

# STATES OF JERSEY

## OFFICIAL REPORT

THURSDAY, 15th MAY 2014

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[9:30]

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

**PUBLIC BUSINESS - resumption**

**1. Draft States of Jersey (Amendment No. 8) Law 201- (P.33/2014): sixth amendment (P.33/2014 Amd.(6)) - Article 3 - resumption**

**The Bailiff:**

Very well, then we return to where the Assembly was yesterday evening. This is discussing the amendment 6, part 1 of the Connétable of St. Mary. Does any other Member wish to speak? Senator Le Gresley.

**1.1 Senator F. du H. Le Gresley:**

Sometimes in life we experience difficulties and it means that we have great difficulty going to sleep, and sometimes our dreams become a nightmare because some of the difficulties we are facing become part of our nightmare. I would suggest to some Members this morning that we have the nightmare now. The scenario that is being painted by this amendment is one of an exclusive Chief Minister who presents his slate unchallenged to this Assembly and gets on with the business of Government in the Executive. The Assembly - Sir, I hope I can use this word - is emasculated, deprived of strength and vigour, weakened, and that is exactly what this amendment will do to this Assembly. To suggest that the Assembly should have no say at all in who should be Ministers in the Government of this Island to me is absolutely ridiculous. When we aspire to become politicians, I am sure that we would like suggest to our electors and our friends that we wish to have a part in the running of Jersey. In some cases, we have life experience behind us of working in offices or running our businesses or whatever it may be, even coming out of university with very good qualifications can become a politician, but we do want to have a part, we do not want to be sitting on the sidelines, and this unfortunately is what the Constable of St. Mary would wish us all to be, just sitting on the sidelines watching the show go by. It cannot be possible that the only job in this Assembly available to the 49 States Members re-elected or elected in October is that of Chief Minister, because that is the only job available if you want to be in the Executive. You cannot say to your electorate: "I would like to be Minister for Social Security or Minister for Health and Social Services." You cannot say that because you have no control as an individual Member as to your future in this Assembly. You cannot even get a number of fellow candidates to support your candidature for any of these posts, because it will all be in the behest of the elected Chief Minister. If Members feel that that is what they want, fine, please vote for this amendment, but I think the Constable of St. Mary realises how weak her amendment is, because she makes reference to the fact that the fallout of the failed 3 attempts would be revert to the previous procedure of election of Ministers, which of course is roughly what Deputy Le Fondré is proposing. While I do not like any of these things, I have to say that Deputy Le Fondré's amendment is a far better compromise, if we have to have one, than the proposal put forward by the Constable.

**1.1.1 Senator L.J. Farnham:**

I shall be extremely quick, but unlike Senator Le Gresley, I find it extremely easy to get to sleep at the moment, especially during the days. **[Laughter]** It comes rather naturally. But I just wanted to say quickly that I cannot support this amendment because I do feel that without the Ministers getting the endorsement of the Assembly, whether it be *en bloc* or individually, it will take something away from the credibility of the Government and I cannot support it.

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

I also stand to oppose this proposition. Obviously I was opposing the entire proposition yesterday, but this is exceptionally dangerous. Senator Farnham talks about it is easy to sleep during the day. I believe that States Members are sleepwalking into a disaster, and I mean that. We have seen many states throughout the world - and I know we can think of ourselves: "We are not like Nazi Germany as it was in 1933, when Hitler was brought as Chancellor" - but you have to look at the gradual erosion of powers of the Assembly and the checks and balances. We are taking a severe risk with the future of this Island with centralising power. As I stated yesterday, you may like Senator Gorst, he is the existing Chief Minister, but the next person, whoever it is, might have an authoritarian or a centralising streak or be someone who will be using collective responsibility to demand obedience of his Ministers. Where are the checks and balances? You are giving all the powers. You are not even seeing who the Ministers are and seeing whether they are capable or whether they are a bunch of toadies or what. What are the qualifications of the people who are going to be made a Minister? I just hope States Members will have a reality check and think what they are doing, because I really think if you pass this, and some of the other measures, you are selling this Island down the river and I cannot support it.

**Connétable S.A. Rennard of St. Saviour:**

Could I just have a little bit of clarification? I do not think Deputy Higgins meant it, but when he said "toadies" was he referring to Jersey people?

**Deputy M.R. Higgins:**

Can I clarify that? A toadie is a person who sort of creeps or goes for a job, not necessarily the best person for the job, and they can be any nationality and any country.

**The Connétable of St. Saviour:**

Sorry, that was not what I asked. I asked was he referring to Jersey people?

**Deputy M.R. Higgins:**

Sorry, thinking of the crapaud, no, I was not.

**The Bailiff:**

I think we have taken that one as far as we can. Deputy Power.

**1.1.3 Deputy S. Power of St. Brelade:**

I can also be brief this morning. It seems to me that yesterday 25 of my colleagues agreed to support the principles, and I have just listened to Senator Le Gresley's speech this morning and it would be useful if the Connétable of St. Mary referred to this in her summing up - I will not be supporting the amendment - and that is that this morning, Senator Le Gresley, Senator Le Marquand and Deputy Duhamel are in an invidious position had we got collective responsibility, because they have parted company with the Chief Minister and the Council of Ministers, it seems to me that if all of the Articles were passed this morning, the Chief Minister could theoretically be asking for the resignation of Senator Le Gresley, Senator Le Marquand and Deputy Duhamel or that they might have to consider their position. So I just say to colleagues that voted for this thing yesterday, you reap what you sow.

**The Bailiff:**

Does any other Member wish to speak on the Connétable's amendment? No. Then I call upon the Connétable to reply.

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

I am jolly glad no one else is going to speak because I think a few hares have been set running, especially by Senator Le Gresley's speech this morning, which quite astounded me. I think he has totally misunderstood and misrepresented the amendment. The amendment does not do anything that he said. It is simply to make sense of the substantive proposition. It does not take away anything that the substantive proposition does not do. It is simply a tidying-up, a bringing of logic to it. He referred to the fall-back position as being the same as it is now and said that was an acknowledgement that my amendment was weak. Categorically, that is not the fall-back position. The fall-back position under the substantive amendment is that the Chief Minister gets his wish immediately without any consultation. That is not what the ...

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

Sorry, Sir, I think the Constable is misleading the House. Under the substantive proposition, this was a question yesterday, that if the amendment is thrown out we are back to where we are today. We were guided by the Chair. Yes, we were.

#### **The Connétable of St. Mary:**

I am sure that if all the amendments were thrown out, we might be in that position, but we are only debating my amendment at this stage.

#### **The Bailiff:**

That is correct.

#### **The Connétable of St. Mary:**

It is completely incorrect to say that the fall-back position is that we have this situation we have today.

[9:45]

#### **The Bailiff:**

The fall-back position at the moment if your amendment is not passed is that on the Chief Minister's proposal, then after 3 strikes, he will be able to get his slate agreed, but we still have to debate amendments by Deputy Le Fondré which would provide otherwise.

#### **The Connétable of St. Mary:**

Thank you for clarifying, Sir. That is exactly my understanding. I have to say that throughout what was said yesterday, I am amazed that some Members really do not seem to understand the points of what we are debating here. I have heard "sleepwalking into disaster" and "concentrating the power" all referred to in my amendment. It does no such thing. The concentration of the Government into the hands of the Executive was effected 9 years ago by the Assembly that brought in Ministerial government. That is done. Deputy Martin yesterday in her speech referred back to something I had said to her when I was newly elected as a Deputy, saying that I had understood that. I am sorry, but I had understood that and I knew what kind of Assembly I was coming into. I know what kind of Assembly we have. We have an Executive Government. That was not my doing and it was not the doing of most of this Assembly, but it is what we have and it is what was legally passed and it is what we work to. The whole point of the substantive proposition and hopefully the gist of the amendments is to make that Government more efficient and more accountable. Going back, if I might, to the essence of the amendment, I tried overnight to make sense of the points that had been raised, but really they were very diverse. To come back to reality, this is a very simple amendment. One or 2 speakers identified that yesterday. It is simply to bring logic to the otherwise potentially unsatisfactory process that would arise if the substantive

proposition went through with this Article not amended, because after the Chief Minister coming to the Assembly with a slate of Ministers, without any opportunity for an amendment to that, if the Assembly rejected those Ministers, he would come back twice more, and if in the circumstances they were all rejected, then the Chief Minister would simply bring the slate he wanted without challenge. I am saying quite simply this is a very circuitous process to arrive at a goal. Why not eliminate all of the intermediary steps and cut to the chase and say: "This is what the effect is. Let us just do it"? If you do not like that, the answer is you do not want this Article, but all I am doing is tidying-up an unsatisfactory administrative process. To say that this is sleepwalking into disaster, this amendment, is absolutely ridiculous. It is a point of logic. Maybe that is beyond the scope of this debate. Senator Le Gresley though did raise an interesting point when he said that he would have nothing to stand for, and a couple of Members said there was no point being in the Assembly, but the point is, as happens now, if you have a strength, if you have a desire to serve, you bring that to the attention of people. We elect the Chief Minister and that starts the process. You are no more likely or less likely to be able to bring your skills and expertise to the attention of any potential Chief Minister than you are now. Having people who are willing to stand and having people who believe they have something good to offer has never been a guarantee that that person would be endorsed by this Assembly. It never has. Nothing has changed. But the Chief Minister will have to be canny, because he will have to be bringing together people that he thinks that can work together and people that he thinks will be able to achieve the things that have been discussed in the speeches and questioning going up to his own election or her own election because that is what this Assembly will want to see. Now, I have toyed with other ideas about bringing a new kind of proposition, because people have said: "We are loath to go for the nuclear option." Most people treat censure as some sort of conduct. We need something about specific performance, specific adherence to the Strategic Plan. That is for another day, but this amendment is extremely simple. If you do not like allowing the Chief Minister to put forward the people that he can work with and the people that he or she thinks will be the best to form the Executive, then simply you have to throw this thing out, this entire Article, but if you believe that electing the Chief Minister as an Assembly - and not one of us can say who will be here in a few months' time, not one of us can say who the candidates will be - we have to put some acknowledgement to the fact that collectively as an Assembly, diverse people elected in diverse ways will choose that Chief Minister. If you do not believe that this Assembly will have the good sense to elect someone that they can have faith in, then you wonder why anybody would be here. But we cannot keep confining things the way we are attempting to do. If you do believe that we should move forward to a system that works incredibly well in other places, and not simply as Deputy Le Hérissier referred to in the party system, but in places where that party system does not exist ... Isle of Man: The Isle of Man I visited and I was extremely impressed. The President of Tynwald came here and I believe addressed the panels - I certainly met with her here - and reinforced all of my first-hand experience of how the Isle of Man works. There is no reason why it could not work here and work very efficiently, but if you believe that needs to be done, then this is the amendment to vote for, because this is the only amendment that takes us to a different position than the one we are at now. All I ask - it is a tall order - is that Members vote to what the amendment says and not to what they have considered that it might mean. I move the amendment, Sir.

**The Bailiff:**

Do you ask for the appel?

**The Bailiff:**

Very well, so the matter before the Assembly is the amendment by the Connétable of St. Mary. The appel is called for. I invite Members to return to their seats and the Greffier will open the voting.



**POUR: 10**

Senator P.F. Routier  
 Senator P.M. Bailhache  
 Connétable of Trinity  
 Connétable of St. Clement  
 Connétable of St. Peter  
 Connétable of St. Mary  
 Connétable of St. Ouen  
 Deputy J.P.G. Baker (H)  
 Deputy S.J. Pinel (C)  
 Deputy of St. Martin

**CONTRE: 32**

Senator P.F.C. Ozouf  
 Senator A. Breckon  
 Senator S.C. Ferguson  
 Senator B.I. Le Marquand  
 Senator F.du H. Le Gresley  
 Senator I.J. Gorst  
 Senator L.J. Farnham  
 Connétable of St. Brelade  
 Connétable of St. Martin  
 Connétable of St. Saviour  
 Connétable of Grouville  
 Deputy R.C. Duhamel (S)  
 Deputy R.G. Le Hérisssier (S)  
 Deputy J.A. Martin (H)  
 Deputy G.P. Southern (H)  
 Deputy of St. Ouen  
 Deputy J.A. Hilton (H)  
 Deputy J.A.N. Le Fondré (L)  
 Deputy S.S.P.A. Power (B)  
 Deputy K.C. Lewis (S)  
 Deputy E.J. Noel (L)  
 Deputy T.A. Vallois (S)  
 Deputy M.R. Higgins (H)  
 Deputy A.K.F. Green (H)  
 Deputy J.M. Maçon (S)  
 Deputy G.C.L. Baudains (C)  
 Deputy of St. John  
 Deputy J.H. Young (B)  
 Deputy of St. Mary  
 Deputy R.G. Bryans (H)  
 Deputy R.J. Rondel (H)  
 Deputy N.B. Le Cornu (H)

**ABSTAIN: 1**

Deputy M. Tadier (B)

## **1.2 Draft States of Jersey (Amendment No. 7) Law 201- (P.33/2014): seventh amendment - part 2 (P.33/2014 Amd.(7)) - Article 3**

### **The Bailiff:**

Very well, that means that the remaining amendments put forward by the Connétable fall away, because they were consequential, so when we come to them in the running order, they will not be moved. I will ask the Greffier to read that amendment, as it is quite short.

### **The Greffier of the States:**

2. Page 42 to 43, Article 3. In paragraph (a), in the substituted Article 19(5B), for the words “3 successive proposals” substitute the words “the prescribed number of successive proposals.”

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

When I say I am ambivalent on this, it should not be a significant matter that is going to take us hours to consider, so I will not be talking very long. When one was originally discussing this particular Article - the 3 strikes - some of the discussion revolved around whether 3 was the right number or not, and I thought: “I really do not want to get stuck into that kind of argument at this stage. It is something for later on” and I thought the most appropriate place was to put it into Standing Orders. It does not matter, I am ambivalent on this as to where it goes, but it is purely to

avoid us getting dragged down into the mire of the detail of whether it should be 3, 2, 5 or whatever it is at this stage, and literally all it does is substitute the figure 3 with “prescribed number” basically. The idea then is that in Standing Orders, it sets the prescribed number. If people think 3 is fine and they would prefer the certainty at this stage in the legislation rather than Regulations, do not support it. If people would like to keep the flexibility going forward in terms of it tends to be easier to sort out a change in Standing Orders, then you would want to support this and put it into Standing Orders. That is what I am trying to do to, is to get the Members to focus on the principles and not on whether it should be 3, 2 or anything else. I will stop there. I hope that is reasonably clear.

**The Bailiff:**

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

**The Bailiff:**

Does any Member wish to speak on that amendment? Deputy Southern.

**1.2.2 Deputy G.P. Southern of St. Helier:**

I feel like I have woken up in a different planet and I am searching around desperately to see if I can find a pin so I can count the number of angels on them. Enough said, let us get on and either reject or accept what is proposed as the main proposition and not mess around with numbers like this.

**The Bailiff:**

Does any other Member wish to speak? Very well. Do you wish to reply, Deputy Le Fondré?

**Deputy J.A.N. Le Fondré:**

I endorse it.

**The Bailiff:**

Deputy Young, did you wish to speak?

**1.2.3 Deputy J.H. Young of St. Brelade:**

Yes. I can understand Deputy Southern. In fact, I find this whole choice on all of these Articles exactly the same. How can you make what is a dreadful proposal, in my view, better? These judgments are so marginal. In the previous discussion, the previous amendment, which is lost, there was logic, but I do not think it is about that. It is about whether or not we have a democratic system or not on what the role of this Assembly is for. I do not believe that Clothier ever intended that we would have an autocracy in the way we do things.

**The Bailiff:**

Deputy, I am sorry, this is way off the point. This is a short matter, whether you want to have 3 successive proposals or put it off to Standing Orders.

**Deputy J.H. Young:**

Sorry, Sir, if I may explain why I am going to support the amendment. It is because I need to explain that dilemma in my mind as to why I think that the amendment should be approved. It is because I recognise that despite the passion, this amendment is, if you like, a damage limitation amendment. There is a risk that the substantive may go through - I shall vote against it - but I cannot rely on that, and so this is a damage limitation measure which I think important the Members should weigh that choice when they vote, and I am going to go with the Deputy.

**The Bailiff:**

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

**1.2.4 Deputy J.A.N. Le Fondré:**

I just thank the 2 Members who have spoken and I will leave it to Members to make the decision.

**The Bailiff:**

Do you ask for the appel?

**Deputy J.A.N. Le Fondré:**

Yes, Sir.

**The Bailiff:**

The appel is called for then in relation to the second part of the seventh amendment of Deputy Le Fondré, which is to replace 3 successive proposals by a prescribed number of successive proposals. I invite Members to return to their seats and the Greffier will open the voting.

**POUR: 24**

Senator A. Breckon  
Senator S.C. Ferguson  
Senator B.I. Le Marquand  
Senator F.du H. Le Gresley  
Senator L.J. Farnham  
Connétable of Trinity  
Connétable of St. Clement  
Connétable of St. Peter  
Connétable of St. John  
Connétable of St. Ouen  
Connétable of St. Martin  
Connétable of St. Saviour  
Deputy R.G. Le Hérisier (S)  
Deputy J.A. Martin (H)  
Deputy J.A.N. Le Fondré (L)  
Deputy M. Tadier (B)  
Deputy T.A. Vallois (S)  
Deputy M.R. Higgins (H)  
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.J. Rondel (H)

**CONTRE: 16**

Senator P.F. Routier  
Senator P.F.C. Ozouf  
Senator I.J. Gorst  
Senator P.M. Bailhache  
Connétable of St. Brelade  
Connétable of Grouville  
Deputy R.C. Duhamel (S)  
Deputy G.P. Southern (H)  
Deputy of St. Ouen  
Deputy J.A. Hilton (H)  
Deputy K.C. Lewis (S)  
Deputy E.J. Noel (L)  
Deputy A.K.F. Green (H)  
Deputy of St. John  
Deputy of St. Martin  
Deputy R.G. Bryans (H)

**ABSTAIN: 1**

Deputy N.B. Le Cornu (H)

**1.3 Draft States of Jersey (Amendment No. 7) Law 201- (P.33/2014): seventh amendment - part 3 (P.33/2014 Amd.(7)) - Article 3**

**The Bailiff:**

Very well, then we come next to part 3 of the seventh amendment, also lodged by Deputy Le Fondré. This is a long amendment related to Article 3. Are Members content to take it as read? Very well, then I invite Deputy Le Fondré to propose part 3 of his amendment.

### 1.3.1 Deputy J.A.N. Le Fondré:

Yes, obviously there are 2 potentially substantive votes coming along. One, as we know, is this significant change or alternative to the 3 strikes and you are in. There is obviously an amendment to it which is a separate item. I am not accepting my own amendment, if that makes sense. It is something for the Assembly to make a decision on separately and I shall be talking just to this present amendment. In essence, where we are now at the moment is that the Chief Minister is proposing 3 strikes and you are in, as we are aware, and that basically means that, as we have said, if his team is rejected 3 times, he or she can go away and propose whoever they like, even if it is one of the teams that have previously been rejected by this Assembly.

[10:00]

What I am proposing is basically a compromise, that after the third rejection, we default back to the present system, in other words, a schedule is put up and it can be amended in the normal way in terms of what Members have gone through. So it is a compromise position because it is giving the Chief Minister the ability to try and present to the Assembly on 3 separate occasions a team, but it is the fall-back of saying that if that gets rejected after the third time the Assembly can then influence that position. Now, in reality, I would suggest it may well not be used often, because one would hope that by the third time the Chief Minister will be getting to the point of understanding the mood of the Assembly and finding out what is acceptable. I think what is clear, when the panel first looked at all this, we did eventually come to the position of supporting the Chief Minister having the flexibility to put together his or her team, but I would stress that the recommendation of the panel was 3 strikes and you are out, in other words, if the schedule of Ministers put forward by the Chief Minister was rejected on the third occasion, the Chief Minister fell. That view was because it probably meant for whatever reason he or she did not have the support of the Assembly. That has obviously changed in the subsequent working group under the Chief Minister. I think what is important is that that 3 strikes and you are out came from the work that had the foundation of the original Clothier in 2000 and I understand the Policy and Resources and P.P.C. (Privileges and Procedures Committee) joint working groups at that point, in other words, the likes of I presume Senator Horsfall of the day and whoever - I assume it was him - felt that that was an appropriate way to go. Obviously the advice that has come through now when the Chief Minister changed the recommendation of the panel is that that is unworkable, for whatever reason, and the argument has been that takes into what we call the Belgian or Italian set up where, in theory, there is a risk it could take weeks to put a Ministerial team together. Therefore that is why at the moment if nothing else changes, the present Article states, as I said, the Chief Minister proposes his team and after a third rejection, if it happens, the Chief Minister can go away and do whatever he or she likes. Now, I do not think that can be right, because if the team has been rejected for the third time and then a team that has been rejected is then the default position, that does not sound right from the point of view of democracy and to the point of view of the influence of this Assembly, so I am proposing a compromise. Let us accept the Chief Minister should be given an opportunity to appoint his or her team and this amendment generally supports that proposition, but let us also recognise that under the Chief Minister proposals and under the original Machinery of Government proposals, there is a degree... I am sorry, not the Chief Minister's proposals, but there is a degree of retention of authority by this Assembly, so here we are retaining a necessity to receive the approval of the Assembly for his or her team. If the Chief Minister is unable to generate that support after the third attempt, and it is only after that third attempt, what do we do? I think we should default back to the present position, namely that the Assembly can then nominate. Do not forget we are giving the Chief Minister 3 attempts to get it right. If he or she is unable to do that and we move away from the 3 strikes and you are out proposals, in my view, it is the better way to go. It is respectful of this Assembly, whereas the present proposals are, in my view, at present a pointless exercise, and in that regard I do agree with the Constable of St. Mary. I do conclude by noting that

P.P.C. do support this amendment as a good, practical compromise and on that basis, I propose the amendment.

**The Bailiff:**

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

**1.3.2 Deputy T.A. Vallois of St. Saviour:**

I am going to speak early on, because I am absolutely supportive of this amendment, and the reason why I say that was because of being part of a Machinery of Government Review, this was a particular area we found difficult to try and get the right balance. I think Deputy Le Fondré has compromised a little bit too much, and I think we should have kept the 3 strikes and you are out because it is all about managing expectations and if you are going to be appointing a leader of a Government for an island, you expect them, in a political area at the moment that we have with independence, to be able to seek people that are able to do a particular job and carry out and work as a team, not just put up people who are their friends or buddies who will just nod their heads. I think that is a major concern of a lot of people, that that may be the case going forward, that you will get a Chief Minister that will put their name forward who just wants a group of people who are their friends, not necessarily capable of doing the job. That could be a risk, but what this amendment does, for me, the expectation, I expect the Chief Minister to be able to find out those capabilities, assess the people who have put their names forward and anybody else that is willing to do a Ministerial job and assess that on their capabilities, but also it is one of how they make decisions and risk assess those decisions and see their role in the light of the States Assembly, because the States Assembly are the ones that are appointing the Chief Minister to carry out the role and therefore he is answerable to the States Assembly. I expect somebody of a calibre that is able to make a decision before the second strike and I think 3 strikes is appropriate. If a Chief Minister is unable to find a slate up to those 3 strikes, then are they really capable of making a big, serious decision, leading the Government? So I fully support Deputy Le Fondré in this amendment. I think what the Chief Minister has brought in the main proposition is wholly unacceptable and he knows that, so I will be supporting Deputy Le Fondré.

**Connétable J.E. Le Maistre of Grouville:**

Can I make a point of clarification, or you could perhaps help me? Both speakers have mentioned 3 strikes and you are out, but on the amendment before that, we have not determined how many strikes it will be.

**The Bailiff:**

That is a very astute point, Connétable, you have raised. I think that perhaps Members no doubt will continue to refer to it by way of shorthand on the basis that it is a useful phrase, but yes, you are absolutely right. In fact, it will be however many strikes are provided in Standing Orders and you are out or in.

**Senator P.F.C. Ozouf:**

It is not 3 strikes and you are out, it is 3 strikes and the Chief Minister appoints.

**The Bailiff:**

Under the Chief Minister's proposals. Under the proposals of Deputy Le Fondré, then after the 3 or whatever number it is, then it will be up to the States.

**Senator P.F.C. Ozouf:**

But it is not 3 strikes and you are out, it is 3 strikes and then you have the Assembly voting or versus 3 strokes and you are in. "Out" is the wrong word.

**Deputy J.H. Young:**

It could also be one strike and out.

**1.4 Draft States of Jersey (Amendment No. 7) Law 201- (P.33/2014): seventh amendment (P.33/2014 Amd.(7)) - amendment (P.33/2014 Amd.(7)Amd.) - Article 3**

**The Bailiff:**

Yes, the Greffier has just pointed out to me, and I must apologise to Members, of course Deputy Le Fondré has an amendment to his own amendment which he wishes to have debated separately and therefore procedurally that must be taken next. I have Deputy Vallois as the seconder, but that was wrong. I apologise. In fact, we should revert to the correct procedure so that before we come to consider Deputy Le Fondré's amendment, part 3, we must consider first his amendment to his own amendment. I am just checking how long the amendment is as to whether it should be read. It is long, so are Members content to take it as read? Of course, if Members feel it should be read then... I think it will become clear to the outside world hopefully during the debate. Very well, I invite Deputy Le Fondré to propose the amendment to the amendment.

**1.4.1 Deputy J.A.N. Le Fondré:**

Yes, Sir, that was why I was looking slightly puzzled when Deputy Vallois started to speaking, which was hence the frantic email that I just sent. Okay, the reason I am asking the Assembly to consider this amendment to my original proposition, to keep the thing separate, it is about how far we want to go on a particular position, okay? You have got 2 choices here in terms of the round. At the moment, my original proposition is about at the end of the 3 strikes that the Assembly can then revert to the present position of being able to change or challenge the individuals being proposed to the Ministerial posts, okay? However, the whole principle that we are introducing under this system is we are giving the Chief Minister the flexibility to propose different Ministerial posts. We are not going to have necessarily the 11 positions of Minister that we presently have. It is perfectly possible that on the... so the issue here is that what is the Assembly going to be rejecting? This is what I am looking at. If that first schedule is adopted by the Assembly, there is not a problem. One is trying to anticipate what is going to happen if the schedule is rejected. There are 2 variables in there, not one. The variables are the list of Ministerial positions and the individuals being appointed to those positions and it is a question of how much influence one wants to give to this Assembly. My original - and I will say - proposition is about giving the Assembly the influence over the individuals being proposed by the Chief Minister, but not the posts. However, this amendment gives total flexibility to the Assembly. In other words, if the Chief Minister, for example, in his or her new schedule proposes not to have a Minister for Treasury, but does want a Minister for Tourism and he decides to take the responsibility for Treasury into the Chief Minister's Department, that could be a reason that the Assembly rejects the slate, because they think there should be a Minister for Treasury. Therefore, it is how does the Assembly express that view? It is either by some form of informal discussion that is going on behind in the background, or having the ability after the third rejection to turn around and say: "No, we want a Minister for Treasury. We want that specific position." We might call it something, I do not know. You then have to have a process which says that after the third strike, the Chief Minister comes back with the list of positions, so the list of Ministries which then the Assembly either endorses or changes according to whatever it wants to do and then once that has been bedded down, one then comes back to the individuals that are being proposed to that position, okay? Now, the point is it is quite a fundamental difference, and it is what comes out of how do you give this Assembly now the choice as to whether we leave the flexibility of choice on the positions to the Chief Minister or we are saying: "We have rejected the thing 3 times and we want the ability to look at what is being proposed in the round"? So this amendment, as I said, is about giving the Assembly, after the third

rejection, the ability to change the list of Ministries. I am phrasing it this way round: I will support my own amendment, but it is whether Members think that is important or whether they want to leave the positions with the Chief Minister. There are very strong arguments for that, because that is one of the reasons you are supporting the Chief Minister - you put him in place - is that that gives him the ability, he says: "This is the structure I want." If Members think: "No, we want to keep that final authority, as it were, with the Assembly" then you support this amendment and you support it when we revert back to the original one. If Members think: "No, we are happy for the Chief Minister to retain control, if you like, over the positions" and do not forget, this is not about next time, it is about 3 times down the line. You could end up with somebody, for the sake of argument, I do not know ... well, you could combine Social Security, Treasury and perhaps hive some bits off to Social Services, I do not know.

[10:15]

You do not know what that structure is going to look like, and do you want the Assembly to have the ability to influence that, but I think no way; or we are turning around and saying: "No, we want the Chief Minister to have control over the structure, but we want to have a final say, if we have rejected everything, over the individuals"? So the point is without debating - I will reiterate it again - the merits of the original... I will say proposition, obviously it is an amendment to Article 3, what Members have to consider now is whether, if my main amendment were to be approved, should it be with the ability to amend the schedule of Ministerial posts by the Assembly or without that ability? Do not forget that is after the 3 attempts by the Chief Minister to have his or her team approved by this Assembly. I thought it was important to split the 2, because you do not want an argument going on saying: "Oh well, I will be supporting this if I could change the Ministerial posts." Hopefully this is the summary point: if Members consider my main amendment would be better with this proposal included, so that after the schedule has been rejected 3 times, the Assembly should be able to amend both the Ministerial posts, which would be the first stage, and the individuals being proposed for those posts, which you then come back to, they should vote for this amendment. If Members think that my main amendment is better as it presently stands - it does not matter whether you are going to support or not, you have got to consider as amended or not - i.e. that after the third attempt, the Assembly should only be able to challenge the individuals nominated and not the posts being proposed, then they should vote against this amendment. Hopefully that is understood and hopefully people understand why I have split it this way.

**The Bailiff:**

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

**1.4.2 Deputy M. Tadier of St. Brelade:**

If Deputy Young is seconding it, perhaps he can explain it to us. The issue I have got is that we need to know - and it is not clear in my mind and I chaired the Machinery of Government Sub-Committee, and that does not mean anything necessarily - is that obviously we all understand the current system, how it works. It was my understanding that under the Chief Minister's proposals that the portfolios would be put forward much as they are now, but with his nominations and, if there were to be any new Ministries, that would be put forward at the time. In an ideal world, what I would like to happen and I think what is entirely reasonable, and most of us would subscribe to, is that unless there were any changes, the current portfolios would exist and then the slate would be proposed, but if there were to be changes to those Ministries, let us say a silly example where the Chief Minister wanted to have a Minister for Treasury and 6 Ministers for Health, all of different varieties, that would first of all need to come to the Assembly so that we could approve that that is the right decision to make. Once that decision has been made, then we would go through whatever

process has been decided. If that is not the case, then I think we are in deep trouble and so I need somebody to explain to me, perhaps either yourself, Sir, or somebody else, because it is simply giving us the choice after 3 strikes, which is a remote possibility that that is ever going to come to the Assembly anyway to say: "This is the point at which you can decide whether you are happy with the new portfolios"; it is not the right place. We were always on the understanding that any reshuffling of portfolios had to come back to the Assembly and it is also logical that we should have whatever the system is decided that the individuals for that post should be chosen for that post, not simply a scenario where the Chief Minister can say: "I want 7 of my best men and maybe a woman for tokenism and we can go forward and I will just decide later on how we do that" because I do not think that is acceptable at all if that is what is being proposed. I do not see how this amendment necessarily deals with the fundamental problems there, so I would like clarification from somebody as to what would be proposed, but simply - and I will say this probably in the next part - is that of course this is partly why I was asking for a reference back yesterday, and I will not be moving that at the moment, it may not be in order, but these fine details are very important when you have got these amendments to amendments coming forward, the devil really is in the detail and I am worried that we do not really know what the consequences are of what we voted for yesterday. Yesterday the principle was to say: "Yes, absolutely, give the Chief Minister full power" and then there are logical consequences to that which we are trying to deal with now and which the Assembly is finding that they do not like. That is why I suggest whatever, whether we accept this and we accept the future one, is to basically kick out this whole Article so that we can revert with the *status quo*, which is the best of all worlds and it does not mean that we cannot have collective responsibility, if that is ultimately decided on in the Third Reading, but it gives the Chief Minister and the Assembly the ability to know who the Ministers are, appoint on their merits and then also for the Chief Minister to have the stick to dismiss.

**The Bailiff:**

Perhaps I can try and assist, because it is important Members are aware exactly of what the proposals mean. Under the Chief Minister's proposal, he will decide the Ministerial offices, in other words, the Minister for Children or a Minister for this or a Minister for that. He will come forward with a list of offices and the Members that he is nominating to fill those offices. After 3, or however many Standing Orders eventually provide, rejections, then he determines both the offices and the Members who fill them, so in other words, he has the right to decide that he is introducing a Minister for Children or whatever it may be. Just so we are clear, that is not it seems, Deputy Tadier, your understanding, but that is the position that the Chief Minister's proposals achieve. Deputy Le Fondré, under his amendment, says that after the 3 or whatever number it is rejections, then States Members will be able to nominate alternative Members, but not alternative Ministerial posts. Under his amendment to his own amendment, he introduces the ability also for Members to nominate posts, so that is clear.

**Deputy M. Tadier:**

May I just conclude very briefly on that basis, because that advice is helpful, and I will not keep Members any longer, but ...

**Senator I.J. Gorst:**

Could I just ask you to clarify further that that is in the first instance? Of course there is a different procedure during the term of the office under Article 11.

**The Bailiff:**

Yes, of course. This is only to do with the initial selection.



**Deputy M. Tadier:**

So if it is the case that the Chief Minister will create and realign portfolios, the Assembly will not have a say in that, but then will appoint Ministers to that position, the question is why are we not getting a say? Why are we only getting a say in the third instance and giving 3 attempts when there are 2 variables in it, which I think is what Deputy Le Fondré is trying to ascertain, because it could be that the individual in the post is not the correct one for the Assembly and it could be that the post is not the correct one for the Assembly either. It seems absolutely ridiculous that the Assembly does not get to endorse the change of portfolios in the first place. For example, if the Chief Minister just elected, as the Chief Minister, says: “We need a Minister for Children” that could be controversial. The Assembly would not really have any formal way of saying we do not want one, or we want another Minister, which is perhaps slightly different with slightly different powers. We have to wait until the third time, which probably will not happen anyway, in order to effect that, so what it says to me is that we need to kick out all these Articles, they need to be worked out properly so that all the safeguards that are put in place, even if we go with collective responsibility, that these steps need to be thought through properly and that simply has not been done under the current arrangements.

**1.4.3 Senator L.J. Farnham:**

Rather oddly, I understand everything. It was quite a surprise that all the parts fell into place and while I appreciate what Deputy Le Fondré is trying to do, I think we stand a danger of really ending up by making a bit of sow’s ear out of a silk purse, if you could call what we end up with a silk purse or not, because this has the propensity to complicate things enormously and I will speak, if I may, to the amendment to the amendment and the amendment, just to save a bit of time in the future, because they are very similar. I might just overlap. You probably will not even notice, Sir, with all due respect. **[Laughter]**

**The Bailiff:**

I might not have if you had not alerted me.

**Senator L.J. Farnham:**

I know, Sir. I think Deputy Vallois made a very valid point that if the Chief Minister Designate is in tune with the Assembly in any way, shape or form, we are unlikely to go beyond the first or second schedule, I would hope, because I think it would be folly for a Chief Minister Designate to attempt to foist upon the Assembly a schedule of Ministers and Ministerial departments that is going to be too controversial. The aspect to this is that the Chief Minister Designate I believe has to shape the Government. You see, as soon as we start accepting these types of amendments, then it opens a way for a strategy to appear, and let us refer to the number of strikes. I have referred to my superior at the Home Affairs Department and we have decided that we are going to refer to the number of strikes with the mathematical symbol of  $x$  number of strikes, then unlikely, but it could become a strategy of the Assembly or certain factions of the Assembly just to simply throw out the  $x$  number of attempts for the Chief Minister Designate to have a schedule because they know, after throwing them out, the Assembly can completely shape the Government how they wish after appointing a Chief Minister Designate to shape the Assembly and appoint Ministers. I think that is a danger. Well-meaning as these amendments are, I think that is a danger and for those reasons, I am not able to support the amendment to the amendment or the other amendment.

**1.4.4 Deputy G.P. Southern:**

Right, having accepted that I am living in a parallel universe, we need to address what is at stake here nonetheless, and this particular proposition reminds me of some of the joys of working with Deputy Le Fondré. I tend to be very much a goals man, where are we going and see if we can get

there. Deputy Le Fondré is a detail man. He can see issues from more points of view than I thought existed. **[Laughter]** On many occasions, that is a wonderful skill which you need to incorporate and say: “Oh, yes, but what if, what about ... yes, let us look at that before we move on and assume we are on the right track.” In this case, I think it is not that useful. I think we are going a stage too far. Now we are into positions as well as the people, so we could end up arguing over playing 4-4-2 or 4-4-1-1 with the striker behind Rooney in the hole or whether we go for a straightforward 4-3-3 and argue with the manager as to what the format is as well as who we are going to pick. We should have Terry back anyway. That is the sort of detail we are in danger of getting into and I am not sure that we want to. Let us look at what we are doing. I have used this analogy before. I think we are in danger of what we are trying to do is crochet our own hang glider and we are just picking at some of the stitches now to see if it is pretty or not. The fact is it ain't going to fly. The reality of where we are is that whether it is 3 strikes or 17 strikes does not really matter. What are we doing here? At the moment, we are considering how, in minute detail, we can give more power, choice and authority to the Chief Minister and give us some of that choice and authority and powers as an Assembly. That is the issue. Now, yesterday, by a very narrow vote, we voted that it was worth debating that issue and the amendments that go with it, but I come back to the point that I think Deputy Tadier made earlier.

[10:30]

The vote in principle said: “Let us debate it.” That does not deny us the possibility to reject all of these amendments, and I would say these compromise amendments, fiddling around to say: “Oh, it is all right to do this,” no, do not be tempted by that compromise, that perspective, which I do not think is worthwhile. Fundamentally, it is giving some of our authority and our powers over to the Chief Minister without additional accountability. That was the key word. We used it lots in the last 2 days, accountability, that is what this is about and we are in danger of giving up that accountability, whether we do it with this amendment or this pettifogging amendment or a pretty hang glider or a not so pretty hang glider. I would say do not be tempted by any of these amendments that all come down the same thing: the Chief Minister wants some more power and control. Are we going to give it to him? I would say reject these amendments and keep rejecting the amendments, so you get to the main one and reject that. Let us have the *status quo*. We have a working relationship at the minute with the Chief Minister. It has worked in the past. It does work. It is not absolutely clear sailing for any Chief Minister. Why would it be? But it is not up to us to solve a problem that the Chief Minister envisages by giving him some more of our authority. That is not the way forward, so reject these amendments individually and reject the main amendment of the Chief Minister and say: “No, we are perfectly satisfied with it as it is.” That is possible. We did not, in voting whatever it was, 23:20 yesterday to debate this issue accept anything. We said: “We have heard about the principles. We need to debate these principles.” Keep our eye on those principles and reject the Minister's request for more power and more authority.

#### **1.4.5 Deputy J.H. Young:**

Thank you for explaining it so very, very clearly. Deputy Tadier asked me to explain why I was seconding it. Perfect. I think Members are in danger of thinking: “Well, this is a remote possibility, the circumstances are a remote possibility that Deputy Le Fondré is addressing here” that down the end of the line, after all these proposals coming forward which fail that his amendment would now be invoked, but we have decided there will be flexibility under Standing Orders to set the number of times. Yes, it might be 3 times, it might be 10 times, it might be one and I think Members should bear that in mind, so you cannot, I believe, address this amendment by considering it only a remote possibility. If it were a remote possibility, I accept crocheting the hand glider, *et cetera*, all those sort of analogies are right, but nonetheless, I think having made that decision yesterday by such a narrow majority, I think some Members probably voted because they

thought it was democratic that we should go on to discuss all of the amendments and the details, despite being fundamentally opposed to the principles. I hope that is the case and that those Members will still ... yes, we have this decision to make. I happen to believe that the one element that I really like in the Chief Minister's proposals, the substantive ones, is the flexibility and the structure of the Ministerial government and I do believe it essential that ... I am trying to avoid speaking on the main issue, but I can just illustrate, for example, I personally think the Island needs a Minister for Energy, because I believe those issues will require restructuring. Now, yes, I am absolutely prepared to accept that when a Chief Minister is elected and we have their policy base, then I think the Chief Minister, it is obviously the job to produce a structure of government, of Ministries and a team of people to fulfil it. But I do think the Le Fondré amendment does have to allow for if that process goes wrong, if all the prior consultations and sensible discussions that took place fail, then I think there has to be the failsafe that the Assembly can, at that point, address both the Ministerial structure and the individuals that go in them. I think that is essential, because if we were then to have a situation where the Chief Minister's choice, as it were, were not approved, but simply adopted against the Assembly's wishes, that would be a really serious mistake. I think this is one of the most important aspects. Well, there are 2, obviously. One is the people themselves but the other is the structure of government. It is not just a theory piece of process procedure. Whole issues of public sector reform and delivering what the Island needs come from both the structure that we form, the structure of Ministries in government and the people in them, so I do think we need to have this tool that Deputy Le Fondré has offered us. So that is why I second it and that is why I support it.

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

As for living in parallel universes, I think Deputy Southern is underestimating where Deputy Le Fondré can see behind the fog and the mess we could be in, because we are already in that mess. As for not reading out what we need to tell the people out there we are doing, 2 reports on the Channel Television this morning told us that we have already given the slate to the Chief Minister. It was reported we have already decided to give the slate. It definitely was not collective responsibility, so ahead of themselves again. Yesterday I was getting very depressed and down about: "Oh well, we are where we are" and Deputy Southern very optimistically thinks lots of people, because of the plea of Senator Ozouf, thought: "We will vote for the principles because we are going to throw the whole lot out." I am being a bit more pessimistic but then thinking it is all going to go through. You might tweak it here, tweak it there, try and make it a bit better but the power, the collective responsibility will lie with the Chief Minister. Then I thought to myself: "How will that be with you, if you are here next time?" Next time we will probably have either one of the nice Senators sitting on that bench. Then I thought: "No, be a bit more into the future, Deputy. Think of the people who are coming after you." We have an excellent young Deputy who sits next to me, behind me, alongside me, over there, and one of the parties maybe not as young but in political years they are. This power will one day hopefully transfer to them because this Deputy next to me will make a fantastic Senator in a few years' time. He will go for Chief Minister and he will have his team. By then it might be called a party, it might be collective, but he will have the people he wants in his office. He, by then, will not want this tweak. He, by then, will want to have the people that he can work with. So, is it such a bad day? I am looking down the line. We will all be gone. Even the young Senator Ozouf by then will be in his 50s. Chief Minister Designate Elect Mézec may have him as a Minister. He may, if he can work with him. The Deputy of St. Martin laughs but this will happen. So what we have designed is what you are all voting for yesterday and today is the nice Senator Gorst, the Chief Minister, the nice safe hands Senator Bailhache as Chief Minister. We have already heard that Senator Ozouf, if he stands as Senator again, does not want to be Chief Minister next time. So this is what we have voted for. I am going to go with Deputy Southern and throw the whole lot out because politically it will affect me next time. I want to be

more inclusive. I like the system where we know who is going to be in what Ministerial post. The amendment does this on, as you say, whatever we set under now Standing Orders. To me it should only be one. This will get people to talk to each other and find out what you want and you have time to present your slate and where they are going to be, but this does give us, if they do ... do not forget, until amended or persuaded, this Chief Minister, and obviously discussions with the Council, only wanted 3 Ministers. You can divide it and say whatever. Once the power is there and they just have to persuade a few other Back-Benchers and the 12 Constables to vote with them, the power can erode and erode and erode. As I say, I am quite enlightened; I am not depressed. I went home and had my cup of tea. I have got to have a tooth out later so I might not be here for a vote or you might be lucky that I might not be able to speak after that, so I am getting a lot in now. **[Laughter]** As I say, I wish the younger Members in our Assembly in the next 4 to 8 even 12 years as it grows and the younger people get enlightened out there that this might be a sad day for me, you think it is a sad day but it is always who is in and who is out and you can never ... I had this discussion with Deputy Southern. He says in the parallel universe. To many people in here today, that might sound like a parallel universe. Politically I will definitely be gone but I hope to still be around to be invited to the Chief Minister Designate Mézec. **[Approbation]**

#### **1.4.7 Deputy S.G. Luce of St. Martin:**

I was hoping that it was not my turn because I barely know where to start. It seems to me that every once in a while this Assembly gets on the verge of making a monumental decision and, if it does manage to succeed in doing that, it then spends the next 2 or 3 days doing everything it can to trip itself up, complicate matters and make sure that that monumental decision cannot work. I would remind the Assembly they are getting confused about a Chief Minister that potentially turns up in this Assembly with a slate and a list of Ministries that we have never heard of before and the Chief Minister confusing us. I would remind the Assembly that before anybody can be Chief Minister they have to get themselves elected. They then have to canvass the individuals that have been elected alongside them to see whether there might be enough support for them to run for the position. If they feel they have or they may have enough support to run as Chief Minister, they will then offer themselves for the post, produce a manifesto and, if we change the rules as I expect we will, subject themselves to an hour's worth of grilling in this Assembly on what they decide or what they propose to do with the strategy for government over the coming years of the session. It seems incredible – inconceivable - to me that a Chief Minister thus elected would not have been questioned at length by individuals before he offered himself for the post or by this Assembly when he put forward his manifesto to be elected, that he would not have told us that he wanted to abolish Health, Housing and form Ministries for dolphin watching or satellites. I find it inconceivable. This is detail. I would just like to get on and enact this. I cannot conceive that a Chief Minister would be elected by this Assembly and find himself producing new Ministries out of a hat that nobody had ever heard of.

#### **1.4.8 Senator P.M. Bailhache:**

After that very sensible speech from the Deputy of St. Martin, I can be very brief. Sometimes Deputy Le Fondré has very good ideas and very sensible ideas, but sometimes he gets carried away with the complexity of the arrangements that he thinks might deal with a situation which might conceivably arise, and I think that is what he has done here. This is just too complicated. Some of us wanted a simple system where the Chief Minister was given more authority than he has at the moment. He could provide a slate, he could provide his nominees, and some of us hoped that he would get his way and he could then be held to account. As the Deputy of St. Martin says, we are gradually chipping away at what was designed to be a system that would work better. What this amendment means is that if we get to the stage where the strikes have taken place and the

Assembly has open house for causing mayhem, any number of Members could propose that a particular Ministry be created.

[10:45]

Deputy Young has said he would quite like a Ministry of Energy. Others would say: “Let us have a Ministry for Children”, others a Ministry of Justice, Ministry for the Exploration of Outer Space and so on. It could take days to form a government. It might even take weeks to form a government, depending on the number of propositions that were made. This is not sensible and I hope Members will reject the amendment.

#### **1.4.9 Senator P.F.C. Ozouf:**

I was interested to hear Deputy Martin speak of a future Chief Minister Mézec and I use that in the context of this debate. As Deputy Martin said, I was the youngest serving Member of this Assembly I think for 9 years before the arrival of the young Deputy Maçon. I think as a young Member I was regarded as a bit of firebrand. Maybe I am a bit of a troublemaker today. But there are issues and of course, with a bit of age and a few grey hairs, one does evolve in one's views. As of today, if I took Deputy Mézec, I would agree with him on social policy issues but I do not think that we could be reconciled on our economic policies. I think we would be irreconcilable and that is an important issue to come back to as to why Deputy Le Fondré's detail in the weeds, if I may politely say, of micromanagement is simply not going to work. This Assembly is not a company. That is very clear. We are a parliament, but parliaments and charities and the businesses and the way we conduct business or decisions have different styles. There are a number of guiding principles that I hold to in which amendments I am going to support and which I am not. I believe that Ministers and the Chief Minister should be concentrated and be concentrating on the things that really matter to the people's lives that we are serving. Parliaments should concentrate and there is exasperation about us talking about ourselves, and I will try and be brief. We need to find a way to be able to concentrate on the important issues that really matter, and to do that I believe that there are some guiding principles. The Deputy of St. Martin said that there needs to be a team that works. I think that a camel is regarded as something where a team of people originally started to design a horse. Nothing against camels, they are very nice animals, but the point is that you have ended up with something that simply does not work. If something does not work, it is difficult to hold it to account. I voted against the Connétable of St. Mary's amendment, although I know that she spoke extremely well, because I wanted to give some subtlety, some choice for this Assembly to express a view about a team. Having been in 3 Councils of Ministers and having been on committees before with a number of Members of this Assembly, I absolutely know that teams that cannot be put together by a leader and that are cobbled together and forced to work together ultimately do not work. They simply do not work and I would challenge Deputy Mézec, who has ideas of forming a government, let us imagine, that I was to be forced upon Deputy Mézec in terms of a Council of Ministers. I am sure that Deputy Mézec's views, as my own economic views have, will change over the years. It is irreconcilable; it is not going to work; it cannot work; it will not work. Deputy Le Fondré is in the weeds of micromanagement. He is trying to say that the Chief Minister, after having 3 rejections, or however many it is, in terms of the slate of candidates, now wants to give this Assembly the micromanagement ability, as Senator Bailhache explained, for making decisions of Ministerial offices and Ministers for Outer Space or more seriously perhaps ... I noticed with interest that Deputy Le Fondré was very interested in the Treasury job not going. I was interested in that, very interested that he takes that one. He is exasperated by it, but I note with interest. Of course, I cannot conceive a situation where there would not be a Minister for Treasury. It would be unconscionable not to do so. It is not precisely the point, if I may say. What you need is effectively a Chief Minister that is elected with the confidence of this Assembly, that has a couple of times to bring a slate but then says: “Enough is enough.” If the Chief Minister then is

given the ability to say: “Enough is enough and not out but in” and chooses to make that “in” decision, not an indecision as we are going to be making here but a decision to make that group of people, then this Assembly will in time, probably quite quickly, probably by January, say: “Oh my goodness me, this individual has put forward a slate of Ministries which are completely wrong. We are not happy with it. We are not happy with the individual Ministers, we are not happy with the individual people” and he is going to lose the confidence of this Assembly and he is going to be out. I do not favour always nuclear options but a nuclear option of saying: “Okay, you can have your slate but on your own head be it because this is clearly not the view of the Assembly and you are going to be out on a vote of no confidence because it simply is not the will of this Assembly”, that is the ability of this Assembly. The Chief Minister is not some sort of overlord, he is not the sort of individual that has been given dictatorial powers, because he is accountable to this Assembly and can be thrown out. I do not recognise this view of the world that the well-performing, good Chief Minister that we have, or the alternative of Senator Bailhache, is going to be in somehow this grace and favour situation where he is going to be putting his friends in different positions. Just to avoid the fact that we must not have him putting his friends in these positions, we must give the Assembly the micro ability to set up decisions of individuals. It is a crazy world. This is not a world that I can recognise and I do not think that it is reasonable that we get into the detail, to the micro 3 strikes, if it is 3, of Ministerial offices and individuals - I know we are talking about the offices here - and then the Chief Minister has his way or her way. I hope there may be a “her” one day; it would be great. That is the way to do it, but to go into this interminable situation ... because the final word that I would say is that you will end up with a certain outcome if that happens. You will end up with a Chief Minister that has a team of people that have been compromised and worked on with an uncertain outcome. One of the dangers of going through the individual offices is that you bank a Minister in a particular position and you do not know where a later position is, and you end up in a team that does not work because compromises have been made. That is why I want the whole slate approved or rejected, not bitten at, not amended, not compromised so that you end up with Ministers lower down in the pecking order of decisions of the States and replaced because of last minute compromises, you end up with a group of people in a group of responsibilities that simply will not work together. That is not in the interests of the Chief Minister’s ability to do it, it is not fair for the team that is charged with doing it, because they have got somebody among them who does not work. I have been on Councils of Ministers with individuals that just simply will not work and you cannot have it, so I say no to this ability of the Assembly to be given this chance of micromanaging in the weeds of Ministerial office. I hear Deputy Le Hérissier laughing. There is no joke about this. Maybe he is laughing in agreement. It is in the weeds and if we are at that stage then we have not got a Chief Minister that should form a Government. He should go and we should start again, but what we should not do is go into the weeds of micromanaging, ending up with a team that cannot, will not work and not serve the interests of this Assembly or the people of Jersey. I know Deputy Le Fondré reasonably well. I know he likes detail, but this is a detail too far.

#### **1.4.10 Deputy G.C.L. Baudains of St. Clement:**

The previous speaker mentioned weed several times. Judging by this debate, I think some people have been smoking it, but there you are. **[Laughter]** In a humorous moment, Senator Bailhache suggested a Ministry of Outer Space. Well, I thought we already had delegates there the way we are going. **[Laughter]** It seems to me aliens and this Assembly have quite a lot in common because they are usually both beyond understanding. This Assembly is expert, as we know and the public know only too well, at making a catastrophe out of a crisis, a crisis that we created ourselves in the first place. Having adopted unworkable solutions, if that is not an oxymoron, we then make things worse. Here I believe is a chance, as I think it was Deputy Young said, to make things a little less worse. What troubles me is what if the Chief Minister’s slate is rejected and it ends up

with this Assembly choosing Ministers? What will we do if the problem is the position not the people, not the candidates? How will we get out of that one? I really do not want to think about it. We need this amendment to the amendment more than some Members realise and I believe it would help the Chief Minister in such a circumstance.

**1.4.11 Deputy R.G. Le Hérisier of St. Saviour:**

Just a general point; I wish to broaden the debate. I think a lot of Members are getting utterly confused and utterly depressed. I am trying to understand Deputy Martin's stance, this sort of oscillation from total pessimism to total optimism, with Deputy Mézec as the Chief Minister in waiting. It is wonderful that she conceives of that, but I really cannot understand how this has occurred and so rapidly. I do not think we would be in the weeds and it is, I have to say, a very unfortunate or perhaps not animated metaphor, in the depths of micromanagement. I think the real thing is there is a group struggling in this Assembly in order to deconstruct the proposal, because I think there was an anticipation that the bigger one was going to fail. I do not think we brought the imaginative counterproposals or the imaginative counterbalances to the table. The only thing I can conceive of would not be a series, as Senator Ozouf quite rightly said, of minor amendments that eat away and that fragment and check power in a very minor, and to some Members irritating, sense but it would be bringing in true counterbalances. The only one I can conceive of at the moment that would reinstitute some of the trust ...

**The Bailiff:**

Deputy, do you have a phone that is causing this problem?

**Deputy R.G. Le Hérisier:**

I was trying to charge myself, Sir, because I think we need all the energy we can get from whatever source.

**The Bailiff:**

I think the Greffier may impose some other type of charge. [Laughter]

**Deputy R.G. Le Hérisier:**

There was nothing incoming. The only thing I think can bring some trust back to this debate, because that is what is destroying it as far as I am aware, this constant polarisation, would be to bring in a strengthened system of Scrutiny. That is the only thing I think can save this debate from descending into this mire.

**The Bailiff:**

Can we come back to this amendment?

**Deputy R.G. Le Hérisier:**

Indeed, Sir, and for that reason I cannot support it.

**The Bailiff:**

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

[11:00]

**1.4.12 Deputy J.A.N. Le Fondré:**

The main aim of this amendment was to try to get the Assembly to think about what we are debating today. I do not have an ego on these things. Yes, I do look at the detail because I tend to take the view that legislation in certain instances is about detail, because it is how do you follow through that process. That is my background, I am afraid. I am a qualified accountant and so I am

aware of what happens when you do get to the end of those processes and there is not a procedure in place, there is not a failsafe, and that is what it is about. It is purely about a failsafe position. Again, just to reinforce the point, all we are debating at this stage is not necessarily the merits of where we revert to immediately after the vote on this. It is the merits of whether that particular proposition is better or worse with or without the ability to change the Ministerial positions as opposed to the individuals. That is purely the choice. One of the arguments has been that we should be throwing everything out because we do not agree with where we could end up. The trouble is for me that is the roll of the dice. One has to make the decision upon what one is voting on now and then voting on at the amended amendment and then voting on on the Article at each stage. One has to accept what is best at that stage. The final decision is when we vote on the Article amended or unamended. One always has to take the view that if one does not like the unamended Article, is this better? If it is, in theory you should be supporting one of the amendments going through to make it better and then if one still does not like it then vote against the final amended Article, but do not just play that last roll of the dice because in the nature of the Assembly, we have all seen it, people's moods and people's votes shift. To an extent, I agree with Senator Ozouf when he said that the Chief Minister should go if that slate is rejected a certain number of times. That was what the Machinery of Government suggested. That is what the previous Policy and Resources and P.P.C. suggested. That is what the Chief Minister has rejected. Yes, I agree, if it was 3 strikes and you are out, we would not be having this debate, but we are having this debate because the Chief Minister has been advised not to go down that line. To gamble everything again on a vote of no confidence 3 months after we have just appointed the team in place is a fallacious argument as far as I am concerned. Again, for me, yes, in certain instances the law is about detail. I would just point out the reason for my previous amendment was to get us away from being dragged down to the weeds on that particular argument of whether we should have 3 strikes or 2 strikes or whatever. In this instance it is trying to see what happens at the end of the process. I think in reality we may not get there, but it is to have a safeguard. The default at the moment, if the amendment is not approved or, more importantly, if my main amendment is not approved, is that we are back to 3 strikes and you are in. Members are back to the point that the Chief Minister's team has been rejected 3 times. He or she could then potentially nominate that first team again and there is nothing the Assembly can do about it. That cannot be right in my view. As I said, without debating the merits of the original amendment, it is do Members consider now, when we go to the appel, that there should be a process when the number of strikes, X number of strikes, has been rejected, why has the Assembly of the day rejected that schedule? Is it because of the Ministerial positions or is it because of the individuals in that post? I am sorry, we always get these arguments about the Minister for Outer Space or whatever it is, some ridiculous thing down the line. Again, that is a fallacious argument, it is that kind of hopefully something that will never happen. If the Ministerial positions are fine then you will not have that argument because it is very simple: the Assembly just votes it through and then moves on to the individuals. It does not force it to be changed but it is giving the ability to if there is a problem. In life, there are always problems at some point, and the case is do you want a procedure in place to deal with it or not? As I said, focusing on this particular vote, if Members want the ability to amend the schedule of Ministerial posts by the Assembly, one should vote for this. If Members do not want the ability to vote for Ministerial posts after the 3 rejections or the number of rejections, then they should vote against it. It is very much I wanted to bring this to the Assembly because I think it is a matter that they should properly consider. On that basis, I call for the appel.

**The Bailiff:**

The appel is called for in relation to Deputy Le Fondré's amendment to his own amendment. I invite Members to return to their seats and the Greffier will open the voting.



**POUR: 11**

Senator A. Breckon  
 Senator S.C. Ferguson  
 Senator F. du H. Le Gresley  
 Connétable of St. John  
 Connétable of Grouville  
 Deputy J.A. Martin (H)  
 Deputy J.A.N. Le Fondré (L)  
 Deputy S.S.P.A. Power (B)  
 Deputy T.A. Vallois (S)  
 Deputy G.C.L. Baudains (C)  
 Deputy J.H. Young (B)

**CONTRE: 30**

Senator P.F. Routier  
 Senator P.F.C. Ozouf  
 Senator B.I. Le Marquand  
 Senator I.J. Gorst  
 Senator L.J. Farnham  
 Senator P.M. Bailhache  
 Connétable of Trinity  
 Connétable of St. Clement  
 Connétable of St. Peter  
 Connétable of St. Mary  
 Connétable of St. Ouen  
 Connétable of St. Brelade  
 Connétable of St. Martin  
 Connétable of St. Saviour  
 Deputy R.C. Duhamel (S)  
 Deputy R.G. Le Hérisssier (S)  
 Deputy G.P. Southern (H)  
 Deputy of St. Ouen  
 Deputy J.A. Hilton (H)  
 Deputy K.C. Lewis (S)  
 Deputy M. Tadier (B)  
 Deputy E.J. Noel (L)  
 Deputy A.K.F. Green (H)  
 Deputy J.M. Maçon (S)  
 Deputy of St. John  
 Deputy J.P.G. Baker (H)  
 Deputy S.J. Pinel (C)  
 Deputy of St. Mary  
 Deputy of St. Martin  
 Deputy R.G. Bryans (H)

**ABSTAIN: 2**

Deputy N.B. Le Cornu (H)  
 Deputy S.Y. Mézec (H)

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

Sir, before we proceed, could I apologise to the Assembly but myself, Deputy Hilton, Deputy Rondel and Deputy Higgins will be absent attending a funeral for a short while.

**1.5 Draft States of Jersey (Amendment No. 8) Law 201- (P.33/2014): seventh amendment - part 3 (P.33/2014 Amd.(7)) - Article 3 - resumption****The Bailiff:**

Very well. We return to the debate upon Deputy Le Fondré's seventh amendment, part 3. Deputy Le Fondré had proposed it and Deputy Vallois had spoken on it seconding. I had seen 3 other Members. I do not know whether they still wish to speak. Senator Farnham?

**Senator L.J. Farnham:**

No thank you, Sir. I rather cleverly made 2 speeches.

**The Bailiff:**

Deputy Southern, I had you listed previously. Do you wish to speak at this stage? We will start again.

**1.5.1 Deputy G.P. Southern:**

I think I have had my contribution, Sir, and I think Members know exactly what I think we should be doing; considering very carefully giving more power, unaccountable power to the Chief Minister before we go any further. So I advise everyone to reject the compromise amendments and to vote against the central amendment.

**The Bailiff:**

Does any Member wish to speak on Deputy Le Fondré's amendment?

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

Just to be brief, I will be supporting this amendment. My reason for that is I think it is unacceptable to have a situation whereby the Chief Minister, after having successive teams rejected by this Assembly, is allowed to appoint whoever he wants into the position of Ministers. I think if it does get to that stage, and remember it would have to be after a prescribed number of times but notionally 3, or whatever this Assembly decides in good time, we do not want the situation whereby we are Belgium and we are going through the situation of trying to get people into positions. To revert to the situation whereby we go to the system where the Chief Minister will propose a candidate, the Assembly can, if they want to, propose alternative candidates and finally get people into Ministerial positions is a much more satisfactory position than to be in the situation whereby the Chief Minister can just have whoever he wants after the Assembly have rejected them. I think that unfortunately we seem to have strayed away from the notions and the principles that, when elected to this Chamber, I like to think that the majority of us do what we can to work together on behalf of the people of this Island and sometimes you do have to compromise. You have to be diplomatic in order to get things through and you have to work as a team. Therefore, I think if we do get to that situation that whoever finds themselves in the collective of the Council of Ministers should have to try and work as that team. But if that situation becomes untenable, there is absolutely no reason why whoever is Minister cannot turn around and say: "Well, I have tried and I am going to resign because I just cannot work with the rest of the team." That option is always there. I know that in some circles a retention of a title is very important to some Members but I think we have to think about what is best for the people of this Island. Therefore, I will be supporting this amendment.

**1.5.3 Deputy M. Tadier:**

Very briefly, if Members think that it is such a good idea that the Chief Minister should be able to pick his team and that the Assembly should not be able to amend that, then what we need to do is simply this amendment does not matter, when it gets to the final Article, adopt that. If like me, however, you think that what we should be doing is, and it is such a good idea as the fall-back position, to allow the Assembly to decide, then it is presumably such a good idea that we should be doing that anyway. Why wait for 3 attempts to then be thrown some crumbs and say: "I cannot decide. Let the Assembly decide"? It has to be one or the other and I come down on that side. This does not do anything for me. It is aesthetic. If anything, it makes the Article more likely to win because it gives the illusion that some kind of compromise has been given to the Assembly when in fact nothing materially of significance would have changed. So for me the fundamental is that the authority should remain with the Assembly. After all, the Chief Minister is still putting his preferred choices down. The influence of the Chief Minister is still very much known and it is very much simply that we will be able to amend. So this is not the right way to do it. The best of intentions, it does improve the Article but not to the point of any substance. Therefore I will not be supporting this.

**1.5.4 Deputy G.C.L. Baudains:**

I think Deputy Tadier, the last speaker, and Deputy Southern, as far as I understand, are of the mind that if you amend it you make it slightly less worse and it might just get through, so the answer is

do not amend it, leave it as bad as possible and it will get rejected. There is a great danger in doing that in that it will get through and it will not be improved. It does seem to me that unless we accept this amendment, the Chief Minister could simply impose his team. He will bring forward a team and he will keep bringing back the same team 3 times and on the last time simply impose it. With the present incumbent I am sure that it would not happen but, as Deputy Higgins pointed out earlier today, we do not know who a future Chief Minister might be. As Senator Le Gresley pointed out even earlier this morning, if we have a situation like that it makes this Assembly redundant. We have no influence in that area at all. I think we should be approving the amendment.

#### **1.5.5 Senator L.J. Farnham:**

I have just changed my mind briefly. I was not sure if Deputy Maçon mentioned this or it has been mentioned already, but of course the problem is the other way round. If the schedule of a Chief Minister Designate is not acceptable to the Assembly and they force a schedule on the Chief Minister, then it equally could be unacceptable to the Chief Minister Designate and so the whole process starts all over again, if that is what happened.

#### **1.5.6 Senator P.F.C. Ozouf:**

The main issue why I cannot support the amendment is that teams have to work. Teams that have effectively come about as a result of compromises and political decisions to appoint people for various different reasons is appealing, it sounds good, it is attractive but ultimately it will not work. I say, with the greatest of respect to Deputy Maçon, in my experience, having been on committees and on 3 Councils of Ministers, a Minister that cannot work with the rest of his colleagues does not resign. They stick there and they cause significant difficulties to the team and that is not in the interests of Jersey. This is very appealing. It is difficult and it is sensitive but ultimately I believe that the Chief Minister, after 2 or 3 attempts at a team, needs to have a team that in his or her judgment can work.

[11:15]

The consequences of adopting this amendment means that it is likely that you will not have a team that works and therefore this amendment should be rejected, with regret.

#### **1.5.7 Senator S.C. Ferguson:**

I think I have just joined Deputy Southern in his alternative universe. I am sorry, I have never heard such rubbish in my life. Whatever position you are in in this world, whether it is a committee, whether it is a board, whether it is a department, you have to work together, and to be talking like this about: "Oh, we cannot work together" is so precious. I am sorry, it is not realistic. This is a perfectly reasonable amendment and I support it.

#### **1.5.8 Connétable P.J. Rondel of St. John:**

Just listening to the Minister for Treasury and Resources, and he will not like it, but reverting back to committee systems and things did or did not work, we used to see, having sat through many debates when we were electing committees, that the president of the day would choose 6 of his cronies. This is what the Minister for Treasury and Resources is telling us, he wants all his cronies in. The House knew better. They would always replace one or 2 of those cronies with people with alternative views so you got a balance in any committee. I would expect the Minister to make sure that he had a balance of views within any cabinet, not people who are all like-minded so we do not get good government. You only get good government when you have all views and I would like to think that you may not agree with a lot of the views of somebody like Deputy Southern or people from the left side of the House or somebody totally to the right or somebody from the centre but they would be brought into the various ministries to give a balance to the Council, not have just a group of people all like-minded following one course, because that will not be for the benefit of the

Island. I am going to support this proposition because I do not like, in fact I take personal offence to what the Minister for Treasury and Resources said. Like-minded people? Honestly, I cannot believe what I heard him say there, a person who I believe does a reasonably good job in many of the difficult situations. It keeps him sharp by having people who can challenge him. If you are going to have people all like-minded, he is going to lose that cutting edge. Anyway, I have said sufficient.

**1.5.9 Senator I.J. Gorst:**

Very briefly; I do not want to drag it on. I understand what the Connétable of St. John is saying about like-minded people. I tried, when putting together this Council of Ministers, to bring together people from the political spectrum. Some will accept that and I see some Members are raising their hands. Within a range, of course, perhaps I should have said. In bringing forward that political spectrum, equally I wanted to bring forward people who could work together, because that is critically important. For me, this amendment is about whether the Assembly wants to hold the Chief Minister to account for what is happening in the Council of Ministers and have a Council of Ministers that you know can work together, even if they come at the start from different elements on the political spectrum. That is good, that should be the case, but the Chief Minister should be held to account. For me it is simply that question: do we want to do that or do we want to revert? I understand the problem of needing a failsafe position, which is why I put this proposal in which is different from what the sub-group recommended and we have had that discussion. For me, it is simply whether one wants to hold a future Chief Minister to account in an appropriate way or not.

**The Bailiff:**

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

**1.5.10 Deputy J.A.N. Le Fondré:**

I thank all those who have spoken. The choice for Members now is either the original Article, which is what we are referring to in shorthand as 3 strikes and you are in, or X strikes if you prefer, and we are looking at the scenario always that the slate has been rejected 3 times. It comes down to what are Members' views in relation to the view or the influence of any future Assembly. The team has been rejected 3 times and the Chief Minister then comes back and says: "Actually, I quite like my first choice and that is where I am going." Is that acceptable or not? They may like the Chief Minister, there is no question, but they may not feel that the team that he is putting forward has the right balance. On voting for this amendment, the failsafe changes that after the third attempt, which has failed, the Chief Minister puts a fourth list forward that can then be amended under the process that we basically follow now. That is it. In my view, and I think the Constable of St. Mary was in agreement, the "3 strikes and you are in" summary was not satisfactory. It was not a good process. This is a compromise, there is no question about it, but in my view it is about the ultimate authority of the Assembly. It is respectful of this Assembly, whereas in my view the present proposals under the present Article unamended is basically a pointless exercise, which is where the Constable of St. Mary was coming from. As I said, I note that P.P.C. do support this amendment. I was going to make one other comment to address one of the remarks that was made, but I think it is in the hands of the Assembly. Either one supports this amendment as an improvement to the original Article, and then one can debate the merits of that Article, or one thinks that the present Article is better unamended. Obviously I shall be supporting the amendment and I hope Members will support me.

**The Bailiff:**

Do you ask for the appel, Deputy?

**Deputy J.A.N. Le Fondré:**

Yes, please, Sir.

**The Bailiff:**

The appel is called for in relation to the amendment of Deputy Le Fondré, that is part 3 of the seventh amendment. I invite Members to return to their seats and the Greffier will open the voting.

**POUR: 19**

Senator A. Breckon  
Senator S.C. Ferguson  
Senator B.I. Le Marquand  
Senator F. du H. Le Gresley  
Connétable of St. John  
Connétable of St. Brelade  
Connétable of Grouville  
Deputy R.G. Le Hérisier (S)  
Deputy J.A. Martin (H)  
Deputy of St. Ouen  
Deputy J.A.N. Le Fondré (L)  
Deputy S.S.P.A. Power (B)  
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

**CONTRE: 23**

Senator P.F. Routier  
Senator P.F.C. Ozouf  
Senator I.J. Gorst  
Senator L.J. Farnham  
Senator P.M. Bailhache  
Connétable of Trinity  
Connétable of St. Clement  
Connétable of St. Peter  
Connétable of St. Mary  
Connétable of St. Ouen  
Connétable of St. Martin  
Connétable of St. Saviour  
Deputy R.C. Duhamel (S)  
Deputy G.P. Southern (H)  
Deputy J.A. Hilton (H)  
Deputy M. Tadier (B)  
Deputy E.J. Noel (L)  
Deputy A.K.F. Green (H)  
Deputy of St. John  
Deputy J.P.G. Baker (H)  
Deputy of St. Martin  
Deputy R.G. Bryans (H)  
Deputy S.Y. Mézec (H)

**ABSTAIN: 0**

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

**The Bailiff:**

We now return to the debate upon Article 3 as unamended therefore. Therefore, I invite Members to speak to Article 3 as proposed by the Chief Minister. Does any Member wish to speak on that Article?

**1.6.1 Deputy J.G. Reed of St. Ouen:**

Just a couple of points. I think that many States Members here today are really struggling to understand where is the evidence that supports all of these amendments, where is the proof that change is required and what are the implications. I think that Deputy Le Fondré and the Constable of St. Mary and others are highlighting some of the implications for this amendment. In particular, I would like to raise one and that is the issue of a Chief Minister determining how many Ministerial positions there will be, because the reality is that regardless of what the present Chief Minister may think and regardless of a positive outcome in the next election, generally up to now we have seen new Chief Ministers arrive at every election term. Two things could follow and flow out of this: the new Chief Minister, whoever it may be, might choose a particular set, or suite as is being used, of Ministerial positions and in 3 or 4 years' time the next Chief Minister might choose a different suite. The 2 implications that come to mind that need to be considered are, first of all, what would be the likely or potential impact on the service users, the public about those potential changes, regular changes? There is no consistency, no clear format and stability about the departments that will be there. Equally, what about resources and staff? How on earth are you going to be able to

create, develop and provide services around a particular department and Ministerial responsibility when there is no certainty that in the next term it will be the same? This is just one of item of many that are raised and come up within this part of the proposal.

**1.6.2 Deputy J.H. Young:**

Could I ask for clarification? The vote we are about to take on this item, is it on the basis that is now that we have adopted the amendment in it that there will be 7 Ministers and is it that the number of strikes, as it were, is to be prescribed? Can you clarify that, Sir?

**The Bailiff:**

Yes. The Assembly has agreed the amendment of the Chief Minister himself so that there is a minimum of 7 Ministers and the Assembly has agreed the amendment of Deputy Le Fondré so that it is a prescribed number rather than 3. With those 2 changes, otherwise the Assembly is considering the proposition of Article 3 in the form put forward by the Chief Minister; in other words 3, or whatever number it is, attempts to get approval of a slate and if that is unsuccessful then the Chief Minister brings forward his slate and that is final. The 7 Ministers was in Article 2 yesterday.

**Deputy J.H. Young.**

Thank you. Can I continue speaking, Sir?

**The Bailiff:**

Yes.

**Deputy J.H. Young:**

I only wanted to highlight one matter here in this mini debate, as it were. Obviously it is a crucial decision whether to completely hand over power to the Chief Minister within the framework you have just summed up or retain some power for the Assembly. As a member of the Machinery of Government Subcommittee, I am quite clear it was never the consensus of that group, never, never, never, that there would be no influence of the States Assembly on that. Having spent many hundreds of hours on that, thrashing out compromise, I feel pretty upset that that disregard has been paid and that we are at the point of effectively being asked to neuter the States Chamber in this matter. Nothing can be more important than the structure of our Government. I think one other matter I would like to say, as I said earlier, is I am in favour, always have been, of the flexibility of the number of Ministers. I have been criticised for it because I might want an Energy Minister, other Ministers want a Children's Minister and the people may want a Minister for Youth. I think the whole point of having that flexibility is that the Government can be structured in a way, and this is crucial, that meets the political priorities. Where will the political priorities come from? It is the Strategic Plan that the Chief Minister produces. In the future there may be party politics and there may be a connection with the electorate, which is missing now, maybe. This system that we are approving will be around for a long time. I will not be in this Assembly. There will be younger Members and who knows what complexion that will be. So this is a really significant decision. I shall not be supporting it. I shall be voting against this part, having said that I favour the flexibility about having a reshape of ministries. Later on we will be talking about Assistant Ministers and I believe that we should not have such a structure, that all Assistant Ministers should be effectively Ministers and I should be able to ask questions of them; they should be accountable for what they do and not hide behind Ministers.

[11:30]

Part of the arrangement of this Article which gives the Chief Minister the ability to propose a new structure of government I favour, but that is completely overridden by the point we have arrived at,

which is completely contrary to the Machinery of Government Subcommittee that spent years. It is completely contrary, I would suggest, to all the working parties there have ever been in this place on this subject. Members who are not in this House anymore spent equal amounts of time and passion on; it is completely contrary to that. That absolutely overrides and I feel regret and very upset that constructive proposals that would help achieve government are being messed up because they contain undemocratic, anti-democratic elements that I just cannot support, so I am going to vote against.

### **1.6.3 Deputy T.A. Vallois:**

I am going to repeat a comment that many people will have heard in relation to Scrutiny over the last few years and that is the one of the Government only pay lip service to Scrutiny. That is exactly what the Chief Minister is proposing in this Article unamended is paying lip service to the States Assembly. Like I said, it may have been at the wrong time, on Deputy Le Fondré's amendment, that was a very easy compromise. For me, it was a case of 3 strikes and an out, and because it is my expectations of what that Chief Minister's capabilities are, not whether they are a nice person or the best person since sliced bread. They might have the best personality in the world but the worst decision-making assessments you could ever find. So this has left me in an extremely difficult position because the Chief Minister knows that there are certain compromises I have had to make. I was part of the Machinery Subcommittee and we spent hours on this particular subject. I have paperwork coming out of my ears on all kinds of different ways to try and achieve this and now I just do not feel I can support any of it at all. So I am sorry, I am going to have to vote against this Article as it currently stands.

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

We are in a position, I think, where when we came into it we knew what we had. It was being proposed 3 strikes and you are in. Now, if I understand correctly, we have X strikes and you are in. So we do not even know how many strikes we are talking about. We have allowed an amendment that has been passed by this Assembly to make it less certain. We have taken out the certainty, whether or not it has made it any worse or better. Clearly it could not make it any worse. The question I would ask is does the number of strikes make a material difference to this Article. I would say absolutely it does make a difference. That X, of course, could be anything from zero to 17, which seems to be the number that Deputy Southern likes for some reason, or 42 which is a significant number in literature. Let us imagine we have no strikes and you are in. That is essentially what the Constable of St. Mary is asking for: no strikes and you are in; the States Assembly does not get to choose. One strike and you are in; that is compelling for a lot of people. That is seen as a good compromise because it gives the Chief Minister one chance to get it right, so to speak, but of course it is not him getting it right. It is the Assembly having to approve the choice, so it is not simply a question of right and wrong. It is a question of consensus or 3 or 5, that makes a big difference. So I am wondering why we are passing this when there is a big question mark now over what we are passing, and who decides? Are we going to decide on P.P.C.? If it is left to P.P.C., the majority of whom do not even agree with this, we will decide perhaps zero or one, whereas in fact the bigger issue is the strikes and you are in part. I cannot find anyone who can put forward an argument as to how that is the best option or how it makes any sense. It is because simply no one seems to be willing to make an ideological decision. Do we simply allow the Chief Minister to pick a team and go on and do it and accept the fact that this Assembly, as Senator Le Gresley said, although I do not like the term so I will not repeat it, has lost its power and given up that power voluntarily? Moreover, it simply has not even fought for it as you would expect in other parliaments and even in other unions, for example, for it to be said: "We are going to cut your privileges, we are going to cut your terms and conditions and we are going to make your boss even more powerful." "Yes, that is absolutely fine with us." Certainly other parliaments

would not accept that kind of thing, but here there is a great amount of uncertainty. I am in the position now of wondering where this leaves us. I do ask for a reference back on the grounds of (1) finding out exactly how many strikes we are talking about here and (2) finding out why the X strikes and you are in is better than any option, because I do not think it is. Where does that leave us? It clearly delays things but it does give the Chief Minister a chance to come up with something sensible. It gives him a chance to define how many strikes, whether that is one or 3 or zero. It would probably have to be more than zero because we have already rejected the principle. Also to say how to amend it so it says "X strikes and you are out", because that seems to be the logical position. As Deputy Young said, it was never the intention and it was never put forward by the Machinery of Government, and I do not think anyone else, the X strikes and you are in. That has just come completely out of left field. It is completely illogical and it obviously still leaves the door open for a vote of no confidence anyway. So it simply does not make any sense. I accept the very theoretical and esoteric arguments that are being put forward that it stops you slipping into this whatever Sicilian scenario - we change the geographical location every time - but it does not make sense. On the basis whereby I think rejecting the Article is going to put us in the same position anyway, or perhaps be even more divisive, I will be asking for a reference back on this Article, first of all, to establish in advance how many strikes we are talking about and also to ask the Chief Minister to give us more information as to why the 3 strikes and you are in option is the most viable option, although I accept that last point might be slightly less strong.

**The Bailiff:**

I fear that I do not think it comes within Standing Orders, Deputy. The first one is that the Assembly has just decided that the number will be such as it decides later in Standing Orders, so the Chief Minister cannot give any further information. It will be whatever the Assembly decides in Standing Orders and that is a decision the Assembly has taken, so it is not an inadequacy of information in the proposition. It is simply a consequence of a decision the Assembly has taken. I do not see that that is further information relating to the proposition. The second one, more information about why he has gone for 3 strikes, he has produced his report and he has given his reasons. I have not heard anything that suggests that there is further information required. Maybe people do not accept his reasons. That, of course, is a very different matter and people will vote accordingly, but I cannot at the moment see it comes within Standing Order 83. I am sorry, I cannot allow it.

**Deputy M. Tadier:**

Thank you for that clarification. I always thought it was on slightly shaky ground anyway. **[Laughter]** Although, of course, there is an issue insofar as bringing an amendment like this does change the game in many ways because what is being proposed by the Chief Minister is not now what he is having to stand by. He has got a choice of either presumably to stand by it even though there is an added level of uncertainty or to reject it, which I do not think he can do anyway. I feel that this Article now has been made even worse, the uncertainty has been put in there even more so, and I think it leaves the only option is to reject this Article and for something better to come back in its place that we can all buy into and come back. Hopefully, wherever you sit in this Assembly, we all accept that this Article is not the best that it possibly could be and we should not be passing things in this Assembly that are essentially substandard.

**1.6.5 Deputy G.P. Southern:**

I have very few fears about the concept of putting the number X into Standing Orders because the universal law of strikes, as everybody knows, is 3X plus one equals 10, i.e. it is 3 strikes. But as I have been repeating throughout this debate, what we have to come back to is the fundamental. We are asked by the Chief Minister to give him additional powers and to remove the accountability that



he has when it comes to selecting Ministers, to remove our control, our say in that process. I do not see evidence - a favourite Scrutiny word - produced by the Chief Minister that it is impossible to work with what we have got now. The status quo has worked in the past. I hear and I see evidence that this Chief Minister has found it slightly difficult as he has progressed through the years in this session to the extent that he threatened to bring a motion of no confidence in one of his Ministers. He was having a problem. Nonetheless, he would have to bring that back to this House if he wanted to remove that Minister, but in the event he backed away from that. He resolved his difficulties. I am not hearing it is impossible to be a Chief Minister and lead a Council of Ministers under this current system, so why the change? It really is, I think, anti-democratic and it is unaccountable and it opens the door, not with this reasonable man, this reasonable Chief Minister, but possibly with another, to charges of basic cronyism; he only picks his mates where he knows he is going to get yes answers and not a real tough argument about his policies. That, I would argue, should not be allowed to happen. It is about, and it always will be and all politics is, a balance of power between the Executive and, in this case, our Assembly. I cannot say it strongly enough, I urge Members do not give away one iota of your powers, of your means by which you can hold a Chief Minister and a Council of Ministers to account. I do believe that is a very dangerous path to take. In terms of individualising it, it is all very well to talk about the big words but look round the Chamber and think to yourself about people with ability that you might want to see in a Ministerial government as Ministers. I will bet everybody in this room can look round and see 3 faces, perhaps more, that you know have ability and can deliver but may not be in a Chief Minister's best books. I can name 3 now. Senator Breckon, Deputy Martin and Deputy Young should all be Ministers, have abilities, can deliver. I know because I have worked with them, and yet some of those may be overlooked next time round. Would you want to nominate them for a particular Ministerial post where you know they have experience, they have abilities?

[11:45]

You might want to do that. With this amendment, if you go with it you give up that possibility, say: "Not for me to nominate." Three strikes, the Chief Minister gets what he wants with or without able people that you know are waiting and could do a good job. Do you want to give up the possibility of you nominating somebody else to deliver on the grounds that you know they hold dear and can have ability in that area? Do not give up that right. Please vote this amendment down. It is very, very dangerous.

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

I think this is the whole crux of this debate. As I say, it was very worrying today where I thought I had sleep walked through it when I was told this morning that we had already given this to the Chief Minister to come in November. I thought to myself this cannot be right and then I found out, no, it was not right. We are discussing this today. On all the amendments, if I hear one more grown-up male politician telling me that he cannot work with somebody he is told to work with because we would prefer it because they have the ability, go home and go and chuck your sweets out of the pram somewhere else and your dummies and whatever goes with it, because that is what you are saying: "Isn't it bad? Isn't it tough?" Look what has happened in the U.K. (United Kingdom). Conservatives and Lib Dems have had to work together for 4 years. Did the world stop? No. They have moderated all of their policies. Yes, there are still political arguments but it works. The last time it worked very well was in the Second World War and because they picked the best of the best to work together out of all the parties. **[Approbation]** We are not a party but we have better people, and I thank Deputy Southern to think I might be there. I do not do it for people. I really wish people would get out of their heads this nice Mr. So and So, nice Senator So and So. As you say, this is a structure that has to work with whomever is in it. We can all sit back and say: "We trust him. Let him pick his 7 or 6 or whatever", but what if you do not? The

fundamental thing that the Constable of St. Mary said today, and I reminded her yesterday, is she fully understood mMinisterial government. She understands. She is not in the Government. She sits in the Legislature. Do all you other Constables believe that? Do your parishioners believe that? I think you should go back to them and tell them: "At least I cannot take a Ministerial position because I am too conflicted with my heavy Parish duties." I totally accept that, but I want to have a say in who is in your Government and I can do that by nominating, listening to their policies and having a good debate in the House in November when we pick the Chief Minister. If you pass this Article today, that has gone. You will all have to go back and accept, like the Deputy of St. Martin, Deputy Pinel, think this is great, give it to the lovely new whoever it is Chief Minister. They will pick the best team because they can work with them. As part of this "Government", you will have no say because you can throw it out 3 times or whatever we decide and then the Chief Minister is still in and he can bring back any, pick 2 from there, pick 2 from there, pick anybody he wants. No say in this House, so this is so important. Do people elect you? Do we have the Constables in the House because they say: "I am in there to represent my Parish in the States Assembly as part of the Government"? Do their parishioners understand the difference? If they vote for this today they are going to have a lot of explaining to do because they are absolutely saying: "I have no influence at all, no influence at all. I cannot be in the Government because of this, that or the other or I might be an Assistant Minister, I can do that, but I cannot take on being in those 7 positions and now I am not even going to have a decision on who those 7 positions are." It is fundamental to the makeup of this Assembly. It is fundamental to what you believe you are in this Assembly for, and this is the last ditch amendment really. We cannot give this much power into the hands of a position. It is not a person. We do not know who they will be. We might have a good idea who it will be this November. Do you know for 4 or 5 years' time? You do not have any idea, so do not just hold your nose and say: "I think this, I will vote for this" and let it go through. This is a fundamental amendment to the way we have done it in a very early parliament. People have to work together. If they are not grown-up enough to work together, I totally agree with Deputy Vallois they should not be there. If you do have a woman Chief Minister and there are more than 7 women in here, we should all be there because we would get it done fast and how bad would that be? **[Laughter]** Senator Gorst is agreeing with me. This is not really anything to laugh at. It is so fundamental on this whole collective ... all right, so you have made it collective. You have already done that Article. If this is lost, it comes back to where Deputy Tadier was: does it all still hold together? Personally I think it does and it should. Grown-up politicians who cannot work together have to just keep resigning. Maybe we should have had a lot more resigning. It was pointed out yesterday - is it not funny or is it just coincidental - I have total respect for Senator Le Marquand and Senator Le Gresley's principles, that they have both declared they are not standing next time so were they quite free to then speak against this Council of Ministers, speak against and not vote with? Is it coincidental? It probably is, because fundamentally I agree that they are both men of high principles and I get the truth from both of them. Even though they are leaving, they cannot agree with this going through, so it is something very bad. There is a very bad smell about it. As I say, you really have to fundamentally think what you are going to say to your parishioners about what part you play in Government: "No, I am only there to make sure the laws go through or that 'i' is dotted and it works at the end of the day", or am I there to elect the Government of this Island even if I am sitting there as a Constable *ex officio* to the States? Am I going to do that? Have a really good think about that because if you do not go and tell your parishioners that you abrogated that responsibility, somebody else will do and it is not far away.

#### **1.6.7 Deputy G.C.L. Baudains:**

Picking up on the final comment of Deputy Martin, I have to agree. My parishioners did not elect me just to keep the seat warm. They elected me to have an influence on their behalf in this

Assembly and we are doing away with the ability of Members to do that in the future minute by minute. The Constable of St. John, probably about half an hour or so ago, spoke about the need for having a diversification in the Ministerial team and I agree. I think it was shortly afterwards the Chief Minister spoke of the need to have a team that would work well together. Well, yes, but what if he, or indeed a future Chief Minister, decided it was easier to have a like-minded team, as Prime Minister Thatcher did at one stage and I think it was not very beneficial for the Conservative Party? Would the Assembly have confidence in the Council if they had the Ministers imposed on them? It seems to me this Assembly would end up getting bogged down even more than it does now with conflicts between Members and the Executive. Another item that Deputy Martin alluded to was working together. What about the important interface between Ministers and Chief Officers? The Chief Officer gets the Minister imposed on them. They have to work together even if normally they might not have got on. Why should the Council be any different? Finally, I thought Senator Ozouf made an interesting comment earlier. As I understand it, he believes the Chief Minister should have the absolute right to select his team, in which case the Senator would now be a Back-Bencher. That is a good example, in my view, where the Assembly made a better decision than the Chief Minister. Consensus is always better than one person's opinion and it is generally called democracy.

#### **1.6.8 Senator F. du H. Le Gresley:**

After the barnstorming speech from Deputy Martin, there is not really a lot to say if you are against Article 3. I did have some thoughts I was going to use when we have the Third Reading, because we obviously will get to the Third Reading, but Deputy Martin has spurred me to stand now and share those thoughts with the Members because Article 3 is really the most dangerous Article that this Assembly probably has seen in the last 50 years. Why is it dangerous? We have heard all the reasons from those who oppose it and I do not propose to go through them again, but it is dangerous about democracy in Jersey. What I am going to do now is appeal, and I appealed before when we were dealing with the principles, to those who voted for this debate, i.e. for the debate to move beyond the principles. There were 25 of you. We now know that Deputy Vallois, who was one of those who voted for the principles, is going to vote against Article 3 and I would suggest that there should be some other Members who must be questioning the wisdom of Article 3, despite the fact that they were in the 25 who voted for the principles. **[Approbation]** Whenever I look across this Chamber and I see Deputy Mézec it reminds me of the days I had long hair. **[Laughter]** In fact, I think it was almost exactly the same length and the same colour, although you would not believe that today. But one of my favourite pop groups at the time was The Who. I hope some of you still know who The Who were, but they were a famous rock band who competed with The Rolling Stones for popularity. They had a song, which I looked up this morning, and it was called *Won't Get Fooled Again*. Why am I telling you about *Won't Get Fooled Again*? Again, I am appealing to the 25, actually it is now 24, who voted to carry on with this debate: do not get fooled again. The song was written by Pete Townshend. You may have heard of him. He was a member of the group and the song was about revolution. Townshend felt that revolution was pointless because whoever takes over is destined to become corrupt. I am going to finish by reading. There is a refrain in this song *Won't Get Fooled Again* but it is the last verse that I want to read to you: "I will tip my hat to the new constitution, take a bow for the new revolution, smile and grin at the change all around, pick up my guitar and play, just like yesterday, then I will get on my knees and pray we don't get fooled again, don't get fooled again. No, no." **[Approbation]**

#### **1.6.9 Senator B.I. Le Marquand:**

I rise to agree with Senator Le Gresley that this is a very, very big decision that we are making today, a fundamental change in the structure of this Assembly whereby the Assembly effectively

will give up control over the identities of individual Ministers to the Chief Minister. I view the X strikes, or whatever you want to call it, as being purely cosmetic because, unlike other Members, I think that we are going to get down to the final stage far more often than people realise. That is not expressing a cynical view in relation to individual Chief Ministers who may genuinely try to identify a consensus group. It is the practicalities of the system that we have set up and I am going to give 2 examples of the way in which it will be incredibly difficult to come up with an acceptable package. What if you have really no clear candidate for a particular Ministry, and indeed there are perhaps 3 people, perhaps even 4?

[12:00]

I remember the election in 2008 of the Deputy of St. Ouen when there were 4 candidates for the Ministry and absolutely no clear frontrunner in relation to that. I thought the Deputy was going to go out on the second ballot but when he did not I knew he had won because of the peculiarities of the voting patterns. Let us say we have that situation, a 3 or 4-way split? The Chief Minister chooses one but then the ones who want the other 3 say no. He chooses another. The ones who want the other 3 say no. He chooses another and so on and so forth. That is the first example which I give of the practicalities. There is a second one. Let us say that the Chief Minister does not get his package through on the first round and so he does what any sensible Chief Minister does. He rings up those who did not accept him and says: "Why did you not accept it on the first round?" and they say: "I did not accept it because I was not happy that Senator Freddy", and no reflection on my former colleague who used to sit next door to me, "was going to be Minister for Such and Such. I think it should be somebody else." He rings up a number of different people and they say the same thing. There is a clear pattern in relation to that. People do not want those who did not support. So he then adjusts, takes somebody out, puts somebody else in and then finds that a whole lot of people who had supported his package the first time round do not the second time round. Why? Because they do think that Senator Freddy should be there. That is the sort of pragmatic difficulty that is going to arise in trying to achieve it. So I think we are going to arrive at the endgame in most cases - I will not be there for that, of course, but I think the Assembly will arrive at that - and the endgame is simply this: the Chief Minister decides who he wants. In practice, if I can borrow the *Won't Get Fooled Again*, although I am not quite sure when we were fooled the first time, do not be fooled that this cosmetic process is going to achieve a result. I do not think it is. I think it will come to the endgame. At the end of the day, it is a fundamental change to our constitution. Without any consultation with the public of this Island [**Approbation**] absolutely no consultation with the public of the Island, we are going to create the situation of a Chief Minister who can entirely choose his members. If that Chief Minister is a very amiable person, such as our present Chief Minister, who has chosen a balanced Council of Ministers to seek to reflect the makeup of the States all well and good, but if it is a Chief Minister who has chosen a Council of Ministers that will fundamentally be aligned with him and agree with the direction and will be able to push things through, using the majority that they have, then that will be a very sad day for this Island. So, I cannot support this Article and I fear for the future of our democracy if it is supported.

**The Bailiff:**

Does any other Member wish to speak on Article 3? No. Then I call upon the Chief Minister to reply.

**1.6.10 Senator I.J. Gorst:**

I am not quite sure where to start. I think that the debates on the 2 amendments and on the substantive Article 3, as I am proposing, it really covered all the points and those that perhaps were supporting some of the amendments are now urging Members to reject this Article in its entirety.

As I said in my opening comments, moving the principles, I believe that what we are trying to do and what these changes, which were based on the recommendation of the Machinery Subgroup, with the difference, as I have made absolutely clear and many Members have made absolutely clear, of the final failsafe provision ... I felt that that final failsafe provision was important because we could not have the situation where we had no Government for any period of time, like some other countries do and, although it is only a theoretical position, it is important that we have that. These changes, this ability for any future Chief Minister ... and I accept that those people who said this is not about personalities are absolutely right, it is not. It is about anybody who in the future will be in the office that I am honoured to hold at this point. Those people who hold this office should be held more to account by this Assembly and by the public than is currently the case with the system that we have in place. There is and there has been a tension in the debate about whether that accountability ... the States wants to retain the ability to appoint Ministers and, therefore, dilute that accountability, and I accept that argument. That is a legitimate position to take, but then this Assembly cannot fully and appropriately hold the Executive to account. I think that is incredibly important. I think if we have learnt anything through the 3 terms of Government it is that there has been a sense of frustration that the Executive has not been able to be held properly to account. I think it is important that we change it so that it can be, so that a Chief Minister can be held to account. I am put in mind of my own Deputy and his role in the Corporate Services Scrutiny Panel. He does, with respect, try to hold me to account for the actions of every single Minister around the Council of Ministers table. I have endeavoured to do my best to make sure that Government policy moves forward together in a co-ordinated way, but when the fundamental legislative position underlying that means that you are then reliant on the personality of a person rather than the structure underneath, there is the potential for problems. I believe that if we put this in place the Council of Ministers and the Executive will be more accountable; the Chief Minister will be accountable. There will be a mechanism and a process underneath which will enable this Assembly to hold that individual to account. Surely, that accountability, that effective and efficient Executive that we want to see delivering on behalf of the public, is something that we should support. Therefore, I do not want to say too much more. It is quite clear. We talked about it in the principles as well. We have discussed it, rightly, at length because I recognise that some Members have concerns, but for me, on balance, it is creating an Executive which is accountable, which can be more effective and more efficiently deliver for the public of this Island.

### **The Bailiff:**

The appel is called for then in relation to Article 3. I invite Members to return to their seats and the Greffier will open the voting.

#### **POUR: 20**

Senator P.F. Routier  
 Senator P.F.C. Ozouf  
 Senator A.J.H. Maclean  
 Senator I.J. Gorst  
 Senator L.J. Farnham  
 Senator P.M. Bailhache  
 Connétable of St. Helier  
 Connétable of Trinity  
 Connétable of St. Clement  
 Connétable of St. Peter  
 Connétable of St. Mary  
 Connétable of St. Ouen  
 Connétable of St. Martin  
 Deputy J.A. Hilton (H)  
 Deputy A.K.F. Green (H)

#### **CONTRE: 23**

Senator A. Breckon  
 Senator S.C. Ferguson  
 Senator B.I. Le Marquand  
 Senator F. du H. Le Gresley  
 Connétable of St. John  
 Connétable of St. Brelade  
 Connétable of St. Saviour  
 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 of St. Ouen  
 Deputy J.A.N. Le Fondré (L)  
 Deputy S.S.P.A. Power (B)

#### **ABSTAIN: 0**

Deputy of St. John  
Deputy J.P.G. Baker (H)  
Deputy S.J. Pinel (C)  
Deputy of St. Mary  
Deputy R.G. Bryans (H)

Deputy K.C. Lewis (S)  
Deputy M. Tadier (B)  
Deputy T.A. Vallois (S)  
Deputy J.M. Maçon (S)  
Deputy G.C.L. Baudains (C)  
Deputy J.H. Young (B)  
Deputy N.B. Le Cornu (H)  
Deputy S.Y. Mézec (H)

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

I voted “pour” there and the Deputy of St. John saw me do so, but it did not register.

**The Bailiff:**

Well, it would not make any difference. It would be 21/23.

**Senator B.I. Le Marquand:**

Could that be checked as to whether it is not working because, in fairness to the Deputy, he would, I think, want his vote to be correctly recorded?

**The Bailiff:**

Can the Greffier check whether it is working? **[Aside]** Yes, shall we reopen it simply for Deputy Noel to vote? If it is mechanically not working, then that is different. If it is simply that he failed to vote, that is a different matter. He assures us that he did. Very well, so he has recorded his vote now. The answer is still that Article 3 is lost.

**Senator F. du H. Le Gresley:**

Having rescued from the jaws of defeat I just wondered whether Senator Maclean’s vote is acceptable as he is ...

**The Bailiff:**

Yes, he is out of the Island on States business, but nothing has been rescued, Senator. Chief Minister, I do not know whether you want to take time to see what effect that has on how you proceed or whether we go straight on to the other matters. As that Article is lost, I do not know what effect, if any, it has on the other matters.

**Senator I.J. Gorst:**

No, I do wish to continue. What it means is that I will not be moving Article 11 and Article 13 but there are other important changes that I think we should discuss and I hope that we will go on and approve. Of course, I am a democrat. I accept the will of this Assembly. The Assembly has just agreed that when a Chief Minister is appointed they wish to retain the ability to appoint **[Approbation]** alternative Ministers and I stand by that decision.

**The Bailiff:**

Yes. Well, Chief Minister, clearly it is a matter for you. I assume you have taken appropriate legal advice that everything will still hang together, but on the basis that you are satisfied it will - and I do not know whether the S.G. (Solicitor General) has been consulted - then naturally it is your right to proceed. I just want to make sure we were not proceeding with something which would in the end not hang together because of this vote.

**Senator I.J. Gorst:**

We will need to, as I go through the Articles, explain the potential. The vote that has just happened, the Assembly has decided that when a Chief Minister Designate wishes to propose their Ministers they will come to the Assembly in the way that has happened hereto, so that will be the same. There are other amendments which we will now go on to, which will deal with how this Assembly might want to empower the Chief Minister during the term of office. It might be that some Members wish to still see those changes, or it might be that they do not wish to see those changes as well. If we come directly to Article 4, that deals with the ability of the Chief Minister to dismiss a Minister. It is not connected with the appointment and, to my mind, that is a wholly different issue again and it is one that we should rightly consider.

**The Bailiff:**

For instance, I am looking at Article 6, which is a new Article 23, which seems, if I have understood it correctly, to replicate the procedure which has just been rejected by Members, so I do not think you can propose that.

**Senator I.J. Gorst:**

That does, indeed, replicate the procedure that Members have just rejected for the first instance, but that is a procedure during the course of a term of office. It might be that Members take exactly the same view in that case and I will listen to what Members say.

**The Bailiff:**

Very well. Well, then, I invite you to propose Article 4.

**Senator I.J. Gorst:**

Maybe what I will do is, if I can, Article 4 is separate. We will deal with Article 4 and I will consider the advice that you have just given over what will be the lunchtime period with regard to Article 6.

**The Bailiff:**

Certainly, if I may, Chief Minister, in the running order the Connétable of St. Mary, for example, suggested amendments to the selection process at the beginning and she proposed matching ones for an interim appointment.

[12:15]

The Order Paper said that if she lost on the first one then the second one would not be proposed because the general feeling is the Members have decided they do not like what has been proposed. So I think you should consider very carefully whether it is right to propose something which the Members have rejected, albeit in a different context.

**Senator I.J. Gorst:**

I am, of course, more than happy to do that. My advice was that simply 11 and 13 fell away so I will not be proposing those, but I will, of course, go away and consider the implications for the succeeding Article 6 and likewise as you have suggested.

**The Bailiff:**

I think as a general principle where a vote has been taken which is on a particular matter it is not normally right to try and propose that again, even if technically it can be brought within Standing Orders, but it is a matter for you.

**Deputy J.H. Young:**

I am sorry to ask for clarification. Am I to understand that looking now at the substantive Amendment No. 8 law we are still carrying on but Articles 11 and 13 will not be proposed and now fall away and we will be debating the rest? Is that what is going to happen?

**The Bailiff:**

Well, I do not know whether you were listening to what the Chief Minister has just said, Deputy, but what he said is those 2 fell away. I raised with him whether it was right for him to continue to propose, for example, Article 6 and he is going to think about that and he is going to think about, presumably, all the other Articles as well just to make sure as to whether there is any problem in moving them in the light of that vote because clearly one needs a law which hangs together at the end of it.

**Deputy J.H. Young:**

I am finding this a bit complex. I just wonder if we could have a short adjournment, perhaps, for the Chief Minister to give us clarity of what we are going to carry on to discuss so that we can consider our positions as a result of the decision.

**The Bailiff:**

What he has said is that Article 4 completely stands alone and I agree. That is a different matter, which I would have thought Members can consider at this stage. It is whether the Chief Minister should be given power to dismiss a Minister. Now, that is a separate matter. Members can discuss it and vote on it and we do not need to wait. Let us press on and he can consider it over lunch.

**Deputy J.A.N. Le Fondré:**

Just a further point of clarification, looking ahead under the appointment process, am I right in saying that irrespective of where the power to dismiss ends up, any Minister now dismissed could be reappointed because under the existing process they are not prohibited from it?

**The Bailiff:**

Well, I am not sure I have thought about that one and I think that probably ... **[Laughter]**

**Deputy J.A.N. Le Fondré:**

It is only because it will be relevant for this next debate.

**The Bailiff:**

You could ask the Solicitor General. **[Laughter]**

**Deputy J.A.N. Le Fondré:**

I will give notice of doing so.

**The Bailiff:**

Can I suggest we will now proceed with Article 4? If at any stage somebody wishes to ask a legal question on the interpretation of Article 4, then they can do so.

**Senator I.J. Gorst:**

Sorry to be a nuisance, but on reflection perhaps I could ask for an early adjournment for lunch and just consider what the position is so that I am only proposing Articles in a way that Members are fully informed of the implications for succeeding Articles.

**The Bailiff:**



That sounds very sensible, yes. Do Members want to adjourn now or do they want to interpose any short matters? Shall we reconvene a bit earlier than normal then?

**Senator P.F.C. Ozouf:**

If I may respectfully say, Members are invited to the publication in confidence of the States accounts over the lunchtime adjournment. They will be fortified by their attendance in the Oules Room and I would be grateful if we could maintain ... it is an important matter for the Treasury and Members, I would imagine, so if we can maintain 2.15 p.m., if I may.

**The Bailiff:**

Very well, does the Assembly agree then?

**Senator I.J. Gorst:**

We have a very long agenda. I wonder if it is possible under Standing Orders to take another item which might be short.

**The Bailiff:**

I am sure we can if Members agree. Can we find a short matter? Chief Minister, the International Criminal Court, is that a short matter?

**Senator I.J. Gorst:**

We hope so. Senator Bailhache is acting as rapporteur. It should be straightforward because it is the extension of a U.K. Act.

## **2. International Criminal Court Act 2001: extension to Jersey (P.34/2014)**

**The Bailiff:**

Do Members agree to take the International Criminal Court aspect and then perhaps adjourn after that? Very well, then we will take first Projet 34, International Criminal Court Act 2001: extension to Jersey, lodged by the Chief Minister. I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to signify, pursuant to Article 31 of the States of Jersey Law 2005, whether they agree that a request be made to the Privy Council for the making of an Order in Council that would extend to Jersey, with appropriate modifications and adaptations, certain provisions of the International Criminal Court Act 2001 as summarised in the report of the Chief Minister dated 11th March 2014.

### **2.1 Senator P.M. Bailhache (The Minister for External Relations - rapporteur):**

The International Criminal Court is an independent permanent court that tries persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes. The I.C.C. (International Criminal Court), if I may refer to it by that acronym, is based upon a treaty, the Rome statute of the International Criminal Court, which was adopted on 17th July 1998. It has for several years been the object of the Government of Jersey to give effect to the Rome statute through domestic legislation. A process of consultation has resulted in this draft law, Projet 35, which follows this proposition, to give effect to the statute of the International Criminal Court and provide for offences under the law of Jersey corresponding to offences within the jurisdiction of that court. The International Criminal Court Act 2001 has enabled the United Kingdom to ratify the Rome statute and to be among the I.C.C.'s founding members and to comply with all its obligations under the Rome statute. The law, to which we will come in a moment, will enable the Rome statute to be ratified in relation to Jersey and similarly ensure that Jersey is able to comply with all its obligations under the statute. For limited purposes only, it is necessary to

extend some sections of the 2001 Act by Order in Council in amended form in some cases, and the purpose of this proposition is, therefore, to seek the approval of the States to the making of an Order in Council to extend certain sections of the 2001 Act of the United Kingdom. Specifically, it is proposed to extend section 23(5), which enables U.N. (United Nations) Security Council resolutions which might override any immunities attaching to representatives of all states to be implemented in Jersey; section 44, which enables the transfer of prisoners between the United Kingdom and Jersey to serve the remainder of an I.C.C. sentence; section 45, which enables the temporary transfer of a prisoner in custody between United Kingdom jurisdictions and Jersey for the purpose, for example, of attending criminal proceedings against the prisoner; and section 70, which makes amendments to the Geneva Conventions Act 1957 to ensure that provisions governing the prosecution of grave breaches of Geneva Conventions under that Act are consistent with those governing the prosecution of offences under the I.C.C. legislation. When the Legislation Advisory Panel considered the draft law, I asked our advisers whether it was really necessary to extend the 2001 Act and whether it could not all be dealt with under the aegis of the Jersey law, but I was assured that it is necessary as a matter of law to extend these 4 provisions of the 2001 Act. So I move the proposition and will hopefully answer any questions.

**The Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition?  
The Deputy of St. Ouen.

**2.1.1 The Deputy of St. Ouen:**

Yes, just very briefly, I would be extremely grateful for the Minister to just explain why he believes that there are no additional financial and manpower implications for the States arising from the proposition when clearly there are implications outlined in the proposition which seem at first glance to mean that further costs of one sort or another are likely to be incurred.

**2.1.2 The Connétable of St. John:**

I think this has been a long time coming but it is well worth signing up to given that we see people in the past who have come to this Island having been involved in serious war crimes, whether it is more recently in Gulf wars or further on beyond that, people who may have been involved in what happened here between 1940 and 1945. Anything that we can sign up to of this nature must be good for the Island.

**2.1.3 Deputy J.H. Young:**

Just to say on a similar theme, I normally rise to question and challenge sometimes pieces of international legislation, but here we have a very different case. When one reads through it, I think it is not just a dry-bones piece of law. This is us signing up to worldwide jurisdictions to deal with the most heinous acts and depravity that people could do to each other. It is horrible to know about but it happens. We must have this sort of legislation and make sure that Jersey plays its small part. We are obviously clearly a minor player, but as part of an international framework of this protective legislation that those acts people can be brought to justice for is absolutely right. Fortunately, most people in life are really lovely people who would be horrified by some of these crimes in this law when they take place and we must not get down about those things happening. Nonetheless, we cannot shut our mind to it. We need to pass this to have this legislation and I fully applaud all the efforts that the Minister has made in progressing this.

**The Bailiff:**

Does any other Member wish to speak? Then I invite Senator Bailhache to reply.

**2.1.4 Senator P.M. Bailhache:**

I am grateful to all Members for their contributions, particularly Deputy Young, if I may say so. The Deputy of St. Ouen asked a question about the manpower implications and, of course, he is right to do that. I think the reason why the rubric was placed on the proposition which suggested that there were no manpower implications is that the strong likelihood is that there will be no financial implications. The chances of a Jersey resident committing crimes against humanity are, hopefully, remote but it is not beyond the realms of possibility that somebody convicted of war crimes in another part of the world might seek to take refuge in Jersey. If that were the case, it is important that the crimes which are made crimes by the Rome statute should be crimes also under the law of Jersey. In that sense, one might have to yield up somebody who was seeking to make Jersey a bolthole and there would be minimal expenses, I suppose, in terms of a transfer to the country where he or she had been convicted. So I maintain the proposition.

**The Bailiff:**

All those in favour of adopting the proposition kindly show? The appel is called for in relation to the proposition of the Chief Minister. 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 A. Breckon  
Senator S.C. Ferguson  
Senator A.J.H. Maclean  
Senator B.I. Le Marquand  
Senator F.du H. Le Gresley  
Senator I.J. Gorst  
Senator P.M. Bailhache  
Connétable of St. Helier  
Connétable of Trinity  
Connétable of St. Clement  
Connétable of St. Peter  
Connétable of St. John  
Connétable of St. Ouen  
Connétable of St. Martin  
Connétable of St. Saviour  
Connétable of Grouville  
Deputy R.C. Duhamel (S)  
Deputy R.G. Le Hérissier (S)  
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 J.H. Young (B)  
Deputy of St. Mary  
Deputy R.G. Bryans (H)  
Deputy N.B. Le Cornu (H)  
Deputy S.Y. Mézec (H)

**3. Draft International Criminal Court (Jersey) Law 201- (P.35/2014)**

**The Bailiff:**

We come next then to the accompanying matter, Projet 35, the Draft International Criminal Court (Jersey) Law lodged by the Minister for External Relations. I will ask the Greffier to read the citation.

[12:30]

**The Greffier of the States:**

Draft International Criminal Court (Jersey) Law, a law to give effect to the statute of the International Criminal Court to provide for offences under the law of Jersey corresponding to offences within the jurisdiction of that court and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

I hope that in proposing the principles of this law I might perhaps simply echo what I said in relation to the extension of the various sections of the 2001 Act of the United Kingdom. The purpose of this law is to put into law in Jersey the functions and existence of the International Criminal Court, and I will deal with the particulars of the law perhaps when we come to deal with the Articles. I move the principles.

**The Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles, please show? Those against? The principles are adopted. Senator Ferguson, do you wish this matter referred to your Scrutiny Panel?

**Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):**

No, thank you.

**The Bailiff:**

Minister, there are quite a number of Articles. Do you wish to propose them together and take questions?

**3.2 Senator P.M. Bailhache:**

Yes. I wonder if perhaps I could take parts 1, 2 and 3 together first of all and then deal with the remaining parts and schedules after that.

**The Bailiff:**

Very well.

**Senator P.M. Bailhache:**

Part 1 of the law contains the interpretation Article. Part 2 of the law contains a number of Articles dealing with the arrest and delivery of persons, and part 2 provides for an expedited procedure to execute requests from the I.C.C. for the arrest and surrender of persons. Requests would be received by the Attorney General. Proceedings for the issue of a warrant would then take place before the magistrate and if the magistrate was satisfied that the request was in order then the magistrate would make a delivery order. Part 3 of the Bill deals with other forms of assistance and, in particular, the taking or production of evidence, transferring a prisoner to assist in an investigation, taking fingerprints, and various other issues to do with the investigation and procedural matters. So I move Articles 1 to 37 of the draft law.

**The Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on any of those Articles? Very well, all those in favour of adopting Articles 1 to 37, please show? Those against? They are adopted.

### **3.3 Senator P.M. Bailhache:**

Then we come to parts 4 to 6 and the schedules. Part 4 deals with the enforcement of sentences and orders the detention in Jersey of a prisoner pursuant to an I.C.C. sentence or the transfer to another state of such a prisoner. Part 5 creates the offences under Jersey law, genocide, crimes against humanity and a war crime. Part 6 deals with other international tribunals' application to the Crown. The schedules of the Bill contain a number of supplementary provisions which put the meat on the bones of the procedure for dealing with prisoners who are either convicted or wanted for trial before the International Criminal Court. So I move the remaining Articles and the schedules of the Bill.

#### **The Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on Articles 38 to 59 or the schedules? Very well, all those in favour of adopting those Articles and the schedules, please show? Those against? They are adopted. Do you propose the Bill in Third Reading?

### **3.4 Senator P.M. Bailhache:**

I move the Bill in Third Reading.

#### **The Bailiff:**

Is that seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? Yes, the Connétable of St. John.

#### **3.4.1 The Connétable of St. John:**

The many visitors we have into the Island, I presume they come indirectly through the U.K. or some other international airport. Where they are carrying immunity through diplomatic immunity, would that still hold up when they get here given that some people who go round the world may be wanted on serious crimes of this sort in other parts of the world. How would we pick it up?

#### **The Bailiff:**

Does any other Member wish to speak in Third Reading? That was a matter which could have been raised on Second Reading. Deputy Le Hérisier will agree. **[Laughter]** Deputy Vallois, do you want to speak on Third Reading?

#### **3.4.2 Deputy T.A. Vallois:**

Yes, thank you. It is just a quick question really for the Minister. Why has it taken this long to get to the States Assembly? What inhibitions have been put in the way to get to this point in bringing it to the States Assembly because it would appear from the States Assembly point of view there is a great endorsement for this particular legislation?

#### **The Bailiff:**

Does any other Member wish to speak in Third Reading? Then I invite the Minister to reply.

### **3.4.3 Senator P.M. Bailhache:**

The answer to the question of the Constable of St. John is that the law contains provisions that would override any diplomatic or state immunity which would otherwise attach to a person who would be obliged to be arrested or surrendered under the draft law. So the draft law trumps any other state or diplomatic immunity which might attach to a person wanted for crimes against

humanity. In answer to Deputy Vallois, I am sorry that I cannot throw any particular light upon it. The Legislation Advisory Panel has dealt with the matter as quickly as it could when it came into office in 2011. There have been a number of discussions which have taken place between officials of different United Kingdom departments to approve the specific terms of the Order in Council which extended the 2001 Act and I know that that was held up in the Foreign and Commonwealth Office for a considerable period of time. I am afraid some of these things do take a long time. I agree that they should not take so long. I maintain the Bill in Third Reading.

**The Bailiff:**

Very well, all those in favour of adopting the Bill in Third Reading, please show? Those against? It is adopted.

## **LUNCHEON ADJOURNMENT PROPOSED**

**The Bailiff:**

Yes, the adjournment is proposed. Therefore, the Assembly will adjourn until 2.15 p.m.

[12:38]

## **LUNCHEON ADJOURNMENT**

[14:15]

**The Deputy Bailiff:**

Now, Chief Minister, before the adjournment you were taking stock in the light of the votes that have taken place so far and I am not sure if it would be convenient for you to advise the Assembly where you are intending to go on these various amendments.

**Senator I.J. Gorst:**

If only I knew. No, as I indicated prior to the lunch recess, I would like to continue with Article 4. Having said that, of course, I have considered the implication of the decision of the Assembly from the removal of Article 3 and, therefore, will not be proposing Article 6. There are some other consequential changes which may mean that I do not propose other Articles as well, depending on what happens with 4 and 7. But I will be maintaining 4, to which there is an amendment by Deputy Le Fondré, then we will go to 5. I will not do 6 and then we will get to 7 and 8 and they again stand alone.

**The Deputy Bailiff:**

Right. Then can I ask you to propose Article 4?

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

### **4.1 Senator I.J. Gorst (The Chief Minister):**

Yes, Article 4 provides for the Chief Minister to be able to dismiss a Minister and I feel that this particular Article 6 will, with the approval of Article 2 which the States gave yesterday. The other area that it amends is it clarifies that a Minister cannot hold 2 Ministerial offices and, of course, that a Minister ceases to be a Minister if that office has been abolished - obviously, that abolition of office now can only be undertaken by Regulations approved by this Assembly - and, of course, that a Minister ceases to hold office when he or she resigns.

**The Deputy Bailiff:**

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

**Deputy J.H. Young:**

Sorry to ask for clarification, and the Chief Minister may have mentioned it; I apologise if I missed it. Article 3, which has now gone, that was the Article where the set-up of the different Ministers was made, was it not? In other words, whether we had, for example, a Minister for Education, Sport and Culture, a Minister for Social Security, the offices, the proposal to have that flexibility has gone and so we are dealing with the fixed structure, is that right?

**Senator I.J. Gorst:**

Could I perhaps help? Yes, Article 3 obviously dealt with all those issues at the first establishment of a Council of Ministers. It is Article 6 that deals with them during the course of a term of office of a Chief Minister. I will not be moving Article 6 so there will not be in these changes now the ability for those to change other than as currently is, having to come to this Assembly with Regulations for approval by the Assembly.

**Deputy J.H. Young:**

I am sorry to ask, but I notice Article 4 that the Minister is about to debate deals with Ministerial offices being abolished but, of course, that clearly has gone.

**Senator I.J. Gorst:**

No, that is not the case. A Ministerial office can still be abolished currently but by a Regulation approved by this Assembly.

#### **4.2 Draft States of Jersey (Amendment No. 8) Law 201- (P.33/2014): seventh amendment (P.33/2014 Amd.(7)) - Article 4**

**The Deputy Bailiff:**

There is an amendment in the name of Deputy Le Fondré. I ask the Greffier to read the amendment.

**The Greffier of the States:**

Seventh amendment, part 4, page 43, Article 4, delete paragraph (c).

**4.2.1 Deputy J.A.N. Le Fondré:**

It might be appropriate just before starting, although I appreciate we have the Attorney General here rather than the Solicitor General, I think we just need to clarify that given the outcome of the last debate and where we are at the moment, if the Minister succeeds in this present amendment and has the power to dismiss put into his or her hands, the Minister dismissed can then stand again under the present procedure. I notice the Chief Minister is nodding on that.

**Senator I.J. Gorst:**

I am not sure it is a legal matter, although I do, of course, defer to the knowledge of the learned Attorney. That is the case, yes.

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

Yes, I can confirm that that is, indeed, the case. The pre-existing Article 23 will remain in full force and effect, which will enable any Member to propose another Member in opposition to the candidate put forward by the Chief Minister.

**The Deputy Bailiff:**

Unanimity of legal advice there. **[Laughter]**

**Deputy J.A.N. Le Fondré:**

The reason I thought it was worth clarifying that is for reasons I will touch on shortly. The reason for me bringing this particular amendment is because I really felt that the Assembly itself should vote explicitly one way or another on the ability of the Chief Minister to dismiss a Minister without recourse to this Assembly. For all sorts of reasons, which I am sure various people have alluded to, it is quite a fundamental shift from this Assembly to the Chief Minister. I thought it was not really acceptable just to do it as part of an Article debate, if that makes sense. Obviously, by bringing this amendment, if people support my amendment basically the status quo remains. In other words, the Assembly retains ultimate authority. The Chief Minister has often said he needs the power to dismiss partly in order to ensure Ministers comply with his direction. Obviously, in the Chief Minister's comments he refers directly to the recommendations of the Machinery of Government Subcommittee, and obviously I am aware of those recommendations because, as I have said previously, I was a member and I was fully supportive of the original recommendations that we made. But sometimes things do happen that change one's perspective. Firstly, as we have said, the Machinery of Government review proposals were a package. Not all of that package has been adopted and that was fine, or at least been brought here, but it did mean in my view that the checks and balances were weakened. I have no problem giving the Executive greater power and greater authority if there are improved measures to keep it in check. Now, secondly, and obviously that is a change from this morning ... sorry, perhaps from 9.00 a.m. this morning, is that there is now, in my view, an inconsistency because the Assembly can now appoint someone in place and if we accept the Chief Minister's proposals and do not accept this amendment, the Chief Minister can then dismiss that candidate in theory without any recourse to this Assembly. To me, there is an inconsistency in that approach. Thirdly, to start lancing the boil that is going to be referred to anyway, in my view one cannot ignore the events of what happened in December of last year and January this year in relation to the wish to dismiss a Minister. I have to say in my view it resulted in a complete mess and the way it was certainly put to me by a number of Members was that the proposition to dismiss at the time was weak and in certain areas was disjointed. In the end, that proposition was withdrawn and that - and indeed the lodging of that proposition in the first place - has not done the Chief Minister any favours. But it also raises the point if a motion to dismiss can be done on such perceived poor grounds, then there does need to be some form of check and balance before you go through that decision to dismiss. There needs to be something that causes someone to think: "Is it really so bad I need to sack a Minister?" Because other than the nuclear option of a vote of no confidence, there are really, I would say, no such checks and balances. For me, for the time being, I think the power to dismiss should remain here in this Assembly. Obviously, one of the things about this is the ability of the team to function, of the ability to hold Ministers to account, and the ability of the Chief Minister to hold Ministers to account and demonstrate whether a Minister is an errant Minister or not. I think we have to accept that the introduction of collective responsibility is in itself - and that has been adopted by this Assembly - a huge change. We voted on that and it has been approved in the Second Reading. Article 18 also introduces the power for the Council of Ministers to direct a Minister who shall comply with such directions. Again, that is a huge change and means that the excuses that the Chief Minister can no longer tell a Minister what to do are, in my view, no longer valid because if the majority of the Council of Ministers support him, he can. So the power to dismiss, to me, is no longer as important. Do not forget, this is about who can do this. At present, the Chief Minister - and only the Chief Minister, I believe - can lodge a proposition to dismiss but only the Assembly can dismiss. Due to the new powers which have been established and due to the fact that all Ministers will have to sign up to the code of conduct and will be bound by collective responsibility, it will surely become very clear very quickly as and when there is an errant Minister not toeing the line. To me, it does come down to this. If the Chief Minister has a weak argument to remove someone that has previously been selected, then surely that does not make that argument right and there does need to be a balance against wrongful dismissal. It also means that the Chief Minister may feel he



will not get the support of the Assembly when it is a weak argument. Again, if it is a weak argument, that does not make the dismissal right. Surely the Chief Minister must have confidence in this Assembly that when the argument is compelling the Assembly will support him. If he does not have the confidence of the Assembly, it may well be starting to be the case in that over time the Assembly have less confidence in that Chief Minister. Now, to be honest, I can think of 2 examples. We have obviously had the one I have just referred to, which I think was in whatever form a badly presented case, but if one goes back to 2007 when the then Chief Minister did provide a strong argument and the Assembly did back the Chief Minister, that Minister was removed. That was obviously a former Minister for Health and Social Services. Again, I am not going into the merits or otherwise of that case, but it was a very clear example of when the Assembly has felt that the need to remove was there and did back the Chief Minister. Also, under this amendment, the amendment I am proposing, the Chief Minister will still retain the power to suspend. So he or she - and that is obviously with the backing of a majority of the Council of Ministers, I believe - does have the ability to take direct and immediate action if it is necessary. If one is looking at, for example, the issue of poor performance, then that should also become quite clear because, as I said, we now have the whole bringing together of the collective responsibility of the power to direct. We will also be able to understand when errant Ministers are not toeing the line. All of this, combined with the ability of the Council of Ministers by a majority vote to direct any Minister on a matter of policy, is surely a significant improvement in the system compared to what we had a couple of days ago. Fundamentally, and just to sum up, it is about the ability to dismiss. The Chief Minister does try to argue that one should not base decisions on one exceptional case; in other words, the weak instance we had in December and January is not a reason for not giving him the power to dismiss. I would argue that we do need to learn from that experience and that we need to make sure that the power to dismiss is one that is used rightly and at a time when it is going to be carried through and that, equally, it is not used when there are weak arguments and it is the easy way to go.

[14:30]

The check and balance in this instance is this Assembly, in my view, and in my view we should retain the present system under what we are presently agreeing.

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

Is the amendment seconded? **[Seconded]** Does any Member wish to speak? Everyone is waiting for you, Chief Minister.

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

It comes, to me, back down to a number of points but I suppose, importantly, it comes down to the recommendation of Clothier and the recommendation that was included in the Machinery of Government report that Clothier recommended, that the Chief Minister should have the ability to dismiss a Minister. The Machinery of Government Subpanel, though, we now again see at least 3 members probably of that subpanel, if not more, seeming to not accept their own recommendation. I suppose the other thing that I would say is that because this Assembly has decided that it rightly wants to maintain the ability to appoint Ministers, I do not think Members need to be concerned about this in the same way as they might have been previously and in the same way that Deputy Le Fondré indicated that he was. I think one of the main thrusts of his argument was that we needed to make sure that any Chief Minister would not try and dismiss a Minister on a weak case, and I think that is important. But with the safeguard now that this Assembly will have to appoint the Minister to take the place of the dismissed Minister, then, of course, any Chief Minister is not going to use the mechanism to dismiss on the grounds that the Deputy is concerned about. Therefore, I think that in light of the Clothier recommendation, in light of the recommendation of the subpanel, and in light of the States' acceptance, albeit I accept that is somewhat narrowly, of introducing collective

responsibility, which I do accept is an important change, I think that this change to allow the Chief Minister to dismiss a Minister is an important one, but equally those who are concerned about safeguards have the ultimate safeguard in that this Assembly will still be the appointing body of the Minister to replace that Minister. I think that some of the concerns that have been verbalised in earlier debates Members do not now need to be concerned about in this regard. It is just almost an addition to the collective responsibility which will be an important ... not even, I would say, tool, but an important threat almost to ensure that Ministers did follow the policies that this Assembly in the Strategic Plan will give them to follow. I once again think that that is extremely important because we are in danger, I believe, of letting whoever the next Chief Minister is off the hook again and saying this Assembly is going to want to retain those powers, which is absolutely right, but with that retaining of those powers obviously is the dilution of accountability to this Assembly for people that we put into those posts. So I would ask the Assembly not to accept Deputy Le Fondré's amendment but to go with the Article 4 as drafted.

#### **4.2.3 Deputy G.P. Southern:**

The crochet lesson goes on, I think, because we appear to be doing precisely that. Stop me if I am wrong, but my impression is that the choice is between giving the Chief Minister the power to sack any Minister, isolated, while retaining the power to nominate candidates for a Ministry. That is what this House has. Right, so the Chief Minister sacks a Minister. He is almost inviting the House, should it wish to, to say: "Well, we do not think he has done that badly. We will re-nominate the man you just sacked." The alternative is, as we have now, that the Minister can decide to lodge the sacking of a Minister with the case clearly laid out: "I am sacking him because of this, this and this" and to invite the House to agree that that is the right thing to do. That seems to me the perfectly logical way of doing it because when he has that accepted by this House nobody in their right minds is going to then say: "No, we want him again." It is done and dusted if we accept it. There is no revisiting it. It is cut and it is clear. We accept the argument, yes, he was a lousy Minister. He did not do what you directed him to and he did not show collegiate spirit, so he is off. Off with his head, gone, finished, buried, let us get on with it. That is what is enabled by Deputy Le Fondré's amendment. It seems to me that that is a far better, a far cleaner way of doing things and retains some control in the House over what is happening. Deputy Le Fondré, as he said, spent some time almost labouring the point of if you come forward with a very weak case we may not accept it, and I think that is an absolutely logical and sensible way to proceed. Come with a case, you will get your way. Come with a poor case, you might not, in which case you are inviting trouble. So the amendment, I think, is by far and away the best way to proceed.

#### **4.2.4 Deputy G.C.L. Baudains:**

The comments made by the Chief Minister are, of course, quite right. This is a question of balance and now that Article 3 has fallen the issue is probably a lot less worrying. I was, as Members know, a member of the subpanel and we after much deliberation came to the conclusion the Chief Minister could have the ability to fire but not hire because otherwise there was a potential - hopefully it would be unlikely - that the Chief Minister could abuse the Assembly by replacing a Minister that the Assembly had voted and got because he could simply fire them and appoint another one. There are just a couple of issues that spring to mind. As I said, it is a question of balance. By having the ability to dismiss a Minister, the Chief Minister will probably never have to use it because the Minister realises if he does not do what he is supposed to be doing he will be dismissed. But on the other hand, if the Chief Minister does dismiss a Minister, it could potentially weaken his position because if the Assembly then decides to reappoint the Minister I think the Chief Minister's position would be untenable. One thing I find curious and that is not in the amendment but in the proposition 5A: "The Chief Minister shall take steps as soon as possible to inform the following persons of the dismissal of a Minister - (a) the Minister dismissed." I would

have thought that the Minister would have been advised before being dismissed. Surely there would have been some discussion so I just wonder why that is there in the first place.

**4.2.5 Senator P.F. Routier:**

Sometimes I wonder about this Assembly. We had an in committee debate some time ago which discussed this matter and I think the impression that was got from that debate - it can only be an impression - was that it was a good provision to have within our procedures for the Chief Minister to be able to dismiss. As the previous speaker has just said, he was a member of the subpanel and they came to the conclusion also that it was an appropriate thing for the Chief Minister to be able to dismiss. One of the things which I have picked up in some of the speeches, particularly from Deputy Southern, is about some of the language which is used, about things like: "Off with his head" and things like that. I do not think it is appropriate language we should be using in this Assembly.

**Deputy G.P. Southern:**

It was not literal. [Laughter]

**The Deputy Bailiff:**

I think we are all pleased to hear that.

**Senator P.F. Routier:**

I just make the observation as a passing comment. I think the safeguard for Members who may be a little bit concerned about which way to go with this is that the Chief Minister, if he does decide that he needs to change a Minister out, does have to come back to this Assembly to reappoint somebody. The Assembly will have the final say. It is quite clear from what is being proposed here that there are the safeguards for this Assembly to have their views heard about who they want as the Minister at the backstop. I really think that we are making heavy weather of this and I think all sides can be settled and happy with what is being proposed here. Obviously, the amendment which Deputy Le Fondré is bringing forward I do not think is necessary and we should reject it and go with what is being proposed.

**4.2.6 The Deputy of St. Ouen:**

Just very briefly, I have been looking at the amendment with the changes to the States of Jersey Law that were kindly provided by the Greffier and the wording in red, which I am presuming reflects Deputy Le Fondré's amendment. Am I correct in that, on page 20?

**The Deputy Bailiff:**

In Deputy Le Fondré's amendment, what is in red is what would be removed. I am sorry, no, that is not correct. What is in red is what is there at the moment. If Deputy Le Fondré's amendment were to be accepted, what is in red at page 20 will remain the position. If Deputy Le Fondré's amendment is rejected and if the amendment in the Chief Minister's proposition is adopted, then you will have what is in the Projet. So what is in red, page 20, is the existing position, which will be reinstated if Deputy Le Fondré's amendment is adopted.

**The Deputy of St. Ouen:**

Thank you for that clarity because it makes an awful lot of difference. I would like to draw Members' attention to the wording on page 20 in red because it clearly spells out what would be expected from the Chief Minister when he sets about dismissing a Minister. I think that it is absolutely appropriate. It says that the Chief Minister speaks to the Minister involved, discusses with him, then he is allowed to be heard, then as long as he has agreement of the majority of Ministers a proposition for the dismissal will be brought stating the reasons. I do not see what the

problem is with the current proposal and why it needs to be changed, especially in light of the comments made by Deputy Baudains recently about how the approach is made. Unless someone can identify the reasons why we need to change what seems to be existing procedures and give me good reasons for doing so, I cannot help but lean towards supporting Deputy Le Fondré.

**4.2.7 Deputy M. Tadier:**

Initially, I have a question for the Solicitor General. I am wondering whether or not it will still be possible for the Assembly under the amendment ... as the proposition currently stands, will the Assembly still be able to lodge a vote of no confidence in an individual Minister if the Assembly does not think he or she is performing correctly?

[14:45]

**Mr. H. Sharp Q.C., H.M. Solicitor General:**

Yes.

**Deputy M. Tadier:**

So whether or not this is adopted, essentially it seems that the Assembly can still dismiss a Minister because they will do it through a vote of no confidence. Whether or not that was always the intention under what was intended before when the Chief Minister was the only one who could appoint ... so in one sense, I am perhaps less concerned because I have to take off, perhaps, my personal hat and put on the hat that I was wearing on the subcommittee.

**The Deputy Bailiff:**

Deputy, I am sorry to interrupt you. If I may say so from the Chair, I do not think that is right. Although it is right that the Assembly may adopt a proposition of no confidence in a Minister, that is not the same as dismissing the Minister. It may be in practice, but in the law it is not the same.

**Deputy M. Tadier:**

Yes, thank you, Sir, I understand that but the clarification is welcome.

**Senator I.J. Gorst:**

Sorry, could I just clarify that further? That is the current position now without any changes. That position remains unchanged.

**Deputy M. Tadier:**

It would be the case that that would have the same effect. Once the vote of no confidence was carried the Minister would fall and would not need to be dismissed by the Minister. Okay, in that sense it seems to me from an impartial point of view that ...

**The Deputy Bailiff:**

I am sorry, Deputy, I think that is not right. Solicitor General?

**The Solicitor General:**

If the States bring a vote of no confidence, then assuming that motion is passed and the States say they have no confidence in the Minister, then that clearly is a political expression that the Minister will want to take into account as to whether or not they continue with their job. It does not mean that they have to resign or that they have been dismissed. In theory, a Member could say: "I acknowledge the vote of no confidence in me but I am carrying on." It is unlikely, I accept, but I am simply talking about the legal consequences. The legal consequence of a dismissal is completely different, obviously, in the sense that the Chief Minister says: "You are dismissed" and that is it, the Minister is dismissed.

**Senator I.J. Gorst:**

Could I just clarify further? Can the Solicitor General, however, clarify that the current situation is that only the Chief Minister can bring a dismissal proposition to the Assembly currently? Other Members can bring a vote of no confidence and the Minister will respond to that accordingly?

**The Solicitor General:**

Yes.

**The Deputy Bailiff:**

Sorry, this brings to my attention Article 21(3)(c), a Minister ceases to hold office upon the States voting they have no confidence in the Minister. Now, that is the current position. Whether this amendment is adopted or not and whether the Chief Minister's amendment to Article 21 is adopted or not, that seems to remain the position.

**The Solicitor General:**

Yes, I am sorry, thank you very much.

**Deputy M. Tadier:**

On that basis, I have asked my question. Can I sit down and reserve the right to speak if necessary?

**The Deputy Bailiff:**

Well, I think you have both asked a question and started to speak, obviously, Deputy.

**Deputy M. Tadier:**

But I was labouring under misinformation. [Laughter]

**The Deputy Bailiff:**

It may be said that is sometimes true of other Members who speak.

**Deputy M. Tadier:**

I am happy to continue. It is just ...

**The Deputy Bailiff:**

I think it is better if you continue; you have started.

**Deputy M. Tadier:**

Yes. What is interesting is that the position of the subcommittee has already been mentioned and we do not have to rehash previous debates. It was always that we were working with a wide variety of opinions. There were those who were reluctant for the Assembly to give up any power whatsoever. There were those who were absolutely pushing from a completely different angle where they were happy to give all the power to the Chief Minister and not to have the Assembly even have a say on Ministers if that were possible. Really, the compromise that we arrived at, I think, whether or not that figured in the very last permutation, was that the Assembly hire and the Chief Minister be able to fire because in one sense as long as the Assembly still has the ability ... essentially, the Assembly can fire and the Chief Minister can fire, in common parlance. They both have the same effect, so if we think that a particular Minister is doing a bad job, we can call him or her in and say: "We have to get rid of this Minister." If the Chief Minister thinks that one of them is doing a bad job, they can also be dismissed and it comes back to the Assembly. So I think, looking at it from an impartial point of view, we are making slightly heavy weather of this. It could also be argued that by bringing it back to the Assembly the Chief Minister is putting himself in an even more risky position because firing somebody when the Assembly still has confidence in him

means that the Chief Minister's position is untenable and he would really have to resign. Whether or not there should be something in Standing Orders at some point, we can consider that perhaps subsequently whereby if a Chief Minister fires somebody and that person gets re-elected, then the Chief Minister automatically would lose his position. I would be much happier with that position because, of course, you could always get a Chief Minister who would also hang on. If it can happen to a Minister, it could also potentially happen to a Chief Minister. I am slightly less concerned about which way to vote on this. That said, there is still an argument, of course, that the status quo now is a position where the Assembly still keeps the ability to appoint Ministers and to challenge for those positions. It could also be argued that from a logical point of view if we are retaining the ability to hire, ultimately it should still fall back to the Assembly to fire. So the safeguards I think are perhaps slightly stronger in that respect, but I leave it up to Members whether they want to further erode the powers of individual Members or whether they are happy with this compromise position. Certainly, speaking from the subcommittee's point of view, this was not something we were overly concerned about.

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

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

#### **4.2.8 Deputy J.A.N. Le Fondré:**

As I said, I really wanted to draw it out into the Assembly and I think it has been useful in clarifying what we are all voting on as well from the very recent exchange. We on the Machinery of Government Subpanel were very supportive of the ability to fire, no question about it. There was, in my view, also an issue about cherry-picking and trying to avoid that, and this comes back to the point of whether one has a package or not. In my view, I have to say compared to where we were on the original proposals being brought forward by the Chief Minister, there has been an improvement and going forward today arguably there will be an improvement, as I said, from the Chief Minister's perspective even if he does not have the ability to fire. As we have said, if Article 18 is retained, the new Council of Ministers will be operating under collective responsibility and has the power to direct. But the Assembly now still has the power to appoint, so I think in my view that is a better position and there is a check and balance there obviously from the point of view that if the Chief Minister dismisses on a weak argument and the Assembly reappoints that individual back into post, there is a check there. It is a slightly odd way of doing things, I would argue. It also comes down to the fact that, in my view, all normal employees do have a legal right to appeal against their dismissal ultimately. Sorry, I do apologise for the loss of voice. That then is really the issue about retaining the status quo is that we are that ultimate check of appeal before dismissal, not after. That is almost a nuance. That is the decision in front of the Assembly because there is a difference between not supporting a vote to dismiss a Minister and a vote which is a view of the Assembly, particularly as the Assembly has probably appointed that Minister, versus a position of going against and overturning a decision by the Chief Minister to dismiss. In the makeup of the Assembly, you may well find Members prepared not to support the removal of a Minister but will they support what is effectively a vote of no confidence in the Chief Minister? That is the difference and that is the decision between what we presently have of retaining the status quo or giving a power to dismiss to the Chief Minister. It is as I said, it is about the strength and the argument over dismissal based on 2 experiences. We had the dismissal of the Minister for Health and Social Services, Senator Syvret, in 2007, which the Chief Minister brought and was strongly backed by this Assembly. I dare not go into the merits of that argument or not but that was done. We have had the recent thing too potentially to dismiss the Minister for Planning and Environment, and the way certainly I perceived Members' comments, that was regarded as a weak argument and it was withdrawn primarily because of the perception it would not be won. To me, one has to make sure that the removal of a Minister, the dismissal of a Minister is backed by a

strong argument. Making sure it revert to the Assembly ensures that there is a strong argument in place, and as I say, in my view we are in a slightly better position than we were earlier, and obviously in the hands of the Assembly on this matter. So I hope Members might support this amendment which is to retain the status quo and I call for the appel. Thank you.

**The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on the amendment of Deputy Le Fondré to Article 4, as proposed by the Chief Minister, and I ask the Greffier to open the voting.

**POUR: 15**

Senator A. Breckon  
Senator S.C. Ferguson  
Connétable of St. John  
Deputy R.C. Duhamel (S)  
Deputy R.G. Le Hérisssier (S)  
Deputy J.A. Martin (H)  
Deputy G.P. Southern (H)  
Deputy of St. Ouen  
Deputy J.A.N. Le Fondré (L)  
Deputy M. Tadier (B)  
Deputy M.R. Higgins (H)  
Deputy J.M. Maçon (S)  
Deputy J.H. Young (B)  
Deputy N.B. Le Cornu (H)  
Deputy S.Y. Mézec (H)

**CONTRE: 28**

Senator P.F. Routier  
Senator P.F.C. Ozouf  
Senator A.J.H. Maclean  
Senator B.I. Le Marquand  
Senator F.du H. Le Gresley  
Senator I.J. Gorst  
Senator L.J. Farnham  
Senator P.M. Bailhache  
Connétable of Trinity  
Connétable of St. Clement  
Connétable of St. Peter  
Connétable of St. Mary  
Connétable of St. Ouen  
Connétable of St. Brelade  
Connétable of St. Martin  
Connétable of Grouville  
Deputy J.A. Hilton (H)  
Deputy K.C. Lewis (S)  
Deputy E.J. Noel (L)  
Deputy T.A. Vallois (S)  
Deputy A.K.F. Green (H)  
Deputy G.C.L. Baudains (C)  
Deputy of St. John  
Deputy J.P.G. Baker (H)  
Deputy of St. Mary  
Deputy of St. Martin  
Deputy R.G. Bryans (H)  
Deputy R.J. Rondel (H)

**ABSTAIN: 0**

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

**The Deputy Bailiff:**

We now return to debate on the main proposition and I invite Members to speak. Deputy Baudains.

**4.3.1 Deputy G.C.L. Baudains:**

Just very briefly, I wonder if the Chief Minister could explain something that I did raise under the amendment as why we have 5A? I think it would be highly irregular for a Minister to be dismissed without him knowing he is being dismissed. Surely, he should be advised first.

**4.3.2 Senator L.J. Farnham:**

I did ask yesterday, during one of my short speeches, whether there was discretion in whether a Minister would have to resign or would it be compulsory, for example ... I am trying to think of an

example, but should a Minister not subscribe to collective responsibility, is it then compulsory or is it very much up to the Council of Ministers or indeed the Chief Minister? I have got to say all that again now because the Chief Minister was not listening. **[Laughter]** Does the Chief Minister or the Council of Ministers have discretion should a Minister break ranks? Does a Minister have to resign or is it a negotiable position? I am not thinking ahead.

**The Deputy Bailiff:**

Is that a question for the Solicitor General?

**Senator L.J. Farnham:**

Possibly, yes, thank you.

**The Deputy Bailiff:**

Under the law, Solicitor General.

**The Solicitor General:**

Under the law. Sorry, was it a question of being sacked or resigning, or both?

**The Deputy Bailiff:**

I think the question was if he is dismissed by the Chief Minister can he pay no attention to it and carry on in office?

**The Solicitor General:**

No, he cannot.

[15:00]

**Senator L.J. Farnham:**

No, should a Minister decide not to subscribe to collective responsibility on a certain issue, but, for example, the Chief Minister, the Minister happens to be a rather close ally of the Chief Minister and is performing extremely well in every other aspect of his or her duty. Is a resignation compulsory or can the Chief Minister and the Council of Ministers exercise discretion?

**The Deputy Bailiff:**

That is not a question about dismissal it is a question about collective responsibility.

**Senator L.J. Farnham:**

Well, a resignation or dismissal. I mean, if a Minister does not subscribe to collective responsibility, is then a resignation or dismissal compulsory or is there discretion?

**The Deputy Bailiff:**

This does not arise under the debate on this amendment. Either the Minister is going to resign or he or she is going to be dismissed, and in either circumstance there is no question of the Minister continuing because in the first instance if he or she resigns, she has resigned and in the second instance she has been dismissed. There is no room for discretion. The discretion would come as to whether or not the Chief Minister would insist on resignation as a result of collective responsibility, and of course that is a matter of politics. Does any other Member wish to speak? Deputy Southern.

**4.3.3 Deputy G.P. Southern:**

Day 3 and the housemates are getting confused. **[Laughter]** Let me out of here. Now, no, no. Perfectly free to go if I want. The serious point is, this is presented as an improvement on the current practice. I do not believe it is. Without the amendment that has just gone down, I think this



is going in the wrong direction. It invites the confusion that may arise that the Chief Minister dismisses a Minister and that Minister then rallies support and gets himself put up again to continue in the post by this Assembly. That seems to me a far worse way to behave than getting the dismissal accepted by this House; done, clear and over with. So I do not think it is an improvement and I cannot bring myself to vote for it.

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

Just another question. What happens if we reject this Article, what is the position?

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

It is rejected. We move on to the next Article in the law.

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

The effect would be that the status quo remains?

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

The existing provisions will remain, yes.

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

Is that essentially the same as what we have just rejected from Deputy Le Fondré's?

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

In relation to paragraph 47, yes.

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

Just an observation then, even though obviously these different debates are inevitably overlapping to a certain extent. We do have to consider going forward, and this is something that we heard from Cornwall, that they have a completely different approach. Yes, they do have collective responsibility but they have a much more transparent system. I would just make one point; so, for example, their Council of Ministers, the equivalent, I may have mentioned this, is held in public. The public can attend, Back-Benchers can attend, Back-Benchers can ask questions to the Council of Ministers and I believe there may even be mechanisms for the public to submit questions, certainly to the General Assembly, not just sort of elected councillors. The issue is, how do we know, as an Assembly, why a Minister is being dismissed? It may well be that a Minister makes a mild transgression of policy or departure and, I think partly to answer Senator Farnham's point, is that it is ultimately up to the Council of Ministers whether they have confidence in another Minister. So somebody can fall out of grace for whatever reason and if 5 of the 7, 4 of the 7 decide to round on that Minister, he will be kicked out, and it may well be that there could be a much bigger departure from policy, but another Minister will be allowed to stay on in that post for whatever political reason. The issue is, we will never know about those decisions. So really, there should be a way that any votes taken on the Council of Ministers should be published so that we know exactly what was put to a vote and what was decided. Ideally, we should be able to attend. Ideally, there should be a webcam in there anyway, on all but the most confidential decisions that need to be made so that at least in retrospect this Assembly can make a decision as to whether or not the Council of Ministers in an entirety, if they are to be a collective, are carrying out their duties as a team and whether or not undue coercion is being put on any one Minister, *et cetera*. We do not have that system in place. It does not look like there is any intention to move down that road at all, in fact it looks like the opposite is true so we know less and less about what is going on in the inner of the circles, and I think that we should seriously consider throwing out this Article by voting against the whole of it so that something much better can be put on the table.

#### **4.3.5 Senator B.I. Le Marquand:**

The Chief Minister may be pleased to know that on this occasion I have managed to support him. I have returned to the fold, as it were, on this matter. But what provoked me was really trying to answer the question that my colleague, Senator Farnham, was trying to ask and which was, as I understand it, really as to whether the requirement for collective responsibility meant that if a Minister did not comply with that, whether the Chief Minister would have to dismiss him. Well, of course the answer is no because it says only the Chief Minister may dismiss. In practice, determining when the Council of Ministers has definitively decided something, it is not always quite that easy. I have had some personally amusing occasions when we have had a particular line and I thought that was the line. I have gone out to have a cup of tea and while I have been out BlackBerries have been communicating and the Minister has realised he is losing and I have come back in and by amazement found I was the only Member of the Council of Ministers who still maintained the party line **[Laughter]** because it had changed. This happens, and so there are practical issues here as to what is, during a live debate when things may be changing and matters of that nature may be happening. I did not speak on the previous amendments but I hope I can just explain why I think this is okay, and in a sense my reasoning is this; what I was really concerned about was the hiring power of the Chief Minister. Once it is clear that that remains with the States, I think the difficulty disappears in relation to the dismissal, for the very reasons that people have said, because the States then, a person can be re-nominated and could theoretically be reappointed, and so on and so forth. So my difficulty and my problem in relation to that, in a sense, disappears because the ultimate decision still remains with the States. So I have got no difficulty in the Chief Minister having the sole power of dismissal, particularly as the States will also have the no confidence motion approach. The problem is that the system that we have tried to operate from time to time in the Council of Ministers really does not work very well. It is very, very unwieldy in the whole process of trying to come to an agreement and so on, and the prospects of a full debate within the States in which a Minister would be attacked by his colleagues and then would defend himself and probably counterattack and so on and so forth, really is just a very unsavoury prospect; it is really not a satisfactory prospect at all. It is not helpful, it would be entirely divisive, it would be, I am trying to use a parliamentary word for this, but it would be rather nasty. It seems to me instead of that what we now have, thanks to the fact that the part that was heard before did not go through, is a situation in which avoiding that complete debate that the States can, as it were, express their continuing confidence in the Minister who has been sacked by reappointing him, and that is a much more satisfactory and much less nasty process. Sorry, I have said much more than I intended to but I am able to support Article 4 for those reasons.

**Senator L.J. Farnham:**

I just want to thank Senator Le Marquand because I think he understood what I was trying to ask. The law says the Chief Minister may dismiss and I think that is quite an important point to understand.

**The Deputy Bailiff:**

Does any other Member wish to speak? I call on the Chief Minister's reply.

**4.3.6 Senator I.J. Gorst:**

I am pleased to follow Senator Le Marquand because I think he has probably summed up for me adequately, well, more than adequately, very well indeed. I did just want to touch on Deputy Baudains concerns about telling the Minister after the decision to dismiss has been made. That is, as I see it, a legal technicality. There will be a process prior to the Chief Minister making the decision. That process will of course involve conversations with the Minister, right to be heard, all those sorts of things that you would expect, but once the Chief Minister has made the decision, this obliges the Chief Minister to straight away inform the Minister that the decision has been made,

and the Assembly, and other bodies as well. So it cannot be that the Chief Minister has made a decision and then does not inform the Minister after the process has been gone through. Rightly, as Senator Le Marquand said, these things are never straightforward, and particularly with regard to the fact that it is something that I think any Chief Minister is going to use extremely sparingly because of all the other comments that other Members have said. It creates a vulnerability for the Chief Minister, it means that the Assembly has to provide a new Minister, which may be the same one again which would be a very difficult position; it may be somebody that the Chief Minister equally finds perhaps has policy differences with. But it is a tool, it is more an ultimate backstop position that no Chief Minister would ever wish to use but it should be there to enable the collective responsibility to work in a positive and productive way, and therefore I maintain Article 4. Thank you.

**The Deputy Bailiff:**

The appel is called for. I will ask Members to return to their seats. The vote is on Article 4 of the Draft States of Jersey (Amendment No. 8) Law and I ask the Greffier to open the voting.

**POUR: 26**

Senator P.F. Routier  
Senator P.F.C. Ozouf  
Senator B.I. Le Marquand  
Senator F. du H. Le Gresley  
Senator I.J. Gorst  
Senator L.J. Farnham  
Senator P.M. Bailhache  
Connétable of Trinity  
Connétable of St. Clement  
Connétable of St. Peter  
Connétable of St. Ouen  
Connétable of St. Brelade  
Connétable of St. Martin  
Connétable of Grouville  
Deputy J.A. Hilton (H)  
Deputy K.C. Lewis (S)  
Deputy E.J. Noel (L)  
Deputy T.A. Vallois (S)  
Deputy A.K.F. Green (H)  
Deputy G.C.L. Baudains (C)  
Deputy of St. John  
Deputy J.P.G. Baker (H)  
Deputy of St. Mary  
Deputy of St. Martin  
Deputy R.G. Bryans (H)  
Deputy R.J. Rondel (H)

**CONTRE: 13**

Senator A. Breckon  
Senator S.C. Ferguson  
Deputy R.C. Duhamel (S)  
Deputy R.G. Le Hérisssier (S)  
Deputy J.A. Martin (H)  
Deputy G.P. Southern (H)  
Deputy of St. Ouen  
Deputy M. Tadier (B)  
Deputy M.R. Higgins (H)  
Deputy J.M. Maçon (S)  
Deputy J.H. Young (B)  
Deputy N.B. Le Cornu (H)  
Deputy S.Y. Mézec (H)

**ABSTAIN: 0**

**The Deputy Bailiff:**

We now come to Article 5. Chief Minister.

**4.4 Senator I.J. Gorst:**

Hopefully we can move a little bit faster through this ... no, it is simply this Article. This repeats the ability of the Chief Minister to suspend a Minister. There is now no need for it if the Chief Minister is going to have the ability to dismiss. Therefore, I maintain this Article. Thank you.

**The Deputy Bailiff:**

Is the point seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting Article 5, kindly show? Those against? The Article is adopted. Now, Article 6 you do not wish to continue with, Chief Minister, is that correct?

**Senator I.J. Gorst:**

That is correct, Sir, yes.

**The Deputy Bailiff:**

So we come to Article 7, which you wish to propose.

**4.5 Senator I.J. Gorst:**

Yes, I do, and there are 2 amendments to this Article so I will not speak for very long. It removes the limit on the number of Assistant Ministers that a Minister may have, so it allows much more cross-Ministerial working by Assistant Ministers. Currently a Minister can only have 2 Assistant Ministers but there are portfolios across departments which would benefit from an individual being an Assistant Minister across departments, for example, if we take Economic Development, it might be we hear that Senator Farnham continually says he wishes to be the Minister for Tourism, but of course the Minister for Economic Development already has Deputy Baker and the Deputy of Grouville doing very important functions; one doing agriculture and fisheries, that is already working cross-department with, and the Environment Department, Deputy Baker doing extremely important work around inward investment but also ports and harbours. But it could be that an Assistant Minister like Senator Farnham might also not only wish to be Assistant Minister for Home Affairs but also Assistant Minister with responsibility for Tourism. That is currently not allowed because a Minister can only have 2 Assistant Ministers, so it just removes that restriction. In addition, the Article makes it clear that an Assistant Minister ceases to hold office when the Minister by whom he or she was appointed ceases to hold office - straightforward. It provides that an Assistant Minister is bound to assist his or her Minister in accordance with the principle of collective responsibility. We discussed this when we talked about Article 2, that Assistant Ministers are only bound collectively to a policy or legislation coming from their Minister and their department and in no other way, and in addition it repeals the existing paragraph containing the Troy rule, but of course Article 8 means that that will then be enshrined in Standing Orders rather than in the Regulations. Thank you.

[15:15]

**The Deputy Bailiff:**

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

**4.6 Draft States of Jersey (Amendment No. 8) Law 201- (P.33/2014): third amendment (P.33/2014 Amd(3)) - Article 7**

**The Deputy Bailiff:**

Now there is an amendment by Deputy Young. I will ask the Greffier to read the amendment.

**The Greffier of the States:**

Third amendment. Part 1, page 44, Article 7 - (1) For paragraph (a) substitute the following paragraph – “(a) for paragraphs (1) and (2) there shall be substituted the following paragraphs – ‘(1) The Chief Minister may – (a) appoint one or more elected members as his or her Assistant Ministers; (b) appoint, in relation to any other Minister, one or more elected members as the Assistant Ministers to that Minister; and (c) dismiss any Assistant Minister. (2) The Chief Minister may only appoint or dismiss an Assistant Minister to another Minister with that Minister’s prior consent.’;”. (2) After paragraph (b) insert the following paragraph and renumber the remaining

paragraph accordingly – “(c) in paragraph (4) for the words ‘the Minister that he or she assists.’ there shall be substituted the words ‘the Chief Minister.’”.

#### **4.6.1 Deputy J.H. Young:**

I am hopefully going to offer the Assembly the simplest amendment of the day, which I am sure we will find a light relief because the Chief Minister, in proposing this part of the law change, set out the kind of flexibility that he wanted to introduce for Assistant Ministers, and of course although I did not draft the words of this amendment, the Law Draftsman did it for me, I never intended at all to interfere with that flexibility. So I think in my amendment, nothing in my amendment changes the substance of the flexibility that the Chief Minister is looking for in Assistant Ministers. Of course when I was drafting it, I was expecting, as you know when I spoke yesterday or I think this morning, a bit of it, is that I had always been very strongly in favour of the flexible structures, of having a wider flexibility in a number of ministries and their responsibilities, and as part of that I did think there was a possibility we might end up with fewer Ministers and a larger number of Assistant Ministers or something, making up the Government. But that is not to be now because we know we are now fixed with 10 Ministers. So we are working around the number of Assistant Ministers that you can get under the Troy rule. But of course the key thing that I wanted to do in this was to change, or make it clearer, much, much clearer, about where the responsibility lay for their appointment and their dismissal because I certainly was very unhappy in all the machinations that I certainly witnessed in the run-up to the Ministerial elections. If I go for this will you be my Assistant Minister? Will you vote for me and all this kind of you scratch my back I will scratch yours, and on some occasions you found out that people were disappointed, they were promised Assistant Ministerships, it did not happen, and all that kind of permutations. To me, that is absolutely, I think, anathema to me about openness and transparency. No. What I think I am proposing here is clarity; that the gift, if you can call it that, or the anointment **[Laughter]** of the Assistant Ministers, I believe, should be that of the Chief Minister. Because he or she will balance their team of people, and that is absolutely clear then. So it means that those choices are not interfered with by Ministerial patronage. Somebody gets a Ministerial job: “Oh, I promised so and so they are going to be my Assistant Minister” and all this type of thing. I think that should end that. Of course, when one looks, and I have to refer to this ... I am trying to choose words. We have witnessed what happens when a Minister decides to get rid of an Assistant Minister and the personal animus that can come across. Every time a proposition or a question comes in, the angst comes across this Assembly, and to me, and I do not think I am going to say who it is but I will leave to you **[Laughter]** as to where it is coming from. That, I think, is deplorable because that kind of thing reduces what is a role of Government and what should be statesmanlike roles into the playground, sort of thing, and that is why my amendment simply says that the Chief Minister does the appointments, the Chief Minister does the dismissal. But the safeguard is, if a Chief Minister wants to dismiss an Assistant Minister he has got to go along and ask his Minister. I quite like that, it is a kind of reversal of roles. So I think that is the simplicity of my proposal. I think it is an improvement. I think it is different, you have got another appointment on but my appointment does not seek the approval of the Assembly, unlike the other amendments, to those appointments. I buy into the Chief Minister here being able to hire and fire. I propose my amendment.

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

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

#### **4.6.2 Deputy G.P. Southern:**

I rise to draw attention to that adage “Beware what you wish for” because while we are talking about animus between a Minister and an Assistant Minister, putting all the control in the hands of a Chief Minister dares the possibility of animus directed towards one of his Assistant Ministers from

a Chief Minister; imagine that. So putting it all into one barrel may sound like a good idea but there could be serious problems if the Chief Minister goes a little wrong.

#### **4.6.3 Senator L.J. Farnham:**

I am not sure whether Deputy Southern and I are going to agree, it was just a coincidence that we are arriving at the same position. But this quite clearly, I think, has the potential to be very divisive. As an Assistant Minister I realise how important it is to work with my Minister and vice versa. I am fortunate that I have a Minister that is easy, most of the time, to work with [Laughter] and we occasionally - he is not here - so occasionally he does go off on a tangent, but just between us. I really think my allegiance as Assistant Minister is to the Minister. I think I need to give him as much support or as little support as he requires and have to judge how to help, when to help and help when I am asked. Now, other than being a Member of the Assembly, I owe no allegiance in the running of the Home Affairs Department to the Chief Minister or the Council of Ministers unless it is on areas, of course, of policy. I think that this could be divisive insofar it is clearly designed to prevent patronage, too much patronage developing between the Minister and an Assistant Minister, which I think could then mean you will have Assistant Ministers sort of going around the Minister to the Chief Minister on occasion because ultimately it will be the Chief Minister that controls the future of the Assistant Minister. Therefore, I cannot support this. Thank you.

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

Well, I will try; I can only feel half of my mouth. Well, I can wholly understand where the Deputy is coming from. Obviously if this does not go through, my amendment must be a step too far because under these proposals what people must realise is that it is very nice that Senator Farnham is the one Assistant Minister under Home Affairs. Under this, he could be one person with 7 different roles and he would have identical information that the Minister will have. He will have to be held to account by this Assembly, and it brings the Assistant Minister's job up to, I think, even being the Chief Minister bringing a slate. But if you do not agree with that, I think this is a back-fall. When Regulations come out it is all about, again, where the Assistant Minister is going to be in the pecking order because I absolutely think they should come after Scrutiny, and not, as the Deputy has described: "Oh, well, if you support my candidature of X, Y or Minister, I would like you to be my Assistant" and it has all been too cosy. That comes from the Assistant Minister who is the red in the bed apparently, according to Senator Bailhache, that of course we are all inclusive because I am always held up to be the one who can vote and does vote. I would really have to consider, under this new regime, whether I want to be that Assistant Minister because I might have more than one job but I will now be held under collective responsibility. The answering questions in this House, which I think is totally right, you are given a position, you will stand in. Some of these departments are massive and you need ... it could be one person but doing 3 or 4 different parts of that job. But to have accountability, of course what Deputy Young is saying, the Minister must be able to work with but the Chief Minister goes to the Minister and sort of reverse. As I say, I have got enough of them. If this goes through, that is fine. Ideally I would like the slate to be brought to the House and in the position after the electing Scrutiny chairs and committees or the chairman in the new version of what will come forward. So really that is all I have got to say. Thank you.

#### **4.6.5 Deputy K.C. Lewis:**

Unfortunately I cannot support this amendment, it seems to run slightly contrary to what we have just decided; that the Assembly will decide who is and who is not a Minister. The Chief Minister can dismiss that Minister but that same Chief Minister can dictate who is and who is not an

Assistant. Being a Minister is quite a crucial role and one should be able to pick one's own team for his or her Assistant. I think that is quite crucial. Thank you.

#### **4.6.6 Deputy G.C.L. Baudains:**

In relation to the last speaker, the Minister for Transport and Technical Services, and I think one or 2 other people, if I understood them correctly, seem to be concerned about the Minister not being able to appoint his or her own choice as Assistant Minister. Again, rather like the previous Article it is a question of balance. On the one hand you have got the risk of patronage, on the other hand there seem to be Members concerned that the Chief Minister will be appointing everybody. But I am more relaxed with part 2 where the Chief Minister may only appoint or dismiss an Assistant Minister to another Minister with that Minister's prior consent. So there is teamwork going on here. The Chief Minister is not going to appoint an Assistant Minister that the Minister concerned cannot get on with because they have to have a dialogue about it first. I do not see the problem.

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

Does any other Member wish to speak? I call on Deputy Young to reply.

#### **4.6.7 Deputy J.H. Young:**

Thanks to Deputy Baudains because he has taken the wind out of my sails there. I mean, the whole question about Ministers. Of course they need to have people that they can work with, and that procedure is allowed for. My amendment simply sees that the formal appointment, the authority, the anointment, the sword on the shoulder, is the Chief Minister's action, and I think that is an important principle. I do not go so far as to say that that should come before the States but I think part of my intentions in my amendment is to kind of upgrade the role of an Assistant Minister because they already, in one or 2 positions, are all very committed people but there is a massive range. You have got Assistant Ministers which are effectively Ministers in their own right. As an example I clearly cite the Assistant Minister for Treasury and Resources clearly should be a Ministerial role with proper accountability, proper weight of decision making, and this Assembly has the ability to question and so on. I think there are other areas of Government that that applies, and of course had the Assembly gone with a flexible model I think we could have had a lot more focused and really substantive Assistant Ministers positions. So I think I much prefer that rather than have the system of patronage. To me, that has got such elements of downside where it is almost so prone to people being in your pocket and doing what you say and almost giving instructions. I do not like that, I think it is much better to make the small change and the sequence of appointments in setting up Government, the Assistant Minister's role there, it is all the safeguards we need and we will get good people in them. So I maintain my amendment.

[15:30]

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

All those in favour of adopting the amendment? The appel is called for. Just making sure Members are awake. I invite Members to return to their seats. The vote is on the first amendment of Deputy Young. I will ask the Greffier to open the voting.

#### **POUR: 9**

Connétable of St. Helier  
Deputy J.A. Martin (H)  
Deputy G.P. Southern (H)  
Deputy J.A.N. Le Fondré (L)  
Deputy M.R. Higgins (H)  
Deputy J.M. Maçon (S)  
Deputy G.C.L. Baudains (C)

#### **CONTRE: 27**

Senator P.F. Routier  
Senator P.F.C. Ozouf  
Senator A. Breckon  
Senator S.C. Ferguson  
Senator A.J.H. Maclean  
Senator F. du H. Le Gresley  
Senator I.J. Gorst

#### **ABSTAIN: 0**

Deputy J.H. Young (B)  
Deputy of St. Mary

Senator L.J. Farnham  
Senator P.M. Bailhache  
Connétable of St. Clement  
Connétable of St. Peter  
Connétable of St. Mary  
Connétable of St. Ouen  
Connétable of St. Martin  
Connétable of Grouville  
Deputy R.C. Duhamel (S)  
Deputy R.G. Le Hérissier (S)  
Deputy of St. Ouen  
Deputy J.A. Hilton (H)  
Deputy K.C. Lewis (S)  
Deputy T.A. Vallois (S)  
Deputy A.K.F. Green (H)  
Deputy of St. John  
Deputy J.P.G. Baker (H)  
Deputy of St. Martin  
Deputy R.G. Bryans (H)  
Deputy R.J. Rondel (H)

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

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

We now have an amendment lodged by Deputy Martin and I will ask the Greffier to read the amendment.

##### **The Greffier of the States:**

Page 44 Article 7. After paragraph (a) insert the following paragraph and renumber the remaining paragraphs accordingly – “(b) for paragraph (2) there shall be substituted the following paragraphs – ‘(2) Before appointing an Assistant Minister – (a) the Chief Minister must obtain the States’ approval of the appointment; (b) a Minister must first obtain the Chief Minister’s consent to the appointment and then the States’ approval of the appointment. (2A) Before dismissing an Assistant Minister, a Minister must obtain the Chief Minister’s consent.’”.

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

I am presuming everybody voted against Deputy Young’s because they wanted to go that step further and support mine. **[Laughter]** Yes, yes, and we all live in hope. I agree with everything, Deputy ... I think I said most of it when I spoke on Deputy Young’s amendment. This really is upgrading Assistant Ministers. To me, it is upgrading their job title, it is putting in where an Assistant Minister will have, and it says - well, they call them junior Ministers - should have identical rights to access of information to those of their Minister. We have already established that this could be lots of Ministers. All I am asking is ... so say the Minister for Health or Social Security wants one Minister, that person might be so good that another person wants him, and then another person so they are Assistant Minister under 3 areas. They need to then be on their game and they need to be held accountable. They need to know the portfolio, they need to know all that information. In fact it is going to be a very hard job. You need to know all the information, and as Deputy Young said, if you are then drilled down to have all this information, you are accountable and collective responsibility applies as well, but in here nobody else will say. All I am asking is that the Chief Minister brings - as he could have done under the Constable of St. Mary’s for Ministers - to the House. He will have had to have been inclusive, he would have had to have got



the right people with the right experience for the jobs because, as I say, this will expose people if they have not done their work, and rightly so. So I think it should be that step further. As I say, I will keep it short. I know the mood of this House and I am sure that is why they did vote against Deputy Young's amendment because, to me, it only makes sense. A lot more responsibility, bring it to the House and get the approval because these people are going to do a different job, and if their Ministers are taken ill or away for some length of time, they step right in their shoes and have got all the same powers, making very far reaching decisions. Thank you. I maintain the amendment.

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

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

#### **4.7.2 Senator A. Breckon:**

Just a couple of points. The role of Assistant Minister has been a bit of a grey area and not defined and that has been a problem. The other thing where there have been issues, depending on the Minister and the portfolio, the role of the Assistant Minister has been everything to all embracing at my shoulder, share the lot, or otherwise something delegated and in some cases just stuff the Minister could not be bothered to do or did not want to do. "You can do that. You can have that bit. You can do that." So I think anything that gives some clarity to that has got to be good. The other thing that, I cannot remember if it was Deputy Young or Deputy Martin mentioned, where does this fit in the sort of ranking criteria? Because if you are going to have Ministers and then Assistant Ministers, and what happened at the Greffe for years, going back to Members' areas of interest or expertise or whatever it may be, you helpfully had some form: "Would you like to put down here things that you might have a knowledge about or you are interested in" whatever it may be. I know from experience, sometimes when Members had done that and whether it was formally committee presidents or Scrutiny chairman or somebody else was looking at that, it was too late, because they might have a great deal of expertise somewhere but somebody else had already said: "That is useful, you can be in my team" whatever that may be. So I think that does need some clarity which flows from that. Where do Assistant Ministers sit in the ranking because it is no good saying: "Well, we have the Ministers, then we will have Scrutiny chairmen" if a lot of people are sitting on their hands saying: "Well, that is not for me because I know where I am going to go" because things have been said or perhaps deals have been done, which is not good and healthy because you might have other Members who are willing and able to do things and effectively get shut out because they have not had the opportunity to do that. The other thing that Deputy Martin has got in there, she has got at: "(2A) Before dismissing an Assistant Minister, a Minister must obtain the Chief Minister's consent." Well, I think that is useful because there could be an argument on a Monday morning or a Friday night between a Minister and Assistant Minister, and there you are: "Off you go, do not come back." Well, is that fair and reasonable? Would you tolerate that in an employment situation? Probably not, and in that circumstance the Chief Minister could be the sounding board between the 2 about what happened so it is a sort of a relief and a release in between that because it should not be about personality, it should be about a policy. We all make mistakes, so if somebody has made a mistake it is not necessarily, well, they have to go, it is just a case of: "What happened? What was the information? Why did you do that?" So, I mean, there are ways of settling things apart from daggers and swords. So I think that is helpful, and for those reasons I will support this because I think it will start to give, and it is a developing role, that of Assistant Minister, but this does give it perhaps more substance than it has got already. It also means that whoever is in post has the approval of this House. If you ask the public generally who is the Assistant Minister for this, that and the other, they probably would not have a clue. So it does not mean a great deal outside, although other Assistant Ministers are more visible than others, so I think it is a way of moving forward in the system we have got which still needs some change in my mind. Thank you.

#### **4.7.3 Deputy G.C.L. Baudains:**

I am happy to follow Senator Breckon in the same vein. Assistant Ministers have been a grey area ever since the position was created and I have to say it exercised the subpanel's mind for some time because, as the Senator rightly said, at the present time it is far too wide, the range. There are some Assistant Ministers almost in the wilderness and there are others that are de facto Ministers. There is a completely wide range. It is ill defined; in fact, as far as I can see, it is not defined at all, and now that it is proposed by the Chief Minister that they will be included in collective responsibility I believe it is necessary now that the position needs to be regularised, or as Deputy Martin has said, upgraded. It needs to be more formally recognised and I believe bringing the Chief Minister into the equation goes some way towards that, although I have to say there is still a lot more work that needs to be done in that area. This role needs to be properly defined.

#### **4.7.4 Deputy K.C. Lewis:**

I would agree with an awful lot that Senator Breckon has had to say but I think most of it is happening already. I would not have dreamed of appointing an Assistant without first consulting the Chief Minister which is exactly what I did. I have not had cause to do the latter but I would do the same likewise.

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

I have been fortunate to be a Minister and an Assistant Minister and both roles I found very rewarding because I have been working with excellent Ministers. **[Laughter]** But the point I would like to make is that the Assistant Minister does not step into the Minister's position, does not have the same powers as a Minister. The proposer of this amendment suggested that if a Minister goes away everything falls on the Assistant Minister, well, that is not the case. The powers of the Minister go to another Minister, and so it ... the Deputy is shaking her head. But in practice, in law, the legislation or the powers that a Minister has does transfer over to another Minister in the Minister's absence. I just make that as an observation because I really do not want to give the impression that there is added value status to an Assistant Minister when there is not.

#### **4.7.6 Senator L.J. Farnham:**

I just stand by the comments I made when responding briefly to Deputy Young's amendment. I see this as being similar and potentially divisive. I just really cannot see what is to be gained out of it other than it could create a position where, as well as consolidating more power or more influence in the hands of the Chief Minister, and I am sure they are going to have enough to do, it could potentially damage relations between Assistant Ministers and the Ministers which the Deputy knows herself are vitally important. Now my Minister is back so I can confirm just what an excellent relationship we have. Thank you. Seriously, though, this is an important point to make and I think I have made it.

#### **4.7.7 Deputy G.P. Southern:**

Yes, and in trying to pin down an answer to the question, what is an Assistant Minister for, which is a question I, quite frankly, have often asked myself, and given, as Deputy Baudains says, the wide range of responsibilities and sharing of information that goes on with some Ministers but not with others, I think Deputy Martin's proposition is very laudable and deserves our support. The argument from the Minister for T.T.S. (Transport and Technical Services) from behind saying: "Well some of it is already going on" is not an argument to say: "Well, do not formalise it." Let us get it in black and white and let us have that template there. Equally, the argument from Senator Routier - I forget what Assistant Ministership he is - that the Minister's responsibility in his absence passes to another Minister. Page 3 of this report highlights one of the recommendations of the Executive recommendations, which was: "The States of Jersey Law 2005 should be amended to

make junior Ministers the default port of call for an executive decision whenever the Minister is out of the Island or is otherwise indisposed.” So that is what this amendment is about, is it not? I am hearing a faint echo from the Assistant Minister opposite me. It is the strange dome shape of this building for one who has very sensitive hearing in certain positions. I used to be able to hear every whisper of Deputy Le Main, ex-Senator Le Main. **[Laughter]** Occasionally it was the wonderful parliamentary term “Fig gob”.

**The Deputy Bailiff:**

Deputy Southern, this is not the time.

**Deputy G.P. Southern:**

No, but I have lost my thread with the little echo in my ears, as sometimes happens and is sometimes, but not in this case, deliberate. So, I think it is perfectly clear to me what this amendment is trying to do, it is trying to strengthen the position of Assistant Minister, to clarify the position of Assistant Minister, and to give them more responsibility and make more of a job for the Assistant Minister to do. I think that is wholeheartedly to be recommended.

[15:45]

**4.7.8 The Deputy of St. Ouen:**

I have got some sympathy for Deputy Martin for bringing this amendment because of the lack of clarity of the role and status of Assistant Ministers. On the one hand they are selected and not elected, yet on the other, as has been already pointed out, they can be delegated responsibility for quite large areas within a particular department, whether it is Property Holdings or indeed, like Senator Routier, the Population Office. That is the biggest part of the big problem because you are looking for better and improved accountability and you seek and look to the person responsible. But Senator Routier has just informed us that: “Well, do not look at me, I have not got that responsibility, it is the Minister.” And yet there is this ... the Chief Minister is shaking his head and hopefully he will stand up and point me to where in this Draft States of Jersey Law it identifies the powers and the role and the authority and the legitimacy of an Assistant Minister in undertaking duties when it is clear that it says in 26: “The States Minister: each Minister shall be a corporate sole.” It does not say: “And/or an Assistant Minister.” So when Deputy Martin sums up, perhaps she can say how she believes this particular change and amendment will do anything, if any, to deal with the sort of issues that perhaps some Members are seeking to address.

**Senator P.F. Routier:**

A point of order with regard to the work with the Population Office. The Control of Housing and Work Law specifically gives the power to the Assistant Chief Minister for administering that law within that particular legislation.

**The Deputy of St. Ouen:**

Just as a point of information. If because population policy has not been delivered and if the Assistant Minister has failed, does it mean that we can hold the Assistant Minister accountable and dismiss him?

**The Deputy Bailiff:**

You can certainly propose a vote of no confidence in the Assistant Minister. Does any other Member wish to speak? Deputy Maçon.

**4.7.9 Deputy J.M. Maçon:**

It is a very interesting proposition proposed by Deputy Martin, which in effect what she is asking for is a ratification model of who will be the Assistant Minister. These Articles do not allow anyone to propose an alternative and I think, was it Deputy Southern that said all this is doing is formalising a process. Now, there are pros and cons to that, in the sense it does allow the States Assembly to endorse a particular decision which should be a comfort to any Assistant Minister to say: "Not only am I here, the decision has been right and I have the confidence of the Assembly to perform this function" which I do not necessarily think is a bad thing. On the other hand, if you are formalising a function which kind of happens anyway, are you not making a bureaucracy around the process that is already going to happen? Which one really is the preference? So, I will wait for Deputy Martin to sum up but I would be interested to know how she envisages going forward in the sense of, is it imagined that Assistant Ministers, through her amendment, would be proposed as a slate and that slate is adopted or rejected, or would the States be supporting every individual appointment as we went along? I do not think that process is outlined. It may be laced back for Standing Orders for P.P.C. to work that out. On the other hand, for those Members who are keen on the slate approach, if that is envisaged, in a sense, if this were to be adopted, it is a testing ground to see how well that would go down, and if it is successful then is there then perhaps scope for that to move towards the Ministers instead? So, perhaps there is some value in this; in testing a system out in seeing how desirable it might be for the future. I do not think that point has perhaps been considered and I just raise it for Members to consider. Thank you.

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

I think this is a positive step forward which we should not really find any reason to vote against. It is something that as a Machinery of Government Subcommittee we were generally moving in that direction anyway. We had concerns about the role of Assistant Ministers, we even posited that we should abolish Assistant Ministers and make everyone Ministers perhaps with more portfolios being available. Clearly, it was an area which was not resolved and still needs to be resolved and I think this is a welcome amendment. There are a couple of reasons for that. First of all, if we had been going down the road where the Chief Minister had been able to appoint without us having a say in it, then it would have been entirely consistent to allow the same to happen for Assistant Ministers, but that is not the case and it does put us in a slight illogicality, if you like, if we were to go down the road where we can appoint Ministers but we had absolutely no say as an Assembly on who Assistant Ministers were. It might be that you had a scenario, and I suggest we might even think that there are cases in the current Assembly, where we see a Minister who has been appointed by this Assembly, as a compromise perhaps or whatever, it could be the Chief Minister's choice or not, and he is running a department ostensibly but we really know that it is the Assistant Ministers who are running the department. That may not be the case at the moment but it could be the case hypothetically, although I think it is the case in some departments. That is my opinion. Thankfully we have those competent Assistant Ministers in those departments. But also, it would allow the Chief Minister to say: "Oh, well, I did not get my choice for Minister this time, the Assembly have rejected it, but I will just plant my 2 choices in there anyway." We also know that there are assistant Ministerial portfolios of delegated responsibility, of real authority, being able to make Ministerial decisions, which where some of those Assistant Ministers have more power essentially than some of the Ministers and are in charge of much bigger budgets than maybe some of the, what one might call minor Ministers, without wanting to be derogatory. So therefore, it also seems logical that you would want to have a say as an Assembly in who those Ministers are. So I think this is to be welcome. It would give more accountability, it is entirely consistent with the way we are moving and I would suggest that there is no reason, from the Council of Minister's perspective, to throw this out but it will work very well and I would like to see it. Let us all vote for this, 3 years' time let us see if it is. I do not think it will be one of those decisions that we would all regret, I do not see why it would be. But in 3 years' time, I think that you will find Members and

possibly the public saying: “Is it not much better now that we have got Assistant Ministers?” They are given more powers, yes, potentially, they are given more responsibility but they have also got a subsequent accountability to the Assembly.

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

I would just like to ask the proposer if she could help me with the penultimate line in her report, which starts: “If such additional powers are to be given to Assistant Ministers it is crucial that their appointment is endorsed by the Assembly.” My first thought is the word “if”. We are not there yet and yet we are asking for this to come forward, but more importantly my concern is, should the Assembly not endorse the Assistant Minister, does it then give the Assembly the powers to put forward their own Assistant Minister for that Ministry, and does that really reflect on the Minister for T.T.S. concerns that he might have somebody imposed on him that he did not feel he could work with? Thank you.

#### **4.7.12 Senator F. du H. Le Gresley:**

I do not want to drag this out but I think Deputy Martin has hit on a really good thing here because I have just been looking at Standing Orders and Standing Orders are absolutely silent about Assistant Ministers. It is like they do not exist but they do exist because they wield a lot of power in some departments. So it is right because a Scrutiny Panel, the Chairman has to come back to this Assembly with his nominations or her nominations, and Members can put up alternatives and we take a vote. Invariably the Chairman of the Scrutiny Panel’s choices are accepted and we move forward but it does seem very strange that we do all that process through Standing Orders but a Minister can announce, does not even have to announce, that he has chosen somebody as their Assistant Minister. So I think Deputy Martin has got it spot on here that the Chief Minister should come to the Assembly and seek the Assembly’s approval for the appointment of an Assistant Minister and I am supporting her.

#### **4.7.13 Deputy T.A. Vallois:**

I think just following on from Senator Le Gresley there; it is an interesting concept when we talk about the chairman having to be appointed by the States Assembly and then we think back about the chairmen that have been appointed and how many have been contested but what I would ask ... because this was a big issue for us, particularly for me, in the Machinery of Government Review because they are silent about Assistant Ministers. I have had experience of being an Assistant Minister. **[Laughter]** I might not want to go any further than that, hence the reason why I am now Chair of P.A.C. (Public Accounts Committee), let us just put it that way. But also under the States of Jersey Law 2005, under Article 28, there is an ability for the Minister to give powers to the Assistant Minister but the problem with that particular Article is the fact that it says “may” and not “must”. I think that is an issue. I understand what Deputy Martin is trying to achieve here but I do not think it is going to solve the problem. I do not think the Chief Minister appointing an Assistant Minister is going to make any difference. I think what needs to happen is the Ministers have to decide what they are doing in the first place and decide what an Assistant Minister role looks like and what they should be doing. I advised the Chief Minister at the beginning of this term that you could have a very good role of a sub-council of Assistant Ministers. They would have powers of their own under particular Ministers but could form an advisory role to the Council of Ministers and that was just one opportunity that you could try out. I mean you did not have to change anything. It is something that the Chief Minister could have tried. I think it should be inherent upon a Minister to delegate something to that Assistant Minister but being an Assistant Minister you have the difficulty of then having to make some very tough decisions, especially like Deputy Noel has been given a large amount of delegation from Treasury especially for Capital Property Holdings areas and he signs a lot of Ministerial decisions off for that. So you are given this huge

responsibility and it comes back to the issue that the Deputy of St. Ouen was talking about, about the accountability issue. Ultimately the Minister is accountable so the Minister is taking a risk in terms of delegating responsibility and authority to that Assistant Minister.

[16:00]

My argument would be, well, they have to make sure that that Assistant Minister understands and knows what they are doing and there is a proper practice there, and I believe Deputy Noel has to inform the Minister for Treasury and Resources before he signs off the decision on a certain amount. I think **[Interruption]** oh, no, he does not now. **[Interruption]** No, but I am just saying there that things have happened. I know it is not question time. But I am just trying to explain the complexity of the system where there is a complete inconsistency across the board. You have got some Ministers that will delegate authority to their Assistant Ministers and other Assistant Ministers are left feeling kind of ... they want to do something. They want to help. They want to work with everybody but just do not feel like they are playing a part hence the reason why we have had people turn around and say: “Well, maybe Assistant Ministers should serve on Scrutiny”, and then it comes back to the argument of collective responsibility. If they are tied under that, how does that conflict with ... I am not even going to go into the whole argument but I understand where the Deputy is coming from. I am not quite sure it is the full length we need to go to solve this issue of Assistant Ministers.

#### **4.7.14 Senator P.M. Bailhache:**

That was an interesting speech from Senator Le Gresley and I think he is right, and it had not occurred to me before, to draw attention to the mismatch between the arrangements for the appointment of Assistant Ministers and the arrangements for the appointment of Scrutiny Panels but I draw a different conclusion from him and I do not think that the remedy lies in tying the hands of the Minister or the Chief Minister or conferring authority on the Assembly to appoint an Assistant Minister because there is a chemistry involved here. A Minister has to work with an Assistant Minister and it is no good the Assembly thinking that it can foist upon a Minister an Assistant Minister with whom he or she cannot work. The remedy to the problem put forward by Senator Le Gresley is a different one and that is to provide that the Scrutiny Panel Chairman can decide who should serve on the Scrutiny Panel with him or her. What has it got to do with other Members of the Assembly? The Assembly has appointed the Chairman of the Scrutiny Panel. It is up to that chairman to decide who should serve with him or her so I will vote against the amendment of Deputy Martin.

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

Does any other Member wish to speak? Then I call on Deputy Martin to reply.

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

I think that is the point, what Senator Bailhache made, and Deputy Vallois nearly stole my summing up speech. Is it about chemistry? This collective responsibility. Assistant Ministers will be in the collective. As I have already said, you may have one Assistant Minister who is tied to more than one, 2, 3 ministries, all collective. Well, if I was an Assistant Minister I would be sitting behind all them Ministers breathing down their neck every other week at the Council of Ministers because I want to know the inner workings. I want to know everything. Because what Deputy Vallois said ... and it is nice to have the chemistry and it is a shame that Deputy Lewis feels that he works well with his Assistant because he agrees that they will get on together. Now, when we are in this new world and you have got someone you get on with who is a very nice person but is going to be delegating. Now, the Constable of St. Peter asked me, where am I coming from? Well, on

page 7 of P.33 it tells me the requirement for a collective responsibility for Assistant Ministers is intended to improve communication between Ministers and Assistants and to enhance their relationship. At present Ministers are not able to delegate the power to make an enactment or to decide an appeal under an enactment. Article 10 amends this to enable Ministers to delegate these functions to an Assistant Minister further strengthening their role. So it is a bigger role. They will be up for questioning. What I am trying to avoid is that it is not the best friend, or the somebody who voted for him, it is because it will be you, Minister, who the vote of no confidence is brought in. If you have one or 2 or 3 Assistant Ministers, or whomever, delegated powers, collective responsibility, who has got to be accountable in this House. Whereas now people will say ... and they will put in oral questions to my Minister and say: "I only want this answered by you, Minister." It will be totally reversed because I know Deputy Noel in this world would be the Assistant Minister for Property Holdings. He does answer to them anyway. But I would know where to direct. I want to test Deputy Noel. If I am in the new world and wherever and I am the Assistant Minister with responsibility for children, everything delegated, I mainly answer those questions now unless a specific Member directs the Minister to answer. But with the delegated powers, with the responsibility, all I am asking ... and it is so silent on Assistant Ministers, where do they come in? We can do this in Regulation. You really will have to know your Assistant Minister can do the job and not that they are a jolly good person or is she not a lovely person ... got to know their portfolio and they better hit the ground running because, as I said, I leave it at that. I would hold that Minister to account. If he has selected the wrong ... very nice people, very well meaning, but they do not know their portfolio. They cannot stand up here and be accountable because here it says: "You will be giving them delegated powers." It waters them down in their comments to me saying: "They are still trying to maintain a slight difference between Ministers and Assistant Ministers so we do not really have to accept Deputy Martin's amendment." I am asking for a slate to be accepted. Unfortunately this is how it was drafted by the Law Draftsperson. I was told I could not do a one-on-one for some reason as the law was drafted. There was not a way to do it. Ideally that would be better, I think, but, again, as we started off saying, if the Chief Minister has to present the Assistant Ministers to this House it will be better than the cosy chat in the tearoom the week before saying: "Do this, do that." You will have to know who these people are. You would have to rely on them saying: "Well, oh, the Assistant Minister ... well, I want the Deputy from St. Ouen [it will not be this Deputy because we do not know who it will be] and I want the Deputy of St. Ouen to be my Assistant Minister" and the Chief Minister: "Yes. Well, yes, they are quite a good person but what do they know about anything of the background that economic development covers?" He would have to ask some questions because it is not done like that, I do not think. I have been there, I have been here; I have been told: "Would you like to be my Assistant Minister?" I have had choices and it has been very nice. **[Laughter]** We might not be there again but that is what I am saying. It really makes you think and this will make Assistant Ministers think but it will come down, I think, as ... although the Deputy of St. Ouen has asked whether you could bring a vote of no confidence in the Assistant Minister, why would you when they are performing so poorly, they have been appointed by the Minister with the permission of the Chief Minister, then permission of this House, you go straight for the vote of no confidence in that Minister and it is quite simple. So I maintain the amendment and hope that I have convinced the House to put some stand on what an Assistant Minister is. I call for the appel.

### **The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on the amendment of Deputy Martin and I ask the Greffier to open the voting.

#### **POUR: 20**

Senator A. Breckon  
Senator S.C. Ferguson

#### **CONTRE: 23**

Senator P.F. Routier  
Senator P.F.C. Ozouf

#### **ABSTAIN: 0**

Senator F. du H. Le Gresley  
Connétable of St. Helier  
Connétable of St. John  
Connétable of St. Brelade  
Connétable of Grouville  
Deputy R.C. Duhamel (S)  
Deputy J.A. Martin (H)  
Deputy G.P. Southern (H)  
Deputy of St. Ouen  
Deputy M. Tadier (B)  
Deputy T.A. Vallois (S)  
Deputy M.R. Higgins (H)  
Deputy J.M. Maçon (S)  
Deputy G.C.L. Baudains (C)  
Deputy J.H. Young (B)  
Deputy R.J. Rondel (H)  
Deputy N.B. Le Cornu (H)  
Deputy S.Y. Mézec (H)

Senator A.J.H. Maclean  
Senator B.I. Le Marquand  
Senator I.J. Gorst  
Senator L.J. Farnham  
Connétable of Trinity  
Connétable of St. Clement  
Connétable of St. Peter  
Connétable of St. Mary  
Connétable of St. Martin  
Deputy R.G. Le Hérissier (S)  
Deputy J.A. Hilton (H)  
Deputy J.A.N. Le Fondré (L)  
Deputy K.C. Lewis (S)  
Deputy E.J. Noel (L)  
Deputy A.K.F. Green (H)  
Deputy of St. John  
Deputy J.P.G. Baker (H)  
Deputy S.J. Pinel (C)  
Deputy of St. Mary  
Deputy of St. Martin  
Deputy R.G. Bryans (H)

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

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

Very well, we now resume debate on Article 7 as proposed by the Chief Minister. Does any Member wish to speak?

##### **4.8.1 Deputy G.P. Southern:**

Here we go again. It just occurs to me, in my desperation, that with collective responsibility and now the possibility of Assistant Ministers being attached or serving one, 2, perhaps 3 Ministers, that collective responsibility on them would cover 3 ministries, which sounds to me like a severe restriction on the ability of that Assistant Minister to make up their own minds and vote with their conscience because they would be constrained, it appears to me, to follow the party line, for want of a better phrase, to follow the line, the strategic line, dictated by the policy of the party [Laughter] on one, 2, perhaps 3 areas. That is quite a serious restriction on their ability to function and vote freely as I am sure they would wish in many cases. I think that is a retrograde step and one of the reasons why some of us were opposing collective responsibility in the first place. So, again, beware what we wish for.

##### **4.8.2 Senator F. du H. Le Gresley:**

I got a little bit alarmed when I noticed that Article 7, which we are now debating, removes the Troy rule. It does so by deleting paragraphs 3 and 5 of the States of Jersey Law 2005. The saving grace of course is that we might bring it back, or some form of it, in Article 8. However, we are not debating Article 8 at the moment we are debating Article 7. So if Members approve Article 7 as presented we lose the Troy rule and if the Minister decides not to present Article 8 we do not have a Troy rule.

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

To follow on from that, one of the findings which the Machinery of Government Subcommittee was very sure on, and I think which everyone agreed on and I think also the Chief Minister agreed on, was that the Troy rule was absolutely integral. There were some people who were, perhaps,



divided as to how important it was but no one thought that it was unimportant and there were those who were vehement for its maintenance. So I am concerned by what Senator Le Gresley has raised because clearly that is the one thing which I think we must obtain in the current system even though it is slightly constitutional fiction in that we know that the Chief Minister has to secure a majority; minority government is important. On the back of that, of course, I endorse everything that Deputy Southern is saying, that I see it as a cynical attempt. I am not sure if it is that. It may not be. But the consequence is that by spreading the Ministers around between departments rather than saying you have one Assistant Minister who has got expertise in health, one Assistant Minister who has got expertise in economic development, you say all of a sudden they can have expertise, as we have seen, in property holdings and in health or in housing and in health. Of course they will be whipped. They will be bound by collective responsibility and we were told that it only applies to their department but it may well be their department is 3 departments, or 5, I suppose, it could be, or we could move policy between departments anyway. That is a risk which I think is unnecessary and I also think it does not necessarily help to put the right people in the right jobs.

[16:15]

Of course there is an argument to say that there is more cross-cutting but that should be happening anyway by having the Council of Ministers working more collectively so I do not think we need that. I think those 2 reasons, in themselves, are sufficient to vote against this Article.

**Deputy G.P. Southern:**

If I may ask a question? Is it the case that Senator Le Gresley is correct when he says if we vote for Article 7 we remove the Troy rule only to put it back, possibly, in Article 8? We need to know that before we vote on Article 7.

**The Deputy Bailiff:**

It is correct that the amendment in Article 7 would repeal paragraphs 3 and 5 of what is now Article 25 of the Law and Article 3 provides for what is called the Troy rule and paragraph 5 of Article 25 allows the States, by Regulation, to increase or decrease that number. It is also correct that if Article 8 were to be adopted that has the effect of requiring the Assembly to consider, under Standing Orders, what that number ought to be, so the debate, as it were, deferred until such time. Chief Minister, Members are clearly going to be anxious about this matter. I wonder if you might give your intentions to the Assembly in this respect. It would be helpful in the context of the debate, for example, that you are intending to proceed with Article 8 if this is adopted, are you?

**Senator I.J. Gorst:**

Indeed, I was going to say that in my summing up as I said in my opening comments when you asked me how I wished to proceed during the course of the afternoon. I made it quite clear, my position has not changed. It would be unconscionable of me to move Article 7 and then not move Article 8.

**The Deputy Bailiff:**

Yes. I just wanted to be clear that was the position.

**Deputy G.P. Southern:**

And a further clarification ... sorry.

**The Deputy Bailiff:**

The Minister said he will move Article 8 if Article 7 is adopted.

**Deputy G.P. Southern:**

What does Article 8 do, precisely?

**The Deputy Bailiff:**

What Article 8 does, is it puts into Standing Orders the ability of the Assembly to prescribe an aggregate number of Chief Minister, Ministers and Assistant Ministers. So the Assembly, under Standing Orders, would fix the prescribed number which cannot be exceeded of Chief Minister, Ministers and Assistant Ministers.

**Deputy G.P. Southern:**

Sorry, is that in any way different from what we have now with the status quo?

**The Deputy Bailiff:**

It is different in the sense that there is provision in the law for a maximum number, that is to say 22, although the law does provide for an amendment to that number by Regulation, which Members may think the same as the States by themselves fixing the number.

**Deputy M.R. Higgins:**

Can I seek clarification again?

**Senator S.C. Ferguson:**

Could I ask, if it goes to Standing Orders, does that mean it is easier to change the number?

**The Deputy Bailiff:**

No, the Standing Orders are adopted by the States and the Regulation is adopted by the States to that extent. It is just as easy but there is no difference.

**Senator B.I. Le Marquand:**

Could I ask a question? Is it possible to avoid any doubt or questions in the minds of Members, now that the amendments have been dealt with, is it possible for the Chief Minister to take Articles 7 and 8 together? It seems to me that would be quite a neat way of dealing with it.

**Senator I.J. Gorst:**

I am happy to do that. It was my understanding that when there is an amendment to an Article one takes that Article with the amendments and then moves on but I am quite happy to take the vote on both together.

**The Deputy Bailiff:**

The only problem there is if any Member, who has already spoken in relation to Article 7, also wants to speak in relation to Article 8. The Chief Minister has assured the Assembly that he is going to propose Article 8 if this proposition is adopted. I cannot concede it is possible he will not do that and therefore I would say to Members that we will be going to consider Article 8 immediately after Article 7.

**Deputy M.R. Higgins:**

For the avoidance of doubt, right now the Troy rule is set in the law.

**Male Speaker:**

As what?

**Deputy M.R. Higgins:**

As 22. Now, if this Article goes through and if the next one goes through as well, will that change the 22 at this point in time?

**The Deputy Bailiff:**

Yes, because the Standing Orders will need to prescribe the number of individuals. That will be a debate some time later as to what that figure will be. Now, does any Member wish to ... well, lots of Members wish to speak. Let us take them ... sorry, have you got a question or a speech?

**Deputy J.H. Young:**

It is a further clarification on that. If we end up with that situation where this is adopted when does this law come into effect? Are we then in interregnum, and that was before we passed the Standing Order that prescribes the number?

**The Deputy Bailiff:**

The law will come into effect when the States, by Act, appoint and it would be open to the States not to bring it into effect until the Standing Order has been adopted.

**Senator I.J. Gorst:**

Thank you for that clarification. I believe there are safeguards and of course I would say for those Members who think I may not move Article 8, if I were to be so stupid as not to do that having now given my word then I would expect every single Member to vote against the whole thing in Third Reading.

**The Deputy Bailiff:**

Now, does any Member wish to speak?

**4.8.4 Deputy M.R. Higgins:**

I think we have got ourselves into a mess here. It is relying on promises. I am sorry; if the Troy rule has been a fundamental principle in this Assembly, and I see some of the Constables are shaking their heads, but most Members do believe that the Executive should be in the minority. The point I am trying to make is unless it is absolutely cast iron that the Troy rule remains I am not prepared to vote for any amendment, whether it be 7, 8 or anything else unless I am certain that is going to be there. One of the things I have said in this House has been against the proposition, as brought forward, because I felt it was diluting the Assembly and its ability to hold the Executive to check. Here we have an opportunity, not by intention perhaps, certainly on the part of Members ... talk about sleepwalking. We would have sleepwalked into this one and I thank Senator Le Gresley for mentioning it. In fact at the time he was mentioning it I was asking the question around here, what is the effect on the Troy rule? I think it is a step too far and I think we should reject this Article.

**4.8.5 The Deputy of St. Ouen:**

I would go a little bit further than that. Over the last couple of days we have heard the Chief Minister and other Ministers insist that they are not doing anything to affect that and that they support the Troy rule and yet here we seem to be seeing, by stealth, a change to that particular proposal. The Chief Minister might be hanging his head, I hope it is not in shame **[Laughter]** because I think that it is ... even by altering and moving the Troy rule out of primary law into Standing Orders weakens and limits the ability of this State **[Approbation]** to rely on a significant fundamental principle that I thought, perhaps naively so, that the Chief Minister and others were signed up.

**4.8.6 Deputy G.C.L. Baudains:**

I do not recall the Chief Minister mentioning the Troy rule issue in his moving the Article, I hope it was just an oversight, but I must congratulate him because he has managed to achieve something which the subpanel could not do and that was find a way of achieving inclusivity because by doing

away with the Troy rule and then changing not more than 2 into more than one, we can all be Assistant Ministers and we are all included. I shall be voting against.

**4.8.7 Connétable L. Norman of St. Clement:**

I really must be missing something I think because the Troy rule is something which I think the Chief Minister has said will be included into Standing Orders. If this Article is adopted today nothing changes. The rule as currently enacted remains in place. The Troy rule, number 22, remains in place until the States decide to approve an Appointed Day Act to bring the amendments we are making today into effect. So the current Regulation, the current Troy rule, remains in place. In due course we will be asked to amend Standing Orders to put the Troy rule ... well, the Deputy of St. Ouen is shaking his head. Have I got it wrong? In due course the States will be asked to amend Standing Orders to replace the Troy rule from the law into Standing Orders and then we will be asked to approve the Regulations by an Appointed Day Act. So nothing changes whatsoever.

**The Deputy of St. Ouen:**

Could the last speaker confirm that we removing the Troy rule out of the primary legislation, which is the States of Jersey Law 2005, and putting into something that is different, which is Standing Orders?

**The Connétable of St. Clement:**

Well, of course, and the President, the Deputy Bailiff, made that absolutely clear but we can change that number today under the current law by Regulations in exactly the same manner as we can change Standing Orders so there is no difference whatsoever.

**Deputy G.P. Southern:**

If I may ask the Chair again, because we have got another version now of what we are doing or not doing. Can he confirm that what the Constable of St. Clement has just said is consistent with the interpretation that you gave, that we are, in Article 7, removing the Troy rule and at a date in the future putting it back; agreeing it in Standing Orders?

**The Deputy Bailiff:**

The effect, if Article 7 of this draft projet is adopted, is to remove the Troy rule from the legislation. If Article 8 is then adopted the effect is to allow a mechanism, through Standing Orders, to put it back again. The effect of the Appointed Day provision is that if Members are not satisfied that either the Standing Order has been adopted or that they are not satisfied that it has the right number in it, presumably, Members will not vote to bring this amendment into force. That is the protection.

**Deputy M. Tadier:**

Does it mean that in the future, if the States decides that it does not want the Troy rule, whether it be in 3 weeks or in 2 years, then they would just change the number? So there is nothing given in Article 8 that would protect the principle of the Troy rule in minority government?

**The Deputy Bailiff:**

There is no difference in that respect between Article 8 and Article 25(5), as it currently exists, because the Regulation could be put forward under Article 25(5) to increase the number from 22 to 49.

**Deputy M. Tadier:**

What I am saying is that at the moment we have a Troy rule; Article 7 removes it and Article 8 does not put it back. That is what I am asking. Is that the case?

**The Deputy Bailiff:**

The mechanism to put it back is there but not the numbers.

**4.8.8 Deputy J.A.N. Le Fondré:**

That is okay. I am trying to assist here if I have understood it correctly. To reiterate, there is no **[Interruption]** it is a question. I would like you, hopefully, to confirm my understanding. There is no difference between the ability to change the number, 22, now and the proposed difficulty or ease to change that number as and when it gets into Standing Orders. But the question I was going to ask, if people are concerned, is the Appointed Day Act, it is going on a separate day I assume; if the Chief Minister would give an undertaking that Standing Orders are resolved and approved, yes, before the Appointed Day Act that probably would, hopefully, serve to alleviate Members concerns.

**The Deputy Bailiff:**

Chief Minister, could you give that ...

**Senator I.J. Gorst:**

I am sitting here a little ... I have enjoyed the 2 days debate I must say but I am slightly, at 4.30 p.m., feeling a little frustrated but only because the arguments that Members are having this afternoon are exactly ones that I had with my officers and with the Greffier about why I could not lodge the Standing Orders at exactly the same date for debate, today as well, because I foresaw the concerns that Members would rightly raise. I was told in no uncertain terms that that was not possible procedurally so I did the next best thing which was to ensure that the changes to this law are only enacted by an Appointed Day Act and the draft Standing Orders are also attached to this draft law and every single time that the law is changed, that needs a change to Standing Orders, that same process has been used and I can do no better than that. If Members are uncomfortable with the process I do not see how we can do anything other than the process that I have challenged in the strongest possible manner, as Members have today, because the principle of maintaining the Troy rule is extremely important and it is what the Machinery of Government Subgroup said.

[16:30]

It is what was said through the in committee debate and it has been the difficulty of the inclusiveness versus the Troy rule and therefore ...

**The Deputy Bailiff:**

Chief Minister, this is really not another speech. I think you have just been asked for an undertaking that you will bring back Standing Orders that provide for a total of 22 as it currently stands.

**Senator I.J. Gorst:**

They are in front of Members right now. If I could have lodged them for debate I would have done. I could not and therefore I will and have no problem whatsoever in giving that undertaking.

**The Deputy Bailiff:**

Right. There you are. That is clear to Members.

**4.8.9 Senator L.J. Farnham:**

Thank you in appealing for calm because I think Senator Le Gresley set a hare running that he did not really have to. The Constable of St. Clement ...

**Senator F. du H. Le Gresley:**

No, I disagree with that. **[Laughter]** I totally disagree with that statement.

**The Deputy Bailiff:**

You have had your speech, Senator. Senator Farnham you have the floor.

**Senator L.J. Farnham:**

Well, we have caught the hare and we have killed it.

**Senator F. du H. Le Gresley:**

I am not sure you have.

**The Deputy Bailiff:**

It is just objecting to being skinned at the moment.

**Senator L.J. Farnham:**

Yes, and we will make a nice stew with it later. The Constable of St. Clement summed it up. This is no trick or sleight of hand to do away with the Troy rule whatsoever. It is again Members just not understanding the position here. It is quite simply moving the Troy rule into Standing Orders. It still requires the backing of the States to change it. The only difference is it can be done quicker, which is no bad thing. If the Assembly decides to do anything it should be done quicker in my opinion and that is it. I apologise to Senator Le Gresley if he took umbrage but there is no sleight of hand or there is no attempt to remove or reduce or change the Troy rule as it stands at present.

**Senator I.J. Gorst:**

Sorry, could I endeavour to give or ask for clarification from the Solicitor General because I, perhaps, have been over enthusiastic. The actual Troy rule that prescribes the Executive in the minority remains in the primary law. It is the number that has moved. That is not correct. Okay, sorry.

**Senator B.I. Le Marquand:**

I was going to try to clarify the points which have already been clarified but I think I will still, nevertheless, try to do that because there does appear to be some confusion. The existing situation, it is under Article 25: "The number of Assistant Ministers appointed shall not cause the aggregate of the Chief Minister, Ministers and Assistant Ministers to exceed 22 individuals." Now, that is the Troy rule, if you want to call it that, because it sets a maximum; it is set in the law. But Article 22(5) says: "The States may by Regulations amend paragraph 3 [that is the one I read before] so as to increase or decrease the number there mentioned." So there has always been a power in the States to change the maximum number of Ministers and Assistant Ministers by Regulations. Now, what is happening, by virtue of the combination of Article 7 and Article 8, is simply that those provisions disappear and instead they are replaced by Article 25(a): "The aggregate of the Chief Minister, Ministers and Assistant Ministers shall not exceed the prescribed number of individuals." Now, the term "prescribed" is a defined term in the law and it means to prescribe by Standing Orders. It then goes on, of course, to add another provision saying that if there is an attempt to breach that that it has no effect whatsoever. So there really is no change taking place here at all in the ability of the States to change the situation. One required Regulations the other required a change of Standing Orders effectively. As I have said, the same thing although there may be some technical slight change in relation to lodging periods. However, Senator Le Gresley was quite right to draw our attention to this because it will be necessary before the Appointed Day Act can be made, before these amendments can come into force, for the prescribed number to be prescribed in Standing Orders and that is what the Chief Minister has now agreed to

do and said that always was his intention to do. So, I am sorry if I have clarified what you have already clarified but there did seem to be still some slight confusion in relation to the matter.

**Deputy G.P. Southern:**

Point of clarification, if I may, from the previous speaker?

**The Deputy Bailiff:**

I am sorry?

**Deputy G.P. Southern:**

Further clarification from the previous speaker if I may? Is the Minister saying that when we next see the Standing Orders that particular Standing Order will contain the number 22, that will be the prescribed level?

**Senator B.I. Le Marquand:**

That is a matter for the Chief Minister in his proposition but I am assuming that that is what he is intending.

**The Deputy Bailiff:**

It reduces, according to my version of the law, to 21 following the election in October 2014 because the number of Members has reduced.

**4.8.10 Deputy J.M. Maçon:**

Not much to add but I would just want to remind Members, as I think there might be a concern, in what we are doing is relocating the Troy rule into Standing Orders and I think we do need to look at the wording of how it goes into Standing Orders but the ruling from the Chair has always been ... because there was a concern from Members if somehow Members managed to suspend Standing Orders in order to block or negate the Troy rule, my understanding is that the rule from the Chair has always been you cannot suspend a Standing Order in part. If you try and take that little bit the whole thing does not work. So I think, and perhaps the Chief Minister will confirm, when he is drafting what is before us, that if even a Member tried to propose that a Standing Order should be suspended that the whole process would not work and go forward and therefore it is not really a concern whether it is in the law or in Standing Orders because the effect will be the same, and Members cannot simply suspend that particular Standing Order to get around the Troy rule.

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

I think this is an absolute mess from what we have heard so far. The question that has to be asked, and I hope the Chief Minister will answer in his summing up, is why? We have a Troy rule. We have a number. It is in primary law. Why does it need to go to Standing Orders because we know that there are some Members of this House who do not want the Troy rule? So what will end up happening is we will have a debate on the principle of it in the first place when there are some of us in this House who think that in a non-party system the Troy rule is absolutely fundamental to democracy. So that is the really worrying thing here. It is that something will change because I cannot see any need whatsoever for it change from primary law to Standing Orders.

**Senator S.C. Ferguson:**

I am very pleased to follow Deputy Mézec because I had exactly the same question, why are we doing it? Because we have a consensus government, Clothier said we must have a minority government because it is the only way you will keep consensus. So why are we going to all this trouble to move it? Perhaps the Chief Minister would explain.

**4.8.12 Senator P.F.C. Ozouf:**

There is a Monty Python song that says: “Always look on the bright side of life.” **[Laughter]** We do make heavy weather of it. I know that our journalists, and I see from Twitter, that people think that this is confusing, but we are making somewhat, if I may say, negative heavy weather of it. Looking on the bright side of life we are allowing more Assistant Ministers to be appointed in ministries, cross-working, to allow Assistant Ministers to be shared. I have shared. I have only got one Assistant Minister now and I used to have 2. There is criticism, apparently, that the Treasury is too powerful. Deputy Noel and I have got huge responsibilities and I think both of us would say that we would like another Assistant Minister but because of other rules elsewhere we cannot. I look on the bright side of life. We have passed an amendment, the primary effect is that we want to have a greater flexibility for sharing of Assistant Ministers. There is no bogeyman. There is no negative in my view. This is the consequence of making that good decision. The States is in charge of the Troy rule. If they wanted it could be changed previously. We can have flexibility. Please, we are making heavy weather of it. Let us look on the bright side of the fact that we are going to have the possibility of getting more cross-working and a sharing of responsibilities and better working between ministries that when it has been in place has worked brilliantly in the past and can be extended and we should be looking at that because that is why we are having this debate. There is no bogeyman and ultimately the States have been saying for the last 2 days, they want to be in charge. They do not want the Chief Minister to prescribe. So the States is going to be in charge because they are going to set that limit. I have got no more to say on the bright side of why we are doing that.

#### **4.8.13 Deputy T.A. Vallois:**

I am hoping I can just clarify a few things. On page 19 of the proposition, P.33, where the Chief Minister is trying to prescribe the Standing Orders that he is planning to bring forward, should this be agreed, and that is the “should this be agreed”. Right at the top you will see the plan for the Standing Order and it is to change it to 21 which is less than what is in the primary legislation. I believe, if I am correct, the reason for moving it to Standing Orders is the fact that it can be done more quickly in terms of being agreed by the States Assembly rather than it going through the Privy Council but I am sure somebody can confirm that or not. I am sure the Chief Minister will say ... Solicitor General.

#### **The Solicitor General:**

I was just going to say that I do not think Regulations go through the Privy Council. I do not see that there is a time element whether you go Regulations or Standing Orders.

#### **Deputy M.R. Higgins:**

Why are we changing it?

#### **Deputy T.A. Vallois:**

This is the question. This is what I think people are getting confused about; that although understanding that there is this need for Assistant Ministers ... although you can have 2 Assistant Ministers it is a question of whether the Council of Ministers can organise themselves properly or not. I think the Chief Minister needs to be a lot clearer about the whole moving to Standing Orders, not having it in primary legislation and being exactly clear on what it is he is trying to achieve because unfortunately there is serious concern and this was a big thing on the subcommittee and there was great belief in the Troy rule. I have sat in a room with the Chief Minister who sat in front of me and said that he does not want the Troy rule and he will openly admit that. So unfortunately people will ... conspiracy theories will go round that what he is trying to encourage the States Assembly to bring back in Standing Orders, you can change it to whatever number you want, and therefore that means that we will want Assistant Ministers serving on Scrutiny or maybe even not a



Scrutiny function but I think the Chief Minister really does have to be absolutely clear what it is he is trying to achieve here.

**The Deputy Bailiff:**

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

**4.8.14 Senator I.J. Gorst:**

Perhaps I could just remind Members of Senator Le Marquand's speech which I think clarified the situation perfectly. The new Article 25(a) will, in effect, maintain the principle of the Troy rule in the law. It refers to a number prescribed and, as Senator Le Marquand said, that number will go into Standing Orders. As Deputy Vallois just said, we can see on page 19 of the draft Standing Orders what that number will be with the change in the Assembly. We must remember that these changes, it is envisaged, will come into effect in the new Assembly not in this existing Assembly. I would also just like to comment upon Senator Ozouf's speech and that this particular Article 7 is doing a number of things which I think are extremely important, and that is allowing for a Minister to have more than just 2 Assistant Ministers and Deputy Vallois is right. That will require the Council of Ministers to organise themselves in an effective way. What it also does is make sure that you bind together the role of Minister and Assistant Minister by creating collective responsibility in that particular department alone but the overall numbers remain the same. Perhaps I was a little naïve in thinking that retaining the Troy rule in the law but prescribing the number in Standing Orders would be almost a simple housekeeping change and yet it is the one thing that Members seem to have fixed on this afternoon.

[16:45]

One of the reasons was that we continually have debates in the Assembly about the electoral makeup of the Assembly and the need for either a, some would say, reduced number of Members or an increased number of Members, and what I aimed to do with this was maintain the Troy rule but give the ability to change that number in response to any change in the electoral makeup in the Standing Orders. Deputy Vallois was absolutely right to say I have sat in front of her and said that I did not support the Troy rule. I have been absolutely open about that. I continue to see that the changes that I am proposing today are attributed solely to me as if it were me as Chief Minister who has brought forward these changes. These recommendations have arisen from the work of the Machinery of Government Subpanel and I did not agree with all those recommendations and, as I have to do every day in my job, I have to build consensus and build compromise. I was prepared to do that. I acknowledged that I was having to sacrifice inclusivity by maintaining the Troy rule but I listened to what the Assembly said in the in committee debate. I have listened to the arguments put forward by the President of the Chairmen's Committee and the Chairmen's Committee that there was a real concern about undermining the functioning and effectiveness of Scrutiny if we were to remove the Troy rule and I was convinced that that was the best way forward. That is why this amendment maintains that principle of the Troy rule in the primary law but the prescribed number goes into Standing Orders so that in future we can amend that number, dependent on the electoral system that we have, but the rule that the Troy rule is in place remains there in primary law and would require both changes if it were to change. I come back to the point that I made when you asked me for clarification and undertaking. It is not my intention. It was not the intention of the law draftsman or from the law drafting instruction to do anything other than maintain the Troy rule but put the prescribed number in Standing Orders. As I said, this will come in by an Appointed Day Act. If I could have done I would have lodged them all together. The process does not allow me to do that and therefore I ask that Members see it for what it is. It is a process. The principle is maintained. The number goes into Standing Orders but there are also other benefits of this Article and I maintain the Article.

**Deputy M.R. Higgins:**

Can I ask a point of clarification of the previous speaker? He stated that if, for example, in the future the House decides, because of a change in the electoral system, let us say, for example, there is a referendum on Clothier or numbers or whatever, that will have to be done, if I am not correct, in primary law. Is that correct? So any changes to the composition of the House will have to be done in primary law? If that is the case why do you have to put the number of people who make up the Troy rule in Standing Orders? Surely they would both go in the same primary law.

**The Deputy Bailiff:**

Can you clarify your position on that, Chief Minister?

**Senator I.J. Gorst:**

I do not know the answer. I imagine there would need to be changes to primary law but the point is here that the principle of the Troy rule is maintained, it is just the prescribed number required to maintain that principle goes into Standing Orders.

**Deputy J.A.N. Le Fondré:**

I am sorry, may I seek a point of clarification from you? Well, I think yourself, possibly the Chief Minister, I am not too sure. It has been said twice that the principle of the Troy rule is maintained in the primary legislation. Is that Article 25(a)(1), because the reason I say that is what would stop somebody in the future just amending the number, to use your example, to 49? In other words where does it say that the Executive must be less than the non-executives?

**The Deputy Bailiff:**

If Articles 7 and 8 of this amendment law are adopted it does not say that the Executive must be in a minority. What it does say is that the aggregate of the Executive shall not exceed the prescribed number. Right, have you called for the appel? The appel is called for. I invite Members to return to their seats. The vote is on Article 7 and I ask the Greffier to open the voting.

**POUR: 24**

Senator P.F. Routier  
Senator P.F.C. Ozouf  
Senator A.J.H. Maclean  
Senator B.I. Le Marquand  
Senator I.J. Gorst  
Senator L.J. Farnham  
Senator P.M. Bailhache  
Connétable of St. Helier  
Connétable of Trinity  
Connétable of St. Clement  
Connétable of St. Peter  
Connétable of St. Mary  
Connétable of St. Martin  
Connétable of Grouville  
Deputy J.A. Hilton (H)  
Deputy K.C. Lewis (S)  
Deputy E.J. Noel (L)  
Deputy A.K.F. Green (H)  
Deputy of St. John  
Deputy J.P.G. Baker (H)  
Deputy S.J. Pinel (C)  
Deputy of St. Mary  
Deputy of St. Martin

**CONTRE: 18**

Senator A. Breckon  
Senator S.C. Ferguson  
Senator F. du H. Le Gresley  
Connétable of St. John  
Deputy R.C. Duhamel (S)  
Deputy R.G. Le Hérissier (S)  
Deputy J.A. Martin (H)  
Deputy G.P. Southern (H)  
Deputy of St. Ouen  
Deputy M. Tadier (B)  
Deputy T.A. Vallois (S)  
Deputy M.R. Higgins (H)  
Deputy J.M. Maçon (S)  
Deputy G.C.L. Baudains (C)  
Deputy J.H. Young (B)  
Deputy R.J. Rondel (H)  
Deputy N.B. Le Cornu (H)  
Deputy S.Y. Mézec (H)

**ABSTAIN: 0**

Deputy R.G. Bryans (H)

**The Deputy Bailiff:**

Now you wish to propose Article 8, Chief Minister.

**4.9 Senator I.J. Gorst:**

If I may. It would give me great pleasure to propose this Article.

**The Deputy Bailiff:**

Does any Member wish to speak on Article 8? Will all Members that are in favour of adopting Article 8 kindly show? Those against? Article 8 is adopted. Article 9 is not being proposed in the light of the [Interruption] ... I beg your pardon.

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

**The Deputy Bailiff**

There is an amendment to Article 8. It does not affect the adoption of what is there at the moment in the name of Deputy Young and I ask the Greffier to read the amendment.

**The Greffier of the States:**

Third amendment part 2, page 45, New Article. After Article 8 insert the following Article and renumber the remaining Articles accordingly - “9. Article 26A inserted after Article 26 there shall be inserted the following Article – ‘26A Regulations: advisory panels (1) The States shall, by Regulations, provide for the establishment of panels to advise Ministers (‘advisory panels’). (2) Regulations under paragraph (1) shall, in particular, provide for – (a) the constitution of advisory panels; (b) the appointment and dismissal of members of advisory panels; (c) the functions of advisory panels; (d) the provision of resources to advisory panels; and (e) the duties of a Minister in relation to any material produced by an advisory panel in the discharge of its functions. Page - 3 P.33/2014 Amd.(3). (3) Regulations under paragraph (1) may also provide for the establishment of advisory panels to advise Assistant Ministers and, in particular, provide for the duties of an Assistant Minister in relation to any material produced by an advisory panel in the discharge of its functions.’”.

**4.10.1 Deputy J.H. Young:**

Ever since this law, the States of Jersey Law 2005, was amended, the last time this debate happened for Ministerial government, there has been a continuing issue about lack of inclusivity of elected Members in Government. Obviously because of the changes that were made at that time then abolished the then committees where every single Member participated as an executive member of Government, not just policy setting, in decision-making. They were then replaced by the Ministers but that issue was left. The question was raised, how were Members going to contribute to policy? Also whether we had in place adequate arrangements for monitoring the operational performance of Ministers and identifying weak or non-delivering Ministers. Of course there were promises made at those times. I think, I do not personally recall this but I have been advised by other Members, that the central architect at the time, I think it was ex-Senator Pierre Horsfall, and I think the Constable of St. John has often told us, who said: “We will put the meat on the bones with the Ministerial system later on once it is introduced.” So a number of working groups were set up at that time and the issue of Member inclusivity, the ability to contribute to policies at formulation would be included. Of course our first Chief Minister, Senator Walker, then went along with those groups being formed and there were a number of reports, P.70 and P.120 of 2010 of which our second Chief Minister, ex-Senator Le Sueur, was a member of that working group and recognised

and strongly supported recommendations to improve the States of Jersey Law 2005 to provide for greater inclusion of Members. In fact the proposal then, at that time, was Ministerial boards. Of course the Machinery of Government Subcommittee, when it was formed, picked up on these threads and saw the same elements in all of our interviews of 48 Members and officers of elements of the problems that remain, insufficient inclusivity, they are on page 4 of my amendment, insufficient use of Member's talents and expertise and ineffective lines of communication. Up until this point in 2 days of debate I do not think there has been anything that has been discussed that would address that so my amendment seeks to put that right. Much has been made of the fact that Members - including myself, I assume - of the subcommittee have not been able to support major changes because, and I am clear on this, they were a package. They were absolutely a package that we were looking for the checks and balances in order to be able to strengthen Executive Government. I explained yesterday, and I promised you then ... I am here today, I had hoped that I would not have to make this speech because I was hoping the proposals would not be approved in principle. But here I am again. What I am now proposing is a part of that checks and balance, I believe it is a better part than the proposal that the subcommittee came up with which suffered from a horrible name called N.E.M.s (Non-Executive Members), and frankly the in committee debate, as I said yesterday, was not a success in that area. The timings were very tight; I do not believe that there was an opportunity to have a full and comprehensive debate on that. After that in committee debate, as I said yesterday, I asked then for the group to look at the ideas which are just beginning to surface then elsewhere in the U.K., because the same problems that we experience which are inherent in the Ministerial system - lack of inclusivity and member isolation - had been picked up throughout the U.K. Then the Localism Act enabled local authorities throughout the U.K. to review those arrangements. I felt it was important that we picked up on that work to see whether there were any lessons or ideas from Jersey. Of course unfortunately what happened, we ran out of resources and time. We did not have the research support to be able to follow those ideas up and when the group was reformed I was not a member. No problems about that, it is part of life. But I did carry on as a member of P.P.C. and I asked P.P.C. to endorse following up the ideas separately to see whether there were proposals that could be considered and how they were working. Of course we identified that it was really proceeding apace in the Cornwall County Council, a major authority. They have a lot of physical parallels with Jersey. Independent minded. Yes, they have party politics, but there is a very strong balance between one-third liberals, one-third conservatives, one-third independents. The independents are very strong, they have major problems with physical isolation there, and of course it has a unitary single purpose authority, so they have a very wide range of powers. They called their bodies ... each of their portfolio heads, which are equivalent to our Ministers, in their cabinet system, they set up what they called P.A.C. which were Policy Advisory Committees. I have circulated some papers here and I know if you have read the report I would hope that perhaps one or 2 Members might have followed up the web links which I set out in there, and you will find that there are hundreds of pages of expert analysis and evidence all supporting the benefits of such a system of transparency. I have copied you those few pages about what they have done. The key things, they do provide input into policy development and monitoring of operational performance.

[17:00]

It is not true that they do not have effective scrutiny. They have a system of Select Committees, and of course we have all seen Select Committees on the TV, on BBC Parliament, we have seen how effective they are, and of course they are cross-party, the scrutiny and the depth they go, and of course Cornwall has that system. So I think this is a very simple amendment. There are no legal complexities, nothing to get ourselves tied in knots with. All I ask, that you address this amendment with an open heart, an open heart and take the opportunity to provide a missing ingredient in our Ministerial system that has always been recognised and needs to be addressed.

Put it in place. Now, in fact the way I am seeing this is I am giving the States an opportunity here to fulfil, probably 10 to 12 years later, those original undertakings that were given when these things were looked at. We have now the chance to do it. In an ideal world of course one would not have had to bring this forward this time, but where we are, and we are probably going to review this law I would guess once every 10 years, maybe even longer. How do we do it? What the proposal is, just put in a new Article that sets up that the States shall provide for the establishment of such member panels, the role of those panels, and the arrangements for appointment and dismissal, and the duties of the Minister in relation to how they need to interact with them. They are policy advisory. They are not executive decision making. You have seen - if you read the second page of the handout I sent around - the way in which Cornwall described them and I think when you read that there it absolutely chimes with the need that we have to allow Members to develop policies and take the views of the public into account. I think this will allow the potential to reconnect our Ministerial government with the public through elected Members. Of course I was fortunate a number of us had the opportunity to discuss with Cornwall leaders. P.P.C. took up my proposal and we had a video conference of some 3 hours with 5 members of the P.P.C. and we were able to talk to the leader of their Council, the leader of their independence movement, one of their Cabinet members, members of the opposition party, and councillors who had both led this review process and those running Scrutiny. I was really delighted it was not just on the papers, no doubt about in just talking with those members, and they gave their time freely and I am so grateful. I put on record on Hansard my thanks certainly for the senior politicians in Cornwall giving us that time to explain why they introduced it and what they think it does for them, and why they are strongly in favour of it. I think that will revitalise this Assembly. It will give Members who are not in the Executive a proper role. It will make the link to be able to influence policies, and I think it is not a sounding board, there needs to be real rules about the way such advisory panels - as I have called them - in Jersey work, with providing proper transparency of the influences over Ministers, proper checks and balances. I strongly believe that this is a much better arrangement to have than the current arrangement, when one looks at the current arrangement for what I think are called Ministerial groups at the moment. I think when I last put the question I got an answer. There seem to be never ending lists of Members Ministerial groups with all sorts of people on them. Ministers are on loads of them. The Ministers I have spoken to and asked: "How can you attend all these meetings?" I do not believe it is sensible to have a structure of such a very large number of bodies that are not on the proper record, not subject to proper rules and procedures, not accountable, not transparent. I believe the proposal is much better. I will just leave you with one final thought. When I took part in those interviews with Ministers and Members in doing the Ministerial government review, there was not one Minister, not one Minister who says it will not be an advantage to be able to have other Members to be able to work with in helping develop policy formulation. There was not one. I will tell you what they really wanted - and I think Deputy Baudains touched on it - if only we could have loads of Assistant Ministers. If only we could have loads of Assistant Ministers, if only we did not have the Troy rule. But, fundamentally, that is absolutely impossible so, therefore, my proposal gives a way around that. I believe it worth a try and that we have the opportunity here, we have time for P.P.C. to put some resources and some meat behind this to flesh out those Regulations which will come here to the States. This cannot go anywhere unless those Regulations come to pass, there will be plenty of opportunity for the States to do it. But if there is no power in the law then it will be another 10 years before anybody addresses this subject, so I ask for support for my amendment and I propose it.

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

Is that seconded? [**Seconded**]

#### **4.10.2 The Deputy of St. Martin:**

The Chief Minister and I may sit on opposite sides of the Executive fence, but we both at regular intervals use the same 2 words in our speeches. Those words are “working together”. Working together is the key to this amendment. I agree with the concept promoted by Deputy Young, and invariably I am sure we would all say that more heads are better than one. I like the idea of greater consultation. I very much agree with the idea of talking through problems and issues, and I am an enthusiast for expanding political groups outside the Minister and the Assistant Minister of any Ministry. However, there is already a built-in solution for us, and that is one word, Scrutiny. Some have not liked the way I have conducted my Scrutiny over this last session, too pally, too nice, not confrontational enough, not aggressive enough. It has, however, in my opinion delivered some good results. Members generally are looking for that Scrutiny review. They are asking where the comments papers are. I am sure as we approach the last couple of months of this 3-year session, Scrutiny chairmen and their hardworking panels will be sorry that they have not been able to do more work. Where I think Scrutiny has worked best is where it has been positive and not negative, constructive and not destructive. I would hope Deputy Young would agree with me that where Ministers and officials have embraced the process and asked Scrutiny for input, and respected and responded to that input, Scrutiny has worked especially well. Ministries need to keep informing Scrutiny and keep them up to speed on new policies, ideas, and initiatives. In keeping them up to speed we save time. We get better, faster results, and we deliver quicker decision making. That is constructive working together. It is what we should be doing anyway. The system is there, and the system that Deputy Young seeks is at hand, we just need to use it better. Ministers and officials alike need to embrace this process, they need to engage and they need to inform scrutiny more. Scrutiny also needs to reciprocate. This system can work, both sides just need to do that little bit better. I very much hope that greater consistency on the Executive side, led by the Chief Minister, will put us in a place where we have less discrete, unseen, and working in the background working groups, and more Scrutiny involvement. I very much like the concept proposed by Deputy Young, but to my mind his proposals duplicate, and just as importantly diminish, the Scrutiny process. For that reason I cannot support his amendment.

#### **4.10.3 Deputy J.A.N. Le Fondré:**

Just briefly, especially as the seconder. The Deputy of St. Martin raises the argument about diminishing Scrutiny, but he also in his speech said that both sides just need to do that little bit better. I think the trouble is after 9 years of Scrutiny being in place it is still the recognition that there is something missing. I seem to recall that when Scrutiny was originally proposed - and I think it is in Clothier, I have seen it somewhere - that there was a suggestion or recommendation that scrutiny should be involved in policy under development. That does not happen, as far as I am aware. It was definitely in one of the documents, I cannot remember if it was Clothier or if it was one of the formulative documents that came out of that, that was the suggestion. To reiterate the point - and I make no apologies for that - out of the 48 interviews that the subpanel made at that time, one of the key things that came through was the insufficient inclusivity of Members. Up until now, yes, potentially what is before us today is improving things in certain areas, but it is not addressing that inclusivity issue. It is interesting, I find, I had not realised that the first Chief Minister supported this kind of principle; I am very clear that the second Chief Minister did. In fact, I bumped into him a year ago, I think it was, and he basically still said: “Yes, I support and think that the Ministerial board solution” was a good one. That is someone from the Executive who is recognising that the more heads around the table in certain instances is better. Again, I want to just quote from a couple of things to do with the Cornwall thing, which all credit to Deputy Young is the council that he has identified. The town and parishes councillors ... this was of Cornwall, and then it was identified this is from the government structures, all this seemed to be due to dissatisfaction with aspects of the current system, including a perceived lack of inclusiveness and

decision making, and a sense of disconnection with Cornwall Council and councillors - you could substitute Ministers for that, and the Council of Ministers - and poor communication. Deputy Young could possibly correct me or not, I assume that they were operating under the similar structure that we presently operate on, under the basis of our existing structure is very similar to the Local Authority Act 2002. I cannot remember the exact terminology but the U.K. Act that came in at that time. The interesting thing again from their website, which Deputy Young has circulated, it talks about their Policy Advisory Committee: "These committees enable councillors to participate more widely in policy development and performance management. This is all implemented after a full review of our governance arrangements, which was undertaken as an opportunity to investigate ways in which non-Cabinet members - the non-Executive if you like - could play a greater role in shaping and influencing the policies and decisions of the council. It will also help strengthen the relationship between the portfolio holders on the Cabinet and the wider Cabinet membership." That is fine. We can talk about this is going to weaken Scrutiny. It depends on your viewpoint if Scrutiny is the panacea for everything that is wrong in the system at the moment. We would not be here today if there was not a recognition at the beginning of this whole process 2 years ago that the system needed to change. To quote a thing I think Deputy Bryans often said, or other people have said, Deputy Green may have said it recently, if we keep doing things the same way we will keep getting the same result. All we have done, we have improved the centralisation of matters, potentially, within the Council of Ministers, but we have done nothing to address the issues around having some form of influence over the shaping of policy before it comes in here in some final form. I am pretty certain it is Clothier that make a statement that once policy has been put into final draft there is a huge resistance to any of that draft being changed. That is just human nature, because of the hours of time. Whereas it is far easier and potentially better to try and have an influence on that policy much earlier on, if that is the way people wish to operate.

[17:15]

The solution from Deputy Young is not prescriptive, it leaves all the details left to be agreed, but it is putting the principle into the law. If Members do not think inclusivity is an issue, the Deputy of St. Martin does not share that view, then fine, you do not support it. But just carrying on as we are will not solve the inclusivity issue which will carry on as a running sore. On that basis I will be supporting the proposition.

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

The first thing I would like to do is compliment and commend Deputy Young for all his hard work on the panel, and although I have thanked the panel generally, the subcommittee. From my point of view Deputy Young's work that he has chosen to do has gone beyond the call of duty. He has really pushed for these events, he has in many instances been the lead and certainly when the interviews were arranged with Cornwall, in a very cost effective way, it has to be said, by a video linkup in the Scrutiny rooms, which was obviously not quite the same as visiting in person but was pretty good. It was an excellent way of getting to see many people in close succession and having a quality discussion with them. He was integral in initiating that process and that should be acknowledged, irrespective of what one thinks of what is proposed here. The second point is that our review findings in the report were quite clear on the issue of inclusivity. Of course there are those in the Assembly who perhaps think in a purist sense, if you are not part of the Executive then you just have to deal with that, not everyone can be a decision maker, the rest of you just have to find your own position. But unfortunately that is not necessarily what the public expects of us. They expect us all to play a role. Turning to the issue of Scrutiny, and it is something that I have some sympathy for because the devil will always be in the detail, undoubtedly we do need to find a way to strengthen Scrutiny. As I have said in previous speeches, we do that first of all by making a conscious decision and having a political will to respect Scrutiny more. Once that will is in place

we put the meat on the bones by perhaps enhancing the powers of Scrutiny and the responsibilities for Ministers to have to respond to Scrutiny reports, rather than being able to overlook them. I think whoever is on Scrutiny has to perhaps fight their corner more vigorously when reports and recommendations are ignored. But I do not accept that the role of N.E.M.s, or P.A.C.s as they were called in Cornwall, perform the same function as scrutiny. They do not. If we look at the Scrutiny website it says what is the purpose of Scrutiny, it says various things and it talks about what we can and cannot do. It says: "We aim to provide an effective way of holding the Executive to account, to protect the public interest, review and comment on new and existing policies, involve the public." They choose freely which issues they work on and they give the public a voice. But what they do not deal with is individual concerns or complaints about decisions or administrative processes by a Minister, *et cetera*. The other thing is that we know that Ministerial boards already exist. I do not have the exact number to hand but we are told that there are hundreds of these Ministerial boards that exist, and have existed in recent years. We do not necessarily always know how they are constituted, what their powers are, and in some cases I think when we asked even the Ministers did not know what those boards were. So there is no accountability there, there is no clarity, yet these boards existed anyway alongside a Scrutiny function. We are not reinventing the wheel, Deputy Young is not asking for the wheel to be reinvented, he is simply asking for greater clarity, greater transparency, and the involvement of Members on these bodies. How could it work? For example, we have Scrutiny, we have a very busy Scrutiny Panel, a 2-person Scrutiny Panel at the moment which is the Health, Social Services and Housing, which has a massive range of issues to look at, and for the best will in the world, all those departments are under pressure anyway and they have to be selective about what they look at. They can only do a certain amount, and no doubt some of the work will have to be put on to the next session, and that is despite the very hard work of the members of those Scrutiny Panels. But that does not mean that the issues do not get resolved. Has mental health been resolved? Is mental health still an issue? Is respite still an issue? Is day care still an issue in Jersey? It is, and that is because the remit of those Scrutiny Panels is very limited. It is to look at certain areas and to look at the evidence and then to hold the Ministers to account, and in order to do that there has to be a certain amount of demarcation. You cannot be too pally with Ministers. That is not to say that you have to be aggressive because aggression does not help, but you have to be professional. I think we were told by the Cornish that, although we may not like it, critical friend is not too far off the mark when it comes to Scrutiny or Select Committees. But the job of these Ministerial boards would be completely different. They would be able to sit in there at the decision making processes in a way that Scrutiny would not be able to do, and it would be inappropriate for Scrutiny to do that. They would be able to talk to the Minister quite frankly and say: "What are you doing about mental health? We know that these issues are coming up time and time again and they have been for the last 5 years, the issues have not been resolved, and we want to know if you have thought about these kinds of things. Have you thought about the political consequences of it? Have you thought about your P.R. (Public Relations) strategies? Have you thought about whether you are doing this correctly?" That is one of the things that these boards could be doing, much more working closely with Ministers, of course being able to be critical, but really allowing for extra expertise from elected Members of this Assembly so that they can influence policy in a way that Scrutiny cannot. That does not diminish the Scrutiny role, and as I have said previously, Scrutiny will need to be bolstered and it needs to be bolstered both with political will and with actual perhaps extra powers to be brought forward, meat put on the bones. So it is not an either/or, the 2 are not mutually exclusive, so I would encourage individuals like the Deputy of St. Martin - who is also clearly very involved in his Scrutiny function - not to throw this out but to give it a go because it has to be better than many of the secret, if you like, or semi unclear edifices that we have going on with these Ministerial boards already. It is a very good way of involving a greater cross-section of the Assembly and also it is something that we have recommended in the Machinery of Government. This is a way, I would suggest, of giving some



holistic approach to what is being put forward today. There is clearly a risk that this is going to be thrown out. We know the support for the overall proposition is tentative. We know that a significant pillar of the proposals about collective responsibility has already been thrown out, and of course further cherry picking which the Deputy on my left has tried to avoid and tried to give the Assembly a chance to put these integral parts of the report back, would give a more holistic approach and I think make the overall proposition more viable. There were several reasons I think to go down this route and at the end of the day it is a work in progress. We can see how these are progressing and we should not close the door to this. So I would encourage Members, despite perhaps previous scepticism that I have had, to really give this our backing and our support so we can have a more inclusive Government, yes, have a more effective Council of Ministers, yes, have a more effective scrutiny function. But also those Ministerial boards.

#### **4.10.5 Deputy T.A. Vallois:**

I am going to be the wrath of the proposer and the previous speaker and Deputy Le Fondré because I think we had a slight falling out over this. It was not said in so many terms but that is the way it has certainly felt. Unfortunately I have the exciting position of President of the Chairmen's Committee. I have the exciting job, like the Chief Minister, to round some people that do not have to listen to you, they do not have to abide by procedures and protocols and go off and do whatever it is they wish. Apparently the code of practice under the Standing Orders is supposed to try and frame that in some way, completely ambiguous, all over the place, you can get yourself out of a hole if you know how to. Advisory boards, I think the big question have to ask here - and what I would really like to have the answer to - is if you put an advisory panel in, so another level of bureaucracy on top of all the other bureaucracy we have in the States, is the Minister really going to listen to those people sitting around the table? Because believe me, a Minister, if they do not have the political will and they do not want it, because they have the power under the law, they will just turn around and say: "Thanks for the advice but, do you know what, no, it is all right, thanks. I am going to do it the way that I intended." Because I have seen it plenty of times, the Minister will go: "Yes, I want to discuss this with you." Okay, you go along to the room, you have a little chat about whatever it might be, a particular policy, *et cetera, et cetera*, but in terms of whether that ever comes into action I have to ask how the proposer is going to measure whether that Minister takes on that advice or not, and how clear whatever it is they are discussing around this advisory panel is going to come out at the end of the day. So at what point it changes and how can we see that change if we are not part of the advisory panel. Because I would suggest that reading Clothier, reading Cornwall Council, looking at all the public function of scrutiny centres, and looking at the Westminster model, and for Deputy Le Fondré's information I believe the Select Committees were only set up in 1973. They have less power than what our Scrutiny Panels have because they cannot bring any amendments to the States Assembly. They cannot bring any propositions to change policy or legislation. Scrutiny here can. Their Select Committees cannot. I agree, there are issues with Scrutiny and I proposed a way to solve that issue under the Machinery of Government, and the proposer himself did not want that change to the Scrutiny function to a Scrutiny Management Committee, and then later on turned around to me and said: "Actually, I do." I feel like I cannot win with this position because I really do not think an advisory panel will - to be quite honest - make any difference whatsoever. I do not think it will at all. No matter how much lip service the Minister gives me about how he wants to hear my views, my views are valued, *et cetera, et cetera*, if he does not want to listen to them he will not, and the only way to really get those views across, if it is fundamental principle of policy, is by bringing an amendment here in the States Assembly on whatever the legislation and policy is that is coming forward. I do not see how this will work in terms of Ministers listening any more than what they already apparently do, from Back-Benchers or Scrutiny members. With regards to the Scrutiny function, my view of the Scrutiny function ... and I speak on this because there is a real risk if you have advisory panels, we already have a low turnout

for people wanting to serve on Scrutiny anyway because it is seen as the second hand, it is seen as the unwanted, because there is that view that Ministers pay lip service to it. I understand where people come from. The thing is, it still needs to be done, reports need to show evidence and objectively how these Ministers may or may not be addressing certain policy or legislative matters before they come to this Assembly or before the Minister makes an actual decision on them. The public should know about that, and you do it in the form of comments or debate in the States Assembly, or a report on the particular subject. The Scrutiny Management Committee that I was hoping to bring forward was one of you do not be prescriptive about the particular panels, you bring forward a group of people that really want scrutiny to work, really believe in the Scrutiny function in holding the Ministers to account, who take the talents of all Members that are not in the executive and say to them: "Do you know what, you are really interested in this particular area of government. Now, go away with 2 other Members and really, really bite into that policy or legislation and bring out a really good review to show the facts, the evidence, of why this policy is good or bad." Because those people are passionate about that subject and because they are interested in that subject they will put their weight behind it 100 per cent.

[17:30]

The situation is at the moment that Scrutiny has become so prescribed to be held more to account than what the Ministerial system side has. The point in the flexibility of the Scrutiny is to try and become more inclusive. The Chairmen's Committee - and the proposer will know this because he is a member of the Chairmen's Committee - is that we have brought an amendment forward, which we will get to later on, with regards to bringing in a code of practice for working between the Executive and Scrutiny. The reason for bringing that forward is trying to address some of the issues that the proposer had about accessing information from Ministers, being able to do our jobs properly in Scrutiny, our constant continuous fights we have with the Executive in trying to get things organised properly. It is a constant battle. We are yet again at the end of another term where we have got legislation coming out of ears because Ministerial departments could not organise themselves properly. Work programmes were set at the beginning of the year and I know one particular department constantly putting off legislation because somebody could not make their minds up. I am sorry, it is just not acceptable. You think Scrutiny can work properly in a properly functioning organised way when one other side is not doing it themselves. To me the advisory panel is just another layer and if we want to go down that route then I suggest that what we do is bring in the advisory panels and remove Scrutiny all together. That is what I would advise. Deputy Le Fondré suggested that to me yesterday as well, get rid of Scrutiny. If that is what Members want that is what I suggest that we do because that is what will happen, especially if we want to reduce Members numbers and the amendment we have just agreed with taking the Troy rule out of the primary legislation and putting some kind of number in the Standing Orders, which could work out bad for the Council of Ministers because somebody could come forward and say we only want 10 people, so they will not be able to have any advisory Assistant Ministers. I cannot support this personally because I do not see how it will make any difference whatsoever. I am dedicated to trying to make Scrutiny better and I can only do that if Members in this States Assembly have support for the Scrutiny function, believe in the Scrutiny function, and want Ministers held to account. That is all I have to say.

**The Connétable of St. John:**

Can I ask for the adjournment, Sir?

**The Deputy Bailiff:**

May I just announce to Members that the Draft Connétable (Miscellaneous Provisions) (Jersey) Law 2012 (Appointed Day) Act P.77 has been lodged by the Comité des Connétable. Also the

Draft Connétable (Miscellaneous Provisions - Consequential Amendments) (Jersey) Regulations 201- P.78 lodged by the Comité des Connétable, and also the Draft Honorary Police (Amendment No. 2) (Jersey) Regulations 201- P.79, also lodged by the Comité des Connétable.

**Deputy J.A.N. Le Fondré:**

May I just make a point of clarification? The conversation that Deputy Vallois referred to was that, yes, I have my reservations about the effectiveness of Scrutiny, it was she that proposed to me how about getting rid of it then.

**Senator P.F. Routier:**

Sir, may I test the mood of the House whether they would be prepared to consider finishing this Article as opposed to ... just testing the mood.

**The Deputy Bailiff:**

I have 2 Members so far wishing to speak, but you are entitled to put the proposition if you wish, Senator.

**Senator P.F.C. Ozouf:**

May I just say, we have a huge amount of work yet to do, we could probably deal with this one but I would just say that if we did not adjourn then I would ... I have not spoken and I would propose the guillotine in half an hour if I was to be able if we were to continue.

**The Deputy Bailiff:**

You cannot propose the guillotine for quite some ...

**Senator P.F. Routier:**

May I propose that we finish this Article?

**The Deputy Bailiff:**

Is that seconded?

**Deputy G.P. Southern:**

Sir, we saw this the other day where we tried to finish something off quickly and it got a result that it may not have got if we had a proper summing up and a proper finish to the debate. I hesitate to do that again to a Back-Bencher.

**The Deputy Bailiff:**

Deputy, we are not going to have a debate about it. All Members in favour ...

**The Connétable of St. John:**

I did propose the adjournment, sir.

**The Deputy Bailiff:**

You did, and there has been a counter-proposal. I do not think it matters very much which one we take, but the Connétable of St. John has proposed the adjournment, that came first so all Members in favour of adjourning now ... an appel is called for, I ask Members to return to their seats. The vote is on whether we should adjourn now. Those in favour of adjourning now will vote pour. I will ask the Greffier to open the voting. If all Members have had the opportunity of voting then I will ask the Greffier to close the voting and announce the proposition is adopted: 25 votes in favour, 14 votes against, and the States will now stand adjourned until the continuation day, next Tuesday at 9.30 a.m.

**POUR: 25**

Senator A. Breckon  
 Senator B.I. Le Marquand  
 Senator F. du H. Le Gresley  
 Senator L.J. Farnham  
 Connétable of St. Clement  
 Connétable of St. Mary  
 Connétable of St. John  
 Connétable of St. Brelade  
 Connétable of St. Martin  
 Deputy R.C. Duhamel (S)  
 Deputy G.P. Southern (H)  
 Deputy of St. Ouen  
 Deputy J.A. Hilton (H)  
 Deputy J.A.N. Le Fondré (L)  
 Deputy M. Tadier (B)  
 Deputy T.A. Vallois (S)  
 Deputy M.R. Higgins (H)  
 Deputy J.M. Maçon (S)  
 Deputy G.C.L. Baudains (C)  
 Deputy of St. John  
 Deputy J.H. Young (B)  
 Deputy S.J. Pinel (C)  
 Deputy of St. Mary  
 Deputy R.J. Rondel (H)  
 Deputy S.Y. Mézec (H)

**CONTRE: 14**

Senator P.F. Routier  
 Senator P.F.C. Ozouf  
 Senator S.C. Ferguson  
 Senator A.J.H. Maclean  
 Senator I.J. Gorst  
 Senator P.M. Bailhache  
 Connétable of Trinity  
 Connétable of St. Peter  
 Connétable of Grouville  
 Deputy K.C. Lewis (S)  
 Deputy E.J. Noel (L)  
 Deputy A.K.F. Green (H)  
 Deputy J.P.G. Baker (H)  
 Deputy of St. Martin

**ABSTAIN: 0****ADJOURNMENT**

[17.35]