

STATES OF JERSEY

OFFICIAL REPORT

THURSDAY, 3rd JULY 2014

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[9:30]

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

PUBLIC BUSINESS – resumption

COMMUNICATIONS BY THE PRESIDING OFFICER

1.1 Temporary absence of the Bailiff

The Greffier of the States (in the Chair):

Firstly I inform Members that the Bailiff has asked me to notify Members that he has been overseas on States business and was due to be in the Chair this morning but unfortunately his flight back was cancelled. He has had to reroute and he hopes to be in Jersey by lunchtime and to be in the Assembly this afternoon.

1.2 Draft Sea Fisheries (Vessel Monitoring Systems) (Jersey) Regulations 201- (P.85/2014) – apology from the Connétable of St. John

Connétable P.J. Rondel of St. John:

After the debate on the Fisheries proposition several days ago I said a few strong words about the Assistant Minister. As I said them in public I should like in public to apologise to the Minister if I hurt her feelings in any way. **[Approbation]** Thank you.

Deputy C.F. Labey of Grouville:

May I respond to that please? I appreciate the Constable's apology and doing so in public and while I accept I might not have explained the projets or Regulations as clearly as I might have I felt that his remarks were quite unjust. I think it is one thing ...

The Greffier of the States (in the Chair):

The Connétable has apologised and we do not want to reopen the wound.

The Deputy of Grouville:

No, but I would like to say a few words because I think a few people - especially the response I have had from the public - were quite shocked. While most of us try to do our best in here I feel some of the questions that were allowed to be put were totally off the subject and so it was unfair, but I would like to say there was a vote during those projets that asked Scrutiny to be called into look at the projets. I did feel that Members are confusing the role of Scrutiny. Scrutiny is not there to enhance their own understanding or to let them off the hook if they have not read the projets before them and to gain so many votes from Scrutiny Members too to try and put these projets to Scrutiny I was quite surprised. I would like to thank the Constable for his apology which is accepted.

2. Draft Regulation of Care (Jersey) Law 201- (P.95/2014) - resumption

The Greffier of the States (in the Chair):

Very well. The debate therefore that the Minister for Health and Social Services had proposed yesterday afternoon, the principles of the Draft Regulation of Care Law. Deputy Hilton.

2.1 Deputy J.A. Hilton of St. Helier:

This proposition was lodged on 20th May 2014 with a set debate date of 1st July 2014 allowing the Health, Social Security and Housing Scrutiny Panel less than 6 weeks to conduct a review. Members are probably aware the panel has been fully engaged in 2 other reviews, one being the Child and Adolescent Mental Health Service, and a full review into the proposed dual site hospital and full business plans on White Paper health spending, both of which have taken up an enormous

amount of our time in recent months. Combined with this we also had the Minister for Social Security lodge his Family Friendly proposition which again was due for debate on 14th July putting our officers under even more pressure to complete the work. We regret the panel was not in a position to conduct a full review for what is an important piece of legislation but even if there had been States Members prepared to come forward and assist with this review our officers on Scrutiny were working flat out on other reviews and there simply was not the capacity within Scrutiny to achieve more than we did, which was a desktop review on the draft law. We sincerely hope these matters will be addressed by the relevant parties in the next States Assembly to avoid the logjam currently being experienced. In brief it should be noted the Draft Regulation of Care (Jersey) Law is the primary law which is the foundation for the regulatory framework. Without this no Regulations can be brought in. This matter has been dragging on for a very long time. I have my own personal views why this has happened but what is important today is we are being presented with a draft law to approve which our expert adviser in her report confirms the draft law provides a sound framework for regulating health and social care services which reflects the key aspects of the requirements particularly identified in the England regulatory standards at present. What is clear to the panel is that there are fundamental areas to be explored in great detail once the Regulations come forward and indeed this will be an important piece of work for the next Health, Social Security and Housing Scrutiny Panel to undertake. My only hope is that when this happens Scrutiny is given the time necessary to carry out a full review on what will be an extremely important piece of work. The situation in the U.K. (United Kingdom) at the moment is each country has its own law governing the provision and delivery of care services, and currently the care law of England and Wales has been updated and is going through major changes. Due to the major changes taking place in the U.K. our adviser has recommended that the Draft Regulation of Care Law be suspended until the Care Act 2014 in the U.K. has completed its consultation on market oversight allowing time for the draft law to reflect the most up-to-date information and best practice but my fellow panel member, the Deputy of St. Ouen, and I considered this recommendation and agreed that there should not be a delay in the adoption of this draft law and it should proceed as normal. Due to the very tight timescale as explained previously the panel has been unable to review the exact details of the Care Act 2014 and therefore suggest that this information when available is used to shape the future draft Regulations. Our adviser has identified 6 key areas covered within the draft law and has made a number of observations which Members can read on page 4 of our report. Also the recommendations are shown on pages 6, 7 and 8 and the panel hope serious consideration will be given to these recommendations by the Minister and her department when she brings forward the Regulations which will underpin the law. One area I would like to touch on is that of safeguarding. It is of utmost importance the safety and wellbeing of our most vulnerable Islanders is placed at the very top of any Regulations which are brought forward. Members may be aware of previous incidents which have taken place in elderly residents' homes where individuals have suffered at the hands of unscrupulous carers. It cannot be stressed strongly enough that checks and balances are put in place to ensure as far as is humanly possible only those people who have a genuine interest in caring for the vulnerable are the ones employed to carry out the service. One thing I would like to mention there is my concern, which I have stated previously in the Assembly, of criminal record checks. I believe very strongly if countries and other jurisdictions within the European Union do not have systems in place that are sophisticated enough to inform us whether an individual has a criminal record they should not be employed in the care industry. In conclusion the panel is aware that the finer detail will come with each set of Regulations. The panel asks that the consultation takes place with all stakeholders to enable them to be part of the development of the Regulations. We recommend a thorough detailed consultation period is held for each of the Regulations allowing for adequate time to be allowed to address any concerns arising out of the consultation. Finally the panel believes it is of utmost importance that

future Regulations should be fit for purpose and able to meet the needs of the Island.
[Approbation]

2.1.1 Senator A. Breckon:

First of all I would like to declare a non-pecuniary interest. I am a member of the management board of Maison St. Brelade which as I say is non-pecuniary. Having said that, and I think the Minister mentioned this morning, it is an excellent place for people to live and the residents are at the centre of attention of everything that goes on there. It is well run to a high standard and - get the advert in - reasonable rates as well. There is indeed a waiting list. Although I welcome it it is a bit disappointing because in the Scrutiny Report on page 7 it says that in May 2006 the Council of Ministers acknowledged that legislation regulating the provision of health and social care in Jersey was no longer fit for purpose and approved drafting time for a new law.

[9:45]

That is 8 years ago and perhaps we owe an apology for some people Deputy Hilton has just mentioned and the Minister mentioned. We have left some vulnerable people to the vagaries of the market. I can give an example of that in a minute but we do have a duty of care to those people. Somebody came to me a number of years ago because they had been charged over £20,000 for a month for care for a lady at home. When I made inquiries the only safeguard was the person registered with the business. The staff were not regulated at all and I found that surprising because when I did see the proper framework for looking after people at home it was very comprehensive, the proper way to do it, and this particular agency, let us call them, were not doing any of that at all. The difficulty for older people in this situation is where do they go and who do they trust. The person they have met with from the agency, the owner, the approved person if you like, was very plausible in their presentation about what was provided but it was actually a money-making machine. There were all sorts of charges there and it was heading towards the Royal Court for a discussion on the charges, and it settled a few days before out of court but of course this was very traumatic for an elderly couple in these circumstances. At the time I thought: "This is absolutely nonsense if we are allowing this to go on." Although it is to be congratulated that it is here today the question is who has really been progressing this for 8 years? That is really sometimes where I think we have a failure in the system where somebody says: "Yes, it is a good idea to do this but who chases the progress?" Things are left to lie and if it was just about knocking a wall down then it is not a problem but when it affects vulnerable people's daily lives then more should be done and quicker. Sometimes we have legislation before us that comes out of the ether and then there are things like this which just have not appeared at all, so although it is not necessarily all on this Minister's watch really there are questions to be answered about where has it been and who has been loitering with it because it is a real issue for people. That is why it is welcome because it is not just a law, it is the Regulations that follow and it is about individuals at home or the vulnerable having a proper care plan which will sit under this. I can also appreciate what Deputy Hilton is saying because when it is dropped in the lap of Scrutiny like this then it is something that questions like that need to be answered, but also if Scrutiny were to delay it then they will be frustrating the situation even more. They are between a rock and a hard place and they are to be commended in doing what they have done in such a short period of time. Again I hope other Ministers will learn from this and perhaps take Scrutiny on board at an earlier stage. I know it is a policy in development and it is considered taboo but it is not a secret. It was 2006 with the Council of Ministers and somebody should have done something sooner because I feel although this is welcome we have let people down in the meantime and that is not appropriate. We should have done more and we should have done more sooner and parked some of the other stuff that has occupied our minds in the meantime, and for those reasons I fully support this, but it is with those frustrations if you like that it has taken so long.

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

I appreciate what the Minister is trying to do. I have no problem with the Regulations that are being proposed but there is something which does trouble me about this proposition and I hope the Minister will be able to help me understand it better in her summing up. When I read a report, for example, on page 5 which transfers responsibility for regulating health and social care from the Minister for Health and Social Services to the Commission I am concerned that we might be falling into the same situation as we have seen with some of the incorporated utilities. When there are problems that are brought to a States Member from a constituent or whatever we then find that we have nobody that we can hold to account. At present we ask the Minister and we can hold the Minister to account. If this is being passed over to a regulator, to a Commission, our ability to hold that entity, especially as it is shared with Guernsey, to account is virtually non-existent. It does concern me and I hope the Minister can assist me when she sums up.

2.1.3 Deputy S. Power of St. Brelade:

The first thing I would like to say is that in the last year the Health, Social Security and Housing Scrutiny Panel have been asked to do an extraordinary amount of work. If one looks at the Housing Transformation Programme, if one looks at the Child and Adolescent Mental Health, yesterday's debate on children with special needs and this one this morning and it gives me particular pleasure to thank them for the absolute dedication that this panel has had in the last 6 or 7 months in generating this amount of work and quality reporting from the panel. From my own personal point of view, I am very grateful for the Deputy of St. Ouen and Deputy Hilton for carrying on as they have had to do without the Chairman. It is to their eternal credit the quality of work that they have done. The next thing I would like to say is that I welcome most parts of this Draft Regulation of Care Law and Members may or may not know that I am also a member of the committee of Maison St. Brelade. In my naivety, in my absolute naivety 3½ years ago I started a charity with the Rector of St. Brelade and a Scotsman so there was an Irishman, an Englishman and a Scotsman and we started a charity with a great deal of naivety, and I have to say to everyone in the Assembly that in spite of the mistakes we made we survived the first 3 years. I will openly say to everyone in this Assembly that starting a charity which has an element of care is extraordinarily difficult. I will say also that for those of us that have done this I cannot say that I was qualified in any area to carry out this work except for, I suppose, a commitment or a desire to help which was based on my own personal experiences. I do not want to talk about that but what I do want to say is this and it refers to the draft law itself. I was recently with the trustees of Caring Hands. We decided that we would seek registration and go through this registration process because we were not registered and we need to be registered and we need to be regulated. For those of us that have never been through the process before I have to say that the Health Department and the person responsible for regulation in the Health Department has guided us through the process almost as if we were completely unable to understand the process. She explained it to us, we understand the process, we understand the responsibilities and I think that the process that the Health Department is engaging in at the moment is to be praised. It is not perfect in every way but it is getting there. Indeed the Health, Social Security and Housing Panel have pointed out some of the issues that are there which brings me to my point. The Scrutiny Panel on page 8 talk about staffing, training and funding. Three and a half years ago we had no staff, no training and no funding but we managed to do what we did. My colleague to my right has just said it is still the same now. We have improved slightly and the charity itself has stabilised. I make this point for colleagues and for the Minister for Health and Social Services and for the professionals of the health service who are going to have to steer this through in its various stages after today, and that is that when a charity presents itself or when a group of people presents themselves to carry out some form of care, sometimes the charity starts without consulting the process and that is what we did. I found out through 3½ years that I have learned through this process. I have learned through the process of running a charity what I did not

know and now I know a lot more. The point is this: I hope that the persons in the regulation of care within the health services continue to adopt this light touch for those of us that are a bit naïve, get ourselves sometimes into deep water and end up in a care situation where we are caring for people sometimes with complex issues that we were not aware of at the outset. That is an area in itself on which I could write a book. Indeed those adults in society today who find themselves in trouble through financial problems, marital problems, relationship issues, drug and alcohol related issues and all sorts of other issues that come knocking on the door of Shelter Trust or any of the other places including Caring Hands, we do not know when they bang on the door what their complex needs are. We have learned a lot and for a charity, and somebody like myself who had no training, to be regulated that provides any kind of care is absolutely necessary. I speak from personal experience that we have learned so much from going through this process. To sum up, I am grateful for the Health Department to have brought it to this late stage and that we are addressing it today and I am extremely grateful to the Scrutiny Panel for the work that they have done both in this area and in other areas. For myself, having to fill in a police background records check this week for my own role was a bit of a surprise but I was happy to do it. For me I have to say that being in the care business or being in the care charity or being in the care provision has been an enormously steep learning curve.

2.1.4 Deputy M. Tadier of St. Brelade:

Clearly this regulatory framework is very necessary. We know that the current situation is not satisfactory but I have 3 considerations which I think are germane more broadly to this area. The first one is that although this will be absolutely necessary it should not be seen as the panacea for solving all the problems in the care sector. One area that needs urgent attention is the working conditions. Essentially what I am saying is that if people are having to work - as we know is the case - often under duress, if there are not sufficient safeguards in place for workers to make sure that the number of hours they are doing a week for example is not limited in an effective way either in theory or in practice, if we know that they are expected to carry out certain duties perhaps which they are not ideally trained for which are not in their job description which we know does go on, all these factors add to duress. It is these things that often with the best will in the world from the individuals, who I think the vast majority of them go into it as a vocation although there will of course be others who just go into it as a job, these really are the issues that lead to safeguarding issues. I do not think in most cases when there are issues it is due to any malevolent intent although there are a very small minority, as we know, who seek out these positions but it is by and large due to duress.

[10:00]

It is important that we have a hand-in-hand approach that when these Regulations come in we also make sure that we are having sufficiently trained people coming forward. We know Social Security is running the critical skills and that we are training-up nurses and that is to be commended but we need to make sure that these jobs are jobs that people want to go into and that they are sufficiently well paid. It is not something that we can necessarily directly influence ourselves but we can perhaps help to propagate that kind of culture. It is always interesting to note that the most essential jobs and the most difficult jobs in our society, indeed in wider society, are not those which are valued in the most in monetary terms and hopefully that is something that can change in the future as we become more and more reliant on the care sector. The second area that I have grave concerns about, and from having seen various issues over the last 6 years that have been brought to my attention, is that I am concerned about the trend for outsourcing. When we have companies essentially who are there to make a profit the emphasis is different from what it might have been in the past where the care of individuals, vulnerable individuals who may be young, or may be old, the prime motivation was to care for those individuals and now there is a risk that that has become an ancillary consideration and the prime consideration is profit. I do not think I am saying anything

controversial there or radical. That is simply a statement of fact. I have spoken to people in the department about future care plans perhaps around respite and so on where there is talk about trying to engender competition in the sector which will grow the market and provide better choice but ultimately we know it is a finite market and we know that it is not a typical market either which the free market can necessarily solve all the problems. It cannot solve problems elsewhere and it certainly will not be able to do that in this area. My concern is that whether it is light touch, whether it is very rigorously applied legislation and regulation is that what happens if we have a provider who is very specific and is the only one in Jersey that provides a certain service, and we find that over a period of time concerns are raised. The Commission is then put in a position where they have to perhaps the nuclear option, cancel this registration and we are left with a lacuna. What happens in the meantime? We are faced with that, we pull a licence and we have 50 or 100 people dependent on that service and are we as a States able to step in and provide it? It seems like the risk is in pragmatic terms that we do not apply the legislation because there is an impasse. They know that they have us if you like because we rely on that service which we have now outsourced. We do not provide it centrally. These are my concerns, the practical concerns that will arise from it. The third point is slightly different. Safeguarding is absolutely imperative. We know that in the past it has been very difficult to compel essentially private or outsourced companies to comply with background checks. We have asked them to do it but I have seen in the past where you have had these providers who just ask the workers: "Tell them you have to get a C.R.B. (Criminal Records Bureau)", and expect the workers to do it themselves, and for whatever reason, probably due to time constraints, they have not done it. You have had people working there for a period of time who have not even had a background check. The flip side of the coin, which is often forgotten - and I have had a case myself - is that there are people out there, and it is to do with the rehabilitation of offenders. We know that in Jersey, and in fact it was interesting that it was on a French news programme the other day commending the Probation Service in Jersey as a model saying that recidivism in Jersey because of the effectiveness of the Probation Service and perhaps other factors to do with living in a small island, was very effective. That is to be commended but there are people who would like to work in the care service who have perhaps transgressed in some way at a very young age, who have recognised that issue, have turned their lives around completely, and I have had to deal with a case for a young lady who has been in that very situation. The irony was she told the employer of her previous conviction some 10 years ago. It cannot be spent and that is something we need to look at. We need to look at spent convictions more generally. They were quite happy to take this individual on: first of all, her conviction had nothing directly to do with the area of work she was working in. The second point is they said she was the best worker that they had but yet they were compelled one way or the other to let her go even though she had been completely upfront, completely honest and that she was a prime example of somebody who was working in the care industry for the right reasons because pressure was put on. Now hopefully, this is a case which can at some point be resolved. It has been going on for quite a while but this individual is now, as you would imagine, completely distraught that the area in which she has trained, put so much training in and relied on to rehabilitate herself has now been pulled from under her feet and she is in a place where there is no clarity as to whether this individual can work in that industry. What kind of message does that send out to somebody who has tried to do the right thing, tried to get themselves back on their feet and is ultimately doing a job which is beneficial for the Island? So these wider considerations - I hope I have not strayed too much - I think will need at some point to be considered. How do all these factors fit into the regulatory work? They cannot all be necessarily resolved but they will be considerations that come up and I will be watching very interestingly how the practice fits in with the theory.

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

I do not know in this day and age what the digital equivalent of a stuck record is but I look around the Chamber and think that most people here will know what a round piece of black vinyl looks like when it is put on a record player. Yet again we have the same story, time and time and time again. Legislation, years waiting for it, years and years waiting for it, prepared by offices full of senior civil servants with expensive legal professional advice bought in and then 6 weeks for 2 members of a Scrutiny Panel with one officer to review. It is completely unacceptable and as we have got to the end of this session, it has become more and more and more regular. It has happened to the Health Panel, time and time again. It has happened to my panel. It is happening across Scrutiny. You have to ask yourself the question why it is done. It is almost like a reverse procedure; the longer it takes, the more important it is, the shorter the amount of time allowed for Scrutiny. It needs to be addressed. Once again, and again the record is stuck: "Do not worry about the enabling legislation. When the Regulations come back it will be fine." How many times have I heard that? "Do not worry. We will sort it out in the Regs." Despite the Minister's assurances, I cannot help but believe that there is U.K. influence in this paper that we have before us today. A U.K. system, which is now known to be flawed and under enormous and serious review. So I understand completely the dilemma that the Scrutiny Panel find themselves in today. Do they stop this moving forward in the knowledge that we have a summer break coming up, an election, a new panel, and the serious and real possibility that a full review of this would not be completed well into the spring of next year, almost a 12-month delay? What a dilemma to be put in. Their report says much about what they should be doing but at least they have stood up this morning and Deputy Hilton has said how difficult it is for them to stop this moving forward because like them, I, my panel, and other members of Scrutiny feel the responsibility of keeping Government moving forward. I came in here today ready to vote against this but after speaking to the Scrutiny Panel, I will go with them. It is not that we do not desperately need this new law, because we do, but we need the best law. We should expect the best law and the people of this Island deserve the best law. I will be looking for guarantees from the Minister when she responds at the end and if I am still here when she comes back with the Regulations, she can expect me to give it the closest scrutiny.

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

We are discussing the principles of the law at the moment and quite often when we do have legislation brought forward we do not really kind of do the subject justice. So it is with that in mind that I want to make a few remarks and hopefully the Minister for Health and Social Services will be able to reply. Having seen various programmes on television recently, and particularly in the U.K. of the shocking occurrences of poor care in care homes where monies have been paid either by individuals or through government programmes to look after people, there is no doubt in my mind that a Draft Regulation of Care Law should be introduced to Jersey. But that is only part of it because, as we all know, like the policing function with the Honorary Police and other areas where help and assistance is given to the Government to facilitate those services, we all know in our heart of hearts that if the Government had to pay or the individuals had to pay for the amount of care that is put into the system by individuals, loving caring individuals and family members, then we would not be able to afford the whole programme. It is with this in mind that I am particularly concerned, and we will come on to it when we discuss the details of the law. Within the interpretations of the definition of the terms and the regulated activities and the attention that must be, as other Members have mentioned, to the filling in of the Schedule 1 regulated activities. There are a whole host of things that need to be sorted out before I am assured that by bringing in this care law we are not going to be discouraging many of the caring family members from delivering services except through being able to be registered because under Part 2(3) the regulated activities are those that must require them to put their names forward and be vetted as a provider of that service. Somebody might say: "Well, okay. You are taking things to an extreme point" and perhaps by giving an example I can indicate that that may well be the case. So say, for example, I

wanted to provide care facilities, to pop into my parents who are both still alive and make them a cup of tea in the morning or breakfast, go shopping for them or whatever. The way I read it, at the moment - and there will be more debate when we come to these Regulations - it suggests that there will be regulated activities and the point I am making is that if we extend regulated activities, and they are not defined at the moment at all, to such actions, then I think we will automatically squeeze-out the very people who are providing sound care to their loved individuals in a way that they should continue to operate.

Senator P.F. Routier:

Sir, would the Deputy just give way just for a moment? Just to clarify whether the ... talking about going into deal with your own family's circumstances. My understanding of the legislation is that it only relates to people who are receiving remuneration for their work. It does not apply to people, a family member going into help.

Deputy R.C. Duhamel:

No, well, that shows how the Assistant Minister has not read the details properly because under the interpretation, Article 1 Part 1 - I have not got the number, but it is on page 39 - it does define a worker not only to be an employee or person under contract for services, but it does mention under (d) a volunteer. So it does extend to all those persons, as I am indicating, who are offering their services for nothing because they want to behave in the best way that they can for their loved ones. So this is the point I am making.

[10:15]

I am absolutely happy that if people are doing these things for money they have to come up to scratch and up to standard but, in principle, if this is the thin end of the wedge and we are wanting to move in a direction to regulate all activities under these very wide definitions then I think we run the risk of coming forward with an impractical form of legislation which will be the death knell, if you like, for all of the social care that is provided for nothing by family members. I hope I can receive assurances that that will not be the case from the Minister for Health and Social Services, but in not coming forward with the schedule of regulated activities at the moment to flesh-out which things are in and which things are out, I think we leave it open at this point. Thank you.

Deputy J.M. Maçon of St. Saviour:

Sir, on that point should we not put that perhaps to the Solicitor General just to clarify whether a volunteer or a family member are the same thing or are not the same thing under this law?

The Greffier of the States (in the Chair):

We could ask the Solicitor General to return, yes, but at the moment I will call Senator Routier.

2.1.7 Senator P.F. Routier:

I should just declare that I am a trustee of Les Amis, which is currently an organisation which is registered and regulated under the current system. I am also a parent of a son who uses those services and obviously am very keen that if, I am sure, anybody has a member of family going into care they would want to ensure that they are being cared for in an appropriate manner. The structure of this law I believe is sound. There is certainly ... and it should be supported. The Scrutiny comments regarding the new developments that are coming about in the U.K.'s changes, I think obviously have taken the right position about letting this go forward because even with our Regulations, which will come forward at a later stage, they will be able to reflect what is current thinking in what is not necessarily just in the U.K. but across the whole of Europe, and I think whatever is best practice wherever that is, we should be following that. I would just like to pick up on the point which Deputy Baudains made about his concerns about separating out the regulation

away from the States. From my point of view, because the Health Service themselves are providing services, I do feel that it is right to have a separated-out regulatory service because the current situation is Health Services are not regulated so we do need to ensure that Health Services are regulated and you cannot regulate yourself. I do not believe that it is right that the regulator should be looking at their own services, if the regulator was still in with Health. So I think it is vitally important that it is separated out and independent. This can only be the right way forward as far as I am concerned. I know there is criticism that it has taken quite some time and I understand... well, I know it has been a very, very time consuming piece of work to pull together but we should support it and as a Government we need to be sure that the services that are being provided by ourselves and also out in the community are being carried out correctly. Not only as a Government but I am sure if any of our family members were to be going into services we want to ensure that they are being cared for in an appropriate manner. I can only give this my wholehearted support.

2.1.8 Senator L.J. Farnham:

Just a brief observation, if I may, and listening and watching the headlines about this debate I could not help but wondering how I would feel if I was a care worker because ... and let me just quote from the comments. It says here: "Some of these people, particularly those being cared for at home, are at the highest risk of abuse, ill treatment and exploitation, yet our existing laws, designed to protect them, are over 30 years out of date." Now, while I recognise that people are at risk, in fact, we are all at risk in our society but fortunately the vast majority of us are honest people with good intentions and I believe that to be the case in general for care workers. Fortunately, a care worker is not motivated by money and I heard what Deputy Tadier said and there is this dilemma, this odd sort of situation where arguably the most valuable people in our society are undervalued when it comes to remuneration but perhaps it is a good thing in a way that these people, the majority of them are not motivated by money. But during this important debate I would just like to pay tribute to all of the care workers in the Island. Many of them are extremely hard working and are caring people. I have had first-hand experience with my late father, who received exemplary care from such people and I just wanted Members just to remember that while we are discussing this. Thank you.

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

I would just like to echo some other comments. I am not sure ...

The Greffier of the States (in the Chair):

You mean repeat them, Deputy?

Deputy R.G. Le Hérisier:

In the sense, Sir, that I would like to critique them. I am not sure that Senator Routier fully grasped what Deputy Baudains was trying to say. I think what Deputy Baudains was trying to say, it is all well and good to give power to a new Commission or a utility board but if things from an outsider's perspective start to go wrong or if the balance starts to go wrong... and I know this is very alarmist and people will say with these enormous number of checks and balances how could you conceive of such a situation, but say that was to happen and I will cite a case ... if they were to go wrong, how can we intervene without being seen to be micromanagers? That is what we are struggling with with our utility boards at the moment, where there are serious doubts in one area and serious questions which, quite frankly, have not been confronted at a strategic level, let alone at a detailed level. I think that is the point Deputy Baudains was trying to make. I mean, we work together on these propositions that are coming up later in this sitting and those are the sorts of points. I would like to know how will the Minister, even though she or he may be in charge of running their own services, as Senator Routier said, how will the Minister deal with situations where Members have a concern and they wish to express it in this Assembly? How will she deal with the questions? Will

she just say: “Sorry, I cannot be involved; I have given all my powers away to a Commission”? The reason I mention that is I do not know if Members have analysed what happened with Mid-Staffs. It is mentioned in the reports but basically a whole culture developed in a hospital despite a whole plethora of checks and balances which, of course, the inevitable response is to put in even more checks and balances and more regulation; that is the way we work. But a whole culture developed of uncaringness, of insensitivity to patients where unconsciously or otherwise, senior management and workers... they were all complicit in what was happening. How did it ever get to this stage? Why did nobody in a whole plethora of regulation, and I know I will be so told: “Oh, it was not regulated enough. Let us have more regulation.” But I am not sure that is an adequate analysis of the situation, quite frankly, and I am not sure had there been whistle-blowers around, had there been politicians who were taking an interest in the issue, whether it could be picked up. I know the N.H.S. (National Health Service) is not politically regulated in the way we are; there is only the Minister for Health and Social Services and a few junior Ministers who have to do the whole thing at that level. But that is why I think the ultimate political accountability without pedantic political interference is important. The other issue where I would echo Deputy Tadier is the role of the public sector. The English, and indeed, a lot of the U.K. sector got into deep trouble because it was based on a business model based on heavy mortgages brought out on properties which could only be financed by a steady flow of local authority fees. These fees started to slow up because of government cutbacks and we have companies operating in Jersey who have felt the brunt of that kind of system, quite frankly. We know that there have been real issues, there have been continuous changes in ownership of some of these big operators, Middle-East interest, German interests, and to what extent would the Minister regard it as her role, because I see there is a comment in the documentation, which I have not quite sorted out about regulation versus being involved in policy. To what extent would market oversight be part of the role of the Minister or of the Commission? In other words, to say the very thing that I think it was Deputy Tadier said: “Look, we are entering a monopoly situation.” They may have one of these financial models that I have mentioned where they are mortgaged to the hilt and basically they rely on a steady flow of essentially public sector fees to keep them going. How will the Minister deal with that if that situation arises? We maybe regulating to our heart’s content but if the ship is sinking because of defective financial modelling how will we deal with it? The other issue, and it sounds a strange one, but I remember when I was on the old Health Committee, we had to go to a care home to inspect a carpet because the care home operator would not replace it because there were a lot of cigarette ends that had been ground into the carpet and although the Minister will say: “We are not allowed to smoke” ... anyway we had to inspect this carpet because there was a lot of debate about whether it was unfair to require the operator to replace the carpet because the smokers, and indeed, food was being ground in, were doing it. So I wonder if the Minister feels there is sometimes a case of over-rigorous standards? I know in a way it is very hard to argue that but I have heard that before and, again, I would like her views on that, on how the Commission will handle that. Thank you.

2.1.10 Deputy M.R. Higgins of St. Helier:

First of all, I was not going to mention this but I would fully endorse what Deputy Le Hérissier has just said, and Deputy Baudains said before. I want to start off by giving a warning tale and it is something that has troubled me for some time. A lady who lived next to me a number of years ago and became a very good friend of my wife went into a nursing home and she was reasonably well-off, had sufficient money. She went into one of the more upmarket care homes in the Island where they used to have a glass of wine on a Friday when visitors came and so on. It was all very, very pleasant. Over time she started worrying about her finances and how the money was going, and it was going rather rapidly. She was also very concerned, too, about jewellery, and other things that she had had in the care of the home. It eventually transpired that my wife went to go and see her

one day and it was found that she was not there. She had been taken to hospital. She suddenly got violent and that she was suffering from signs of dementia, which was rather amazing considering the dementia came within 2 to 3 weeks. We were very, very puzzled by this. My wife visited her in hospital and again, the hospital staff were saying she was suffering from what appeared to be dementia. She never did return to that care home, which, by the way, they said to her: "Do not worry about it. When your money runs out we are going to look after you. Do not worry about it at all." When she went out of hospital she went to one of the, I think, worse care homes in the Island, and I think she died about 3 months later. Now, I am really, really ... I hate to say this but I do wonder. I do not believe that she got dementia in 3 weeks or whatever and I do wonder about her removal to the hospital and subsequently. Now we know that hospitals see patients when they come in and I can give an example in the U.K. of my own mother and mother-in-law. They went into hospital with various sort of infections and at times, coming out with some odd statements. We said to them ... they thought, I think, in my mother's case, she had dementia, or my mother-in-law had dementia. No way. It was the medication that they were on. When it was pointed out to them, they were both *compos mentis* and there was obviously something not quite right and they changed their medication, it was amazing the transformation in both of them. Now what I am trying to say is that there are, I believe, unscrupulous people involved in care homes and Deputy Tadier has mentioned about those where the profit motive is the main thing and they are mortgaged to the hilt and so on, and we need to be exceptionally worried. So what I am trying to say is here, I do support law coming in and regulation. I think it is absolutely essential that we do but it is a warning. The reason I am mentioning these stories is for relatives and friends of those who are in care homes, if they suddenly get dementia within a few weeks, start asking questions about the medication they are on, and so on. Anyway, I have got it out because it is something I have felt very strongly about for some time. Now I also have some reservations with the law but again, I am going to take the view that Members will have the opportunity to amend the law at a later date when the Regulations are published. It may not be ideal but we have got to start bringing in some regulation of this sector. Now, I also fully endorse ... so I fully endorse a lot of Deputy Hilton's comments and Deputy Tadier's regarding criminal record checks on carers although I do suspect that if we bring them in we are going to lose many of them because there are an awful lot who have not got criminal record checks.

[10:30]

But, as I have stated in this House many times, I think it is scandalous that the criminal record checks are preventing many Jersey people with minor criminal records from getting employment in this sector and other sectors when people from countries outside the Island, whose records cannot be checked, are employed and these people may have serious convictions whether it be for murder or rape or something else. We have no way of knowing what they have done in the past. We have a strange form of discrimination in this Island against our own people who we can check and they may have a minor thing and they will not get a job, and people from outside the Island, who we cannot check, could be sound, probably are, but on the other hand, there could be some serious offenders there. I think that it is something that is unacceptable and needs to be addressed by Ministers who have ducked this issue to date. So what I am trying to say is I broadly support the idea of the Regulations coming in. I do not think it is perfect and the Scrutiny Panel have done the best they can and I am inclined to support them in their reasoning and supporting it. But again, I would just also state that I also support Deputy Baudains and Deputy Le Hérissier about how do we hold these people accountable? One thing this House has been exceptionally good at over the last 3 years or 6 years is devolving power to bodies outside this House where they are no longer accountable to the House. We may have one Minister in charge who is supposed to be acting as our representative but what happens when push comes to shove and we start questioning them:

“Oh, it is not our issue” and he is not going to intervene or whatever. So I have to say it is probably the best we can do at the present time, but it is not good enough. Thank you.

The Greffier of the States (in the Chair):

There was a question raised earlier that the Solicitor General was asked to address. I understand he may be in a position to address that.

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

The question was what did the definition of volunteer mean in the interpretation section of the law and whether it might cover family members. If one looks at page 39 of the proposition one can see that the definition of worker includes not just employees but also people on work experience placements, or a volunteer. In principle, a volunteer could literally be anyone providing care on a voluntary basis so it could include a family member, but one has to read on to Article 2 and there is the effect of Article 2 subsections (1) and (2) is that the States Assembly can, by Regulations, define what sort of activities will fall within the ambit of the law and what activities will not fall within the ambit of the law. So obviously it is a matter for the Minister and States Members. I had rather understood the thrust of the proposition to be that family care was not going to be included within the ambit of the law and that the Regulations would, in due course reflect that. But that, as I say, is a matter for the Minister and, of course, States Members in due course.

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

Sir, could I ask a further question although I am not sure whether it is a matter for the Solicitor General or a matter for the Minister? On page 8 of the report, reference is made to the phrasing of what the Regulations will be applied to and it makes reference to personal and in this case, nursing domiciliary care. What would be the Solicitor General’s interpretation of what personal domiciliary care is? Because I was wondering whether it might include, for the sake of argument, housekeepers or, as we have also heard, carers.

The Solicitor General:

Well, primarily that is a matter for the Minister but reading that, it appears to mean that it may well be intended that carers who go and ... either volunteers or paid people go and live in someone’s home and provide care and sleep in their house, for example, so they are on call as just a random example, they would be covered by this law. But as I say, I think really that ... who you choose to... what type of care you choose to categorise as falling within the law is really a matter for regulation and States Members rather than me.

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

I have no doubt at all that it is a major step forward that the Islander has a completely new primary law regulating the quality of care and safeguarding those providing that care for vulnerable people. Absolutely no doubt about that. But I think it is important in this debate to ensure that we have got the scope of the law right because I want to raise an issue that has not been raised yet so far, which is, if you like, the financial regulation aspect which I think was touched upon by Deputy Tadier and Deputy Le Hérissier. In the Scrutiny Report, which is very, very helpful - extraordinarily helpful and I thank the panel for it - it says on page 4, that it is the intention that this law should be extended and cover a whole range of personal health services which, including such things as dental practitioners, medical consultations, paramedical activities, cosmetic procedures, social care, as well as what we might regard as obviously the core purpose now, which is residential care, long-term residential care. So it is clear that this framework of this law has to work for a whole range of broad services in the long term and given the amount of time and effort ... I do not know how many years; somebody said 8 years, I think. I think it is important that the scope of these laws, we think strategically very early to ensure that we get a broad scope. We do not find halfway down the track

we are too narrow, we did not include enough scope and we are... we will need to regulate things and we cannot do it. So clues that I have to where the scope of this law might need to be in that I notice on the expert adviser's report on page 19 and 20 of the Scrutiny comments, which is pages 9 and 10 of the expert adviser's report, they tell us about the similar moves in the United Kingdom and they tell us about how they have got different laws now in Scotland, England and Wales, and Northern Ireland and how here in England we have the Care Act 2014. Now that sets down the scope of that law and the scope obviously is vital because as part of registration and licensing one can only put conditions on licences if the scope is set out in the law. There, I see that the draft Regulations in the U.K. in the Care Act will include funding reform, market oversight and provide a failure, as Deputy Le Hérissier spoke of, but the key, charging. Charging. Of course, when one goes back through this list of services that ultimately may be provided under this law, the vast majority of them are going to be private sector providers and in many cases they are going to be monopoly providers. As Deputy Tadier says, well, what real choices do people have when you are in the hands of a monopoly provider on this Island needing a service? I was reminded of the debate we had... excellent debate on the Long-Term Care Law. The Island has set the outstanding example, I think, of best practice here. We have introduced a really progressive scheme to provide public funding mechanisms, a really substantial significant one and we have introduced a tax to pay for it, to provide for long-term care for a certain type of primary care. It was right that we did so but I remember the issue in the debate coming up, well where is the regulation going to be on this? Because Government are going to set out a set of rates. I think I remember the Minister for Social Security telling us: "Do not worry" when Members raised how would we know that people are getting value for money in those services and we are not having profiteering and exploitation of people? I think I remember the Minister for Health and Social Security telling us: "Do not worry. We have got the new Care Law coming along." So I asked a question, when I start... when I look at... so plainly their Scrutiny Report is telling us that in the U.K. is defining a wider scope for their regulation Law and they do say, for example, they are not going to be implementing in their law the charging and funding arrangements until, in their case, April 2016 because their... there it is. You see your work here. It says here they refer to a thing called a cap on care costs. That suggests to me that other jurisdictions are thinking about putting limits. Now, of course, you would not want to do that straight away but I wonder does the law that we are about to pass... is the scope broad enough to ensure that we do not find out at a later date that when we have got this Commission, excellent people there, yes, they will have the powers no doubt about it to deal with all the issues about the persons that provide the care, where the premises on which they are made, the numbers, qualification and training staff and so on. So when we talk about the Articles, I think I am going to... I would like... later on Articles 12 and 14 are the relevant ones here because they seem to quite limit the scope of the conditions of what can be included in the registration. The only reference I could find in there to a condition on costs and charges it says: "Impose requirements as to the publication of information as to charges made for the provisions of any service for the carrying on of regulatory activity." So in other words, the law at the moment, the draft we have got here, seems to limit it to just making people aware, telling people what they are going to have to pay. So following that in with what Deputy Tadier and I think Deputy Le Hérissier said, where we have monopoly providers, massive States funding coming through the Long-Term Care thing, what... if we have got this regulatory law, is its scope broad enough in the longer term to deal with that? But having said that, I have just put that issue out there for the Minister for Social Security to think about and it may be that it is another phase and it takes a number of years until we get that right. But I think at this stage when we are putting in place the basic framework, I think it is great that we have got the quality of care, the safeguarding. We seem to have obviously focused on that but as Deputy Duhamel says, when it has got scope of the regulated activities we have got a blank page and so we do not yet know and the Solicitor General told us we are going to have to set out that blank page and we are going to have to say what is in, what is out. Are family members who

provide support in or out? What about... how do you define a family? What about long-term friends? Close friends and associates of people that have known each other for a long time that might want to provide that. So I think there is work to be done there. So I am very much supportive of this. I just wanted to put those issues out there because I think every time that we do these laws, we should think broad, think strategically and get it right. I think the Deputy of St. Martin was right. Had there been time what with the excellent Scrutiny Report we have got, would have been followed up and fleshed-out and we would ... some of the questions I pose we would have been able to answer. So I am obviously going to support the law.

2.1.12 Deputy J.A.N. Le Fondré:

Yes, I broadly welcome the legislation today. What I just wanted to comment on, make a couple of observations on, was certainly perceptions in terms of inquiries that I have had in the past. I emphasise perceptions because I am sure there will be another side to the story. But basically that as far as the private sector were concerned or private sector providers that they were being applied under the existing Regulations were required to have almost a higher standard of provision of service compared to similar services being provided by the States themselves. That is why I do welcome that as it is my understanding that these Regulations will be applicable across everybody including ourselves. But I suppose what I wanted to just cover is in the report, obviously on page 6 it obviously identifies that I presume that this will be applicable, for example, to the general hospital. It also makes reference to the whole regulatory side of things being phased-in. So I suppose question one for the Minister, and the phasing timetable is on page 8 of the proposition, is what is the overall timetable to get everything in? Because obviously it talks about certain parts being 2015 but what about all the other parts? Number 2, and I am talking about the hospital in particular, is when will... I do not think that is included in that timescale. When will that be covered under the Regulation?

[10:45]

Just from, I suppose, a wider perspective - I know we have had it in other areas, I think the airport may have been one - is when that Regulation comes in, I am going to assume that will be before we have the new hospital in place, is what will be the position if, and I say if, there are any parts of... I use the hospital as an example, that are found to be deficient and what is the potential impact of that? The other issue I suppose, which goes back to my first point about perception as to a sort of inequality of how standards are applied. Will there be any areas that ... let us assume the timescale is going to be 3 or 4 years. I do not know. Will there be any areas that perhaps that the States provide care which will not be caught by the new Regulations immediately? Where there may be discrepancies in how those standards are applied compared to the private sector and will that just be allowed to continue or will there be an expectation that, for example, if there are any deficiencies those deficiencies will be remedied sooner rather than later and are those best practices applied rather than just relying on the letter of the law? I am obviously saying it is a hypothetical situation so I do not know if that is the case but I am just asking what would be the position. I do have to echo the comments made by Deputy St. Martin in relation to the time on Scrutiny. It is always unfortunate we are all seeing this squeeze towards the end of the year. But we do have to recognise that Scrutiny at the very beginning made a huge effort to change how they were perceived to be operating, were very positive in how they approached things and I think the counter-side, as it were, as the response has sometimes been a bit patchy, as to how Scrutiny has been dealt with and obviously that is going to have to be a matter for the new Chief Minister, as and when, to ensure that matters are improved even further. What I would like... just to go back to specifically to the Minister again, and it was really following on from the question I raised with the Solicitor General. What is the Minister's intention that, under the timetable of phased implementation, the reference to personal domiciliary care would mean? I am assuming on the basis this is the care regulation that we are talking, as it is envisaged it is to assist people who are infirm in some shape or form.

But could it be captured? Could it capture somebody who literally comes in to help do a bit of cleaning once a week for somebody who is elderly? I am assuming that is not the case but could you just confirm that for the record? Thank you.

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

I do not think anyone here would argue that all the health and social care activities should be regulated. However, I do - as one of the panel members - stand by our adviser's report that has been undertaken, and would just like to remind States Members that although the U.K. has had a wide range of regulation in place to support and cover the delivery of care, there have been some significant issues that have been raised, highlighted in recent times in 2 large and major reports: the Francis Report and the Cavendish Review and as a result, as the adviser quite rightly points out, the law is currently being updated and major changes could be taking place. So we need to view our law and what is being proposed in light of that and certainly I, like the Deputy of St. Martin, will definitely be looking at the Minister for Health and Social Services to absolutely confirm and guarantee that whatever the outcome is within the U.K. and the review of their legislation that if we need to amend our primary legislation that that is done as a matter of priority. I think there are a couple of other small points that I would like to raise. It is to do with the regulated activities. We are told that a number and quite a wide range of activities will be regulated; however, it will take time. Some of these areas include medical consultation and treatment in the field of general and specialised medicine, dental practice activities of a general and specialised nature, activities not performed by hospitals or practising medical doctors but by paramedical practitioners, cosmetic procedures or techniques undertaken by medical and non-medical staff, and so on. I just would like the Minister to explain how and what priorities she is going to place on introducing regulations for some of these matters? Because it is my view, and then I think the Minister highlighted it in her opening speech, that we need to protect the vulnerable people in high risk areas. I would suggest that our hospital and other areas are quite high risk areas. I am not sure if I heard the Minister correctly in her opening speech but the suggestion that we are going to wait until 2020 before we have the hospital appropriately regulated, I think is too long to wait. **[Approbation]** I apologise because it is a question that perhaps I should have raised given sufficient time but we have already had the Minister confirm that the first regulated activities will be to do with care homes and children's homes. Yet as many... and then a couple of Members have already pointed out Schedule 1 within this P.95 proposition - which is the draft Regulation of Care (Jersey) Law - is totally blank. I am confused. If it has already been decided that those activities are the first ones to be regulated, why are they not included on this particular schedule? Again, perhaps the Minister can answer that question. Finally I would like to just draw Members' attention to our comments that we issued, and if you have it in front of you I would like to ask you to turn to page 10. It speaks about the financial and manpower implications. We are told that a business plan for funding implementation, the first phase of introducing the new regulatory regime has been undertaken and it then speaks about what some of that includes. The point that we would like to make and draw Members' attention to is that it is not clear if the business plan for the implementation will cover all of the other areas that require funding especially within the areas recommended from the adviser regarding premises and resources. We do say it is imperative - and I stress the word "imperative" - that alongside any draft Regulations a detailed cost analysis is provided showing all financial implications that will be incurred within that specific set of Regulations. The reason why we say that is quite simply that before Regulation is introduced, let us all have our eyes wide open to all of the matters that surround the introduction of those Regulations. Let the consultation be thorough. Let it be fully inclusive and, as I say, let us make sure above all else - as my fellow panel member said - that the primary Law and the Regulations that will follow it, really do meet the needs of this Island. Thank you.

The Greffier of the States (in the Chair):

Can I just remind Members we have been debating this matter since 9.30 a.m. and I do hope that those Members who are still to speak will have something additional to add. Senator Ferguson.

2.1.14 Senator S.C. Ferguson:

But of course, Sir. I must say that I do agree with the Deputy of St. Ouen. The range of activities to be regulated is extremely wide. Surely G.P.s (general practitioners), for example, are regulated already and so are the other professional bodies so why are they included in the setup? The volunteers: I must speak up for the families involved. In my own case, I hired a lady to granny-sit during weekly daytime and I did evenings and weekends. Now, if the Regulations envisaged by the Minister will include me as the carer, is this aim to put more people into care homes? Is this yet another cost to the family? Will there be inspectors tramping through my lounge to make sure that it is old lady-friendly and so on? No. I am sorry. This is not good enough. We need a proper definition. I have also had calls from family members whose relatives are being cared for the States in a quasi-living independently basis. The family members want to help but they are being excluded by the carers employed by the States. Now presumably these are being checked by the Social Services Department. I do not know. But certainly from the volunteer point of view, would I, as my mother's carer, have required inspection and registration? As a corollary to Deputy Higgins, when my mother was in hospital, we found she was not being fed and, in fact, Members know that I do not do early mornings but I used to do breakfast and dinner and my granny-sitter did lunch. Lack of food can also cause confusion. I can confirm that there is now a red tray policy but this was after I raised this in this Assembly, but all too often as per North Staffs it still happens. To pick up Deputy Young's point, I found that hiring a granny-sitter and doing a fair bit myself meant it was about half the cost of a care home. It wreaks havoc with your social life but you can cope. If we put a cap on costs, as he was talking about, what happens to the quality of care? You put a limit on costs then the services offered under that will gradually fall away. Yes, we do need regulation of rogue agencies and certainly, as I understand it, it is probably the first time that the States-end of the organisation has been inspected. We have started with the care homes and now we are doing the carers. Yes, we do need it but please, do not overregulate it where the families are concerned. They are providing a service out of devotion. Do not ruin it for them because most oldies prefer to be, if we are talking about the vulnerable old in society... they prefer to be in their own homes, not institutionalised so a light touch, please, Minister.

2.1.15 Senator F. du H. Le Gresley:

Firstly, I would like to congratulate the Minister for Health and Social Services for bringing this very important piece of legislation to the Assembly. Moving from that, Deputy Young raised the issue of the new long-term care benefit which, of course, started to be paid on 1st July in some cases - in many cases. We were particularly concerned to ensure that there was a framework in place with care homes to deal with the payment of this new benefit and my officers have been working tirelessly, I have to say, over the last 6 months with the Jersey Care Federation to come up with a framework agreement which, I am pleased to say, the homes that are currently registered under the Nursing and Residential Homes (Jersey) Law have signed the agreements and I countersigned the agreements on 1st July and they are now all in place with the agreement of, as I say, the individual owners of these homes. I have not got one in front of me so I cannot go into the detail but they have been negotiated very carefully with these homes. The essential thing is with regard to charging is that what we have agreed with these homes is that when it comes to care charges, the personal care charges that the long-term care benefit is designed to help with, they will charge the rates that are equivalent to long term care benefit. So we have 4 levels.

[11:00]

So if, in the case of a home that is charging at level 2, shall we say, that will be equivalent to the benefit that we are paying because the average case, we will be paying the benefit direct to that

home for the care of the person there who has been assessed by social workers. So we have that agreement. Now the only bit that is not completely tight, if you like, is the co-payment which is relating to accommodation and food costs and I think we have made the point during the debate on long-term care that homes have different levels of services they provide for their residents and we are not in a position to restrict a home from charging for, as I used to say, a room with a view or extra services that somebody may wish to pay for. There is a co-payment which, I think is fixed at about £312 a week and many homes will be charging that co-payment but some will be charging extra on top of that for the extras they provide and that will be for the decision of the resident if they wish to pay that and accept that as the cost. Now when it comes to the area that really that we have all been concerned about, domiciliary care... and bearing mind that our long-term care benefit, unlike Guernsey, is going to be available to people who are receiving care in their own homes, have been assessed as needing a certain level of care which would be equivalent to going into a residential home. This is work that has been done by the Minister's Department, Health and Social Services; the Commissioning Section have been working on an approved provider's framework for home care services and this has been in conjunction with the various organisations, obviously the one that we all know, the biggest one, Family Nursing Home Care but, of course, there are other organisations who deliver care in the home. The important thing there has to be to come up... they have had to demonstrate that they have the appropriate skills and experience to enable them to provide quality, safe and effective home care support so they have been assessed on that basis and I am not sure of the exact number. I think it is about 10 or 11 community providers which will be for domiciliary care, have been approved and that list now appears on the Jersey Online Directory. So we have been doing a lot of work both in Social Security and in Health to ensure that the benefit that we are now paying from 1st July is in an environment where there is a safe system in place to ensure the care of the person who needs that care. Of course, it does not go far enough and that is why the Minister is bringing the Regulation of Care Law. In the case of homes that all registered as I said, under the Nursing and Residential Homes Law, we do have inspections and there are standards that we can accept but when it comes to domiciliary care, we do not have that sort of protection and that is why it is so important that the Regulation of Care Law, the framework law is put into place as soon as possible and that the Minister comes forward with Regulations in support of that law and I hope Members will give it wholehearted support today.

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

I did have a lot more to say but I think the Minister for Social Security has just summed up. It is a shame that there are some very technical points that are being brought up today and we had an hour and a half 2 Wednesdays ago with the law draftsman and the officers at the Town Hall and a lot of States Members who are repeating the questions were there. I am sorry if they did not get the right answers but they seemed satisfied at the time. I will obviously leave the summing up to the Minister. I just did want to touch on... I totally agree and look forward to the different version that will be brought forward of Scrutiny where there will be an overall panel and if there is an overloading at the end of sessions like this again, people can be drawn on to the panels. It must work that way because this ... you look at the budgets of the departments and the laws that have been coming through Housing, Social Security and Health through the last 3 years and me, Assistant Minister, and my Minister would have been damned if we did and damned if we did not because people have been screaming for this law for many, many years. Now we did not give Scrutiny enough time. I fully appreciate and can only say sorry for that but if my Minister had not absolutely pushed with the law draftsman to get this done now it would have been another year down the line before we had ... and we understand about the U.K. review. They are reviewing a law; a law we do not have. We will get something in. It has been scrutinised by an expert along with the Scrutiny Panel and it will do what it does on the tin but it is when the Regulations come in, and they will come in - and I see Deputy Hilton nodding - you will be able when you do not take

the eye off the ball. Like a Regulation that we had to amend yesterday, everybody scrutinised them as they come in. That is all I have got to say and I will leave the summing up for my Minister. Thank you.

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

I rise simply to ask that we, as a culture, when this law is in place do not think that this law lets us, as a society, off the hook particularly with regard to care of the elderly. There are some very good things about growing older; you get to hand your grandchildren back at the end of the day to their parents, just as they reach their most fractious moments. You can go to the cinema on the Waterfront, as we did, and watch the film that our daughter had helped cast, and find that you do not have to pay as much as you did when you were younger. Senior tickets are a great thing. The law and regulation are essential because care of the elderly has, in the last 20 or 30 years, been the poor relation of social care in many parts of Europe. It is much easier to get support and indeed cash for looking after children than it is for looking after elderly, and we should not be, as a society, ever in the position when we are choosing which group of vulnerable people to care for and support. So 2 very simple points: the first is that in all that we do there must be integration with the voluntary sector because it is not only for the individual's good it also saves vast amounts of money. When my mother was in her 90s in the London Borough of Lambeth, she moved from her own flat - her own council flat - into sheltered accommodation. There was a very complicated form which asked which part of the borough she would be prepared to live in. She ticked just one place. There was a very ... I am trying to think of a more polite word than stropky. There was a very officious phone call explaining that she might not get a place if she only specified one area, and her articulate and educated and fairly stropky son was able to say: "If you do not rehouse her in the same area you will incur thousands of pounds of extra costs because all the visiting, shopping, befriending undertaken by members of her church will be lost and the state will be asked to provide some of those things." So it seems to me we should look very carefully, as I am sure the Minister will, at the integration with the voluntary sector. But more than that, we need to change the way in which we, as a society, regard the elderly. In my professional life I have spent many hours in old people's homes. When I was first ordained it was inevitable that there would be a circle of high-backed chairs with a television on in one corner of the room that only half the people could see and that nobody was watching. Old people are not a nuisance to be managed but people to be honoured, respected and provided for. Thank you. [Approbation]

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

Just a few points to mark, particularly Senator Ferguson made some quite useful comments, I think is worthy of covering. Certainly the domiciliary care is something that needed to be defined. Primary legislation is not the place for that, that will come in the Regulations and that will deal with whether family members look... how we deal with family members looking after their loved ones in their own home. But certainly there was as she was talking, echoing this charter almost about people tramping through her lounge checking on how she was dealing with looking after parents. That is not going to happen unless the person being cared for raises a complaint, then it will be investigated. But all of these things, we will be working with all the other care providers, including primary care, including all the other third sector organisations and we are working with them while we are developing the Regulations. Thank you.

2.1.19 Deputy T.A. Vallois of St. Saviour:

It is just 2 very quick requests more than anything else, and I will just firstly say thank you to the Minister for Health and Social Services and her department for working on this and bringing this forward for us in this term to decide on. It is an extremely important piece of legislation. But I see that what came across our desks this morning was a comment to the Health and Social Services Scrutiny Panel's report. I am a little concerned about some of the responses that have been made

and I am not sure that the Health Department have taken into consideration properly what was suggested, and in particular, was that ensuring that the Commission is created independently using a transparent process ensuring that there are service user representatives. It feels, to me, reading the response, is that it is more rather a strapline than an actual answer. I appreciate the appointment of the Commission's codes of practice, I know them inside and out and upside down. However, and I think the point is, is that I think what we need to know is the expectation of the people appointing those commissioners, the expectation of what that body looks like, those people look like, in terms of their expertise and their qualifications. When we mean transparent it is so that everybody sees that and understands that, not just the relevant people involved but everybody because some day one of us might need care. So it is understanding the expertise of those commissioners. So my request really is whether there would be consideration given to, maybe before the Minister for Health and Social Services leaves post at the end of this term, producing just a small report to the States Assembly that would allow something that comes up on the website for us all to see. Not only an explanation of the expertise and qualifications expected in terms of the commissioners but also a list of the expected Regulations. Being realistic, of course, not just a whole long list but maybe a phase 1, a phase 2 and a phase 3 kind of list of the expected Regulations to come into force and a realistic time plan. So that people can be held to account for it, let us say, so that we know... and I am not saying just bring everything forward and say we are going to do all this in a year or 2 years because I have seen it happen before with the department saying that they can do something in a specific period. Unfortunately there is so much pressure placed on the departments with various different things, sometimes we are completely unrealistic about how we tackle those things. So I think it is more of a plea and a request to the Minister for Health and Social Services that she brings something forward before the end of this term that allows the next States Assembly to know what they are up against, I think, in terms of the Regulations coming forward, and I think also to be aware whether it is going to be a Green and White Paper method or whether there is going to be a particular way that the department themselves are going to carry out consultation on them. The only other thing that I will ask is, it refers to schedule 2 about the Chief Minister being the person that appoints and dismisses the commissioners. My specific question is: why is it that the Chief Minister's Department is seen as the appropriate authority to appoint independent areas? The reason why I question that is because although the Comptroller and Auditor General is appointed through the States Assembly on a proposition from the Chief Minister, there is a requirement for consultation with the Chair of P.A.C. (Public Accounts Committee), and knowing that coming forward there will be a collective responsibility requirement I think there may need to be some rethink going forward about how we, as a States Assembly, appoint independent bodies and how we hold those independent bodies to account and the expectations of this States Assembly and the Government that runs those particular services. Thank you.

The Greffier of the States (in the Chair):

I call on the Minister to reply.

2.1.20 Deputy A.E. Pryke of Trinity:

I will try and capture all the questions and issues that have been raised. If I do not, I apologise. First of all, I endorse... I want to put what the Dean said first because I am very passionate about care in the community especially. Having been a hospice nurse for 21 years and seeing, when I first started, some care homes that had clients in, had patients in. I was appalled that members of the family lived, because it was their home, in that surroundings when they had a small area around the bed, perhaps they had a curtain, perhaps they did not. The place smelt of urine and they were just left in a corner, television on all day, full stop. That is not what I wanted for any single member of my family, let alone any single patient or client that I looked after over my 21 years. I am pleased that with the regulation inspection team within Health and Social Services, that is no longer the case and that has brought about tremendous change in care for the... especially care for

the elderly. I think we should congratulate them because when you go into care homes now, you do not see that any more, and that was just unbelievable. To pick up the point, this is so important. This is the first step to enable regulatory activities to be decided upon and what they mean. Until we get this piece of law in place first we cannot go to the next stage. The issues raised, and I will try and pick up most of them, about what it includes, what it does not include, it just demonstrates how difficult this area is. What personal care might be to one person it might not be to another person. So that is why, over the next period of time, consultation with all stakeholders, with service users and obviously with States departments is going to be so vital because we need to get it right. If it takes another 6 months to get it right, it takes another 6 months to get it right because it needs to be right from the word go.

[11:15]

As regarding timeframe, Deputy Vallois' point that States Members expect a timeframe; I will try and do that in a more generic way. Why we decided on domiciliary care first is because we see the need. I see the need; my staff, who are on the frontline services, see the need; the stakeholders see the need; that there is a need to be regulated, especially with more care in the community, with our Health and Social Services' *Caring for Each Other, Caring for Ourselves*, more care is put in the community and that is where it should be. We should be able to care for each other, for our families. Like Deputy Duhamel said, to look after his... and I am pleased he is going to look after his parents as they get older. They are lucky to have family around them and this is what we want to do. It is not there to regulate family members, in fact far from it. We need to encourage family members to take that responsibility of looking after their own. But if they cannot and they need that support, which quite a few will do, from professional staff, they need to be ensured that that professional staff is qualified, is going to do what it says it is going to do and is held to account, and that is the most important area. Regarding the hospital, it will come later. We know it will come later because if we did it today we know it will not meet the standards because many Members have taken a trip around the hospital; would a 6-bedded bay meet the standards? Of course it will not, you can see that for yourselves. So that is why it will come in place around about 2020. But that does not mean that itself - the acute hospital - is not regulated at present. It is regulated by its complaints, its governance system, its G.M.C. (General Medical Council) rules, its N.M.C. (Nursing and Midwifery Council) rules come into play. There are other outside organisations that come in and inspect various parts of the hospital, as set down by the professional organisations. Regarding what the Deputy of St. Ouen said about Francis and Winterbourne, at the end of the day we take any reports that come out of a review very seriously. As he knows, there is a panel within Health and Social Services set up to look at Francis and Winterbourne Mid-Staffs report and all the recommendations that have come through that; that is an ongoing thing. That is part of the governance set-up within Health and Social Services. That will not change. If anything does need to change, the care, whatever, that is embedded into the department. A lot is said about the Commission. It needs to be an independent commission and commissioner because when Health and Social Services become regulated the Minister cannot regulate its own services; conflict of interest. Therefore, it needs to be part of the Chief Minister's Department and that is where it will sit and be held to account. The Chief Minister can manage the commissioners, he can fire them or whatever. They will produce a report that goes to the Council of Ministers and a report that comes to the States. Regarding the type of commissioners, we are looking at a bit of a wide range. It might need somebody in mental health services, with a mental health service background or social care background, acute hospital background. It does not need just one type of profession to be part of that and that is going to give it added strength. It has taken a long time to get to this point, Senator Breckon, and I apologise for that but I would like to say that, no disrespect to the previous Ministers, but they did not see it as top priority. So after, especially, the Scrutiny Report that I chaired, I did see it as a top priority, especially the domiciliary care, and so that is why we

pressed forward. But it is a huge piece of work because it has gone out to Green Paper, White Paper, consultation with all the stakeholders and the service users to make sure that everybody understands where we are coming from, and that consultation, rest assured, will continue to be in place. Today, under the housing inspection, there are about 61 registered residential homes already under that inspection registration authority and they do provide very good care. Regarding C.R.B. checks, we do make them. Part of their registration is to take C.R.B. checks but that is not all. When they do interview for nurses, care staff, or whatever, it is just not one bit of paper that they must take account of, as we do within Health and Social Services, the C.R.B. check is a main one but it is also the C.V. (Curriculum Vitae), looking at are there any gaps in their record; if there are, why not? You need a rigorous interview process behind that to check that. Are their appraisals up to date, *et cetera*? That will continue and that does happen. The Care Commission does not set fees in the nursing residential homes or domiciliary care, that is not its role. I hope I have covered most of them but if I have not, I will happily answer them if I can. But just to finish, to say this is important. This is a first step towards getting some regulation in place across all types of care because care is important, care is vital especially for our ageing population to make sure that we know that the patients and clients that we have responsibility for are well looked after and well cared for and given the best care that is possible. I make the proposition.

The Deputy of St. Ouen:

Just as a point of information. I did ask the Minister whether she would explain why no regulated activities are listed on Schedule 1, even though she has again confirmed that children's homes and residential homes are going to be included.

The Greffier of the States (in the Chair):

Yes. Blank schedule, Minister?

The Deputy of Trinity:

Yes, I tried to make that clear. That is going to be the next stage. That is where we begin to consult with the service users, with the stakeholders, to understand what it means; as I said, personal care to you might be something different. It is not a quick process and if it was a quick process I would have brought something now. But that is the next stage and it will be consulted on. I am sure the next Health and Social Services Scrutiny Panel will take that up because that is the most important bit.

Deputy J.A.N. Le Fondré:

May I also seek a further point of clarification? I may have mentally blinked and missed it. I meant to ask 2 questions, one was the timeframe for when the whole Regulations would be in place. The second question was, what is the position in relation to the existing hospital, assuming the Regulations will be in place before the... if the deficiency is identified before the new hospital is built?

The Greffier of the States (in the Chair):

The Minister did answer on the hospital but if you wanted to repeat briefly, Minister.

The Deputy of Trinity:

The domiciliary care first then the acute hospital. Just to confirm, the Limes and Sandybrook will be brought in under the first bit of domiciliary care because that is looking at patients' own homes. The timescale: the hospital is 2020. I would like to think, I will not give a date, but I would like to think things will move swiftly over there because the main bits have been in place.

The Greffier of the States (in the Chair):

Very well, the vote is pour or against the principles of the Draft Regulation of... you wish the appel? Yes, Minister. If Members are in their designated seats I will ask the Greffier to open the voting.

POUR: 45		CONTRE: 0	ABSTAIN: 1
Senator P.F. Routier			Deputy G.C.L. Baudains (C)
Senator A. Breckon			
Senator A.J.H. Maclean			
Senator B.I. Le Marquand			
Senator F.du H. Le Gresley			
Senator I.J. Gorst			
Senator L.J. Farnham			
Connétable of St. Helier			
Connétable of Trinity			
Connétable of St. Clement			
Connétable of St. Peter			
Connétable of St. Lawrence			
Connétable of St. Mary			
Connétable of St. Ouen			
Connétable of St. Brelade			
Connétable of St. Martin			
Connétable of St. Saviour			
Connétable of Grouville			
Deputy R.C. Duhamel (S)			
Deputy R.G. Le Hérisssier (S)			
Deputy J.A. Martin (H)			
Deputy G.P. Southern (H)			
Deputy of St. Ouen			
Deputy of Grouville			
Deputy J.A. Hilton (H)			
Deputy J.A.N. Le Fondré (L)			
Deputy of Trinity			
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 M.R. Higgins (H)			
Deputy A.K.F. Green (H)			
Deputy J.M. Maçon (S)			
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 of St. Martin			
Deputy R.G. Bryans (H)			
Deputy R.J. Rondel (H)			
Deputy N.B. Le Cornu (H)			
Deputy S.Y. Mézec (H)			

The Greffier of the States (in the Chair):

Now, I think, Deputy Hilton, you have already made the position of the Scrutiny Panel clear, you do not wish to have further scrutiny of this matter?

Deputy J.A. Hilton (Vice-Chairman, Health, Social Security and Housing Scrutiny Panel):

No, thank you.

The Greffier of the States (in the Chair):

Now, Minister, we have had a very long debate on the principles. How do you wish to propose the Articles, take them together?

2.2 The Deputy of Trinity:

I am in Members' hands, *en bloc* or I could go through the different parts. I can do *en bloc*, okay. I will get the...

The Greffier of the States (in the Chair):

I think the Members are content for you to take them *en bloc* and probably answer questions appropriately.

The Deputy of Trinity:

Accordingly, yes. If I just take parts 1 to 4 and Schedule 1. Part 1 includes a standard interpretation Article, which contains definitions of healthcare, nursing, personal, social care that sets out the scope of the law and it defines the independent Commission. The section enables, under Article 2, a range of regulated activities to be set out and which will be added over time by Regulations. Examples of Regulations that could be added, care homes, children's homes, hospital services, *et cetera*. Part 2 of the law relates to requirements for providers and managers to be registered and make it an offence for anyone to operate or manage a regulated activity without being registered. Part 47, under this part, sets out the procedures for application of the granting or refusal of registration. Article 8 requires the Commission to keep and make available to the public a register of providers and managers, and Article 9 relates to the payments of annual fees. Part 3 makes provision about the conditions, requirements and standards that must be complied with by providers and managers of health and social care services. It requires registered people in respect of regulator activity to be fit and proper persons to provide the service. Articles 11 to 13 commit both mandatory and discretionary conditions to be applied to a person's registration and make it an offence to fail to comply with these. Article 14 enables the States, by Regulation, to specify general requirements that must be complied with by providers and managers. Article 15 enables the Commission to publish standards which will guide providers and managers as to how to comply. Part 4 makes provision for the provision or the variation of condition, suspension or cancellation of a provider's or manager's registration. It ensures that where the Commission wishes to vary conditions, or suspend or cancel a provider's registration, there will be appropriate safeguards in place. Except where it is not safe to do so, the provider or manager will have the opportunity to make representation in respect of any action that the Commission proposes to take. It also makes provision for central services provided by the Minister to ensure that problems are brought to the attention of the States Assembly and the Council of Ministers. In part 5, in the second section, inspections, investigations and complaints, regulatory powers it needs to monitor compliance with the law, the Commission may place inspectors to carry out inspections as directed by the Commission. An inspector who has a number of powers set out in Article 26 of the law will submit his or her findings to the Commission which is responsible for determining the regulatory response. An inspector's report shall include conclusions as to whether conditions and the requirements of the law are being complied with and any standards issued by the Commission are then met. The Commission will also have the power to require a registered provider or registered manager to provide documents or information that the Commission needs to discharge its functions

as a regulator. The Commission is also required, under Article 30, to ensure that complaints about the carrying on of regulated activities are dealt with appropriately. The third section, Part 67 of Schedule 2, using information by the Commission in establishment of the Commission. It is concerned with the protection of confidential personal information collected as part of the Commission's functions. It ensures that such information can only be disclosed for the performance of the Commission's functions or for other reasons where it is appropriate to do so in the public interest. Part 7 makes provisions with regard to the establishment and general functioning of the Commission as an independent body. It gives effect to schedule 2 which contains further provision about the appointment of commissioners and other matters. It also sets reporting obligations on the Commission and requires Ministers to consult the Commission upon proposals for the preparation of Regulations under this law and any other legislation concerning health and social care, and it also provides fees and charges that are made up by the Commission. The fourth section, Part 8, appeals, general offences and closing. Part 8 provides a right of appeal within 28 days to the Royal Court against any decision of the Commission under the law.

[11:30]

I just say that the aim is for the Commission, and the inspectors especially, to work with the registered home or domiciliary agent to improve that rather than take them to court. This part also makes it an offence to provide false or misleading information in connection with an application under this law or when required, by the Commission or an inspector, to provide information. This part also provides a due diligence defence for the offence under the law. This part also makes provision, among other things, for the commencement of the law. Once the law is registered in the Royal Court, the Regulation-making powers in it will come into force straight away. The Commission will also be established but initially only under the purpose of preparing any standards required under Article 15. The remaining provisions of the law will subsequently be commenced by Appointed Day Act. Thank you, I make the ...

The Greffier of the States (in the Chair):

The Articles and schedules are proposed. Are they seconded? [**Seconded**] Deputy Duhamel.

2.2.1 Deputy R.C. Duhamel:

I have still got a fundamental problem with Article 3. Article 3, if we have another look, says: "These are the requirements to be registered to carry on or act as a manager in relation to a regulated activity and those regulated activities will be looked at, at a future date as to what constitutes a regulated activity or not." But specifically, this Article 3 prohibits a person or encourages a person with under penalty assistance for non-compliance. Any person must not carry on a regulated activity unless he or she is registered as the provider of the activity. Under 4, it goes on to say that: "A person who contravenes paragraph 1 or 2, that was paragraph 1, is guilty of an offence and liable to imprisonment for a term of 12 months and to a fine." Now, I understand the subtleties between filling out a register of regulated activities, and indeed the primary aim of the law which is to encourage the registration of all persons who are offering the services that have been so registered. But this is very, very open and the points I made in discussing the principles, I think, do extend to ordinary persons who are meeting or giving out domiciliary care. In particular, when we look at the definitions under 1 part 2, although the States may, by Regulation, amend the definitions of health care, nursing care, personal care, personal support and social care at a future stage, if we read those definitions they are very wide-ranging and I think that we have an empty schedule of regulated activities at the moment. For example, personal support, which would be: "A regulated activity includes supervision, guidance counselling, other than counselling that is health care, and other support in daily living, that is provided to an individual as part of the programme of such support." That is highly permissive. Likewise, under personal care, it means: "Assistance in daily living that does not need to be provided by a nurse being among other things, practical

assistance with daily tasks such as eating, washing or dressing.” So it is all very well to try and offset any worries that a number of Members, including myself, might have, that there is flexibility in stipulating what the regulated activities may or may not mean when we get to that point but the key issue is under 3. It states categorically that any person who is giving out those services needs to be registered as a provider of that activity and I think we are going to find ourselves in difficulty trying to come forward with a sub-set of regulated activities, which do not necessarily tie-in with 3(1). So I think there is a legal technicality here that means I am not able to support it. It might well have been that if the intention is not to squeeze-out all of those family services that the State is not in a position to pay for through income support schemes because of the total sum being in excess of what is available to fund those facilities then perhaps a small amendment to 3(1) to indicate to use only persons who are acting under a registered or a care home would have been sufficient to offset my worries. But at the moment, 3(1) expressly says it is any person doing any of the regulated activities, which from what we have got here at the moment is extremely wide and open. I ask Members to take that into account and I ask the Minister for Health and Social Services if perhaps we could follow the normal protocols and allow Article 3 to be voted on separately when we come to take the vote.

2.2.2 The Deputy of Grouville:

I am concerned with some of the responses that I have read in the Scrutiny Report and I suppose it may come under Article 38, Reports, Information and Advice. Scrutiny were asking the Commission to produce a 3-year strategy. It is quite often difficult to gauge the tone of a response from a written response such as this, but I am not very comforted with what I read as a response and I will read it to the Assembly where the response was: “It is for the Commission as an independent autonomous public body to decide about producing a strategy and its timeframe, however it is expected that there will be a strategy.” So there is no confirmation that there will be a strategy and no timeframe given. Again, above, a timeframe was asked to review the legislation: 12 months. Okay, so they found this unrealistic. But again they offer no alternative timeframe and, like the Deputy of St. Ouen, I am concerned that there is no business case and it is not clear what the business case is going to cover and what kind of detailed cost analysis might we expect from that. In Article 38(5) I am again a little concerned about the Commission charging for advice and paper copies of reports. To my mind, if the public wish to inform themselves I am a bit concerned that they are going to be charged and what kind of charges they might expect to be asked for. I will leave it there, thank you.

2.2.3 Deputy T.A. Vallois:

It is very similar along the lines of the Deputy of Grouville but I am going to be a little bit more specific in terms of the response that was given. I am going to refer Members to Articles 33 and 34, which talk about using information by the Commission and permitted disclosure of information by the Commission but yet in their response to Scrutiny... when Scrutiny suggested the Commission produce a 3-year strategy it has been suggested by Health that it is for the Commission as an independent autonomous public body to decide about producing a strategy and its timeframe however Health are requiring them to supply specific information... they are stating that they may disclose information. I just wonder why it has to be so specific and why it is we are requiring them to do something if they are such an independent autonomous public body. I would like to ask the Solicitor General in regards to Article 36, where it talks about independence of the Commission, and it states that: “The Commission is independent of the Minister for Health and Social Services, the Chief Minister and the States.” How does this sit in terms of Schedule 2 where it requires the Chief Minister’s Department to appoint and dismiss the Commissioners? I do not understand how that is independent so I wonder if the Solicitor General could explain to me how that works in terms of independence. I would appreciate that.

The Solicitor General:

I am sorry, I do not think that is a legal question. I think that is a matter for States Members whether they feel that the Commission is sufficiently independent or not.

Deputy T.A. Vallois:

On that basis I do not feel that the Commission is sufficiently independent in my own personal view because Article 36 states: “The Commission is independent of the Minister for Health and Social Services, the Chief Minister and the States” and then it goes on to say that the Chief Minister can appoint and dismiss those commissioners. It raised alarm bells for me, and I do not know whether the Chief Minister has anything to say in respect of those particular areas so I am going to look at him and hope that he may say something with regards to these particular Articles. I am not trying to be picky and I am not trying to cause any issues but this is a bigger problem than we might think because later on down the line when everyone starts arguing about accountability and responsibilities it is going to be another big grey area and I would like it if somebody could clear all of this up for me. I doubt we are going to do it today because it is quite a big issue. I just feel very uncomfortable and I would ask, if possible, that I could take ... if we could take Article 33 and Article 34 separately because if we are going to go along the lines of what the Health Department is saying in terms of the Commission is an independent autonomous public body to decide about producing a strategy and its timeframe, I would suggest that we should not be telling them what they can and cannot disclose in terms of information. They should determine that under their own procedures and relay that to people as they see fit. I would also ask for Schedule 2, if that is possible, to be taken separately.

The Greffier of the States (in the Chair):

Yes, any Member under Standing Orders is entitled to ask for a separate vote on an Article or Schedule.

Deputy T.A. Vallois:

I would like to try and ask a legal question of the Solicitor General, if that is possible. That is just with regards to Article 40(2) and (3). This was a new thing that came to light when we are looking at the Comptroller and Auditor General’s Law with regards to putting in the human rights area. Paragraph (3) says: “Except as any enactment or contract provides to the contrary...”

[11:45]

I would just like to know whether that means that we would require the indemnity to fall on the commissioners and therefore they would have to hold insurance for themselves in terms of liability or whether there is still room for the States to decide whether it is the States’ responsibility or liability should anybody sue in terms of bad faith or human rights.

The Solicitor General:

If I deal with that question first. Clearly Article 43 envisages that it may be, and obviously it is a matter for the Chief Minister, the Minister for Health and Social Services and indeed the States to consider whether or not they want to enter into a contractual arrangement with the members of the Commission to provide them an indemnity or to require them to hold their own insurance. That is really a matter of detail. The law enables you to go either way, if I may use that phrase. Can I just deal please with one or 2 other genuine legal issues that have arisen? Deputy Vallois made some comments about Articles 33 and 34 which relate to the powers of the Commission to make certain disclosures. Obviously it is a matter for Members but from a legal point of view I would not confuse or conflate the issue of the ability of the Commission to make disclosure for particular functions with its independence because you have to remember that this is a statutory body and it needs, or Members may feel it needs, powers of disclosure. So, for example, if evidence of

criminality emerges they can give that evidence or information to the police and they are able to do so by statutory power because of course the very nature of the Commission's task means they will be holding very private and confidential information that engages Article 8, so the purpose of Article 34 is to give the Commission the powers to make disclosure when it is in the public interest to do so. That is not, in my view as a lawyer, relevant to the issue of whether or not it is sufficiently independent, which is a separate issue. As I have said, that question of independence is really a matter for States Members, it is not really a legal question. What I would draw States Members to when considering that issue, is Part 7 of Schedule 2, which is on page 71, where one can see at the top of the page "Termination of appointment". There are specific grounds on which the Chief Minister may terminate an appointment and we can see at the end that the Chief Minister will have to file a report to the States if he decides to take such action from States Members consideration. Finally, while I am on my feet, I think a while ago there was reference to some concern about Article 3(1) and (2). If however one looks at page 67 of the proposition and Article 50, this is the citation and commencement provision, one can in fact see that Article 3(1) does not come into force straight away and what will happen is that will not come into force until there is an Appointed Day Act and one assumes or infers that the purpose of that is so that the States Assembly can sort out by Regulations who is going to be within the definition of regulated activities, and then you introduce Article 3(1) after that. I hope that is of some assistance.

The Greffier of the States (in the Chair):

Had you concluded your remarks, Deputy Vallois?

Deputy T.A. Vallois:

Thank you to the Solicitor General for providing that information. My own personal feeling with regards to the independence in Schedule 2, I am still not comfortable with it even if the Chief Minister has to report to the States, but that is my own personal feeling and experience of what I have seen beforehand. So I would still ask for it to be taken separately but I get the feeling that it will probably still go through anyway, knowing the States Assembly, but unfortunately ... well, I am sorry, I am being honest. But I would like some kind of ...

The Greffier of the States (in the Chair):

It was open to you to lodge an amendment, Deputy, before the debate.

Deputy T.A. Vallois:

It was, Sir, but there are plenty of other pieces of legislation and plenty of pieces of work and I am only one human being. I am raising the issue because it is an issue that is only not particular to this, it is particular to a large amount of other things with regard to the States and I think it is important that when we are agreeing things in the States Assembly that we are absolutely clear and we absolutely understand what is happening. If I am uncomfortable with something I am going to say that I am uncomfortable with it, and I am asking the Chief Minister to hopefully make some kind of commitment or explain in terms of any transparency issues that he may bring out in terms of being able to deal with these appointments or if there is going to be a commitment to look at a better way of appointing and administrating in terms of independence bodies with the States because... or make it much more clearer and better for States Members to understand the responsibilities and accountabilities that surround those. I will finish my speech on that.

2.2.4 Deputy J.A.N. Le Fondré:

I thank the Solicitor General for his comments. I just want to expand a little bit more but I think really to emphasise the points that will be something we are going to need to consider quite carefully, the issues around who gets caught and what activity gets caught by the Regulations. I suppose if the Minister could clarify... certainly the understanding of many Members that family

members will get potentially caught by this legislation under the present definitions. So in other words, how do they make sure that they do not get caught is the concern. The second question, and I know the Solicitor General did make reference to an example, and it is a hypothetical example some time ago about people living-in and services being provided. But I think that was a single example of potentially a wider issue. Article 2(1) talks about the schedule and the regulated activities and also it states: "In circumstances in which any activity is accepted from being a regulated activity." I wonder really the concern being... and I keep going back to what I call domiciliary services, so literally somebody gets an elderly person who is capable but gets someone in once or twice a week to help with the cleaning and the ironing, because under the personal support ... sorry, somewhere in there there is reference to social care. Social care includes all forms of personal care and other practical assistance to basically anyone. It is, I would say, a wide definition because that is the way these laws are defined but it would seem logical that that, unless one does anything about it, would be captured. I certainly would not like to see what I would call, for want of a better expression, somebody who comes in to help on a paid basis, or whatever, necessarily being caught by this kind of Regulation. What I would ask is whether the Minister would basically consider using that Article 2(1) wording to ensure that the Schedule does make it very clear as to who is not captured, just to avoid the unintended consequences. If she could respond to that when she replies.

2.2.5 Senator I.J. Gorst:

I am not responding to Deputy Le Fondré, I just did however want to stand... I am not sure I am going to respond to Deputy Vallois to her satisfaction but I think she raises some very good points about when we wish to set up an independent body, which needs to be independent, certainly of the Health Department, because one of their functions is going to be reviewing services undertaken by the Health Department and the difficulty then arises where would such an independent body sit. It is proposed that it will sit outside of government but appointments still need to be made to that body, and which department should oversee or have some responsibility for that. We come up against a similar issue with the Appointments Commission and we are having to just look to see whether we have got the amendments that we proposed there right. Previously this Assembly has suggested that individual appointments should not come to this Assembly for ratification. I am not sure that I personally accepted that position but that is what this Assembly has suggested, and that is why we ended up with what, at times, could be seen as a confusing process, but I do not think it is intended to be that. It is intended to try and deliver a process as independent as possible without needing the ratification of the Assembly, but some possibility for the Assembly to call in if they so require. As well, it gets to the heart of what is the role of the Jersey Appointments Commission? Is it just to oversee process or is it to appoint individuals to bodies and it has to be the former otherwise we get into a strange situation where we have people hopefully who are experts in overseeing human resource appointments and the process thereof, but not necessarily with an understanding of the skills and personal attributes required for a particular job. So there is not an easy answer. I think that the process that is being proposed here does not meet with Deputy Vallois' satisfaction and I can understand that. From a personal perspective, in the role that I am being proposed to have in this, I have no problem with working with the Health Department to see if we cannot refine it further. If that needs amendments then we are happy to do that but we are trying to solve a difficult problem of States involvement and yet at the same time this body needing to be independent and be in a position where no Minister can put pressure on the body to not do something when we know that the care of vulnerable members of our community and correct care, they need to be independent to be able to say what they need to say about that care, even if it is being delivered by government via a separate department. It is always going to be difficult. I think we felt that this was a process that could meet with acceptability. I understand Deputy Vallois' concerns and I know that the Minister for Health and Social Services and I would have no problem

with considering it in light of those concerns and, if necessary, amending it. But I think earlier in the debate Deputy Vallois raised a very similar generic question about where does independence sit and how do we manage it. I thought then she had raised some interesting points, which are far broader than just this particular body, which we need to consider.

2.2.6 Deputy G.C.L. Baudains:

I am pleased to follow the Chief Minister. On the same subject in a slightly different vein and a matter I raised during the preamble, and I am referring to Article 36 where I understand the need for independence of the Commission and if we adopt this law it will put the Commission, as Article 36 stipulates, beyond the reach of the Minister for Health and Social Services, Chief Minister and the States. That is what concerns me, because I do not expect the Minister to be interfering on a regular basis on what the Commission is doing; not at all. But the trouble with this is it removes all accountability because, as we have seen in other areas, it is all very well putting things at arm's length or even completely out of reach of this Assembly but if problems do occur, if for example with a particular provider or premises, if that is brought to the attention of the States, or the attention of a States Member, then from what I can understand there will be absolutely nothing we can do to address that. I am not comfortable with that. I would like Article 36 taken separately.

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

A slightly different subject: just in regards to the application process: the application for registration as a manager. I should really state that I am Chairman of the Management Committee at Maison St. Brelade, and very occasionally we have to appoint a new manager. I have to say it will not happen soon, I hope, because we have got a competent and dedicated one at the present. Certainly when it comes to dealing with licences, as many of the Constables know, you would expect them to be dealt with expediently, as quickly as possible. In terms of granting and refusing an application it does say in Article 6: "The Commission must notify the applicant in writing of its proposal" and in (3): "Where the proposal relates to the registration of a manager, the Commission must also notify that individual" but it gives no timeframe as to how long this process will take.

[12:00]

I would be interested to know whether that is going to be part of Regulations because I think it is important that when you are without a manager that there is some timeframe as to when you can declare one. That is the main point, is about the timing of putting something into place and making sure it is done. In saying that, you do have to get the right person. I am not saying it does not need to be a timely process but I have dealt with another situation with a different department where we were trying to get a manager in place - I am not going to say what the department was - but there was no timeframe stipulated in the law and it just seemed to drag on for ever, so I just want to make sure there is some timeframe in place.

2.2.8 Deputy S. Power:

I will be brief. Any new law, any new Draft Regulation of Care Law such as this is bound to have a situation where not all of the information that States Members require is in it and I think there is a very strong indication of that on page 26, which is in the preliminary introduction in Part 1 where the department says: "These definitions set the scope of what may be regulated under the Law, although not all descriptions of care will be regulated under the Law when the requirement to register under the Law is first brought into force. The scope of the regulatory regime will be expanded over a number of years, and the States are given a power to amend the definitions 'health care' and 'social care' and definitions associated with them." I have listened to many States Members asking questions of the Minister for Health and Social Services about this and I went out and spoke to the Medical Officer of Health who is outside, and to the person who does some of the

regulation now. This is, I suppose the Minister for Health and Social Services would agree, midpoint in a long journey for the Health Department, and they have a long way to go to finally replace the laws that are referred to on page 4 and page 5: the 1994 Law and the 1978 Law. I think just to remind Members is that where we are right now is that this piece of legislation sets out a regulatory framework for health and social care and how it will operate in terms of independence, competence and accountability. Some Members have said it is overdue, it has taken a long time. Other Members have said there are other provisions which will not be sorted out for a number of other years. We are midpoint, I would say to colleagues, and give the Health Department the support it needs today to get to the next stage. We are at midpoint so I hope, as I will, that Members support this piece of enacting law.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon the Minister to reply.

The Deputy of Trinity:

A change of Chair, Sir.

The Bailiff:

I look forward to hearing all about it when you reply. **[Laughter]**

2.2.9 The Deputy of Trinity:

I was just about to say it is a pleasure, Sir. I think the Solicitor General has answered a few points and I thank him for that. As regarding the strategy from the Deputy of Grouville. It will be the Commission to set the strategy and put the details in place, and that is going to be an important role of the Commission. Whether it is a 3-year or one-year strategy ... I would like to think it is going to be a 3-year strategy but they need to embed first and then decide from there. Points have been raised about would it include this or would it include that? The discussions that we have had about that really demonstrates the wide range of regulatory functions that will come back to this House at the end of the day. It will be this House that will decide under the Regulations under Schedule 1. As I have said many times, that will be gone through consultation and with all the stakeholders, services users, *et cetera*, and also States Members. I say again, if I am still a Member of this House and if I am still Minister next time, I have no intention of putting family members or close friends, or whatever, in that regulatory because that is the bedrock of society, that we need to give that care to each other. That is just common decency and care. I would not like to see that in there. At this stage there is no intention of doing that. I hope I can reassure Members on that bit. The Chief Minister has done about the Commission and indeed a fine balance. I thank Deputy Power for his observations. It is a long journey and it will continue to be a long journey because care evolves. As I said earlier on, when I first started my nursing profession to what happens now is chalk and cheese but the main thing that is still there at the heart of everything is care of the patient, care of the client, and we never ever must go away from that. That is the most important thing. The Constable of St. Brelade said about the timeframe. I know the department already works very closely with care providers to try and get that processed as quick as it can, and I do not see that changing at all, but at the end of the day it is appointing the right person. I thank all those who have spoken and I will ask for the appel.

Deputy J.A.N. Le Fondré:

May I just go for a quick point of clarification on what the Minister has just said? I do thank her for the comments specifically on the family members, that was very welcome. There was a second part to my query which was could she just confirm whether she is minded to ensure that Schedule 1 will make provision not to capture people who come in, for example, to provide cleaning services and things like that in the ordinary course of life.

The Deputy of Trinity:

Cleaning is cleaning. It is not doing personal care and that is the difference. That is why it needs to be understood. We need to know what it really means by personal care and that will only come with consultation so everybody understands it.

Deputy R.C. Duhamel

We had an indication from the Solicitor General in legal points as to whether or not in voting for the law now it was in a final form or whether or not there was an implication that perhaps things that further needed to be debated by this House, i.e. the Regulations and Schedule 1, and other places, would not come into force until the Appointed Day Act. Indeed the Solicitor General is right and wrong at the same time.

The Bailiff:

I am sorry, Deputy. I assumed you were seeking some point of clarification. The Minister has replied.

Deputy R.C. Duhamel:

The Minister has referred to the advice in part of which was given to the House by the Solicitor General, and I am just wanting a point of clarification to get agreement that when the Appointed Day Act comes into force that there will be no opportunity at that point in time to re-debate Article (3), which I am calling for a separate vote, but there will obviously be an opportunity for the House to discuss the regulated matters within the Schedule 1.

The Deputy of Trinity:

About what the Solicitor General said, and if it needs to be amended at any time it will be amended.

Deputy R.C. Duhamel:

Members may well be in a position to be misled. It is the Article that we are voting for now and it is the deficiency of the Article that I have alluded to in my speech that I think needs to be considered, not the inability without coming forward with a whole new Regulation of Care Law before the Appointed Day Act, which would give this House the only opportunity to further consider that particular Article.

The Bailiff:

You asked for the appel, Minister, but certain Articles Members have asked for them to be voted separately. I have at the moment Articles 3 and 33, I think Deputy Vallois wished to have voted on separately.

Deputy T.A. Vallois:

Can I withdraw the 33 and 34 separate?

The Bailiff:

Yes, 33 and 34 you want separately. Then I think the Connétable of St. Brelade I think has asked for Schedule 2 which goes with Article 35 to be voted on separately.

The Connétable of St. Brelade:

I did not ask for that.

Deputy T.A. Vallois:

Can I withdraw the request to vote on 33 and 34 separately?

The Bailiff:

You want to withdraw 33?

Deputy T.A. Vallois:

Yes, please and can I ask for Article 38 to be voted on separately and Schedule 2.

The Bailiff:

Schedule 2 which is linked to Article 35 so I think we will have to have 35 and Schedule 2 together. The Constable of St. Brelade, did you want Article 36 voted on separately?

The Connétable of St. Brelade:

No, that was not me either, I am sorry.

Deputy G.C.L. Baudains:

I think you might find that was myself.

The Bailiff:

That was you, Deputy Baudains, was it? And you would like Article 36 voted on separately? Yes, right. It is usually my writing that people cannot read **[Laughter]** but in this case somebody else's. Very well, so do you want the appel on all Articles then, Minister? Yes. First of all we will take Articles 1 and 2. The Greffier will open the voting.

POUR: 48		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
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 M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
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)				

The Bailiff:

Now we come to Article 3 where a separate vote has been requested and the Greffier will open the voting.

POUR: 37		CONTRE: 11		ABSTAIN: 0
Senator P.F. Routier		Senator S.C. Ferguson		
Senator A. Breckon		Connétable of St. John		
Senator A.J.H. Maclean		Deputy R.C. Duhamel (S)		
Senator B.I. Le Marquand		Deputy G.P. Southern (H)		
Senator F.du H. Le Gresley		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy T.A. Vallois (S)		
Senator L.J. Farnham		Deputy M.R. Higgins (H)		
Senator P.M. Bailhache		Deputy J.H. Young (B)		
Connétable of St. Helier		Deputy R.J. Rondel (H)		
Connétable of Trinity		Deputy N.B. Le Cornu (H)		
Connétable of St. Clement		Deputy S.Y. Mézec (H)		
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
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 S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

The Bailiff:

So there are no separate requests now until we get to Article 35, so I invite Members next to consider Articles 4 to 34 inclusive, and the Greffier will open the voting.

POUR: 45		CONTRE: 3		ABSTAIN: 0
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy J.H. Young (B)		
Senator S.C. Ferguson		Deputy N.B. Le Cornu (H)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
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				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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 M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				

Deputy J.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)				
Deputy S.Y. Mézec (H)				

The Bailiff:

Then we come to Article 35, which is linked with Schedule 2, so we will vote on them together. Article 35 and Schedule 2 a separate vote is called for. The Greffier will open the voting.

POUR: 36		CONTRE: 12		ABSTAIN: 0
Senator P.F. Routier		Senator S.C. Ferguson		
Senator A. Breckon		Connétable of St. John		
Senator A.J.H. Maclean		Deputy R.C. Duhamel (S)		
Senator B.I. Le Marquand		Deputy G.P. Southern (H)		
Senator F.du H. Le Gresley		Deputy of Grouville		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham		Deputy T.A. Vallois (S)		
Senator P.M. Bailhache		Deputy M.R. Higgins (H)		
Connétable of St. Helier		Deputy J.H. Young (B)		
Connétable of Trinity		Deputy R.J. Rondel (H)		
Connétable of St. Clement		Deputy N.B. Le Cornu (H)		
Connétable of St. Peter		Deputy S.Y. Mézec (H)		
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
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 S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

The Bailiff:

We come next to Article 36 on which a separate vote has been requested. Therefore I invite the Greffier to open the voting on Article 36.

POUR: 35		CONTRE: 13		ABSTAIN: 0
Senator P.F. Routier		Senator S.C. Ferguson		
Senator A. Breckon		Connétable of St. John		
Senator A.J.H. Maclean		Deputy R.C. Duhamel (S)		
Senator B.I. Le Marquand		Deputy R.G. Le Hérissier (S)		
Senator F.du H. Le Gresley		Deputy G.P. Southern (H)		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham		Deputy T.A. Vallois (S)		
Senator P.M. Bailhache		Deputy M.R. Higgins (H)		
Connétable of St. Helier		Deputy G.C.L. Baudains (C)		
Connétable of Trinity		Deputy J.H. Young (B)		
Connétable of St. Clement		Deputy R.J. Rondel (H)		
Connétable of St. Peter		Deputy N.B. Le Cornu (H)		
Connétable of St. Mary		Deputy S.Y. Mézec (H)		
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

The Bailiff:

Then Article 37 is next. There are no separate votes have been asked for it but there is one on 38, so Article 37, the Greffier will open the voting.

POUR: 47		CONTRE: 1		ABSTAIN: 0
Senator P.F. Routier		Deputy N.B. Le Cornu (H)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				

Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
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 of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
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 M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

The Bailiff:

Then we come to Article 38 where a separate vote has been asked for. The Greffier will open the voting on Article 38.

POUR: 38		CONTRE: 9		ABSTAIN: 0
Senator P.F. Routier		Senator S.C. Ferguson		
Senator A. Breckon		Deputy G.P. Southern (H)		
Senator A.J.H. Maclean		Deputy of Grouville		
Senator B.I. Le Marquand		Deputy M. Tadier (B)		
Senator F. du H. Le Gresley		Deputy T.A. Vallois (S)		
Senator I.J. Gorst		Deputy M.R. Higgins (H)		
Senator L.J. Farnham		Deputy R.J. Rondel (H)		

Senator P.M. Bailhache		Deputy N.B. Le Cornu (H)		
Connétable of St. Helier		Deputy S.Y. Mézec (H)		
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. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
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 of St. Martin				
Deputy R.G. Bryans (H)				

The Bailiff:

Finally we take Articles 39 to 50 inclusive and Schedule 1 and the Greffier will open the voting.

POUR: 47		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				

Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
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 M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
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)				

The Bailiff:

Do you propose the Bill in Third Reading, Minister?

[12:15]

2.3 The Deputy of Trinity:

Yes, I do. Before I do I would just like to make a couple of observations. I would like to thank Scrutiny for their brief review. We did keep Scrutiny briefed but, as they said, the draft was lodged 8 weeks ago. I would also especially like to thank the Law Officers' Department and my team within Inspection and Regulatory. It has been a mammoth task, and taken quite a while. But also those stakeholders out there who put their time in trying to get this all together and I would like to thank them, and finish by saying it is a good day. It starts the work to make sure that all vulnerable adults, whether they are in the community, within care residential homes, or within Health and Social Services, have now got the law behind them to make sure that they are given the best possible care that we can give them. I make the proposition.

The Bailiff:

Is it seconded? [**Seconded**] Does any Member wish to speak in Third Reading?

2.3.1 Deputy J.A. Hilton:

Just briefly, I wanted to request that the Chief Minister ensures that time is put aside in law drafting for these Regulations and also for the Mental Health Law that we have been waiting for, for a very long time, and also to take the opportunity of thanking our Scrutiny Officers who have done an absolutely brilliant job for us and have worked under a lot of pressure. **[Approbation]**

2.3.2 Deputy T.A. Vallois:

I would just like to thank the Chief Minister for acknowledging the concerns that I raised with regards to the particular Articles and the Schedule, and I hope that something will come out of that discussion between him and the Minister for Health and Social Services going forward. I would also like to raise the point, is that it was suggested to me by the Chair that I could have brought an amendment and, of course, every single Member in this Assembly could have brought an amendment but I think this goes to show how if Scrutiny are not given sufficient time and appropriate time to look at complex pieces of legislation like this and appropriately brought to the Assembly for proper, informed decisions, how these kinds of things can get complicated and misinformed. I think it was slightly unfair to suggest that one individual Member, bearing in mind I am not a qualified lawyer or advocate or anything like that, to suggest that it would have been okay for me just to bring any old amendment forward to such a complex piece of legislation that has been going on for many years. So I would like to think that in future any Ministers or any Member of this Assembly will give due consideration to the role of Scrutiny and the importance that that brings to us being able to make important decisions going forward.

2.3.3 Senator I.J. Gorst:

I just wanted to reiterate the words of the Minister for Health and Social Services that we are approving, I hope, in Third Reading this law today and I am thankful for Scrutiny’s work and share the apology of the time they have had to do the final piece of Scrutiny. But picking up on Deputy Hilton’s work: a lot of words. A lot has been said about the backlog of laws and Back-Bench propositions that are coming at this time in the governmental period. The one good thing about it of course, is that for the next 6 months or so in a new Government there is not much legislation coming forward so law draftsmen can get on and do the Regulations, like the Deputy was asking for, because there is not a backlog so it means that good time can be made on these particular Regulations, which will flow from the primary law, so that is a... although we all recognise the difficulty and we are putting in place processes that means it should not be as bad as this again. The positive is that there is latitude now to do those in short order.

Deputy M.R. Higgins:

Can I just ask a question of the previous speaker? Did I hear him correctly blaming private Members’ propositions for the backlog? **[Aside]** No? Okay, good.

The Bailiff:

Do you wish to reply, Minister?

2.3.4 The Deputy of Trinity:

No, Sir, I do not have anything else to add except that this is a great day. I think the States can be very proud of themselves.

The Bailiff:

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

POUR: 43		CONTRE: 2		ABSTAIN: 0
Senator P.F. Routier		Deputy R.C. Duhamel (S)		
Senator S.C. Ferguson		Deputy G.C.L. Baudains (C)		

Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
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				
Connétable of Grouville				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
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 M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
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 of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

3. Draft Explosives (Jersey) Law 201- (P.96/2014)

The Bailiff:

We come next to projet 96 - Draft Explosives (Jersey) Law - lodged by the Minister for Home Affairs. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Explosives (Jersey) Law 201-. A Law to revise the law relating to explosives; and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

3.1 Senator B.I. Le Marquand (The Minister for Home Affairs):

I would like first of all to express my thanks to those who have worked on this law, particularly to my Chief Officer at Home Affairs and also to the Scrutiny Panel who once again have added value to the law. The Explosives Law covers 3 separate categories as follows. Firstly, what I would call real explosives, that is the sort of thing which are used by quarries to blow up granite and so on. Secondly, fireworks. Thirdly, reloading powder. Reloading powder is what is put in muskets or cannons in order to cause them to fire. The way in which the law deals with the general category of explosives is by including everything in, that is everything in class 1 of the United Nations recommendations, plus anything else that the Minister may add under an Order under Article 2(9) and then taken out from those are 2 things. Firstly, we have taken out ammunition as defined in the Firearms Law. When we first consulted in relation to this law it has caused some distress to the firearms community because they thought we might be including ammunition in, so to make it absolutely clear, that is taken out by Article 3(3). In addition to that, there is a power to exempt items from any requirement of the law, that exemption can be on certain conditions, and I have a list of those items if Members are interested in what they are. The ones that we have come up with thus far. The advantage of the approach of including everything in class 1 of the United Nations recommendations is that we do not have to continually be changing the list, as it were, as new items are invented which have the properties of being an explosive. By buying into that list it is not necessary to be coming back to the States by Regulations or indeed the Minister making constantly new Orders where it updates itself from time to time. Fireworks are dealt with partly in Article 3(1) which basically says that the various different parts of the law can be applied to fireworks by Regulations and partly by Part 9, which includes a great number of different ways in which Regulations might be made to cover fireworks. I want to explain that within the definition of fireworks will be included marine flares. Marine flares are a type of firework and I am quite clear that this may anticipate a question from Deputy Baudains, also possibly from the Connétable of St John, who helpfully raised this matter with me. I am quite clear that we are going to have to have a separate set of Regulations in relation to marine flares because there will be different considerations for those, to those which would apply to general fireworks. It is very helpful that both those gentlemen raised those queries with me in advance. Reloading powder is dealt with under Article 5. The core of the law is Parts 2 to 8, which deal with the import of explosives, the manufacture of explosives, storing explosives, used gifts of explosives, transfer of explosives - the term "transfer" means supply to others - the transport of explosives and the export of explosives. Then there are various other parts which deal with matters like variation or revocation of licences, rights to appeal, right to inspection, enter and seizure, and Part 13, which deals with codes of practice, Order-making powers and offences together with procedural matters. A great deal of work has gone in for a very long time. This is another law Home Affairs have been working on for a very long time, certainly throughout my 2 terms as Minister and possibly before. I am very glad finally to be able to bring this to the Assembly and I move the law in principle.

The Bailiff:

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

3.1.1 Deputy G.C.L. Baudains:

I promise the Minister I will not give him a hard time. Just 2 issues, as he is fully aware, he has spoken to Members previously, that I want to flag-up. Firstly, I do not believe I have to declare an interest because I come under the general exemption.

Senator B.I. Le Marquand:

Sorry, I am struggling to open my hearing today, but I am struggling to hear the Deputy.

Deputy G.C.L. Baudains:

I think my hearing is worse than the Minister's but I will try a little louder. As I was saying, I do not think I need to declare an interest because I come under the general exemptions as far as reloading powder is concerned. My first issue I would like to flag-up is on reloading powder and I do hope that whoever enforces the storage in future does know what they are talking about because there was an occasion some years ago when they were suggesting that reloading powder should be stored in a safe, which of course creates a bomb. It needs to be in a very flexible container. Secondly, ships flares, which of course the Minister has raised. It has been coming increasingly difficult to import these for a number of reasons, the carriage on ferries and things like that. I would not like to think that it became even more difficult through these Regulations because in that case there might be an unintended consequence of boats going to sea with out-of-date flares or even no flares at all. So obviously safety is paramount but it needs to be done in a way that it does not put an extra burden on what is already a difficult problem in obtaining ship's distress flares.

3.1.2 The Deputy of St. Martin:

I too would just like to mention marine flares. I did note that the Minister said this will come under a separate cover on another occasion but I would stress that this is important. Marine flares are probably the least used of the different sections the Minister mentioned, but quite possibly the most important.

3.1.3 The Connétable of St. Brelade:

I think it is only right I put the panel's position in place. I know we have an amendment due for this and obviously the panel's position has also been set out in that amendment but the panel accepted that the premise of the Explosives Law 1970 was in need of updating to bring it in line with best practice in the provision of public safety. It undertook a review into the draft legislation to satisfy itself that the points of principle and the detail met the requirements of the Island. In order to do this the panel has compared the draft legislation and current legislation and practice to ensure that the draft law contains the recognised checks, balances and safeguards that the engagement and consultation has taken place. The detailed Scrutiny process examined each Article in turn with the Constable's stakeholders and the Minister for Home Affairs. The first set of questions which I have got here, which I prepared with the Scrutiny Officer, there were questions on 36 of the Articles so it was clear that although they were not all concerns there were certainly questions that needed to be asked around this draft law. It was apparent though that the main concern of the Constables lay in knowing where the explosives were stored and that is going to be dealt with, with the amendment, which I will not go into now. It was also considered reasonable that Constables would be advised when shipments of explosives were to be transported through their Parish. Article 33(5) was amended by the Minister to ensure that that happened. Perhaps of more concern to the Constables was the details and licensing control of firework displays. In response to evidence gathered by the panel, Article 48 created new provisions which require people who propose to operate a public fireworks display of a description to be specified in Regulations, to apply for a display licence from the Constable of the Parish in which the display may take place. In addition there will be a provision for an appeal from that decision with the Constable and details of this will be contained in Regulations. Stakeholders were primarily content with the draft law and recognise that the operational detail lay in Regulations that would follow. The panel noted that many parties interested in the detail of Part 9, which deals with the fireworks. The detailed draft legislation enables the route for control of fireworks by Regulation and the panel has found nothing of concern at this point.

[12:30]

But it is considered likely that a future panel will probably choose to review these Regulations when they are ready. On a small note, the panel have noted that an Article relating to restrictions on embarking or disembarking passengers from vessels in the harbour during loading or unloading of explosives on to a vessel. The panel was briefed on this Article and it was included erroneously as it did not reflect equivalent provisions within the harbour regulations, and this is one of the areas that the Minister removed as it was not a workable provision. It was apparent that there were areas relating to this legislation that are based on a subjective judgment. For example Article 5 relates to the storage, which has already been mentioned, and use of 4 kilograms of reloading powder. The panel has recognised though that there are differing views as to the wisdom of 4 kilograms being stored by any person, however the panel also understands that any certificate provided by the Minister for this purpose will contain stringent conditions relating to safety and therefore the panel leaves this judgment call to the Minister. Finally, the panel thanks the Minister for Home Affairs for his open and flexible approach to the Scrutiny process, which has again allowed the process of checks and balances of the work of the Minister by Scrutiny, I believe, in this case, to be very effective.

3.1.4 Deputy J.A.N. Le Fondré:

I suppose it is one comment and one question. The obvious comment is I thank the Minister for his remarks concerning Article 3(3), in other words the exemptions and the fact it does not apply to ammunition. I do have to admit I had to remind myself exactly what it referred to because I could not remember the details, and the reason I could not remember the details is there is quite a wide definition in “any ammo”. So just for the record and for my purposes it obviously excludes full bore, small bore, clay pigeon shooters, pistol shooters, you name it, in terms of the ones who use normal ammo. What I was curious about is he made reference as well to a further ability to exempt or accept items, I think, from this law, if I understood his preamble correctly. I just wonder if he could give us a flavour of what else is on that list.

3.1.5 The Connétable of St. John:

I have already spoken to the Minister on a number of areas on this law but it is the disposal of flares. Sometimes we will see a vessel come into the Island from outside and leave flares up near the refuge area within the marinas and the like, which can be of concern. Admittedly our staff are very good at collecting these things but I think what is required is that depots need to be well known to mariners of where they can dispose of flares safely. I have seen it not only from visitors but I have seen it in other places in the bays around the Island where there are small groups. Historically, I can think back 20, 30 years ago when there would be a bonfire and the flares would be let off on Guy Fawkes night in a safe area as part of the fireworks display. But that said, I think there is a need for some depots. Frequently people may contact the police or the fire service or whoever and the recommendation is to take it back to where you bought them. But if they have been bought off-Island then obviously that is not feasible. So therefore I think we need to mark that up as a potential problem.

The Bailiff:

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

3.1.6 Senator B.I. Le Marquand:

Firstly, in relation to reloading powder, even the Minister knows that you do not store reloading powder in a safe. Both myself and my former Assistant Minister had a demonstration of what happened if you set fire to a quantity even in a metal cabinet, it does then explode. I know perfectly well that you store it in a wooden container in half kilogram things, which are held in that. One of the things that will be dealt with in terms of the Order which is proposed in relation to the less than 4 kilogram category is it will specify the method of storage in the manner that I have

described. Secondly, the issue in relation to carriers. I am afraid I do not think I can do anything about this because if there is an unwillingness on the part of carriers to carry items into the Island I am afraid that is a matter for them. It is not within my power to require them to. But clearly we have an interest in relation to the method of importation of matters. But I cannot influence the carriers in any way, I am afraid. Marine flares have been raised by a number of different people. Yes, it is an important area. I thank the Connétable of St. John particularly for having raised the issue of this proposal which is an issue I was not aware of before and clearly will need to consider a methodology for that and also whether there needs to be something in the Regulations to cover that. They are very different. I mean for instance fireworks generally can only be bought within a limited period of time during the year which is set - set, in fact, by the Connétables and others - and that clearly cannot be appropriate in relation to marine flares where people would need to acquire them at any time of the year and so on. So, no doubt, there will be consultation on that and I will be grateful for further input although I suspect the Regulations, the work will continue on them, will certainly not be presented by or even lodged by me. It will go on into the next Minister's role. I thank the Connétable of St. Brelade and the Chairman of Scrutiny Panel for raising a number of different areas which were covered and indeed numbered them and I was able to make improvements to the law; that is why I am grateful for their work. The storage issue; that seems to have been a problem in relation to Connétables knowing where the stores were in the Parish and that seems to have been forgotten over a period of time. I am very happy we have now reached an arrangement whereby, with the amendment from the Scrutiny Panel, which I am going to accept, the Connétables would get notice of all applications not just in fact ones for new premises but for the existing premises and their notification of the outcome of those. I think what has happened over a period of time with changes of staff, changes of Connétable, that knowledge of where these places are has been lost. There are not a huge number of them and they have been here for a long time but it is important and I am grateful for the amendment which has reached a compromise. I was a little bit concerned initially that it might lead to a Connétable being consulted every year but in fact what I am proposing to do is to move towards a 3-year application and then it does make sense for the Connétables to be consulted every time. The harbours; the displays regulations, that I will come to in more detail but there is going to be a 3-way split on displays. There will be some items which are within the definition of displays which probably do not need any Regulation at all. There will be some, where it would be sufficient for people to go through a right process of notifying neighbours and so on and that will be set out in Regulations and there will be some larger ones where it is quite clearly right that there be an application to the Connétable and operation and conditions can be applied. That is a major improvement because hitherto there has not really been any proper control of those. The Harbours Regulations; we realised that we had a blanket, as it were, provision there and really this was a matter that should not be dealt with in this law but should be dealt with under Harbours Regulations and that is what is now going to happen. I have dealt, I think, already with the reloading powders and conditions in relation to that. The exempt items; I have brought with me copies of, which I will hand out. I will read them out just so that Members have the information. What we are looking at in relation to the further exemptions are seat belt re-tensioners, but obviously there will have to be conditions that they are properly installed. Airbags: again there will have to be conditions as to proper instalment and so on. Crackers **[Interruption]** **[Laughter]** sorry, that was not a comment on ... **[Laughter]** As in Christmas crackers. I know sometimes they also contain other items. Caps; that is caps for cap guns as opposed to the type that both myself and Deputy Southern regularly wear. Party poppers, sparklers, igniter cord; again they will have to be subject to conditions on that. Electric igniters, again subject to conditions; and safety fuses, again subject to conditions. Those are the ones we have in mind at the moment. If Members think we have missed anything else that should be completely exempted then I would be grateful for that because obviously there will be an Order to

cover that. Disposal of flares, again I have covered that and I thank all Members for their comments and their interest and I maintain the principles.

The Bailiff:

All those in favour of adopting the principles ...

The Connétable of St. John:

Just before we vote on this, just clarification. Nail gun caps for nail guns, are they covered? It has got caps for guns but that is for toy guns I take it, what about nail guns?

Senator B.I. Le Marquand:

I thank the Connétable for probably having suggested something in addition. I am not quite sure what the explosive content is there but if there is explosive content they also will need to be exempted. I thank the Connétable for suggesting that.

Deputy G.C.L. Baudains:

If I could help the Minister, the explosive in a powerful nail gun is normally a 22 blank cartridge.

The Bailiff:

Very well, all those in favour of adopting the principles kindly show. Those against. They are adopted. Connétable of St. Brelade, this matter has already been referred, I think, to your Scrutiny Panel but do you wish it referred?

The Connétable of St. Brelade (Chairman, Education and Home Affairs Scrutiny Panel):

No, Sir.

The Bailiff:

Now, do you wish to propose the Articles *en bloc* and simply take questions until we get to the amendment? There is one on which there is an amendment.

3.2 Senator B.I. Le Marquand:

Yes, I think I have explained some detail. I have not gone into detail of the Article 5 ones but again I will propose *en bloc* and invite questions. If people want to know the Article 5 I will explain it.

The Bailiff:

Well, technically I think you better propose Articles 1 to 23.

Senator B.I. Le Marquand:

Yes, Articles 1 to 23, I am sorry.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on Articles 1 to 23? All those in favour of adopting Articles 1 to 23 please show. Those against. They are adopted.

3.3 Draft Explosives (Jersey) Law 201- (P.96/2014): amendment (P.96/2014 Amd.)

The Bailiff:

Now, in Article 24 there is an amendment. I understand you are going to accept the amendment?

Senator B.I. Le Marquand:

Yes, I am very happy with the amendment.

The Bailiff:

We better get the amendment read. So, Greffier, would you read the amendment please.

The Deputy Greffier of the States:

Article 24, (a) for the heading to Article 24 substitute the heading “Grant of magazine licence”; (b) at the beginning of Article 24 insert the paragraph number “(1)”; (c) after paragraph (1) add the following paragraph – “(2) The Minister shall, before deciding whether to grant an application for a magazine licence, consult the Connétable of the Parish in which the magazine is or would be located.”; (d) after paragraph (2) add the following paragraph – “(3) The Minister, when granting an application for a magazine licence, shall send a copy of the licence to the Connétable of the Parish in which the magazine is or would be located.”.

3.3.1 The Connétable of St. Brelade:

I am not going to take too much of the Assembly’s time because I am sure everybody is hungry.

The Bailiff:

Well, I think the Minister has indicated he is going to accept it.

The Connétable of St. Brelade:

He is going to accept it and really all I need to say about this is that not only did we go to the Constables once we went back a second time just to make sure that they were supportive of the need for them to be notified of the location of magazines within their Parish and being consulted if there was any new ones. I think that really just sums up the amendment.

The Bailiff:

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the amendment? All those in favour of adopting the amendment kindly show. Those against. The amendment is adopted.

3.4 Draft Explosives (Jersey) Law 201- (P.96/2014) - resumption - as amended

The Bailiff:

So now we need to consider Article 24 as amended. Does any Member wish to speak on that? Very well, all those in favour of adopting Article 24 as amended please show. Those against. It is adopted. Then, Minister, do you wish to propose the remaining Articles *en bloc*?

3.4.1 Senator B.I. Le Marquand:

Yes, I can propose the remaining Articles.

The Bailiff:

So that is Articles 25 to 82. Are they seconded? **[Seconded]** Does any Member wish to speak on those Articles? All those in favour of adopting Articles 25 to 82 please show. Those against. They are adopted. Do you propose them in the Third Reading, Minister?

3.5 Senator B.I. Le Marquand:

Yes. Let me just say something on Third Reading very briefly. This is probably my swan song in terms of bringing propositions to the States. I do not expect **[Laughter]** ... I do not expect any sympathy on that but I thank Members for their patience when I have taken too long explaining things in detail and I have got carried away. I think that I am able to say that, with one exception, which I had to withdraw, and it was one of those exceptions where I had to withdraw part but had dealt with it in relation to the sex offenders, I have, generally speaking, had the support of the vast majority of Members both of this Assembly and the previous one for which I am profoundly grateful. I move in third Reading.

[12:45]

The Bailiff:

Is it seconded? **[Seconded]** **[Approbation]** Does any Member wish to speak in Third Reading?

3.5.1 Senator L.J. Farnham:

It is just to say it very nice to see my Minister go out with a bang. **[Laughter]**

The Bailiff:

On that note all those in favour of adopting the Bill in Third Reading please show. The appel is called for then for the adoption in Third Reading. The Greffier will open the voting.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
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 Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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 M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
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)				

The Bailiff:

Very well, the Bill is adopted in Third Reading: 40 votes pour and no votes contre. [Approbation]

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Is the adjournment proposed?

Senator P.F. Routier:

I propose the adjournment.

The Bailiff:

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

LUNCHEON ADJOURNMENT

[14:17]

COMMUNICATIONS BY THE PRESIDING OFFICER:

4.1 Welcome to His Excellency The Lieutenant Governor

The Bailiff:

Well, may I begin by welcoming His Excellency to our session this afternoon? [Approbation]

5. Draft Comptroller and Auditor General (Jersey) Law 201- (P.98/2014)

The Bailiff:

Very well, now we come to the next matter on the Order Paper, which is Projet 98: Draft Comptroller and Auditor General (Jersey) Law 201-, lodged by the Council of Ministers. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Comptroller and Auditor General (Jersey) Law 201-. A Law to continue the office of Comptroller and Auditor General to provide for the functions of that office and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

Senator I.J. Gorst:

I would like to ask the Minister for Treasury and Resources to act as rapporteur. It is a Council of Ministers' proposition and it moves, largely, Regulations which are currently under Finance Law into a new law which falls in his remit as well.

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

So as the Chief Minister has explained, the Council of Ministers is bringing forward legislation to establish the office and role of the Comptroller and Auditor General in a stand-alone piece of legislation. It is important, perhaps, to reinforce the matter that the Chief Minister said, which this is to some great extent, effectively replacing and re-enacting in a separate piece of legislation the existing provisions that are Part 6 of the current Public Finances Law. The proposed stand-alone legislation builds upon that strong base in the Public Finances Law and is designed to put beyond doubt the fact that the Comptroller and Auditor General is independent and has the effective abilities to report without political influence, without fear or favour. The legislation brings the

remit, independence, governance and management arrangements for the office of the Comptroller and Auditor General in line with international best practice. The legislation ensures that the office of the Comptroller and Auditor General is of course subject to strong financial control and good governance arrangements while still ensuring that the office's independence is maintained. So it is appropriate for the Council of Ministers, and I hope this Assembly, to express its gratitude to the current Comptroller and Auditor General, Mrs. Karen McConnell, for her report on public audit in Jersey which has formed the basis of the changes before the Assembly today. So I would also like to thank, on behalf of the Council of Ministers, the Public Accounts Committee for their review and for the helpful comments that they have made on the draft legislation and indeed the amendments that they have brought forward. As Members will see the comments issued by the Council of Ministers indicates that the Council is prepared to accept a number of the amendments highlighted by P.A.C. I would probably make, at this stage, a number of observations about the legislation which I then will not repeat later. There has been a great deal of work on this legislation between the Chief Minister and the Chairman of P.A.C. over a period of months and that has been extremely helpful. It is worth reinforcing the importance of the independence of the Comptroller and Auditor General which is an important underpinning of strong public finances and strong governance and which has, if I may say, attracted the attention of many of the people that asked the Treasury about questions concerning the recent issue of the public bond. It is important that there is a very strong message that the Island has a strong Comptroller and Auditor General which, as I said earlier, can act without fear or favour to Islanders and indeed the outside world. This gives assurances that public finances and the management of the way that public money is spent is properly overseen, is controlled and managed in a competent manner and this legislation is designed to achieve that. Turning to the legislation briefly; the appointment of the individual to a post of Comptroller and Auditor General will continue to follow the robust appointments process which, of course, involves the Jersey Appointments Commission. Any decision will be proposed by the Chief Minister but with the concurrence of the Chairman of P.A.C. and the final decision of an appointment of a C. and A.G. (Comptroller and Auditor General) will be this Assembly and that is the right position. There has been some debate about whether some appointments should come before this Assembly but the Comptroller and Auditor General is the type of appointment that should be indeed ratified by this Assembly. In order to strengthen the independence of the C. and A.G. and to follow the international standard this legislation limits the term of the appointment to a fixed 7-year term which cannot be renewed. In order to further enhance the independence of the role, the legislation also prevents a former post-holder from accepting any employment within any States department. That means the C. and A.G. is absolutely independent. The draft legislation provides the procedures for the revocation of the C. and A.G., and these are set out in the detail. One of the amendments that we will come to later is the way that an appointment of a C. and A.G. could be revoked and we will come to that, no doubt, during the course of the Articles themselves. The powers and duties of the C. and A.G. clarify the post's powers to provide assurances on all funds held under the auspices of the States Consolidated Funds, but also Social Security and clarifies the position in relation to Special Funds and is designed to cover everything that this Assembly has the ability to influence or set up. The legislation continues to give the C. and A.G. responsibilities to report and review on other entities and either receive support from the States or any entity that has support from this Assembly or the States has a shareholding in. The Council are extremely keen that the independent nature of the C. and A.G. is promoted and maintained but this, of course, cannot be at the expense of ensuring that the office is not accountable to this Assembly in terms of its own spending. The draft legislation also ensures that that appropriate accountability is maintained in a number of ways which we will come to in the Articles. The legislation brings consistency in the way to which external auditors are appointed to bodies and these are classified as States-aided independent bodies. In future the C. and A.G. will have responsibility for the appointment of auditors of these bodies which is a move I welcome. This draft legislation rightly

extended the role and remit of the C. and A.G. and also brought responsibility under one piece of legislation and it does give the opportunity of making savings through economies of scale in, for example, the procurement of audit arrangements. We are anticipating that any costs of any changes that can be met will be within the existing financial and manpower arrangements already in place for the office of the C. and A.G. It is worth saying that any change in the budget or any increase in the budget that the P.A.C. felt necessary, after this legislation is passed, they have an ability to make a request as part of the M.T.F.P. (Medium-Term Financial Plan) process in that way and that will be dealt with obviously in a transparent way. The office of the C. and A.G. has been something in place for a number of years. It has been strengthened and improved and this Assembly and all States departments are, I think, in a stronger position as a result of the setting up of the P.A.C. and the C. and A.G., and this legislation aims to put that independence and that control environment in an even stronger position and I commend the preamble to the States.

The Bailiff:

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

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

No, thank you.

The Bailiff:

Very well. So then we come to the Articles. Now, Minister, there are a number which are amended or subject to amendment by the P.A.C. How do you wish to take it? I mean Article 1 is subject to amendment that is consequential on Article 15. Are you accepting any of these amendments?

Senator P.F.C. Ozouf:

The Chief Minister has already indicated in a report the acceptance of a number of these amendments of which the first one is accepted.

The Bailiff:

So the one about the board is accepted? Very well, so that will include Article 15 because clearly the amendment to Article 1 is consequential on whether the principle of the amendment to Article 15 is accepted.

Senator P.F.C. Ozouf:

Indeed. So how would you like me to deal with it because we can move to effectively the ... it is the Article ... I think we should take probably Articles ... no, we cannot because it is ...

The Bailiff:

What I suggest is we will park Article 1 for the moment.

Senator P.F.C. Ozouf:

Very good.

The Bailiff:

We will therefore take Articles 2 to 6, where there are no amendments, then we will take Article 7, which seems to be a rather stand-alone amendment. Then we will go on to Article 14 and then 15 we will take and if that is passed then we will go back and take Article 1.

5.2 Senator P.F.C. Ozouf:

That is very helpful. So I will propose Articles 2 to 6 and answer any questions Members may have.

Senator B.I. Le Marquand:

I was not aware we had passed Article 1. I wanted to make a comment on the amendment because I think there is a problem with this amendment.

The Bailiff:

Well, you will have the chance.

Senator B.I. Le Marquand:

So sorry, I thought we had jumped to Article 2.

The Bailiff:

We have because we are going to come back to Article 1.

Senator B.I. Le Marquand:

We are going to come back. I am terribly sorry. I was concentrating on the problem.

The Bailiff:

Very well, so at the moment we are on Articles 2 to 6. They have been proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on any of Articles 2 to 6?

5.2.1 Deputy R.G. Le Hérisier:

The standing question under 3(2), I wonder if the Minister for Treasury and Resources could explain, given the somewhat ambivalent wish of the States to move from propositions in camera, why is this one in camera and was it not possible to deal with confidential information and separate it out from the broader process?

The Bailiff:

Does any other Member wish to speak on any of these Articles? Then I invite the Minister to reply.

5.2.2 Senator P.F.C. Ozouf:

I think the difficulty is that this Assembly needs, because of the earlier remarks I made, to confirm the appointment of the C. and A.G. It is such an important appointment and effectively it should be an Assembly appointment. However, I think that it would only be reasonable for me to suggest that observations concerning an individual, which Members may say about that individual made in public, that they would be concerned or wish to ask questions about, it might not be possible or appropriate for those to be ventilated in public, to be frank to Deputy Le Hérisier. I would not want to see a situation where a person ... and clearly the C. and A.G. is beyond politics and almost an individual beyond what should be appropriate criticism. I think this Assembly has shown itself to be capable of making some fairly, potentially, critical remarks about individuals which would not be, I think, appropriate to be ventilated in public. The vote is taken in public and that, I think, is the appropriate way of dealing with an appointment that should be made by the States but clearly that person's attributes, their experience and effectively potentially a rerunning of an appointments process should not be something that is held in public and therefore that is why the proposal is for it to be in camera. I hope Deputy Le Hérisier understands that is a sensible middle ground. So I move Articles 2 to 6.

[14:30]

The Bailiff:

All those in favour of adopting Articles 2 to 6 kindly show. Those against. Articles 2 to 6 are adopted. Then do you propose Article 7, Minister?

5.3 Senator P.F.C. Ozouf:

Yes. Article 7 is effectively the process of the revocation of the appointment and effectively is subject to an amendment so I will ...

The Bailiff:

Which you will or will not be accepting at this stage?

Senator P.F.C. Ozouf:

It is not accepted.

The Bailiff:

It is not accepted.

Senator P.F.C. Ozouf:

It is accepted. I beg your pardon, it is accepted.

5.4 Draft Comptroller and Auditor General (Jersey) Law 201- (P.98/2014): amendment (P.98/2014 Amd.) - Article 7

The Bailiff:

It is accepted. Very well, then we will ask the Greffier to read the amendment to Article 7.

The Greffier of the States:

Page 21, Article 7. For paragraph (1) substitute the following paragraph – “(1) The States may revoke the appointment of a person to the office of Comptroller and Auditor General on a proposition signed by the Chief Minister and the Chairman of the Public Accounts Committee.”.

5.4.1 Deputy T.A. Vallois (Chairman, Public Accounts Committee):

It is quite a simple amendment when you are first faced with it and I imagine I am going to get a few questions on why we are looking to remove this particular area of a proposition signed by at least 12 Members of the States. Through looking at other areas of legislation there seems to be an inconsistency on how we appoint, whether it is independent people or members of boards across the States. As a person who has been through the appointments process for Comptroller and Auditor General we go through the appropriate mechanisms of using the Jersey Appointments Commission and it is a thorough process that we have gone through. I believe that it is appropriate, or the P.A.C. believe that it is appropriate, that should any Member of the States have any issue with regards to the role of the C. and A.G. or any concerns over their ability to perform their office that they would be able to approach both the Chief Minister and the Chairman of the P.A.C. to relay those concerns and those issues and it can be properly dealt with and if sufficient to be brought for revocation here to the States by the Chief Minister. So I propose the amendment.

The Bailiff:

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

5.4.2 Senator P.F.C. Ozouf:

It is accepted. I apologise for just getting my Articles confused. In fact I think just for the clarity of this debate all the amendments are accepted apart from the one that I understand the P.A.C. is going to withdraw anyway and perhaps the Chairman is, but, no, it is all accepted.

5.4.3 Deputy R.G. Le Hérissier:

This must be resisted at all costs. There is a ghost at the feast, Banquo, and the ghost derives from what happened last time when we accidentally or non-accidentally lost a C.A.G. I certainly, as a Member - and there was a lot of discussion about this, sadly a lot of the discussion was carried out in a fog - did not feel convinced by many of the reasons that were produced for this accidental loss of a C.A.G. For that reason I think it is absolutely vital that checks and balances be kept. At a debate quite recently we did sing the praises of the integrity of the Chief Minister and indeed it should be said the Chairman of P.A.C. but that is not the issue. The issue is that the call to arms for revocation would issue from the Chief Minister or from a joint letter or a joint declaration of the Chief Minister and the Chairman of the P.A.C. and to me that takes away the power of the Back-Benchers. The role of the C.A.G. is to serve the public in a fearless way, as the Minister for Treasury and Resources has intimated, and as such he or she has a very important role to play vis-à-vis the Assembly, not vis-à-vis the Chief Minister, not even vis-à-vis the Chairman of P.A.C. It strikes me 12 is an awful lot of Members to get to agree given our propensity to resist herding like cats so it would take a lot of effort. It would take some very convincing arguments, rather like a jury, to get 12 Members to agree. So one only has to understand that it would only be done in times of great seriousness and great concern. So I think it is a balance that should be kept in and I do not think the ... the notion, for example, of inconsistency; well, why was it not argued the other way? Inconsistency to weaken procedures as opposed to inconsistency to improve procedures across the piece. It could have been argued that way but it was not. I think this is a dangerous move and it must be resisted. It is not as if Members, 12 Members, are going to get together every month and start running malicious or weak or vexatious propositions. It is a defence that should be kept in.

5.4.4 Senator P.M. Bailhache:

I agree with Deputy Le Hérissier to the extent that the Comptroller and Auditor General is a servant of all the Members of the States but after that I am completely not in agreement with him and I am a strong supporter of the amendment brought by the P.A.C. Indeed, I am sorry that I missed a trick because I think in a sense the amendment of the P.A.C. does not really go far enough. I am not in favour of appointments or dismissals of officers of this kind taking place in a debate in this Assembly. For the reasons given by the Minister for Treasury and Resources such a debate has to take place in secret, in camera. That in itself is a highly undesirable state of affairs. There was a discussion about this some months or perhaps a year or 2 years ago, and the Assembly passed a resolution to the effect that we would seek not to have appointments made by the Assembly but we would seek to have them made by some other person. When one thinks about the practicalities of it, so far as the appointment is concerned, the Comptroller and Auditor General is appointed by an Appointments Board, in effect, supervised by the Appointments Commission so there is a thoroughly objective and transparent process for the recommendation of the name. It seems to me that the appointment should be made in fact by the Chief Minister and the Chairman of the P.A.C. jointly. I see no purpose in a debate in this Assembly. What does it add? We had, on the last occasion when a Chairman of the Jersey Financial Services Commission was being appointed, Members googling the name to see what information they could find about him and making speeches which frankly did not contribute to the question of whether or not it was desirable to appoint that individual. When one comes to dismissal, what an appalling position for the Comptroller and Auditor General to find himself in if he were to be the subject of a proposition signed by 12 Members for seeking his dismissal. I mean if it were me, and I think if it were any sensible Comptroller and Auditor General, he would go. He would not allow such a proposition to be debated. The whole process seems to me to be thoroughly inelegant and inappropriate. An officer, an official, a high official of this seniority should be appointed by the Chief Minister and by the Chairman of the P.A.C. and we should trust both those Members of this Assembly to make the right choice on the basis of an entirely transparent process which will have been supervised by the

Appointments Commission. Having said that, in order to express my disagreement with Deputy Le Hérissier, I support the amendment.

5.4.5 Deputy J.H. Young:

I would like to hear from the proposer a little bit more about the reason why the safeguard of removing 12 Members is necessary because clearly this was a provision in the existing Public Finances (Jersey) Law 2005, so it has been there for quite some time. It was obviously put there for a purpose. I do see the point about having a safeguard because there cannot be any more position responsible to the States than having a truly independent Comptroller and Auditor General so that safeguard strikes me. If the amendment asks us to remove it I would like to be clearer as to the reasons why that statutory provision that has been there for a long time should be dispensed with.

5.4.6 Senator S.C. Ferguson:

I would possibly raise the question with Deputy Young: is it really a safeguard, because 12 people could be the total Council of Ministers, which would be interesting? Under collective responsibility they would all have to vote together which rather removes Deputy Le Hérissier's point. In contrast with Senator Bailhache I think all senior appointments should also be interviewed by the relevant Scrutiny Panel. So perhaps that is something we should consider. As I understand it... and no doubt my Chairman will correct me if necessary, she has never stopped doing it before if it was relevant. As I understand it the 12 Members... I do not know any other appointment where that occurs. I do not know where that has come from and perhaps the Chairman would like to explain to the Assembly where that joyful little bit of legislation emanated from because it is not something I have come across before. No, I think it is perfectly reasonable. It is consistent with other appointments. I think the in camera is a safeguard and it allows us to air concerns without ending up on the front page of the *Jersey Evening Post*. Ending up on the front page of the paper for something which is, perhaps, incorrectly understood and may not be correct. So I support the amendment and I recommend it to the Assembly.

3.4.7 Senator I.J. Gorst:

I, as the Minister for Treasury and Resources has said, support the amendment. I think what this debate is showing once again that when we try to involve ourselves in appointments we get into somewhat of a muddle. Senator Ferguson has just offered another variant of how it might be that we deal with appointments into the future. The States has made a decision that appointments should be taken out of the Assembly and dealt with in a different way. However, I have just been reminded that there were 2 exemptions to that proposition, one was to the office of Greffier of the States and the second was to the office of Comptroller and Auditor General. So the States has made this decision and yet I read in today's paper that I am accused of trying to do something of my own will because I am following the desire of the States. So I think we are rapidly getting to the point where we need to ask the States just to reconfirm what it is that it would like Ministers to do when it comes to an appointment process. I think that the P.A.C., and I do not mean the Planning Applications Committee, **[Laughter]** I mean the other P.A.C. that we created long before we created the second P.A.C. that we created earlier this week, but I will not go on about that anymore because I seem to be in a minority of one; of the opinion that creating 2 P.A.C.s was somewhat confusing but anyway there we are. I mean the first P.A.C. and they rightly are trying to ensure that the independence of this office, which is paramount, is protected. I do not accept that 12 Ministers with collective responsibility, there are not currently 12, would have to vote for it. They might have to vote for it but collective responsibility would not extend to them having to sign a removal notice and if that were the case the Chief Minister has the other option anyway of working with the Chairman of P.A.C. to deal with any particular problem. I think we have learnt from experience that these offices are very sensitive and any thought of political involvement

causes us issues and therefore I think the amendment of the P.A.C. is to be supported and it will help to enhance and make sure that that independence is not interfered with.

3.4.8 Deputy M. Tadier:

It never ceases to amaze me how much this Parliament, this Assembly, is quite happy to give up its privileges and to give up its sovereignty and authority and defer and to roll over and have our bellies tickled and give the power on a plate to the Chief Minister, whoever that might be, without any kind of party or even Island mandate for that matter as Chief Minister.

[14:45]

That is not a criticism of this current one but a more general comment. The 12 Members that are referred to in Article 7 is there for a reason and it provides an added safeguard. Now we are being told that part of the rationale for this is because the role of the C. and A.G. must not be allowed to become political. He must not get drawn-in. That is being used as the reason for taking away the safeguard from Members of this Assembly and putting in the amendment. The concern that I have, or the question I would ask is, who made it political last time? Why was the C. and A.G. on the last occasion put in the position where he felt he had to resign because his position had become political? It was not because of his actions, it was, I would suggest and many believe to be the case, as the result of a senior Member of this Assembly. Now, there is a technical reason, I think, why it is much better, or a couple of technical reasons why it is much better, to leave the Articles as they are rather than adopt the amendment. The first one is the Chief Minister, in particular, but it can also be said for any future or the current Chair of P.A.C., is essentially there as the head of a coalition. We have heard this before and it is entirely likely that the Chief Minister may not be the first choice of the Assembly but the compromise if you like, and that is entirely likely because there will be different factions in the future of the Assembly, and the way the voting system works is that it could be the least worst option, as we have come to hear in politics, that gets put there. That is not a criticism either, it just means that that individual does not share in all aspects the majority confidence of the Assembly. I mean what happens if both the positions of Chief Minister and Chairman of P.A.C. get captured for a particular political cause even though the appointment becomes very questionable and the only 2 people who can revoke that and even bring it to a debate in this Assembly - which would be in camera incidentally, no one is suggesting to take that away in terms of the amendment - would be those very 2 individuals. Surely it is a much better safeguard to say that if there are 12 Members, or there may even be 20 Members, there might even be 24 Members, who have serious concerns about the particular incumbent of that post, yet they will not have the ability to put their case to the Assembly, but 2 Members of the Assembly would have all the power to revoke that. Does that sound sensible? It does not sound instinctively sensible. It sounds opposite. Of course the irony is that the only recourse for those 12 Members who currently would be able to ask for a revocation and then have the hearing privately, so as all the perhaps delicate facts will not be coming out publicly, I am not going to say that is correct or otherwise but that is the current system, that the rationale, the only recourse open to them would be for them to bring a vote of no confidence in the Chief Minister or in the Chairman of P.A.C. and all those facts would have to come out in public during the debate saying: "The reason I am bringing this vote of no confidence, the reason the 12 of us, the 15, the 20, are bringing a vote of no confidence is solely because we think that the Chief Minister and the P.A.C. Chairman should be bringing a revocation." Then, presumably, all of those arguments can come out because there is nothing to say that a vote of no confidence should be held in camera. The vote of no confidence would be held in public and therefore the role of the C. and A.G. would become very political and all those facts would be able to be reported and they would be broadcast live therefore we would be having the very same debate in public as an unintended consequence. That is what would have to happen in future if those 12 Members wanted a revocation. They would simply have to use this alternative provision and that very debate, which was supposed to be held in camera for very good reasons, as

we have just heard by Senator Bailhache, would then become public and the unintended consequence, the corollary of which would be that the C. and A.G. would automatically become a political football, which is what we are trying to avoid. So the message is, keep it as it is, that is why we have it there and that is why it makes sense.

The Bailiff:

Does any other Member wish to speak on the amendment? Then I invite Deputy Vallois to reply.

5.4.9 Deputy T.A. Vallois:

I knew this one was going to be a fairly interesting debate because if Members remember what I was talking about before on the Regulation of Care Law: the importance of independence and the situation with regards to appointments across the board - and this is not the only issue. We have got them right across the board. There is no consistency whatsoever and I think it is about time we sat down and decided properly and provided some form of clarity and indication on how independent people are appointed and their office is revoked and how boards work as well because they are a slightly different entity to that of an independent model. I will address the points that Members have made. I thank those who have spoken in favour of this amendment and I will try to explain why it is that we are bringing this particular amendment to those who feel like we should be keeping it in. I can understand their concerns because you are stuck between a rock and hard place. You have got some Members that wish to have large amounts of different ways to either appoint or remove people and you have got other Members that think this Assembly should not have any say whatsoever in appointment of people, only the Ministers and Chairman and things and that is the way that it should work. I find this situation very difficult myself, because I do believe the States Assembly should be appointing the C. and A.G. and revoking the C. and A.G.'s appointment. The reason why I say that is because of the independence of the office and the recognition that it is the C. and A.G. reports to this States Assembly and so how do you deal with that difficulty. You do not want to end up having a Chief Minister appointing and dismissing a C. and A.G. and the particular issues that have been raised was that this was brought in, I believe, after the Machinery of Government where there was a lot of what was seen as safeguards to be put in place, but I do not think the whole issue overall was attended to appropriately. Over the years we have mismatched everything. If you look at the Public Finances Law and look at the way that the Treasurer ... the Treasurer is an independent person under the Public Finances Law but they are appointed and dismissed by the Minister for Treasury and Resources. Now, some people will say that is absolutely correct and some people would say that is not correct. What we are trying to do with this amendment here is that what we are saying is that P.A.C. will be having a code of practice between the Comptroller and Auditor General's office and the Public Accounts Committee office. There will also be a code of practice set in place between the Executive and that of the scrutiny function and it recognises that in Article ... if you read the law and Article 7, there are specific requirements as to the reason for you having to revoke the appointment of the C. and A.G. What we are basically asking is that it is not just 2 Members to get rid of the C. and A.G., that is not what we are asking, what will have to happen is the Chief Minister and the Chairman of the Public Accounts Committee ... if any Member has got an issue under those particular areas there on Article 7, comes to the Chief Minister and the Chair of P.A.C. and says: "Look I have got a real issue over this", but say, for example, you cannot produce evidence or you have had a lot people contact you and there may be a concern and there may not be evidence, it gives us the ability to look into it and then decide whether there is sufficient evidence to support what that Member is saying. If so, then we have to bring a proposition to this States Assembly, and it is this States Assembly that decide whether to revoke the C. and A.G.'s office or not.

Deputy M. Tadier:

Would the Member give way?

Deputy T.A. Vallois:

Yes.

Deputy M. Tadier:

She said that they would have to bring a proposition but of course just because somebody had made a complaint they would not be forced to bring a proposition to revoke, it would remain a political decision for those 2. Is that correct? Is it just a turn of phrase, I think?

Deputy T.A. Vallois:

No, it is just for the Chief Minister and the Chairman of the Public Accounts Committee to bring a proposition signed by us for the States Assembly to debate as to whether they should revoke the appointment of the C. and A.G. Now, if anybody has got a complaint about the C. and A.G. then there are procedures in place at the C. and A.G.'s office and for us to assess and look at appropriately. I do not think any Member would expect... I find this particularly difficult because I understand where people are coming from, they are wanting their rights to be able to bring a proposition to the States Assembly but being able to evidence and prove whether somebody has, say for example, not carried out the duties of the office in a competent manner, and we would have that debate on this floor of the Assembly and we would have to have that debate if the Chief Minister and the Chairman of P.A.C. brought that proposition but there would be a requirement for that Member to come to us rather than 12 Members to bring a proposition to the States Assembly. So either way if there was a serious issue ... sorry, does the Deputy want me to give way?

Deputy G.P. Southern of St. Helier:

Thank you. What would happen if the Chief Minister and the Chairman of P.A.C. decided there was not a substantive enough case and just sat on it? Is there a complaints body we can take it to? Because I have tried taking a complaint to the Chief Minister about the behaviour of a Minister, had a most unsatisfactory result. We got no information back at all.

Deputy T.A. Vallois:

Well, there is the ultimate of a vote of no confidence like Deputy Tadier did suggest and then everything would be brought out on the floor of the States Assembly. I think it is quite clear that there are divided opinions on this particular amendment because there are some Members that believe that people should be appointed in one way and there are others that believe that there is a different method and a different way to deal with this but I think what it does do is highlight the serious issue that we have got here in terms of appointing people and knowing what an independent office is and how we are going to drive that forward. I do not think there is much more for me to add apart from the fact that I will emphasise the fact that there are codes of practices and that the C. and A.G. is very aware of good governance and wants good governance in place and that there would be in place an ability, I believe ... I would like to leave in place at the end of this term a clear example of good practice in terms of when there are complaints taken to P.A.C. and how they are addressed and complaints taken to the C. and A.G. and how they are addressed. I do not think Members will be sufficiently happy with that argument and they will want to keep this particular amendment in place and if they do then I would suggest that they vote against this amendment. So I propose the amendment.

Deputy M. Tadier:

May I ask for clarification? I did raise in my question, and I appreciate the points that have already been given in answer, does the chairman of P.A.C. ... could she comment on whether a vote of no confidence by 12 Members in the P.A.C. Chairman and the Chief Minister in the absence of the ability to bring a revocation as they concurrently do is a satisfactory way of safeguarding the

independence of the office of C. and A.G. given the fact that that debate would take place in public?

Deputy T.A. Vallois:

I would probably say in terms of the status of putting it into a political football, the independence role, then it is quite a tricky situation to be in and probably unsatisfactory but it comes back down to there should be proper governance in place.

[15:00]

I cannot speak for future Chief Ministers or chairs of P.A.C.s but I believe that the appropriate mechanism is that the Chief Minister and the Chair of P.A.C. would take the concerns and the issues of other Members absolutely seriously and investigate them and if necessary bring a proposition to the States for the States to debate in camera. That may be me being extremely naïve and some people may think I am extremely naïve in that stance, but I think that is the best method. Until we can come up with an absolute clear and a proper way forward, consistent across the board, as to how we appoint and dismiss independent bodies because I think this debate alone has shown how everybody thinks there are different ways to deal with this and until we can have an absolute clarity across the board how we deal with this situation I believe at the moment the appropriate way to move forward would be to support this amendment.

The Bailiff:

Very well, is the appel called for? Yes, the appel is called for then in relation to the amendment to Article 7 lodged by the Public Accounts Committee. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 27	CONTRE: 13	ABSTAIN: 0
Senator P.F. Routier	Senator B.I. Le Marquand	
Senator P.F.C. Ozouf	Connétable of St. Peter	
Senator A. Breckon	Connétable of St. Lawrence	
Senator S.C. Ferguson	Deputy R.C. Duhamel (S)	
Senator A.J.H. Maclean	Deputy R.G. Le Hérisssier (S)	
Senator F.du H. Le Gresley	Deputy J.A. Martin (H)	
Senator I.J. Gorst	Deputy G.P. Southern (H)	
Senator P.M. Bailhache	Deputy of Grouville	
Connétable of Trinity	Deputy M. Tadier (B)	
Connétable of St. Clement	Deputy J.H. Young (B)	
Connétable of St. Mary	Deputy of St. Mary	
Connétable of St. John	Deputy N.B. Le Cornu (H)	
Connétable of Grouville	Deputy S.Y. Mézec (H)	
Deputy of St. Ouen		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy J.P.G. Baker (H)		
Deputy S.J. Pinel (C)		
Deputy R.G. Bryans (H)		
Deputy R.J. Rondel (H)		

5.5 Draft Comptroller and Auditor General (Jersey) Law 201- (P.98/2014) - resumption - as amended

The Bailiff:

So we now return to Article 7 in its amended form. Does any Member wish to speak? Very well, all those in favour of adopting Article 7 kindly show. Those against. It is adopted. Minister, do you wish to propose Articles 8 to 14?

5.5.1 Senator P.F.C. Ozouf:

Indeed. I propose Articles 8 to 14.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of those Articles?

5.5.2 Deputy J.A.N. Le Fondré:

I had a general question on Article 11, I think, specifically, which seems to define the general duties of the C. and A.G. Is that a... when I say is it a restrictive power, is that... what I suppose I am trying to get to is that normally in these type of things there is some form of capsule which says that the C. and A.G. can look at... it identifies what the individual, whoever, is meant to be looking at and then normally it is anything else that they might deem of interest, whatever it is. If something falls out of, and I cannot see what might, but if something falls out of the scope of 11 that seems to be appropriate for the attention of the C. and A.G. is there anything that prohibits the C. and A.G. looking at it? I think that is the proper question.

The Bailiff:

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

5.5.3 Senator P.F.C. Ozouf:

I would be surprised if a C. and A.G. interested in looking to a matter which covers States spending, governance, States funded bodies, whether there was anything that the general powers and duties of the C. and A.G. would be prevented from doing so. So I think that it is, for the avoidance of doubt, all the specific duties and general powers which I would imagine, the Deputy is an auditor, that he could not find anything wider than this and I move the Articles.

The Bailiff:

All those in favour of adopting Articles 8 to 14 kindly show. Those against. They are adopted. Then we come to Article 15 where there is an amendment so, Minister, do you wish to propose Article 15?

5.6 Senator P.F.C. Ozouf:

Yes, Article 15 of which the amendment is helpfully accepted by the Council of Ministers.

The Bailiff:

Is Article 15 seconded? **[Seconded]**

Senator I.J. Gorst:

Yes, including Schedule 1 of course.

5.7 Draft Comptroller and Auditor General (Jersey) Law 201- (P.98/2014): amendment (P.98/2014) - Article 15

The Bailiff:

Including Schedule 1. Now, there is an amendment to Article 15. We have an amendment, therefore, to Article 15 which I ask the Greffier to read.

The Greffier of the States:

Page 26, Article 15. For Article 15 substitute the following Article – “15. Order establishing board (1) The Chief Minister may, by Order, establish a board of individuals to carry out functions in relation to the office of the Comptroller and Auditor General. (2) An Order made under paragraph (1) may specify – (a) the name of the board; (b) the constitution of the board; (c) the functions of the board in relation to the office of the Comptroller and Auditor General; (d) the duties of the Comptroller and Auditor General in relation to the board; (e) the appointment, dismissal and removal from office of members of the board; and (f) the resources of the board. (3) Before making an Order under this Article, the Chief Minister must consult with the Chairman of the Public Accounts Committee and obtain his or her agreement to the Order.”.

5.7.1 Deputy T.A. Vallois (Chairman, Public Accounts Committee):

Now, this is on the basis of the report of the Comptroller and Auditor General R.77/2013. Recommendation 17 suggested that there was to be an invite of a senior figure from Public Audit in the United Kingdom to establish the terms of reference of the board. The issue that the P.A.C. has with regards to this particular piece within the legislation was that it was classed as an advisory board and the senior figure had not been invited to establish the terms of reference of the board, so it raised many concerns for the committee going ahead with this but we recognised the very short timescale that we had. P.A.C. have sought to identify an individual from the U.K. to establish a terms of reference to assist going forward so that we can put something in place for the next Chairman of P.A.C. and Chief Minister to consider. The amendment has been accepted by the Council of Ministers and we are grateful of them for doing that so I propose the amendment.

The Bailiff:

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

5.7.2 Deputy G.P. Southern:

Yes, just briefly to draw Members attention to the difference, as ever, between “consult” and “negotiate”. The word used in the amendment is “consult” and as we all know consultation means I will listen to you and then I will go away and do what I thought of in the first place. There is also the phrase in there “and to get the agreement” in which case the words should have been “negotiate”. Either you are negotiating between people with equal powers and responsibilities or you are not, you are consulting with somebody and you can ignore the results of that conversation if you so wish.

5.7.3 Senator P.F.C. Ozouf:

I would just point out to Deputy Southern that of course an Order is laid before the Assembly and therefore if there was to be any disagreement about the matters it is done in a transparent way and clearly the P.A.C. Chair, if she or he feels as though she is being leaned upon is going to be able to make matters known to the Assembly in the normal Order-making power. So I think that this strikes the balance. The Council of Ministers is trying to be helpful to the Chair of P.A.C. to find a way forward to establish this helpful further accountability and strengthening of the arrangements for the C. and A.G.

The Bailiff:

Sorry, but I can just clarify from the Chair, what the amendment says, is before making an Order the Chief Minister must consult with the Chairman and obtain his or her agreement to the Order. So if no agreement is given the Order cannot be laid. So it does not even get to the States.

5.7.4 Deputy J.H. Young:

I must admit I am quite struggling to see the difference between the amendment that we have got, which establishes an Order establishing board, and the proposal as lodged originally of an advisory board. I am a little bit troubled that we are, under the amendment, again concentrating the entire power and relying on the Chief Minister because looking at the original; the original Article 15, embodied the Schedule 1. Schedule 1 includes a very important provision under paragraph (3) that says: “The board may not be directed on how any function of the board is to be carried out.” Of course that goes, everything, all of the words in the whole schedule are lost if the amendment is substituted so that troubles me a bit because this whole principle of independence seems to me that the proposal was originally drafted did not ... it had elements of independence and maybe it was not perfect but it certainly did not, according to my reading, put the whole thing in the hands of the Chief Minister to do things by Order and of course “Order” does not mean that this Assembly can set those rules. Only the Chief Minister has the power to do that, to set those rules. So I would like to hear more about that because I am really troubled. What is the difference of the functions here? I will listen to hear what the proposer says to see if I can see my way through this.

The Bailiff:

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

5.7.5 Deputy T.A. Vallois:

In recognising Deputy Southern’s concerns over “consult”, there is a requirement for an agreement and I recognise the concerns over having an Order. Unfortunately P.A.C. have been put in a difficult position with regards to this amendment because there was not sufficient time to go back and change what had been put in place. The concern is with the advisory board, we have consulted with the C. and A.G. with regards to this and if Members read R.77, Part 4, about the governance of the office of the C. and A.G. and the reason why the C. and A.G. recommended that we invited a senior figure from public audit in the U.K. was for them to establish a terms of reference, not a department in the States of Jersey to establish the terms of reference for the C. and A.G.’s board. The fact that it is an advisory allays concern because the office of C. and A.G. is independent and they are not to be told what they can and cannot do either. So there are issues with regards to how this is set up. The reason why we put this amendment in and asking for an Order to be made was that we have gone out and identified a senior figure in the U.K. who will, we hope, be able to establish a terms of reference that can be brought forward. I would strongly urge Members to please support this amendment because what is in the law, as at current, does not meet the requirements as to what the C. and A.G. asked within R.77. I believe that is everything that I have covered. If anyone has any queries then please let me know but as Members can see it is inappropriate that we have this advisory board as set out here and the Public Accounts Committee on consultation with the C. and A.G. are asking that an Order be put in place so appropriate work can be done to put sufficient safeguards in place going forward. I propose the amendment.

The Bailiff:

Very well, is the appel asked for in relation to the amendment? Yes, the appel is asked for in relation to the amendment of the Public Accounts Committee in respect of Article 15. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 30		CONTRE: 6		ABSTAIN: 0
Senator P.F. Routier		Senator F.du H. Le Gresley		
Senator P.F.C. Ozouf		Deputy R.C. Duhamel (S)		

Senator S.C. Ferguson		Deputy G.P. Southern (H)		
Senator B.I. Le Marquand		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy J.H. Young (B)		
Senator P.M. Bailhache		Deputy N.B. Le Cornu (H)		
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of Grouville				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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 J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

5.8 Draft Comptroller and Auditor General (Jersey) Law 201- (P.98/2014) - resumption - as amended

The Bailiff:

Very well, does any Member wish to speak on Article 15 as amended? It has been noted that Schedule 1 has now fallen away so that will not be voted on. Very well, all those in favour of adopting Article 15 as amended kindly show. The appel is called for in relation to Article 15 as amended. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 32		CONTRE: 4		ABSTAIN: 1
Senator P.F. Routier		Senator F. du H. Le Gresley		Deputy N.B. Le Cornu (H)
Senator P.F.C. Ozouf		Deputy G.P. Southern (H)		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator B.I. Le Marquand		Deputy J.H. Young (B)		
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				

Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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 J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

The Bailiff:

May I suggest, Minister, that we deal next with Articles 16 and 17; and then 1 and 18 have the consequential amendments on what the Assembly has just done so they can perhaps take them together?

[15:15]

Senator P.F.C. Ozouf:

Sorry, can you just repeat those 2 numbers?

The Bailiff:

If we take 16 and 17 now, where there are no amendments, and then if we took Article 1, which we deferred, and Article 18 together because they both have consequential amendments as a result of what the Assembly has just agreed.

5.8.1 Senator P.F.C. Ozouf:

May I also just ask the Chairman of P.A.C., just forward planning of the debate, what her position is in relation to Article 19 and part ...

The Bailiff:

Can we come to that ...

Senator P.F.C. Ozouf:

Okay, fine.

The Bailiff:

So do you propose Articles 16 and 17?

Senator P.F.C. Ozouf:

I have just done so.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on Articles 16 or 17? All those in favour of adopting those 2 Articles kindly show. Those against. They are adopted. So do you then propose Articles 1 and 18?

5.9 Senator P.F.C. Ozouf:

Yes.

The Bailiff:

Seconded? [**Seconded**]

5.10 Draft Comptroller and Auditor General (Jersey) Law 201- (P.98/2014): amendment (P.98.2014) - Articles 1 and 18

The Bailiff:

Now, there are amendments to that which are consequential on what has just been done but I will ask the Greffier to read them, so that is the amendment to Article 1 and the amendment to Article 18.

The Greffier of the States:

1. Page 19, Article 1. In Article 1(1) delete the definition “Board”. 4. Page 27, Article 18. In Article 18(1) and (2) delete the words “, with the advice of the Board,”.

The Bailiff:

Very well, Chairman, do you wish to propose those 2 amendments which are merely consequential on what has just taken place?

5.10.1 Deputy T.A. Vallois (Chairman, Public Accounts Committee):

Yes, the consequential of what has taken place, I propose the amendments.

The Bailiff:

Is it seconded? [**Seconded**] Does any Member wish to speak on those amendments? All those in favour of adopting those amendments kindly show. Those against. They are adopted.

5.11 Draft Comptroller and Auditor General (Jersey) Law 201- (P.98/2014) - resumption - as amended

The Bailiff:

Does any Member wish to speak on Article 1 or 18 as amended? All those in favour of adopting Articles 1 and 18 kindly show. Those against. They are adopted as amended. So we then come to Article 19 where there is also an amendment, so do you propose Article 19?

5.11.1 Senator P.F.C. Ozouf:

Can I just seek guidance as to whether or not the Chairman of P.A.C. ... what her position is about the amendment because I thought that one of them was going to be withdrawn?

Deputy T.A. Vallois:

Article 19(2)(a), the word “shall” substitute the word “may” we are withdrawing.

The Bailiff:

You are not going ahead with that one, right?

Deputy T.A. Vallois:

No.

Senator P.F.C. Ozouf:

Fair enough, so I propose the Article 19.

The Bailiff:

Seconded. [Seconded]

5.12 Draft Comptroller and Auditor General (Jersey) Law 201- (P.98/2014): amendment (P.98.2014) - Article 19

The Bailiff:

So there is now an amendment lodged by P.A.C. to that but the first part of it is not now going to be proposed so I will ask the Greffier to read what is to be proposed.

The Greffier of the States:

5. Pages 27 to 28. (1) In Article 19(2) for the words “the Board” substitute the words “the board, if any, established under Article 15”. (2) In Article 19(3) delete the words “to the Chief Minister and”.

The Bailiff:

The first of those appears to be consequential again, Chairman, does it not? I am not sure about the second one. So do you propose the amendments?

5.12.1 Deputy T.A. Vallois (Chairman, Public Accounts Committee):

Yes, I propose the amendments as consequential to the boards.

The Bailiff:

Is the second one consequential? It is not clear to me whether it is. Chairman, is number (2), in other words, delete the words “to the Chief Minister and”, is that a consequential amendment?

Deputy T.A. Vallois:

The amendment to Article 19(3) is designed to clarify that the C. and A.G. is accountable to the States Assembly and the first part is consequential to the board.

The Bailiff:

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

5.12.2 Senator P.F.C. Ozouf:

The matter of the fact is that is the preferred piece of P.A.C., the fact is the audited accounts are public anyway. So it is accepted.

The Bailiff:

It is accepted. Very well, does any other Member wish to speak on the amendment? All those in favour of adopting the amendment kindly show. Those against. The amendment is adopted.

5.13 Draft Comptroller and Auditor General (Jersey) Law 201- (P.98/2014) - resumption - as amended

The Bailiff:

So does any Member wish to speak on Article 19 as amended? All those in favour of adopting Article 19 please show. Those against. Article 19 is adopted. Then there is also an amendment to Article 20. So do you wish to propose Article 20, Minister?

5.13.1 Senator P.F.C. Ozouf:

I propose Article 20.

The Bailiff:

Seconded? [**Seconded**]

5.14 Draft Comptroller and Auditor General (Jersey) Law 201- (P.98/2014): amendment (P.98.2014) - Article 20

The Bailiff:

Then I will ask the Greffier to read the amendment to Article 20.

The Greffier of the States:

6. Pages 28 to 29, Article 20. In Article 20 – (a) for paragraph (3) substitute the following paragraph – “(3) The Comptroller and Auditor General must provide the report to the Greffier of the States.”; (b) for paragraphs (6), (7), (8) and (9) substitute the following paragraphs – “(6) If, in the course of carrying out an audit or making a report, the Comptroller and Auditor General suspects any criminal activity, the Comptroller and Auditor General must, as soon as practicable, report the suspicion to the Attorney General. (7) A report made in accordance with paragraph (6) need not be in writing.”.

The Bailiff:

Just to assist, Minister, do I understand they are accepted?

Senator P.F.C. Ozouf:

Accepted.

The Bailiff:

Yes. Chairman, do you wish then to propose the amendment to Article 20?

5.14.1 Deputy T.A. Vallois (Chairman Public Accounts Committee):

It is quite simple really. Well, I am hoping it will be. I probably should not say that from now on. Article 20, as Members can see in the draft legislation, has a series of requirements for the C. and A.G. to report to. We believe it to be absolutely unnecessary to put all that in a primary piece of legislation. The standard at the moment is for the C. and A.G. to report to the States Assembly and on that premise it will be a public document and therefore all Members and all the public will be able to see that report. The other issue that we had with regards to this was within Article 20(8) was to report a substantial irregularity to specific individuals. We thought it to be rather nebulous to have this particular area in there. It was not under part 6 of the Public Finances (Jersey) Law legislation and we are asking for Members to amend this so that the C. and A.G. is purely to report to the States Assembly and only to report on any criminal conduct and I propose the amendment.

The Bailiff:

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

5.14.2 Deputy J.H. Young:

I want to further question this, removing the requirement for the Comptroller and Auditor General to report information that indicates irregularity to get rid of that and have a more onerous requirement about suspicion of criminal activity. Of course I wonder whether it is even necessary to put in any law that if somebody in an official role, of any official role, suspects criminal activity I would have thought they have a statutory and civil duty to report it anyway because otherwise they would be complicit and at risk of putting themselves in liability. So again I would like to hear

why are we removing what seems to be quite a useful provision, having a duty - a statutory duty - that if there is an irregularity that is found during the course of conduct, there is a reporting arrangement? I am not particularly fussed where it gets reported to but it should be reported within the system somewhere and I think it is quite important to have that provision in there and I am really struggling to see why we should get rid of it and substitute something which I would have thought is the case anyway. So again I will listen to the proposer.

The Bailiff:

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

5.14.3 Deputy T.A. Vallois:

I thank Deputy Young for his questions. I will try to explain to him the reason behind this particular amendment. The legislation set out for the C. and A.G. to ... if in the course of carrying out an audit or making a report the C. and A.G. discovers facts that appear to indicate a substantial irregularity. If Members are aware the C. and A.G. has a website - the Jersey Audit Office - where she lays down all her codes of practice and her requirements in terms of reporting for everybody to see and how she works in terms of her office. The issue that we have in particular with this paragraph was that they must, as soon as practicable, report the discovery to the people mentioned in paragraphs (3)(a), (b), (c) and (d). Now, if you look at (3)(a), (b), (c) and (d) the issue that we have in particular was what if the substantial irregularity was of the Chief Executive Officer and yet she would still have to report to the Chief Executive Officer and any criminal activity as well. There seemed to not be a substantial reason to have this in primary legislation because the C. and A.G. is very open and transparent in how she carries out her work in the office. The Jersey Audit Office website is up and running and she has released her report on her code of practice. It is quite clear how she runs her office and so we did not see the need to have this particular substantial irregularity within the primary legislation but if she does discover facts that appear to indicate a substantial irregularity she would, of course, report those. So I propose the amendment and ask for the appel.

The Bailiff:

The appel is asked for then ...

Senator F. du H. Le Gresley:

Could I just seek some clarification on the comments just there from the proposer?

The Bailiff:

But you have not spoken.

Senator F. du H. Le Gresley:

I am just asking clarification.

The Bailiff:

Very well.

Senator F. du H. Le Gresley:

It is just that she has mentioned reporting criminal activity to the Attorney General, could she clarify why she did not put the police?

Deputy T.A. Vallois:

Because, as I understand, it was a requirement if the Comptroller and Auditor General suspects any criminal activity to report to the Attorney General. I believe it was under the Public Finances (Jersey) Law already. It is just that that paragraph was made that little bit larger with regards to

substantial irregularity. If there was a requirement for her to report to the police Members could have brought an amendment [**Laughter**] but they did not.

The Bailiff:

Deputy, I think I am going to stop you there. This shows why one should not allow Members who have not spoken to ask questions which raise completely new matters so we will call a halt there, I think. So the appel has been called for in relation to Article 20, the amendment lodged by P.A.C. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 31		CONTRE: 6		ABSTAIN: 0
Senator P.F. Routier		Deputy R.G. Le Hérisssier (S)		
Senator P.F.C. Ozouf		Deputy G.P. Southern (H)		
Senator S.C. Ferguson		Deputy of Grouville		
Senator A.J.H. Maclean		Deputy M. Tadier (B)		
Senator B.I. Le Marquand		Deputy J.H. Young (B)		
Senator F.du H. Le Gresley		Deputy N.B. Le Cornu (H)		
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Brelade				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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 J.M. Maçon (S)				
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 R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

5.15 Draft Comptroller and Auditor General (Jersey) Law 201- (P.98/2014) - resumption - as amended

The Bailiff:

Very well, now does any Member wish to speak on Article 20 as amended? Very well, all those in favour of adopting Article 20 as amended please show. Those against. It is adopted.

5.15.1 Senator P.F.C. Ozouf:

I would like to propose the remaining Articles with Schedules 2 and 3. So that is Articles 21 to 30.

The Bailiff:

Very well, are they seconded? [**Seconded**] Does any Member wish to speak on Articles 21 to 30 or Schedule 2 or 3? Very well, all those in favour of adopting those Articles and schedules please show. Those against. They are adopted. Do you propose the Bill in Third Reading, Minister?

5.16 Senator P.F.C. Ozouf:

I thank Members for their support and thank the Chief Minister for his work with the Chairman of the P.A.C. and express the hope that this stand-alone piece of legislation is going to improve further the confidence in public finance and its oversight. I propose in Third Reading.

The Bailiff:

Seconded in Third Reading? [**Seconded**] Does any Member wish to speak in Third Reading?

5.16.1 Deputy J.A.N. Le Fondré:

Partially because you were very quick while I was gathering my thoughts at the very beginning of the proposition. It is really to give the Chief Minister an opportunity to address 2 comments in the amendment to these Articles which are the second and third paragraphs. One was about the length of time on the law drafting instructions and the second one was the lack of time on consultation. The reason I raise that is because there seemed to be a parallel between that and matters that have been reported in *J.E.P. (Jersey Evening Post)* today on another body which is meant to be independent and I wonder if he would like to take the opportunity to address that.

The Bailiff:

Does any other Member wish to speak in Third Reading? Chief Minister, do you wish to speak in Third Reading?

5.16.2 Senator I.J. Gorst:

I am not quite sure what the Deputy is asking me to address on the hoof. Certainly this body bears no relationship to the body which the *J.E.P.* is reporting on and I answered questions in this Assembly on ...

The Bailiff:

I think the question was on lack of time for consultation as I understood.

Senator I.J. Gorst:

... earlier this week. There is no lack of time for consultation on the other matter. This has taken a length of time. I have been working with the Treasury Department and the Chairman of P.A.C. As ever, one would like to have done things in a speedier manner. Sometimes out of necessity, out of consultation and trying to find common agreement, things take longer than one would like and that is what happened in this case. Having said that, of course, I gave an undertaking in this Assembly that it would be lodged on a certain date. We did manage to improve that lodging by at least 2 weeks. With regard to the other matter I find myself in a situation where I have been called upon ...

The Bailiff:

Well, I do not think we need to deal with the other matter. It is not relevant for this one.

Senator I.J. Gorst:

Well, I think the inference was drawn so I must try and address it ...

[15:30]

The Bailiff:

Well, not necessarily because it was probably an inappropriate question in relation to this matter. So I think ...

Senator I.J. Gorst:

There are many inappropriate questions.

The Bailiff:

... at the end of the day, Chief Minister, we need to press on and we need to confine ourselves to what is relevant to this debate.

Senator I.J. Gorst:

I shall take your guidance but there is no correlation between the 2 and I think that is what you are also saying.

5.16.3 Deputy J.H. Young:

Just to say briefly that this piece of legislation in its original draft I was reasonably content with because its evolution is that what it was seeking to do was replacing and re-enacting what is already, before we approved this law, the existing law, Part 6 of the Public Finances Law 2005 so I was happy with the original draft. I fear that with the amendments we have passed I think it is weaker so I just want to put that on the record as to why I am voting against.

5.16.4 Deputy T.A. Vallois:

I think it is appropriate for me to speak at the end. It is difficult when you are a member reading lots of different Articles to explain the reasoning behind everything that has happened. I would firstly like to make the point that it was the Comptroller and Auditor General's first report, R.77/2013, that has brought this to the States Assembly and all the recommendations that were made within that. The only amendment that the P.A.C. put in of their own view was with regard to the 12 Members and it was to flesh-out the debate and to identify the issues that we have with regards to appointments and revoking. All the other amendments were areas which we had had consultation with the C. and A.G. to identify whether they met the recommendations and apply to international standards.

The Bailiff:

If I may, Chairman, the amendments have been passed, so I do not think you need to go over them again.

Deputy T.A. Vallois:

I am just trying to explain to Members the overall ...

The Bailiff:

I do not think it is necessary in the Third Reading. They have approved them, so you do not need to go over them again.

Deputy T.A. Vallois:

Okay, Sir. The draft law basically shows the R.77/2013 as per *inter se* principles, which are international principles, which was produced by the Comptroller and Audit General, which I believe we owe a debt of gratitude with regards to the great work that she is carrying out at the moment within the Jersey Audit Office. I would also like to thank the Chief Minister's Department and the Treasury Department and P.A.C.'s officer for the work that they have done in assisting and reviewing this and pushing for this to come to the States Assembly within this term. I am grateful to the States Assembly for approving the amendments.

The Bailiff:

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

5.16.5 Senator P.F.C. Ozouf:

I just briefly say that I think this Assembly should be proud. We have one of the most strong public finances laws, which has held up. Now the Public Finances Law no longer has the C. and A.G. in it, it is now separately in the C. and A.G. Law. We have now one of the strongest C. and A.G. Laws, and I think what has been clear from the what the Chairman has said, that the law is important, but also the processes that are underpinning it and this C. and A.G. has demonstrated that there are improvements that can be made and the way that it has been operated is clear, tough, transparent, helpful and fearless, and that is exactly how the C. and A.G. should be and I ask Members to approve the Bill in Third Reading.

The Bailiff:

All those in favour of adopting the Bill in Third Reading, kindly show. The appel is called for in relation to Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 36		CONTRE: 2		ABSTAIN: 0
Senator P.F. Routier		Deputy M. Tadier (B)		
Senator P.F.C. Ozouf		Deputy J.H. Young (B)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Brelade				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
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 J.M. Maçon (S)				
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 R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				

6. Comptroller and Auditor General: reappointment (P.99/2014)

The Bailiff:

We come next to Projet 99 - Comptroller and Auditor General: reappointment - lodged by the Chief Minister. This has to be debated in camera under the provisions of the Public Finance Law, but I will ask the Greffier to read the proposition.

Senator P.F.C. Ozouf:

May I just, before that is made, I have communicated with Deputy Baudains in relation to the matter after this. I have an appointment in the U.K. and I was going to ask the Deputy if he would agree kindly to push down the issue of the utilities matter, because I would like to be here to address that. If the Deputy or the Assembly would agree to slip that down the Order Paper so that I may be here for that further on down the Order Paper, because I am going to have to leave.

The Bailiff:

You mean just a day or next week?

Senator P.F.C. Ozouf:

I imagine it is going to be next week, yes, Sir. Forgive me for interrupting. The Deputy was going to do it, because I wanted to get in because I have got to go and get a flight.

The Bailiff:

Right. Deputy Baudains?

Deputy G.C.L. Baudains:

Yes, we have been passing notes. I am happy to agree with the request of the Senator. The only slight problem is that there was an amendment to my proposition and Deputy Le Hérisier's availability is not as easy as it might be, so if P.100 could be deferred to the end of the Order Paper rather than just put off one or 2 items, I think that would be the most convenient for us.

The Bailiff:

So put it right to the end of the Order Paper for this continued meeting. Very well, do Members agree to that? Thank you very much then.

Senator P.F.C. Ozouf:

I am very grateful, Sir.

The Bailiff:

But you are going to stay for the next one, are you? No.

Senator P.F.C. Ozouf:

I have got to run.

Senator I.J. Gorst:

I just wonder if while we are ... I know this is the role of the Chairman of P.P.C. (Privileges and Procedures Committee) but I wonder if while we are considering business, it might be we should wait until we have then taken P.101. I am not sure whether that is going to take the rest of the day

or not. If it is not, I would have thought that it would be far better to take after that P.74 and P.75 rather than start the Civil Marriages debate this afternoon. I see the Minister for Health and Social Services is suggesting no anyway. I just wonder if the Chairman of the P.P.C. could consider what might be the next appropriate item to take.

The Bailiff:

Can we go back to where we were, which was Projet 99 – Comptroller and Auditor General: reappointment, and I am going to ask the Greffier to read the proposition?

Deputy M.R. Higgins:

Before we could, I was downstairs working, listening to what was going on in the changing of the programme. I have some serious concerns about the Draft Navigation Order and if we are playing around with the Order, I would very much hope that that stays near the end of the programme so I can finish the research that I am doing on it. I apologise for being out of breath, I have just raced up here.

The Bailiff:

I do not think anyone is suggesting moving that, other than the fact that Deputy Baudains is now coming in behind it.

Deputy M.R. Higgins:

I am asking if his can still come in first, because I am in talks with the Civil Aviation Authority in the U.K. on part of it.

The Bailiff:

I am sorry, Deputy. The Assembly has just decided that. We cannot keep reopening matters again.

Deputy M.R. Higgins:

I wish Ministers would not keep on playing around with the programme.

The Connétable of St. John:

Can I come in on that? We have got a Back-Bencher asking for something, yet the Chief Minister and Minister for something and they seem to get ...

The Bailiff:

No, it is a question, Connétable, if I may say so, of reopening a matter which has just been decided, that Deputy Baudains agreed to move it and the Assembly then agreed to move it to the bottom. We cannot have a Deputy then coming up and saying: “I want to change that decision that the States have just made.” It is as simple as that.

The Connétable of St. John:

The Minister is up here ...

The Bailiff:

It does not matter who is proposing it, but the States cannot keep revisiting matters that they have just decided.

Deputy M. Tadier:

Is there not a difference, because Deputy Higgins is only asking for his to be moved to the bottom, so Deputy Baudains has already had his moved to the bottom and he has got what he wanted, so I think it is a different proposition, Sir.

The Bailiff:

No, it is not. No.

Deputy G.P. Southern:

How far down is the bottom, Sir? May I raise a point of order, Sir? The Minister for Treasury and Resources has just asked for a move into a crowded agenda because he had a previous appointment or had an appointment on this day. I thought we set aside Tuesday, Wednesday and Thursday of this week clearly for our business, not meetings. Is his first duty not to be here for these debates?

The Bailiff:

That is not a question for the Chair, is it? The Assembly has agreed to the request to move it. We could have said: "No, we do not want to move it. The Minister for Treasury and Resources should be here" but that is not what the Assembly said, so can we get on? Now the Greffier is going to read the proposition of Project 99.

The Greffier of the States:

The States are asked whether they are of opinion to renew the appointment in accordance with Article 41(1) of the Public Finances (Jersey) Law 2005 of Ms. Karen McConnell as Comptroller and Auditor General with effect from 1st January 2015 until 31st December 2019 on the expiry of her current appointment on 31st December 2014.

The Bailiff:

This, as I say, has to be carried out in camera, so could you please clear the gallery?

[Debate proceeded in camera]

The Bailiff:

Very well, we are back in public session and the vote is on projet 99, appointment of the Comptroller and Auditor General. All those in favour of adopting the proposition, kindly show. The appel is asked for in relation to the proposition. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 34		CONTRE: 0		ABSTAIN: 1
Senator P.F. Routier				Deputy N.B. Le Cornu (H)
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				

Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
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 S.Y. Mézec (H)				

7. Income Support: free G.P. access (P.101/2014)

The Bailiff:

The next matter is Projet 100, but the Assembly has agreed to put that to the bottom of the list, so after that it is Projet 101 of Deputy Southern: so Income Support: free G.P. access, lodged by Deputy Southern. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to introduce free access to G.P. consultations for those income support recipients who currently qualify for a household medical account to assist with their medical costs.

7.1 Deputy G.P. Southern:

As I start on this particular proposition, I want to make 2 things clear from the start. One is that before we introduced income support back in 2008 we had a system for giving free access to G.P. services to those who were most in need. That was the H.I.E. (Health Insurance Exemption) system. This, when income support was introduced, was removed and replaced by a thing called H.M.A. (Household Medical Account). At the time it was said that the list of households which qualified for H.I.E. was an insufficiently accurate indicator of those with the greatest need. The disparate nature of the various benefits that we had means that various groups are qualified for H.I.E. not strictly on health grounds, so we decided to scrap free access for G.P. services for this group of people, for the worst and most needy. Over the 6 years in which income support has been in place, there have been a number of reviews, as we heard the other day, an extensive number of reviews, such that the Minister for Social Security is obviously exhausted. One of those reviews was about the H.M.A. being given to all of those who qualified via the old system of H.I.E. As a result, this group has been reduced and reduced over the time. Originally, at the end of November 2007, 2,966 households, which was about 4,000 individuals, had the right to H.I.E. and qualified for free G.P. services. On transfer, only some 150 failed to receive an H.M.A. They have since been reviewed, as I said, and by the end of 2011, the number of households with H.M.A. had been reduced to 1,429, and by 2012, this had fallen further to just over 1,099, so we are talking about 1,000 families, and by now, in all probability, that has been further reduced. I do not have the latest figures ... 2012, these are the latest figures. The Minister might know better. It is probably under 1,000, so it is a small group of people and I have deliberately gone for the smallest group of people with an identifiable need and a particular award, which is supposed to respond to their need for medical services. In the past, when I have brought propositions to give free access to G.P. services, I have chosen much larger groups and one of the arguments that has been given is: "We could not

possibly afford this. We cannot include pensioners, we cannot include those with children” although those are the 2 groups that make the most demand on G.P. services and so I focused on those in what must be relative poverty, those least well-off, because that is the group that gets income support, by and large, and within that, a sub-group of these 1,000 - around 1,000 - who received H.M.A. to cater for the demand for G.P. services. Now, it seems to me that one of the arguments produced by the Minister is that this group of people receive H.M.A. for, again, like H.I.E., disparate reasons and that it is not a tightly and sharply-focused group, dependent on their need for medical services or G.P. services in particular. If not, I must ask the Minister for Social Security to define exactly how H.M.A. is organised. What are the criteria by which you get an H.M.A. and this family does not? I thought it was about your need and inability to afford the medical services, the G.P. services, that you had a need for and I would have thought after 6 years, starting from H.I.E., if you have not focused that with some confidence to be able to say: “We are helping the people with the greatest need and here they are, we give them H.M.A. That is what it is there for.” If you have not done that, I have to ask why not? What criteria are you using? How do we know who has got the greatest need? After 6 years, surely that should have been done. So that number has come down from 3,000 households to 1,000 households, and as I said earlier, that is about as tight a group, a focused group as I can identify, which is why I have chosen it. The second thing that has happened is that over time, over the 6 years, the ability to address the need for G.P. services and the mechanisms by which those needs are addressed has changed, I would say subtly, but I think insistently through the years and what we initially voted for, some of us who are still in this House back in 2008, 2007, what we initially voted for has changed. We were told that under income support, if people had a larger need for G.P. services, then extra money would be provided. Nobody would be worse off because they are ill compared to somebody in an identical situation who were not ill. We will cater for G.P. services and the degree of medical need. We did this in 2 ways. First of all, the Income Support award itself was to contain a sum of money to cater for up to 4 visits to the G.P. a year. That is the Island-wide average that we do for a year and that was built-in to income support. If need was greater, there is a clinical cost element which adds to the amount of money such that you can afford 8 visits a year and there is a second level of clinical cost element which can be added in, so it is up to 12, so there is extra money there for up to 12 visits. If for some reason you fall ill on top of that or you have an ongoing need, either for more G.P. visits than one a month or you need the G.P. to come to you, extra cost along the way, then we were told those additional costs would be met by special payments. Nobody was going to be worse off because of their illness and their need for G.P. services under this system. I detail on pages 4 and 5 those sorts of promises.

[16:00]

I quote extensively, for example, on page 4: “Special payments can also be made to assist people who have unusually high needs or to cover the cost of a serious bout of illness. There is no specific limit on the number of visits for which a claim can be made.” Extra money, and further on, as I have said in my comments, and this is the Minister for Health and Social Services at the time, I believe, that: “Payments will be made. There is a mechanism in place that if the person’s medical account does not have sufficient in it, then there is a mechanism for special payments to be made. It is the G.P. who will decide whether those visits are necessary and if the G.P. decides the visits are necessary, then the account will be paid.” Throughout the process by which we debated the onset, the introduction of income support, that is what we were assured, extra money would go to extra need, no one would suffer because of it. In reality, over the time, we have seen a drift from additional money going in to cover G.P. costs to use of other components of income support to cover the cost of G.P. visits, so that - do not have a date on there - in cases where Members of the household visit the G.P. more frequently, additional savings may be made from impairment awards. These additional savings will typically be up to 50 per cent of the personal care level 1 award and

up to 50 per cent of the mobility component, and further on, specifically referring to the H.M.A., the H.M.A. account is designed to be able to go into debt from time to time. In normal circumstances, the account will build-up again the return to credit; that is what we understood. If it remains in debt, additional savings will have to be made from impairment awards, they have it clear in black and white. In 2008, extra needs will be met from special payments. By 2013, part of the mobility payment may be used to pay the cost of home visits by the G.P., or additional savings will be made from impairment awards. Now, we have to distinguish between these various demands. The various components are put in there in order to let people have as full a life as possible. If you are impaired, then you have a personal care component. Let us just define what that is: personal care component is available for people who need assistance with their own personal care. This includes activities such as housework, shopping, cooking, washing and dressing. There are 3 levels of personal care components and they can be awarded for physical, sensory or mental impairments, so there, a specific component designed for you to be able to live independently in your own home, even though you have got maybe a serious impairment. That is the policy: keep people in their own home as long as possible, that is what the component is for, but now we are told: "Oh no, we can take some of that and use it for your G.P. costs" so you can no longer afford to have somebody come in and do your cleaning or bath you because that is less important apparently than meeting the G.P. costs. You are reducing somebody's quality of life in order to cover a promise that was made to Members about additional money, not: "We will move the other components"; not: "We will take half of your mobility allowance so you cannot get out to visit your friends; you cannot take that taxi ride to ensure that you get somewhere, because it has been swallowed up by your medical costs." That is the reality. Over time, the nature of this, which guaranteed a quality of life for people, has shifted and we can move your components around to cover G.P. costs because we do not want to meet them for special payments, we do not want that additional cost, so we will use your costs. That is the reality. In some cases, and I list them on page 7 of my report, if Members will care to turn to them, I found numerous occasions, and I will quote the top one, I think it is that one: "(e) Elderly couple with multiple disability" who are paying £47.95 a week towards their medical costs, around £2,500 annually, so because you have a high medical cost, medical G.P. need, we will not put extra money in, we will take £2,500 a year from you and say: "That will do nicely, that will go to meet your G.P. bills." I could scarcely believe it when I came across one last week, a new constituent came to me with a problem that her father has, and when she told me that his Household Medical Account was having £95 a week to top it up. That would have been one visit a week from the doctor. When I spoke to this person, who has applied to be his carer, I said: "Well, how can that be? Has his use been one visit a week from the doctor to him?" She said: "No." Nonetheless, he is £95 a week worse off than he should be on the system that is being used here. Incredible. So the fact is that G.P. costs are not being met by income support fully. People are having to do without in other areas in order to pay for their medical costs and particularly with the H.M.A. identifying these people, I think it is time that we reconsidered whether free access for some, those with the greatest need and those with the least resource - the most needy - should have free G.P. access in order to cope with their illness. Now, the Minister in response says that special payments for G.P. costs totalled £546,000; half a million pounds already going into G.P. costs. Presumably he has extracted those figures from the overall Income Support (Special Payments) Bill, which is around £1.5 million and I wonder where that is going because I know that if you run up a bill at your doctor's and go into Income Support and say: "I owe my doctor £160", or whatever it is, Income Support will say: "We cannot make a special payment for doctors' bills." That is what happens. It used to be in the old days - and I remember the old days - if you turned up at the Parish Hall and say: "Look, I have been ill. I have run up doctor's bills", usually, depending upon your circumstances, the Constable will pick it up. He may be reluctant to but he will pick it up and make sure you do not get into debt. I wonder then, if the majority of this half million pounds is going to G.P. visits for those in residential care, which I know does happen, and whether

that is being picked up by Special Payments. I would ask the Minister for Social Security to explain where that half a million pounds is going because it is certainly not going on people's G.P. bills when they have already run into debt. We are also told that the Health Insurance Fund is under mounting pressure as the Island's population ages and costs associated with Pharmaceutical and Medical Benefit increase. We are told that there is going to be an H.M. Government Actuary's report soon so therefore we must not do anything about changing anything until we receive that actuarial report. The fact is that we are fully aware, and have been aware for some time, that the Health Insurance Fund is under increasing pressure, as we all grow older. The fact is that our social security contributions will have to be re-examined, root and branch. We have already made one move on long-term care but there are more moves we know that we need to make in order to cover the needs of people who live here. Despite that, in the last 3 years - or is it longer - we have taken £13 million out of the Health Insurance Fund and put it into the hospital services or primary care via the hospital. We have put it into a different pot, so it raises it twice for £6.5 million each time. So we are taking £13 million out of it. To argue that we cannot possibly squeeze any more out of the Health Insurance Fund, I do not think is a logical argument. Finally, we are told that anyway we are reviewing wholesale the entire way in which we deliver medical services and primary health care in particular in the community, *et cetera*, and therefore we must wait for this to be sorted. We are not given a date on that. We are not given any report on the state of progress with that particular initiative. In any case, and this is the argument we heard yesterday, if we are going to do a root and branch service of what the total demand is in terms of disability and impairment for children in particular, if we wait for large scale changes to come, we wait an awful long time. We know that if you talk to people about the issues that most concern them at the moment and for the past few years, they may talk about unemployment, they may talk about how expensive it is to live here and one of those expenses they will focus on is the doctor: "I cannot afford my doctor's bills. I cannot afford my dentist bills." But that is another issue. Certainly, I would say, in the top 3 of issues affecting most people, one of those, 1, 2 or 3, is likely to be doctors' bills. I would argue that rather than wait and wait and wait, because that is what we tend to do in this Chamber, that we can afford; here is a sharply focused, small group of people who are certainly at most need of free G.P.s, we could, if we chose to, restore that element that we scrapped, I think mistakenly on the back of some promises that have not been kept, back in 2008. I propose this particular proposition.

The Bailiff:

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

7.2 Income Support: free G.P. access (P.101/2014): amendment (P.101/2014 Amd.)

The Bailiff:

Now, there is an amendment to the proposition lodged by Deputy Le Hérissier, so I will ask the Greffier to read that amendment.

The Greffier of the States:

Page 2. For the words "to introduce" substitute the words "to request the Minister for Social Security to investigate and report to the States on whether it would be appropriate to introduce", and after the words "Household Medical Account" insert the words "and for others who have difficulty paying for primary care".

7.2.1 Deputy R.G. Le Hérissier:

I have already tried to tell Deputy Southern, I am sorry to be the party-pooper in this. I was quite worried about it because there is no doubt over the last year or 2 years, there has been an awful lot going on, of which we are not really aware about the delivery of primary care. I think what is becoming more and more apparent out of the fog, perhaps - and no doubt all will be revealed at

some point - is the issue of identifying those in need. As I say in my paper, there is no necessary correspondence. There may be a certain convergence between those who are suffering from severe medical conditions that require a lot of expensive attention by, for example, G.P.s and the people in the H.M.A. group. As I said, I am not for a moment suggesting... because I thought Deputy Southern's last remarks hit the target on the head in many ways, but I meet more and more people who do not fall within that catchment, so to speak.

[16:15]

They have sick children, for example, or they have a sick partner or they themselves are sick and the medical bills, as he quite rightly said, are becoming more and more of a strain. So that is the first concern I had because I find it very difficult if we give, for example, if we were to instantly act in the way we acted yesterday, and I thought that was excellent the way it was done, the way it was promoted, and I have asked myself since then, well again: "Am I being a party-pooper in relation to what happened yesterday?" But I think the situation is in some respects quite different in that we have to be very careful so that we are targeting the people in medical need and who are being put under financial stress and that does not only mean the people occupying the H.M.A. group at the moment. It is growing and growing, that group, and the pressure is growing and growing. Also we have a model of primary care based on doctors, for example, mortgaging practices and so forth, which makes it very difficult, as I think the people in Health will testify, to reform without putting in a lot more government money. So that is the first point. The second point is the restructuring of the provision of primary care. We have been very conservative; we have a model, which for a lot of the population seems to move along quite well. You can get an appointment when you want. Compare that to the kind of publicity you are seeing in the U.K., the whole queuing issue and so forth, where if you have a free health service at the point of access, you have to manage demand. You manage demand basically by queuing systems and in a more creative way, by triaging systems, for example in group practices where you have practice nurses who take on a lot of the burden ... and the kind of stuff at the moment we are seeing doctors do in Jersey is often done by, for example, practice nurses in group practices. I wanted to see those reforms moving along and I think we are going to have to do them because, as Deputy Southern said in another debate, which name I cannot quite recall at the moment: "How much longer can we continue with a low tax society who want good quality, high cost services?" There is no doubt that there is a growing tension around that and I think, unless we can deal with it by, as I said, different ways of delivering primary care, by targeting better those who are under enormous financial stress because of the kind of medical pressures they are under, we will come off the rails. I do not think there is much doubt about that. I am hoping there is work being done and that is why I have suggested the broader study. Yes, if it were to be accepted, it does halt Deputy Southern's proposal in its tracks but I do not think, when we know there are other groups in society under enormous financial stress, when we know there is a need to look at all the options in how we deliver primary care and we need a real debate about that and we need yet again the input of our indefatigable and wonderfully hard working Scrutiny Panel. We need to see what the options are and that is all I am suggesting. I am pleased the Minister for Social Security has opted for yet another review because we have seen his enthusiasm in that regard. I move the proposition. Thank you.

The Bailiff:

Is that seconded? [**Seconded**] Does any Member wish to speak on the amendment of Deputy Le Hérissier? Yes, Senator Le Gresley.

7.2.2 Senator F. du H. Le Gresley:

It is very difficult not to stray into the main proposition but I will do my best not to, Sir, because I know you will pull me up. The Minister for Social Security and the department accept that Deputy Le Hérissier has put forward an amendment which is the right way forward because of all the work

that has taken place, and I accept the criticism that this work is going on without perhaps enough explanation coming back to the Assembly. But that is the nature of research. You do not really submit your findings until you are a long way through the process of research. What I can say to Members today is that a project board has been set up to look into primary health care in Jersey. It has a membership including officers from Social Security and Health and Social Services, representatives from the primary care body, from pharmacists, optometrists and also, as I understand it, the voluntary community sector. So far this year they have had 3 meetings. The proposal is to hold a workshop for those groups on 15th July, I think is the date. As a result of that output, they will be presenting their findings and recommendations to the Ministerial Oversight Group that was set up to deliver on the Health and Social Services *A New Way Forward* proposition of 2012. The intention is that a White Paper will be issued for the year-end, further consultation with a view to implementing the recommendations in the White Paper. So it is all happening. It has taken some time to get these groups together because we have to remember that we are talking here about self-employed people, in the main, who are now being asked to work with government officials, if you like, and they are precious, and understandably precious about their own businesses. We have come to good relationships, which are moving forward at a vast pace. One of the pieces of work that the Health and Social Services Department is also doing - and the Minister may speak later - but that is to look at the access for the under-5s primary health care. So that is a separate piece of work. Again, the issue there is about funding and I am not sure if the Minister has secured funding to address that need but that is a separate piece of work being looked at. The key thing really, in my opinion, and this is purely my opinion because I am not a member of the project board - I should stress this is officer level - is that the way forward, I believe, is where somebody has a chronic illness and not necessarily somebody on income support but anybody in the community with a chronic illness, we should be able to pay a G.P. practice to provide a year or 2 years' care for that person rather than use the system of the medical benefit, which is probably outdated now and this is why the primary care review is taking place. So we would be entering into contracts with G.P.s to provide care and that could be as many visits as the G.P. sees appropriate for that person over a period of 12 months or maybe longer. That is the way we foresee that the Primary Care Project Board will go but of course that is just my opinion. They may have completely different ideas. So really we have an outdated model of patients paying £30, £40, £50... I do not know what the common figure is to have a consultation, and then another £20 is claimed through the medical benefit. It is time for this to be changed and it is going to be expensive but as Deputy Southern referred to the Health Insurance Fund... the contributions may have to be increased as part of the overall picture. So that is the way forward. My own department has in its business plan proposals in the second half of this year to again review access to primary health care for low-income groups. That piece of work will start during and after the summer recess. I cannot tell you what the outcome of that will be because we have not started on the piece of work yet. The key thing is here... we made the decision yesterday, somewhat on the hoof, and loaded my department with £750,000 of ongoing revenue costs. I plead with this Assembly; do not get carried away with the euphoria of yesterday's events. We cannot go on the back of Back-Bencher propositions and force large sums of money on to my department when we do not have the budget for it. It is simply not acceptable. But anyway, we are talking about Deputy Le Hérisier's amendment. I urge you to accept that amendment. We are doing the work; a lot of work is going on. We have finally got real sign-up to the proposals and the project from the Primary Care Board. We represent G.P.s. In future, pharmacists may well be part of the delivery of primary medical services. We cannot, on the Assembly today, just disrupt and do our own thing when all that work is going on.

Deputy G.P. Southern:

Sir, may I seek information from the Minister before he sits down and finishes his contribution? I think it is important in the context of either this amendment here from Deputy Le Hérissier or my proposition that we have some idea as to how or why the H.M.A. recipients are not the appropriate group to target because that is critical to making the balance because Deputy Le Hérissier says it should be a wider group. Could we have some indication as to why that is?

Senator F. du H. Le Gresley:

Sir, would you like me to make a second speech?

The Bailiff:

No. **[Laughter]** You can give some clarification to the question if you wish.

Senator F. du H. Le Gresley:

I made the point that I did not want to stray into debating Deputy Southern's proposition.

The Bailiff:

No, I understand that and in a sense the Assembly is faced with a choice between the 2 of them so we may have to hear argument on both ...

Senator F. du H. Le Gresley:

So you would like me to say more?

Deputy G.P. Southern:

Yes.

The Bailiff:

I am not asking you to say more. **[Laughter]** But Deputy Southern is.

Senator F. du H. Le Gresley:

Right, okay. So this is another speech and I am sorry about this but what can I say? Household Medical Account is not a benefit. It is a budgeting tool. It is purely there to help people budget for their medical costs. It is not compulsory, nobody has to do it. If income support households are quite happy to budget, which many do, for their own medical costs, then they need not come anywhere near the department for a Household Medical Account. So basically, in many cases, the people who have a Household Medical Account are people who have difficulty budgeting for their household G.P. costs in the main. They are not a group that we can identify, as Deputy Southern would wish us to do, as those who are in greatest need. That is absolutely not correct and it is wrong to put that impression out. It is a budgeting tool. They put money into it with their agreement. If extra amounts are going in, again, that is only with their agreement and we wait for the bills to arrive. There will be debits to the department, if you like, rather than asking the individual to pay for each visit. As Deputy Southern did say, where a Household Medical Account gets overdrawn, for want of a better word, we will use special payments to clear the overdraft, provided we are satisfied that the claimant is not abusing the system, i.e. having loads of home visits when the G.P. is not saying that that is necessary. There was abuse under Health Insurance Exception of home visits and the important thing to remember with Health Insurance Exception was it was not just the one person in the household who had a chronic illness, perhaps, who needed to go to the G.P. regularly, it was awarded to the family. So children could go free, mum could go free, but only one person possibly fortnightly in the household needed to go to the G.P. regularly. It was abused and it had to be cracked down on. So as I was saying, Household Medical Accounts are a budgeting tool. Some people are quite happy to receive all their components, personal care, whatever, fork out for their own bills, never come to the department for any help with G.P. costs

but if they did, if somebody on Income Support said to us: “My husband or my wife has had to go to the G.P. 6 times in the last 3 months because of some urgent need” and we were satisfied from the G.P. that was genuine, we would help through a special payment. So special payments repay, in the main, Household Medical Accounts that are overdrawn but it will also deal with a sudden urgent need of a claimant who does not have a Household Medical Account. I hope that is clear.

7.2.3 Deputy G.P. Southern:

As I say, it is particularly difficult because we do, as an Assembly, have a choice between my proposition and the amended proposition. Quite frankly, I can see perfectly clearly why the Minister wants us to support the amendment of Deputy Le Hérissier and not my amendment, because it calls for him to do nothing more than he is already doing. It puts no timescale on that, so it puts a bit of a hurry up under him. It just says: “Do some research.” It says: “For the words ‘... to introduce’, substitute the words, ‘... to request the Minister for Social Security to investigate and report to the States on whether it would be appropriate to introduce ...’” That is exactly what the Minister has said he is doing. I do not think his timescale is anywhere near good enough but nonetheless he is doing that. So no wonder he wants us to accept the amendment because it requires him to do nothing extra at all.

[16:30]

If he is not looking at this particular area with some urgency, although he has not started yet, apparently. Access to G.P.s is research that is going to take place after the recess, so into September and beyond. It is not urgent enough at all and this amendment does nothing to improve that situation. So we may see something and it may be a lot wider than my proposition but we do not know when we will see that particularly or how much delay there will be on that even in the proposal coming before us. He then goes on to say we are spending money on G.P. fees. If people come to us then we will pay them. Why, then, do I have numerous occasions where people have gone and said: “I have just been ill. I have got £160 worth ... how do I pay that? I cannot afford that.” They have gone to the department and asked for a special payment and been refused. That is the reality. You just get told: “We do not pay medical bills.” That is what I have heard time and time again. Some other Members with experience of dealings with Social Security are nodding their head. That is their reality and yet here we are, half a million pounds going somewhere. He failed to answer the question: “Is that G.P. visits for people in residential homes?” Because that is the only thing I can think of that would put that sort of money in there. Deputy Le Hérissier rarely surprises me but he does surprise me in his fourth paragraph there in his report when he said: “Deputy Southern’s has the merit of formally calling for a study.” I do not know what his reading of my words is but my words do not call for a study. That is his words that call for a study, a study that is already going on or will be come September. He then says ... no, the Minister said: “H.S.S. (Health and Social Services Department) is already doing a piece of work on providing access to the under-5s.” Well, that is a laudable aim but that is something of the order of £5,000 and not £1,000 that I am talking about. I believe that if we can find funding for those £5,000 then that is a legitimate target, then we could also find funding of around something like, perhaps, £300,000, £400,000 for the target group that I am focusing on, which, as I say, is much smaller. Deputy Le Hérissier complains about where in the fog are we but he does nothing to clear the fog at all and then says there is a growing and growing group of numbers, certainly not in H.M.A. Those in H.M.A. are going down and again we have got no numbers from the Minister. I do not know what he knows about 2012 and 2013 figures but I think it was going down rapidly. It was going down over the years. It is just above 1,000 now. It is less than 1,000, I think now. Last figures were just over 1,000. Then he says that H.M.A. is not targeted. It is only those who feel that they cannot cope with their G.P. bills that receive an H.M.A. I would suggest that that is because they have either got the greatest need or they have the greatest difficulty in budgeting that need and paying. So they are the people having the most trouble paying. They are in income support and they had an

H.M.A. organised for them because they had been unable to deal with their G.P. bills. Then he said - and this one is truly astonishing - he says: "We only set up an H.M.A. with the claimant's agreement and we only put money in or move money from one area to another with their agreement." I think a more accurate expression would be not "with their agreement", it would be "if they do not object when we do the sums and tell them how much we are putting in their H.M.A." The difference is enormous because going into the department objecting to them taking money and putting it somewhere else is very different to saying: "I agree to that, yes", and negotiating it openly. In most cases, people come to me and say: "Where is my money going? It is going ... bleeding into my H.M.A. ... into my medical costs. I cannot afford to do this, that and the other because my medical costs are eating up my resource." That is the reality. I would urge Members to reject the amendment and get to a vote on mine, whatever you want to do with it, because quite frankly, Deputy Le Hérisier's proposition does absolutely nothing at all to improve the situation, to clear the fog or to get the Minister moving any quicker or any more accurately. He is already doing it.

The Connétable of St. John:

Sir, is there any chance that we could remove our jackets or get this air conditioning to work properly in here? [Laughter]

The Bailiff:

We will see what we can do about the air conditioning but I think we have to keep our jackets on, Connétable. Deputy Tadier?

7.2.4 Deputy M. Tadier:

This week we were privileged, I think, anyone who attended or heard indirectly of the visit of the Honourable Diane Abbott M.P. (Member of Parliament). The crux of her talk which is relevant to this debate as well is that she reminded us that social change and social justice does not just happen; it is something that has to be campaigned for and happens often incrementally and it happens gradually over a long period of time often, but then when it does happen it becomes to the point where it is normalised. We have heard previously even the Minister for Treasury and Resources quoting Tony Benn in the Assembly talking about visionaries who start off being ridiculed and then they become normalised themselves. I suspect in my lifetime, I hope that people will say, incredulously: "Do you remember the time when people in Jersey were charged to see the doctor, were charged to see their G.P.?" The youngsters will say: "Do not be so silly, how could that possibly be?" and say: "No, it was the case." They say: "Well how did people manage to go to the G.P.?" and say: "Well it was only those who could afford it that went to the G.P." They will say: "What, you lived in that kind of society where people were put off, disincentivised to go to the doctor deliberately by their very own Government which was trying to look after them?" Imagine if you had varicose veins or if you suffered from over-heating and you could not afford to go to see your G.P. It would be crazy. So, that is the kind of society that I want to live in and I think that is ultimately probably the society that Deputy Southern wants to live in. That is the kind of direction that Reform Jersey wants to move in: free G.P. visits for all Jersey residents. How do we best get there? In fact, I am not sure why this amendment has been allowed because I am sympathetic with the Deputy, as he will know, because of course we do need a wholesale review. But if this is happening anyway, the amendment is simply to say rather than Deputy Southern's proposition, substitute the *status quo*. If the *status quo* is what is happening anyway it just negates the proposition. Now, I think that is the practicality of it certainly, if not the theory of it. On that basis, which is more likely to get us to that goal in the long term, I have to accept Deputy Southern's as the way forward because it is something tangible. At the end of this there will be a tangible benefit, albeit for a small proportion of our society. But it is a perversity that we do not want to look after the more wealthy element in our society who cannot access G.P. visits. Why is it that we only give

this to the poor? This is something we looked at yesterday with means-testing. So I reiterate that I hope very soon, preferably in the next 5 years rather than in 50 years' time, everybody in Jersey, in this affluent society, can be expected to go to see their G.P. and not have to pay directly for it. There will be other methods of payment of course to do that. That does not mean that all services that are currently provided by G.P.s will necessarily have to be provided at the surgery. We need to find other methods which are being looked at. So I do ask Members to, on this occasion, not fall for the amendment but to support Deputy Southern in what is a relatively modest proposition to help people in a tangible way.

7.2.5 The Deputy of St. Ouen:

I stand in support of Deputy Le Hérissier's amendment. However, I would just like to say that I too do not believe that cost should be a barrier for anyone with regards to accessing medical help and support. However, I would like to remind Deputy Southern of a significant decision that was made in this Assembly about a year and a half ago and that was the approval of P.82 which was the proposition that was the new way forward for health. In particular, there were 2 parts of the proposition that were focused around the funding mechanism for primary care and equally the funding mechanism for health and social care. There was a timescale attached to that and that was to the end of this year. Now it is something that I know Deputy Hilton and myself have been extremely keen to ensure happens and we have questioned the Ministers at length about progress or otherwise on this matter. We believe, and have believed, that progress had been and was slow. More recently we are told, and I think we have had confirmation to some extent from the Minister for Social Security, that work is progressing and that the timescale, which is the end of 2014, will be met. I think that that is important for 2 things: one is we need to know how we are going to provide everyone to access appropriate medical help; we also need to know how we are going to pay for it. You cannot have one without the other but we need to recognise that we have got to help those least able which is the point I am certain that Deputy Southern is making. I do not believe though that it is a case of the Minister doing nothing as the Deputy suggested. I might point ...

Deputy G.P. Southern:

I am not suggesting he is doing nothing; I am saying that he has got nothing to do any extra.

The Deputy of St. Ouen:

I will not give way... because I believe that in many respects, although perhaps Deputy Southern will not accept it, the Minister and this amendment that is being proposed by Deputy Le Hérissier tries to address the issues that Deputy Southern is concerned about and states in his report. I point him to page 7 of his report and the last paragraph before we get to financial and manpower implications, and these are Deputy Southern's words: "After 6 years of the delivery of benefits through income support, I believe that the time has come to assess how the system might be improved. In particular, the examples given above reveal deficiencies in the support delivered for those needing a high level of G.P. care." Then he goes on to say: "This proposition goes some way to addressing this need." I would like to suggest to Deputy Southern that the combination of that which we have already agreed, which is the requirement for the Ministers to come back by the end of this year to deliver the sustainable funding mechanism for primary care alongside health and social care and the requirement that this amendment will place on the Minister for Social Security to come back to revisit the Household Medical Account system, look at those in need and report back to this Assembly with proposals, will deal and address the real issues that he is raising.

[16:45]

I would ask Deputy Southern to reconsider his position on this amendment and I certainly for one will be supporting it. Thank you.

7.2.6 The Deputy of Trinity:

I know that Deputy Southern has always got a passion about making G.P. services accessible to those on low income and I can understand that and, in some ways, would we all not? But with P.82 we needed to sort out a new primary care way forward and that strategy is important if it is going to be safe, sustainable and affordable going into the future. Those are the 3 things that we need to make sure that we are going to deliver. Yes, it was a bit slow in the start but it has gained momentum over the last few months especially, and work is being done. There are 95, 100 self-employed G.P.s so it is quite a challenge to work with all of them because, as you would expect, every one of them has a slightly different view. But turning that round, that is a good thing because they are on the coalface and all their views need to be heard and need to be understood. But also we need to look at the pharmacists and the opticians as well because they have important parts to play. At the moment if someone goes to see a G.P., the G.P. will only get a subsidy back from Social Security if that person is in front of them. Well some of that work could be done by practice nurses. Nurses now are much more fully trained, nurse prescribers, but they can do so much more but they are not being used to their full advantage. That is wrong; we need to sort that out. As I said, it is work that is being done; there are some private studies being done. States Members would have had an email the other day, a press release, about midwives in G.P. practices. That is the type of thing that we need to look at; it is like a contract for services. That is where it really, really makes a difference. Not just putting more money, we need to look at how the money is being spent and spend it wisely to get the best possible services that we can have for the G.P.s to give to patients. This is not the answer and I am sorry that Deputy Southern has brought it because work is being done and, as Senator Le Gresley did say, we will be coming back towards the end of the year with something. All I can say, work is progressing, not as quick as I wanted to last year, but it is progressing and it is progressing well.

7.2.7 Deputy J.A. Hilton:

I like to speak as I find and I think I heard Deputy Southern say that anybody going to the department with extra medical bills does not stand any chance of them getting paid by special payments. So I would like to tell the Assembly that that is not my experience and I have dealt with Social Security on a number of matters. On one occasion I accompanied an elderly gentleman to the Social Security Department who had approached me because he had run up significantly high G.P. bills. This gentleman had worked part-time up until the age of about 78 because he was of quite limited means but then had to have major heart surgery. When he came back he was not able to work any longer but had to visit the doctor every week for blood tests and he did run up significantly high bills. When I accompanied him to Social Security to sit down and explain to them the difficulties he was facing, they agreed straight away that they would cover his outstanding G.P. bills, and they amounted to several hundreds of pounds, and agreed that they would continue to pay for that particular person to visit the G.P. every week and they would underwrite those costs. I felt it was important I told Members that because I would not want them to think that if they were approached by a constituent requesting help that they were not going to stand any chance at all because, in my experience, it is not like that. I know the Social Security Department seems to get a frequent bashing in this Assembly and I would just like to say that in my experience they have always treated me extremely well, very courteously and I have every admiration for the work they do. Thank you.

7.2.8 Senator P.F. Routier:

We have heard from the Minister for Social Security and the Minister for Health and Social Services about the work that is ongoing at the present time with regard to looking at access to G.P. services. I have attended some of those meetings and I am aware that it is, I have to say, really exciting and innovative what is being talked about. As the Minister for Social Security intimated,

the prospect of free healthcare for under-5s, which I think is something I would support wholeheartedly, obviously we have got to find the funding for it and it might be expensive but it is certainly something that we could certainly be progressing. One of the things which I have ... I know we are speaking to the amendments which I will be supporting but I would like to identify something which I really have difficulty with Deputy Southern's proposition which is it talks about the people who currently qualify for household medical accounts. Well I have 2 problems with that. As the Minister for Social Security has quite eloquently said and explained quite clearly, Household Medical Accounts are about budgeting to be able to go to the doctor. It is for people who are not able to manage the whole of their account, the whole of their household income really, and it is the way that they use their funding, and they run out of funds to go to the doctor. So it is a mechanism to help them to ensure that they can put some money aside and budget their accounts so they can go to the doctor. So Deputy Southern's proposition, what he is trying to achieve, fails in 2 things as far as I am concerned. One is that it is just the people who currently today qualify; not about anybody tomorrow, which is a bit of an issue. Also it does not help the people who have high medical costs and who do manage their finances. They may have medical needs as much as anybody else who does have a Household Medical Account. So I think it is an unfair suggestion what he is putting forward because it does not help those who do manage their accounts satisfactorily. The work that is going on within the progress of working with the G.P.s is, I think, really exciting and I know Deputy Southern is saying Deputy Le Hérisier's amendment is just a "keep going as you are going". It is very exciting the prospects of what is coming forward and I would suggest that everybody supports Deputy Le Hérisier's amendment and the work does continue because it is marvellous.

7.2.9 Deputy J.H. Young:

Just quickly, I think the proposition is well-intentioned but I think for me it misses the target. I think really the real issue for me is about how in the Island to improve access to G.P. services for all. Because there is no question in my mind that it is financially hugely advantageous to ensure that health conditions and health problems are detected earlier and that conditions and illnesses do not go through into late diagnosis, because not only is that absolutely dreadful for the people with that experience but also contributes to the drive and increased costs for our secondary healthcare service. So it makes sense to have our attention focused on the shift to primary health care. I am not obviously familiar with the details of that work but I have heard what has been said, that that work is exciting, and really what we have got before us at the moment, the proposition and the amendment, both of them really miss that target. I have got a couple of questions that I would like either one of the speakers somewhere in this debate to pick up. It has always puzzled me why we only have private practitioners as G.P.s in the Island. Do we restrict in some law or other somewhere the number of G.P.s that we have in the Island? Do we prevent new G.P. practices becoming established? What is to stop us as a government, if we wanted to, employing some G.P.s and establishing G.P. practices? What is to stop that? **[Approbation]** I just pose the questions. Because we have private practitioners as established business but we know that not all of our community can afford those terms. I just think that some lateral thinking, out-of-the box thinking is required here. Yes, change that may be regarded as very extreme and revolutionary, but I think in our healthcare system we are faced with mission impossible. If all we do is thrust our money and resources at the secondary healthcare system, it is impossible. If we spent all our money it will not do the job. Every penny aimed at the primary care end will pay huge dividends. So obviously we have got a very unsatisfactory current system where we all know people... a lot of people, including myself, do not like going to the doctor. It is bad enough anyway but it is made worse even by having to pay money. If you are struggling and having to make choices between feeding your family or other things, you are going to put it off. I am not an expert but I rely on those, the Minister for Health and Social Services and the Minister for Social Security, to work together

because I think this is another classic case where these issues can only be solved by joined-up governments and unless we get that ever, this discussion will continue on. So I think myself that I am not seeing any proposition and I am sorry if Members may feel that irreverent; I think it misses the target. The well intention is there but I really would like to see somewhere some commitment to really addressing this for the future.

7.2.10 Deputy S. Pinel of St. Clement:

I do think that if Deputy Southern managed to have many of his propositions accepted, most departments would be well over budget, the Health Insurance Fund would be bankrupt and any Contingency Fund would have been exhausted long ago. There has to be an understanding and realisation of the balance between want, need and affordability across the Island's expenditure. I am not convinced that many of the public are aware that each G.P. visit is subsidised to the tune of £20.28 at an annual cost of £564,300. The Government Actuary report will be released at the end of July allowing the ongoing work in the review already mentioned by the Minister for Social Security in conjunction with all interested parties. Deputy Le Hérisier's amendment is essentially asking for the primary care review to continue, facts and evidence gathered and a rounded conclusion and recommendation produced. I would ask Members to support the amendment of Deputy Le Hérisier. Thank you.

7.2.11 Deputy M.R. Higgins:

I am sorry, I have to speak after the last speaker. To be honest, I was appalled by that. Deputy Southern has brought forward many propositions to help those who are disadvantaged in this Island and I think it is wrong to attack him for it. To say that the Island would be bankrupt, it is a question of where this Island's priorities are. Do we value health care for all people in this Island and not just those who can afford it? I am sorry, I just have to speak, I think it is totally out of order. Our priorities are wrong in many cases and I think certainly the Assistant Minister's priorities are wrong. Thank you.

The Bailiff:

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

7.2.12 Deputy R.G. Le Hérisier:

I think it can be said obviously the views we expected to be expressed have been or have been pleaded strongly in some quarters and I do thank Members. On a factual element I am grateful to the Deputy of St. Ouen for drawing attention to what I saw as Deputy Southern wanting a study as stated on page 7 of his report. It is a quite improbable picture that I am forcing words into Deputy Southern's mouth so I thought we would clarify that. What I would also like to say to Deputy Young, I think he is being a little offbeat there because what I am asking for is a full study.

[17:00]

It is being apparently now undertaken. We the Back-Benchers have not been informed to the extent I wish we would have been because I have often thought ... and I know there is that famous joke, if you are a British Prime Minister, do not upset, it used to be the coal miners, the Brigade of Guards and I think the Church of England. Well quite clearly that line-up has changed but to it can be added, or to it can be substituted obviously, the doctors, as Britain's greatest Minister for Health, Aneurin Bevan found, you may recall, at the founding of the Health Service. He could not crack the whole issue of how you managed the doctors, how you negotiate a deal with them, so I did think there was some heavy politics going on under the surface. I am glad to hear that there is some good talk about ideas and things are moving forward, and in fact that is what I was trying to move along. That is what I was trying to move along. I do apologise to Deputy Southern and his supporters if it is seen as a party-pooing kind of move to take attention but I think this is a much

more complex study which needs a much greater emphasis on integration as you move forward compared to the excellently-promoted move yesterday. I do not think you can take something in isolation which has a massive financial commitment and then you leave the rest of the system to reform itself. Because I think what would inevitably happen you will squeeze the rest of the system and you will inhibit the other reforms that you were thinking of, like experimenting with group practices moving forward in a different way. I move the proposition and ask for the appel.

The Bailiff:

The appel is called for then in relation to the amendment lodged by Deputy Le Hérisier. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 33		CONTRE: 6		ABSTAIN: 0
Senator P.F. Routier		Senator A. Breckon		
Senator S.C. Ferguson		Deputy G.P. Southern (H)		
Senator A.J.H. Maclean		Deputy M. Tadier (B)		
Senator B.I. Le Marquand		Deputy M.R. Higgins (H)		
Senator F.du H. Le Gresley		Deputy N.B. Le Cornu (H)		
Senator I.J. Gorst		Deputy S.Y. Mézec (H)		
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy E.J. Noel (L)				
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 of St. Martin				
Deputy R.G. Bryans (H)				

7.3 Income Support: free G.P. access (P.101/2014) - resumption - as amended

The Bailiff:

Very well, so we return to the debate as amended. Does any Member wish to speak on the proposition? Deputy Tadier.

7.3.1 Deputy M. Tadier:

It is really to say that clearly a wholesale review is needed and if I had had the time I would have amended it to ask the Minister for Social Security to investigate, if not bring forward, a mechanism whereby all Jersey residents - which would need to be subject to a definition of residency perhaps - could benefit from this. To do that we need to ask the fundamental question that has been alluded to already by the previous proposer of the amendment that we do need to fundamentally question the low tax, low spend model that we have. It is increasingly the broad, middle-Jersey in socioeconomic definitions which have those issues because we look after the very most vulnerable in our society as best as we can. Deputy Southern has indicated that that does not always work satisfactorily; clearly, there are those for whom money is no object. I think it has only been highlighted by the comments of the Assistant Minister for Social Security what a paltry sum in fact that subsidy is that goes towards the G.P.s. £500,000 is virtually a drop in the ocean, as Deputy Young has said, compared to what we spend on secondary care. We know it is true across all sections of society in all departments that early intervention, prevention, whether that is in education or whatever, is much more cost-effective and it is a much better way to target resources so that people do not get ill in the first place. I think, and I would hope, that the message has gone out today the way to do that is to make sure that more people go to the doctor when they need to so that they do not go to the hospital later on; so that can be avoided. I do ask the Minister whether it is him or will he be passing this on to a future Minister, no doubt, as it is probably not coming back any time soon, to ensure that this happens in a timely manner, to make sure that there is a proper consultation that goes on around it. He may be able to address that issue so that people can look at the different requirements that there are out there because I believe that very many people are not seeing the doctor when they should do. This idea, which I think is frankly ridiculous, that if we had free access to G.P.s either in clinics that were States-owned, or States-employed G.P.s, whatever the mechanism was, that people would be going to the doctor frivolously is quite frankly a nonsense. People do not go to the doctor, they do not go to the dentist for fun. If they do that, and I can hear people saying they do, it is because they are hypochondriacs in which case they need to see a doctor. **[Laughter]** We need to get over that because it is ultimately society which bears the social cost and the economic cost if we do not have our priorities right. So I do ask the Minister to take those comments on board and make sure there is ample room for proper consultation, radical new thinking outside the box and essentially a more socialist approach in future.

7.3.2 Senator F. du H. Le Gresley:

Just a few points, because I think we have covered most of the ground. When my Assistant Minister mentioned the figure of £560,000-odd that was special payments out of Income Support she and I both know that the Health Insurance Fund spent £8 million last year on G.P. subsidy through visits and £18 million on the cost of prescriptions, drugs and prescribing, so a lot more money going out through the benefit system at the moment. Deputy Southern challenged me as to whether some of that special payments money was going to people in residential care. Well of course we know that people in residential care now, in fact, all recipients of income support residential care, have been moved across to long-term care benefit, so all their care costs are being met insofar as the delivery of care in the residential setting in which they are in. It has always been the case that if they need to call in a G.P. that they have to pay for that. They have the option of using their savings, and a lot of our elderly do still have some savings, or they are in receipt of, I think it is £32 a week, pocket money which they, in some cases, I am sure have difficulty spending, and that can go towards G.P. bills as well. In most cases if somebody in residential care is getting seriously ill, they are moved to hospital where of course treatment is free. So that is where we are; an enormous amount of work going on. I wish I could give Members chapter and verse but I am afraid you will have to wait. The Deputy of St. Ouen quite rightly said that we are working to the timeframe set by this Assembly, which is to come back to the Assembly by the end of 2015 with proposals for a new model of primary health care that will sustain primary health care going

forward and I am sure that what Deputy Young said, issues have not been ruled out. Should the Government start employing G.P.s? Well that may well have been up for discussion. I do not know; I was not present at some of these meetings but nothing is ruled out. As I said, pharmacists have a role to play going forward, practice nurses, *et cetera*. A lot of good work going on and we are working within the timeframe set by this Assembly.

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

I think it is a shame that the amendment got passed but I will try and talk around that anyway and I want to talk about the general principle of this. I believe, and Reform Jersey's policy is, that nobody should have to pay to see a doctor when they are feeling ill. I think that is a basic principle of a civilised health system. When you are sick the only thing you should have to think about is getting better, not about how you can afford it. That is a basic principle of social democracy and the welfare state. I remember when I was 18 years old, shortly after I moved to London to start university, I went to visit a friend of mine who was living in Winchester for university; she was a Jersey girl. She was not feeling very well and she asked if I could go visit her to give her some company for the weekend but she got worse while I was there and eventually was **[Laughter]** ... it was not from the conversation, I stress to add. Eventually she was in quite bad pain because of her stomach and she was struggling to contain it and was visibly in a lot of pain. So I took her to the nearest N.H.S. hospital to see a doctor. I can tell you now the tears of joy from her when she realised that she would be seen right away, she did not have to make an appointment, she got given all the medicine she needed to feel better and she did not have to pay a single penny for any of it. She was not from a particularly well-off family in Jersey and she did have some health problems and she always waited until she felt unbearably ill before seeing a doctor because she just could not afford it. So when she went to the U.K. it was a big surprise to her. She did not realise that the N.H.S. had healthcare free at the point of need and that includes seeing a G.P. I have got a friend who lives in Yorkshire who I am absolutely desperate to try and get her to come on holiday to Jersey just so she can see what it is I am bragging about so often. She, like every good British person, complains about the N.H.S. all the time but she is absolutely mortified at the idea that in Jersey if you are feeling ill you have to pay around £40 to go see a doctor. It just does not compute to people that have had free access to G.P.s their entire life, no matter what their background is. It is even worse in Guernsey. I have a friend of the family who refused to let people call him an ambulance after he collapsed because he could not afford to pay for it because that is what you have to do there; just absolutely unbelievable. Now we are one of the richest places in the world. The fact we do not have free G.P. access is not a financial necessity, it is a political choice, because for too long we have had people in charge who just have not had the right values to see this fixed. That is why I was very disappointed with what Deputy Pinel said because I think that Deputy Southern is one of the politicians with the best record in this Chamber for standing up for basic principles like this, social democratic principles that most places across Europe have had for decades and take for granted now because it is such a basic, unarguable thing like seeing a doctor for free or having 6 months' maternity leave paid, *et cetera*. But say if, and only if, hypothetically we were not able to find the funds to provide free G.P. visits for everyone, at the least we should be funding G.P. visits for the Island's most needy and vulnerable. I think that is pretty basic. Now some have criticised Deputy Southern's proposition saying it would not necessarily target those that were most in need. Maybe that is right; maybe that is not. But how do you make the logical step then that we just should not help anybody? The aim of this proposition, its end aim now that it has been amended, is to see Islanders who need help given that access to see a G.P. when they need it and I think that is such a basic principle that people should be supporting.

The Bailiff:

Does any other Member wish to speak on the proposition? No? Then I invite Deputy Southern to reply.

7.3.4 Deputy G.P. Southern:

I start with some basic reading lessons. When we turn to page 7 which has been referred to by 2 Members we see the statement: "After 6 years of the delivery of benefits through Income Support, I believe that the time has come to assess how the system might be improved." That sentence is very clear. The reference to the system is clearly attached to the nearest object which is income support. It is not my intention in this particular proposition to solve the whole primary care issue and to restructure the whole works. It is to meet a need now among a particular group of people. In the past I have brought it with a much larger remit to cover pensioners, those who have incapacity, disability and children. I was told: "No, far too ambitious. You cannot do that." So I deliberately focused on the smallest target group I can where I know they are relatively poor because they are on income support and I know that something is being done to help them pay for their medical bills, so they have presumably the greatest need for that help. So they are clearly identified. There are only 1,000 of them, so I have kept it as small as I can.

The Bailiff:

Can I remind you, Deputy, you are speaking to of course your proposition as amended which does include others who have difficulty paying for primary care?

Deputy G.P. Southern:

They did not amend my ... sorry, say again?

The Bailiff:

You are speaking now to the proposition as amended.

Deputy G.P. Southern:

Yes.

The Bailiff:

Which of course goes beyond Household Medical Accounts and deals with others who have difficulty paying for primary care. I just wanted to check you were speaking to the amended proposition.

Deputy G.P. Southern:

I think it is wonderful that eventually [**Laughter**] ... and I may live long enough to see the day, we might get free access to G.P.s for all but I am not holding my breath.

[17:15]

I am not holding my breath while the White Paper gets organised by the end of this year because I have had experience of White Papers and how they are coming, I have had experience of large-scale departmental timetables and, quite frankly, if you believe that, you will believe anything. I hope I am proven wrong. I hope I am absolutely proven wrong and somebody comes along and says: "There. There you go, 31st December, bang, on your desk. There is the White Paper, now discuss it" and I will but I do not think it will happen. So, as amended, I just want to cover some of the points being made. In particular, I was accused of giving the impression that no G.P. bills will ever be paid, to which I have to say, no, I, too, have accompanied people with high G.P. bills because they have been ill and managed to succeed in getting the payment by being, I do not know, a capable negotiator on the day and insisting that we find a solution because the issue is there in front of us. But the routine norm, in my experience of what people report to me, is if they go along with a request to get their G.P. bill paid, they will be turned down. The first reaction they will get is "no" and hence they end up on my or other Deputies' doorsteps saying: "Can you please help me; I do not know what to do? I am stuck with a massive bill." Sometimes you can get it sorted

but not always and the first reaction is always no. I have spoken to officers at Social Security and said: “Do you cover G.P. bills?” and the answer is no. That is the first barrier to get over. So what I want to do, what I was intending here, is not to mend the whole system but to mend the Income Support system where over the years it has drifted from: “No one will suffer hardship because of their illness because there will be extra money put in.” That was the promise we were given in this House by Senator Routier. That has drifted away from that principle completely and now: “We will use your other components to prop up your medical needs” that is: “We will limit your quality of life elsewhere in order to deal with that because we will not put the extra money in” and that is what I was trying to deal with. I just would like to thank, once again, Deputy Mézec who brings as always, time and time again, in his short time in this House, to the principles that we are debating. I thank him again for reminding us that what we should be trying to do is deliver a service, a health service, that is free at the point of need if we possibly can. The reality of that, of course ... and remember that the N.H.S. in the U.K. which does that, was recently voted number one health service in the world, not just for their delivery of service but for the costs associated with delivery of service. So as I see Members shaking their heads when I say “free at the point of access”, bear that in mind. It can be that that is also the most efficient way of delivering a service. So free at the point of need, I hope I live long enough, as I say, not just to see the White Paper which will probably be fairly broad and strategic at this stage and require another year or 2 in development, but free at the point of need health service in the U.K. I ask Members to accept this proposition as amended and with probably the least enthusiasm I have ever proposed in my day.

The Bailiff:

Do you ask for the appel, Deputy?

Deputy G.P. Southern:

Yes.

The Bailiff:

The appel is asked for then in relation to the proposition of Deputy Southern as amended. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 38		CONTRE: 3		ABSTAIN: 0
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy S.S.P.A. Power (B)		
Senator S.C. Ferguson		Deputy S.J. Pinel (C)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				

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

The Bailiff:

Very well, now clearly Projet 102 would not be appropriate to start now. I assume Members agree with that; that is Civil Marriages. Projet 74, is that a brief matter, Minister?

The Deputy of Trinity:

I shall give it a go, Sir, yes. I could do 74 and 75.

The Bailiff:

Are Members happy to proceed with those 2?

8. Draft Community Provisions (Food Supplements) (Jersey) Regulations 201- (P.74/2014)

The Bailiff:

Very well, then we will move to Projet 74, Draft Community Provisions (Food Supplements) (Jersey) Regulations lodged by the Minister for Health and Social Services. I ask the Greffier to read the citation.

The Greffier of the States:

Draft Community Provisions (Food Supplements) (Jersey) Regulations 201-. The States, in pursuance of Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996, have made the following Regulations.

8.1 The Deputy of Trinity (The Minister for Health and Social Services):

Today I am asking Members to support draft Regulations about food supplements sold as foodstuffs which are currently unregulated. Foodstuffs are effectively anything that we eat or drink which is not medicine or herbal remedies. Food supplements are concentrated sources of nutrients or other substances with a nutritional or psychological effect. Their purpose is to supplement normal diets. Typically, they are marked in dose forms as pills, tablets, capsules or liquid in measured doses. Supplements may be used to correct nutritional deficiencies or maintain an adequate intake of certain nutrients. However, in some cases excessive intake of vitamins or minerals may be harmful or cause unwanted side effects. It is vital therefore that maximum levels

are necessary to ensure their safe use in food supplements. These draft Regulations are not about herbal remedies or medicines; both of those are regulated elsewhere. Food supplements sold as foodstuffs fall outside the current regulatory framework in Jersey. Other food sold in Jersey is regulated under the Food Safety (Jersey) Law 1996 and Food Safety (Labelling) (Jersey) Order 2005 so these Regulations are about bringing food supplements under those controls under the existing law. They are about ensuring Islanders are provided with accurate information on the labels of such products to allow for and to assist informed choice. There are no new powers to deal with Regulations and there are no additional resources. Essentially, they will ensure that food supplements are subject to labelling control as for all other foodstuffs. It is vital that all consumers, as we know that are taking, are aware exactly what is in the product that they may decide to use. If I can give an example, vitamins, if it says: "Just take one a day" but without clear, accurate information about the strength of the supplement, you could not make an informed choice about the appropriate use of taking that vitamin. By ensuring accurate information is given on the labels of such products, Islanders and consumers in the wider market will be better-informed. We will all be better off to make decisions on what products to purchase and what supplements they wish to take. These Regulations will not prevent the sale of food supplements currently available. More fundamentally, they will ensure that the supplements are clearly and accurately labelled. Also, if they are in a foreign language, it may be sold, and to use English if that is appropriate. There will be little or no impact on existing reputable suppliers who are already complying with the requirements of the jurisdictions to which they export. They will ensure that Jersey companies wishing to export to the U.K. or the E.U. (European Union) are subject to a consistent legislative regime and that their products will comply across the wider markets available to them. They will further safeguard free movement of such products and ensure the protection of export markets and phased implementation will support local traders to help them more easily comply with Regulations. Not to implement such Regulations would risk further criticism from the U.K. and other E.U. Governments, putting the States of Jersey's reputation in jeopardy. Our Island would also be in danger of becoming a refuge for less than reputable suppliers of poorly-labelled products. Other legislations have already been adopted as similar measures. The States of Guernsey implemented similar Regulations on 1st April this year. These Regulations have been drafted to make sure we are complying with the U.K. and E.U. In fact, this is a minor piece of legislation but it is an important one. It is tidying-up loose ends, closing loopholes in current legislation and if we did not do this we could put Jersey at risk. It is about protecting people and businesses in Jersey and securing Jersey's international reputation. Just to highlight and to finish, that reputation of Jersey is important because it ensures that there are no question marks for our exporters, when they are exporting milk to China, Hong Kong or Macau, that our Regulations are in place and meet all Regulations as required.

The Bailiff:

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

8.1.1 Deputy G.C.L. Baudains:

I will be brief in view of the time. I do have some concerns about where this is coming from because we know that the European Union has for some time been wanting to drive out alternative medicines in favour of the global pharmaceutical companies. Of course we all want to know that the product we are buying is what it says it is on the label and it is the right strength and all the rest of it, but there is an undercurrent here which I am not altogether happy with.

The Bailiff:

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

8.1.2 The Deputy of Trinity:

Yes, I can understand where the Deputy is coming from but this does not change; it is just making sure that the loophole is closed to prevent perhaps rogue traders coming in and using Jersey as a backdoor. This is something that I think Jersey does not want to happen. I maintain the principles of the Regulations.

The Bailiff:

All those in favour of adopting the principles, kindly show? Those against? The principles are adopted. Deputy Hilton, do you wish this matter referred to the Scrutiny Panel?

Deputy J.A. Hilton (Vice Chairman, Health, Social Security and Housing Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

Do you wish to propose the Regulations *en bloc*, Minister?

8.2 The Deputy of Trinity:

I do, Sir, and I am happy to answer any questions unless people want me to go through each Regulation.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations 1 to 12? Very well, all those in favour of adopting the Regulations 1 to 12, please show? The appel is called for in relation to the adoption of Regulations 1 to 12. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 33		CONTRE: 1	ABSTAIN: 1
Senator P.F. Routier		Senator A.J.H. Maclean	Deputy G.C.L. Baudains (C)
Senator A. Breckon			
Senator F. du H. Le Gresley			
Senator I.J. Gorst			
Senator P.M. Bailhache			
Connétable of Trinity			
Connétable of St. Clement			
Connétable of St. Peter			
Connétable of St. Lawrence			
Connétable of St. Mary			
Connétable of Grouville			
Deputy R.C. Duhamel (S)			
Deputy R.G. Le Hérisier (S)			
Deputy J.A. Martin (H)			
Deputy of St. Ouen			
Deputy J.A. Hilton (H)			
Deputy of Trinity			
Deputy S.S.P.A. Power (B)			
Deputy K.C. Lewis (S)			
Deputy M. Tadier (B)			
Deputy E.J. Noel (L)			
Deputy T.A. Vallois (S)			
Deputy M.R. Higgins (H)			
Deputy A.K.F. Green (H)			
Deputy J.M. Maçon (S)			

Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

The Bailiff:

Do you propose the Regulations in Third Reading, Minister?

8.3 The Deputy of Trinity:

Yes.

The Bailiff:

Is it seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading, please show? Those against? They are adopted in Third Reading.

9. Draft Community Provisions (Nutrition and Health Claims on Foods) (Jersey) Regulations 201- (P.75/2014)

The Bailiff:

Do Members want to try and do projet 75? Yes, very well, I will ask the Greffier to read the citation of Projet 75 - Draft Community Provisions (Nutrition and Health Claims on Foods) (Jersey) Regulations - lodged by the same Minister.

The Greffier of the States:

Draft Community Provisions (Nutrition and Health Claims on Foods) (Jersey) Regulations 201-. The States, in pursuance of Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996, have made the following Regulations.

9.1 The Deputy of Trinity (The Minister for Health and Social Services):

This is very similar to the last one, draft Regulations which simply seek to ensure that nutrition and health claims made on foodstuffs are accurate and honest. May it be clear that these draft Regulations about herbal remedies or medicines, as I said before, fall under a different law. These are nutritional and health claims made on foodstuffs which are not currently regulated. For example, a product may make a health claim that plant sterols have been shown to reduce cholesterol levels, a risk in the development of coronary heart disease. Another may make nutritional claims that a product is low fat or a source of Omega-3 fatty acids or high in fibre. Without accurate labelling, how can a consumer make an informed choice about what that means or have the confidence to know that the product is the right one for their individual needs?

[17:30]

The draft Regulations do not seek to prevent the sale of any foodstuff or restrict trade in any way but to better allow people in Jersey to have that informed choice about what they buy and consume. They are about ensuring that the labelled products provide accurate information and, importantly, that any nutritional health claims made for food are clear and accurate. By ensuring accurate information is given on the labels of such products, Islanders and consumers in the wider market

will be better-informed and better able to make decisions on what products to purchase. They will not prevent the sale of any product currently available, they will have little or no impact on existing reputable suppliers who are already complying with the requirement of the jurisdictions to which they export. These draft Regulations will also ensure that Jersey companies wishing to export to the U.K. or the E.U. are subject to a consistent legislative regime. They will further protect free movement of such products and ensure the protection of our export markets. Phased implementation will support local traders, enabling them to easily comply with Regulations, and when their products are compliant with Regulations, wider markets will be available to them. I should perhaps reinforce that not implementing these risks further criticism and adverse publicity from the U.K. and E.U. Governments. It could restrict access to markets, risk reputational damage to the States of Jersey and has the same potential to see Jersey becoming a refuge for less than reputable suppliers and procurers of poorly-labelled products. As with the other one, the States of Guernsey implemented similar Regulations this year. This is not about bowing to E.U. or U.K. pressure, it is absolutely the right thing to do for Jersey's reputation. Essentially, we need to ensure that people in businesses in Jersey are able to make informed choices with the confidence of knowing that product labels and nutrition and health labels on foodstuffs are accurate. It is our job to protect and support Islanders and the reputable businesses of Jersey and this is an important step to bring.

The Bailiff:

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

9.1.1 Deputy M. Tadier:

It is interesting to note the Minister's language because in the same phrase when she said: "We are not doing this to bow to E.U. pressure" she said: "We are doing this to protect Jersey's reputation." From whom? From the E.U., of course. Because the real reason that we should be doing this is to protect our own citizens to give them the choice but the Minister has basically just conceded there, subconsciously perhaps, that we are doing this to make the reputation of Jersey remain intact. So it is clearly doing that primarily to bow to outside pressure and I doubt that this would be coming forward in such a way. That is not to say that I do not think it needs to be done, absolutely it does, but the real reason we are doing this is to conform with the E.U. protocols but that goes without saying. I also look forward to the day when illicit substances are regulated so that those who choose, rightly or wrongly, to use whatever substances, know what they are consuming. Because those are clearly a lot more dangerous for people out there who are taking substances, they do not know what they are taking, and we as a government, and the Health Department, are letting down these individuals who end up dying as a result of taking things because they cannot know what is in them because they are, by very nature, illegal and therefore unregulated. Hopefully at some point that wider discussion will take place because it is exactly the same principle as what is being brought forward here.

9.1.2 Connétable J.E. Le Maistre of Grouville:

I wonder if the Minister could confirm that passing this legislation will make us compliant for the requirements of sending milk to China. I ask really because I think she said that in the last law and the Minister for Economic Development voted against it. I was just a little bit concerned that if we do not pass this legislation it may be a problem for us sending milk to China, which I am sure he is very much in favour of.

9.1.3 Deputy J.M. Maçon:

Very quickly, is there anything within these Regulations which would look at how understandable the labelling is? Because as we know on various products, while a substance might be labelled,

when you look at the back there are some things which the ordinary person would have absolutely no idea what the actual product is. I wonder whether there would be any thought as to whether we should be looking at that. You would need a degree in chemistry to understand what some of these things are in foodstuffs that we have. I wonder whether that has been thought about.

9.1.4 Deputy J.H. Young:

I am more troubled by this because this really reads like classic E.U. material. For example, if one looks at the actual text of the law we are passing here, everything refers to Council Regulation meaning: "Regulation (EC) 1924/2006 of the European Parliament and of the Council of 20th December 2006 on nutrition and health claims made on foods (OJ L 404, 30.12.2006, page 9) as amended up to 29th November 2012." All it does it lists down the series of paragraph numbers in Article 28 in that thing I have just read there, Articles 3, 4, 6, 7, 8, 9 and 10. My worry about this, I think it is all relating to packaging, marketing and labelling and such. Really, it troubles me a little bit because that strikes me as being basically commercial-orientated. It is not really a safety issue that is coming across to me. It is about a commercial practice and I am just troubled about us having to slavishly follow, and not even explaining it in our law in commonsense understandable English language for people to know what our law is. So I am hoping that if we approve this, which I assume we will, that her department will at least provide an English/Jersey translation to people so they know what requirements they have to comply with under this E.U. material. So I do have big reservations about it.

The Deputy Bailiff:

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

9.1.5 The Deputy of Trinity:

Going back to Deputy Tadier, it is about protecting all. The illegal highs that he was talking about, that is regulated under a different law and if I could ban the whole lot of them in one easy go I certainly would, but I cannot unfortunately.

Deputy M. Tadier:

Would she give way? The point I was making was that the content of these illicit substances is not regulated by the definition and that is essentially saying we will continue to lose young and older lives every year until we regulate what substances are put into these packages.

The Deputy of Trinity:

Deputy Tadier makes it sound like it was just one easy brush of the pen to regulate these illegal highs, but let me tell you, as soon as we make one product illegal, just a slight change in compound - and it can be a minor change - makes it legal again. So that is what we are up against and I am going slightly off tangent here but I think it is important. When I was attending the British-Irish Council meeting in Dublin last week other jurisdictions around that table had all the same problems and all the same issues. I am pleased that Norman Baker M.P. was part of the English Government doing quite a bit of work on this of which we will dovetail into it. But going back to the proposition. With the Constable of Grouville, yes, you are quite right. To make sure that all our exporters can justify and concede that we have all the proper legislation and Regulations in place it makes it easier for exporters to be able to do that, whether it is E.U. or out of the E.U. Going to Deputy Young: English translation. Yes, if there was a simpler way, and I will ask my officers to try and do a ... no disrespect but perhaps an idiot-proof guide, that would be useful. But again this is having a loophole, which has been there and it needs to be done, not only to protect ourselves but to protect anything that can come in via us and go to the E.U. or U.K. It is that simple but it is that important. I maintain the proposition.

The Bailiff:

All those in favour of adopting the principles kindly show. Those against. They are adopted. [Aside] Too late, I am afraid. They have been adopted.

Senator S.C. Ferguson:

It was very quick, Sir.

The Bailiff:

Well, we are in a hurry, Senator. Do you wish this matter referred to your Scrutiny Panel?

Deputy J.A. Hilton (Vice-Chairman, Health and Social Security Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

Do you wish to propose the Regulations *en bloc*, Minister?

The Deputy of Trinity:

Yes, I propose them *en bloc*. If anybody has any questions I will try and cover them.

The Bailiff:

Are Regulations 1 to 6 seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? All those in favour of adopting **[Interruption]** **[Laughter]** ... yes, you are in time. You definitely can, Senator. The appel is called for in relation to the adoption of Regulations 1 to 6. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 32		CONTRE: 3		ABSTAIN: 0
Senator P.F. Routier		Senator S.C. Ferguson		
Senator A. Breckon		Senator A.J.H. Maclean		
Senator F. du H. Le Gresley		Deputy G.C.L. Baudains (C)		
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisser (S)				
Deputy J.A. Martin (H)				
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 M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				

Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy S.Y. Mézec (H)				

The Bailiff:

Do you propose the Regulations in Third Reading, Minister?

9.2 The Deputy of Trinity:

Yes, Sir.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading?

9.2.1 Senator S.C. Ferguson:

I would just like to ask the Minister if she ever does an economic impact assessment on the effect of these Regulations that keep coming with monotonous regularity from the E.U.?

The Bailiff:

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

9.2.2 The Deputy of Trinity:

Responding to Senator Ferguson: personally-wise, no. I would like to think that is taking it in the round because these Regulations are important.

The Bailiff:

All those in favour of adopting the Regulations in Third Reading kindly show. Those against. They are adopted in Third Reading.

Deputy J.M. Maçon:

I wonder if this might be an opportunity to discuss with the Assembly; I have been approached by various Members who are concerned about the Order Paper for the next sitting and have expressed an interest about whether we can bring forward some items to add on to the end of the current business we are considering, as we seem to be making good progress at the moment. I have had a discussion with various Ministers and their Scrutiny Panels to see what perhaps could potentially come forward, and I wonder if I can indulge the Assembly and ask if propositions 111, 112, 113 and 114 could be moved early, but we would need to reduce the lodging period and Members need to make that judgment.

The Bailiff:

When you say “move”, do you mean move to the end the Order Paper for this meeting?

Deputy J.M. Maçon:

Yes, Sir.

The Bailiff:

We better see if the proposers of those agree. The Minister for Housing, Projet 111. Do you agree that, Minister?

Deputy A.K.F. Green:

Yes, Sir.

The Bailiff:

It is up to the Assembly as to whether the period is shortened but if I can just establish first of all whether the proposer in each case is happy. P.112, Chief Minister.

Senator P.F. Routier:

Yes, Sir. Also we can move P.117 as well.

The Bailiff:

And P.117. P.114 is the Minister for Health and Social Services. Minister, would you be willing to see Projet 114 to be added to the Order Paper for this continuation meeting? In other words, brought forward from 14th July.

The Deputy of Trinity:

I would rather not Tuesday.

The Bailiff:

I do not think it will be Tuesday. **[Laughter]** All of those, I think I am right in saying, need to have their lodging periods shortened in order for that to happen. Are Members content that we take them as a job lot? The proposition; is anyone going to propose then? Are you proposing, Chairman?

Deputy J.M. Maçon:

Yes, Sir, I will propose that.

The Bailiff:

The lodging period be shortened for those 5 matters to allow a debate during the course of next week.

Deputy M. Tadier:

Can we have an appel on that when everyone has finished speaking on it or have we already agreed that?

The Bailiff:

I am sorry, Deputy?

Deputy M. Tadier:

Are we able to have an appel on that?

The Bailiff:

Yes, of course. It has not been voted on yet. Sorry, did you want to say something?

The Deputy of Trinity:

P.110, Draft Health Insurance (Performers List), we could do that alongside the Medical Practitioners (Registration), just as a thought, Sir.

The Bailiff:

So you want to add P.110? I do not suppose there is much prospect of dealing with all these but anyway. You proposed, Chairman, that the lodging period be shortened for all of those.

[17:45]

Is that seconded? **[Seconded]** Do you wish to say anything, Deputy, before a vote? No. So the proposition before the Assembly is that the lodging periods for Projets 110, 111, 112, 113, 114 and

117 should be shortened to allow debate during the course of next week. Should that be reached they will come in at the bottom of the Order Paper after the existing material.

Deputy M. Tadier:

Sorry, I was slow. I do have a question and it is to do with ... there is a test, is there not, to apply when we ask for ...

The Bailiff:

It is now simply that it is in the public interest.

Deputy M. Tadier:

Has that case been made, that is all I am asking? There is a presumption that I have always understood it that the lodging periods are there because it is in the public interest to have them there. If a counterproposal and a counterargument has not been made as to why it is in the public interest to shorten that, and I know you can say the vote is shorthand for that, but we still need to agree and let us agree that if it is the case, but I have not heard anyone argue why it is in the public interest to shorten these and override the *status quo* which says that 6 weeks is the lodging period and that is the presumption.

The Bailiff:

Do you wish to reply, Chairman?

Deputy J.M. Maçon:

Yes, thank you. I think Members were of the opinion that they were concerned with the business that was down for the last sitting and if the States Members were unable to complete all that business before the summer recess that would not put the States in a good light, especially with everything that does need to be done. It is up to Members whether they feel that that it is enough to warrant that it would be in the public interest to move these items earlier. It is entirely up to Members to decide whether they feel that is strong enough or not. It is down to Members.

The Bailiff:

Does anyone wish the appel?

The Deputy of St. John:

Could I say something?

The Bailiff:

Yes, I saw Deputy Young first and then I will come to ...

Deputy J.H. Young:

I just wanted to speak briefly in support of the Chairman of P.P.C. because I think the issue is: is that the agenda for the 14th July session has got a lot of very huge business, particularly the Island Plan, and I think it is important to clear other material first so we can debate that properly on that day. I think there are strong arguments in favour, so I disagree respectfully with my fellow Deputy.

The Deputy of St. John:

I know that you did not mention P.118 - Draft Referendum or include it in that list of items, but I just wanted to be absolutely clear that P.118 should not be brought forward in any way by a future...

The Bailiff:

I think you can take it, Deputy, if it is not in the proposition it is not ... **[Laughter]**

The Deputy of St. John:

It is not, Sir, but the problem is that because it is an extended States meeting next week I will be asking the Assembly for a défaut excusé so I will not be here next week.

The Bailiff:

It is not in the proposition at the moment.

The Deputy of St. John:

I would like to make that case that it would be a very bad thing while I was on défaut excusé if that happens to have P.118 accelerated in any way, shape or form.

Deputy M. Tadier:

The Deputy should not give us ideas because I think it may be in the public interest to bring it forward. [Laughter]

The Bailiff:

Always dangerous to speak on a matter which is not before the Assembly.

The Deputy of St. John:

Am I allowed to make a reply to that? [Members: Oh!]

The Bailiff:

To remind Members then. The proposition which is before the Assembly is for Projets 110, 111, 112, 113, 114 and 117 that the lodging period for those should be shortened so that if we get there they can be debated at the end of the Order Paper next week. Clearly if we do not get there then they will remain on the 14th. Do you ask for the appel?

Deputy J.M. Maçon:

I think it has been asked for, Sir, so yes.

The Bailiff:

The appel is asked for then. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 32		CONTRE: 3		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. Mary		
Senator A. Breckon		Deputy R.C. Duhamel (S)		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of Grouville				
Deputy R.G. Le Hérisssier (S)				
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 M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy S.Y. Mézec (H)				

The Bailiff:

So those matters will be added to the Order Paper.

Deputy J.M. Maçon:

May I thank the States Assembly for that.

The Bailiff:

The adjournment is proposed and therefore the Assembly will now continue this meeting next Tuesday. We adjourn until then.

ADJOURNMENT

[17:49]