask them to consider, do not feel you have to vote for this in the Third Reading just because you are tired, because we have taken nearly, I think, 4 days - or it feels like 4 days anyway - to get through P.33. Please do not vote on the basis that: "We have got to do something after all this time." Still think about democracy, still think about the powers of the Executive, what you are transferring to the Executive, decide whether really you are creating a better Government for Jersey and think about the issues carefully before you press the pour or the contre. Thank you.

1.9.4 Deputy J.A.N. Le Fondré:

I am glad to follow the last speaker because there will be a huge tendency among Members who have been here for however many hours or days it has been, to say: "For goodness sake, get on and just do it." Members have got to be very happy at the package that we are now going to vote on; they are content and believe it is an improvement from the system we have got. It is with a bit of a heavy heart, having spent I think a year and a half - I cannot remember - in trying to put a package together that we have lost. There are some things in here that would still be good, but overall, we have lost the ability for the Chief Minister to have the flexibility to set up the Ministerial structure that he wanted. I did think he made a tactical error in combining that with the appointments process. I am relieved that the appointments process is as it is, compared to what the fallback was. I am exceptionally disappointed - that is democracy, I suppose - with the fact that Deputy Young's amendments were lost, and irrespective of that side, the inclusivity issue is not addressed. So where I really come from is that this, to me, is about having a package and a package of balance. I have no issues with some of the suggestions and recommendations that were made in terms of giving greater power to the Chief Minister and to the Council of Ministers. That has to be offset by the checks and balances that are in the recommendations and some of which have fallen away here. I will not be voting for this in Third Reading. That does not mean that if it does come back in a slightly different guise with the checks and balances attached, and particularly perhaps with parallel recommendations being implemented by P.P.C., because those need to come along at the same time, that I would not be supporting the final package, but at this stage, I do not think that final package is good enough. As the example I use, and this is about cherry-picking, when Clothier was originally proposed in about 1999 or 2000, freedom of information was quite a key component. Freedom of information has only been implemented some 14, 15 years after that recommendation, and that is why, to me, it is critical that the checks and balances are put in at the same time as greater power is given to particularly the Chief Minister, not because of the nice Senator who is there at the moment, but in terms of the person who I do not know who is going to be elected in 3 years from now, it is trying to imagine the system that will be in place under what we have and whether the checks and balances are appropriate. I do not think they are. I will not be supporting it.

1.9.5 Deputy R.C. Duhamel:

In keeping with the last 2 speakers, I am still lukewarm in terms of supporting the whole Bill in Third Reading. The main issue really is with Article 2 adopted as amended in relation to directions that can and will be given to the Minister where a policy matters falls within the function of the Council and appears to the Council to affect the public interest, but directions cannot be given in relation to the exercise of the function conferred to the Minister by an enactment. A lot of this really means or has specific relation to the powers of the Minister for Planning and Environment in terms of planning decisions. It would be fundamentally wrong for this House or indeed other

Ministers to give direction to the Minister for Planning, who has to be in a position to make independent decisions on planning applications, for example, and that is why the paragraph has been amended to that effect, but nonetheless, in exercising the duties of the environment side of the job, I am unable to concede that directions could be given ostensibly by 2 Ministers in the triumvirate kind of Ministerial oversight groups that have been the essence of the working relationships that we have had in the Council of Ministers in the last 3 years.

[17:00]

It has been stated that Ministerial Oversight Groups, as were referred to by Deputy Young today, we have set up quite a lot, but they have not really functioned, I think, in the way that they were intended to function, which was closer to the advisory panels that were being suggested by the same Deputy. I have got absolutely no problem in abiding by decisions that are taken by the bigger bodies and that means this House, this Assembly, in relation to the big strategic issues, but where I part company, and I think am justified in doing so, is in being told by 2 of the Ministers who would necessarily be partners to the triplet of Members that would create a Ministerial Oversight Group; namely the Chief Minister would always have an interest, because he is the Chief Minister; the Minister for Treasury would also always have an interest, because there are financial aspects in almost everything; and another Minister. So in essence, we end up, if we do continue with the Ministerial Oversight Group method, which I think Article 2 has adopted, is suggesting, and perhaps reinforced by one or 2 other agreeable Ministers in order to pad-out the numbers at Council of Ministers meetings, we do end up in a position whereby decisions would be able to be forced upon a Minister without the necessary kind of checks and balances to ensure that proper discussion has been given to the direction that the Minister was wishing to go in. A lot of these discussions take place behind closed doors, so in terms of opening up to the Scrutiny function or whatever, that is something that we have not considered. In essence, my interest in all of this has always been to ensure that all major issues on which I think every elected States Member has and should be in a position to express a point of view is able to do it, and I think under what is being proposed, I have still got strong reservations that directions will be given without the necessary checks and balances and strategic issues forced through without having the required support of either the other Members of this House or indeed the members of the public. On that basis, I think I cannot support. The other thing which is not referred to, but perhaps might be a problem, is that it is presumably still intended, although it was mooted at a different time, that perhaps the corporation soleness of the Ministers would be taken away from all Ministers and rolled up into a single job function on behalf of the Chief Minister in order to provide a strong legal basis within which the Chief Minister would be able to give direction to his other Ministers. There is no specific reference to whether or not that is the intended direction that we might be forced to go in and I think there is a legal question in my mind as to the extent that if we do keep with the basis of each individual Minister being an independent corporation sole, that in effect, in my mind, means that those Ministers cannot take direction from anybody else unless their arms are firmly twisted behind their backs and their legs chopped off or otherwise they acquiesce - which may well be the case most of the times - but in some issues, perhaps there will be cases where that Minister will not wish to do so. As I say, we have not really touched on that and I think perhaps further work, if this does go through, will have to be undertaken and perhaps even further amendments brought to this House in order to rectify a potential situation within the proposition that in effect does not allow the amended Article as adopted to be executed in the way that perhaps we have agreed that it might be. So on that basis, I think the better thing to do, seeing as we have been designing a horse and it has not just turned into a camel - it has turned into a camel with at least 10 humps - we cannot really decide whether it is a beast of transport or a beast of burden, but I think on the basis that we have gone through what we have gone through and having come out of the other side satisfactorily solving all of the difficult

issues, I think it is better to pass it over as being a botch job and put it off until another day, so I will not be supporting it.

1.9.6 Deputy M. Tadier:

First of all, obviously this has been a long process and it is probably expected that I at least say something in Third Reading. In one sense, if you would have asked me before the debate, I may well have been happy to settle for this, because the stakes were so high and what was being proposed in terms of the ability for the Chief Minister to have what I would see as increasingly towards absolute power was obviously very worrying and it worried Members sufficiently for them to make the retention of the Assembly's authority and have Members' say and the independence of Members to challenge positions was thought to be important enough to reject the Chief Minister's calls. Over and above that, and we certainly, as I said, never would have envisaged even discussing States Members differential pay, I think having rejected that, it certainly makes this more passable, if you like, but this does need to be taken in the round. What I am trying to say, as a sub-committee, probably back in the day, we would have been happy to accept a position, I think, whereby if it was thought that the Council of Ministers needed bolstering and collective responsibility were necessary, then the correct way of doing that was to retain the higher powers to the Assembly and the dismissal powers for the Chief Minister. But of course there is an issue with that, and this was discussed at length in our group and I suspect with the Council of Ministers: is that workable, first of all? Is it possible to have a Council of Ministers where the States Assembly appoint them but the Chief Minister can fire them, albeit that that same Minister can then stand again for the same position? That is one of the issues which we need to talk through briefly. I guess I said that of course logically you would expect if there was a scenario ... and let us take the scenario which did happen, but it could happen under the new system, when it came to the point - although it was temporary, thankfully - that it was decided that one of the Ministers was under pressure to go, but would not go, a vote of no confidence or dismissal essentially was being brought by the Chief Minister, had that been brought and had it lost, we would have had a position whereby this Minister and the Chief Minister would have either had to carry on working together and he had just said: "Okay, that is the will of the Assembly" or: "I resign." Under the new system, what would have happened is simply that Minister would have been dismissed, but what we are proposing now, this Minister would say: "Okay, I am going to have another go. It is the only way I have got to clear my name" because at least under the current system, the debate would have happened. You cannot say: "Well, it is just something we could not agree with. We can no longer work" and you find out about it from a headline in the newspaper. It would come to the Assembly and both sides would be put. In fact, I think in a dismissal, like a vote of no confidence, certainly a vote of no confidence, the person gets to speak twice, which is just right, to put the arguments forward. So we go through all that situation, all that process, only for the Minister who is being fired to be reappointed. Now, what happens? It either means that a vote of no confidence comes forward against the Chief Minister, but that is not inevitable by any means, because we know this House might be loathe to have another debate like that, it might have confidence in both the Minister and the Chief Minister and simply want to smack their heads together and say: "Carry on working together." That is probably more likely. It is also entirely possible that another Chief Minister ... I am sure that this Chief Minister would have probably said: "Okay, my position is no longer tenable" but that may not have been the case, and it is entirely possible that a future Chief Minister would not fall on his or her sword and that would carry on working and so you could have a potentially incongruous situation which could occur, which is of course what we have been trying to avoid the whole way through and that is why Deputy Le Fondré, in various of his amendments, trying to seek any kind of incongruous situations arising. So I am concerned about whether or not that is workable. I think it is definitely better than giving the Chief Minister hire and fire powers, absolutely, but I am not necessarily convinced that would work. The other issue I wanted to raise is

really about the whole process. What I have been disappointed about is that where has the compromise been in all of this process, in all of the debates that happened? I think the sub-committee was always keen to try and put forward a document which tackled the issues, it looked at them in detail, it talked about the issues of inclusivity, it talked about the issues of making the Council of Ministers perhaps more effective, but also about the checks and balances and the role of individual Members in this Assembly. Those were raised and the compromises were never ever met. For example, the Chief Minister never thought to put forward a mechanism and failed to read the political mood ultimately, where giving those kind of powers to himself or his predecessor was simply one step too far. It was also one of our recommendations - we talk about strengthening Scrutiny - that only the non-executive should be able to appoint Scrutiny, and that was done because it would have mirrored the powers that were being put forward by the Chief Minister, so that Scrutiny would need to have the confidence of the non-executive, because that is where Scrutiny comes from, the idea that only those who can stand for Scrutiny should be able to appoint Scrutiny. Now, of course that is not relevant anymore, because we have not moved to a system whereby the Chief Minister has the corresponding powers, but again, the compromises were never made. It was always: "Let us chance our arm and see exactly what we can get away with. Let us see if we can go for an absolute power grab and snatch and run, grab and run and leave you with a smile on your face even though you have just been half-inched" to mix the metaphors. So I am worried about whether or not this can hold together in its entirety and have integrity, and also Deputy Young has put in so much work on this in particular, along with other members of the sub-committee, and still does so, trying to find a better way forward for more inclusive but also for more constructive input for Members, wherever they come from in the Assembly, and that really has just been brushed aside, I think, not quite to the point of contempt, but to say: "We do not want to look at this. We are quite happy for things to go on as they are going on" so I am concerned about all of those aspects, the cherry-picking aspect for me, the fact that the recommendations and discussions around Assistant Minister have not been taken on board, but we had been told that Assistant Ministers will carry on being appointed as they are with the potential for patronage and without the accountability that Ministers will have for those positions. Again, it is an inconsistency that we can appoint Ministers on the one hand and they have to have the confidence of the Assembly, yet Assistant Ministers with potentially lots of power, lots of Ministerial decision-making power, do not have to have the confidence of the Assembly. I would like to think that we can come forward with a better system, and certainly we have come forward with ideas in that respect which, quite simply, I do not think have been listened to. Has this all been a waste of time? I do not think it has. I think we can refer to the proposals in the report of the sub-committee and I would be very surprised if it is not a document which is used again in the future. I think all of the group certainly that we have worked with came together from very different viewpoints. I think we have got a much greater appreciation for the work that various Members and various bodies in this Assembly do. I think the respect has certainly grown there and we were able to listen to each other, had very passionate discussions, often going on for a long time, like this speech, like this debate, I think, and that is because there is a passion there and I think everyone who was involved was passionate about honing the system that we currently have and making up for the democratic deficit in certain parts - in many parts - of our mechanisms that do currently exist. What I am saying is that it has not been a waste of time by any means. I am not convinced that I can now vote for this in its entirety.

[17:15]

I do not think it has the integrity. I know that there are those who are perhaps not even in the Assembly today who were taken in, who did not agree with the principles, but they voted for it to have the debate, even though we had already had the debate, and who would be voting against this if they were here. It has been, I think, a constructive debate, it has been a very long debate. It

probably shows the fact that we need to review our processes and that certainly if there is one good thing that can come from party politics as well as a greater voice for those who do not have a particularly big voice in sections of our society is that of efficiency. You find out pretty much how you were going to vote before you get in the Assembly. We know that this exists anyway, largely. I am sure that there was only a handful of Members who do not know how they are going to vote before they come into one of these big debates and it is absolutely right, of course, that on certain matters we do have proper debates, that the arguments get aired and this is done in a public way and we should be influenced by that, that is quite correct. Ultimately the message that I have heard, and as I draw to a conclusion, is that whatever the system we have in place, there needs to be greater transparency and openness. Just to tie in with the issue of the dismissal process, it is absolutely important. If somebody, a Minister, is being dismissed from office, we need to know exactly what those reasons are. It cannot be done in a back room where intimidation, coercion, threats, *et cetera*, can happen where Ministers can gang-up, if necessary, and that can happen, of course this is politics, we know the machinations of politics. The more openness and transparency there is, if we can get to a point, for example, where in this Assembly all the meetings would be webcast. Whether or not anyone watches them is a different matter, but it should be webcast as a matter of standard, it should be that any meetings of Scrutiny, but also of the Council of Ministers, there should be a presumption of openness so that if a meeting, if it does not need to be held in private, it does not get held in private, so that the public can attend, so that Back-Benchers can attend and listen to the discussions and deliberations that their Ministers are having. That does not need to mean of course that they cannot speak openly and robustly. It does mean that there will be times of course when confidential talks need to take place, but if we can move to a position where openness and transparency is not just a buzzword, but the reality, that is when we will be moving to a system in which the public can have confidence and which all States Members can feel included and feel listened to, because it will be about policies, it will be about the ideas that are being put forward and not about the individuals and the potential for patronage and all of those other negative words that we have heard being put forward. For my part, I will say that the jury is out. I am not sure whether we are to reconvene tomorrow for this particular vote or not, but I leave the remarks at that.

1.9.7 Deputy J.A. Martin:

I do not think I was going to speak that long but we might need to come back tomorrow. Yes, I feel like I really have to stand up and speak to explain why the jury is not out. As we have gone along, and this is the end of 2 years' work, and what did they set out to achieve? They set out to improve the machinery of government and we decided a horse and we got a camel. There is no camel that looks like this to me, it is some hybrid of something, and it is a mess, it is a total mess. Why I speak now, and it is late in the day, because we had the massive debate on the principles and then people are so in some sort of shock that the amount of people who just let the principles go there ... but there was a very small difference. All that, amendment 2 goes through, a collective responsibility. Massive, absolutely massive. People woke up by Article 3, when people pointed out that there will be no say in what happens, but I think it is very telling when you get at least one of the Ministers not here who voted against the principles, but you get the Minister, who is our Minister for Social Security - and our Minister for Planning and Environment - and they have gone as far as saying: "I could not be in this Ministry under these tight collective responsibility rules." Exactly what are they saying, because it is all going to go down to: "Agree and present to the States the code" and I think it has been changed from "conduct" to "practice for Ministers and Assistant Ministers." Then the new Article ... it is new Article 3(a), but it is 3(b) under 3(a) says: "The Council of Ministers may, after consulting with the Minister, give the Minister directions concerning a policy for which the Minister is responsible where the policy" and you can carve this one out any way you like: "falls within the function of the Council of Ministers described in

paragraph 2 and appears to the Council of Ministers to affect public interest.” Well, let us hope most of their policies have a public interest, but it is giving direction, so who are going to be these people? We have heard from 3 very good Ministers at the moment who do not want to work in this system. I, as an Assistant Minister, very, very, very rarely ... I do not think I have ever voted against my Minister. We have good discussions behind the scene. I would not have the ability to vote against my Minister under this and if I was an Assistant Minister with 2 heads or 2 hats, I would be accountable to both and have to vote with both, which it is a bit funny, because some people are Assistant Ministers to 2. I do remember, it was a very funny conversation I had with the Deputy of Grouville when the Minister for Planning and Environment was threatened with dismissal. The Deputy of Grouville has one head as the Assistant Minister for the Environment and one head as Assistant Minister for Economic Development. Had anybody talked to either of her heads? No. No, no, no. She was in limbo land, because she could only be one body and she had to... could she work with the new Minister for Planning and Environment? Nobody asked her. It will be interesting, it is really, really this is the time to ... we have debated, and as Senator Le Gresley said, it does not matter if we have debated it for 2 hours, 3 days, 2 weeks - and we are in the second week - if you know it is wrong, it is always going to be wrong and you are going to get people who are elected next time who will not want to be in this Council of such tight collective responsibility and it will be tight. So who is going to be in it? People who are maybe not as good for the job, people who will not deliver, but people who are there, who is going to always vote with the Council because they have to. As I say, I think we really missed this Article because these were the 2 Articles with most contention, the collective responsibility, and the Chief Minister saying: “Here is my slate. Do you like it or not? One leg in, here is the hokey-cokey and if you do not like it, I will come back with another 10.” We threw that one out, but if you think about it, and I did say I am fed up with grown-up politicians saying: “I cannot work with him.” You have got to go with it. But you have made it collective. The people in there now have no other place to go, so I do not have any more to say. I just think what was set out to achieve, all those many, many months ago, it was a couple of years ago, has not been adopted. Again, we have a promise of what Scrutiny will look like and it is only a promise of what Scrutiny will look like, it has got to come through this House in Regulations, and I know a lot of the Scrutiny do not want the new system. It has got to have the vote. Deputy Young’s amendment was thrown-out. Again, what is an Assistant Minister, where do they come in all this? You are making them collectively binding, but you do not know who they are because they do not even appear in Standing Orders. It is a farce. As I say, I cannot vote for this hybrid horse, camel, fish or fowl. I feel it is more fowl, and I am sorry, I have got to vote against it. Thank you.

1.9.8 Deputy J.H. Young:

I should warn the Assembly that I am likely to speak more than 15 minutes, Sir. If the Assembly wishes to adjourn, they should do so, or I shall carry on. Adjourn. I propose the adjournment.

The Bailiff:

The adjournment is proposed. Do Members agree to the adjournment? There is a difference of opinion.

Deputy J.H. Young:

The vote, please.

The Bailiff:

The adjournment is proposed. Is that seconded? **[Seconded]** Then there will be a vote on it. Does any Member wish to say anything first?

Senator I.J. Gorst:

I am quite happy. My summing-up of the Third Reading will hopefully be mercifully brief, but of course Deputy Young will give his 15-minute speech, but I still believe we could be out here, unless others wish to speak.

The Bailiff:

It depends on who else, yes.

Senator I.J. Gorst:

Yes, it does, but I do think it might be useful if we could start tomorrow on the next item of business, because we still have many, many important items.

Deputy J.H. Young:

Before we vote, I do have a legal question that I was going to raise. Would it be helpful if I raised it now?

The Bailiff:

Let us take a decision first as to whether we are continuing or not. Do you ask for the appel then? The appel is asked for then in relation to whether we should adjourn at this stage. If you wish to adjourn you vote pour and if you wish to continue either until the close of this debate or until further decision, you vote contre. The Greffier will open the voting.

POUR: 19		CONTRE: 22		ABSTAIN: 0
Senator A. Breckon		Senator P.F. Routier		
Senator L.J. Farnham		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator A.J.H. Maclean		
Connétable of Grouville		Senator B.I. Le Marquand		
Deputy R.C. Duhamel (S)		Senator F.du H. Le Gresley		
Deputy J.A. Martin (H)		Senator I.J. Gorst		
Deputy of St. Ouen		Senator P.M. Bailhache		
Deputy J.A.N. Le Fondré (L)		Connétable of Trinity		
Deputy M. Tadier (B)		Connétable of St. Clement		
Deputy T.A. Vallois (S)		Connétable of St. Peter		
Deputy J.M. Maçon (S)		Connétable of St. Mary		
Deputy G.C.L. Baudains (C)		Connétable of St. Ouen		
Deputy of St. John		Connétable of St. Brelade		
Deputy J.H. Young (B)		Connétable of St. Martin		
Deputy S.J. Pinel (C)		Deputy R.G. Le Hérisssier (S)		
Deputy of St. Martin		Deputy J.A. Hilton (H)		
Deputy R.J. Rondel (H)		Deputy of Trinity		
Deputy N.B. Le Cornu (H)		Deputy K.C. Lewis (S)		
Deputy S.Y. Mezec (H)		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		
		Deputy of St. Mary		
		Deputy R.G. Bryans (H)		

The Bailiff:

Very well, so Deputy Young, please continue. Do you want to pose your question?

Deputy J.H. Young:

Yes, if I may put my question. One of the things I have been puzzling over, and it is a key issue, is corporation sole and how that works with the collective responsibility power that we choose.

Looking at the law that we are now about to vote on, Article 18 amended of course gives now a power of the direction, whereas Article 26 gives each Minister corporation sole powers with absolute power to do as they wish. What I would like to have is the Attorney General's guidance on that, Sir. Does that effectively mean by passing this in Third Reading that the corporation sole is no longer each individual Minister, but is in fact the Chief Minister? Could I ask that question and then can I speak after that, Sir?

The Attorney General:

No, that is not the effect of the amendments as taken. Corporation sole refers to effectively a capacity, the capacity to contract, the capacity to own, the capacity to do various things. It does not have anything to do with how the arrangements between Ministers operate into, say, by way of example, collective responsibility. The 2 are quite distinct concepts.

Deputy J.H. Young:

Thank you for that clarification. I shall refer to that in what I am going to say. I think the debate has been a good one, it has been very exhausting and I referred to it this morning as purgatory. I really meant just tiring, mentally challenging, really difficult issues; but I think the debate has been a good one, because the right issues have come out and Members have listened to each other. I think yes, Deputy Tadier talks about appreciation and respect; yes, I certainly understand better the views of those that hold contrary opinions to myself, but I think sadly the debate has opened up or clarified very, very publicly the divisions between the various what I would call not power blocks, because there is only one power block and that is the Council of Ministers, but the body of blocks of opinion in this Assembly. I think that is a challenge for the new Chief Minister, the next one, whether it is the same one or another one, to bring those together, because I think this is what we have to do in order to be able to ensure that this Assembly is effective and represents the people properly. If we deepen and deepen those divisions, we will serve the Island ill, in my view. I think the debate so far, there have been good decisions. For example, I think the changes made on the Scrutiny frameworks, we have not changed it, but we have given ourselves or this Assembly the power to make those changes, so there is a nearer slip between cup and lip, as it were. There is a long journey to travel there between having given the power to make those changes and approving them and making. So I think that has been good, and had that been on its own, I do not think it would have taken us 2 days and I think there would be universal support.

[17:30]

I think we have also set aside the divisive debate about differential pay. That has been positive, so we are not asked to ... that is no longer part of the substantive change. I think the States Assembly has rightfully exercised its overriding authority on the procedures for appointing Ministers. We have ended up with a strange thing. Unfortunately we have lost the flexibility. I wanted to see flexibility, to be able to have different Ministries set up. We are told we have always had the power of changing things by Regulation. Let us see if it happens, if this goes through. But the key test for me, and other Members have spoken to it, and I am very, very grateful for Senator Le Gresley's comments because he is such a man of principle, absolutely huge regret that he has decided not to stand as Minister. For me, he would be ...

The Bailiff:

Sorry, we are not quorate, Deputy, so I invite Members to return. Deputy, if I may, this is in the Third Reading. We do not need to go back over everything and whether [**Approbation**] members are thought by a speaker to be a good person or not. Can we crack on and just concentrate on what the Standings Orders say, which is to decide on whether to vote in favour or against the Bill as amended?

Deputy J.H. Young:

Sorry, I was a bit longwinded. I was about to say why Senator Le Gresley had beautifully summed up the dilemma for me. He pointed out the mismatch between the collective responsibility power that has been now incorporated and the amendment I brought for advisory panels. My course therefore there is no question that that conflict existed, it was certainly my belief that as part of that, that will be part of the checks and balances because issues where there will be transparency, greater transparency and openness which we now do not have. There is no provision for openness in the Council of Ministers' procedures. Even Members, the Scrutiny Chair get a one-page agenda. It does not say what the discussion is, it is just a subject. There is no access to papers routinely. If one does get, one gets them in confidence. The meetings are not in public, nobody knows. Ministerial steering groups meet in private, there are no minutes, as yet we do not know what they are. The whole structure that we have got is a collective responsibility will be exercised in secret and I think that is a massive risk. That compares to the model that I quoted in Cornwall where their rules there provide for that openness and transparency and I just refer to the appendix, which I did earlier in here, which does not include the need to do that. That is a serious problem about the way in which collective responsibility is likely to be put into practice and why I think it was different for the advisory panel, but it does highlight for me without those safeguards, is there enough of the good things to go with this Third Reading, and I am afraid for me the answer is no, it is not, and so I shall be voting against it.

The Bailiff:

Does any other Member wish to speak in the Third Reading? No. Then I invite the Chief Minister to sum up.

1.9.9 Senator I.J. Gorst:

Perhaps I could start by reiterating my thanks to those Members who sat and formed the Machinery of Government Sub-panel of P.P.C., of course of which the last speaker was one. It is a disappointment to me that a number of those speakers now find themselves not able to support the law as amended, but they have explained to the Assembly why it is that they have arrived at that position and I accept it. I would also like to thank the previous chairman of P.P.C., the Connétable of St. Helier, who it was that set up the sub-group in the first instance. I know that the previous P.P.C. were very supportive of doing that work and I know that those Members who sat on that panel worked for the best part of 2 years, and as we said at the start of this debate, consulted with 48 different individuals or groups. I just want to remind Members, albeit that some of that panel have now distanced themselves from what is left finally on the table, that the changes to the law arose from the recommendations in their report and after they finished their work, another group was set up, which was the now Chairman of P.P.C., myself, the President of the Chairman's Committee and the Chairman of the sub-panel and the number of speakers when saying that they still find themselves in a position of not being able to accept the amended law seemed not to bear in mind that there was an in committee debate, that there was further consultation undertaken with the Council of Ministers, with the Chairman of the Scrutiny Panels and with P.P.C. and therefore those recommendations were refined even further by those processes. So I brought forward the recommendations of that second group looking at these issues, so it is not that I, as the Chief Minister, or the Council of Ministers have picked and chosen those recommendations that they wanted, it is that the distillation process, the refinement process, the consultation process has ended up with the proposals that the Assembly has spent the last 3 days debating. I do not think that that is a problem, I think that is an important part of the democratic process. Perhaps we should just go back and ask ourselves why was that sub-group set up in the first place? I think it was because there was an acknowledgement that with the best will in the world, some of our governmental functions, either on the Executive or with Scrutiny, were not working to the optimal level and could

do with some change and reform to ensure that they were working to the optimal level. That is why I have supported bringing forward the proposals. It would have been wrong to put that 2 years' work on to the backburner, on to a high shelf and not dealt with it. It was indeed the right thing to do, to bring it forward and have the debate and let the democratic elected Members of this Assembly make their choices, but what I believe that we are still left with after rightly this Assembly has said that some areas powers it wished to retain to itself, some powers it accepts that would enable the Executive work more effectively, more efficiently, and I believe, importantly, be more accountable, as I have said throughout this debate, not only to this Assembly but also the public, because that is what reforming our machinery of government, improving the processes are all about. It is about delivering accountability and I for one do not accept that the only way you can deliver better accountability is through party politics. I have experienced party politics, I understand the arguments for why there are some now calling for it, but I believe that we can make our system of independent Members standing for election, it is a long, historic system and yet we can create accountability in that system. I believe that the amended law, as we now have it, albeit with those changes, will still deliver that accountability in the system that we have got and I believe that this Assembly should give it a chance to work, because we have already heard during this debate that we can only really have effective and efficient government, we can only really have accountability if we move to a different system. This I believe will give us a chance to show that the system that we have got can deliver that accountability, can work more effectively and efficiently and that is why I believe that this Assembly, having gone through that process of having a very detailed debate about some of the issues, should now accept this as amended in the third reading. It is my good friend and colleague, the Deputy Chief Minister, who quotes ... I am not sure whether it is quite the region that it comes from, but he quotes this idea that the enemy of a good plan is the perfect plan, and I think that on balance this afternoon we have now good changes to our system of government, good changes for the Scrutiny function, good changes for the Executive function, but most importantly of all, good changes that will deliver those 3 things that for me are at the heart of this proposal, accountability, effectiveness and efficiency on behalf of the community that we serve, and therefore I ask that Members, on balance, do accept these proposals in the Third Reading.

The Bailiff:

The appel is called for then in relation to Projet 33 in Third Reading. I invite Members to return to return to their seats and the Greffier will open the voting.

POUR: 28		CONTRE: 12		ABSTAIN: 0
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Senator F.du H. Le Gresley		
Senator A.J.H. Maclean		Deputy R.C. Duhamel (S)		
Senator B.I. Le Marquand		Deputy R.G. Le Hérisier (S)		
Senator I.J. Gorst		Deputy J.A. Martin (H)		
Senator L.J. Farnham		Deputy of St. Ouen		
Senator P.M. Bailhache		Deputy J.A.N. Le Fondré (L)		
Connétable of St. Helier		Deputy M. Tadier (B)		
Connétable of Trinity		Deputy J.M. Maçon (S)		
Connétable of St. Clement		Deputy G.C.L. Baudains (C)		
Connétable of St. Peter		Deputy J.H. Young (B)		
Connétable of St. Mary		Deputy S.Y. Mézec (H)		
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy J.A. Hilton (H)				

Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

The Bailiff:

There are certain lodgings, if I can inform Members, of: Projet 93, Draft Criminal Justice Young Offenders (Jersey) Law 201-, lodged by the Minister for Home Affairs; Projet 94, Draft Planning and Building (Amendment No. 6) (Jersey) Law 201-, lodged by the Minister for Planning and Environment; Projet 95, Draft Regulation of Care (Jersey) Law 201-, lodged by the Minister for Health and Social Services; and Projet 9, Draft Explosives (Jersey) Law 201-, lodged by the Minister for Home Affairs. Now, Chairman of the P.P.C., do you wish to say anything about the order of business for the remaining business?

Deputy J.M. Maçon:

Yes, if I may. I would like to ask Members if they would consider allowing the order to change to allow the legislation to be debated first, because I know much is time-critical now, and therefore to allow things like non-legislative aspects to fall down the Order Paper in order that we might be able to clear the legislation first. I would ask Members to accept that.

The Bailiff:

So if we are specific, that is Projet 36, the Draft Public Elections (Expenditure and Donations) (Jersey) Law 201-; Projet 28, the Draft Public Employees (Pensions) (Jersey) Law 201-; Projet 40, the Draft Freedom of Information and Data Protection (Amendments) (Jersey) Law 201- and Projet 46, the Draft Public Elections (Amendment No. 5) Jersey Law 201-, so 4 items. Very well. Do Members agree to take those 4 items next in that order and then revert to the other matters tomorrow?

Deputy M. Tadier:

I do not agree with that.

The Bailiff:

You do not agree with that?

Deputy M. Tadier:

No. I have been waiting quite a long time to have mine debated and it is only going to be very short, Sir, so I would like to get that over and done with as soon as possible so that the work of the Housing Department can get on with important issue for constituents in every part of the Island who are having to live in what I believe are unsuitable housing conditions.

The Bailiff:

Very well, we will have a vote on it then. The proposition, as I understand it, from the Chairman of P.P.C. is that we will take next Projet 36, then the other 3 pieces of legislation and then revert to

Projet 42, so if you want to do that, you vote pour, but if you support Deputy Tadier, then presumably, Deputy Tadier, you have no objection to the legislation coming after Projet 42?

Deputy M. Tadier:

No, I am just asking for the *status quo* with regard to this and then ...

The Bailiff:

Yes. Oh yes, Deputy Maçon, do you include the Draft Companies (Amendment No. 11) (Jersey) Law 201- in your request for legislation to move up the list?

Deputy J.M. Maçon:

Yes, Sir. Yes, please.

The Bailiff:

I beg your pardon then, I missed that.

[17:45]

Very well. So if you wish to put all the legislation up and ahead of Deputy Tadier's proposition, Projet 42, you vote pour, and if you do not, you vote contre, and the Greffier will open the voting.

POUR: 27		CONTRE: 7		ABSTAIN: 0
Senator P.F. Routier		Senator A.J.H. Maclean		
Senator P.F.C. Ozouf		Connétable of St. Peter		
Senator A. Breckon		Deputy R.C. Duhamel (S)		
Senator B.I. Le Marquand		Deputy R.G. Le Hérisier (S)		
Senator F.du H. Le Gresley		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy J.H. Young (B)		
Senator L.J. Farnham		Deputy S.Y. Mezec (H)		
Senator P.M. Bailhache				
Connétable of St. Clement				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

Deputy J.M. Maçon:

May I thank Members for their support?

The Bailiff:

So that means that we will therefore take those 5, I think it was, items of legislation and then Deputy Tadier's proposition will follow on. The adjournment is proposed.

Deputy J.M. Maçon:

Yes, Sir.

The Bailiff:

The Assembly will reconvene at 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:45]