

# STATES OF JERSEY

## OFFICIAL REPORT

**WEDNESDAY, 14th MAY 2014**

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[9:31]

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

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

Yesterday morning I was challenged by Senator Ozouf about my information on the Harcourt question, and my supplementary questions, to which I took offence because I was basically accused of being in somebody's pockets. The information came, in fact, from the *Evening Post* of the day before, which I did not have with me at the time, and in fact the question in part was in that... I took it from that particular article so the States know I am in nobody's pocket. I am my own man.

**The Bailiff:**

I think probably most Members of the States have got that impression. **[Laughter]**

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

I am grateful.

**PUBLIC BUSINESS**

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

**The Bailiff:**

Very well, so we come then to Projet 33, Draft States of Jersey (Amendment No. 8) (Jersey) Law lodged by the Chief Minister and I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft States of Jersey (Amendment No. 8) (Jersey) (Law) 201-. A Law to amend further the States of Jersey Law 2005 and to make consequential amendments to other enactments. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

**The Bailiff:**

Chief Minister, do you propose the principles?

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

The proposals contained within this draft law reflect those recommendations made by the Machinery of Government Review which found favour during an extensive process of consultation during the last 2 years. P.P.C. (Privileges and Procedures Committee) established the Machinery of Government Sub-Committee in February 2012 in order to consider this matter. The Sub-Committee's interim report in April 2013 contained 7 recommendations and the final report in September 2013 contained a further 49 recommendations. These recommendations were then refined first through our in committee debate in October last year and then through further consultations with P.P.C., with the Chairmen's Committee and with the Council of Ministers. While some have sought to suggest that these are simply my proposals alone, the draft law is the outcome of a lot of hard work by all those Members and officers who contributed to the work of P.P.C. Sub-Committee over the last 2 years. So I would like to thank all those who have been involved and who have worked so diligently on these proposals, either on the Sub-Committee or as consultees. I think that probably the majority of Members of this Assembly have acted as consultees at some point during this process. This, of course, is the first stage of the proposals which comprise the changes to primary law. The next stage will be to consider the changes to Standing Orders, a draft of which is included with the report so that Members can see what will be proposed, of course subject to any amendments that the States may or may not agree today.

Members will also have noted that the report includes a copy of the principles of the new Code of Conduct for Ministers and Assistant Ministers, which have been agreed by the current Council of Ministers. The draft law would require the Council to agree a code which applies to them and to Assistant Ministers and present it to the Assembly. The full code based on these agreed principles will be decided upon by the next Council of Ministers at their first meeting following their appointment as recommended. So if I could now just, hopefully briefly, run through the main proposals of this amendment. So, firstly minority government. Before noting the main changes contained within the draft law I should perhaps, in the interests of clarity, point out that the principle of minority government is upheld therefore the Troy rule is retained. The only change is that the specified limit of 21 Executive Members is moved to Standing Orders. This is simply so that any future Assembly can adjust this limit in line with the Troy rule more easily if, in future, there should be changes to the electoral makeup of the Assembly. We have the appointment of the Chief Minister and the Strategic Plan. These are 2 other areas which are unchanged by this draft law and which I think it is worth me reiterating this morning. Firstly, there is no change to the position whereby the Chief Minister is elected by the Assembly as of course recommended by Clothier. There will be some subsequent changes proposed to the timings of parts of the process when we come to consider Standing Orders in due course but the draft law retains the position whereby the Chief Minister is elected by a majority vote of this Assembly. Secondly, there is no proposed change to the process whereby the Strategic Plan is proposed by the Council and agreed by this Assembly. Therefore, this Assembly will continue to be asked to approve the common strategic policy of the Council which is extremely important in setting the programme and direction of government over the period of any given Assembly. If I turn now to collective responsibility. The changes proposed: the draft law would, for the first time, introduce collective responsibility for the Council of Ministers. As a result Ministers would be held to account jointly for decisions made by the Council and for policies proposed by the Council. The introduction of collective responsibility does not change the remit of the Council, as specified in the law, which, in essence, is to discuss, agree and co-ordinate matters of policy. I should also stress at this point that Assistant Ministers would be bound to a collective responsibility only, and that is important, only with the Minister that they assist. They would not be held to collective account for the policies advanced by other Ministers who they do not assist. Therefore, the extent of collective responsibility on any one matter would be limited to the lead Minister for a particular policy, the other members of the Council, assuming that the Council has to have agreed the policy - and that is important - and the Assistant Ministers attached to that one Minister who is bringing forward that particular policy or legislation. As Members will appreciate, this guarantees that those who are held collectively responsible for any one policy matter will always be far fewer than the maximum of 21 Members who will comprise the minority Executive Government. There is no question that collective responsibility will ever extend to all 21 Members. Members may also wish to note that the principles of a new Code of Conduct for Ministers already includes the agreement that collective responsibility can be set aside for issues of conscience or where there is an agreement to differ. In these circumstances there would be the freedom to act individually and to be held to account individually. The proposals also include that the Council may give directions to a Minister but only on matters of policy. Clothier recommended an ability to give directions, which has been a feature of the Isle of Man system for many years, but this has been constrained in the draft law to matters of policy only. The draft law states clearly that directions cannot be given to Ministers regarding the exercise of any statutory function nor in a way which would influence the exercise of a statutory function. Clothier also recommended that the Chief Minister should be able to dismiss a Minister and this is now proposed. The principles of a new Code of Conduct for Ministers include an agreement that any Minister affected by a re-organisation of the Executive should be notified, provided with a rationale and have the right to be heard. This principle will be built upon in the final version of the full code so that a fair process is clearly established and well understood.

Members may wish to note that the ability for an Assembly to bring a vote of no confidence in a Minister remains unchanged. Executive flexibility: in bringing forward these changes: it is proposed that there should be more flexibility within the Troy limit of 21 Executive Members to arrange the configuration of Ministers and Assistant Ministers in the way best suited to implementing the commitments made by the Chief Minister Designate when they are elected. A number of amendments lodged seek to introduce safeguards against such power as a result of this increased flexibility and therefore I will not speak at length about them at this stage.

[9:45]

I then come on to the appointment of Ministers by the Assembly. Clothier recommended that the Chief Minister should choose his or her team of Ministers which would be presented to the States for approval. The approach included in this draft law is an improved variant on that recommendation. The main change is that the Chief Minister Designate proposes the Council *en bloc* specifying which States Member is being proposed for which Ministerial office. There would be no scope for making alternative nominations. The intention is that the Chief Minister Designate can propose the overall team which is best suited to implement the commitments made to the Assembly when they are elected. The change also has the positive effect of moving us further away from personality driven politics. The Assembly would then vote to accept or reject the proposed Council as a whole. There would be 3 attempts to achieve a majority in favour of the proposed Council. After 3 attempts the decision would then be for the Chief Minister Designate alone. If Members were dissatisfied with the choices made then of course the Assembly could be asked whether they had confidence in the Chief Minister. This is a change from the Machinery of Government Review recommendation and this change was made upon advice in order to introduce a failsafe mechanism to ensure that a Council is formed and that any destabilising weeks do not pass before an Executive is put in place. When Clothier recommended that the Chief Minister should choose his or her team of Ministers, which would be presented to the States for approval, he introduced a theoretical problem. If the situation is reached whereby the Assembly does not agree with the Chief Minister's choice then either the Assembly must choose the team or the Chief Minister must choose the team. Either way, only half of Clothier's recommendation can be followed and Members will be asked to decide which half they consider most important. Once again, there are amendments in this regard and therefore I will not talk about those at this stage. Assistant Ministers: the Machinery of Government Review did not recommend any changes to the appointment process for Assistant Ministers which currently operates as Clothier recommended. The review did recommend that Ministers should be able to delegate a wider range of functions to Assistant Ministers and so this has been included in the proposals as part of a wider package to ensure that all Assistant Minister posts are more meaningful and substantive. Although not the recommendation of the review I note that the appointment process for Assistant Ministers again is subject to amendment so we will come to that at a later stage. Mid-term changes: in relation to mid-term changes the draft law includes the provision that the Chief Minister may propose that a Minister be moved between offices or that a Ministerial office is changed but that it is the Assembly which decides upon any such change. When a vacancy arises in a Ministerial office then the Chief Minister may nominate a Member for appointment to a vacant office but again it is the Assembly who decides upon the appointment. In both these circumstances, if the Assembly does not agree with the Chief Minister's proposals, then they simply fall away and the Chief Minister would continue to present alternative proposals until they find favour with the Assembly. Again, there are amendments in this area so I will not dwell upon those at this stage. Scrutiny: there is a small change to the provisions in the primary law relating to Scrutiny. The draft law continues to require the Assembly to conduct scrutiny but ceases to be prescriptive about the number of panels and how they are appointed. This change in the primary law was not of itself a recommendation of the Machinery of Government Review however I understand that there are ongoing discussions

regarding Scrutiny functions and so this change will enable matters to be decided upon by the Assembly at the next stage when Standing Orders are to be considered. So, in conclusion I should record that although these proposals are, with the minor exceptions noted, those made by the Machinery of Government Review and not my own, I believe that the 2-year process of consultation has produced a good set of recommendations which I am pleased to be able to bring to the Assembly and support this morning. The proposals introduce some important Clothier recommendations which have previously been omitted from the law. Members, of course, will recall, and the Connétable of St. John continually reminds us, that Sir Cecil's advice was that his recommendations were a comprehensive plan for the revision of the machinery of government in Jersey. That the plan should be implemented as a whole rather than piecemeal and his warning that it is no use assembling only some parts of a machine and then expecting it to work well. I believe, therefore, that these proposals, if implemented, would lead to better and more effective government which will in turn be capable of achieving more on behalf of the people of Jersey in accordance with the will of this Assembly. I also believe, and for me this is a fundamental reason for supporting these proposals, that they will ensure more accountability of the Executive not only in this Assembly but to the Islanders that we all serve. Therefore, I hope that Members will support these principles.

**The Bailiff:**

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles?

**1.1.1 Deputy G.C.L. Baudains of St. Clement:**

Yes, I wanted to speak early because I will have to leave before lunch for a funeral unfortunately. I am extremely disappointed with this proposition. Members will note from the report accompanying it that I was a member of the P.P.C. Sub-Panel which tried to find solutions to the problems in our present Ministerial government. I was also, again as some Members will be aware, a member of committees in previous Assemblies, Privileges and Procedures Committees and so forth, and I spent a number of years looking for a solution to these apparently intractable issues. I have to say the conclusion from all these hundreds of hours of work is quite straightforward and that is that Ministerial government, as presently constituted, is unsuitable for Jersey because we are all individual Members, that we work on a party system but not as we are presently elected. Of course if we belong to political parties where the public elect party members on the basis of a collective manifesto instead of as individual things would be quite different but that is not the case. I recall Senator Bailhache saying a few months ago, and I hope I understood him correctly, that diluted democracy was the price one paid for Ministerial government. The truth of the matter is our previous committee system - and I make no apologies for keeping on about it - was clearly not perfect but I believe it was measurably better than what we have got now because those who argue against the previous system normally do so on a single basis and that was decision-making took too long. Well, the decision-making is just as quick as it is today. Where the delay was is what followed the decision because a committee's decision languished for a few weeks as an Act. That was procedural ...

**Senator P.M. Bailhache:**

Will the Deputy give way?

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

Certainly.

**Senator P.M. Bailhache:**

I must confess that I do not recall ever saying what was attributed to me by the Deputy and I fear that his recollection is not correct in that respect. I do not think that I ever spoke of Ministerial government in that sense.

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

That was my understanding. If I have misquoted the Senator I do apologise. I obviously have not had the time to look up Hansard but it was something along those lines I do recollect but, as I say, I do apologise if I have misquoted the Senator. As I was saying, a procedural issue that could easily have been addressed with today's technology because you have got to remember back in those days we did not use emails and mobile phones were a novelty. Everything was done by fax or by hand. So we changed the system which, in my mind, does not suit and it has certainly cost us a lot of money. I mean the Chief Minister's Department, for example, costs approximately £20 million a year to run. We did not have one previously. In his report the Chief Minister acknowledges the 6 main failings of the Ministerial system but then sadly proceeds to basically ignore them with proposed changes that in my mind would make the situation worse. We were told Ministerial government, when we were sold it in the first place, would save money and enable quicker decisions. Well, in fact it has cost a small fortune and the silo mentality that existed before is alive and well. The Chief Minister's answer to silo mentality is collective responsibility but that is not the panacea because it avoids the issue and in fact in my mind exacerbates the problem because it will concentrate power in a few hands even more than at present. What does collective responsibility do for democracy in a party political system? The public do not elect individuals; they elect a member of a party because he or she represents their preferred manifesto. It is quite reasonable, in fact imperative, for collective responsibility to exist in those circumstances. How else would that manifesto be delivered? However, when Members are elected each on their individual manifesto, requiring them later to behave collectively in my view disenfranchises those who elected them because it makes their manifesto meaningless. That effectively means that anyone who becomes a Minister automatically disconnects from the public. In fact virtually every Member disconnects from the public and that is one of the reasons the public are so fed up with this Assembly at the present time. Under the previous system a candidate might have, for example, promised his constituents he would improve the drains and traffic in his Parish. The Constable of St. John springs to mind on that issue. Of course on entering the States under the present system your ability to have any direct input into the issues that were in your manifesto is virtually nil. Previously you would have got yourself on to a committee on drains - and that is you would have got yourself on to the Public Service Committee - and had a chance to have direct input into policy. Now all you can do is review decisions which somebody else has made with second-hand information. Under the present system unless the elected candidate becomes a Minister, in which case he will be bound by collective responsibility; that will mean throwing away his manifesto. He or she, as I said, will find there is no opportunity to affect policy. The manifesto becomes meaningless and that is one of the main reasons why the public are so fed up. Hardly a satisfactory situation. It really does make me despair and I wonder how long we can go on like this. What is needed, in my view, is either a reversion to committees or preferably a hybrid system as the U.K. (United Kingdom) councils in certain parts of the U.K. are now doing. The problems that need resolution are quite clear. The Chief Minister lists them on page 5 but sadly appears to then ignore them. He wants collective responsibility so that he, essentially, is the political party. He does not want the States to have any say in who his Ministers are so he puts a bunch of names forward and we have no control over who goes to which Ministry. He could change or fire Ministers by Order, meaning we only get to know about it a week after it happened and then if we want to reverse that it would be a month before we could so. That is the way Orders work and so it goes on. The States have become a real mess. It really does irritate me. It is almost a single party becoming increasingly unaccountable to either the public or even other Members and while the rest of us are

kept overwhelmed with paperwork, reviews and the like, we have no time to find out what is really going on anyway and when we do it is too late. I have tried for years to change this unacceptable “not fit for purpose” system and, as I have said, I have devoted hundreds and hundreds of hours to it. I always come up against a brick wall. Sheer obstinacy by some and lack of awareness by others. I have got to the stage that I was not really intending standing at the next election but the more I think about this I am rapidly changing my mind because we have to break this mould. Because if we cannot break this mould the only message I will be able to give my fellow Islanders is, there is no hope. I am disappointed with the Chief Minister’s proposition ignoring those main issues because, as his report says, I was a member of the Privileges and Procedures Committee Working Party that was looking into this but most of the work we did and the conclusions we came to seem to have been bypassed.

[10:00]

So needless to say I will not be supporting the Chief Minister’s proposed change.

### **1.1.2 Deputy P.J.D. Ryan of St. John:**

Just a few words. I despair, to some degree, at the speech that we have just heard from the Deputy of St. Clement. To listen to him one would tend think that there was no such thing as a Strategic Plan. There was no such thing as a Medium-Term Financial Plan. There is no such thing as amendments to the Island Plan, which we are going to be debating in a few weeks with 11 amendments, as I understand it. So I am afraid I just do not understand. There are many opportunities for States Members to have influence on the policies of this Assembly that are finally adopted through Strategic Plans and through Medium-Term Growth Plans. That is the system that we have adopted and although I understand what he is saying, and I understand that there are some Members that would prefer to go back to a committee system, it is not - I believe - going to happen so talking about it is rather a bit of a waste of time I am afraid. We need to make the existing system that we have got better and the Chief Minister has just outlined some ways that that could happen.

### **1.1.3 Deputy G.P. Southern of St. Helier:**

I am surprised at how quiet it is. Have we all gone to sleep? Right, here we are. We almost addressed the central issue of what is wrong with our system yesterday. We failed to do so. So here we are facing the basic democratic deficit. The Chief Minister, in proposing his changes, said, and this is absolutely outrageous: “This makes our system more accountable not only to this House but to the electorate as well.” This is a complete falsehood. We just heard mention of a Strategic Plan and Medium-Term Business Plans which we get to see 6 months after any election. That is not accountable. That is something made after the control point. In reality the Strategic Plan, which contains lovely, high level nice wishes, nice-to-haves, is not subject ... well, you can amend it all you like, but it does not indicate policy. It does not indicate actions. It says, we will look after our young people. We will look after our elderly. We will look after the disabled. Does it say how? It never says how. As far as the mechanics of the whole thing are, there is no accountability either inside or outside to the voters in these proposals. What there is instead is a concentration of power. Again, we made one enormous concentration of power when we changed the system and did not put the proper checks and balances in, did not work towards a party system which could have been made to work, why, because parties stand on policies, manifestos, which are put to the people before anything else happens. Imagine then – imagine - one of our bright talented Senators on the benches there, let us say, just by way of example, Senator Farnham. He campaigns in the coming election on a single fiery issue that he is absolutely committed to. Let us say, picking something at random, free G.P. (general practitioner) visits for a certain section of society, the least well-off, and he fights for that and he tops the poll. He is magnificent. This is a real crusading



campaign. He tops the poll, this is what I am going to do. He does not get picked as the Minister for Social Security or the Minister for Health and Social Services. What does he do? Nonetheless the people have said: "This is the person we want. This is the policy we want." The Chief Minister says: "Ah, my list of priorities says something different. We cannot afford that yet. I am going to park that one. I will not have it. But I want to appoint you because you are a talented and able Senator, politician, so I appoint you to a position but we have got collective responsibility. You must not argue with me on policy. On policy, I can direct you. So let us see less about this fiery new policy that you want. We, collectively, have decided we are not going to do it yet. We will park it." What does that do for the electorate out there, the person that topped the poll, they have voted for en masse, overwhelmingly? Can they see that delivered? No. What does that do for the democratic deficit? Well, it widens it. Do people go around saying: "Why do I bother? Why do I vote? It never changes anything. Nothing happens.?" That would be the reality. That is the reality of what is being proposed here. The safety net of anybody can affect the Strategic Plan is a sop - is a sop. It is not hard and fast policy. It is not how we will do things. It is not priorities. It is a wish list which means nothing. How many times - think about it - in the last 3 years have you thought to yourself: "Ah ha, that is what this piece of Strategic Plan means? It is going to happen. I can see where it will happen. I can see the policy now and the mechanism by which this bit of the Strategic Plan is being delivered." How many times? If anybody can manage more than one - if one - I would be very surprised because I certainly cannot. Strategic Plan: there is no real connection between what goes on and what is delivered in the vast majority of cases. To say: "Well, you have got influence on that as a Chamber, as a Back-Bencher", is a nonsense. We see day in and day out Back-Bencher proposals come to this House at the Chamber and we see the whip operating over lunchtime or whatever. We see the messages popping out of people's texts: "Oh, yes, which way are you going to vote on this? Oh, right." We see the party system working time and time again. To impose collective responsibility in no matter how narrow a remit is a step away from democracy and to suggest that this makes the system more accountable to the electorate is a downright lie. It is wrong. It is false. This does not do anything.

**The Bailiff:**

Sorry, you are not able to accuse somebody of lying and you know that. You can simply say it is inaccurate or incorrect.

**Deputy G.P. Southern:**

I can say it is ... give me a word.

**The Bailiff:**

You can say inaccurate or incorrect.

**Deputy G.P. Southern:**

It is absolutely incorrect. Can I say it is false?

**The Bailiff:**

You can say it is untrue. [Laughter]

**Deputy G.P. Southern:**

Well, it is untrue, incorrect and false and it is shameful that the Chief Minister suggests it otherwise.

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

Thank you for the Deputy for giving me all those reasons why this is the debate. The word I use again, and I keep having to use this word when the Chief Minister spoke, was hypocrite. He said,

what we did, we cherry-picked Clothier. We have cherry-picked part of the Machinery of Government. What we did not do is introduce Clothier in the whole because this is what we should be. The role of Senator should be abolished. Constables should cease to be *ex-officio* Members of the States. The Committee of Connétables should be consulted whenever their Parish is particularly affected. An Electoral Commission to reassign the vacant seats among the Parishes will happen and all Members of the States of Jersey enjoy the title ... well, I will not even call us what people out there call us, but we would be something like a member of the States of Jersey. Now, this was 2002. We have tinkered and we have tackled and we have wrestled with the machinery. I was in the House and I know what the Constable of St. John at the time ... we were promised meat on the bone after and we got it wrong because we did not introduce ... I said at the time we keep getting promised jam tomorrow, jam tomorrow. The States Assembly is made up how it is, we have a lot of power already. I have been 6 years in both, at non-machinery of government and before the Ministerial system, and the power for Back-Benchers is ebbing away. This just gives it more and more. I have lost ... but at 10(1), if the Deputy could get it back up for me, Clothier even says: "We must avoid under this new machinery an Executive, a dictatorship." A dictatorship. In his words "we must avoid". How far on down the line are we going? As I say, this is the debate. This rubbish needs to be chucked out. I am sorry if that is not parliamentary. This mishmash of, let us amend it, and there are amendments coming down the line that some people will think will make it better or some people will think: "Well, if we do not do this part I might be able to make Scrutiny a bit better." No. You cannot give more power. The Chief Minister ... this is the debate. Anyone can sit on their hands. If you throw out the principles of the law, out the law goes. Thank you. So, let us not worry about what is coming down the line. Well, we have heard, we will all be included in the Strategic Plan but did we not have a debate only 2 weeks ago telling us the policy of the Strategic Plan on immigration could not stand alone. We had to have another debate. So what is the Strategic Plan? It is a wish list and you get lots of little words changed in it but the direction is the direction of the Chief Minister and at the moment his Ministers, who are designated in a seat and approved by this House. As the Minister for Treasury and Resources pointed out yesterday he was not the choice of the Minister, he turned out to be the choice of the House. We will not have any of this. We will not know who they are. There is an amendment in for Assistant Ministers which I have ... I do not relish debating it. There are a couple of amendments in but again who are these Assistant Ministers? Who will have all the information? We will be bound by the collective. If I am bound in ... as my role is now Assistant Minister for Health and Social Services I have surely got to know what is going on in Health and Social Security and other remits that affects us across the board. Where will I be able to step out say on long-term care? They collect the money, we provide the services. Where would I be able to step out on that? Very unclear lines. Assistant Ministers have been consulted once on this and I think me and my other Assistant Minister were the only 2 who turned up. No other Assistant Minister turned up to say: "How would you see it?" Well, I would see it, be sitting behind whoever Minister I was, there would be the inner circle and there would be me sitting behind all their necks. Would I get the job? But then again I do not want this debate to go that far. I have to spell this out because people have to realise this is not just a tweaking. It might be the final ... people said it at the open Town Hall meeting. This might be the nail in the coffin that is needed because if this is voted through today the rest of us, as I say as Back-Benchers, or an effective Constable, you have no chance of bringing alternative propositions to the collective, the Council, their Assistants and it does not matter. As I said yesterday if there are only 21 of them there, also always like-minded political people elected, that is totally fine, but they will always vote with the Council because it is the way they think anyway. Now let us say all of this is introducing ... I think I said it years and years ago but we had a fantastic Deputy and it could be Deputy Southern and he made Chief Minister. How many in here would be happy with all of his policies and his collective because you are politically opposed to him? But you have got the same budget. So what I am always saying is,

if you are prepared to give power or a system it has got to work with anybody who is in that system, at the top or at the bottom.

[10:15]

This does not work now. This is a much worse example of giving much more power. The 3 strikes and you are out has gone. Let us put up every Muppet in the Assembly ... sorry, everybody really is not going to get elected. Let me pick Deputy Southern for Minister for Social Security. I am not even saying because I do not need to, and these are going to be voted out on the fourth day on the hill. I see the light. I come into the Assembly with the people I want in my Ministry. No. There is nothing here to ... we fought for this under amendments to the ... when Machinery of Government went through without the checks and balances of all being elected as a Member of the States of Jersey, or whatever you want to call us, we fought for all these amendments so people in this House could stand, could put their name forward. Last time I was so annoyed that the Minister for Home Affairs was not being challenged I challenged him and surprisingly, and very scarily for me, I was not too far off getting the job. But that is what I call democracy and once ... I mean we did not vote for the Chief Minister and the Minister for Treasury and Resources and the Minister for External Relations to come from the Senatorial benches, so voters ... and the last debate - and I do think we did the Deputy of Grouville a disservice in making her carry on and summing up quickly and some people have gone, I mean you could tell by the vote at the end - but the Constable of St. Mary said the election might focus on what would you do if you were Chief Minister, what would you do if you were Minister for Treasury and Resources at the Senatorials? Well what a focus if you were going to be Chief Minister. But we are not there. That was a backstop. I still would not have supported this. I can see it. I have seen it. Just when you think to yourself, the amount of people, and the biggest debate that I have brought - a proper decision - on the police station, I had people 3 days previous telling me: "You have my support." On the numbers I was very, very close. On the day of the debate I had £2 million of Chief Officers in the back and everything I said was picked up on. Even people missed the amendment and I forgot to correct them, it was not down to the Minister for Planning and Environment at the end, it was down to the Minister for Treasury and Resources sending back to Home Affairs. I had amended my own proposition. That was not picked up in my summing up; it was picked up by them out there where a couple of people changed their vote. So what hope do you have when you make this a team who are bound by collective responsibility? Do not worry about ... yes, of course they are going to have a vote with their conscience on maybe same-sex marriage, abortions, or whatever, that will be a conscience vote and some will ... if they did not have that they would not go for the Ministerial job in the ... that is all that means. It does not mean: "Hmm, do I have a conscience about where they are going to put the new hospital?" "No, this is where we are putting the new hospital and you are going to vote with that in the House." That is not a conscience vote. Today, this is a debate on the principles, there is enough power in the House until we do sort out Clothier and nobody takes the name in vain of Sir Cecil Clothier, he has done a fantastic job. I read it cold in 2000. The more and more I read it, it makes perfect sense, but he did not envisage this machinery of government with this makeup of States Assembly. The 2 go hand-in-hand. This needs to be thrown out today at the principles. The power is already there. Nothing really does not get past the Chief Minister, and so what if he has to be elected by this House, his team has to be elected by this House, and, oh yes, and they have to come here when they want to fire someone. Just because they are making the Council of Ministers meetings go on a bit longer because they bring a bit of debate; that is no reason to sack a Minister. I am absolutely hoping that people are listening to me because I have finished. I do hope we have a proper debate on these principles because there is nothing in the amendments, not one thing in the amendments that makes this overarching P.33 any more democratic. We need, the people out there need to see us doing ... having some say in questioning who is going to be the Chief, who is Council going to be, and that is as far as we need to go until we do, as I say, amend the rest.

### **1.1.5 Deputy J.H. Young of St. Brelade:**

Preparing for this States debate I was rereading my 2011 ... my first election manifesto. I said I was unhappy with the workings of the Ministerial system, it excluded many Members who have a valuable contribution to make, I want to see greater openness and transparency and make better use of Members' skills by involving them, and I believe that with the right leadership there is the potential to significantly reduce the dysfunctional conflict between the Executive and Non-Executive Members and restore public confidence in our Government. Key is I want to see more checks and balances being introduced into decisions, which I do not consider can be safely made by one person alone. I said that because I was an ex-civil servant with 25 years. I left the States employment in 2004, had 7 years in the private sector, and I watched from a distance, taking no part at all in public affairs during that period, seeing how our Island Government had become disconnected from the people. The move from committee system, the way the Ministerial system was implemented, and I spent the last 2 years of my time as a civil servant setting up many of the mechanics of the Ministerial system, and I was party to the political debates that took place. I am absolutely sure that what we have finished up is not the vision of those people that supported it. We have ended up with a system, which I think radically needs change. So I saw, yes, I accept that the committee system was said to be slow, it was said to be expensive, but of course I have not seen any savings. On the contrary, I think public expenditure has doubled in that period, so in that respect it has failed. The administrative costs I do not think we ever said were expensive, but the point was that all Members did have a say, they were contributing to Government, and I think it had its own almost internal etiquette and self-regulation in many ways about Members' conduct and the rules about when Members declared interests or withdrew from decisions. It was almost quasi-party like, and I was trying to work it out, for 13 of those years I was a Chief Officer and for another 3 years I was a senior officer for a number of the committees. I think over my time, over 1,000 meetings I probably went to and how many Presidents, I have lost count, and came to the conclusion in my experience decisions were always improved by the input of more than one Member. I cannot recall an occasion when a meeting was made by one person alone and the result was effective. So I volunteered, as soon as I came on board I was elected. I was surprised to be elected, I was pleased, but I worked on the Machinery of Government Working Group that Deputy Baudains spoke about and we did work hard on a programme of interviews of all Members and Ministers and clearly of course the defects in the system. There was absolute consensus on that, and those are recorded absolutely in detail in the Machinery of Government Report at R.105 and they are summarised in my own amendment - amendment 3 - where I have set down blurred lines of accountability, prevailing silos, insufficient inclusivity, insufficient use of Members' talents and expertise, ineffective communication, and a Civil Service that wields too much power. Those are the symptoms and so when we come today I am looking at what do we have that is going to address those issues? So I worked hard, and I probably spent hundreds of hours I think, just like Deputy Baudains, and of course there were ... and of course honestly here, when one looked at the membership of that Sub-Committee we had the classic split, well used in committee days, where we had on the one hand Members whose vision of democracy was tight control, centralist vision; and on the other hand we had those Members at the other end of the spectrum who want to see a more devolved ... their vision is more devolved distributed decision-making in Government. So, for example, we had Members limited with Senator Norman on one hand and Deputy Baudains on the other, and there was ... we recognised the difficulties that the present Chief Minister finds himself in, although certainly from my point of view, this is a personal issue, I do not think I remember hearing previous Chief Ministers making those comments. I think Senator Walker seemed to successfully lead the States, and in fact Senator Le Sueur, our second Chief Minister, was a strong member of a working group of States Members that proposed the system be modified in P.120 and P.17 in 2010, which was rejected by a narrow vote. So, all right, but we still accept though that the difficulty the Chief Minister finds himself in, he has Ministers that have a

corporation sole, and I was trying to work out, are they detached or are they semi-detached; not quite sure. But anyway ... and of course what we were hearing is there is not the coherence of policy sharing and common understanding and common vision between the Ministers. Of course this was supposed to be one of the by-products of the Ministerial system that we would have this, and frankly I think we have probably come to worse than the committee system, but we accepted that the Chief Minister was in a highly unsatisfactory position there. The rules of hiring and firing were unsatisfactory for both the Chief Minister and the Ministers. So I certainly formed the view the Chief Minister was almost like a chairman of a committee without any power. The expectations of him yet were enormously high, the whole public of the Island, because I think he is the public's Chief Minister, the Island's Chief Minister, and not the States Assembly. I disagree what Senator Ozouf said yesterday. That is the expectation of him. So I absolutely do share his concerns and so I can see why he has required this matter to be addressed, so I am not being critical about that. I am critical about where we have finished up and the proposals on the table. Now the Sub-Committee of course had this debate when we produced our report as to where would the balance be and so, like all committees, members of us had to compromise, and it was a key, from my point of view as a member, that compromise lie. The report included not only changes to the Chief Minister's power and authority, but it did provide checks and balances. Those checks and balances were an integral part of the P.P.C. Sub-Committee, which I was a member of. In there, section 14 records the 7 recommendations. Now obviously there was what happened then, of course. I found myself certainly in a dilemma in that Sub-Committee. Was I going to go along with it and I decided that I would be prepared to put my name to the recommendations as a whole, but providing the changes were balanced by checks and balances and the methods included there was the involvement of what were called in that paper - but I accept it was poorly drafted and defined at that time - was N.E.M. (Non-Executive Members). Of course these were based very closely on those debates that I referred to in 2010 of which the previous Chief Minister was a party to those proposals. The in committee debate, from my point of view, was a personal disaster. I think I must have been asleep or something. Now how about this, this just shows how naïve one can be in Jersey politics. I found myself, I think probably because I missed the meeting, being given the job of proposing a part of the machinery of government change, which was the reluctant part that I went along with, which was the Chief Minister's strengthenings. Maybe I did too good a job because they have ended up here. But of course the bit that I really was trying to make was left to my colleague Deputy Le Fondré, and I am sure he did an excellent job, but I felt myself is that this Assembly, when that in committee debate took place, did not fully get the gist of what the purpose of this was and what the whole point of checks and balances and how we could not cherry-pick the Machinery of Government Sub-Committee's proposal. Of course it was compounded then. The Constable of St. Clement, he ably chaired that debate, but of course in the way of these things it was run to an absolute strict timetable, so I did not even get a chance to speak in that debate.

[10:30]

Of course naïvely I then was elected on the P.P.C. and I sought to influence after that: "All right, what are we going to do? We have had this in committee debate." Everybody said to me: "Nobody knows, in committee debate is a waste of space. You never get any decisions out of them." So they formed a group and of course I was not included in the group. I clearly felt that I was ... but the Chief Minister was on the group and so the Chief Minister clearly was able to ensure that those ideas that were ... they were not given consideration. Of course I was particularly strong, because I wrote to the group, and I said: "I want you please to look at the hybrid ideas that Deputy Baudains spoke about before you go steaming into the States with these changes. I think N.E.M.s has not been properly sold to the States, Members do not understand it, they think it is a waste of space, it has a real point. I want you to look at Cornwall because, for the very same symptoms, Cornwall threw out its elected leader". Do not know exactly the details but there were a lot of symptoms in

Cornwall, from what we have heard, which were common to some of the problems we are having in Jersey with the way our Government works.” They embarked upon a journey in common with what Deputy Baudains said: “Shall we go back to the committees?” which incidentally U.K. legislation in 2011 allowed major local authorities to do. Cornwall had introduced, unique in the U.K. - and of course their strong independence, exactly the same as Jersey’s tradition is - a hybrid system and I wanted this to be looked at. Of course I was not going to give up there and that is why I proposed to P.P.C. that we pursue Cornwall notwithstanding P.33, and you have seen my amendments, which, if Members do not listen to what I say and they approve this P.33 in principle, we will be discussing, and I am afraid, Members, you are going to have to listen to me again. But Cornwall ... we had a videoconference with Cornwall for 4 hours. P.P.C. members had a videoconference with Cornwall last week. We heard from the leader of the Council, we heard from the leader of the various opposition groups, we heard from the senior civil servants, we heard from a wide range of elected member representations. Any doubts whatsoever of the benefits of the hybrid system of having some checks and balances on your Ministerial, or in their case ... was dispelled from my mind. I came away; this is absolutely the right way to do it. We may not do in exactly the same way, but they understand the principle better than us. So here we are, obviously events have ... we have had that presentation, P.P.C., that issue is on its plate and you have seen my amendment because obviously I think it is highly relevant to this decision. So the problem I have is, as it stands today, without the checks and balances, I think what we have is a set of proposals, which are the end of independent Members, the end of independent opinion in Jersey. The Troy rule does not work, and I have sat here for nearly 3 years, and I can tell you that under the committee system Members were much more aware of the issues about possibilities of votes of no confidence and much more careful to ensure that the views of Members and the views of the public were taken into account, because what we had, we have had not a single vote of no confidence. We have had messing around with lodging it and taking it out and putting it in again and so on. I mean it is ridiculous. That is not an effective check and nobody is going to press the nuclear button. What we need to do is be able to deal with areas where things are not working well, particular parts of our Government, which are not doing as well as expected. Members have that duty to take action there and I do not think these proposals help us at all. Scrutiny: the Chief Minister says there are going to be proposals in Scrutiny. I absolutely got, from listening to Cornwall the other day, that, no, I think if this is introduced, P.33, without the missing ingredients, without those checks and balances, Scrutiny system is going to be much weakened. It is already weak. So the choice I have is unfortunately we are having this vote in kind of a rush because people are not prepared to look at ideas, ideas such as at Cornwall where they spent 2 years, the whole community engagement process, right the way throughout the county and all of their districts and areas, all their political parties, they spent 2 years, they had expert advice. I do not know if Members have seen the website, there are hundreds and hundreds of pages of advice and guidance coming from all sorts of expert university bodies, all of which has been reflected, and they introduced it and that now is bedding down. I think, here we are, we are in a rush, we do not see any point having a look at those ideas, and so we have to decide. If we are forced to that decision today, I am going to stand on my election manifesto; I do not think this will advance improvement on Ministerial government. If it did have the checks and balances I would be prepared to go along with it but they are not there and in its absence I am not going to support this debate on P.33 principles.

#### **1.1.6 Deputy R.C. Duhamel of St. Saviour:**

The rot, in my view, set in, in 2005 when I think this Assembly was hoodwinked into believing the suggestions that were made or promises that were given that the sovereignty of the ability of this House to tell Ministers what they may or may not do was going to remain unchanged. Quite clearly, since that time, we have taken a long time to realise it and for me today this is the death knell, if you like, for involvement by the majority of Members of this Assembly in Government.

That said, and there is nothing wrong with minority rule, but inevitably minority rule that is forced upon the public and in a way that is pretended to be a leadership, it is not democracy in my view. The suggestions that are being made in order to place more and more power into the hands of fewer and fewer people, having made a contrary decision yesterday when there was an opportunity to at least pull back some semblance of fairness into the system by suggesting that the electorate at least be given an opportunity to choose that Member who will be dictating the strategies and the policies that the Island wishes or does not wish to move along with, it was denied. So we have a situation today where, as I say, we are moving towards the final death knell for any independent thought. There are more ways than we know to crack an egg or to solve a problem and I think some of the analysis that has been brought to bear to suggest that, because of the reasons that our particular government system is broken that we really need to take this extreme step to put more and more of those eggs into one particular basket. I never voted for the Ministerial system, although I can see a Ministerial system having some value if it is run with political parties. There seems to me that those who are promoting their own system of parties do not wish to do it in as open a fashion as perhaps we should be adopting. This really means that what we have today is the final step in what will have been a bloodless coup and most Members, if this goes through, will find themselves in a position of not being able to, irrespective of what their electorate have voted them in for, be in a position to involve themselves in the strategy or the policy-setting of the Government in ways that are meaningful, both to the electorate and to themselves. So, if this does go ahead, I think we will have a reduction in the number of Members; there will be no reason for sitting in this Assembly. Little of what is discussed these days does have a direct bearing on Ministers in a way that can bind their hands. We only have to look at all the propositions by and large and see the new way that we propose propositions. Previously the collective decision-making powers were within this Assembly, but this Assembly, as we all know, has been moved to a Legislative Assembly where we mainly discuss bringing forward laws. If we do move ahead in this direction, I think it will only be a short period of time before even that function that is required of ordinary States Members will be denied to those Members. But, not to worry, we will have a small Ministerial complement of 2, maybe 3 Members, we will be paying them 2 or 3 or maybe even 10 times as much because they will be doing all the work, and we will not be able to hold them accountable except by bringing forward votes of no confidence or bringing the Government down at regular intervals or irregular intervals in order to make the changes or even to come to this Assembly to ask for further discussion on those policies to be considered before we move in whatever direction. So it is a little bit morose, I know it is probably too early in the morning, but since 2005 the writing has been on the wall, today is D-Day. If we vote for these proposals I do not think it is worth being a Minister, I do not think it is worth being a Member of the States of Jersey, because effectively we are being denied our opportunities to be effective Members in a way that is democratically accountable.

### **1.1.7 Deputy R.G. Le Hérissier of St. Saviour:**

Those immortal words “I was not going to speak”: having a calumny put against me yesterday that I am not interested in reform, I did not react at the time. I find that an absolutely ridiculous statement, particularly from the person who made it, whose notion of equality is everything is equal up to a certain point. You either have equality or you do not; you cannot have partial equality. I am quite prepared, with others, to have my reform credentials put out there, the votes that I have taken part in. I have no problem whatsoever that they be put out there. But to string together a series of highly stale clichés and pretend that is an opposition speech against someone who has spoken for reform I find is symptomatic of the way things are going that that kind of cheap political trickery has to be used. But more important, the Constables, as we know, have a duty ... not a duty, but a very strong responsibility under the Code of 1771 to consult their parishioners as to major, or indeed any pieces of legislation. That is embodied in the Code and sadly that has not been used much, as we well know. But I would suggest, if they went out to their parishioners on this issue,

they I think would find a very, very strong resistance to this issue, to this proposal. The public are very worried. They do not quite know in detail why they are worried but they are enormously worried about what is happening. To that extent, I totally agree with them, and I think we have to give expression to those views. I hope the Constables will express that view. I have spoken, or a lot have spoken to me, and I have been amazed at the number of people who you would put at the traditional end of Jersey politics and who often would not necessarily share my views, have said they are very, very worried about this, and there has to be basically an unholy alliance. This has to be stopped I am afraid. I, for a moment, do not doubt the intent and the sincerity of the Chief Minister but the feeling of a lot of the public is that this has emerged because of the mishandling of the attempt to remove the Minister for Planning and Environment. That is their feeling. What has happened, and this is inevitable - you all can see this in penal policy and justice policy - if things are not working right you just tighten the screw. That is a classic policy response, which of course makes the situation worse and never gets to the root of the real problem. That is what the public are saying. If the Constables had held their meetings under the Code of 1771 I am sure they would have had an unbelievable response in those terms. I am trying to rescue the Chief Minister from the hole into which he has unfortunately dug himself. He is a man of considerable integrity and good intent but he is being stuck in a situation where there are certain people in his Ministry, for example, who are intent, on, as Deputy Young said, concentrating power. There is one office; there is far too much power in one office.

[10:45]

The Minister for Treasury and Resources' office, he said yesterday he is now going to become an activist shareholder in Jersey Telecom, having tried to bounce back question after question. When people were trying to tell him: "Look, this may be a micro issue, but politically it is a big issue." In other words the state of the Gigabit programme, the state of the billing programme, because those bills, to take a little political lesson, those bills were going to every home and every elector was saying: "I am fed up with this, why is the system not working?" So there was an instant political reaction. But the Minister resisted that saying: "I ride on the surface, I only deal with strategic issues, I cannot deal with these." Alright, no way he should have to deal with every minor issue, but he should have the common sense. But now he has become, he said, an activist shareholder he realises something seriously wrong exists. I also think, and again I have immense respect for the officers of J.D.C. (Jersey Development Company), we are into a slow car crash there. There are real, real issues about the role of Government which will not be examined and they need a big philosophical debate at the Council of Minister's level. We tried to have one in the States, prompted by Senator Breckon, but the States would not listen, or some of the States would not listen, as to what was going on, and again it was wrapped up; you either have confidence in me or you do not. It was wrapped up into that big black and white decision, so I do ask the Chief Minister, I do not know if he realises what public sentiment is out there, but there are all sorts of groups who are unified against this. It will do enormous damage to him and to his Council if this goes forward, and I would ask him immediately to withdraw it. Thank you. **[Approbation]**

#### **1.1.8 Deputy M. Tadier of St. Brelade:**

I think that Deputy Le Hérissier has provided a good background, if you like, to the exo-politics, what is going on in our Island. That is very much the sentiment that I have felt, and it is not something which is along the traditional political lines, it is not about left or right, or even really about conservatism versus what one might call progressive politics. It is about the Jersey person's ability to appoint Members who they see as independent, and we know that the elections turn up some strange results because you get Deputies, Constables and even Senators, particularly in constituencies, whose politics maybe does not necessarily fit the traditional bill. That is why we get some seemingly green left-wing candidates being elected in very rural areas and perhaps some



more traditionalist conservatives being elected in very urban areas in St. Helier, and that is, in some ways, the beauty of the Jersey system. I think that is what the Jersey man and the Jersey woman expects of everybody who is appointed to this Assembly, to come in with the right attitude, to do their best and to contribute in a way. Sometimes an idea can come out of left-field and it completely changes the course of policy, or at least it should have the ability to do that, because it is not about who the idea comes from it is about what the idea is. I think we, hopefully, all agree with that. We have heard so much in the last few days and weeks about policy not personality, yet what I think this risks doing, and perhaps it is an unintended consequence, is that it will put more on personality because it depends who you are. If you happen to be an “in” person, if you happen to be in with the Chief Minister of the day, you are okay potentially, and it is not about meritocracy. So I have decided to speak relatively early, partly because there is reticence from the other side, and I hope that this will draw out some of the Chief Minister’s proponent’s arguments as to why we should be doing this. But I personally think this is very dangerous. As the person who chaired the subcommittee, it is important to say that Deputy Young, who has already spoken very well, gave us enormous support, the same with Deputy Baudains, Deputy Vallois as well, Deputy Le Fondré, and the Constable of St. Clements was a good weather vane as well, particularly for us, in some ways, to provide balance. We came out with some tentative proposals that were discussed in committee and if I go back to the principles of it, it was presented as a package and we thought it was important to recognise the ability for the Chief Minister to work effectively with his team, which is also our team, and for the issues such as inclusivity to also be addressed. Now, if I go through the 6 basic principles that we came up with and identified as areas that needed attention or were lacking, which are in the interim report but also in the final report. We found that there were blurred lines of accountability, a prevailing silo mentality, and on the next page, insufficient inclusivity, insufficient use of States Members’ talents and expertise, ineffective lines of communication and a Civil Service that potentially wields too much power. I will come back to some of those because, although ostensibly the proposition P.33 before us and the principles might seek to address a couple of those, in particular 1 and 2, I would suggest that there are other ways to do it which do not have the downsides but it does nothing to address the apparent insufficient inclusivity and about States Members talents and expertise. So, if Members bear with me. First of all, the argument has been put forward that the Chief Minister needs more power because he is in a coalition. Now, I suspect that the Chief Minister, whoever that might be, needs to realise that he has an enormous amount of influence, he is the first among equals, if you like, he is the one or she might be the one in whom the Assembly have put their trust and have contested an election with other robust candidates in order for the Assembly to lead the Assembly forward. That cannot be done in an absolute way. We have heard the adage that power corrupts and absolute power corrupts absolutely, but the best safeguard for power is shared power; it is the best democratic check, so when you have to take other soundings from people who are there, and not because they are there from your favour, because you have put them there and you can remove them, but because the Assembly has put them there. The democratic checks come from the Assembly. I would suggest it is more about the art of persuasion, that is what politics is about, it is about the interpersonal skills which we know the current Chief Minister has. But I would suggest, quite respectfully, that rather than seeking more power, the Minister should assume the power that he already has and use that more effectively; use the influence that he has as Chief Minister. I would like to see more of a leadership role on issues like reform, and I know the Chief Minister probably will be doing that, I imagine, and we will see that. When there are other voices in the Cabinet which maybe he has not had the control over putting there but others he has, he needs to say: “No, this is the way we are doing it” and enforce his authority. You do not need to have Standing Orders and the States of Jersey Law changed in order to maintain the authority that any respectable Chief Minister should have. So I think that is the first point. I was concerned when I heard about the carve-outs to say that we can agree to disagree on certain issues of policy. Of course there will always be matters of conscience. But was

there not an issue that I recall where it seems one rule for one, one for another, and that is under the current system. We have a Minister who is alleged to have done something that is incorrect, a little bit of public pressure internally in the States builds and then we had the fiasco earlier in the year which is long forgotten now. Yet we have another Minister who arguably has made several mistakes, and because of who he is and his influence that he exerts, we can agree to differ; we just have words of advice on that or send him some extra training. Under a system whereby we have collective responsibility and we say we can agree to disagree, you will simply have a Minister who is much more influential, who can be given more licence to agree to disagree on, and you will have other Ministers who are expected to toe the party line. That is what we have now to a certain extent and it will be made much worse under collective responsibility. The dangers of group-think are surely there as well because we know that by putting a composite Chief Minister's team together, which is at least endorsed by the States or can be modified, it allows new and fresh ideas to come in. That does not mean, I do not think, it has to be at the expense of not working together. I would say that if you cannot work together with Ministerial colleagues who have been appointed by this Assembly to do the best for the Island and to take us forward in an agreed direction, that you simply do not deserve to be a Minister or probably even a States Member. I do not believe that we need that Ministerial whip in order to do that. Of course, patronage is another word I have got written down here and the dangers of that which will be multiplied if we go for a system of differential pay, but that is a different argument for later. Now, if I said to Members: "We should have special seats in Jersey for minority groups or for disenfranchised groups; we do not have enough women in the States, therefore one of the seats in St. Saviour should be reserved for a female candidate." What would Members say to that? I think they would say, as the public do: "No, you cannot have that because we should elect the best person for the job." You cannot just simply say that somebody can have the job because of certain characteristics. Now, while the argument is not entirely transferable, what that highlights is the argument for meritocracy. People expect, albeit in a flawed system, that the best person for the job, the one with the correct skills at the right time, should get the job. But that will not happen under collective responsibility. This Assembly will give up its sovereignty and any decision, to the point - which a colleague mentioned earlier - that if you have stood on a campaign for education reform you have got the public mandate for it but the other Members who have got in simply happen to choose a Chief Minister with whom you are not aligned or who does not share your same education vision, you will not even have a say in that. You will not even be able to question the proposed Minister for Education, Sport and Culture, let alone put yourself up and test the mood of the Assembly and say: "Well, I have just got a different vision, I am afraid." If it is not about personality but it is about policy, when does the policy discussion happen? It does not happen before the election because we do not know who we have got. It simply leaves so much to chance, and it is taking so much of the, I believe, good Jersey system that we have got, the power of this Assembly and the power of independent Members to represent their views and that of their constituencies. It is just eroding that and we are giving this up on a plate today if we pass P.33. We suggested having a referendum on who should chair this Assembly, an internal matter from my perspective, and we were willing to put that to referendum, yet this is potentially the most serious and dangerous change that some are hoping to make today and we are doing it as if it is just: "Oh, it is just business as usual, it is just a bit of housekeeping, let us pass that." The media, I think, hopefully are aware that this is the most serious change to the machinery of government that could happen and has happened recently; in many ways much more even than electoral reform which has had a lot of coverage. The efficiency argument; we have heard Deputy Baudains. I love his anecdotes about the motor trade and he has got a history of it. We are always told that Ministerial government is more efficient, the old committee system was not efficient, and that what we have got here is we need to make the car even more efficient because it is too slow, the driver cannot go where he wants to go, he has got all these people. I would suggest a possible parable, if you like, is to say that we have got a car, in fact we have got a bus. We have

got a driver of the bus, we nominate the person who we think is the best driver. He gets his team to sit up front with him but we say who sits where in the bus. But, hopefully, we all agree where we are going in advance. We say: "That is where we want to go." But what is being proposed here is that we simply elect our driver and then leave it up to him. We say: "You just take us where you want, we have got no say about it" and then we will be dropped off wherever, and the only choice you have got then is to get off the bus or to be taken wherever the elected driver is going.

[11:00]

No doubt that analogy will be countered. The Chief Minister is, I think, saying that he cannot even go where he wants to at the moment. But I disagree, he can. As the driver, you hold the keys and if somebody does not want to go where you are going, you negotiate. So what is the vision? That is why we should not be doing this but what are the options? Well, I think the car just needs a fine tune. Deputy Young has already talked about the extensive work we have done, we had very constructive talks with Cornwall the other day, and interesting, because although they are a local authority they operate under a modified system and it is not too dissimilar to ours in a lot of ways. So we tweak it. What is the first thing we do? First of all, better communication. We get over this silo mentality by changing the way we work, the administration of it. If there is an issue between Social Security, for example, and Housing, you make sure that you have better communication sharing. You make sure that your clients, who are mutual to income support and housing, tick a box to say that they can talk directly to each other. It solves a lot of problems, it saves States Members a lot of time. There are ways to hone the system without radical change. What you do is you start respecting Scrutiny and start empowering Scrutiny. Now, when we spoke to the Cornwall Councillor, he was on their Select Committee and he was the head of Scrutiny, if I recall, or certainly very heavily involved with Scrutiny. We said: "Well, what happens if your Ministers do not agree with the Select Committee?" He said: "Well, they have to come back with responses, they cannot just ignore Scrutiny" and we were thinking, hang on a minute, we just had a population debate where Scrutiny worked very hard to come up with a report with vast holes in policy which needed to be answered, which was lodged a week before. Some Members had read it, others were still reading it, but everyone was aware that the policy that was on the table was completely flawed. It is completely flawed, yet this Assembly allowed the Council of Ministers, that is with the Troy rule in place, incidentally, we allowed them to say: "Just ignore Scrutiny on this occasion because we need to get something in before the next election." This individual from Cornwall was flabbergasted that we would allow that. First of all, that it is possible within Standing Orders, and secondly that the Assembly, and certainly Scrutiny, would even tolerate that kind of insolence on the part of the Ministers, that arrogance to just disregard all that hard work. So what does that mean for Scrutiny in the future under collective responsibility when there is even more of a party whip? I was speaking to the Assistant Minister for Economic Development yesterday. He was completely unaware that what was originally being proposed under the Mark 1 was that all Assistant Ministers should have to vote with Council Ministers. Then it got modified because that was seen as being too draconian, to be saying that: "If you are an Assistant Minister for a particular department, then you will have to vote with your Minister." He did not know that. On the population vote, for example, he spoke against it; he tweeted against it. He was very active, and that is what you would expect. Anyone who is an Assistant Minister in this Assembly should have the right, not just on matters of conscience or to agree to disagree but to say: "No, I do not agree with this one because my experience as a businessman is completely different and I think the Council of Ministers got it wrong" and hopefully we make better decisions as a result of that, rather than people having to keep their mouths shut when they think that and go down with the ship. That is not the Jersey way, that is not the democratic way to do things. So we respect Scrutiny, we empower Scrutiny, we have better lines of communication. I am not going to go on for too long but this is an important debate. With civil servants, we identified that we were too reliant on civil

servants, and it is not their fault. First of all, civil servants do a great job in the face of adversity, and it is because there are political inadequacies that civil servants, especially at the top level, have to start making policy decisions which should, in other jurisdictions and in other circumstances, be falling to politicians to make. How do we do that? Well, what we do is that we align at the top. We have contracts available so that when a new Minister and a new team is appointed you are allowed to draft in your civil servants so that the civil servants' terms match the terms of the incumbents in office because otherwise you have temporary politicians but you have civil servants for life. Of course it is the civil servants who continue with their zeitgeist and their policies going forward, and that is completely contrary to what we should be doing as a democracy. So, to sum up, we should not be giving up the autonomy of this Assembly. We do not have a party system. Others might have expected a nascent political grouping to be supporting this in the hope that one day it would be leading to party politics, but quite frankly, what happens in the meantime? It is a danger to be able to give these kind of unnecessary powers to the Chief Minister, and not this Chief Minister but to any Chief Minister, when what we should be doing is honing our system, tweaking it in the way that I have outlined, and for the Ministerial team to be upping their game, to be communicating better, to be talking to Scrutiny and respecting Scrutiny, and that is the way in which we have a better system, not by simply rubber stamping this P.33. I hope that there are Members in this Assembly who genuinely have come into this debate not knowing which way to vote because I would not like to think that, under the Troy rule, the Chief Minister and his allies have an automatic vote to get this through when there are so many dangers, pitfalls and unintended consequences, as well as intended consequences, which will have a perverse effect on democracy for our Island and for the public. I think we should robustly throw this out and we should not go on to the future amendments which have been tabled. Thank you.

#### **1.1.9 Deputy S.Y. Mézec of St. Helier:**

Yesterday in some of the debates we had we did talk about the elements of P.33 that were going to be debated today, and I said that on the face of it some of the principles in this make perfect sense. I used the example yesterday of a board of directors in a business. When you think of it in that context, things like collective responsibility make perfect sense because it is about creating a cohesive team. If a board of directors collectively came to a view and then they went off and the dissenters just did what they wanted to do anyway, the business would fall apart. It would be a terrible way to run a business, but the point I make there is that the States of Jersey is not a business, it is a democracy, so the principles are different. A government only has the right to govern because it has a mandate from the people to do so and to pursue their programme that they put before the people that the people then endorsed. Our electoral system has no mechanism whatsoever for giving a government a mandate. We do not have a party system and we do not have a directly elected Chief Minister. It was said by Senators Ozouf and Bailhache yesterday, and Senator Gorst today, that this will increase accountability to the public. I just think that is an out-of-this-world statement; it is completely wrong because the public have no say at all in casting a verdict on a Chief Minister. It is entirely possible in October Senator Gorst could get re-elected in eighth place as Senator, come back to this Assembly and the Assembly vote him in as Chief Minister again. It is entirely possible; there is no connection between how people vote and what they get. The candidates for every other seat in the election in October will have no obligation whatsoever to tell voters who they will pick for Chief Minister when it comes to it. At least in the U.K., you know that if a candidate knocks on your door to ask you for your vote and they are wearing a red rosette, you can probably guess that they are going to support Ed Miliband as Prime Minister, and for a blue rosette, David Cameron, *et cetera*. But our electoral system is such that it has no impact at all on who gets the top jobs and what programme they pursue. My granddad, who I have got a lot of admiration for but he is very cynical about politics in Jersey, he told me an example several decades ago where there was a President of a committee who was a Senator. He

stood for re-election as Senator and lost, got back in as a Deputy a month later and the States elected him back into the position of President. So, that is just another example. Okay, that cannot happen now but the principle is the same. A politician could completely drop the level of support they get but still get back in in the same position. Senator Gorst referred to the Clothier Report several times in his speech. Now, I support the Clothier Report, I support it as an entire package and I think the fact that it was cherry-picked has led to us being in this mess, and I think that was, with hindsight, a huge mistake that I think the public of Jersey have come to realise. But the most important of the recommendations that were in the Clothier Report, that was mentioned by Deputy Martin, were the recommendations on the composition of the States of Jersey. That is the one that has been ignored so far and has not been achieved yet, and that is the fundamental change we need. We have to democratise this Assembly before power can be concentrated in the hands of fewer people and more unaccountable individuals. So if the Chief Minister believes in this principle, the principle that was put forward by the Machinery of Government Review and the Clothier Report as well; if the Chief Minister believes in that, he must first make a stand for a commitment to democracy. He must back a fair and democratic electoral system, not an option B-type gerrymander but something real and meaningful, and he should stand with us and declare now that he will back a yes vote in October's referendum for the Clothier proposals on the composition of the States Assembly. I hope the Chief Minister is listening because I would quite like him, in his final remarks, to tell us how he will be voting in that referendum so Members can judge how it is worth voting on this proposition. The second thing the Chief Minister must do in October, is, if he wants to be able to pick his Council of Ministers, he should stand with a slate of other candidates for those Ministerial positions and say to the public of Jersey: "This is who our Council of Ministers will be if I am re-elected as Chief Minister." But what is that? That is a party, that is essentially what it is. Get it on the ballot paper and make it black and white so the people are getting what they vote for. Reform Jersey held a public meeting on this very proposition a few weeks ago and it was pretty much a consensus among everybody that spoke there that they were against putting more power in the hands of fewer people. There was a diverse view of opinions on parties and the composition of the States but it was a consensus that nobody wanted more power in the hands of one person. A guest speaker made what I think is the most worrying points of this proposition, and that is sometimes doing the right thing means doing the most difficult thing politically. Ministers have objective statutory duties to their departments that they legally must act on, and sometimes acting on those duties could be politically incredibly embarrassing for a government. A Minister, it is entirely possible, could, within their department, find abuse, find gross incompetence or find corruption, and they must legally act on it as they are obliged to, which could cause a huge political controversy. Under this system that is being proposed, the Chief Minister could hear that this is about to happen, decide he does not really want the controversy, he could do without it, so they just sack the Minister and replace him with a yes-man instead. Now, there are not enough safeguards in the system we currently have, but this proposition would make that a thousand times worse and we should be really, really worried about that. So, in summing up, this proposition's greatest virtue, that it will bring effective government, is also its greatest vice. One party state dictatorships are also very effective, and what this proposition represents is an unapologetic power grab and I hope Members will reject it. If they want this to go through, form a party, get an elected majority, reform the electoral system and then bring this back. Do that first, not the other way around. Unless that is done, this is the most dangerous attack on our democracy that we have ever had. **[Approbation]**

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

I thought I might be in a line of people, you have caught me on the hop a little bit. But I just wanted to calm everything down a bit. I have been scribbling notes furiously at the apocalypse that is heading our way. I just want to repeat a few of the phrases that have been used. We are facing

an unapologetic power grab. This is going to be a thousand times worse. We have heard about the dangers of this and the pitfalls and the traps and the loss of freedoms. It is a load of rubbish and it is an option B-type gerrymander, and the end of independent Members politics as we know it. While I enjoyed listening to that it is really not entirely true because what has surprised me since 2005 is how Ministerial government has survived and how the Island has managed to stay reasonably well governed without a form of collective responsibility, because collective responsibility has to be ... well, it is, the cornerstone of any democratic Westminster-type Cabinet that exists.

[11:15]

Not only Westminster-type Cabinet but let us refer to it as another phrase that some of the Members on the left of the House might recognise, and that is it is a form of democratic centralism, which is, quite simply whether it is a left-leaning government or a right-leaning government or a communist country. Any form of government has to have a form of collective responsibility otherwise it simply cannot operate. We all know those famous words: "A house divided among itself cannot stand." Well, I am surprised we have lasted this long. To those who have forsaken this already but are wanting to form a policy, well, I defy them to set up a policy ... party. I beg your pardon, who want to form parties. The new Members of the Assembly and other Members, do you expect to be able to reform and manage a party without a form of democratic centralism or collective responsibility? Of course not, it is impossible. But there again, you say it is impossible for us to introduce it here where it is tried and tested in other areas. Now, I do not particularly, as some Members will know, like being told what to do, as do many free-thinking Members of this Assembly, and that is one of the reasons why we are all here. But we have to accept that there has to be an element of cohesion if we are going to manage this country ... this Island, I beg your pardon. **[Laughter]** I am getting ahead of myself. I was thinking, of course, of Cornwall, and Deputy Young is not here but I do get slightly frustrated when we keep going on about how much better other places do than us. We have heard about how great Cornwall is and so on, but when we go around, and many of us will testify to this, and look at these other places, I think we realise how good we are, but we are not very good at giving ourselves praise. I am not suggesting this is a debate where we need to be praising ourselves but sometimes we do not recognise what we have. But I have got a couple of questions for the Chief Minister which I hope he can answer, and that is about discipline within a Cabinet-style collective responsibility system. What would happen if a Minister broke ranks? I took the opportunity of reading up on this last night and there are quite a lot of examples, especially in the U.K. where Prime Ministers or Chief Ministers would give free rein to the Cabinet, it happened in 1975 with the vote on membership of the European Community. Probably one of the most recent ... well, the M.P. (Member of Parliament) Vince Cable is always openly criticising other members of the Government and always seems to get away with it but more recently, Clare Short and the Iraq war where there were examples of members going against the Government decision and staying in their posts. My question to the Chief Minister is: should a Minister decide not to toe the line or go openly against the Government decision, is resignation compulsory, or is there some discretion that can be exercised? Thank you.

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

I believe we have had some fine speeches today because this is a very important issue about democracy in Jersey. I am going to take Members down a little trip of my brief career as a politician which will end in October, some 4 years 3 months after entering the States. When I joined the States I had no intention of becoming a politician at all, it was only events leading to the by-election that I decided to stand. So I had no intention of making myself a career politician and probably that is why I am leaving fairly promptly. But what I have found out as a politician is that you can be an effective Back-Bencher, but you have to be prepared to work with the Minister or the

department where you are querying policy or where you want to bring change. You have to be prepared to work with them, and provided you go about that in a polite and effective way, my experience as a Back-Bencher was that I could bring change and bring change to laws and policies of Ministers by being an effective critic, if you like, but also working with those departments to get the information I needed to bring amendments or whatever. So I do believe, even in the changes proposed, Back-Benchers will not be marginalised as some have said, but you do have to do your work and you have to be prepared to speak regularly with the Minister or the departments that you wish to bring change in. Now, when I was approached by our Chief Minister, shortly after his election, to be considered as a Minister, I was well known because during the hustings for re-election as Senator, I made it quite clear I wanted to be a Minister in the next Assembly. I wanted to be the Minister for Planning and Environment. Now, I had previously stood for that position, and I had a reasonable number of votes, and I felt that I could make a contribution in the next Assembly as a Minister. So I was proud that the Minister asked me to be Minister for Social Security; it was not what I had made the public aware that I wanted to do but he convinced me that I had some background experience that would be valuable. Now, I only won that position by one vote, and those of you who recall, we had to take a 10 minute recess because there was a question as to whether the abstention counted and I had not actually won the position. But only one vote and I felt proud that sufficient Members, even by a very small majority, had chosen me as their Minister. I would not be happy, I have to say, if I was continuing and wished to be a Minister again, that I would not have that opportunity to put my own personal policies, my own views and be challenged on my views by this Assembly before taking office. I think, sadly, although I can well understand why the Minister would want his slate and very little criticism of individual Ministers on the slate, I do not think democracy is well served where a Minister who does hold a lot of power should not be questioned in this Assembly before being selected by this Assembly. So I think, sadly, although I have come to this conclusion reluctantly, the process of electing Ministers should continue as we have at the moment with as many candidates put forward as Members feel appropriate. So I think that system works. Now, the issue of being a Minister is you do have a lot of power, there is no question about that, and you have to be prepared to work as part of a team. I believe, in my 3 years - coming up to 3 years - as a Minister, the Council of Ministers has worked very well, and that is due in most part to the leadership of our Chief Minister, who does try to bring sides together where there is disagreement. But I think it was Deputy Tadier who made the point, it is about leadership, and the Chief Minister of our Island has to be the best leader that we could ever find out of the candidates who are elected into this Assembly, and leadership is about bringing people together, driving the agenda and achieving what the public have elected us to do, which is to run our Island in the most effective and efficient way. Leadership is so important, and leadership should not be directed by laws or by changes as proposed in this proposition. A true leader does not need all these additional powers. It is a weak leader, in my opinion, who needs these powers. So we come to collective responsibility. Now, I know that I would never be able to serve if I had continued in a Council of Ministers with collective responsibility, because, as has been made quite clear, without party politics we are all independents. We all have our own strong views, we have put out our manifestos for the public during the elections and then we try, and what happens is when we come to a new Council of Ministers we all put our manifestos into a pot, if you like, and we try to come up with some policies that we can all sign up to. But there will be some issues that people feel strongly about and that you cannot, unless you are in a party and you have to stick to the party rules, change your views on some things. I mean, it is well known that I am opposed to what used to be called the 1(1)(k) regime, now called H.N.W.I. (High Net Worth Individuals), I believe, H.N.W.I.s. I am opposed to it because I think it is morally wrong. But I have made it clear during debates in the Council of Ministers that that is my position, and, to be fair to the Chief Minister, he has always accepted that is my position. But the point that I am trying to make is when it comes to sitting in this Assembly, even though the Council of Ministers may have decided on a particular

way that we might accept a proposition, perhaps from a Back-Bencher, you have to listen to the arguments. What is the point of coming in here and just knowing that you are going to vote a particular way before you have even heard the arguments? I have voted against the Council of Ministers on a number of occasions, as my colleague, Deputy Duhamel, has because I have listened, we have both listened to the arguments. I remember Deputy Young brought a proposition about speeding-up the requirement for - sorry, I am losing my train of thought here - to do with the appeals against planning decisions, and Deputy Young made a really good argument and I could not find fault with the arguments and therefore I voted with him. Now, that was contrary to what we had agreed at the Council of Ministers, but on the day he had the best arguments, and therefore, if you are going to just say: "Well, sorry, collective responsibility, it does not matter how good the arguments are on the day, you have to vote a certain way." Well, I could not do that and so that is why, if I was to have remained in this Assembly, I would not be a Minister. Now, some people would say: "Great, we got rid of him" but I do feel that you will lose the potential for some really good candidates who will not be able to, as I could not do, adhere to collective responsibility. So you will end up with, to a certain extent, yes-men or yes-women, which is not the best way when you only have a small pool of people to choose from. In this Assembly the balance of power is held by the Constables, and that is absolutely known. They may not realise it, or if they do not I would be surprised, but the Troy rule is of great concern to me. I would draw Members' attention to page 31 of the main proposition. We know that the current Chief Minister is not convinced that the Troy rule is an ideal way to meet Sir Cecil Clothier's recommendations. Now, if our current Chief Minister is not convinced, what I greatly fear is if this proposition is approved today, despite all the amendments that may change it, and we end up with the next Council of Ministers and the same Chief Minister - and there is every reason why you should because he is a very good Chief Minister - but if he does not have confidence in the Troy rule where does that take you? Will you, first item or second item at the next sitting after the new Assembly, will it be to remove the Troy rule? I know that one of the current Ministers would like to see it removed and has stated so. So there we go, we could find that not only will the Troy rule go, you will have collective responsibility and the balance of power, as I said before, will remain with the Constables. The Constables then will be the only balance because if the Constables vote, as they tend to, in *en bloc* with one or 2 exceptions, you will end up with the Government of the day being run on the basis that the Constables' support is more or less guaranteed in most areas, and that is how decisions will be made in the Assembly; a great danger to democracy, not good for the Island. So I appeal to the Constables today. We were told yesterday, if you want to win a debate appeal to the Constables. **[Laughter]** **[Approbation]** Well, I am appealing to the Constables, and I am looking them in the face and saying: "Do not vote for this unless you want to be the sole control of power in Jersey" because that is what this proposition will mean. You will be the balance of power. All the power will be in your hands. Every decision this House makes will be in your hands, and what this means is that 21 Executive Members will vote the same way and the power will rest with the Constables. Thank you. **[Approbation]**

[11:30]

#### **1.1.12 Deputy J.M. Maçon of St. Saviour:**

I am grateful to follow the last speaker and I would not say this about every Member but I do think it will be a great loss to this Assembly that that particular individual has decided to stand down. **[Approbation]** But when looking at this, I think we have got to ask ourselves to begin with, what is the problem? What is not working and what are we trying to solve? Now, as we see in the report, one of the key issues that Members identified about what was not working, was there was not enough inclusivity, and what do Members mean when they say "inclusivity"? I understand that as not having enough influence in forming policies or forming the decisions. That is what I understand that is what Members wanted to be able to do. Does this proposition make it better,



does it make it worse or is there no change? When you analyse what is being called for with the collective responsibility, again it is the opposite to that. It does not empower Members, regardless of whether they are Executive or Non-Executive; it removes that ability to be able to influence decisions being made throughout the Government. We have already been seeing, in this form of government, how those Members in the Executive are already turning around to Non-Executive Members saying: "Oh, you are just in the Legislature you are not part of the Executive. You should not be influencing these type of things because you are not the Executive." For me, as a States Member and from what I understand my electorate expect of me, they expect me to take a full role in whatever the States do, obviously within the parameters of the structures that are there. My electorate, I do not think, have just elected me to sit in the Legislature, they expect me to do much more than that, and therefore, again, where is this proposition taking us? One argument which pops up - and it depends, again, where you sit - is about the Ministers. Do they have enough power and control or do they have too much? Of course, that tends to depend on very much where you sit. Some Ministers' feeling is that they do not have enough power and control and many Non-Executive Members feel that Ministers might have too much. But let us look at the role of the Chief Minister. There is an argument, for example, that the Chief Minister does not have enough control over his Ministers. But if that is the case, why are we not seeing many more propositions or votes of no confidence coming from the Chief Minister to his Council of Ministers or individual Members? Now, we saw what happened in the whole issue around Duhamel-gate, whereby you had a significant but minority group of States Members who wanted to get rid of the Minister for Planning and Environment because they did not agree that he should be there for whatever reason, and you had all the backroom deals, all the motivations; this letter that was circulated among other Members to try and get rid of that. Let us just imagine for a moment that the Chief Minister had the ability to dismiss a Minister. What would have happened in that situation? Now, the Chief Minister was backed into a corner effectively of having to withdraw his vote of no confidence in the Minister for Planning and Environment because he took soundings from the Assembly and he knew he was not going to win that proposition. So in order to save face, that proposition was withdrawn. Why is that important? The reason why it is important is because those arguments and those debates would have been in public. It would have been on the public record, it would have been in Hansard [**Approbation**] and it would have allowed that Member to be able to defend themselves. That is not the case potentially ... I am not saying that this Chief Minister would act in this way, but if that power is there, there is absolutely nothing stopping a Chief Minister from dismissing a Member because that is the power that they have. As we have seen, if you have a strong but minority force of States Members who have an axe to grind about a certain Member, they can wield a lot of influence over the Chief Minister at that time. Is that desirable? Is that right? Is it that such processes can happen outside of a democratically elected chamber? In my mind, I do not think that is right in our small community. Deputy Tadier spoke about the problem of perhaps the system at the moment is that the decisions that we make to put certain individuals into positions of responsibility, whether that be a Minister or a Scrutiny chairman or whatever, and that it is not meritocratic enough. If we were to adopt this system, are we going to have a more meritocratic system or are we going to have a less meritocratic system? I cannot help but think that in a world where we have got collective responsibility, the only thing you are going to do is increase political patronage which is simply going along with people because of who they are. But more insidious than that because again, it is behind closed doors, it is that secretive nature of it, of who you are, not necessarily these are the merits of an individual which are openly debated within this Assembly. This brings me to one particular proposal that is contained within the law which is not necessarily being spoken about enough, which is the proposal that the Chief Minister will be questioned for one hour by States Members on what he proposes. But we have to remember, in this new system, because Members will not have the ability to question every individual Minister on policy stance that means the Chief Minister has to be able to offer a policy stance on any question

that Members might have. Now, the issue that that is, how can you get into any in-depth discussion about a certain policy when you have got officially independent Members all asking different questions on all the different subjects about everything the Government does. How can you possibly get any in-depth debate through that mechanism? I do not think you can. I do not think that is desirable. Now, I know some Members do not feel that questioning other Members is particularly useful or particularly helpful or whatever, but I am of the thinking that having someone on the public record saying that something or other is very important, it is very useful and it is something which we should do everything that we can to preserve and keep. Because of that, because we will only have this one hour of questioning, I really do feel that it is very easy to distract the States when they are asking questions to the preferred Chief Minister candidates; it is very easy to distract that area, and where there is a policy weakness, where more information does need to be flushed out in a particular area, it is very easy to distract. What is the implication of that? The implication of that is States Members... we know that one of the most difficult decisions that we have is the first vote we take which is to elect the Chief Minister. We are now going to be voting more in a vacuum which means that some Members might be voting blind because they just simply do not have enough information to be able to make that informed decision. Could that be addressed in other ways? I am sure in some sense it could be. It would mean that whoever is going to be the Chief Minister needs a much more robust "manifesto" to put those policy stances out there. But there is no possible way that that candidate can possibly cover everything, as an individual, about every policy that the States has, whether they apply or not, depending on what the advice is. I am also very concerned, to the point of not being able to support this proposition, about the whole collective responsibility notion. Or if I put this in another way, bullying Members into voting a certain way because if you do not you will lose your position. What strikes me again, being voted into this Assembly, is surely the principle is, we are voted into this Assembly to do what we think is right on behalf of the people that have elected us here and on what is right for the people of Jersey, not what is right because this is what the Chief Minister or the collective of the Council of Ministers have decided it. I think, particularly in our system, what is striven for so many times is that independence, that objective independent examining of proposals and propositions, coming to a free-thinking conclusion about how that is formed. What are we being asked for here? Well, we are being asked for a certain group of Members to cut that away in collective responsibility. Now, there is a counter argument to say: "Oh, yes, but this would already have been discussed at the Council of Ministers table [which is in secret] and therefore, the Council will have to go with the collective majority." But the issue there again, is this lack of public view of the reasoning behind these decisions, and for me that is the problem. It may not be an issue for other Members but for me it is a problem, and that is not desirable. Again, we have also seen already how - and I think one of the earlier Members touched on it - about how strictly the rules will be applied to you. Senator Farnham asked this question: "Are the sanctions going to be applied across the board?" As we have seen already, no, it very much depends on who you are, what your political influence is. How is that going to change under this system? Well, it is not. Turning now to this point about the slate of Ministers, again, Deputy Martin, when she first spoke, explained how you could have all types of shenanigans, particularly under our amendment, because now that you do not have 3 strikes and you are out, you have 3 strikes and you can appoint any team that you particularly want, makes a whole nonsense of the whole process. What is the point? You might as well just say: "Right, well, thank you very much, you have been elected Chief Minister, here is your slate and get on with it" because what is the point of going through that process? It just makes a farce of the whole system. There is one bigger question that we have got to ask. Is the problem that the system is broken or is it that the people operating within it are not doing it very well? What is the actual issue? Is it just that the politics get in the way? There is not a problem with the system, it is the underlying politics which we will never get away from. Again, on this notion of accountability, do we do this well? Unfortunately, we do not have the Minister for

Education, Sport and Culture in here today but we know, for example, there is a huge problem in education and understanding of politics in Jersey, of our own systems, and how can we expect the public ... because this is what the system is saying. It is saying if we have collective responsibility and the Chief of Ministers does well, therefore the public will have the confidence in re-electing those Members because they have done a good job and they have acted in the way of collective responsibility. But again, in that vacuum of knowledge where we know, unfortunately, the public are not as well informed as we should be. I think, for me, that is a huge failing of our education system in particular. I think there is also an issue which we cannot really control for, in that in other places, in the mainstream media, there is a lot more focus on, for example in the U.K., the U.K. system; because we only get our 50 minutes or half an hour chunk on the news every day and of that only a small proportion is devoted to what is going on in the States, again it does not help with understanding how our system works with all its unique quirks. One other point which I would want to highlight and query is, we know now, although there is not official collective responsibility, we know that in some strange ways it does exist. So for example we know with Deputy Le Fondré, who voted against or supported an amendment regarding G.S.T. (Goods and Services Tax) on food, when he supported that proposal, which the Minister for Treasury and Resources was against, lo and behold not so long afterwards the Assistant Minister for Treasury and Resources gets dismissed from post. So to say that collective responsibility does not exist in our system, it is there slightly already, and we know from various Assistant Ministers, and I hope they will have the courage to stand up today and say it, is that when there is a close vote happening within the Assembly against what the Council of Ministers is proposing, that Assistant Ministers, regardless of whether they are specifically a Minister pegged to a certain Ministry, they do get nobbled and they do have pressure put on them in order to vote certain ways. I do hope we will have some Assistant Ministers with the courage and stand up and say: "Actually, that does happen."

[11:45]

Also, I think, again, we have within these proposals, because it is obviously not going to be mentioned enough but it is a very important part of our system - not that it is respected enough by Members - is the proposal surrounding Scrutiny. Again, we are being asked to consider remodelling Scrutiny when that is all still a bit up in the air. We do not know where it is going to land. There are some Members who are strongly happy with the current system as it is, there are other Members who want a more ... it depends how you say it. Do you say do you want a more flexible or do you say less-focused Scrutiny function? It depends on perspective. But again that debate is still out there and there has not really been a conclusion as to how that should fall. So we are being asked to change the law and to adopt a new system whereby Members do not know what they want, and because Scrutiny, in its limited form, is such an important safeguard to our system in the system that we have got, to start changing it when we do not know how it is going to function in order to hold this new Executive to account, is that really desirable? To go ahead when things are not fixed. As for the proposals of allowing the Chief Minister to rearrange and set up Ministries as he sees fit, I do not have a problem with that proposal. I think that would allow a Chief Minister to prioritise the issues for the administration. I do not have a problem with that, I think that might be healthy and with something going forward. But that is not enough, to me, to support - with all the flaws that I have illustrated today - this proposal as it is. Therefore, I hope I have outlined the reasons why I will not be supporting this proposition today.

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

It is the first time for some time I think we have not had a waiting list for speakers particularly. It does occur to me - perhaps the Chief Minister will make it clear in his summing up - that if we bring a vote of no confidence in an individual Minister, then presumably the whole Council of Ministers falls. Perhaps the Minister will clarify that. I must say I agree with Senator Le Gresley.

I do not really understand why the Chief Minister feels powerless. Senator Le Gresley has produced very convincing counterarguments. The one he did perhaps miss was that leadership should also have an idea of where they want to go. I leave people to think about that one. I do understand Ministers wanting to control, but the problem with the central control, if you push it too far it leads to an *Animal Farm* situation where some animals are more equal than others; obviously recognised by Deputy Le Hérissier. We have also had, as the Deputy of St. Ouen highlighted yesterday, a totally befuddled picture as to when policy is defined and what it is. It does occur to me that it should be made clear in the Strategic Plan and not the woolly document that we get. One of the arguments which will be brought at some stage today will be the question of the Corporate Management Board and the position of the Chief Executive, which correlates with that of the Chief Minister. The Chief Executive is talking about a human relations direction policy handbook which compares with financial directions, and if we got proper development of that, that should clarify the situation. It does occur to me that we might well end up with many more votes of no confidence if the Chief Minister fails to get the support of the Assembly and decides to push on with his selective Executive. Presumably, we can just bring a vote of no confidence. Basically, we have a consensus Assembly and the natural accompaniment is a consensus Council of Ministers. We have had Deputy Mézec suggesting that the public do not inquire as to who the candidates will vote for for Chief Minister. The public will ask every time; at least that is my experience. Deputy Le Hérissier in his speech has hit the nail on the head. There is an elephant in the room. More and more power is being gathered to the Treasury both at Ministerial and officer level and this is a problem. Now, the power given to the Chief Minister in this proposition is a problem because I do not think that one Minister can really be doing quite so much in so many departments and keep himself organised. I have the greatest admiration. I do not know how he does it, but I do wonder sometimes. You take your eye off the ball and things can go pear-shaped. But the power given to the Chief Minister in this proposition implies that if a Minister disagrees with the Government they will resign. Well, frankly, the last time I knew a Minister resign and fall on his sword was Lord Carrington at the onset of the Falklands War. Would we see more resignations? I do not know. Minority Government was recommended by Clothier so that there would be: "Prevention of the uncontrolled exercise of power by a few powerful people," and that is a direct quote. That is the reason for the Troy rule. Will this proposition prevent the uncontrolled exercise of power by a few powerful people? I leave the question with you.

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

As a good and loyal, true *sans-culottes*, I would like to give notice that in 30 minutes I will call for the guillotine, not for myself, not literally.

**1.1.14 Deputy R.G. Bryans of St. Helier:**

Just to pull the debate in a slightly different direction, what was interesting is - because we have got to the point where we have almost canonised Clothier now, and rightly so to some extent - I went back last night to read the report, which is a very accessible document. Then I started to read, because I was interested, the obituaries of the man and he is an extremely savvy individual. He starts the report with a quote from Edmund Burke: "A state without the means of change is without the means of its conservation." Then he focuses, and I am going to read one part of the report, 5.19, to talk about what we are elected to do, which is to make decisions and decision-making. He then goes on to say somewhere in the document: "Change is uncomfortable. The comforts of further inertia as opposed to the irksomeness of action are to be avoided." What we have in these principles is a document which is an accumulation of a great amount of consultation and deliberation, as Deputy Young described. Sitting here in the debate today, I have been quite enthralled by some of the speeches. Deputy Martin, some of the things she said I thought: "Yes, that is exactly what I am thinking," particularly in relation to what Deputy Maçon was saying with

regard to Assistant Ministers. Just to scotch the concerns that Deputy Maçon has with regard to Assistant Ministers, I have never been nobbled, I have to say. It has been suggested sometimes or asked of me which way I was particularly voting and I have always given my reply strictly with my conscience in the same way that Senator Le Gresley says: "This is what I think. This is what I am going to do." Like Deputy Young has said in the past, there are occasions when you sit in this debate - and this is what the whole thing is about - where you do sit and you change your mind. But this is the point and I am just going to read this out now in full: "The weaknesses we have found in the function and structure of the States are, in our opinion, serious. It is the weakness of a National Assembly, the Members of which are so divided among themselves that they have difficulty in arriving at and maintaining any decision which permits the balance of power to pass into the hands of a very few people. This is an unhealthy development in any society, however honourable and well intentioned those few may be. It is clear to us from the evidence we heard that for many years there has in reality been Government by a small number of States Members, not so much by design as by the accident of the strong and clever rising naturally to the top. The informal or *ad hoc* nature of this political reality meant that there was neither the accountability nor the scrutiny which such a system needs. In contrast, while we have designed a system in which the executive power lies with a small number of States Members, we have built into that design the scrutiny and the accountability which will provide the necessary checks and balances." I think there is the rub. We are looking for an Executive that can make decisions. That is what the electorate are asking us for. In fact, as they sit and listen to us now, they are wondering why we are again looking at all of this. I appreciate the need to discover and discuss the notions of democracy and parties, but the real point about this is the ability to make decisions that can move this Government and move this Island to a position that is better for its people. That is why I will be supporting this proposition.

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

I have struggled with these issues for a long time. Sometimes I have leaned towards a more centralised approach. There are pragmatic reasons in that direction: the tension between the corporation sole status of Ministers on the one hand and the ability of the Council of Ministers to determine and enforce common policy on the other; the difficulty of the role of the Chief Executive, who may instruct a colleague Chief Officer to do something only to have that countermanded by the individual Minister. I can remember certainly 2 occasions in which a Chief Executive, not the present one, instructed one of my Chief Officers to do something, for me to say to my Chief Officer in no uncertain terms: "Tell the Chief Executive that I have decided this. It is within my remit." But there is a tension there and I accept that there are arguments for better central planning and coordination. On the other hand, there are undoubtedly dangers of centralisation of too much power in the hands of one or in the hands of a few. These proposals will ultimately give the Chief Minister hiring and firing powers as well as a 3-line whip on Ministers through collective responsibility. The likely result of this will probably be in the minds of the public the creation of a Council of Ministers party. Sometimes some Members, particularly of a left-wing disposition, try to pretend that already exists. In fact, it does not and this debate demonstrates that for the numbers of members of the Council of Ministers who are not going to support the Chief Minister in this. Undoubtedly, however, the centralisation of power will produce an increased polarisation in this Assembly and Members need to be aware of that. In 2011, I considered the possibility - as I always try to look ahead - of the present Chief Minister not being elected as Chief Minister and someone else being elected and that individual approaching me and saying: "Ian, I would like you to remain as Minister for Home Affairs provided that you will agree to collective responsibility." I considered that possibility. My response was going to be: "That depends upon who your other choice of Minister is going to be." Because having spent the first 3 years of my period in Ministerial government unbelievably towards the left-wing of a very right-

wing Council of Ministers, I really did not want to find myself in the same position again for another 3 years. There are issues of conscience which arise in relation to such matters and I would have been very concerned if I found myself in the position of being asked to agree to collective responsibility where, frankly, I was always going to be in a minority. It is interesting that Senator Le Gresley has expressed that concern today, although he will not be standing for election at the next election, nor will I. But undoubtedly there will be a danger of a monochrome Council of Ministers because people of conscience who will find themselves constantly outvoted will not feel able to stay. There is, in my opinion, an elephant in the room, a very large one, but which Members have not really noticed, with the exception of Deputy Tadier. In the recent debate on the future role of the Bailiff in this Chamber, the majority of this Assembly supported the need to have a referendum prior to a decision being made on this. Now, I have no wish to downgrade the importance of that debate, particularly from the point of view of your successor, but I am bound, Sir, through you to ask the rhetorical question: what is the greatest change to the government system in Jersey in the last 60 years?

[12:00]

The answer is not the loss of 4 Senators. The answer is the creation of a Government. Sometimes the issue is fudged because sometimes we refer to the Executive on the one hand and the Legislature on the other and we fudge the issue as to what is the Government. There can, in my view, be no doubt the Government is the Council of Ministers because the Ministers, and through them their officers, exercise all the powers of Government. What has happened is that the States have moved ... and I have to say I have always been and always will be a supporter of Ministerial government. It is very unlikely I would have come into the States of Jersey and given up my fairly well paid job which I very much enjoyed if I had not had a realistic chance of being a Minister in a Ministerial government system. But I am bound to say that we have an anomaly here, a massive anomaly, which is that the public have never been consulted on the biggest change which has happened in the last 60 years. Now, today, we have a proposal which is going to further change that, further centralise, place further power in the hands of one individual or a small group of individuals. Whereas 2 weeks ago we thought it necessary to consult on the not unimportant issue of the future of the Bailiff, somehow we do not think it is necessary to consult the public on this massive additional change. I fear - and I hope that I will not be contravening rules - there are some extraordinary double-standards in play here somewhere. So, where does the balance lie in my view? Well, I think Members will have already guessed from the direction that although I can see the advantages of a more centralised approach, I can also see considerable disadvantages and dangers. Although I have great confidence in our current Chief Minister, I also think that he has done an extremely good job. It has been a great pleasure to be part of the current Council of Ministers, which has had a balance. Although some Members would argue it has not represented their views, it has not represented perhaps the outlying views of left and right, nevertheless one of the joys of this Council of Ministers has been that there has been a balance. It has, broadly speaking, reflected the majority view of the States and that has made life much easier in terms of bringing things after a proper and critical debate and so on. I fear that is going to be lost for the future. Although I have great confidence in the present Chief Minister, I cannot make a decision based upon individual personality. My male line comes from the Le Marquands of Grosnez and I am afraid on such occasions ... I can see the Deputy of St. Ouen smiling; he has come across them in the past. **[Laughter]** The Le Marquands of Grosnez, when their instincts come into play always have concerns in relation to centralisation and over-centralisation of power. That is my fear. What if in the future we had a Chief Minister who had a very strong approach to leadership and dragooned his troops in a very strong way? Not only would that polarise the States and be massively divisive but it would polarise the Island as well. I know there are those who would say the Island is always polarised; yes, it is to a degree, but nothing like what this would achieve. So

with some regret, because I try to support my friend and colleague the Chief Minister when I can, I am unable to support this. I have considered whether I could allow it to run and see whether the amendments, particularly the very good amendment from Deputy Le Fondré, might ameliorate it sufficiently so that I could just support it, but I am afraid I cannot in all conscience, so I will have to vote against the principles.

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

One of the frustrations of politics in Jersey is the infinite capacity of Members with very different political views to coalesce in order to thwart sensible reform. There seem to me to be 2 broad groups of Members who are arguing against the principles of this Bill. The first group is the Deputy Baudains, Deputy Young, Deputy Duhamel, Senator Le Gresley group of people who really hark back to committee government and rather regret that we have ever accepted the recommendations of the Clothier Report and gone over to Ministerial government. Then, secondly, we have the left-leaning Members like Deputy Mézec, Deputy Tadier and so on, who are determined to push us into party politics. Yet many of those Members - Deputy Tadier in particular - have played quite important parts in bringing forward the proposed reforms that are in the Chief Minister's Bill. Most of the stuff in this draft Bill was put forward by Deputy Tadier and his Sub-Committee, yet now he invites Members robustly to throw it all out. Strangely enough, I have long thought that a party of the centre-right should be formed. I thought that before I sought election in 2011, but I could get no support for the idea from those who shared my political views at the time and nothing has changed. So I am working with the Chief Minister to try to make what is a dysfunctional system of government work better and work more efficiently than it does now. The dysfunctionality of our system is, in my view, one of the strong reasons why many voters, many people, have switched-off and it is a very dangerous state of affairs because if the number of voters slumps so low as it has done already it enables people with extreme views to get elected, who would not be elected if we had a functioning electoral system. Deputy Mézec said that this was the most dangerous attack upon democracy that we have ever had, but he should be careful what he wishes for. There are many small jurisdictions where parties of the centre or parties of the centre-right remain in office for a very long time. The Government in Malta has changed recently for the first time in 25 years. In Gibraltar, Governments of the right have been in power for as long as almost anyone can remember. There was many decades ago, I do recall, a party of the left but it sank after a very short time. So Deputy Mézec and his progress group might think carefully before they seek a party political system which might put them out in the cold for a very long time. In Jersey, we have a system which in theory allows many different strands of opinion to be influential in the formation of policy. The Government is in a minority and we have a system of scrutiny which allows different views to be put forward and to play a part in the formation of Government policy. Although it started badly, in the last 3 years in particular I think the Scrutiny system has worked remarkably well. I think personally it would be improved if we abolish the Troy rule so that the number of Assistant Ministers could be increased and Assistant Ministers could be allowed to serve on Scrutiny Panels. That would be really inclusive but many of the Members who call for inclusivity do not really want inclusivity at all. They want a Government of their way of thinking to have authority and they do not really want to involve all Members of the States of different political views in the political process. The Troy rule was invented effectively by the Clothier panel because they thought that they were proposing a system under which Ministers and Assistant Ministers would always vote together and, therefore, it was important that they should be in a minority and that would be the balance of power that would be achieved. But many Assistant Ministers constantly speak against the Executive. We heard Deputy Martin this morning. She is an Assistant Minister but I think she votes more often against the Government than she votes in favour of it. As a matter of fact, I have no problem with that because I think that if there is to be collective responsibility - and, like other Members, I have some reservations about that - it should be confined

to the Council of Ministers. Deputy Maçon asked what was wrong and it is a good question. To my mind, the core of what is wrong is that the Council of Ministers is not a team. Each one of them is an independent. Some of them, like Senator Le Gresley, Deputy Duhamel, are just not part of the team in that sense but they are independents in the sense that they would hark back to a committee system of government and I think have never really embraced the Ministerial system. But each of them anyway ... Senator Le Gresley shakes his head, but he is an independent. He likes to be his own man. He does not like to **[Approbation]** ... he does not like to have a discussion in the Council of Ministers and then be bound by the decision of the majority in the Council of Ministers. But that is the essence of Ministerial government. If we are going to have Ministerial government that is what Ministerial government means. The public expects and outsiders, outside the Island, expect that in electing a Chief Minister we are electing a political leader, someone who can give political leadership and who can be confident when he offers political leadership that at the very least his Ministers will support him. The role of the Chief Minister is one of a powerless puppet. He has no authority over other Ministers. He can try to persuade but if Ministers do not share his political views - and because the Assembly elects Ministers and the Chief Minister does not choose them many of the Ministers might have different political views from his - it is almost impossible to persuade them. The Strategic Plan contained a commitment - I am sure that Members will remember - that the Council of Ministers and, indeed, the Assembly itself would work together to achieve electoral reform and to implement the recommendations of the Electoral Commission, but the majority of the Council of Ministers voted against bringing the recommendations not just of the Electoral Commission but of the people as a whole in the referendum to fruition. So the public see a divided and an ineffective Government. There is no accountability, and I agree with Deputy Bryans in that part of the Clothier report. If there is to be Ministerial government there must be accountability, but there is really no accountability at the moment. Who can hold the Chief Minister to account for the actions of one of his Ministers if he has no authority to influence that Minister in the implementation of the policy which the Council of Ministers has determined? So far as the public are concerned, how can they take the view ... and I am not getting at the Minister for Planning and Environment at all. I think he is a splendid chap and I agree with him in many respects.

[12:15]

But if the public were to think that the planning policies of the Government of Jersey were deplorable, they cannot criticise the Chief Minister for that because he can say: "Well, I do not agree with some of those policies either and I wanted a different Minister for Planning and Environment but I could not achieve that." So there is no accountability to the public either. There are some issues in the draft Bill, like collective responsibility, upon which people may have different views, but I hope that Members will approve the principles of the Bill and at least allow the debate on the different elements of reform to take place.

**Deputy M. Tadier:**

May I seek clarification? When the previous speaker said that the Chief Minister's role as it currently stands is that of a powerless puppet, could I ask who the puppet master is in that analogy?

**The Bailiff:**

Not a point of clarification. The Connétable of St. Clement.

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

I feel that I should be angry this morning having heard a lot of the comments, but I am not. I am just disenchanted. I spent 2 years of my life on the Sub-Committee chaired by Deputy Tadier on the machinery of government reforms and we worked very hard. Deputy Baudains was one, Deputy Young, Deputy Le Fondré. We did work very hard on that, well supported by an officer of



the Greffe. All that work culminated in an in-committee debate, which took a whole day here. We took the results of that in-committee debate away, refined our proposals even further, took them to the main committee, the Privileges and Procedures Committee chaired by Deputy Maçon. What we came up with was more or less what is contained in Projet 33 that we are debating today and Deputy Maçon and Deputy Tadier went on a group formed by P.P.C. to bring forward, to refine the proposals in a position that we could bring to the States. The P.P.C. clearly chickened-out and left it to the Chief Minister to do and now we hear that Deputy Tadier is voting against, the Chairman of the P.P.C. is voting against, and I just wonder which organisation is dysfunctional in this House. **[Approbation]** Totally disenchanted. Some Members seem to be very concerned about the concept of collective responsibility. Well, those of us who have been in this Assembly for some considerable time will know that we have had collective responsibility in this Assembly. We had collective responsibility under the committee system, much loved by Deputy Baudains. This collective responsibility did not undermine in any way the tradition of the States being made up of independent Members. What used to happen was that if a committee member did not agree with a policy decision that was made by the committee that was going to the States, they would ask to have his or her dissent recorded in the minutes of the meeting. If the committee president considered that the dissent was of such a fundamental nature, fundamental to policy, he would ask that Member to resign and that Member normally, being honourable and decent, would understand the position and do so. Now, occasionally, that did not happen and a policy debate was brought to the States by a committee. I can remember on one particular occasion where it was quite clear that 3 or 4 members of a 7-member committee were not supportive of the policy report that was coming to the States. The committee tried to hide their divisions but, of course, they could not, which caused then the whole committee to fall and to resign. So we had collective responsibility. It existed in those days. Generally speaking, it was understood in those days and it certainly worked in those days. There is absolutely no reason ... in fact, there is no question in my mind that it should come back because it is not the preserve exclusively of political parties. I really find it quite extraordinary that so many Members are planning to vote against the principles of this Bill. I can only conclude, whatever they might say, that they believe that everything is nigh on perfect with the current situation because we are debating the principles of change, not the change itself. That comes in the Articles. One Member says this is about giving more power to the Chief Minister. Now, I do not see that because the way I see things, the Chief Minister does not have any real power now. This proposition is about giving the Chief Minister some power, an appropriate and sensible amount of power, to organise, to progress and to govern in an orderly, fair and reasonable manner, powers which he does not have now in any way whatsoever. I do say to Members if they do think that everything is perfect with the current system then they must vote against the principles of this proposition, but if improvements are needed then Members should vote in favour and debate the details which are contained in the Articles and the amendments. That is the only sensible and positive way forward. **[Approbation]**

**Deputy N.B. Le Cornu:**

Thirty minutes I think has passed since I invoked. I would like to invoke Article 84 and the guillotine.

**The Bailiff:**

Has the 30 minutes passed, Greffier? Very well then, is that seconded? **[Seconded]** Deputy Le Cornu has brought a closure proposition, which he is entitled to do. Members usually like to know how many people are still waiting to speak. I only have one on my list at the moment, which is the Connétable of St. John. Now, that matter is put immediately to the Assembly. Do you ask for the appel? Yes, the appel is called for then in relation to the closure motion. If you want to end the debate now, you vote pour; if you do not, you vote contre. The Greffier will open the voting.

<b>POUR: 7</b>		<b>CONTRE: 33</b>		<b>ABSTAIN: 0</b>
Deputy R.G. Le Hérisier (S)		Senator P.F. Routier		
Deputy J.A. Hilton (H)		Senator A. Breckon		
Deputy of Trinity		Senator S.C. Ferguson		
Deputy M.R. Higgins (H)		Senator B.I. Le Marquand		
Deputy J.M. Maçon (S)		Senator F.du H. Le Gresley		
Deputy J.P.G. Baker (H)		Senator I.J. Gorst		
Deputy of St. Mary		Senator P.M. Bailhache		
		Connétable of Trinity		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Mary		
		Connétable of St. John		
		Connétable of St. Ouen		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. Saviour		
		Deputy R.C. Duhamel (S)		
		Deputy J.A. Martin (H)		
		Deputy G.P. Southern (H)		
		Deputy of St. Ouen		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy M. Tadier (B)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy A.K.F. Green (H)		
		Deputy J.H. Young (B)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy R.J. Rondel (H)		
		Deputy N.B. Le Cornu (H)		
		Deputy S.Y. Mézec (H)		

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

I do not like in principle debates. That is how we got where we are. I would have supported P.33 if the Chief Minister had done what he said he would do by bringing a vote of no confidence in the Minister for Planning and Environment at the start of this session. For some reason, on the day in question that never went ahead and we could not have our say, although for some months before I am aware that there was an attempt to bring a vote of no confidence in the Minister for Planning and Environment back in October/November and the Minister told us he would sort it out. If he calls sorting something out by holding a vote of no confidence over somebody's head for a number of months, that does not bode well for any Council of Ministers with ultimate power of hiring and firing. It does not bode well. As I said, we are where we are with in principle debates because we have this Government we have had now for nearly 10 years, this system of Government. We are told by the Chief Minister this morning that if we adopt P.33 we are supposed to be adopting the rest of the work that was to be done in Clothier. Well, that is not the case because there is still work to be done on making sure that scrutiny have all the checks and balances in place, and they are not all in place. Also within Clothier, if I recall correctly, there was supposed to be an ombudsman. That is not in place. There are a number of things which are not in place, Chief

Minister. This is yet again cherry-picking the bits that the Ministers require because they cannot get their act together within their, shall we say, portfolio and obviously they have an inner circle of Ministers. If you are not in the inner circle you are there but you are not being fully informed of what is going on. So there is an inner and outer circle within the Chief Minister's Department. That is of concern not only for me as a Member of the House but a member of the public that the person who is supposed to be pulling all this together makes a promise to us, i.e. the Chief Minister, that he will do so and so and make sure this is resolved, and we are hearing from Ministers this morning, those who have spoken, that that is not always the case. That is not always the case; he does not pull it together. There is the inner and outer circle. I am also worried that by giving the Minister the responsibility to appoint his own Ministers and to choose his own Ministers we get a scenario that, depending who is the Chief Minister, that person may be very, very forceful - and I would expect them to be anyway - but instead of having our 8 Ministers and a number of Assistant Ministers that the Chief Minister decides that he can quite easily run this Island with just 2 or maybe 3 Ministers and the remainder as Assistant Ministers or Deputy Ministers, call them what you will. That gets, in my book, far too close to a dictatorship. I am going to mention the old committee system. Having worked where 7 members would decide on a committee how to move forward, sometimes you did dissent and whatever and if you still could not meet up with the way the majority of your members on the committee worked you eventually would step aside and allow somebody else to take a position on the committee. You would be drawn into another area on some other committee where you could work with the people. Yes, it was slow but it worked. Contrary to what the few ... and I see it again now, 10 years later, since we are in this new system. There were the few that wanted power. They enjoyed power, going around the world. I can recall our senior Member of the House on P. and R. (Policy and Resources) going around the world and calling himself a Minister, calling himself the President of Jersey. That was not the case. He was the President of one of the committees and that used to get back to us as Members and we did not like it. We did not like when it got back to us that a Member, who was just like the other 53 of us of the day, was calling himself something he was not. But let us move forward. I have heard this morning people mentioning other jurisdictions; they have mentioned Cornwall and wherever else. Jersey is a nation state. We do not have the luxury of being able to go over a border, get additional fire engines if we have a major fire, get additional policemen if there is a big problem. All this takes time. We have to supply Customs and Excise. We have to supply the whole gambit. I still have to juggle in my own mind was Clothier the right system to have come forward with in the first place. This all came about because the U.K. Government was looking at their regional governments, local government, but we are not local government. We have a lot of responsibilities over and above any local government in the United Kingdom, as I have already said, because of the other things. We have our own airport, everything which has to be administered from within one little Island. We have to do the whole gambit. I still wonder if by even saying this would complete Clothier, which it will not but even by saying it would, the Clothier system I do not believe is the right system for this Island. I do not know what it is but I do not believe it is going to give us everything we need. Because if you re-read Clothier, it is far too much like the local government system in the U.K. and, therefore, I think it is probably the wrong system. What has happened to date in the first 10 years of using this hybrid Clothier has proved to me we were on the wrong track. I think I have said sufficient, but I will not be supporting this because I think the Chief Minister had an opportunity to prove to us that he could have handled things completely differently in the planning vote of no confidence and he did not do that. He is asking us now to put trust in him yet again that this is the way he can control things. I am not convinced.

[12:30]

**Deputy K.C. Lewis of St. Saviour:**

Sir, apologies to yourself and the Assembly, I would like to attend the funeral of a much valued and respected member of T.T.S. (Transport and Technical Services). I will return to the Assembly as soon as I can.

#### **1.1.19 Senator A. Breckon:**

With these debates, and I have heard one or 2 of them over the years, the dilemma is if we seek any change then what should that change be. As the Chief Minister is finding out, the devil, as it were, is in the detail, if indeed we get that far. I would like to bring Members back a bit and say: "Where do the Executive get their mandate from? Where does it come from? Who has voted for policies about Fort Regent or anything else?" Well, nobody has, really, and I think that is important. As Senator Le Marquand mentioned, the public were not given the opportunity to vote for Ministerial government and it was a major change from what we had and what we moved to and now we are talking about doing something else, which for me is a bit of a leap of faith. I say that because I have heard some of these things before. Well, trust us and we will sort the bits out later, saying from the Constable of St. John we will put the meat on the bones. You will remember this from discussions from somebody sitting not very far from here, who said: "Don't worry about this, this will follow. There will be checks and balances." Something that some other Members mentioned yesterday was we are a variation of a coalition. We govern by consent. That is to say collectively we come together hopefully to do things that the public appreciate and are for their benefit, not always obvious to them but hopefully that is the aim of us all. The other thing the Deputy of St. John mentioned, he started getting into the thing of talking about the Medium-Term Financial Plan and the Strategic Plan. To most people out there on the street, these things are meaningless. They do not understand it is a tool of Government to do things: "Do not worry about that, it will be in the Medium-Term Financial Plan, not this one, the next one." What does that mean then? Something in 5 years' time? What is going to happen? So it is very convenient to blame a tool and say: "Yes, we have signed up to this. It is going to happen" but I think there are about 50 of them downstairs in the Members' Room that were put there and most of them are still there, which is the updated whatever it is, something or other. I have some sympathy with the Chief Minister because he is in a bit of a no-win situation. If he is not happy with the situation he finds himself in but he wants to seek improvement, then if he does not do anything he will be criticised and if he does something he will be criticised. So there is the no-win situation. I along with a number of others over the years have worked on things. I worked with the former Chief Minister, with Deputy Vallois, with the Constable of St. Mary and others to put together something that was perhaps a little bit more inclusive, but again that did not find favour with the House. In fact, that stepped on the toes of a few Ministers and Assistant Ministers and at the time the only Ministers or Assistant Ministers that voted for it was the then Chief Minister, Senator Routier and Deputy Le Fondré. The rest of the Ministers or Assistant Ministers voted against and there was a combination of people from Scrutiny who had seen that under threat that came together. So I think what Senator Bailhache mentioned before is there is an alliance here of people of different ways of coming at an issue and this has been true in virtually all of these debates that we have had. I particularly remember one. I will not describe it as tortuous but it was in part. I think the vote was taken on the machinery of government at 6.30 p.m. or round about that on the Friday night, after days. I cannot remember whether we started Monday lunchtime or whatever happened. People were the equivalent of being politically punch drunk or whatever the equivalent of that is by that stage. There was some really, really heavy lobby out there to persuade people to vote whichever way. Again, I think it was seen then the gathering of a power base, and that is where it has, I think, some of its origins. But again, with power bases, they usually have some baggage as well. The things that were said, of course, were about the checks and balances. Some of those Members at the time that went along with this lost their seats. They believed that it was the right thing to do. They were not quite sure but they were persuaded, but unfortunately they were not there to see the effect or, indeed, what might be

considered the benefits of it. The reason I say that is if we move on from this then what are we creating? If we are creating a machine, and Deputy Baudains knows the sort of mechanics of that, then is it well oiled? Will it do this, that and the other or will it be squeaking a bit? Will it need tweaking again? Where exactly will it be? At the moment, I am not very comfortable with that because if you create something then you should not do it necessarily with somebody in mind. I have the greatest respect for Senator Gorst. I think he is doing an excellent job and he would treat anything with respect, but then what happens in 7 or 8 years' time? Somebody might take a different view and then somebody is going to say: "What have we done?" Then whoever is in that situation, if they are accountable and the public can truly get at them, then they will make a judgment on that. But if they cannot, then there is a problem. The reason why I say that is we could be creating problems for the future that are not quite predictable at the moment, and I am uncomfortable with that because of perhaps where we are now. The other thing, I think we have talked about the talents that Members have, what they bring to this Assembly and what they can add to the workings of government for the benefit of the people and to share things with each other. I have always appreciated that from wherever people have come from they can make a significant contribution and a difference to this Assembly. I am worried that people will get sidelined if we just get into this tunnel and half a dozen people or whatever are running things. We might shut out some of that talent. The other thing, if we want to encourage the public to vote and to get involved, then if somebody or other stands let us just say in St. Clement and says they are not building any more social rented housing in this Parish, and then they become a Member of the Council of Ministers and the policy is we need more social rented housing and they are going to be there, what are you going to do if you are in that position? It is all right, you can fiddle about with population or you can vote one way one week and then 2 weeks later you can vote the other way. Or you can have as many people as you want, not quite but we are going that way, but then do not bring them here, we are saturated, we have enough. But then how disillusioned will the electors be? "Minister, hang on, you were knocking on my door a fortnight ago. You told me you were not having any of this. What have you just done? Do not come back here, mate, that is it." So that is somebody well and truly compromised within a month, and Members should think carefully about that. If you are going to sign-up for collective responsibility, it is not half collective responsibility. There may be issues of conscience. It might be gambling. It could be abortion. It might be other things where there would be a free vote, and this happens in most other places as well, but if the policy is the policy you are either in or you are out. You are not doing the hokey-cokey. So that is where you are and I can well understand what Senator Le Gresley said and why. Do you have a mind of your own or do you need somebody to tell you what you think? That is possibly where it could go and that really does worry me because we come here as individuals and we all have in different ways something to offer. I will ask Members to bear that in mind. The other thing that concerns me is Scrutiny. I do not agree with what Senator Bailhache said before that it has come into its own in the last few years. There have been some excellent reports done over the years on subjects before that, so it has made a difference. Occasionally, I watch the parliamentary channel on the BBC and I am amazed on occasions at the level of information that Select Committees can get as part of a check and balance. We are not talking about putting an office block up on the Esplanade and saying: "Well, it is sensitive, it is commercially confidential," we are talking about things like libel and the Governor of the Bank of England and emails that were sent 2 days before. Now, I know with my own experience of Scrutiny the old bogeyman will come out: data protection, freedom of information, human rights, all those things. You will not get the information, and yet you have organisations in the U.K. that are challenging Government. They are going in there, the Governor of the Bank of England, the head of Barclays Bank, whose head rolled for it, they are going in there and putting their hands up. Do you think we would get the same level of checks and balances? I think not. Now, that is where we need to be. One other thing that was said, if there is a policy ... let us just take something simple, say like the ferries. If there was an issue, the correct

way of doing that would be for the Minister with responsibility to come to this House and make a statement so he could be questioned on it. Not a press release on a Friday afternoon saying something has happened or something is going to happen. The correct way, and to give this Assembly its due, would be to come here and do that. It does not happen. Members should look back, see how many statements are made. There are not that many. That would be one way of being transparent. Council of Ministers' agendas: tea and biscuits on the A, most of the rest are the B. **[Laughter]** That is how it is. Now, if we want to be inclusive, if we are discussing traffic and transport, is the bus service so secret that the rest of us do not know it is there? **[Laughter]** That is what we have shrunk to. Now, my concern is if we go any further we will be even further away. We will be reading about things, we will be hearing about things, and it is not the right way to proceed. Yes, we may need to change things, but for me I think with some of the detail that we are getting into it is not the right way to do it. I have suffered with this before. For some reason not best known to myself I once got lumbered with Sunday Trading and everybody says: "We have a law; it is not policed. It does not work. We have a stupid list of things attached to it. Change it." When I proposed changes I got 6 votes. Everybody said: "Oh, good idea, you have done a lot of work on this. Not this, though." We now have 13 laws for Sunday Trading and another one coming through the tunnel, but again it is one of those things where there is no right answer. It is a living and working thing and I think this is the same. For those reasons, Members may have gathered that I cannot put my full support behind the Chief Minister at this stage, but I am not saying 'do nothing' is the answer.

[12:45]

Now, everybody and their uncle and aunt has looked at this. We have had a list of names. It has been this group, that group. I have a great deal of sympathy with anybody that looks at it. I think there will be a way forward but it is, as I say, a living and working piece of work. This is not the way and for those reasons I will not be supporting this. It may be appropriate to propose the adjournment. I do not know if anybody wants to speak.

## **LUNCHEON ADJOURNMENT PROPOSED**

### **The Bailiff:**

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

[12:46]

## **LUNCHEON ADJOURNMENT**

[14:16]

### **The Bailiff:**

Very well, we continue the debate upon the principles of P.33/2014. The Deputy of St. Ouen.

### **1.1.20 Deputy J.G. Reed of St. Ouen:**

First of all, I would like to personally acknowledge all States Members who have endeavoured to seek to improve our current Ministerial form of government and hope that they will not take anything I say personally. I think it is, first of all, telling to see that rather than Privileges and Procedures bringing forward these amendments to the draft States of Jersey Law, it is the Chief Minister. Perhaps we are all aware of why it was found necessary for the Chief Minister to do so. More importantly, I think we need to ask ourselves, will these proposals restore public confidence in Government? Primarily, I am speaking about the Council of Ministers, as we have all been told and reminded that Government is the Council of Ministers. I do not believe that they will. I also think that it is very important that as States Members consider how they vote on this particular amendment and the principles that they do take into account the comments made by 3 current

Ministers and, indeed, I hope that they will recognise that I partly speak with experience of being a Minister myself. Indeed, I think I am probably one of the very few States Members that can state that I have experienced committee government, I was party to Ministerial government and operated on P.A.C. (Public Accounts Committee) and then became a Minister and now am involved in Scrutiny. I think I have covered all the bases and I support Ministerial government. However - and it is a big however - the biggest and most important requirement of Ministerial government is accountability. That is what the public are looking for. That is what States Members are looking for, regardless of whether they are in the Executive or Non-Executive. The question is: do some of these proposals meet that criteria? I am sad to say that they do not. We have had a prime example recently of the lack of accountability with regards to delivery of a population policy that was agreed by this Assembly and not implemented by those that were tasked, within the Council of Ministers, to deliver it. Could we hold anyone to account? Well, with great difficulty. Why? Because the responsibility has moved from pillar to post, ending up in the Chief Minister's Department. He has chosen to delegate the responsibility for overseeing that particular policy to an Assistant Minister, who - with the greatest respect for the Assistant Minister concerned - is selected, not elected, to the position and then there are 2 other departments involved in the decision-making process. All who say and who have said during that debate: "It is not me. Oh, and by the way, the policy that was agreed, that was in the last Strategic Plan and now we need a new one regardless of whether it has worked or not." No wonder the public are saying and losing faith in the Government. It is no use and we cannot allow the Council of Ministers and members of the Council of Ministers and the Executive to continually point the finger and use "the States" when it suits as their excuse. We have a Chief Minister who wants greater control and I believe that that is not wrong. But what is the reality? We have heard from one of the Assistant Chief Ministers, the Minister for External Relations that ... and let me try and use his own words: "The Chief Minister is a powerful puppet." That is a poor indictment from the Assistant Chief Minister. A description of our current Chief Minister. I am sorry, Chief Minister, I am on my feet. **[Laughter]** But in some part, I can see why he might say that because we all know, and some might admit it more freely than others, that the person with the most power within this Assembly is the Minister for Treasury and Resources. Why? Because he controls the chequebook. So all Ministers are required to convince him or her of the need for funds and the like to deliver any policies. What has happened within the last 2½ years? We have had legislation being brought to this Assembly that increases his powers but it does not link any decision he makes and he is not required to refer those decisions or consult with the Council of Ministers or indeed even the Chief Minister in some of these respects. Now, I ask, if the Chief Minister is wanting greater power, surely the first thing that he needs to do is to make sure that regardless of the Minister involved, that the Minister at least seeks his approval and especially when it comes to the management of our funds. Yet, we have seen time and time again and it is in recent times, that ability being allowed to be passed simply to the Minister for Treasury and Resources. We hear of codes of conduct. I will tell you a short story. It is around collective responsibility, which, I hasten to add, was taken very seriously not only by me but all the other Ministers that I served with and it did not need to be legislated. You knew that as part of your responsibility that was delegated to you by this Assembly that you were required to be collectively responsible. There were some very difficult decisions that were made and had to be made when I was Minister, one of which was to save £65 million. I remember being involved in many discussions around how that should happen but it was decided, collectively, that every department - every department - would be required to identify 10 per cent of their overall budget and deliver it with savings. I strongly argued that you could not take a blanket view, especially with regards to education. However, I was outvoted and in fact, the Minister for Treasury and Resources of the day insisted that the 10 per cent should be delivered. I am certain that any of my Assistant Ministers would be able to confirm that that was the case. Reluctantly, but recognising the need to act collectively, I said: "Okay" and I presented how those savings were going to be made and I

said: "I am prepared to go out and try and deliver these savings, but I need the support of the Council of Ministers." To a man and woman, they said yes. The day that that news was made public, 4 Ministers, including the Minister for Treasury and Finance, publicly stated that they did not support one of the savings proposals. Now, that is in the hands, and in fact many of those Ministers here today and within the Council of Ministers are still present in the Council of Ministers ...

**The Bailiff:**

Deputy, this wound does clearly run deep but **[Laughter]** but can I bring you back to the ...

**The Deputy of St. Ouen:**

You can, Sir, because one of the main amendments and executive amendments focuses on collective responsibility and furthermore, it goes on to talk about that the Council can direct Ministers on policy matters and also that there will be an Advisory Policy Group set up. I am going to draw comparisons with the particular incident that I am talking about. Indeed, I can do it straight away. Legislating, or putting in legislation to bind the Council of Ministers to collective responsibility, one could argue would have been a good thing. However, one could also argue that it could not and I am not repeating the comments made by the Ministers that have spoken against this particular proposal. What is more worrying and where the increased lack of accountability comes in is we have Ministers now saying: "Oh, it is not me. It is the Council of Ministers." Yet, we have given them specific responsibility for certain matters. The public look to them to deliver on their specific roles and policies that they are responsible for. How on earth do we get better accountability when everything that is going to be presented will be from the Council of Ministers? We are told: "Oh, it is all right. We can have votes of no confidence." In who? And when you come to votes of no confidence, it is not on a specific matter because everything else gets dragged into the mix. We have heard mention of the Strategic Plan and that is another issue that we need to recognise for those newer Members who are obviously experiencing it for the first time. The reality is, the Council of Ministers, newly elected, get shut in a room for about 5 or 6 months ... **[Laughter]** **[Aside]** ... draw up a Strategic Plan and then present it to the States and at that time, we will have a couple of briefings in the meantime, just to give us a flavour of it but we are told we can influence the Strategic Plan because it is a States Strategic Plan. We are given 6 weeks.

[14:30]

Scrutiny is required to do a job and that takes time, especially with big policies. We see nothing in here about improving and recognising the role of Scrutiny. In fact, we have not seen it in the last 2½ years because of the fact that time and time again, Scrutiny, working to tight timetables, delivers reports a week or less before a debate. We see no response or have no proper response from the Minister or the Council of Ministers and yet it is just glazed over and we are expected still to debate it. If we are going to have appropriate checks and balances, if we are going to have accountability, everybody recognises that Scrutiny needs to work but it has to be given time. Members have to be given time to digest and understand the comments that come from Scrutiny, as well as the Council of Ministers and individual Ministers. We have had Senator Bailhache and others speaking in support of this and saying: "Oh, well. It is all right. We are going to have a minority government." Yet, Senator Bailhache, and he is not alone, the Chief Minister and there are others, have consistently said: "Well, the Troy rule should not necessarily continue." Although in this debate, they are relying on the Troy rule to enable some of this to be agreed. Is that right? If we are going to improve Ministerial government, let us really look at how we create and gain that greater accountability rather than diluting it by agreeing to some of these proposals. I do accept that there are Members who have brought forward amendments to this particular amendment, some of which are endeavouring to try and introduce a better balance, get greater recognition for Scrutiny



and other matters. The problem is that we are starting from the wrong place where it is all amending a proposal that is flawed and will not deliver that transparency and accountability that everyone, regardless of where they sit in this Assembly or outside, is looking for. For these reasons, I cannot support the principles.

**1.1.21 Deputy S.G. Luce of St. Martin:**

We have here in Jersey an electoral system. Whether you like it or not it is a matter for yourself but we have an electoral system. After the elections, we as Members arrive in this Assembly as individuals, as equals, all with one vote. It is us by majority that decide who we want as our Chief Minister and we make that decision after each candidate has proposed to us what their vision is, their strategy for the future. We elect that person as Chief Minister. We give that person a job to do and we tell that person to implement those policies, the ones that we have agreed to when we supported the Chief Minister's manifesto. We are accountable. We elect the Chief Minister. We must give him the authority to implement the strategies and the policies that we agree to when we put him in the office of our leader.

**1.1.22 Deputy S. Pinel of St. Clement:**

Once again, a morning and now an afternoon of debate without decision. I understood that the main reason for being part of a government was debate and decision-making. Politicians love discussing political processes and structures rather than the real issues of concern to the electorate. Politics can allow pointless discussions to go on for days. This would never be permitted in business. If more power, and consequently direction, is imbued in the role of Chief Minister and if collective responsibility is adopted and it enables more effective decision-making, then it can only improve our current situation. As with any reasonably conducted group of discussion, differences of opinion are discussed at board, council or committee level and agreed or not in advance of a debate or vote. In the case of Social Security, the Minister and I, as Assistant Minister, sometimes differ in views but these are discussed, changed or compromised to achieve a result, albeit final responsibility lying with the Minister. I have the same reservations already mentioned by others about the unknown quantity of future Chief Ministers but still firmly believe that some decision must be made. I also think that 2 years of consultation by an extremely competent committee, or sub-group Machinery of Government, who it appears, in some cases, will be voting against their own recommendations, is quite sufficient in its length of time of consultation. Maybe, as others have suggested, party politics should be more firmly investigated. However, a decision should and must be made before we enter a third day discussing yet again ourselves. I will be supporting the proposition.

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

I was talking to Deputy Vallois this morning in the coffee room and we were discussing this debate today and I was asking her her views, because she is well able to express her own views, but I can share the fact that I am between a rock and a hard place on this one. I really am between a rock and a hard place. I listened very careful to the proposal by the Chief Minister and then I listened to the 3 speeches by Senator Le Gresley, Senator Le Marquand and my Minister, Deputy Duhamel, and I believe now that this is an even more complex issue in terms of a decision because all of us want change. I have had private discussions with the Chief Minister about the need for the Chief Minister to have a role other than, for want of a better phrase, a committee chairman. But I am not sure, as we progress through what Deputy Pinel eloquently called another day of talking about ourselves, if we are going to resolve anything much today. While we do need to reform parts of Ministerial government and this draft Amendment No. 8 in some way, shape or form, I am not quite sure that I am totally convinced as I stand here this afternoon at 2.35 p.m. that we are going to do it correctly with this. The point I want to make is that we have heard from the Chief Minister,

who is still obviously proposing this and supporting it, one assumes. We have heard from the Minister for Social Security, the Minister for Planning and Environment and the Minister for Home Affairs, who are against. The Minister for External Relations is for, so it would be really good this afternoon to hear from the Minister for Transport and Technical Services, the Minister for Health and Social Services and the Minister for Treasury and Resources. Obviously I think I do not know where the Minister for Economic Development is even though he is many, many miles away. He is in China so unless we get a conference call from him into the Chamber, which I think is highly unlikely, we are not going to hear from him this afternoon but I do have a strong indication as to his views on this. So it seems to me, and I do want to hear from the Minister for Health and Social Services, the Minister for Transport and Technical Services and the Minister for Treasury and Resources. It does seem to me right now, and I am not assuming or presuming, that this Council of Ministers is split right down the middle on this and I am not quite sure in that case that if we have a 50/50 split, whether the Chief Minister is on very solid ground to bring forward an amendment of this type, of this seriousness, of this significance in the autumn of this Assembly when we are facing re-election in a very short matter of months. I repeat some of what I said yesterday and that is that I really think we are past our sell-by date in terms of reform of this Assembly. I really think that we have missed opportunity after opportunity after opportunity in the first year and the second year to bring in these changes and I do believe that at some stage, whoever is going to be in this Assembly in the end of 2014, 2015, 2016 and so on, there has to be some sort of condition that in the autumn or as an Assembly approaches the end of its term that these reform debates are not brought forward. It seems to me that it is entirely inappropriate to devour huge portions of a working week on debating, as Deputy Pinel said today and I said yesterday, about ourselves. On this debate, on this amendment, I really do not know where we are. Honestly, there have been so many bad precedents over the last 2 years on some of the decisions that have been made collectively. I have a personal concern, and I have said this to the Chief Minister, about the concentration of power and authority within and the exponential growth of the Chief Minister's office and Treasury and Resources. I think the most consistent comments that have been made today about reservations about this have been about the January handling of the attempt to dismiss the Minister for Planning and Environment. I think that is an acid test of what should not have been done. It was cumbersome, unprofessional and it was an exercise in how not to do things. The Chief Minister may say that may stand as an example of why he needs more power and authority. I would say that the grounds on which the allegations that were made against the Minister for Planning and the Environment, for whatever they were worth, were not sound and this Assembly was clearly of a view that that was an ill-prepared position. The other one that sticks in my craw is the collective decision that was made last year which was, for want of a better phrase, not made in this Assembly but made by the Minister for Planning and Environment because it almost had to make the decision, which was the decision to approve the States of Jersey Headquarters building on that site. I do not think that decision was made effectively in a neutral environment by the department. I think the road show that preceded that was entirely inappropriate and I think that is another example of Ministerial excess, which is not going to be cured if you have a particular Minister who signs up, apparently, to collective responsibility but then he or she goes off into some sort of maniacal push to have that agenda belonging to him or her forced on a department. That is what happened in that case. While it has been said on a number of occasions that this Chief Minister has been an exemplary Chief Minister, he has been a man of absolute integrity, trust and everyone else one could say about him, there are times when I feel that a Chief Minister can be caught in a pincer movement between big personalities. I will leave it at that. The collective responsibility that we have while with this Chief Minister would probably work, but I am not sure how it would work in a future scenario if we had somebody who had a giant personality and wanted to force things through which may not be in the best interests of the Island. Senator Ferguson talked about the elephant in the room and identified what she regarded to that. Senator Le

Marquand referred to monochrome Ministries, where it would be singularly unattractive to become a Minister with collective responsibility or that it would not attract the right candidates. I tend to agree with some of that however I am hoping that the other Ministers in this Assembly this afternoon, and the ones that are not in this Assembly will come back and speak, because I do believe that some overhaul is needed of the Chief Minister's powers but I am at the moment unsure if it will get past the first test, which is the principles as outlined in this proposition. A lot has already been said and we are going to have further debates if this gets through today. I do not want to get into the other details because there are a number of amendments that can deal with that later on but my position at the moment is that I am very uncomfortable with the principles of this because of precedents that have been set in the past and in the very recent past.

[14:45]

In my time in the States, I have also borne the whip that the Deputy of St. Ouen referred to because I also had responsibility, albeit briefly, of being a Minister and I do remember being almost locked in a room at the zoo with the Council of Ministers and being told in no uncertain terms that under the comprehensive spending review, the £9 million that the Department for Housing then had for housing restructuring and housing restoration and housing renovation was suddenly gone in an afternoon and I had no say in it. As a result afterwards, it was the current Minister for Housing who was unable to untangle the mess that was the postponement in the overhaul of the Pomme d'Or flats at First Tower. That was one of the 3 major projects that I lost in my term. Anyway ... collective responsibility. If that were to be the case, I would certainly not have signed up to it and on that particular afternoon, I think I recoiled with shock and went over towards the gorilla enclosure to look for comfort as to what perhaps I should have identified with my forebears. **[Laughter]** That is all I am going to say at this stage. I am not sure that this is going to fly this afternoon. I think it is more like a hammer to crack a nut and there is need for reform, as Deputy Vallois eloquently said to me this morning, but as to how we manage that reform in the autumn of this Assembly, I am not quite sure that I am signed up to this at the moment.

**1.1.24 Deputy A.E. Pryke of Trinity:**

I shall be brief because I am pleased to follow Deputy Power. As I understand it, this is still an in principle debate and it goes back to February 2012.

**The Bailiff:**

If I may, Deputy, not exactly. We are debating the principles of some legislation but if the States enact the legislation, it will become law.

**The Deputy of Trinity:**

Yes. Sorry, Sir.

**The Bailiff:**

This is very different to the sort of in principle debate where the States simply considers whether it might, in principle, wish to do something.

**The Deputy of Trinity:**

Yes. Sorry, Sir. Thank you for putting me right. We have had 48 States Members take part in this 8-week consultation and an in committee debate to achieve that. As the Council of Ministers, we have always worked as a team. All my professional life, I have worked as a team because that is the only way of getting things achieved and moved forward. I have always worked from that proposition. There is no "I" in team. It has to be as a team working forward. If we did not approve this, we can be accused of not performing this Assembly. We could have been accused of all this work that has happened over the last couple of years of just putting it on the shelf and putting it on

the 'too hard' or 'to do' pile. These are the decisions that we have to make this afternoon. There are different amendments and we will take each one, if this is approved, as it comes. But we have to make this decision; it has been on the go for 2 years. I, for one, am not putting it on the 'too hard' pile and I am not for putting it on the shelf. As regarding collective responsibility, as I just said, we all work as a team. We have had that discussion and we do have some heated discussions around the Council of Ministers' table and that is quite right, as I do with my Assistant Ministers. We do have those discussions and they are very healthy and very good to have but at the end of the day, there has to be consensus and moving forward. As you see, I will be supporting this position.

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

I think we must not forget that the origins of what is here before us today are something that have come from a big piece of work. It has been carried out by quite a number of people who have spent hours and hours getting us to where we are today. Unfortunately, the ideal would have been that it had come forward as a P.P.C. proposition, but the Chief Minister has taken up the baton of this particular issue, as we are talking about passing batons around the Commonwealth these days, and I think it has been headlined sometimes as the Chief Minister trying to grab power but it is not that. It is just trying to get us into an organised way of doing business for our Island and achieving things for our Island in an organised way. Over the recent years, we have had Members ... look at Deputy Higgins, for instance. He would point at the Chief Minister and say: "Why have you not got your Minister to do this? Why has this not been achieved?" and the reason it has not been achieved is because the Chief Minister has not had the ability to get the Minister to follow the policy that was there. We need to have some sort of recognition that there needs to be a better way of doing things. We are failing at the present time to achieve some of our policies because we are not as joined-up as we should be. One of the reasons the Constable of St. John is saying he is not going to support this particular proposition this afternoon is because he is worried that there will be too much concentration of power among 2 or 3 Members. Well, I think that the original proposition did have that possibility but with the amendment that has been put forward by the Chief Minister, it came about through the consultation process that we had with Members. There was a meeting at the Société, which I chaired because the Chief Minister was out of the Island, and it came from that meeting that it was recognised that there needed to be at least 7 Ministers brought forward. That is listening to Members' views and understanding what people's concerns are. We have an amendment that is going to bring that forward if we continue with this debate, which I sincerely hope we will. Those Members who were worried about collective responsibility, we need to think about the way decisions are finally made for our community. There is a process that we go through and a lot of the policy decisions that are made come through various ways and some of them obviously come through from Ministers and through the Council of Ministers into this Assembly. The bottom line is, when things come to this Assembly, if the Members who are in the Assembly on a particular day vote in favour of it, and there are numbers who have not supported the policy, they feel that: "Oh, we have not got our way" and they are not satisfied. It is another form of collective responsibility in this Chamber. We all end up having to get behind and "Oh well, we are there." This is the sort of thing that would happen in the Council of Ministers as well. You do see that there are times, as we know, that when the Ministers debate things in the Council of Ministers - I sit there and listen - but the policy is discussed in the Council of Ministers and then once the decision is made, the proposal is that the Council of Ministers would all agree to that, like we have to do as an Assembly. We all have to accept that that is the policy of this Assembly. To me, the collective responsibility thing is not such a big issue. It is something that I think is just natural in democracy. Democracy is accepting the overwhelming view of everybody else. It is a decision making process. We either accept democracy or we do not. I hope Members will support this proposition for it to go ahead and to make amendments where we see fit as we go through.

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

I have been listening to many of the arguments going on backwards and forwards today and the concerns about putting all the power into the hands of one particular person, namely the Chief Minister. I started to think over the lunchtime recess about what sort of parallels are there that we could draw from what we are going through here today. There is one quite close to us. It is a millennium old, it is nigh on a thousand years old, and it is called the Parish System. We do not call our Ministers “Ministers”, we call them committees and committee chairmen. We all act in similar sorts of ways where - and I think most Members and most Islanders will say - we run a very efficient ship in the Parishes. We deliver good services and raise funds in a very sensitive way to deliver those services on behalf of the people of Jersey. The one thing that differs from the way that we work to the way this Chamber works is in the Parish, there is one leader. One leader makes the decisions, one leader who can, and as many Members will recall I had a situation where 3 or 4 years ago, I had to release one of my Ministers, effectively, on one of my committees, which became quite a public issue. There is an analogy where the system that the Chief Minister is looking at is already in place in Jersey and acknowledged to be a good and sound way forward. For that, I am going to be supporting the Chief Minister today because he is merely mirroring a thousand year-old system, which has been proven to work in Jersey.

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

Like 3 Members of this Assembly that I could see over the lunchtime I attended a funeral of a public sector employee and a public sector employee - of course I will not name the individual - who was one of those role models in life. **[Approbation]** The relevance of that individual, the rector who introduced the service spoke of 2 dates. He spoke of the date on our grave and on our funeral services that is the birth and the death but those dates are not the things that matter, it is the dash that matters. I reflected, as you do, on those days and on those events as to whether or not we in this Assembly are using our dash, the honour, the privilege to serve the people of Jersey in the most effective way. Moreover, whether or not the rules that govern the way that that dash of time that we have is appropriate. I was not going to speak in this principles debate but Deputy Power almost goaded me to do so. I would remind Deputy Power, with the greatest of respect, that there may be an autumn of an Assembly’s life, there may be an autumn of somebody’s life, but you carry on working right up until the end and that is why we must make these decisions. Going to the funeral service of a 42 year-old also reminds one that you must use all the time that you have and the most important thing is that you must not put the important decisions off. You have to make those decisions and you have to make those decisions in the time that you have. Members, I cannot almost understand how we are having a debate on the principles of allowing the Chief Minister of Jersey, who is coming forward to the Island’s Parliament to propose improvements to the system. Are we saying that we are going to deny the Chief Minister the ability of having a debate on improving the systems and the way that the Government, of which he and other Ministers are held to account to do? Are we really saying, in saying no to a principles debate, because clearly we can come to the detail later ... are we really going to say, is this Parliament of Jersey going to say that Ministerial government is fine and we can now start a new period, that commencement of the dash, without a debate on some important issues that happen. I have served in committee government and under 3 Chief Ministers. I say with a smile and with humour to the Chief Minister that I did not support him initially and so of course I was not his Minister for Treasury and Resources selection. But I will say that I absolutely now, with the benefit of hindsight, understand why there needs to be a debate about whether or not the Chief Minister should have the ability to nominate his Ministers. I would accept for the avoidance of doubt that I do not seek, for the foreseeable future, the position of Chief Minister, but I understand and having worked in 3 teams as the Minister for Health and Social Security said, it is not about “I.” It is about the team and we need a debate. We need to unpick the detail of whether or not the Chief Minister and the team can work as a team and the rules are there. So I say to Deputy Power, please vote in favour of having the debate.

[15:00]

Please do not, with respect, hide behind an argument just because he did not like the matter of the Minister for Planning and Environment's potential dismissal; potential because ultimately it would have been this Assembly to make that decision. Please do not use that as the reason to throw out the whole of the principles, with the greatest of respect. Please go ahead and go with the principle decision and let us have that debate and settle it. Are we going to start the next Council of Ministers, the start of that dash period, and say: "Well, no. We did not think that any improvements should be made." Every system has to improve and evolve. It is about constant improvement about using every day and using it wisely. He spoke about the zoo, almost as a humorous event. I would say, with respect, that of course there were lots of arguments and I will not take up the Assembly's time on whether or not it was right on that zoo team discussion, because it was a team discussion and teams require trade-offs in difficult decisions. He did not win on that day, but he would have had other opportunities to win. I would respectfully say that the Minister for Housing won and he did do a good job as the Minister for Housing, and his successor did a good job in winning not £4 million or £9 million for Housing, but tens of millions for Housing and I am working on a bond that will go and borrow £250 million to continue the work that he did. So please do not almost trivialise the debate, as a zoo debate, and say that because I failed on that day we cannot have a vote about improvements. The Chief Minister - who I have to say I was not his choice, but I have worked with him and I respect him - is saying to the Assembly ... and if he was to say - as he was given an opportunity to say - that I should be dismissed, I would say, for avoidance of any doubt, if I lost the confidence of the Chief Minister then I think that I would have to go. He is held as the leader of the Executive, the Executive which is a subsection of this Parliament in a minority, a unique position. Normally a Government would command a majority and we would be flying through this, as it did not matter. Are Members, in this principle debate, saying that they are going to turn off the ability to have a debate and a proper examination of some important issues? Even if Members do not agree with everything we need a debate about the functioning of Ministerial government. Members might not like everything but there might be some things that we do. Even if we were to come to the end of the debate and throw it out, there are important issues about collective responsibility, choice of Chief Minister and their ability, that we must have to improve the governance of this Island. The public are sick and tired of us talking about ourselves, and I understand that, but we need to sort out ourselves in order that we can organise ourselves better to tackle the things that really matter to people. Unfortunately the debates about composition and Ministerial government will come back and back until we accept that we have to make some necessary changes. That is what the debate is about. It is irritating, it irritates the public, but as Members of this Assembly we know that there are some improvements that must be made and we must have that debate. I would urge Members that even if they do not like bits of it, to allow the principle debate to happen. If we do not we will have not used that dash - using today and tomorrow time - effectively, to properly examine and to make some systems to make things better. I urge Members to give support to the Chief Minister of Jersey, armed with the responsibility of making decisions, who is held to account and has to answer, give him the right to have the say and have a debate where Members will decide of whether he is right or wrong on those individual improvements of Ministerial government. So I urge Members, please vote in favour of the principles so that we can have a debate on the detail of improvement of government. We would be doing the public, our democracy, and this Assembly a disservice if we were to turn off that debate now.

**Deputy M. Tadier:**

Sir, may I ask for direction from the Chair? This is the debate on the principles, is that not correct? We are debating the principles?

**The Bailiff:**

We are debating the principles, yes.

**Deputy M. Tadier:**

That is right, so this is the opportunity to discuss the principles.

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

The point is that if we do not allow the debate on the principles we cannot then have any of the sub-debates on the Articles. That is a point I wish to make, with some degree of force.

**The Bailiff:**

The position, I am sure, is well known to all Members that the principles are whether you are going to approve the legislation in any form, or not. So on the principles you would consider whether you wish to proceed or not. If you reject the principles then you do not discuss the individual matters, if you accept the principles then you go on to decide the individual matters. I think the position is well known to all Members.

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

I have to say I rather felt the Minister for Treasury and Resources had missed the point that the debate of the whole day so far has been about the principles and whether people are satisfied with the package as a whole. Just to start with, this has been already identified, I was another Member of the sub-panel, the Machinery of Government Review, and it is telling that the majority of those members of that panel, having spent a long time and many, many hours coming to a compromise position, which we achieved, are no longer supporting the package that has been brought to this Assembly. Yes, it is heartbreaking to think of the hours we have spent. But it is not the length of time you take making a decision, it is the quality of the decision and the consequences of that decision that are important. To some, particularly newer Members, who are irritated about the amount of time we spend in this Assembly, firstly compared to the last 3 years have all got off very lightly, and secondly it is pretty important what we discuss here. It has to have the air time. If this is an irrelevance, you should not be here. [Approbation] Just to pick up on various comments that have been made, I think one of those clichés is that the road to hell is full of good intentions. It is all very well saying we have got to change something, it has to change, well, that is fine but the change has got to be of the quality that is going to be a categorical improvement. We are not talking about under the nice Senator Gorst what the system is like now. When you are looking at this type of change one has to envisage the nasty Senator, Constable, Deputy, whoever it is, Mr. or Mrs. Jones, in X number of years' time who is appointed to the position of Chief Minister; and how those powers that will be there - it is an increase in powers - and whether the right checks and balances are there to counteract matters. I think that is where we were. Interestingly - he probably will not mind me saying this - but Deputy Tadier and I probably come at various political moves from different ends of the political spectrum, but we both had to compromise to get to a point to put that report together to take it through. I think we signed up to a package, so we accepted the increase in the authority of the Chief Minister, we accepted some of the rationale, it was conditional on other matters coming through as well. I think one could do far worse than reflect basically on the wise words of both Senator Le Gresley, as Minister for Social Security, and Senator Le Marquand, as Minister for Home Affairs. I hope their Assistant Ministers will listen to those and take on board their wise words as well and vote against this proposition. I am pulling some threads out and hopefully I will try and bring them together. It took me a long time to understand the point because we are not a business. As people say, business decisions, we make it, we get on with it. We are custodians, we are trustees for the public good, whether it is public assets or for impact, and what happens to the public in the future. So quick fixes, short termism, is not in the interest of the

public. In theory it should not be in the interest in a business decision. But the other point is that in a business if it is you making the decision normally it is your money. Obviously in our case it is not our money, and that is why one has to make sure that we are happy with the quality of the decision we are making. I do not wish to incur the wrath of the Connétables because I do not think I am going to get this wrong but apologies if I do; my analysis of the Constable of St. Peter's thing about the Parish, and he had to dismiss one of his Ministers whatever it is. The Connétable is subject, in a lot of circumstances, to the Parish Assembly. If you like, this aspect is, are we curtailing - if one uses that analogy - the power or the authority of that Parish Assembly? I might be wrong in certain areas there, but you also have the Procureurs, who are the checks and balances on how you spend the money. That point is are we putting the right level of checks and balances in there in terms of the authority we are giving back into the Council of Ministers. Now, one of those checks and balances is Scrutiny and there will be people there who talk about, well, this gives them more bits and pieces, more good to Scrutiny. Is that enough to counteract the increase in the authority to the Executive? I have to say I am quite disappointed, I think, at the credence that is given to the output of Scrutiny, particularly in the last few years. I do not know what the solution is. Senator Breckon made the point about Select Committees and the LIBOR scandal, and within 2 days or 3 days or whatever it was they had detailed access to the evidence that they needed to see to determine that there was a problem. That does not seem to happen here. We even get to the point where after weeks of work by various panels ... we have even had Scrutiny members speak in favour of particular amendments and then vote against them when the Scrutiny line from the particular panel was generally in favour of amendment, or against a proposition. Nobody is supporting each other, so how much credence is being put on that huge volume of work and expense that is being incurred? If that is not right yet then the checks and balances we have in place are not there. I do not think I am misquoting him, it is my understanding, I have never had the discussion with him, the Deputy of St. Martin, I understood there was some irritation at an Economic Development level when a fair amount of work had been going on, I think it was the retail strategy or something, and they suddenly found that they had not been told of a certain piece of work that was going on within Economic Development. That pulls me back eventually to what is being said, and I am trying to get us back to why we are here. Why we are here is because of dissatisfaction with the system. As the Deputy of Trinity pointed out, the panel we were on - and I was instrumental in it - was very keen to at least go out and try and pin down the problems, the 48 interviews. It was not 48 States Members because there were quite a number of chief officers and other non-States Members involved there. I will not list them all, there were half a dozen issues - but the key ones from perspective, or relevant to this debate I think, were insufficient inclusivity, and obviously communication, and I will just reiterate, the Civil Service that potentially wields too much power. Not necessarily through choice. That is not a criticism of the individual civil servants, but there is an issue there. If one gives more and more authority to the Council of Ministers, more responsibility and more work, without the checks and balances behind that, more responsibility, shall we say, is going to fall on to their senior civil servants because the workload of the individual Ministers will be expanding. They will not have the time to devote to the issues that one might expect them to be looking at. Then you will be very much in the hands of the capability and the strength of those individual Ministers. If you have people who are *laissez-faire* it will be in the hands of the civil servants. At that point Members need to make sure that the accountability and the transparency issues are sorted out. In my view you need to get that package in place before you give that greater authority there. The example I use would be freedom of information. Clothier recommended freedom of information legislation - and a parliamentary ombudsmen, by the way - in 1999/2000; 15 years later, in other words January next year, we are finally implementing freedom of information. It does not matter whether you agree with it or not, having done the Ministerial system that had gone for that recommendation, the check and balance in that particular instance was F.O.I. (Freedom of Information). That is the danger I have, is we give more



authority here and it will take another 10 years to get the accountability back up. Let us go back to the influence issue. It is a little bit like what I call the expectation gap, what do the public expect from us? This lovely thing, what do the public think, not necessarily of us, but what do they expect of us when they are voting us in? I still believe that they expect - because the historic traditions, if you like, of the old committee system and things like that - that the people they are voting for will have some form of influence on the decisions, whether out of the States or this Assembly, if you separate the 2, if that makes sense.

[15:15]

They do not quite understand that because of this further concentration of authority and power in the hands of 11 people, that the likelihood is that the person they are voting in will not be in a position to significantly implement very much at all. I think one possible example, and Deputy Noel probably will not thank me very much for this, but I will use it because it struck me a while ago, later on at some point in this whole session of debates we have the changes in the pension scheme coming through, which is a very important reform. But I think it is a very interesting example that a member of the States Employment Board is bringing an amendment, because would they not have been fully involved in the process earlier on? At what point do the States Employment Board find out in the event that instead of the envelope of 16 per cent that was being used, the legislation has 16.5 per cent. Although apparently - according to the Minister for Education, Sport and Culture - there are always ample opportunities to get involved and all the rest of it, and the system works wonderfully, it is only at this last instance that that is being challenged. That is quite a major system, I would argue, that is my interpretation of looking in there. Unless it is just a disagreement from an individual, against the majority and that is fine. Under collective responsibility he would not be allowed to bring that amendment. If this was a Minister and it is a matter of policy - it is not going to be a matter of conscience, I would not imagine - I do not think it would be allowed. It would depend on what the collective responsibility looks like. Then let us get back to the other issue that is trawled out often, which is accountability. How do we hold Ministers to account? Obviously we have heard the issues, well, we can always bring the nuclear option of a vote of no confidence. Certainly in my 9 years it is only once it has happened and worked, and that was a former Minister for Health and Social Services and it was brought by the very first Chief Minister. To hold people to account you need to have good information. One of the examples I will use - and it is no trade secret - is how do we know what Ministers do? Well, we know it by sometimes Ministerial Decisions that are published on the website. So one way of holding them to account is keeping an eye on the M.D.s (Ministerial Decisions) and challenging them if one thinks they are wrong. But if those Ministerial Decisions are exempt - which if they are sensitive they are going to be - how does one know that the decision is being made in order to remotely assess whether it is an appropriate decision, and even to remotely hold that Minister to account? As far as I am aware, certainly when I was on Scrutiny, I do not think it has changed, they do not get automatically lists of exempt decisions. You cannot scrutinise what you do not know is there. So it is frustrating from the point of view of having spent a long time looking at the checks and balances and trying to come up with a system, to turn around and say ... and I will not be supporting the principles so I rather hope we stop it at this stage, yes, there are some nice bits in the Articles but in my view they are not sufficient to overrule the decision of whether I think voting for the principles is the right thing to do. At this stage I do not think there are sufficient checks and balances in how we operate to warrant moving forward on where we are. Shifting away, I was very impressed, I have worked with Deputy Young quite a lot and I will be supporting him at some point on his comments re Cornwall. But I thought what was interesting in reading his proposition ... and there are some links, I do not know if people are following this through, but this is straight off the evidence report from the Cornwall website, and it says: "Those town and parish councillors who expressed a preference generally supported a committee structure." Do not worry about that, as far

as I am concerned you cannot go back to a committee structure: “On the whole 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 of Cornwall Council and councillors and poor communication.” That is almost identical to the findings we had when we went through. The question is: do these proposed changes resolve those problems? I submit they do not. On that basis, until one comes forward as a package ... and I do not mean to criticise P.P.C. because of the time constraints we have all been on. If we knew that some proposals that had to come up through P.P.C. were there and that these proposals were ready as well, and we could look at the whole lot in the package, then I might be minded to go with that. But at the moment I am very leery on the basis F.O.I. took 15 years to come out. I do not see the checks and balances coming up that are sufficient to hold and to improve the accountability of what we are approving today. Now, I appreciate there are some people that say: “Well, by giving the Minister the ability to hire or the ability to fire we are going to make the Chief Minister fully accountable for the actions.” I suppose that is a theoretical stance but I do not think in practice, on the basis that in the last 9 years only one Minister has ever fallen as a result of a vote out of this Assembly, and as the removal of the Chief Minister is a very big matter, I do not think in reality that is the check and balance that solves the problems around this. So on that basis I will not be supporting the proposition.

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

I am one of these Members that was not going to speak today but Deputy Power invited me to speak... well, he did not list me in the list of Ministers but I am sure that was unintentional. I say to Members that they must support this and must allow the debate to go through on the amendments. There are some amendments that I am going to support and some that I will not. Why I say that is if we continue to do the same thing that we are always doing we are always going to get the same outcome. I have been in the Assembly for 5½ years now, if you are happy with that then vote against this. If you are not happy, if it is time for change, vote for the principles and pick out the bits of the amendments that you like that support what you want and go with it. Deputy Power on more than one occasion has told us about how well the Isle of Man do everything, particularly on population and other things, if my memory serves me right. The Isle of Man has collective responsibility, and has it fallen apart? No, it has not. I, for one, am quite happy to have collective responsibility and if something comes up that I really will not accept or goes against my principles then if the Chief Minister wants me to resign - if I am a Minister - then I will resign. We do not have full collective responsibility at the moment but I can tell you now, if there is a line to be taken on Sunday Trading, that might come sooner than later because I am certainly not supporting the 18-month trial on Sunday Trading. [Approval] Collective responsibility is about working together. It is not so much about the Chief Minister being able to dismiss Ministers, but there may be occasions due to different reasons where he would like to reshuffle, and he cannot do that now. Is that right? Of course it is not. If you can hold the Chief Minister to account he must be able to use his team to the best of his ability. I was very interested to listen to the speech of the Constable of St. Clement. I was one of the 40-odd Members that attended the panel and gave my view, 2 years' work and we do not like the answer so we do not bring it forward. Ministers are normally accused of the other way around, finding the answer and making the evidence fit it. Let us support this, let us debate the amendments and if there are things in there you are not comfortable with then vote against those. But this system is broken, and we keep getting told about business. Business would do it this way, business would do it that way, and we are not a business, we are a Government, and all the rest of it. We are so concerned with blaming people about things that they have done, we have failed to recognise the good things that they have done. Richard Branson, for example, do you think he got where he was by dithering and messing around? No, he made a decision, he moved it forward, he reviewed it, 80 per cent of it was right; great, let us learn about the other 20 per cent and move on. No, we are too busy ripping ourselves apart. No wonder

nobody wants to vote for us or change things. I urge Members to support this and debate the amendments.

### **1.1.30 Deputy M.R. Higgins of St. Helier:**

This debate is about power and accountability and, unlike some of my previous speeches, I am not going to have a rant, I am going to be very measured, mainly on advice from my doctor and others because my blood pressure is excessive and dangerously high. So I shall speak quietly. I am probably going to repeat some of the points that others have made because I feel very, very strongly about them. In fact I would have spoken yesterday but, again, I was trying to take a measured approach to what was going on. Some people mentioned, and have mentioned repeatedly, there is a disconnect between the Assembly and the people. I firmly believe that. This House is like a bubble, a totally different planet. We are not reflecting and dealing with the items that people should feel we are dealing with. I will come back to this thing, it seems strange talking about that and yet we are debating ourselves. People do not vote because they think it makes no difference, because people go out to the election and they say what they think people want to hear so they get the election vote. I took part in the 2008 Senatorial elections and I remember Ministers saying they would not increase G.S.T. and there are 4 of them that I could name - I am not going to name them, they know who they are, and hopefully the people will know who they are as well - who went back on those promises, as well as other promises. So people do not believe what we say because they just do not think that we are honourable people and we will stick to our principles and carry on. Now, those who feel that passing this proposition is going to change anything, it is going to improve things or change perceptions, are deluding themselves. In fact I think it is going to exacerbate the situation, I think it is going to make it worse. People say that we need the Council of Ministers or the Chief Minister to have the power to make bold decisions, firm decisions, instead the sort of moribund States that we sometimes seem to have. But the truth of the matter is some of the policies - in fact I think many of the policies - will be exactly what the people do not want. They will feel even more frustrated by what has gone in, especially as they have not had the ability to - as others have mentioned - find out what the Chief Ministers really stand for, what their manifestos are, and vote for those measures and things that the Chief Minister wants to do. So if they have no control in choosing the Chief Minister and then we come into the States, we select the Chief Minister, then he chooses his own people and does what he wants - which is effectively what is going to happen if this goes through - they are going to be even more disillusioned than before. I am amazed at the number of people who say that they are leaving this Island or would like to leave this Island because of what is going on but they feel trapped, they have not got the money, or they have not got anywhere to go. But there are an awful lot of people who hate this Island at the present time, and the way that they are being treated, and the actions of this States. So do not believe that anything we do today, if we give the Chief Minister what he wants, it is going to be a panacea, it is going to solve all our problems, we are all going to be respected. It is not. The other thing too is what we are proposing is a concentration of power and I do believe that it is not the solution, I believe it is highly dangerous, especially because there is a degree of arrogance in this House. Some Ministers are very arrogant, others are very nice people, maybe misguided, in my opinion, on occasion. [Laughter] But there are some of them who are so arrogant it is unbelievable. It is their way or no way. We have all seen it in this House, you are either with us or you are against us. There are certain Members in this House who occasionally have gone against a particular Minister and then the venom comes out. They have either been dismissed or they have been attacked over the floor of the House that they are deluded or whatever. There is just no middle line with certain people who are in the Council of Ministers and who may be in the Council of Ministers, and who may be making the decisions in the future and influencing what is going on. So if you think we are going to have nice consensus politics with this, do not believe it. In fact, just going back, we saw some of this yesterday because some people implied that the people could not

choose the Chief Minister because they would choose the wrong candidate. We hear this often. Let us give the people some degree of credibility. They know better than we do in many occasions, and hopefully they will make that decision in October.

[15:30]

The other point I was going to make is there are some Members who are even control freaks. We have all seen it on various occasions, we have seen the arm-twisting that goes on. I am amazed that people say: "I am not influenced." They say one thing in the debate and the next minute they have changed their vote. What has happened in the interim? Either there has been some inducement or some arm-twisting or something going along, but people are changing their views quite often. Anyway, just going back to the point, I do believe that we are going about this wrong way. We are going to give power to a Chief Minister who does not have an electoral mandate from the people to pursue the policies that he is going to pursue and demand of his Ministers. The State is dysfunctional, I agree totally with that. In fact I think one of the reasons why I get so annoyed with what goes on in this House, and my blood pressure does go up, it is because we are so dysfunctional. I look around and I despair. The truth of the matter is I have a very slow fuse, it takes me a long time to get to anger. It has taken me about 5½ years to get to the point where I am about to blow, and I hope for my own sake that it is not now or shortly. Deputy Power said yesterday that every time the Assembly debates reform it lowers its esteem even more. But going back to the point I made at the beginning, make no mistake, what this debate is, is about power. The public need to know that. There has been a power debate going on in this Island for many years. We saw it before 1948, there were changes that came in, and we have the current sort of system. We know, for example, that the States needs to change, it is dysfunctional. But what sort of changes? What it comes down to is some people are going to lose power with these changes, and they are fearful of it, and they are going to do everything in their power to prevent it. There are others who want power, why, because they are so frustrated with the system they want to change it and unless we change the structure of the States we are never going to be able to do anything for the people. Senator Ozouf yesterday said we have got to be nice to the Constables. Senator Le Gresley today said the Constables are the balance of power in this Assembly. Some of them think they are not, others know they are, but the truth of the matter is the Constables are an important block on this Assembly. You could say that if we look at the voting record over the years they tend to support the Council of Ministers. They tend pretty well to stick together. It is normally about 10 or 11 Constables all voting in a particular direction. I am not saying it is collusion, they have all got together. The thing is, the Constables with the nature of their job and its history are a very conservative bunch. They are likeable, some of them. [Laughter] No, no, no, I do like many of the Constables, I must say. I am not saying that just to butter them up. [Laughter] No, no, no, the Constables know that I happen to believe that the Constables should not be in the States as a Constable. [Members: Oh] I have made that clear all the way through. Anything I say, it is not going to make any difference to the Constables, I am not going to get their votes because of anything I say in that regard. It is a matter of belief. I do believe that they are a very conservative voting block. I believe the Parishes can be represented through increased Deputies. I also happen to believe that there should be changed boundaries, quite simply because of the country versus town divide, and the fact is the country is over-represented. I cannot change my views. I will not change them.

### **The Greffier of the States (in the Chair)**

Let us get back to machinery of government, not the composition of the States.

**Deputy M.R. Higgins:**

Well, it all comes down to it. But anyway, going back to the Constables, I do not expect to get the Constables through it. But the point is you are the deciding block in this Assembly, and we know the Council of Ministers - who are also very conservative, most of them, maybe with a small 'C' or maybe with a large 'C' - can normally expect your support and, by and large, get it. The point is that we know that the makeup of this Assembly is such that the policies that the Council of Ministers want will go through because of the current situation. Anyway, getting back to this thing here. Now, the Chief Minister also says he wants the ability to change the Ministries and the Ministers. How about having a few more super Ministries? Look at Economic Development as an example at the present time. Senator Farnham is always going on about tourism and I agree with him, I happen to be a firm believer in tourism, event led tourism and so on. I have never changed that. But who is the champion for tourism in Economic Development? The Minister for Economic Development is not, he does not believe in it. Every time you go to the department or if you speak with them and the Chief Executive, all you get is: "We want low footprint, high productivity business for Jersey." Is tourism low footprint, high productivity? No, it is not, but it is an important employer in this Island. It is an important contributor to economic growth. There is an awful lot of people who would not be employed if it was not for the tourism industry. It has been under-represented. We have a department there that has not really got anybody championing all the different elements. It is quite a mixed portfolio. If we amalgamate a few more departments and reduce the number of Ministers or whatever, who is going to have the power? It was mentioned earlier, it is going to be the senior civil servants. Unfortunately many of the senior civil servants ... well, some of them are exceptionally good and many of the people who work for them are very good. I was a former civil servant and I know, and I have respect for many civil servants. However, there are many chief officers who almost appear to be working against their Ministers. The truth of the matter is, if a Minister wants something and his Chief Officer does not, is he going to be frustrated? Yes. In fact I will give you an example, and I am sure he will not mind me mentioning this, this is the former Minister for Planning and Environment, Senator Cohen. I met him on an airplane once, we were coming back from London, and he was telling me that he had given instruction to his Chief Officer and he knew before he left the front door the Chief Officer was phoning the Chief Executive and saying: "Shall we do it?" Is that the form of government that we want, where senior civil servants are determining what will go ahead or not? The truth of the matter is they can frustrate it quite easily. Some projects can take a long time, or the information they get ... I have the Minister for Education, Sport and Culture disagreeing with me, however, we know from others that it is true. The point is that Ministers very much are being guided by their senior civil servants and unfortunately there are some Ministers who are more capable than others and the truth of the matter is they are guided by their Chief Officers. I think this particular policy, if we give the power to the Chief Minister and try to concentrate things the way we are going to do, we are going to find the Civil Service become even more powerful. Remember, they are not accountable. You are. Ministers may fall on their sword; I think they are stupid if they do, they want to try and find the means of removing some of these people who are putting the blocks in the way. In fact I have been told by some Ministers they do not have the power to remove civil servants who are blocking or obstructing them. It has to be done through the States Employment Board and senior officers have a big role to play on that, so where is the accountability of the senior civil servants? In fact, on the subject of that, people may disagree with me but the truth of the matter is that former Senator Stuart Syvret was removed, yes, he was removed by the States but there was a coup on the part of senior civil servants. This is make believe, this was given in evidence to the Royal Court by former Chief Officer Power of the States of Jersey Police where he mentioned that he had been invited to a meeting with the Chief Executive and certain other senior civil servants were there. What was on the agenda? The removal of the Minister for Health and Social Services. He said: "This sounds like a coup, I want no part of this." So he was quickly bade goodbye, off he went, and he went back to the police station and he made a formal statement which

was stamped and everything else, and put in the books. Another of the senior officers went to another meeting on the same day at the same time. Other civil servants were discussing the removal of the Minister for Health and Social Services. If that is not a coup, what is? So who runs this Island: civil servants or Ministers or the Assembly? My biggest problem with all these proposals is the Council of Ministers are getting more and more powerful and this Assembly is getting weaker and weaker and more ineffectual. If this goes through, well, I think the public will be even more disgusted because we will be rolling-up here, getting your £44,000 salary and doing nothing because your views will not count for anything because the decisions are going to be made by the Council of Ministers. Also, let us have a look at Ministerial government, as it has been going for a while.

**Deputy M. Tadier:**

How is that fuse doing?

**Deputy M.R. Higgins:**

I do not know, if I fall down you know what it is, it is my blood pressure. Let us come on to the idea of the kitchen cabinet. I have talked about this before. The concept of the kitchen cabinet was raised in the time of Harold Wilson who used to have a few senior Ministers who made all the decisions. Unfortunately our Council of Ministers has a kitchen cabinet and Ministers when they are having their honest moments will tell you that they were not involved in decision making, that there were not discussions on something. They are expected to vote for it. I had one Minister, I said to him: "Did you know anything about this?" "No." I said: "Did you discuss it?" "No." "Well, why are you supporting them?" "I need their support for something that I want." That is a pretty weak reason for supporting policies that you have not been involved with. If you are going to have collective responsibility at least involve them in the decision making, let them have a full role and have a vote on it. But decisions are made by 3 Ministers. The 3 Ministers are Senator Gorst, Senator Ozouf, and Senator Bailhache. They are the 3 who have been making the real decisions. Senator Maclean was upset with me, he said: "I thought I was part of the group." I said: "No, you are on the outside." Some of the others are further on the outside, they are not even consulted. It is a crazy situation where the real power is in the hands of a handful, not even a handful, 3 fingers on your hand, are making the real decisions. I just find it unacceptable and to do what we are going to do is going to concentrate the power even more. We even get crazy situations where you get Ministers who were told that if they have a conscience or if they have something they feel really strongly about can exercise their right not to vote on the issue. I have seen Ministers in this Assembly who have brought propositions in the past to the States and said: "It is absolutely essential, it is a line I will not cross." Yet recently one of the Ministers totally reversed himself on something he brought a proposition to the Island and said he was going to fight for, that it was absolutely essential, it was to do with G.S.T. on food, and said: "It is one of life's essentials, I will not compromise" and yet in a recent vote when Deputy Southern brought a proposition, voted with the Council of Ministers. So much for it being something they feel passionate about and that they will fight for. You get others, Assistant Ministers are the ones I love, Assistant Ministers who I have used the expression - I know people do not like it - but they are wannabes. They wannabe a Minister. How do you become a Minister? You keep in with the Chief Minister and you get promoted that way. So in other words, if you vote against, forget your chances of becoming a Minister, you are not one of them. Remember, you are either with us or you are against us, there is no in between. In fact, we have heard some interesting ones today. I was fascinated to hear the former Minister for Education, Sport and Culture tell us about the support he got from his Council of Ministers. It seems like collective responsibility is one-sided. You have to support what the 3 Members want, or whatever, but do not expect support back. He was stabbed in the back, he had so many knives in his back I am surprised he could walk. There are 4 Ministers who were saying

what he was proposing on education - he had not even got there, they were still doing their discussions on it - are unacceptable, and they were just stabbing him in the back left, right, and centre. So much for collective responsibility. I was also fascinated to hear Deputy Power talking about his £9 million. Well, what do you have to do to get money for Housing? You have to toe the line. Maybe he did not, so in other words, that is why you are not there. Assistant Ministers, I have already mentioned the wannabes, some of them ... they know who they are. **[Laughter]** As you can tell, I have no desire to be a Minister, I will not toe the line. In fact, I came into politics because I believe principles are important. Okay, I am sorry, I have my views, I have stood by them, and when I leave this House I will be able to go out and say: "I held my head high, I did what I said I was going to do, I walk away from this House quite content." To have to forego my principles, kowtow, or to ingratiate myself, is not the way that I want to operate. So I do not have a great deal of respect for those who do. **[Approbation]** Other things that have been mentioned as well, there is the idea of divisive and polarised opinion. There is no doubt that this House does get polarised, it can be divisive. I honestly very, very strongly believe that it will become more divisive and more polarised if this measure does go through.

[15:45]

I do believe that if you vote for this proposition you are sleepwalking into a disaster. It really is appalling. Just to deal with one or 2 questions that came in from the end. Senator Ozouf said that we are not really giving the current Chief Minister the power and that we should give him the support. The current Chief Minister is a likeable guy. I have never said that to him before, he will be quite surprised to hear it. But the point is, I may not always agree with him but he is likeable. What happens if the next one is not so likeable or is quite fixated and has a particular drive that you may or may not agree with? You give him this power he is going to drive a coach and horse through this Chamber and we will be even less effective than we are now. Anyway, just think about it, it is not just the existing Chief Minister, it is who comes next. Senator Gorst may or may not be here in October. He may or may not be Chief Minister in November. You have to seriously think about that because the power you are giving is far more than you realise. My final comment is... to be perfectly honest obviously you can tell I am going to vote against the principle. **[Laughter]** Not surprising. However, this House has already agreed that we should have a referendum in the election on the Clothier proposals. Like or loathe Clothier, we have made that decision and if it is defeated then the House has to think about what we do next. If, on the other hand, it is supported then it is going to undo a lot of this. So to be perfectly honest I think we should vote against this proposition, put it to the electorate in October and also I hope that all those who want to be Chief Minister will go out and say what they stand for, and not only what they stand for, how they are going to achieve it. I would also like to know who they are going to have as their supporters. Quite honestly, if they are just yes men I do not want to know. Please vote against this proposition.

**Deputy R.G. Le Hérissier:**

Sir, on that optimistic note, might it be the time, unsatisfactory though it is in many ways, to move the move-on motion.

**The Greffier of the States (in the Chair):**

Do you wish to propose the Assembly moves to the next item of business? You are entitled to propose that, Deputy. A large number of Members have spoken; there is no reason for the Chair to prevent you proposing that. Is the proposition to move to the next item of business seconded? **[Seconded]** Very well, it is a matter that must be put to the Assembly without debate so I will allow Members time to return as it has come unexpectedly, the proposal of Deputy Le Hérissier is that the Assembly move to the next item of business. I do not have any other Members currently

on the list wishing to speak. I will just notify Members of that. Do you wish the appel, Deputy? The appel is called for. The proposition is that the Assembly move to the next item of business and the Greffier will open the voting.

<b>POUR: 13</b>		<b>CONTRE: 32</b>		<b>ABSTAIN: 0</b>
Connétable of St. John		Senator P.F. Routier		
Connétable of Grouville		Senator P.F.C. Ozouf		
Deputy R.C. Duhamel (S)		Senator S.C. Ferguson		
Deputy R.G. Le Hérisssier (S)		Senator B.I. Le Marquand		
Deputy J.A. Martin (H)		Senator F.du H. Le Gresley		
Deputy G.P. Southern (H)		Senator I.J. Gorst		
Deputy J.A.N. Le Fondré (L)		Senator L.J. Farnham		
Deputy M. Tadier (B)		Senator P.M. Bailhache		
Deputy M.R. Higgins (H)		Connétable of Trinity		
Deputy J.M. Maçon (S)		Connétable of St. Peter		
Deputy J.H. Young (B)		Connétable of St. Mary		
Deputy N.B. Le Cornu (H)		Connétable of St. Ouen		
Deputy S.Y. Mézec (H)		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. Saviour		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		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 S.J. Pinel (C)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy R.J. Rondel (H)		

### **The Greffier of the States (in the Chair):**

Very well, so the debate continues. Does any other Member wish to speak? If no other Member wishes to speak I will call on the Chief Minister to reply.

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

**[Approbation]** Today is a day when I have not envied you your job, particularly one of its functions and that is advising the Privileges and Procedures Committee because today I feel as though I am Chairman of Privileges and Procedures and I am taking on that time-honoured role of bringing forward reform to our processes and being thoroughly rounded upon. So my sympathies are with previous chairmen who have sat where I am sitting today. I must admit that for some moments of this debate I feel as though I have been transported into a parallel space where one could be forgiven for imagining that we have great engagement with the public in what we do in this place, that we have record-breaking electoral participation and that we have probably the best



form and process of government that one could consider anywhere around the globe. We probably should just carry on as the way we are because there is not any need to change. I have to admit that that is not my perception of where we are. My perception is that we are held not in the regard that I as the head of government would wish for either a Government or a Legislature to be held. If we are honest, to members of the public it does not always matter which way individual Members in this Assembly have voted, it does not always matter whether it is something that the Government has done or it is something that the Legislature has done, we are, to some extent, all tarred with the same brush of what happens in this Assembly, which picks up on the point that Senator Routier, I think, eloquently outlined. I come to this debate believing that we do need to reform, believing that we do need to change, that we do need to improve the machinery of government that we currently have. Reading between the lines of a number of speakers, the message I seem to have got today is that possibly we need to change it is just not this change that we wish for. A number of Members, who, if I cast my mind back during the debate around reform of the electoral system, very clearly at that point said they did not wish to vote for any changes to the electoral system until they knew what the machinery of government was going to look like. Unfortunately some have today now said: "Well, of course we need to deal with other issues before we deal with machinery of government", one of which is whether this Assembly will approve a question to go to referendum around Clothier. I pick up on that point because it was Deputy Bryans that said: "We seem to have canonised Clothier" and yet once again today we have had Members who have said they are great supporter of Clothier but it is just this little bit of Clothier they do not want to deliver, they do not want to make these Clothier changes today. That is the Legislature and those Members have the absolute democratic right to make those comments. But then I would say that I think we have to consider, are we really as attached with hindsight to Clothier as Members would like to say that they are? We cannot continually say, as we have said for the 9 years nearly now that I have been in this Assembly, that we want to change but it is just not this change. That wears a little thin. I believe that that has worn a little thin with the electorate. We have stood and said we want change but when any change, and change in many, many permutations have been put before this Assembly, we have found ourselves largely incapable of voting for the change that is necessary. Today we are not talking about electoral change, but that is a very important issue. There are things that are wrong with our electoral system that need to change. I would argue today there are things that are wrong with our machinery of government that need to change. This has been in some people's speeches very much characterised as if these are my personal changes as Chief Minister, that is an angle that the media have run with because it makes it for good coverage. I do not begrudge them that. But the reality is that this is a change with its genesis in the previous P.P.C. Committee. It was the previous P.P.C. Committee that set up the sub-group to look at the machinery of government change. That sub-group looked at these changes and tried to find workable solutions for around 2 years. Yes, I know they had to stop. They felt they had to stop while the electoral work was being undertaken, and yet they, as a committee - I will not say to a man because I cannot recall - at least one or 2 of them, standing in this Assembly and saying they felt the most important change to get right first was the machinery of government change not the electoral change. Yet today some of those same Members have said that they still do not want this machinery of government change, and yet these recommendations, apart from the small changes that I outlined in my opening remarks, are their recommendations. Of course we have heard today, but we did not hear this in the in committee debate, that they were a package and they were all co-ordinated. That was not how they were presented in the in committee debate. We see some Members today in our debate have almost air-brushed out the comments that this Assembly made and the speeches made in favour of certain elements of those recommendations and, equally strongly, rejection of certain elements of those recommendations, which is why the group that P.P.C. subsequently set up, that sub-group, which included myself, the President of the Chairmen's Committee, the Chairman of P.P.C. and the Chairman of the Sub-Committee, went away and did further consultation with our

respective constituencies. Then we came together and Members have heard that not all Ministers supported the changes to the Executive being proposed, and that is absolutely as it should be. Some members of Scrutiny were not overly comfortable with exactly the changes proposed and that is why the change proposed here will allow further work to be undertaken in that regard. I, to some extent, was left holding the baby. I do not mind doing that, that is part of my job bringing forward things which are going to be difficult but it is important that this Assembly today has the ability to debate and consider the work of that Sub-Committee and that consultation. We heard earlier there were 48 individuals consulted. I was one of those, I am not sure quite what the breakdown of States Members were but there were a good proportion, I think, of those 48 that were consulted. It could not, and it would not, be right when I acknowledge that there are problems with the current system that need to be addressed for us simply to have put that work on the shelf and just said we would not do something about it. Deputy Power said it was the wrong time; it was a little bit late in the day for bringing it forward. It is always going to be like that because a change like this needs appropriate consultation, it needs appropriate consideration and in this case we also had an in committee debate. I know sometimes you advise us around the merits of in committee debates and perhaps that advice is going to be proved correct once again. But let us wait and see whether that is the case or not. I want to go right back to Deputy Baudains opening remarks. He, I think, in those opening remarks acknowledged some of the problems with the current system. Perhaps it is just that we do not agree on what the solutions are. I think he acknowledged that.

[16:00]

But one of the things he said was that we needed to get around this silo mentality and that is why for me the collective responsibility around the Council of Ministers' table is important. We absolutely do need to get round that silo mentality and we need to make sure that when we are having those difficult discussions, which we have, there is a mechanism in place whereby we are encouraged to reach agreement. Other Ministers have said: "Well, a Chief Minister should be able to do it without making these statutory changes." To some extent, I can accept that argument because I believe that this Council of Ministers on the whole, by and large, has made the current system work in the best way that we can. But I equally admit that it has taken us far too long to deal with some issues because of that process we have had to go through. That is why I support these changes because I have no doubt whatsoever they are going to create a system of government which is more effective, more efficient but for me the most important change that this will deliver is that it will make that system more accountable. I am pleased to see Deputy Southern because he is the second speaker. I thought for a moment that the Bailiff perhaps was a little bit slow on the draw and we could have got through this with only one or 2 speeches but as it has happened we have spent quite a while debating it and that is a good thing. But I disagree fundamentally with Deputy Southern. Other Members have said: "How are we going to know what the Chief Minister is going to stand for? How are we going to know what the programme of government is going to be?" I accept that challenge. I have said previously and I believe that if Members go back and look at my personal manifesto for election, if they look at the Strategic Plan, and I think the Machinery of Government Sub-group acknowledge this in their report, they will see that linkage. It may not be quite as strong as I would like but that linkage is there. Deputy Southern also tried to say in his speech that he did not think that anything we did in this Assembly or that Ministers did linked back to the Strategic Plan. So with the greatest respect in the world I have to disagree with him. That is not the case and I will come on to Senator Le Gresley a little bit later on. Day in and day out he is delivering programmes and policies which link directly back to the Strategic Plan and the most important strategic aim that this Government said it wished to deliver. The Deputy cannot get away with making such comments. I have now gone and lost my train of thought because I went off on something I had not intended to. Perhaps what I could say at this point, though, is I do accept the view of Senator Le Gresley and Senator Le Marquand. They have considered these issues carefully

and they just come down, after much reflection, on the other side of the fence and will be voting against this. I have complete respect for both of those 2 Ministers, I think they have done an excellent job and I will, of course, be extremely disappointed ... I might be joining them, if that is the will of the electorate, but I will be extremely disappointed to see that they do not stand again and come back into this Assembly because I think they have done an excellent job and they have both a record of which they can be proud. **[Approbation]** So it is that accountability. I believe that these changes ... going back to that point, I reject what Deputy Southern said, there should be an accountability between a Member who stands for public election and is honest with the electorate and says: “Yes, I want to stand for the position of Chief Minister” and produces in their manifesto something which then largely, yes, it would be expanded upon, it becomes the Strategic Plan and they then have a Council of Ministers which can deliver that Strategic Plan with the support of the Assembly and thereby make them accountable to the electorate and accountable to this Assembly. The Deputy of St. Ouen recalled a story from when he was Minister, and I believe his speech is one of the best examples of why we need collective responsibility because that should not happen. We should agree and then we should support each other and get on with delivering what we have agreed. So there should be that thread through and it should be that these changes will deliver greater accountability. That, for me, is the most important thing about these changes. Other Members have suggested that a Minister will try to interfere with statutory responsibilities; that is not possible. Ministers cannot interfere with other Ministers’ statutory responsibilities because the Minister has as statutory responsibility so it cannot happen. I do ask that Members do support the principles of these changes and then we can discuss exactly what our new system might look like. We need to change. I believe that what I am proposing or what the sub-group were proposing and I am now bringing to the Assembly are good changes and will deliver the things that we want from a system of government. Other Members have some amendments and think that it needs to be changed slightly, we should have that debate but what we should not do is just simply say that we do not want change and yet again we as an Assembly show ourselves not able to change for the future and for the benefit of the community that we serve, because at the end of the day that is the most important thing. We all come here to serve to the best of our ability those that put us here and we need to make sure that we have got processes and governance in place that allow us to do that. Currently we do not, currently there needs to be some changes so I think that as much as it pains me to call upon Members to extend the debate even further by agreeing the principles, I think that is the right thing to do because we have to show ourselves to be able to debate these things in an adult, grown-up and informed way for the benefit of the community that we serve. I fear that if we do not do that today once more we will bring ourselves into dispute with the community that we want to serve and desire to serve.

**The Greffier of the States (in the Chair):**

The vote is therefore on the principles of the draft and the appel is called for. If Members are in their seats the Greffier will open the voting.

<b>POUR: 25</b>		<b>CONTRE: 22</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Senator S.C. Ferguson		
Senator I.J. Gorst		Senator B.I. Le Marquand		
Senator L.J. Farnham		Senator F.du H. Le Gresley		
Senator P.M. Bailhache		Connétable of St. John		
Connétable of Trinity		Connétable of St. Brelade		
Connétable of St. Clement		Connétable of St. Martin		
Connétable of St. Peter		Connétable of Grouville		
Connétable of St. Mary		Deputy R.C. Duhamel (S)		
Connétable of St. Ouen		Deputy R.G. Le Hérisssier (S)		

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

**The Greffier of the States (in the Chair):**

Very well, Senator Ferguson, this falls within the remit of your panel, do you wish to scrutinise it?

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

That is very tempting but, no, thank you.

**The Greffier of the States (in the Chair):**

Very well, so we come to the debate on the Articles and I will invite the Chief Minister to propose Article 1. It should be quite straightforward.

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

Yes, it is. It simply clarifies that the reference to Articles and schedules are to the States of Jersey Law 2005.

**The Greffier of the States (in the Chair):**

Is Article 1 seconded? **[Seconded]** Does any Member wish to speak on Article 1? All Members in favour of adopting Article 1, kindly show? Against? Article 1 is adopted. I come now to Article 2, Chief Minister.

**1.3 Draft States of Jersey (Amendment No. 8) Law 201- (P.33/3014): fourth amendment (P.33/2014 Amd.(4))**

The Greffier of the States (in the Chair):

You do have your own amendment to Article 2, would you like to seek the consent of the Assembly to propose the Article as amended? Are Members content for the Chief Minister to propose the Article as amended? If so, I will ask the Greffier in the interests of formality to read the fourth amendment.

**The Deputy Greffier of the States:**

Pages 41, 42, Article 2, in paragraph (a), in the substituted paragraph (1), for the words “the Ministers” substitute the words “at least 7 Ministers”. (2) After paragraph (c) add the following paragraph “(d) after paragraph (5) there shall be added the following paragraph, ‘(6) The States may by Regulations amend the minimum number of Ministers in paragraph (1)’”.

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

The amendment is as Senator Routier outlined in his opening comments and I will not say any more about that. The Article then as amended introduces the principle of collective responsibility along with the, as I said earlier, requirement for the Council to agree a code of conduct which will be presented to the Assembly and also the ability for the Council to give directions to a Minister concerning a policy for which the Minister has responsibility, of course where the policy falls within the function of the Council as described in the 2005 Law. As I said in my closing remarks, these directions cannot be given over the exercise of a statutory function nor as to so influence a statutory function. I maintain the Article.

**The Greffier of the States (in the Chair):**

Is Article 2 seconded? **[Seconded]**

**1.4 Draft States of Jersey (Amendment No. 8) Law 201- (P.33/2014): seventh amendment (P.33/2014 Amd.(7)) - Article 2**

**The Greffier of the States (in the Chair):**

There are 2 further amendments to Article 2, the first in the name of Deputy Le Fondré, which is part 1 of the seventh amendment. I will ask the Greffier to read number one.

**The Deputy Greffier of the States:**

1. Page 41 to 42, Article 2, in paragraph (c), in the inserted Article 18(3A)(b) after the words “agree and” insert the words “, within 3 months of being appointed to office under Article 19(7).”

**1.4.1 Deputy J.A.N. Le Fondré:**

I would hope this is a very easy amendment, says he optimistically. All it does is add a definitive timescale on to that particular Article. That is in relation to the timescale by which the Council of Ministers decide their code of conduct, *et cetera*. It does not interfere with any other amendments and I believe it is supported by the Chief Minister and I think P.P.C. does not support it.

**The Greffier of the States (in the Chair):**

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

**1.4.2 Senator I.J. Gorst:**

Simply perhaps to say that I am satisfied with it and accept it.

**The Greffier of the States (in the Chair):**

Does any other Member wish to speak? All those in favour of adopting the amendment, kindly show? Against? The amendment is adopted.

**1.5 Draft States of Jersey (Amendment No. 8) Law 201- (P.33/2014): second amendment (P.33/2014 Amd.(2)) - Article 2**

**The Greffier of the States (in the Chair):**

We now have a second amendment to this Article which is in the name of Deputy Vallois. It is the second amendment and I ask the Greffier to read that amendment.

**The Deputy Greffier of the States:**

Page 41, Article 2, in paragraph (c) in the inserted paragraph (3A)(b) after the words “a code of conduct” insert the words “and a code of practice”.

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

Again, similar to Deputy Le Fondré, this is more of an administrative check and balance. Although the Chief Minister has put within the Articles for a code of conduct I see that as a separate entity to that of a code of practice because a code of conduct is, of course, binding. Code of practice is more of a guideline as to how the Ministers will work and I think when the machinery of government came around in 2005 there was an absolute requirement for Scrutiny to have a code of practice and it took 2 years for this Assembly to get something in place which, I would suggest, is not as good as possibly it could be, why the Council of Ministers were never forced to have a code of practice at that time, so I am taking the opportunity now to put something in place for that extra check and balance and accountability.

**The Greffier of the States (in the Chair):**

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

**1.5.2 Senator I.J. Gorst:**

Only to say that again I accept it. It seems a reasonable addition for Ministers to set out how they will work.

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

Just very briefly. Perhaps the proposer of this amendment can inform this Assembly how she proposes that codes of conduct and codes of practice are going to be enforced and become meaningful, and be able to be relied upon.

**1.5.4 Deputy R.G. Le Hérisier:**

It is really a follow up. I notice there is, for example, reference to a report of the Canadian Government. I wonder if the proposer could give us some examples of where a code of practice would work and what it would look like.

[16:15]

**The Greffier of the States (in the Chair):**

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

**1.5.5 Deputy T.A. Vallois:**

I think it is the case of asking questions for the sake of asking questions. Again, these are the kinds of questions I think that Ministers should be answering but I will try and answer them for the questioner, because I believe it is only right. A code of practice, how I believe it would be enforced? Well, as somebody who is Chair of the Public Accounts Committee by having a code of practice in place I would have more confidence in bringing a vote of no confidence against the Minister knowing that they are working alongside a code of practice that has been clearly set out and we can expect that Minister to work alongside that code of practice. I would expect anybody in the States Assembly to hold me to account as Chair of P.A.C. or President of the Chairmen's Committee under our code of practice if I was not fulfilling my responsibilities properly. That is how I believe it should be enforced. I think maybe we should be a little bit cleverer and a bit more forceful about how we try and go about these things. With regard to Deputy Le Hérisier. I could give numerous examples of codes of practice. The reason why I put the link in here was to give an example ... I am not trying to suggest that this is going to be the panacea, it is going to be the answer to all our problems, because it is not. We are supposed to be the answer to these problems, and I think, after the discussion on the principles, we saw just slightly how dysfunctional we can get, and I do not know where to start. If you have read the actual Canadian code, they did a large report on why they brought in a code of practice and how they worked towards it, and like I say, I will not say it has solved all their problems, but it is part of the machinery that aids them to hold

those people who make the decisions to account. That is all I am asking for. I am not suggesting in any way that this is going to be the solution to all our problems. But it is a tool in our box that we can use moving forward, and I hope people will use it, rather than using personalities. **[Approbation]** Or should I say, when the vote of no confidence has come before - and I have seen this before, and it makes some people very uncomfortable - is that it is seen rather as a personality driven vote of no confidence, rather than a Minister not doing their job. Deputy Le Hérissier will know, when there was a signature signed for one of the former Health Ministers, he brought a vote of no confidence, but that never got to the Assembly and he resigned. But that was seen, and there was a lot of nastiness, I would say, behind the scenes, and it was not exactly nice in here either, but there was a lot more nastiness behind the scenes. It should not be like that. A vote of no confidence should be on the basis that you do not think somebody is capable or has the ability to do the job. It is just administrative. I would ask for the appel, please, Sir.

**The Greffier of the States (in the Chair):**

Yes. The appel is called for on the second amendment, brought by Deputy Vallois. I would ask Members to return to their seats, and the Greffier will open the voting.

<b>POUR: 34</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier		
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		
Senator P.M. Bailhache		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
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 G.P. Southern (H)		
Deputy of St. Ouen		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy K.C. Lewis (S)		
Deputy T.A. Vallois (S)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy R.J. Rondel (H)		

## **1.6 Draft States of Jersey (Amendment No. 8) Law 201- (P.33/2014): Article 2 as amended**

### **The Greffier of the States (in the Chair):**

Debate now resumes on Article 2, as amended by the 3 amendments. Does any Member wish to speak on Article 2, as amended?

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

I just wish to seek your guidance on how I am going to get through this debate [**Laughter**] on the basis that I cannot vote for the principle of collective responsibility, but how do I request that we separate that out? Because 2(c) has (3A) and (3B). Do I have to request that we take a separate vote on (C3)(a), which means that (b) is included, because I do not mind (b), but I do not want (a). How do I do it, sir?

### **The Greffier of the States (in the Chair):**

I am afraid you cannot, Senator. The Standing Orders make it clear that the States must vote on each Article in its entirety. The only avenue open to you, if you feel strongly, is to vote against Article 2 in its entirety. Does anyone wish to speak on Article 2 as amended?

#### **1.6.1 The Deputy of St. Ouen:**

Perhaps I will now direct the question, or part of the question, that I posed to the proposition of the amendment, to the Chief Minister, because we are well aware that codes of conduct have been in place for some time. Indeed, I made a complaint about certain Ministers under a code of conduct while I was in Ministerial government, and there was no action taken whatsoever as regards to collective responsibility. It is all very well to have all of these different items and proposals, codes of conduct, that the Chief Minister or the Council of Ministers are going to produce, codes of practice that the Council of Ministers is going to produce. What confirmation can be given that we can rely and influence those codes of conduct and those codes of practice? Because one of the big issues around codes of practice is that I would expect to see in any code of practice is the Council of Ministers and the Executive will take account of Scrutiny, will allow proper time for subjects to be scrutinised, will provide and deliver and present and lodge propositions with appropriate timing and timescale allowed for significant matters to be scrutinised. Unlike now, where we are going to rush everything through. You have to deliver it within the shortest period of time and, by the way, although we have to give a proper response and we are expected to give a proper response, we will give it offhand, a day before, a night before a debate, and anyway we are going to do what we want to do. That is not good government. But perhaps the Chief Minister, when he sums up, will deal with the matters that I have raised. I will be very, very interested to see, bearing in mind that we do not know who the Chief Minister will be in 6 months' time, what assurances he can give that the next Chief Minister can deliver and deal with the matters that have concerned this Assembly for the last 3 plus years. Thank you.

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

I am going to rise to protest procedurally about where we are now. Having had a very good debate on the preamble, we are now rushing through Articles. We are looking at half a dozen papers. We are being told we are now discussing Article 2 of the amending law, which amends Article 18 of the main law, which includes collective responsibility, as Senator Le Gresley has said. Some of us would support some bits of it. Some of us would not support other bits. We also have a consolidated version of the law, but that only deals with the Minister's proposal. It does not deal with the 2 amendments we have just made. I am going to protest about this, because I think I am in a position where I cannot be following all these votes, and I am going to be forced to vote against



these Articles, one by one, unless somebody comes up with some sensible procedure to help us go through this law. I am sorry to protest about it, but I clearly see the point, the sensible part. I agree about this question about the Chief Minister's amendment about having a minimum number of Members. I agree that that is sensible to change it by Regulation. But I absolutely am unhappy about the other elements in the same Article about collective responsibility and the powers of directions of Ministers. Procedurally, there must be a way that we can conduct this debate in a sensible way.

**The Greffier of the States (in the Chair):**

All I can say from the Chair, Deputy, is that the vote is being conducted strictly in accordance with Standing Orders, and it is a matter for the Assembly, for Members.

**1.6.3 Deputy G.P. Southern:**

Can I just say, I have every sympathy with Deputy Young. But I wish to make another point, and ask a further question about accountability. The Chief Minister is aware that I am for ever complaining at getting comments on the morning of a debate, to a proposition or amendment I have brought, which is completely unsatisfactory, because no one has the time to take it in, even if it is your own amendment and you understand entirely what you are trying to do. But other Members meeting that, 2 hours before the debate, cannot necessarily get their heads around it. But also, I wish to have a few words from the Chief Minister on this fundamental issue of accountability, in terms of my experience of bringing a complaint procedure against a Minister and having it go nowhere in terms of P.P.C., go nowhere in terms of referral to the Chief Minister. Where is the independent body which can hold the Council of Ministers, the Chief Minister if necessary, to account for the behaviour of these Ministers? That is a fundamental question which we have ducked dealing with and we are not dealing with today. Why not?

**The Greffier of the States (in the Chair):**

If I could just add one thing, from the Chair, to the matters raised by Deputy Young. At 15.43 on 28th April, Members were circulated by email with a version of the law showing not only the Minister's amendments, but all the amendments from individual Members shown in colour. You should have that on your email.

**Deputy J.H. Young:**

My apologies, Sir. I printed mine out in black and white. **[Laughter]** Can I just ask, do we have a colour printer that Members can use?

**The Greffier of the States (in the Chair):**

Does anyone wish to speak on Article 2 as amended?

**1.6.4 Deputy T.A. Vallois:**

I think it is important, because there has been a lot of concern around this collective responsibility side of things, that the Chief Minister spells out clearly and exactly what he sees collective responsibility as; how it will be set out in the code of conduct and the code of practice, as now amended; and how he would go about, as Chief Minister now, enforcing that.

**1.6.5 Deputy M.R. Higgins:**

If the Chief Minister can also tell us, I have been hearing from a number of Members of complaints that have been made about Ministers to the Chief Minister, and no satisfactory process for procedure. Will the Chief Minister tell us, if complaints are made about Ministers, how he intends to deal with it in an open and transparent and expeditious way?

**The Greffier of the States (in the Chair):**

Does anyone wish to speak? I will call on the Chief Minister to reply.

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

Perhaps I can start by thinking about what the Deputy of St. Ouen said in his comments. He asked some very good questions, and I personally felt that Deputy Vallois' amendment to this Article, having considered it, is very important, because what we do not want is personality issues being the problem. What we need to do is focus on policy and delivery and actions of Ministers. So, of course, I do not have the detail of how that will work in practice, because it was an amendment, but there is quite a lot of detail there about the principles of what a code of conduct will be. I suspect that the code of practice will look at the code of practice for Scrutiny Panels and try and develop a similar code of practice for how Ministers should behave. I think it was the Deputy of St. Ouen, but I might be mistaken there, who spoke about the dissatisfaction with the logjam of government business coming to the Assembly, in effect, some of them having gone through a process for a number of years, and then finding that we are abutting to the final States sitting in July, and not wanting to have too much important business in September. It is a very important point. It is something which has always happened historically. I am of the belief that with a longer term of office that will help, but equally I have had discussions the president of the Chairmen's Committee, and at our last meeting last week, we agreed that an officer from Scrutiny, an officer from my department, would develop a protocol to make sure that we managed it in a much more satisfactory way, so that Scrutiny could do their work properly, and it had time for proper consideration going forward. I think that that is extremely important.

[16:30]

As I said to the President at that meeting, there of course comes a point where Ministers might wish to achieve policy objectives and bring forward legislation but, to some extent, when we get to this late in the day, we are at the mercy of Scrutiny, because Scrutiny must be allowed to do their work and take the time that they need. I suppose Ministers will have to live with that if it cannot be done in the appropriate timescale. It is a difficulty from the Government side, to get done all the work that they want to and equally respecting Scrutiny and needing to do their work. I think the new code of practice and the new code of conduct will undoubtedly enhance the accountability of Ministers to this Assembly. It is difficult for me to talk about individual cases where complaints have been made against Ministers, and I have no doubt that the collective responsibility included in this Article is going to help that. Currently, with the process, I have asked other Ministers to help in reviewing and making recommendations, with the support where necessary of law officers and senior officers. But I accept that, going forward, if we at the end of the day agree these changes - and of course we have only agreed that we debate the detail of them so far - if we agree these changes, then a Chief Minister receiving a complaint would need to appoint an independent person to do the investigation and make those recommendations to the Chief Minister. Ultimately, this will allow that and enable that, I believe, in a far better way than some who have suggested that they are dissatisfied with the current system, but of course it would be for the Chief Minister, together with the support of the other members of the Council of Ministers, to decide how that process would happen. I think someone else asked me how I would deal with an issue of ensuring collective responsibility. I have to say, not that I am easily overwhelmed when people praise me, but I am thankful for those Members who, maybe it is damned by faint praise, said that I was a reasonable person. That is the approach that I would take and will take, if I am given the honour to serve again in this position, because no Chief Minister wants to lose good Ministers. What they want to do is arrive at a consensus and a way forward on any given issue, and that is why there are the caveats and carve-outs for collective responsibility. One of those has to be, as they have in the Isle of Man, for long-held positions, so an individual coming into the Council of Ministers, somebody said, about building in a Parish. Of course, you could never expect a Member

representing St. Clement, for example, to come into the Council of Ministers and then not fight against a government policy that wanted to build houses in their Parish. You have to deal with those in a pragmatic and a grown-up way, recognising that the abilities of that individual to deliver the policy and the long-held position that they have means that they are able to vote in a different way on that particular issue. Likewise with matters of conscience. This is not, as some Members and some sensationalists have tried to say, about a dictatorship. It is about trying to refine the mechanism we have to make it more effective and more accountable on behalf of the public, but equally recognising we all come to this Assembly as independents. That is exactly how I would deal with it, and I think that that is reasonable. One of the other things that I did not say in my closing remarks around the principles is I believe that collective responsibility around the Council of Ministers table will allow a more disparate view of Members around that table, because you will know, any Chief Minister will know, that there has to be agreement ultimately delivered, or a way through a problem. It potentially will mean that you can have a more disparate and more representative Council of Ministers as well. I think there are many important reasons why I support this, and I hope that Members do so as well. Thank you.

**The Greffier of the States (in the Chair):**

The appel is called for on Article 2 as amended. Members are in their seats. The Greffier will open the voting.

<b>POUR: 25</b>		<b>CONTRE: 17</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Senator B.I. Le Marquand		
Senator S.C. Ferguson		Senator F.du H. Le Gresley		
Senator I.J. Gorst		Connétable of Grouville		
Senator L.J. Farnham		Deputy R.C. Duhamel (S)		
Senator P.M. Bailhache		Deputy R.G. Le Hérisssier (S)		
Connétable of Trinity		Deputy J.A. Martin (H)		
Connétable of St. Clement		Deputy G.P. Southern (H)		
Connétable of St. Peter		Deputy of St. Ouen		
Connétable of St. Mary		Deputy S.S.P.A. Power (B)		
Connétable of St. John		Deputy M. Tadier (B)		
Connétable of St. Martin		Deputy M.R. Higgins (H)		
Connétable of St. Saviour		Deputy J.M. Maçon (S)		
Deputy of Grouville		Deputy G.C.L. Baudains (C)		
Deputy J.A. Hilton (H)		Deputy J.H. Young (B)		
Deputy J.A.N. Le Fondré (L)		Deputy N.B. Le Cornu (H)		
Deputy of Trinity		Deputy S.Y. Mézec (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 S.J. Pinel (C)				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Greffier of the States (in the Chair):**

I invite you to propose Article 3, Chief Minister.

**Deputy J.H. Young:**

Before we do, may I seek procedural clarification from you? Thank you for your guidance about the substantive law that we should be looking at throughout this debate. Could you confirm, please, that the alterations shown in it are every alteration, not just the Chief Minister's ones? All the amendments are in this, are they?

**The Greffier of the States (in the Chair):**

Yes. The one that was circulated on the date I mentioned. It has it... I have it in my copy in front of me. It has in colour the name of the various Members bringing amendments and the amendments they are bringing.

**Deputy J.H. Young:**

The copy I have says on the bottom: "Law showing P.33/2014 amendments." It has a colour because it has a coloured crest, but none of the amendments are in colour. Does that mean there is another copy that we should be looking at?

**The Greffier of the States (in the Chair):**

Hopefully that is the one that was circulated on the date I mentioned, Deputy. You might want to pop out and look at an email and gain a copy of that one. Chief Minister, Article 3.

**1.7 Senator I.J. Gorst:**

I feel as though I am suffering slightly, in the same vein as Deputy Young, but let us keep going. This Article amends the process for the selection and appointment of Ministers, with the effect that the Chief Minister designate proposed *en bloc* his or her Council and in so doing, decides the numbers of Ministers and the functions of those Ministers. New Ministerial offices can be created and existing Ministerial offices removed. Functions can be transferred between Ministers. The Assembly may accept or reject those proposals. If the Assembly rejects the proposal 3 times, then the Chief Minister designate decides the membership and the structure of the Council after that. Again, there are amendments to this article. Thank you.

**The Greffier of the States (in the Chair):**

Article 3 is seconded. [Seconded]

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

**The Greffier of the States (in the Chair):**

There are amendments to this Article, the first in the name of the Connétable of St. Mary. Part 1 of the sixth amendment is a lengthy amendment. Are Members content to take it as read, rather than asking the Greffier to read it? Very well, I invite you to propose the amendment, Connétable.

**1.8.1 Connétable J. Gallichan of St. Mary:**

Although I am, of course, only presenting the first part of my amendment at this time, it is difficult to address this in isolation. I have not spoken previously and I do need, I think, to give a very brief background as to how I arrived at the point where I felt it necessary to lodge this amendment. I joined the States after the 2005 election, just as Ministerial government commenced. It is the only system I have worked under. I was on P.P.C. for my first 6 years in the Assembly and almost from the off, I was involved almost continually in reviewing the machinery of government. In this last term I have participated in such reviews from the other side of the fence, as a witness. Based on all my experiences, not only with the current Members, but with those who have gone before, I know there have been and still are serious and deep-running concerns with the current workings of our Government. Some of the most profound stem from the appointments process for Ministers, and the effect that that process has on the accountability of the Council of Ministers and ultimately of

the Chief Minister. With this knowledge under my belt, as it were, I attended both of the recent briefings organised to explain the proposals contained within P.33. It became clear during the second briefing that despite numerous attempts by different parties over time to find a winning formula for the appointment of the Council of Ministers, the current proposals were once again failing to tackle head-on the central issue, namely, the essential need to secure the clear and unshirkable accountability of the Chief Minister. The current situation is clearly unsatisfactory. It is the Assembly and not the Chief Minister who has the final say on the makeup of the Council of Ministers, and so it is difficult to hold the Chief Minister responsible for any failures of the Council. This of course will weaken the ability of the Assembly as a whole to successfully hold the Executive to account. Under the proposals contained within P.33, the Chief Minister Designate would have 3 attempts to secure the agreement of the States Assembly to a proposed Council of Ministers. If the Chief Minister designate fails on the third attempt to secure the agreement of the Assembly, he or she can decide upon the composition of the Council. What does this mean? Effectively, if all 3 attempts to secure a majority in favour of the proposed Council fail, then the Chief Minister Designate must choose his or her own slate of Ministers and the Assembly must accept this choice. If this were to occur, then an outside observer would surely wonder what purpose the previous 3 proposals, votes and rejections, had served, particularly if the final list of Ministers was identical to the very first proposal, or the second or the third, for that matter, which has been so recently rejected by the Assembly. When I lodged my proposition, I speculated that one alternative might be that after 3 rejections of the Chief Minister Designate's proposals for the Council, the current existing procedure might be re-enacted, whereby the Chief Minister would propose his or her choice of Ministers individually and the States Members would be able to make alternatives for the vote being taken in each case. Since then, this is effectively what has been proposed in Deputy Le Fondré's amendment number 7. However, if we do decide to leave in this "no change" procedure as a fall-back option, then potentially we do nothing at all to improve the accountability of the Chief Minister. The argument would always exist that while the Chief Minister was doing their best to carry out the pledges that had been made, the performance of the Executive was being impaired because they were trying to do this with a Council of Ministers not of their own choosing. The proposal put forward in the final report of the Machinery of Government Review, but which ultimately did not win through to the final draft law was that the Chief Minister Designate would have 3 attempts at proposing a slate of Ministers and if, after the third attempt, the Assembly had not voted in support of his or her choice, then the Chief Minister Designate would fall and a new election for Chief Minister would follow. However, experience has shown that the election of the Chief Minister can be a very close run affair. In a case where there were only a handful of votes between the winning and the second place candidate, tactical voting in the 3 strikes and you are out; procedure could allow results to be manipulated in order to secure a further ballot for Chief Minister. This would surely bring the process into disrepute, quite apart from the fact that the cycle could be repeated several times, leaving the Island without an Executive for an extended period. The inherent contradiction at the heart of all these proposals arise from an attempt to seek to reconcile the need for the Chief Minister to select a Council in which he or she has confidence, and so can be held to account for, while maintaining the position whereby the Assembly decides upon the appointment of Ministers. These contradicting objectives can be traced back to the Clothier review, which suggested that the Chief Minister would choose his or her team of Ministers, which he or she would then present to the States for approval. These 2 objectives can be reconciled to some extent at the start of the appointment process, but the need for a conclusive end to the process highlights the inherent contradiction of the position. Looking at these options dispassionately, they are all flawed, and it seems that the only way to ensure that there is a straightforward outcome which ensures that the Chief Minister can be held fully accountable for the performance of the Council is simply to allow him or her to appoint Ministers without seeking a decision from the Assembly, as my amendment proposes. In the U.K. the Prime Minister advises

the Sovereign on the exercise of prerogative powers in relation to the appointment and dismissal of other Ministers. This constitutional convention ensures that the Prime Minister can choose his or her own team of Ministers. The Scottish and Welsh Governments follow the same approach, with the respective First Ministers appointing their own team of Ministers with the approval of Her Majesty. This practice is not confined to party political systems, as the Chief Minister in the Isle of Man also selects his or her own team of Ministers. This amendment would achieve the same end result as current practice in the U.K., Scotland, Wales and the Isle of Man.

[16:45]

This might seem a very bold step, however, if we look at the circumstances that would surround such an appointment, it is not such an unreasonable one. After all, by the point in the proceedings when the Ministers are appointed, the Assembly will have decided on a Chief Minister. His or her aim and objectives will have been published and the Assembly will have had the opportunity to pose questions and judge the answers provided. At this point, the Assembly is effectively already beginning to gather evidence regarding the Chief Minister Designate's intentions, and this evidence can be used subsequently to challenge performance of the Chief Minister and also of the Council of Ministers. For completeness, I should say at this point that I believe a questioning period is still essential at the point when the Ministers are announced, even when there will be no vote. This might seem strange, but in fact it would afford a vital chance for the Assembly to probe the Chief Minister Designate's thoughts as to how his or her proposed structure will work, and to outline the work which they foresee each Minister undertaking, and what could be expected to feature in the forthcoming Strategic Plan if this amendment is successful, I would envisage matching amendments to Standing Orders, which would increase the amount of time for questioning the Chief Minister Designate on his or her decisions for the structure and membership of the Council. Although of course this is a matter for future debate, I am minded to suggest that rather than have a fixed time period, there should be a basic time period of, say, 15 minutes of questioning and then an additional 10 minutes for each Ministerial position being considered. The Strategic Plan will continue to be decided upon by the States Assembly and that will provide an early opportunity for the Assembly to hold the Chief Minister to account and to examine whether the contents of that important policy document match up to the pledges made during the questioning periods. Finally, Members must not overlook the fact that the proposals before us do not mean that the States Assembly loses the ability to directly challenge under-performing Ministers. The States of Jersey Law 2005 will retain Article 21(3)(c), which provides that if a motion of no confidence in a Minister is adopted, then that Minister will cease to hold office. The Assembly is still in control; I would suggest more in control, with a greater degree of a greater chance of ensuring accountability than currently. A difference that makes no difference is no difference. If Members agree that we need to make changes to the appointment process, it is important that we make changes that will make a real difference and that we do not, by default, end up with exactly what we have now. I move the amendment, Sir.

**The Greffier of the States (in the Chair):**

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

**1.8.2 Deputy M. Tadier:**

Of course the Constable of St. Mary is absolutely right, now that we have given the Chief Minister power, he should be given full power to appoint whoever he wants. The Assembly should no longer try and kid itself that we have got any say. That will mean that the Chief Minister and his Council are the Government and we are the Legislature and that will be the logical culmination of what we have been doing here today. There are some issues to highlight though around that,

because of course that is not everyone's opinion. That is a somewhat fatalistic view and it is also angels in pinheads. I get this when I go to listen to the religious talks - I go there out of academic interest - but of course I know that all of it is very academic in that if you do not believe in the principle that underpins it all, the rest is simply nice chat. With 3 strikes, what did we have originally, what do we currently have? We have got a system whereby each Minister in theory is appointed on his or her merit and has the confidence of the Assembly. We have moved away from that, because that is not important, that is not the way we want to do things in Jersey. We want to appoint patronage, that is the way we are going, so you appoint your Chief Minister and, quite frankly, the rest of it is pretty much he can do as he wants to. Clothier said something slightly different. He said 3 strikes and you are out, but here we have got 3 strikes and you are in. **[Laughter]** What is all that about? You really could not make this stuff up.

**The Greffier of the States (in the Chair):**

I am sure you do not want to mislead the Assembly, Deputy. Clothier never mentioned 3 strikes.

**Deputy M. Tadier:**

That must have been at the stage when the meat was put on Clothier then, sorry, and it is such a long time ago and I was probably doing something equally interesting in another part of the world when these debates were going on. Thank you for the correction, Sir. But the principle was adopted very early on, 3 strikes and you are out, because that makes sense. If a Chief Minister needs 3 attempts to form a Cabinet and he cannot do it within 3, then he is probably not the right person for the job, he probably has not captured the sentiment of the Assembly and therefore, quite rightly, you are out. It was something that has been debated *ad nauseam*, I think, both on our Sub-Committee but subsequently as well, and we have come up with this rather bizarre situation where you find your own level of incompetence. If you can be incompetent 3 times in a row, then you get to choose whatever you want and it could be one of those 3 sets or it could be something even more fantastical. It could lead to the cynical attempt to deliberately put forward 3 slates that you know will not get the Assembly and then you say: "Well, I will appoint the ones I want anyway" and hopefully the Assembly will be so supine and dormant that they will just let you go ahead anyway, so of course what the Constable of St. Mary is proposing is completely logical. But there is a better way which I hope at some point we could fashion and find a way. The good thing about the old or current system is that the Chief Minister knows exactly where the weak links are in the Council of Ministers, so by putting it to the Assembly, it saves all the running round in between the votes and saying: "I wonder if it is the Minister for Education who is the weak link here? Is he the one that the Assembly does not like, or is it the Health proposal or is the Minister for Economic Development?" There was this old game, I do not know if you remember it, called Mastermind, and you had these pegs. You would never know which one was the wrong peg and so you had to go through these permutations or an iteration process, I think it is called, to get to the end and it would usually take about 8 goes for you to somehow be fumbling around there like the Chief Minister with his eyes shut, with the cloth over the object, saying: "I wonder what that is? I cannot quite see what is going on" because he has not done what is the most logical thing is, just to ask the Assembly. **[Laughter]** But that is what we do already though, so it is really a case of if ain't broke, don't fix it, but we have now broken it and we are trying to put the pieces back together, the pieces of the egg back together, and unfortunately the bits of the egg do not fit, so we are making some kind of omelette, or scrambled egg, probably more likely. This is what we have been left with. Absolutely, if you are logically committed to what Members voted for in the previous one, you should really be going down this... because certainly the 3 strikes and you are in is absolutely ludicrous, and we told the Chief Minister's team that when we were sitting around the table. It does not seem to have been put into the mix, but I suspect that may be just a little bit too authoritarian for Members to accept what the Constable of St Mary is saying. Members might want

to hold on to some illusion that they are at least going to be presented with a rubber stamp and think that they have got some say, so I accept that Members might not accept the position of the Constable of St. Mary, even though it is a logical conclusion to what we have just been debating.

### **1.8.3 Deputy R.G. Le Hérisier:**

I hope I can improve upon Deputy Tadier's excellent contribution, if gloomy. I think this is a classic case here of starting off on a certain assumption and logic taking you to totally the wrong place. This is absolutely awful. All the way through now I will be faced with the Senator Le Gresley dilemma of if you do not agree with the basic assumptions of this proposal, are you going to be involved in trying to massage it to make it better? I would like to do that. I do not think we can be negative and just say: "Well, the wrong thing got through, therefore we will try and stop any amendments to it at every stage." I think that would be a bit petty-minded, but I do think the Constable of St. Mary, although she has studied these matters, she said, very deeply, I think she has got it totally wrong. Of course she made the analogy between Prime Ministers in places like Britain, but of course when they come with their slate of candidates already confirmed to Parliament, there has been enormous discussion within the party, and of course, as has been said *ad nauseam* in this debate and in other debates of this week, we do not have those consultation processes, so it is much more like choosing the Pope or the Pope's assistants, because what happens here is, according to the Constable of St. Mary, although she is doing a job covering both roles or they both are, the Chief Minister Designate will appear in this House, the smoke will appear, the list will be announced and that will be it and we will go off very happy. But she forgets that important stage in other democracies, parliamentary democracies, where there is intense negotiation, sometimes itself it is not that healthy, quite frankly, but there is negotiation within the party and if it is a properly democratic party, it will have talked to its supporters and so forth. The slate will represent geographical balance, it will represent talent balance, it will not be just the best in one sort of monochrome sense, it will reflect all sorts of balances and it is very important because we are in a sense the party, the Assembly is the party. Just to say because the Assembly gives input and takes a vote on it therefore does not make the Chief Minister purely accountable is to get the totally wrong end of the stick, because it is the Assembly's confidence which has been placed in the Chief Minister and it is very important that the Chief Minister hears about the issues that concern the Assembly, about the balance he has in his slate, about the kind of talent he has there and the kind of respective importance he has given for different reasons to different Ministries. This is just crazy, that a list is going to be announced and that we are then going to engage in a totally redundant question and answer procedure when all the real decisions have been made and it will be a procedure which will have absolutely no effect. In other words, we will be just reacting to the smoke coming out of the chimney, by which time it will all be past. Similarly, the Constable said: "Well, you have got the vote of no confidence." Now we are hoping to reinstitute the vote of censure as an interim step. "You have got the vote of no confidence" but that is what we would call a post-hop procedure, in other words, that is after the event. Surely a good Chief Minister will want to know what the Assembly thinks about the slate he or she is proposing, and again, as has been said so many times, we do not want to exercise the nuclear option unnecessarily. In fact, we know we are too timid about exercising it now in any event, but we do not want to exercise it unnecessarily. That means bringing the Assembly on board, getting its confidence, and I think this is totally the wrong approach.

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

Can I ask a question of the Chair in the first instance, just to confirm that if we reject all of these amendments, do we revert to the current situation, the current mechanism for choosing Ministers?

### **The Greffier of the States (in the Chair):**



It depends how you vote on Article 3 of the Chief Minister, if you were to ...

**Deputy G.P. Southern:**

Including the Chief Minister, so if we reject that as well?

**The Greffier of the States (in the Chair):**

Yes. I mean, that would be the position if Article 3 were rejected. The Chief Minister may have to consider whether to continue with the debate to check with the legal advisers that the law still made sense, but that would be the position if you reject the changes, the *status quo* will prevail.

**Deputy G.P. Southern:**

Yes, thank you. I thought that was the case. Like the previous 2 speakers, I think we are in la-la land, and by la-la land I mean the least awful alternative, because that is what we seem to be deciding between. Looking at what is being proposed, how would you arrive at this end point? Where do you start from - is the question - to arrive there? I really cannot see this possibility of 3 goes at choosing a slate of Ministers and then you get to choose them anyway, whether they are acceptable or not, whether you manage to do that or not, and then various alternatives of how ... oh, the logic of: "Give the Minister more authority, more power and more control and then we can hold him accountable, we can better hold him to account" makes no sense whatsoever.

[17:00]

I am afraid I cannot be voting for this amendment. I have considered Deputy Le Fondré's amendment, which may or may not come up in the next few minutes, and I am not sure about that either. Then you are back to what the Chief Minister wants, and I cannot possibly vote for that, it is just more and more concentration of power in his hands. It may well be the most pleasant, calm, well-mannered and kind man in the entire world, I do not care, I am not going to give him that sort of power.

**1.8.5 Senator P.M. Bailhache:**

I agreed with most of what Deputy Tadier said. What one has to decide is where authority ultimately lies. Does it ultimately lie with the Assembly or does it ultimately lie with the Chief Minister? Both in the Chief Minister's proposal and in the amendment of the Constable of St. Mary, authority ultimately rests with the Chief Minister. The only difference is that there is a provision for an elongated process of 3 strikes in the proposal put forward by the Chief Minister. What is the point of all that if at the end of the day the Chief Minister's proposals must be accepted? So the logic in relation to this amendment must be that Members should accept it, even if they are opposed to the principle of the Chief Minister having the ultimate responsibility to appoint his Ministers. If Members want the best outcome for the future, the best outcome cannot possibly be that, with respect, in the proposal put forward by the Chief Minister, but it lies in the amendment of the Constable of St. Mary, which I shall support.

**1.8.6 Deputy J.A. Martin:**

It is good to stand after Senator Bailhache, who is agreeing with - I think it was - a facetious or sarcastic speech, although totally logical from Deputy Tadier. Of course, if we have gone down this route, why would you want the Chief Minister to have to bring back his selection of maybe up to 7 now, because it was only 3, but up to 7 people to be sanctioned by this House? My understanding of Clothier... and yes, it was not maybe in Clothier, but that was to make sure that the Chief Minister Designate would bring forward proposals to these offices, although even now we do not know which office they will probably be as this all goes through, but at least you have the right people to do the job and it would have to be taken from probably all sides of the House and the best person would get the job. That is me living in la-la land. But Deputy Southern asked

where the Constable of St. Mary comes from on this amendment. Now, I vehemently remember the Constable of St. Mary when she was first elected as Deputy of St. Mary came into this Assembly with all the changes that were going on and said she fully understood - and I do not disrespect that she did fully understand; maybe we have not understood - that the Government of Jersey was under the Ministerial system of the Council of Ministers, and she is nodding with me, and everyone else were the Legislature, we were basically all Back-Benchers, maybe doing a bit of Scrutiny. This is where the Constable is coming from. Many of us are still struggling to understand that concept, so I do not shoot the messenger, because I totally understand where she is coming from. I am very disappointed in the comments from the Chief Minister, who says on this part of the amendment: "I am also content to accept whatever decision is made by the States Members regarding whether in these circumstances the Chief Minister should decide upon appointment of elected Members as Ministers." So he can just bring his slate, and he is quite content with us to make up our own minds. Well, half of us do not even know if we are in the Government or we are in the Legislature or we are in Scrutiny; we do not know. We still have not decided where we are, so I think to me it is a step too far. It is quite logical, again, that why would we have somebody bring us ... we have moved it so much, and when I was looking to amend it, it was like going back to: "No, if the Chief Minister Designate cannot get a team in the first, second and the last-ditch attempt, he should fall." The Constable of St. Mary described this as a political tool, because there could be an election very close together of Chief Ministers, so we are going to tactically vote. But hang on a minute, these are all the people who you are putting your trust in, collective responsibility, and they could not do this, could they? But we have just had the example why we have got to do it this way. So do we trust them? Do I trust the Chief Minister? I do not know his policies. Oh, but there is a failsafe because you are going to get 15 minutes of questioning of the Chief Minister and then for every Minister, up to the 7, you will get another 10 minutes and then you can hold him to account on what he says. Have we not been having question time for the Chief Minister over the last 6 years? Has anyone really got a sensible answer and any sensible accountability? Well, no: "It is on Hansard. It is what I said, it is what I promised. It is all again not about policy." It is to me a very sad day, because the mood of the House ... the Chief Minister will not accept my amendment. I am contemplating pulling it, I am contemplating going home and having a cup of tea, because I just feel that the only way sometimes to not get policy through is to just keep sitting here and saying: "It is wrong." But we got the input of Senator Ozouf when he came back and graced - after we have sat here all morning - us with his presence to tell us we are debating the principles in the wrong way: "But no, let it go through because then you can pick out each bit you like or dislike and trust me, because I am telling you this." He was corrected by the Bailiff, because we had had a very good in-depth debate on the principles and it was the principle of: "Do you agree we should change this, that and the other?" and that was what was on the paper. So we are here now. We are trying to amend ... well, nothing makes this better, whether you go with ... I might even vote with the Deputy of St. Mary, because would you say we have got to have a Chief Minister, he is going to have  $x$  amount of Ministers and if we do not like his first 3, he is going to do it anyway? He will decide who he wants anyway. What a way to run a Government. Where are we? So that is what I say, always be careful when you think: "Oh, we will let them have their ... do not chuck this out at the principle stage, chuck it out" so when you do not like each bit of Article ... no, we are where we are. I really do not know which way I am going to vote. On Deputy Vallois, I did not vote - it will not be recorded because I did not vote - and I probably might not vote on this, because I do not know which way to go. All right, I could abstain, but even that casting is something that I think is knitting with fog, it is absolutely mad and it is a very, very, very sad day for democracy in Jersey and the next House will be accountable. But there will not be many people who are in the Government and they will not be accountable under Deputy Vallois' version of Scrutiny or a code of practice, which when I asked what it is going to look like, that is up to the Ministers to decide. Well, ye of little faith, I cannot support this, I probably will

not support when we go back to the main Article and I cannot support anything that is being proposed, as I say. We will not get there tonight, so I have got overnight to think about my amendment on Assistant Ministers, which my amendment goes a little bit further than Deputy Young's, which if this goes through, Deputy Young's has got to go through, possibly because again it is: "Oh, Assistant Ministers, agree with that." Not brought to the House, not again brought to the House, the Assistant Ministers. So I will think about my amendment overnight, but I just think we are absolutely trying to get something a little bit better, we have been duped into coming to the Article. Some people are thinking: "Oh, I do not like that bit. That can be voted out." We have already voted Article 2 through. Article 3 is how do we get to the ... we already got collective responsibility under Article 2. Article 3 is how does the Chief Minister get there? Well, to me this is as good as anyway, but I just feel like I cannot support it because it goes against every principle that I absolutely believe in and still do. I want to be part of this Government and I want to be influential in it, and the Deputy of St. Mary absolutely makes it clear, and she agrees, she has never seen herself ... or sorry, anybody that is not in the Council and not an Assistant Minister as being in Government, so that is what your decision is. Do you still want to be not in Government? Very hard to explain to the people out there: "Well, no, I could not do that, because I am not in the Government." Does it go with being how you are elected? I do not know, but there you go. I am torn where we are. I probably will not support this, but logically it makes all the sense in the world, because we have already started down this, picking Articles that we cannot vote against bits of. It is all the Article or none and it is all the Article as amended or none. So there we are again in a fine old mess, Stanley. Thank you.

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

I think I have managed to calm myself down and find some sequence in these papers. I feel almost that I have been transported suddenly to some distant planet where I am required to think in a completely different way. I thought I came to this Assembly to try and influence Government decisions, policies, for the good of the Island. Here we are probably debating one of the most important things that will shape the procedures used, the way this Assembly by the new Members of the House that are elected in the October elections, the way in which the new Government will be formed, the way in which the Ministerial team will be formed, the whole direction of Government for the ensuing years. We are making that decision, and frankly, what do we have on the table? We have - I do not know if it is parliamentary - almost a dog's breakfast of amendments and so on to choose from, almost like having a lottery. When Ministerial government was introduced, I remember thinking: "I wonder what the elected candidates will say at the door when you go to somebody's house and you say: 'Hello, who are you? What do you want to do in Government? Do you want to be ... are you going to be a Minister?'" People will say: "I do not know." "Are you going to be an Assistant Minister?" "I do not know." Of course now the question is going to be: "What influence or opportunity have you got to choose Ministers?" "None." "Well, what are you here for?" almost is going to come. I am totally struggling with this, and of course in the earlier debate, which frankly I think the decision has gone against those of us who I think foresaw where we would end up, and it looks as if we are going to have to spend an awful long time in a very painful process going through these Articles, a lot of effort, a lot of reference was made to the Machinery of Government Report, and I retreat to this and say let us find at least somewhere the logic to this. There are a number of recommendations in there and what it said was that the ... this is section 6, both about the election of the Council of Ministers, and it highlighted probably one of the most important things and it drew the issues about debate, about the choice between whether the States Assembly should have a direct part to play in selecting the Council of Ministers and of course they have drawn attention to the Isle of Man system then. It says: "The selection of the Council of Ministers is about devising the best team to deliver ..." not what is about to be delivered would be to over-simplify: "The States need to have the final say."

That is what it says, and so it said: “A Chief Minister Designate should continue to be required to seek the endorsement of the States Assembly for his or her team” and then it goes on to say: “The States should vote for and against a list of individual proposed Ministers on an individual basis and the Chief Minister should be able to propose a maximum of 3 Ministerial teams.” I remember the discussion, and I think it was that kind of in a nutshell, 3 goes and out. That was the whole consensus. It was all those debates, a lot of criticism being made about that machinery of government. I have lost count of how many hours we spent on it debating this. Those of us who were, if you like, more ... I have been called a traditionalist, strongly influenced by my experiences working as a civil servant in the committee days. I was prepared - am prepared - to modernise, I want to modernise, but I am sure I want to see that there is modernisation to improve things and take us forward and not to be retrograde.

[17:15]

We had that debate and I was prepared to go with it if we, yes, strengthen it, and providing we have got those safeguards, and yet what do we find now? I think we have got a choice of saying: “I think the Chief Minister is 3 goes, no votes individually, so we do not know which of the Ministers, we cannot vote on Ministers, so we do not know which of the ones the Assembly has problems with, and then at the end of the day, if the Assembly does not approve it, then they are automatically appointed.” What is the point of having questions? Why? You might as well go and have a coffee, you might as well have a rubber stamp: “Bang, there is the Minister team. Job done.” Then we have got another choice, which I am really struggling to see the difference. I must be thick, I think. The Constable of St. Mary has given us a proposal which I think she effectively said comes back to the same thing, and then we got another one from Deputy Le Fondré later with a kind of a halfway house. I am just like Deputy Martin here, what does one do when you are trying to make sense? I desperately agree with Deputy Hérissier, I want to try and make this better, I want to go through line by line and make decisions which are rational and sensible to improve it, but I think we have just got such a dreadful vehicle and such a nightmare of complications. I think I am just going to have to wait and see what other Members say and then go with that.

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

I would just like to start briefly by saying that the suggestion by the Chief Minister originally that his proposals reflected those of the P.P.C. Sub-Panel, I was on the panel, and not according to my recollection. The recommendations were what we had today. But I would like to pick up on the ... I think Deputy Tadier spoke exceptionally well, as did Deputy Martin, because I really do despair, especially over the last 3 years. This Assembly is becoming increasingly irrelevant and increasingly unable to represent its electorate and today I believe we just made it worse. Basically, as far as I am concerned, we might as well go the whole hog and adopt this amendment of Constable of St. Mary, then we will be totally irrelevant and we can all go home and leave it to the new Ministerial party.

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

I thought I would just speak, because on the basis that obviously if this amendment goes through, my next amendment does fall. Very briefly, obviously the summary of this amendment is that the Assembly will have no influence over the Chief Minister’s choice of Ministers and there is no flexibility for the Chief Minister to decide or change Ministerial posts, as I have understood it, in terms of in the round. It goes back to Clothier, as far as I am concerned. At paragraph 5.2 of Clothier, it refers to: “The Chief Minister choosing his or her team of Ministers, which would then be presented to the States for approval.” So even back in the days of Clothier, so 14 years ago, there was direct recognition that the States should have the final say in some shape or form during the nomination process, and this amendment completely ignores that principle. So basically if this

amendment goes through, as Deputy Baudains says, yes, one might as well just go and make some coffee. It will all hinge upon the appointment of the Chief Minister and there it will completely remove the nuances, that will happen. As to the choice between 2 Chief Ministerial candidates might be a nuance, there might be some subtleties in there, do not know what it will be. But at present, Members will then say: "At least we can then influence the team." This takes any of that influence completely away. To agree with Deputy Tadier, and obviously we were all on the sub-panel together, the 3 strikes and you are out, I think it was probably a joint recommendation from the then Privileges and Procedures Committee, and certainly Policy and Resources. Obviously the view was at that time of the Chief Minister: "It does not matter if they are politics played or not, it means that the Chief Minister does not have the majority of the view of the Assembly." But if the Chief Minister is unable to put a team together after 3 attempts, he or she was gone, and that was the recommendation. I have reluctantly accepted that, fine, there is a danger - I do not know - about the falling into an Italian situation or Belgian situation on how long it takes to put a Council of Ministers together. In summary, for me there are 3 alternatives: the Chief Minister's proposals, 3 strikes and you are in. If he or she does not receive the support of this Assembly for his or her team after the third failure, he or she can propose whoever they like, even if it is a team the Assembly has already rejected. I agree with the Connétable of St. Mary, that seems a pointless exercise; that cannot be satisfactory. However, the Connétable's suggestions basically take all and any influence away from the Assembly, and I would go back to the flexibility as well presently proposed of being able to establish Ministerial positions without necessarily recourse to the Assembly. Or - and I think it is appropriate to refer to this debate for not supporting this proposition - my proposals, which are next in your events. Of course I think they are a reasonable compromise. I would say that, would I not, but they are supported by P.P.C. and I believe they are supported by one or 2 Ministers: namely, let the Chief Minister try to put a team together, okay, let him or her have those 3 attempts, which everybody has talked about, to establish that team. But if that is not acceptable to the Assembly, which I think is probably going to be unlikely after 3 attempts - we are talking about a fall-back position - then we revert to the present system, in other words, the one that exists today, in other words, the Assembly having influence over the appointment process. In reality, I do not think that will happen that often, but it has surely got to be better than the 2 alternatives facing us at the moment. In relation to Deputy Martin and Deputy Southern's comments, what one has always got to consider is the item we are debating, namely the Article, are the amendments to that Article going to make that Article better and then make the decision whether one votes for the amended Article or not. In my case, I will not be supporting the proposition. I would hope Members will look favourably upon mine coming up.

#### **1.8.10 The Deputy of St. Ouen:**

I really am struggling to see how this amendment, and indeed other amendments that are going to be proposed, are going to improve and encourage the public to get engaged with and trust Government. The reality is that the public will be asked to elect, at the moment, 49 States Members, all presenting their manifestos, all with the hope that their elected representatives will be able to have an impact and influence to the Government of this Island and deliver and deal with some of the issues that they believe need to be addressed. Today we are saying: "That is great. We support that [I hope] but one of the first jobs as a newly-elected States Member, we are going to absolve that duty, we are going to pick a Chief Minister and then tell him: 'Right, that is it. That is the end of it. You choose your team, you sort it out. You come back with your Strategic Plan. Yes, we will fiddle with it if we can, but that is the end of it.'" I really am struggling to understand how that will engage and bring us closer to the public. Maybe I have missed something and maybe other speakers, Members, will choose to elaborate on it and put me straight, but I cannot believe that that is what the public expect. We are all coming to all sorts of different conclusions. Everybody is speaking as though the Chief Minister, our Chief Minister, has already been re-

elected. Let us not forget the Guernsey situation. The Guernsey situation was a newcomer arrives on the scene and was ultimately elected straight into the position of Chief Minister. How is he going to be guided? He will be brand new to the job, and we are going to absolve ourselves from any responsibility of helping that individual create and form his Government by identifying and supporting and selecting individuals to run the different departments. Now we are going to say: “No, sorry, no, no, we have changed the rules now. That is your responsibility. Get on with it.” I have heard of putting your trust in a States Member, but that is definitely, as far as I am concerned, going way too far and I certainly cannot put my name to this, unless, as I say, I have missed something different and someone can say why this increases and encourages greater trust in Government. Thank you.

**Deputy M. Tadier:**

May I test the mood of the Assembly in having heard from various speakers as to the perceived inadequacy of the provision for the election of Ministers, both in terms of the substantive proposal of the Chief Minister and of this as a resolution, and given the fact that the fall-back position would be, if it were to be rejected, that the current system would be in place and we would not know what that meant? Can I ask for a reference back, Sir, on this Article so that we can find out exactly how the mechanism ...

**The Greffier of the States (in the Chair):**

I think you are just a little bit ahead of yourself, Deputy. I think we are currently dealing with the amendment of the Constable of St. Mary. I think we need to conclude the debate on the amendments before we can look at reference back.

**Deputy M. Tadier:**

Okay, Sir. I will give notice though that is obviously in mind.

**The Greffier of the States (in the Chair):**

Very well.

**Deputy R.G. Le Hérissier:**

Might it time for the adjournment, Sir? It has been a long day.

**The Greffier of the States (in the Chair):**

I just saw the Chief Minister put his light on, but no. Well, if Members wish to adjourn ...

**Deputy J.A.N. Le Fondré:**

Can we just test the mood and finish ...

**The Greffier of the States (in the Chair):**

The adjournment is proposed.

**Deputy J.A.N. Le Fondré:**

Can we test the mood and just see if we want to finish this amendment, Sir, or not, how many people are left to speak?

**The Greffier of the States (in the Chair):**

The adjournment is proposed. Is that seconded? **[Seconded]** All those Members in favour of adjourning now, can you do so?

**Senator L.J. Farnham:**

The appel, please, Sir.

**The Connétable of St. Mary:**

Can we not speak?

**The Greffier of the States (in the Chair):**

We do not want to spend hours debating whether we are going to stay here, Constable. We can.

**The Connétable of St. Mary:**

No, Sir, but I feel I would like to say it makes no difference to me, I am prepared to go now if Members have finished speaking, but yesterday I felt we had a wholly unsatisfactory conclusion, because there were more people than people had anticipated who wanted to speak and I think it was rushed. As I say, I am quite prepared to sum up now, Sir, but if other people wish to speak, I do not think this ... I think personally that this is one of the most important debates in the round - not my amendment, necessarily - that we have had and I think we need to do it justice.

**The Greffier of the States (in the Chair):**

The adjournment is proposed and the appel is called for. I think it is probably best not to take too much time debating it. I am sure the issues are clear to Members. Presumably the intention is if the States do not adjourn, they will conclude this amendment, but the adjournment is proposed, the appel is called for and the Greffier will open the voting.

<b>POUR: 31</b>		<b>CONTRE: 9</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator P.F.C. Ozouf		
Senator S.C. Ferguson		Senator P.M. Bailhache		
Senator B.I. Le Marquand		Connétable of St. Peter		
Senator F.du H. Le Gresley		Connétable of St. Martin		
Senator I.J. Gorst		Deputy of Grouville		
Senator L.J. Farnham		Deputy J.A.N. Le Fondré (L)		
Connétable of Trinity		Deputy J.M. Maçon (S)		
Connétable of St. Mary		Deputy J.P.G. Baker (H)		
Connétable of St. John		Deputy of St. Mary		
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of Grouville				
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 J.A. Hilton (H)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy R.G. Bryans (H)				

Deputy S.Y. Mézec (H)				
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**Senator I.J. Gorst:**

Sorry, just before you do that, could I ask for clarification from Deputy Tadier, because it would be useful for me so I can try and take advice overnight about what it is he is going to be asking.

**The Greffier of the States (in the Chair):**

I wonder if it may be easier for those for the Deputy to speak to you privately. Thank you.

**ADJOURNMENT**

[17:28]