

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 24th NOVEMBER 2021

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[9:31]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1.1 Written Question 458/2021

The Bailiff:

Before moving on to the next item of Public Business, I have asked to make a determination in connection with the answer to Written Question 458 provided by the Minister for Health and Social Services to the Connétable of St. Lawrence. The question asks the Minister to explain any reasons, including legal ones, that prevent the staff of the Emergency Department from giving advice to the public over the telephone. The answer states what the Emergency Department does and to an extent why it does it, but does not directly answer if there are any reasons, legal ones or otherwise, that prevent the staff from giving advice. To that extent, in my judgment the answer does not meet the requirements of the Standing Order that applies to written answers and I direct that a further and more complete answer should be lodged by 9.30 tomorrow morning.

PUBLIC BUSINESS - resumption

Senator I.J. Gorst:

Sir, I have just put a note in the chat. I wonder if before we come to the next item of Public Business I could make a request of the Assembly that I move P.94 until after P.95, please, just due to other States business I have this morning.

The Bailiff:

So you would like to move P.94, which is the Principles for Jersey's Participation in United Kingdom Free Trade Agreements, to after the Assisted Dying debate. Very well, that is a proposition as a result of the States business that the Minister has. Is that seconded? **[Seconded]** Does any Member wish to speak on that? If no Member wishes to speak, then I will assume that this could be taken on a standing vote. If anyone wishes a formal vote, please indicate in the chat, otherwise I will take that as a standing vote pour. Yes, I take that as a standing vote pour and the Assembly resolves to move that, to change the positioning of those 2 debates around.

Senator I.J. Gorst:

Thank you, Sir.

Deputy G.C. Guida of St. Lawrence:

Sorry, Sir, I have another request.

The Bailiff:

Well, it would be helpful if Members could indicate any requests in the chat as opposed to simply participating by speaking, but yes, Minister, what is your request?

Deputy G.C. Guida:

Yes, I apologise for that but it does take a few seconds to reach the chat and you were going to start on P.93.

The Bailiff:

I know, but I am sure, Minister, it did not just immediately occur to you to make your request.

Deputy G.C. Guida:

I will not argue with you, Sir. Yes, sorry, I have been asked to remove the speech time limit on the debate for P.95, so I am using Standing Order 80 to request that Standing Order 104A is just standard for that particular proposition.

The Bailiff:

Thank you very much, Minister. That is a perfectly proper proposition. That can be raised at any time during the course of the sitting. It is open to the Assembly to suspend the effect of a Standing Order. The time limits on speeches are provided by Standing Order 104A and if that is removed the only effect will be that there shall be no time limits on speeches. There is no other collateral effect for the removal or suspension rather of that Standing Order. Is that proposition seconded? **[Seconded]** Does any Member wish to speak on that proposition? No one has indicated in the chat a desire to speak on that proposition, so accordingly I will take this as a standing vote unless someone in the chat wishes that vote to be recorded. If anyone wishes the vote to be recorded, please indicate in the chat. Deputy Ahier seeks the vote to be recorded. Accordingly, I will ask the Greffier to place a voting link into the chat. The vote is on the suspension of Standing Order 104A, which would remove for the purposes only of the Assisted Dying debate, P.95, the time limits on speeches. I open the voting and ask Members to vote in the usual way. If Members are unable to vote using the link, then please indicate their vote in the chat in the way that has become customary. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. Are you still attempting to vote, Deputy Southern, can I ask? If the Greffier has closed the voting, that vote may not be recorded.

[9:45]

The Connétable of St. Clement, you are indicating you have no voting link. Do you wish to indicate a vote either in the chat ... well, you can do it in the chat. I will allow that because you have indicated that you cannot vote otherwise. Very well, in any event the proposition has been adopted.

POUR: 32		CONTRE: 7		ABSTAIN: 0
Senator I.J. Gorst		Senator T.A. Vallois		
Senator L.J. Farnham		Senator K.L. Moore		
Senator J.A.N. Le Fondré		Connétable of St. Saviour		
Senator S.W. Pallett		Deputy J.A. Martin (H)		
Connétable of St. Lawrence		Deputy R. Labey (H)		
Connétable of St. Brelade		Deputy of St. John		
Connétable of Grouville		Deputy S.M. Ahier (H)		
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				

Deputy S.M. Wickenden (H)			
Deputy of St. Mary			
Deputy G.J. Truscott (B)			
Deputy J.H. Young (B)			
Deputy L.B.E. Ash (C)			
Deputy K.F. Morel (L)			
Deputy G.C.U. Guida (L)			
Deputy of St. Peter			
Deputy M.R. Le Hegarat (H)			
Deputy R.J. Ward (H)			
Deputy C.S. Alves (H)			
Deputy K.G. Pamplin (S)			

Very well, the Standing Order 104A for the purposes of P.95 is suspended.

2. Draft Income Tax (Amendment of Law - Taxation of Cannabis Companies) (Jersey) Regulations 202- (P.93/2021)

The Bailiff:

The next item of Public Business is the Draft Income Tax (Amendment of Law - Taxation of Cannabis Companies) (Jersey) Regulations, P.93, lodged by the Minister for Treasury and Resources. For the purposes of this debate, the main respondent will be the chair of the Economic and International Affairs Scrutiny Panel. I ask the Greffier to read the citation.

The Greffier of the States:

Draft Income Tax (Amendment of Law - Taxation of Cannabis Companies) (Jersey) Regulations 202-. The States make these regulations under Article 143AA of the Income Tax (Jersey) Law 1961.

2.1 Deputy S.J. Pinel of St. Clement (The Minister for Treasury and Resources):

I hope that this debate on taxation of medicinal cannabis today will be more positive than the debate on charitable funding yesterday. Today I am proposing a simple set of Regulations that will ensure the profits of companies in the medicinal cannabis industry are subject to tax at 20 per cent. The regulation should come as no surprise to Members. The proposal to tax the profits of these companies was first outlined in the Government Plan 2020-2023. Last year's Finance Law included a power to make regulations for the purpose of taxing those companies and this year my officers have been working on developing the regulations which we are debating today. I want to say a few brief words about the medicinal cannabis industry as I know there have been some concerns about its potential impact. I want to reassure Members and the public that this is a highly regulated industry and that all applications are subject to stringent requirements before any licence is issued by the Minister for Health and Social Services. The industry would not compromise the growth of traditional open-field crops because medicinal cannabis is grown indoors under strictly controlled conditions. If anything, it brings a new use for redundant glasshouses. The potential benefits to Jersey of this industry are threefold. It will support the rural economy strategy by encouraging diversity of our agriculture. It will develop a high-value ancillary business sector by encouraging inward investment and creating jobs, and it will generate revenue through taxes. The purpose of today's proposition is squarely focused on the taxation aspects of the policy, so I want to concentrate on that potential third benefit to Jersey. The medicinal cannabis market in Europe is fast growing and that growth is expected to continue in the coming years to become the world's largest. Like Jersey, Guernsey is also fostering a medicinal cannabis industry and has already put in place changes to their tax system to benefit from

the potential revenue. Revenue is expected to be raised and Members will recall that the proposed Government Plan indicated that the taxation of medicinal cannabis would be one of the measures that has been forecast to help balance budgets by 2024. I think it would be remiss of us as an Assembly not to act now to ensure Jersey is in the best place to benefit from that imminent growth. The regulations before us are straightforward. Firstly, companies in the medicinal cannabis industry are added to an existing list of industries that are not subject to the zero per cent standard rate of corporate income tax. These other industries include, for example, financial services companies and utility companies. To be consistent with Jersey current tax law, there is no possibility of income streaming. This is where different activities undertaken by the same company are subject to different rates of tax. Under these Regulations, income tax would be applied to all the profits or gains arising in the year of assessment. The existing technical rules concerning capital allowances and losses would be applied to cannabis companies in the same way they apply to companies in other industries which are not subject to the standard nought per cent corporate tax rate. I have no intention of introducing unnecessary complexity into our tax system for one particular business sector. The Regulations also define the activities that are undertaken by a company that would bring it within the scope of the 20 per cent rate. These activities include cultivating cannabis plants and processing cannabis plants for any purpose. While there has never been any intention to impose income tax on retail activities, there is a provision to ensure that any company undertaking the growing or processing activities would not be able to distribute, sell or further process cannabis without being subject to tax. I also want to mention that the regulations create a definition of cannabis that excludes industrial hemp, which contains a very low amount of the psychoactive compound known as T.H.C. (Tetrahydrocannabinol). The purpose of these draft Regulations is to catch plants that have higher levels of T.H.C. grown specifically for the medicinal cannabis market. I want to be clear that the Regulations do not create any special rules for these companies. They would be subject to normal business tax principles. They would be entitled to claim expenses and capital allowances in the same way as other companies. At this point I would like to thank the Economic and International Affairs Scrutiny Panel for their balanced comments paper, which I have considered. I am glad they agree that a rate of 20 per cent is appropriate. I am, of course, happy to keep an open dialogue with the panel on the point they raise about the level of potential revenue, and I agree with the panel's conclusion that amendments should be brought forward. As I have already mentioned, this is a fast-paced area and I fully expect the taxing provisions and scope to be updated as the industry develops and as our policies evolve. Ultimately, if adopted, profits of the company in the medicinal cannabis industry would, from 2020, be subject to tax at 20 per cent rather than to the standard corporate rate tax at nought per cent. These regulations deliver on a clear Government commitment and I ask all Members to support these changes to our Income Tax Law. I make the principles.

The Bailiff:

Are the principles seconded? [**Seconded**] The debate is, therefore, open.

2.1.1 Deputy D. Johnson of St. Mary:

I hope Members have had the opportunity of considering the comments paper of the Economic and International Affairs Scrutiny Panel and there is, in fact, very little more that I wish to add. Two points which I would like to perhaps highlight are, first, the matter of capital allowances for glasshouses, to which the Minister has just made reference. As we point out in our comments paper, we do appreciate the reason why those engaged in agriculture should have the benefit of such an allowance. As may have been noticed by reference to the media recently, there is some question as to when the mere cultivation of cannabis expands into more of a processing situation. The question we draw attention to is as to whether it is appropriate in a processing situation as opposed to a mere cultivation activity that that capital allowance should be available. We did note at the public hearing held only last Friday that there is now a Ministerial oversight group of the industry and I hope the Minister for Treasury and Resources will bring this to their attention for further review. The only

other comment we make, which again the Minister has alluded to, is that there is little data to suggest that there will be an immediate impact tax-wise by the introduction of this tax and we utter the caution, therefore, that it is a speculative proposition or hope that we are going to receive high amounts of income in the near future. But against that background, we are happy to support the proposition.

The Bailiff:

Thank you very much, Deputy. Does any other Member wish to speak on the principles?

2.1.2 Connétable K. Shenton-Stone of St. Martin:

When I started writing, I just obviously put: "Taxation of cannabis" and then I put: "Again, not enough detail." I am surprised by the proposition put forward as I would like to understand the rationale for simply going down the route of 20 per cent of net profits. As stated within the proposition itself, it is not yet possible to forecast how much tax will be raised from these measures because the industry is in its early stages and forecasts would be speculative. I am concerned that the availability of capital allowances, management fees, interest relief, losses, foreign ownership, et cetera, that we may see no tax for a very long time from this venture and we will simply endure the blight on the countryside of light pollution, noise pollution, security fencing, traffic, et cetera, to give no actual benefit to the Island. We already do not have enough agriculture workers to service our traditional industries and the salaries being suggested will not create any new additional tax here either. As the product will be exported, the companies will contribute no G.S.T. (goods and services tax) and be in a net repayment situation. It is noted from the minutes of the Revenue Policy Development Board that the board decided to adopt the 2 recommendations that, (1) the cannabis industry is taxed at a rate of 20 per cent, and (2) that the normal taxation principles should apply. There is no further explanation within the minutes of the discussions. Could I, therefore, ask the Minister or any other members of the development board to expand on their discussions and how they were able to agree that 20 per cent was correct when no data exists and to advise the Assembly what consideration was given to alternative bases of taxation - for example, company turnover or weight of the cannabis flower or units sold - and how they were able to reconcile the likely zero tax benefit in the first years with the likely damage that the industry will do to the countryside and the possible reputational risk of an offshore finance centre dabbling in what is still an illegal substance? I will put this on record that the 20 per cent seems to have been plucked out of the air but this new industry is not tightly regulated or that regulations are conveniently being put in retrospectively. Just look at all the retrospective planning applications and the piecemeal applications and you will realise, and that the experts that the Minister is listening to appear in the main to be the investors. What the Minister believes that the industry will bring to the Island and the reality of what it may bring, if you take into account what I have just said, are not the same. I and many others fear that we are again being led along by the promise of big money, but big money for whom? The investors or the Island? My real fear is that this industry is purely for the investors. Do they, the Minister and the Council of Ministers, understand what damage they may be doing? I would urge the Minister and his colleagues to revisit the story of *The Emperor's New Clothes*. As I have said before, I am in favour of medicinal cannabis but how this new industry is evolving, with a vast industrial unit - and I mean absolutely vast - enclosed in a greenhouse and no clear idea of how the product will be taxed or when the Island will reap any benefits is extremely worrying. I will reiterate what I have already said. Could the Minister or any other members of the development board expand on their discussions and how they were able to agree that 20 per cent was correct when no data exists, and also to advise the Assembly what consideration was given to alternative bases of taxation - for example, company turnover or weight of cannabis flower or units sold - and how they were able to reconcile this likely zero tax benefit in the first years with the likely damage that the industry will do to the countryside and the possible reputational risk of an offshore finance centre dabbling in what is still an illegal substance? I cannot vote for this and I urge others to vote against.

[10:00]

2.1.3 Deputy G.P. Southern of St. Helier:

I just want to raise a question from the rapporteur to ask what our relationship is with the E.U. (European Union), if any nowadays. It seems to me pre-Brexit we had an agreement with our nearest neighbours, the E.U., France, *et cetera*, to be good tax neighbours to them in that we had a tax rate of zero per cent with only a few exceptions for the utility companies, for rental income and the like of that. Have we come to an agreement with France or with their neighbours, our neighbours, to have more exceptions to these zero tax rules which we used to have? Has that now been transposed post-Brexit? Have we got such an agreement that it is okay for us to charge 20 per cent on another category of income? That seems to me a question that needs to be answered before we vote on this issue.

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

Just very briefly, and I appreciate this is a proposition to do with taxation, but as the Constable of St. Martin has pointed out, this whole industry does need a comprehensive view on it. We did have those discussions around the Council of Ministers' table when I was there and I think from our time on the Planning Committee I was able to express in that meeting the need for the Minister for Planning - and I hope he is listening; he is now the Minister for the Environment, is he not? - that there needs to be a comprehensive framework for this industry because, as the Constable of St. Martin has pointed out, there is a line between what is an agricultural business and then what becomes light industry. On the Planning Committee we are struggling when obviously we have objections to determine applications when in that grey area it is very difficult for us to know how to proceed. So what is happening is you have different departments working on different workstreams in order to support this industry, and I am supportive of it. I think it is a good opportunity for Jersey. I think that it is an alternative and a profitable alternative to agricultural space but, while we have different parts of government storming ahead, the planning framework which is desperately needed is lacking. I urge the Minister for Planning to bring that forward as soon as possible in order to address the concerns that Members are raising in the Assembly, but I am supporting the Minister for Treasury and Resources in this proposition.

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

From the outset, I am going to try and concentrate on the tax, which is the reason for this proposition. I am going to vote in favour today. However, I have to say that I am not particularly enthused and I have been trying to think of an analogy to use. I came up with a sort of an end-of-term report on a student who has been in school for a couple of years. Let us call him Tex for the benefit of this. So his report reads: "Tex came to us with huge potential a couple of years ago and we had high hopes of great things to come. However, during the last year or so the potential and enthusiasm seems to have slipped away and we have seen little that is new or inspires us moving forward. There seems to be little vision and no new ideas, which is a disappointment given the potential for great things. Tex must do better and try harder if he is to succeed." There were some real opportunities to make absolutely sure this new and highly profitable industry contributed to our tax income here in Jersey, things like payroll tax, turnover tax, maybe only a single year of allowances. But none of these have come to light and we have been left with what is basically the standard tax clauses, which leave some loopholes that will mean little or no tax income for many years to come, in my view. Also, the inconsistencies of things like greenhouses where allowances on greenhouses are allowed, whereas cannabis grown in a specially designed and built shed will not be allowed. That seems to me to be very inconsistent and cannot be right. But as I said, I am going to vote in favour of this proposition, if only because we have to put something in place by the end of the year. We need to get going on a taxation regime, whatever it is, and, of course, we cannot change something if it does not exist. But as that school report says, we must try harder, we must do better, and we will have to change some

of the system if we are going to succeed and really bring any income into the Exchequer from this industry.

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

I had not intended to speak because I am generally supportive of the proposition, but I do think I need to speak in response to the comments made by Deputy Maçon and, indeed, Deputy Luce, which I think are important and should not be overlooked. Obviously, we are in a period where this industry is emerging and at the moment we are not yet fully able to assess what its impact on us is likely to be, either economically or in terms of the Island or its environment. But nonetheless, some things are progressing and I did pick up in the Minister's proposal what I think does have logic, that there is a very clear difference between the growing of hemp in a field situation and the hypotonic growing of the medicinal cannabis varieties, which have higher than I think it is 5 per cent psychoactive content, within what are effectively controlled laboratory conditions. So there is a very clear difference, and I think it is clear, as Deputy Maçon says, that that distinction between what is agriculture in terms of growing products and what is effectively an industrial process has been very, very difficult. That does not really fit within the shape of our planning application at the moment. So, in response to Deputy Maçon, it leads me to tell him that I did visit a number of these sites - one complete, one under development - with the Constable of St. Martin and, indeed, the Constable of Trinity with the planning officers and my officials. We are grateful for the owners of those who allowed us to go round and see what, in effect, is being done. I have given authority and I have asked now the officers to amend the permitted development regulations to make it clear that where there is production of medicinal cannabis in these very controlled conditions, that where there is conversion of existing structures or rebuilding of existing structures or adaptation of them, that is a matter that I think falls within a separate use which does require to be dealt with under the planning system by way of application. But that is to come. That is not the situation now. That, of course, will come before the various processes but, of course, I will be clear, it will not be retrospective. It is obviously for future developments. Members might be puzzled that there are applications around and that is where there is a distinction between those projects where there is a conversion of existing glasshouses and those where there is new construction and rebuilding. That already is dealt with under the law but it is complex. So I think we do need this tax structure and I think I would just touch on ... there is no question in my mind that the processing of medicinal cannabis does have major economic potential for the Island, and as long as we can manage those environmental consequences I think it is a good use of those former glasshouse sites. I think it offers much less impact with the proper regulation of all the emissions and so on, the whole raft of things there that, of course, can be done under a planning framework. Those things can be controlled by condition, so I think that is going to be ... but I do want to mention the question of field hemp. Obviously, field hemp is much more established and it is absolutely true that ... personally, I do not think there is the same direct economic yield. That is my impression; I am not an expert on that. Of course, the end result is that they produce this thing called C.B.D. (cannabidiol) oil, which is quite a high-value product. I think those are selling for £110 a small vial or bottle and so on, and there is quite a market. I need also to flag up that I have been advised that under the new food law that is going to have to be brought forward, particularly as a result of the post-Brexit rules, I think there will be some implications for that product in terms of what is called novel foods, where they do not really fit the regulations that are in place at the moment. Therefore, things like labelling and regulation on that is something which I think will also have to be a subject for the future. So that is the C.B.D. oil side, and just to mention, of course, there is also the issue of organic waste. We do have a very substantial waste product from that, which at the moment I do not think the industry has geared up to be able to fully deal with that. But I think that is a story for another day and I think my overall point is I wanted to let Members know that those issues are emerging and developing. The planning system will respond to it and, therefore, Members can be assured about that, but I think having a tax framework is a sensible way forward. It may well be that the details of the tax regime will have to be altered or amended in the future, but I am sure

our Minister for Treasury and Resources and teams will bring that forward at the right time. I think this is clearly a start that is needed.

2.1.7 Deputy R.E. Huelin of St. Peter:

I am totally in support of this. I think it is a wonderful opportunity to diversify our economy and maybe some compromises will have to be made, but this certainly is an extra leg on our financial stool to ensure financial security going forwards. However, I just would like to draw one thing to attention. There are many Islanders who are seeing benefits from medicinal cannabis. They get it on a private prescription, which is currently expensive, to put it mildly, at the moment. I would like to put it out there and ask for some joined-up thinking to ensure that those people who can benefit and can ill-afford the medicinal cannabis can have it prescribed free in the usual way. We are going to be making a lot of money out of this. Those that can benefit most from this should have the opportunity to have it included within a safe prescription.

2.1.8 Deputy R.J. Ward of St. Helier

I was going to say a couple of things, but a word that was just used in the previous speech concerns me, this idea where we need to make compromises. We are at risk in the flurry of belief that this is going to be a huge money-making industry for the Island ...

The Bailiff:

Can I interrupt you, Deputy? The Connétable of St. Martin has raised a point of clarification. It is not clear whether that is a point of order that can wait until the end of your speech or not. I am afraid the moment has passed, because it was not on my screen when Deputy Ward began to speak. We will get back to it. Please carry on, Deputy.

Deputy R.J. Ward:

It was the use of the phrase “compromises”. When we talk about profits from this industry, we do need to be careful in terms of how we are defining those profits, because it does seem that this is an industry of a multinational investment structure, which is complex to say the least. It does appear to be quite a huge undertaking, in terms of its industrial nature. Most of the products, it seems, will not simply be for sale in Jersey. They will be exported. They will go to countries all over the world. Perhaps many of the profits made from that will not be made in Jersey’s jurisdiction. There is always confusion, therefore, of where companies pay tax.

[10:15]

Will it be in Jersey, because it originated in Jersey? Will it be in the company where it sold? This is not on the retail arm, it seems, of what is being developed here. The notion that we would tax an industry is fair, because we all have to pay our share. It is a contract with a civilised society. I am concerned that we have an industry that is promising us so much and so many Government Members have bought into this notion that this is a really big future for the Island that we may be being clouded in our view of the success of this or not. I know this is about taxation and I suppose I can agree with the 20 per cent taxation, but I would like to see a proper definition of what those profits are and where those profits are, so that we know what we are taxing. If the situation is going to be that early on in the setup of this, very little profit is made because of the costs and so on of setting up, et cetera, and we all know about those, that in the long-term there will be very little profit being made that can be taxed on this Island. Therefore, we give access to significant swathes of the Island, significant compromises, as has been said, of the rules of this, without having a financial benefit that we have been promised in the beginning. I do have concerns over this. I do have concerns that what we are being promised is not what we would get in the end. I am a little wary about this.

The Bailiff:

Connétable of St. Martin, could you please withdraw from the chat the comment that you have made in it. Firstly, it amounts to a second speech, after your first speech has been concluded. Secondly, it is a suggestion that there is a misleading of the Assembly and it does not say that it is an unintentional misleading of the Assembly. Thirdly, the ability to ask for a point of clarification from another speaker depends upon that speaker being prepared to give way. Clearly the speaker cannot give way if another speaker has then started; the process just does not work. I would direct you, please, to remove that particular entry within the chat. Does any other Member wish to speak on the principles?

2.1.9 Senator L.J. Farnham:

Perhaps we could just turn the clock back a little bit and look at why we are introducing new sectors to the agricultural economy. I am really responding to some rather disappointing assertions from Members about this. The previous speaker spoke about promises of huge returns. No one has made any huge promises about great returns. What we said is that there is great potential here. If we, as an Assembly and Ministers and individual Members, start to get behind the potential then we might give the industry a chance of succeeding rather than trying to really stop it with assertions that are not correct. I feel compelled to respond to some of them, because they are simply not correct. We introduced, in the rural economy strategy, the intention to research and develop new higher value crops. The idea of that is we could produce greater revenues from much less impactful methods of farming. We are not planning to cover the Island with great swathes of hemp and cannabis farming. On the contrary, we will use up a comparatively small area of land. The high value medicinal cannabis is grown indoors or under glass. For years, as Minister for Economic Development, I was facing questions from parishioners and occasionally Members on why we were allowing our glasshouses to remain in disuse and disrepair. Now we have a solution for that and, of course, it is wrong it is causing potential great harm to the Island. It is not. It is not at all. The Minister for Planning explained clearly and has always been adroit at dealing with these issues. He has been monitoring this closely right from the conception of the idea. I am very pleased and completely aligned with him in his views and action aimed at ensuring the industry is properly and appropriately regulated from a planning perspective. While we are rejuvenating some of the old greenhouse sites and returning them to their former glory, we must not allow an over-industrialisation. Also, we must not treat the industry different to the other farming activity. Lighter industry has to partner successful cultivation of crops and we look at our Jersey Royal, the mainstay for many, many decades of our agricultural sector and the light industrial requirements that accompany that activity because of the huge demands placed on the industry by the modern retailer. We need an even playing field. We have heard from the Constable of St. Martin about damage to the countryside. What damage to the countryside? There is no damage to the countryside. We are seeing improvements to old or rundown or derelict sites; improvements. We are not seeing vast industrial units. We are seeing large greenhouse operations, which were built for the primary use of agriculture and horticulture, being returned to it. That is a good outcome. I understood when working with other Members to put the rural economy strategy together, this was a strong outcome, this is what we wanted. We wanted diversification. We could not remain reliant on the Jersey Royal, simply because of the challenges around land, crop rotation and the pressures and challenges we face on that. This is one of the results. There were other crops. The tea crop, for example, is something that also has good potential. We are not dabbling in illegal substances. That is a complete misrepresentation and very unfair on the strong licenced and regulatory conditions placed upon the industry. I wanted to make that point absolutely clear. We have amended our Proceeds of Crime Law, for example, to allow a financial services industry to provide the business solutions for the activity in these areas. The potential benefits to Jersey of this industry, and we have been open about this from the start, come in a number of different ways. For the record, no one has promised massive returns from this. We hope we achieve good returns. Every Member who has looked at this will see that potential there and that is what we have to nurture. We want to encourage the diversity of our agricultural sector. We want to develop a high value ancillary business sector. I say “business”, because farming is a business. All

farming is a business. That would generate revenue through taxes and licence fees. Also, of course, there will be many new jobs created in the sector, much higher value jobs than in other agricultural sectors, because the level of expertise required is higher as we get into producing a product for pharmaceutical use. It is hard to predict those accurately at this stage, because it is a fledgling industry. However, if we get behind it and it is done properly this could be a long-term economic industry sector that could provide strong returns in years to come. I reiterate, we have to get behind and support the potential rather than trying to hold it back or, quite frankly, destroy it in its early stages. There are some tax questions which I will leave to the Minister for Treasury and Resources to answer. However, of course, we did look at turnover taxes and different types of taxes, but at this stage of the game, as we make our mark on the global stage with this, we have to be mindful of what other jurisdictions are doing and we have to remain competitive. Jersey has always been a competitive tax jurisdiction. We want to keep it that way. That does not stop us from allowing the taxation of this industry to evolve as the industry evolves. I am sure we will always work to make sure, while we remain competitive, we are getting optimum tax returns from the success of the sector. I urge Members to support this, of course. The Constable of St. Martin said she was not going to support it. The impact of not supporting it is there will be no tax on the industry and they could continue without paying tax. Even those Members who are not sure about this industry, I would suggest they do support this so at least we have a tax structure in place. From our point of view, at Economic Development, we are going to work very closely with the industry moving forward and keep Members informed in the new political oversight group as it starts to gain momentum, will ensure that the Island is well-placed to make sure we grow this in a very well-regulated and sensible managed way that at least gives us the chance of seeing the opportunity of this industry delivered in the medium to long-term. We are not going to see quick returns because of high-level investment. We will see great improvements to our agricultural infrastructure. We know that Field Industrial have explained, in an answer to Deputy Ward's oral question yesterday, it could provide great enhancement to our biodiversity and our environment. I urge Members to support the industry and at least get involved in the accurate detail that is available, which underpins the decisions we have made to move this forward.

2.1.10 Connétable S.A. Le Sueur-Rennard of St. Saviour:

I cannot believe what I have just heard. All these derelict greenhouses that we have can now be occupied with hemp, which is absolutely fantastic. Why do we not do housing on them, which would mean that the agricultural lands that we already have would not have to be sacrificed for homes because this Government and previous Governments do not have an immigration policy? He is saying this hemp is a good idea. No, it is not. You have to have security and there would have to be lights in the greenhouses. There is a lot to go through on this. This is ridiculous. To bring in the tea crop, which is fabulous, because it is in the middle of a field and is well-regulated ... I just cannot believe that the Assistant Minister has come out with this drivel. Sorry, I know that is most probably not a parliamentary word. The one I wanted to say was definitely not parliamentary, because it related to my farm and 2 of the males I have on it. I cannot believe the Assistant Minister thinks it is a very good idea to use derelict sites for hemp rather than use them for housing. This is ridiculous. I will not be supporting this. It needs to be regulated correctly. As for no tax, what we have never had we will never miss. We could have people living in homes where they would pay rates, where they would use electricity and it would be so much more. I got out of bed for this because I have had a cold and I was not in yesterday. I got out of bed to come to the Parish Hall for this, but the way I feel, I would have been better off in bed. I am so disappointed. These glasshouses can be used for something that is so much better. It can be used for housing and not for growing dope.

[10:30]

2.1.11 Senator S.W. Pallett:

I will be brief. I sit on the panel with my colleagues, Deputy of St. Mary and Deputy of St. Martin. We have recently had a public hearing with the Minister for Economic Development, Tourism, Sport and Culture. As much as I am very much supportive of these tax regulations, it is becoming unclear about where future profits will lie, whether they lie on-Island and taxable here or whether the raw cannabis product will be exported off-Island and potential profits made elsewhere or are made on-Island and would be taxable here. In saying that, we do need to have a tax structure here. We need to have a tax structure here for the start of next year. I am going to support these regulations. As many have said, these tax regulations may well change over time when we fully understand where profits are going to be made and how much of what we grow here is processed on Island. I am supportive of the industry and I do want to see it succeed, I am not trying to knock it in any way, shape or form, but the Minister says that they do not have high targets and have not set any bar. I would like to remind the Minister of something that the chair of the Island's Cannabis Service Advisory Board said at the farming conference. I did not hear him say it, I left before that point, but it was reported in the media. I will quote him as saying: "I can see the industry here being as big as financial services." Well, that is a very big sweeping statement in regards to what potentially this industry could be and the benefit to the Island. We need to be very careful about the targets that we set. It is a fledgling industry. It has only just started. We only have a couple of companies with licences. However, to be clear, we need to understand where profits are going to be made and how they can be taxed. We do need these regulations. I hope people will vote for them, because we do need to have a structure that we can change at a later date. I will leave it there. I have made my point about where future profits may lie.

2.1.12 Connétable M.K. Jackson of St. Brelade:

Picking up on Deputy Huelin's speech, I would ask the Minister for Treasury and Resources to confirm whether in fact there is a correlation between the 20 per cent tax and free prescription cannabis to the public. There is a risk, in my view, of a South Sea bubble scenario here. There is a potential reputational risk to the Island. While this is the case, it may well work for Jersey. I always like to be positive about these things. We always need to be proactive in looking to the future. The bottom line, and I would like the Minister for Treasury and Resources once again in her summing up to confirm where we are on the global scene, it seems to me that we are never going to compete with the whole world and the whole world will be doing the same thing if there are profits to be made. I would be interested to hear her comments on that.

The Bailiff:

Thank you very much, Connétable. Does any other Members wish to speak on the principles? If no other Member wishes to speak on the principles then I close the debate and call upon the Minister to respond.

2.1.13 Deputy S.J. Pinel:

I thank all Members for their questions. I have to say at the start that these are regulations to implement the taxation in advance of ... and it is speculative, there is no doubt about it, as several Members have mentioned, because we are not expecting to see a profit from the growth of medicinal cannabis until 2024. It would be ridiculous to try and put ideas in, as somebody mentioned, of how it was going to be divided up into what; into oils for example. We cannot speculate that far at this stage. It is a matter of getting the regulations through, agreed by the Assembly, so that we can move forward in 2022, so that we have them in place for 2024. It may not be 2024, but that is what we are estimating. I will try and quickly answer some of the questions. The allowances for greenhouses are going to be 10 per cent. The Connétable of St. Saviour was quite cross that they were being used for this, but of course, they are on greenfield sites, so it is a better use than looking at a derelict greenhouse, because it is being used for development. The Connétable of St. Martin said there is not enough detail. Referring to what I have said, no, there probably is not at present, but there is no point

in speculating on the detail until we have more information. The whole idea is to get the legislation through. I have said in my speech, and that was asked again in one of the questions, that amendments and meetings, whatever any Members wants, can be brought forward. It is just a matter of getting these regulations through so that we have something in place. The 20 per cent is correct. That was the Connétable of St. Martin. That was agreed by the group, because we do not want to go into taxation steaming where you have different tax levels for different industries. This one just goes with the 20 per cent of the industries that I mentioned in the opening remarks. Deputy Southern asked about the E.U. Yes, of course, it has been discussed. There is a European growth of 60 per cent in Europe in legal markets, such as Germany and Italy. We would intend to, hopefully, be on that ladder, if this legislation goes through. Deputy Luce, thank you for your support. The potential for future amendments, as I mentioned in the speech, we are open for discussion on any of this because it is a moving feature. Planning situation to come, yes, C.B.D. oil is in very great demand. Of course, that will be a few years down the road before it can be produced. As Deputy Huelin said, it is an extra leg on a financial stool. Of course, it is. We have to look at other measures to raise taxation with the finance centre - not in doubt - but certainly the option now, as it is quite clear to anybody, they could move the companies to anywhere in the world and then they will do so, so we have to have plan B. Deputy Ward's concerns over the profits, as I said, that is speculative, because we will not know what they are until further down the road. Thank you, Senator Farnham; no one has made promises about huge returns because we do not know what they are going to be. Use the small areas of land for medicinal cannabis under glass, aligned with Deputy Young, the current Minister for the Environment ... the long and short of it is that we are open and available for more contact with anybody who wishes to know more details. However, at this stage it is very difficult to say what the trading situation will be, the demand will be or what the profits will be. This is really just an initial situation. With that, I ask for the principles to be approved.

The Bailiff:

Deputy, will you give way for a point of clarification from Deputy Southern?

Deputy S.J. Pinel:

Yes, Sir.

Deputy G.P. Southern:

The rapporteur addressed my question but did not appear to clarify what position we were in. Have we renegotiated? Do we have an agreement that we can have an extra exemption to our zero tax regime with 20 per cent tax on cannabis?

The Bailiff:

Are you able to clarify that, Minister?

Deputy S.J. Pinel:

Not down to the last date, I have to say, but yes we have spoken to them and, of course, with Guernsey who have already implemented this. Guernsey and the U.K. (United Kingdom) have got further than we have. They have already put their legislation in. We have been having endless conversations with them and with some counties in Europe.

The Bailiff:

Thank you very much. The *appel* is called for and I ask the Greffier to put a link into the chat. The vote is on the principles. I open the voting and ask Members to vote in the usual way. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The principles have been adopted.

POUR: 39		CONTRE: 5		ABSTAIN: 0
Senator L.J. Farnham		Connétable of St. Saviour		
Senator S.C Ferguson		Connétable of St. Brelade		
Senator J.A.N. Le Fondré		Connétable of St. Martin		
Senator T.A. Vallois		Deputy G.P. Southern (H)		
Senator K.L. Moore		Deputy K.C. Lewis (S)		
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Ouen				
Connétable of St. John				
Connétable of St. Clement				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Greffier of the States:

Those who voted contre were: the Constable of St. Brelade, Deputy Lewis, the Constable of St. Martin, Deputy Southern and Deputy of St. Saviour.

The Bailiff:

Very well, Deputy of St. Mary, does your panel wish to call the matter in?

The Deputy of St. Mary (Chair, Economic and International Affairs Scrutiny Panel):

No, thank you, Sir, we do not.

The Bailiff:

Then, Minister, how do you wish to deal with the matter in Second Reading; there are 4 regulations?

2.2 Deputy S.J. Pinel:

I would like to propose them *en bloc*, as there are only 4.

The Bailiff:

Do you wish to speak to them or deal with them by way of questions?

Deputy S.J. Pinel:

I can do if any Member wants me to speak to them.

The Bailiff:

It is a matter for you.

Deputy S.J. Pinel:

Okay. Regulation 1 provides that the regulation amends the Income Tax (Jersey) Law 1961. Regulation 2 adds cannabis companies to an existing list in the Income Tax Law that carves out specified activities from the standard corporate income tax rate of 0 per cent. That regulation also amends the heading of Article 123C. Regulation 3 creates a new Article in the Income Tax Law. The new Article defines the activities that if undertaken by a company would bring it within the scope of the 20 per cent income tax rate. Those activities are growing cannabis plants or processing cannabis plants for any purpose. Retail activities such as selling products that contain cannabis derivatives are not in scope. However, a company that sells cannabis will be caught by the Regulations if it is connected to a company that grows or processes cannabis plants. Regulation 3 also introduces a definition of cannabis plant, which is borrowed from the Misuse of Drugs (Jersey) Law. The definition does not include industrial hemp, which contains very low amount of T.H.C. and is not used in the medicinal cannabis industry. Regulation 4 provides that the regulations come into force on 1st January 2022.

The Bailiff:

Do you propose the Regulations, Minister? Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations in Second Reading? If no Member wishes to speak then the debate is closed and I ask the Greffier to place a voting link into the chat in the usual way. I open the voting and ask Members to vote.

[10:45]

If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The Regulations have been adopted in Second Reading.

POUR: 37		CONTRE: 4		ABSTAIN: 0
Senator L.J. Farnham		Connétable of St. Saviour		

Senator J.A.N. Le Fondré		Connétable of St. Brelade		
Senator T.A. Vallois		Connétable of St. Martin		
Senator K.L. Moore		Deputy K.C. Lewis (S)		
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Ouen				
Connétable of St. John				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Do you propose the matter in Third Reading, Minister?

Deputy S.J. Pinel:

Yes, please, Sir. May I also take the opportunity to thank States Members for their contributions today? We look forward to a healthy financial future.

The Bailiff:

Are the Regulations seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? If no Member wishes to speak in Third Reading then I close the debate and ask the Greffier to put a vote into the link. I open the voting and ask Members to vote. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The Regulations are adopted in Third Reading.

POUR: 37		CONTRE: 4		ABSTAIN: 0
Senator L.J. Farnham		Connétable of St. Saviour		
Senator J.A.N. Le Fondré		Connétable of St. Brelade		
Senator T.A. Vallois		Connétable of St. Martin		
Senator K.L. Moore		Deputy K.C. Lewis (S)		
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Ouen				
Connétable of St. John				
Connétable of St. Clement				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				

Deputy K.G. Pamplin (S)			
Deputy I. Gardiner (H)			

3. Assisted Dying (P.95/2021) - as amended (P.95/2021 Amd.)

The Bailiff:

The next item is the Assisted Dying proposition, P.95, lodged by the Council of Ministers. Because the States have resolved to abolish any time limits on speeches in connection with this debate there is no need to identify who the primary responder will be. There is an amendment lodged by Deputy Morel. Minister, are you accepting this amendment?

Deputy G.C. Guida:

Yes, I would like to present a proposition as amended, please.

The Bailiff:

Are Members content to take the proposition as amended by the amendment from Deputy Morel? I am assuming, therefore, that that is agreed unless anyone indicates to the contrary in the chat. I ask the Greffier to read the proposition as amended.

The Greffier of the States:

The States are asked to decide whether they are of opinion having regard to the key recommendation of the Citizens' Jury on Assisted Dying: (a) to agree, in principle, with the jury that assisted dying should be permitted in Jersey; and that (i) the Government of Jersey should make arrangements for the provision of an assisted dying service that is available to a person aged 18 or over who: (1) has a voluntary, clear, settled and informed wish to end their own life; and (2) has capacity to make the decision to end their own life; and (3) has been diagnosed with a terminal illness, which is expected to result in unbearable suffering that cannot be alleviated and is reasonably expected to die within 6 months; or, has an incurable physical condition, resulting in unbearable suffering that cannot be alleviated; (ii) an assisted dying service in Jersey may provide assistance in dying in one of the following 2 ways: (1) either by physician assisted suicide - whereby a registered medical professional may prescribe lethal drugs at the request of a person, who meets defined eligibility criteria, to enable that person to self-administer the drugs to end their own life; or (2) voluntary euthanasia - where a person who meets the defined eligibility criteria has their life ended, at their voluntary request, by a registered medical practitioner; and (iii) an assisted dying service in Jersey should be subject to the following safeguards: (1) assisted dying should be permitted with the direct assistance of registered medical practitioners and registered nurses only; (2) the law should provide for a conscientious objection clause so that any nurse, medical practitioner or other professional is not under a legal duty to participate in assisted dying; (3) assisted dying should be subject to a mandatory period of reflection; (4) a withdrawal of request should be permitted at any time; and (5) assisted dying should only be permitted at preapproved locations. (b) to agree, in the event that paragraph (a) is adopted, that assisted dying should be available to Jersey residents only; (c) to agree in the event that paragraph (a) is adopted, that assisted dying should be subject to a preapproval process which, subject to further consultation, may involve a decision made by a court or specialist tribunal; and (d) to request the Council of Ministers to lodge final proposals (to include all processes and safeguards on assisted dying) for debate by the States Assembly, prior to the preparation of instructions for the Legislative Drafting Office, with the debate on such proposals to take place by October 2022, and with a view to draft legislation being available for debate by the States by the end of March 2023.

Deputy R.J. Ward:

Sir, before we start, may I ask a quick question? May I check which Scrutiny Panel this would come under? I do not know if this is the appropriate time. The Minister is, I believe, the Minister for Home Affairs, but this is lodged by the Council of Ministers. Just for clarity later on.

The Bailiff:

The position is that because there is no process for this proposition for referral to a Scrutiny Panel and there is no ability to call it in, it is a matter for the Scrutiny Liaison Committee to consider what the correct Scrutiny Panel would be.

Deputy R.J. Ward:

Thank you.

3.1 Deputy G.C. Guida (The Minister for Home Affairs - rapporteur):

Yes, I can help answer that question as well. The Health and Social Security Panel has been following this proposition from the very start and have published comments which are available to States Members.

The Bailiff:

Thank you very much indeed, Minister.

Deputy G.C. Guida:

I would like to start by thanking the Health and Social Security Panel for their comments. They have been following the progress of this proposition much longer than I have. They have summarised everything I need to say now in those comments. Importantly, they have detailed the timeline and the reason why this proposition is before the Assembly today. This is a current societal issue being discussed and debated worldwide. Jersey should not ignore it. Also, this matter needs an in-principle decision before it can be progressed with stakeholders, in particular the United Kingdom's regulatory bodies that we depend upon. I will also thank Deputy Morel for his amendment. This ensures that if this proposition is successful the next Assembly will be able to carefully examine the basic implementation principles and corresponding law drafting instructions, with the option to modify them as they would feel necessary. This will be made easier as the conversation with the regulatory bodies will have advanced significantly by then and the control mechanisms will be clearer. After drafting and consultation the law will then come back to the Assembly sometime in early 2023 for a third debate and more chances of amendments. It could be stopped at any of these stages and it is very reasonable to ask 2 different Assemblies to give their assent to such an important question. Again, this is an in-principle proposition. It is a very complete and extremely well-researched proposition, which provides answers to many of the questions this Assembly could have on how Jersey would implement assisted dying in a fair and safe way. The vote today, however, is only about the principle. The principle is whether assisted dying should be allowed in Jersey. I know that this is a very controversial issue and that States Member will have had many representations from organisations and individuals strongly advocating one side or the other. Neither the Council of Ministers nor my Ministry are suggesting a vote in either way. We do not recommend a vote *pour* or a vote *contre*. This will be up to individual Members according to their conscience and their understanding of the issue. The only thing I will ask for is for all States Members to have the courage to act according to their own conviction. I know this would come as a matter of fact on any other day, but I am well aware of the external pressure Members would have been subjected to in the last few months from both sides. Do listen to them, but please draw your own conclusions. I move the proposition, Sir.

The Bailiff:

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

3.1.1 Connétable A. Jehan of St. John:

I would like to thank everyone who has taken time to contact me and other Members on this subject, especially those parishioners of St. John, who answered my call to hear from them in particular. I have personally replied to over 100 emails on the subject and I apologise if I have not answered them all. Like other Members, I have heard some very personal stories, stories about individuals, their partners, parents, grandparents, sons and daughters, stories that would touch the hardest of hearts. I know that there is no middle ground and that we are going to please some and upset others, regardless of which way we vote today. I hope that whatever way people vote that we can all respect others' views. I sincerely hope that we do not see Members abstain when it comes to such an important vote. We are elected to make decisions, and while some will argue that the forming of a citizens' jury was designed to kick this particular can down the road, today we have to make a decision either to support or reject the proposals in front of us. I have done my best to listen to both sides of the argument. I have read as much as I can. I attended the Caritas event and I also attended the End of Life Choice event last week, both of these events giving the attendees plenty of food for thought. While I learnt a lot from both debates, I, like others, would have preferred to have heard both sides of the argument at these debates rather than 2 one-sided arguments. Having said that, the 4 speakers all gave those in attendance something to think about, being experts in their subject. The biggest concern of Islanders, young and old, is around safeguards and especially safeguards for the vulnerable, something I am sure all Members, whatever side of the debate, have considered carefully. Concerns have been amplified in recent times, as there are a lot of people who have concerns with our current health services. While recognising the many people who strive to do their best every day in the care sector, there does not seem to be a day that goes by without another issue, theatres, mental health, rehabilitation and so on.

[11:00]

Many people I speak to are genuinely worried about what is going on in the health service. People are being sent home from hospital without assessments from occupational therapists and people in care homes are being told that they will not see an occupational therapist for 3 months; yes, 3 months. Some of these are the people and their families who are really worried about the introduction of new legislation. On Sunday we received correspondence from the B.M.A. (British Medical Association), a well-respected organisation, who have moved from being opposed to such a proposal that is before us to now holding a neutral view, albeit they are strong on the point of there being a need for robust protection for conscientious objectors. Any legislation will need to incorporate this protection, as this proposal does. A doctor who wrote to all of us stated, and I will quote, if I may: "As a doctor, I have seen first-hand the suffering of some patients with terminal illness when the length of their lives has been extended by a result of modern medicine, but the quality has not. Many spend their last months suffering both physical and psychologically." They go on to say: "This is not to say that we should not strive to improve end-of-life care for all, but what we should also strive is to allow those who wish to not ensure those final undignified months and years to have access to compassionate, fully legal and expert euthanasia." Just 8 weeks ago I lost a very loved member of my own family. The care that that person received from her own family and the professional carers was as good as it could be. The person in question did not want to go to hospice, but the inevitable happened and they were persuaded to go there for respite. A week was spent in the excellent care of hospice at Mont Cochon. Was it a peaceful death? Was that patient surrounded by loved ones as they passed, as had been their wish? Well, the answer to the first question is we will never know. The answer to the second question is they passed away without any members of their family being present. Despite the excellent care on offer from hospice both in the home and at Mont Cochon, this patient preferred to go without morphine for as long as possible, as when they took it, it confused them. Instead, they

preferred to be in pain and to suffer. Sadly, that person still ended up confused at times due to sleep deprivation. Many of the correspondents we have had would have us believe that this was needed to go to a better place. I would prefer to believe that there are better options. How different could that experience have been? We are talking about people who have capacity, and I am sure others will talk about that. We are talking about people who are terminally ill. Importantly, we are talking about residents of Jersey. The proposal, if successful, would give these people a choice. The amendment puts in a second step to ensure safeguards are considered and I welcome this step from Deputy Morel. As the campaign for Dignity in Dying state: “The principle underlying assisted dying legislation is that those who are already dying should have choice. Choice and control over end of lives once death has become inevitable results in not more deaths, but would lead to fewer people suffering.” I would like to quote from the *J.E.P. (Jersey Evening Post)* on 16th October from an article written by someone who is terminally ill and has given me permission to quote. Gary Burgess wrote: “For my part, I have always found this one really simple. It’s my life, so I should be free to choose what I want to do, so long as it doesn’t hurt other people.” What is proposed contains many belt and braces controls. It does not force doctors or nurses to do something they do not want to do when it comes to assisting somebody. The 2 main takeaways from the End of Life Choice meeting that I took was, first, it is important for people to make a living will, ensuring their loved ones know what they would like in the event of serious illness or accident, and I would encourage people to do that, whether this legislation is passed or not. Secondly, the proposed law was likened to having an emergency exit. We all like to know where it is, but we hope we never have to use it, but if we need to, we know it is there. This is an in-principle debate. If approved as amended, there will need to be robust safeguards, appropriate training and regulation. Having considered all the arguments, having read the outputs of the citizens’ jury, I am happy to support both the amendment and the proposal.

3.1.2 The Deputy of St. Martin:

This I suspect is one of those debates, one where many Members may be undecided coming into the Assembly today and one where many will wait to hear what others have to say, so I have decided to speak early. I want to seek to influence others and to ask Members to focus on the basics here, focus on what is written in the proposition and not get dragged down into the detail that is yet to come and into a place where they get diverted away from the specifics of what we are debating today. I made up my mind on this subject some time ago and, despite the very many letters and emails, I have not seen or heard anything to change my mind. I read every email, every letter, but I have to say to Members that I have not been swayed because the report contained, in my mind, answers to all those questions that have been posed in the correspondence I have received. At the end of the day, there are 2 reasons why I am resolved to vote in favour of this proposition. First, this is an in-principle debate and I have no doubt in my mind that we need to consider this whole issue further and in more detail. Second, because it concerns helping those who have been, and I quote from the proposition: “... diagnosed with a terminal illness which is expected to result in unbearable suffering that cannot be alleviated” and to me, all the other words in the report and proposition are somewhat superfluous when you read those. I, like a few in this Assembly, have seen the fear in the eyes of those who are suffering. I, like some in the Assembly, have experienced first-hand the wonderful care that our hospice provides. However, I know that in some cases and situations we can still do better. I do not want Members to assume I have reached my conclusion quickly. I want to assure them that I have been thinking and considering the subject for the last few years now, but here today this is a first step and it is one that I am prepared to take. Even if this proposition is successful, there is still a huge amount of discussion and scrutiny to be completed before this whole issue gets anywhere near a final decision in this Assembly and the necessary legislation. Who in this Assembly would not wish to seek to find ways to help those who are suffering unbearably and in the knowledge that that suffering could not be alleviated? Surely what we are doing here today is to try to find ways to help others and to move forward with this issue. I know that for my part I feel that the very many and various objections that I have received are all dealt with in the proposition: the ability for doctors and nurses

to opt out; the time for reflection; the ability for decisions to be changed at any time; most importantly, that any decision that is taken is made voluntarily by the individual who is suffering; that decision is not taken by others and that the person making that decision has to be of a clear, settled and informed wish to end their own life. I am not going to speak further, but I would only request fellow Members who take time to ask themselves if they want to help those who are diagnosed with a terminal illness which is expected to result in unbearable suffering that cannot be alleviated, and if the answer is yes, which it surely must be, to vote to agree in principle that we need to look closer at this issue and do what we can to help Islanders who are so very, very ill.

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

I too was quite surprised to note that the B.M.A. have voted to have a neutral stance on this, so basically we have to make the decision. There are many countries, or several countries, that do permit assisted dying: Belgium, Canada, Luxembourg, the Netherlands, New Zealand and a few states in the United States of America. I believe while we must do everything in our power to alleviate pain, I just feel that this assisted dying proposition is a step too far. Where does it leave people with strong religious convictions, the fact that they have technically - well, and legally - taken their own lives? It is quite a dilemma. I am not going to speak for long. While we must do everything to increase palliative care, I believe that this proposition is a step too far and I will vote against this and urge Members to do likewise.

3.1.4 The Deputy of St. Peter:

One of the things I have learnt in my reading on this subject is - and I accept this is a broad generalisation - that those pro assisted dying do so because of personal experience. Those against do for many reasons, however, most likely do not have such personal experience to draw on. I go back to May 2010 for my personal experience, so my thinking on this subject is over 10 years old. I have decided not to share that experience with the Assembly. I do not think much will be gained in the debate based on individual emotions. I would rather stick to a few fundamentals, and also I will not dwell on the well-rehearsed arguments. We must not lose sight of what we are being asked. We are being asked in principle whether we support the right of someone who, in exceptional circumstances, wishes to end their life. I stress "their life." We have, however, been given some high-level principles: adults with a diagnosis of death within 6 months who are fully capable of making that decision; Jersey residents only; the option to administer the drug themselves or have the assistance of a medical professional and that there will be a conscientious objection clause so no medical professional is forced to do so against their will. We have not been given the full safeguards and that will be fundamental, but those - due to Deputy Morel's amendment, which I am delighted that the Minister for Home Affairs has accepted - will be debated at a later date, obviously depending on the outcome of this debate. While I am in support today, I do not say I will support tomorrow. It is the safeguards that are paramount, especially protection against coercion, which I will forensically examine if I am in the Assembly for the next debate. What I find most interesting is the names of 2 pro campaigning groups, Dignity in Dying and End of Life Choice. Let us think on the words "dignity" and "choice." What we are being asked today is should we allow someone, in exceptional circumstances, the choice to end their life at a time and with the dignity of their choosing, or put it the other way around, who has the right to deny someone that choice, to end their life with that dignity of their choosing? Let us not forget it is their life we are debating, not our life. I would like to close with a quote used by Dr. Nigel Minihane in a recent speech. It is from Rabbi Jonathan Romain, who has written jointly with Lord Carey, the former Archbishop of Canterbury in the *British Medical Journal* in support of assisting dying. His response to any challenge is relatively simple and I quote: "Opponents of assisted dying are welcome to live on until the last breath, be it painfully or peacefully, but demanding that someone else die in pain because of those principles is the height of arrogance. They worry about potential abuses in the future, but ignore people suffering here and now and crying for release. How sensible is it to let theoretical objectors mean that definite agonies continue?"

3.1.5 Senator S.W. Pallett:

I am going to be brief. I have held a strong view on this subject for some time. I have been a supporter of End of Life Choice for many years and believe that far too many people are denied the dignified death that they wish and that their loved ones desperately want for them. This in-principle decision to prepare detailed legislation for me is a common-sense way forward to ensure that all necessary safeguards are included in the legislation and that the public can fully consider how an assisted dying scheme in Jersey should work. Any future legislation clearly needs to be - and it has been mentioned already by the previous speaker - fully scrutinised to make sure that those safeguards are as strong as they need to be.

[11:15]

Many people that have contacted me by email - and I am sure others as well - have had deep concerns around slippage and abuse of safeguards and we need to be clear about any safeguards that are included in legislation are strong. One or 2 people have already said it, and I find it quite abhorrent that any group of people could deny another the right to choose. For those who do not wish to use assisted dying, then the answer is simply not to engage. If palliative care is your choice, I have got to say the palliative care we have in the Island is of the absolute best quality, but we will need to invest in it and we still need to make sure that it is available for all that want it. But if palliative care is your choice, then that needs to be respected, but the same level of respect needs to be levelled at those who make the difficult decision that the quality of their life is so poor, due to extreme pain and suffering, that they choose to end it. I, like I think most people, do not want to die, but for some, they want to be in control of when and where and not be in the hands of doctors or pain management. They simply want to leave at a time of their choice, at a place of their choice, with their family and friends around them. As I have said, palliative care has to carry on improving, but it is not the answer for everyone. As it has been laid out to me I think by many people that have contacted me, including some doctors, who have obviously been through the process with families and respect the right of those who wish to end their life in a dignified way, there are many issues that revolve around having a robust law and the word "burden" has been used I think in many emails to us and being a burden to one's family is not and must never be a criteria for allowing assisted dying. Any suggestion that an individual has been coerced or pressurised or even bullied into making a decision should stop that process moving forward until an independent assessment has been carried out and somebody has a settled view. It has also been suggested by some - and it is an extreme view, I believe - is that we all have the opportunity, if we so wish, to end our life. Well, that may well be true, but I think in some cases, if diagnosed with a serious illness such as cancer or dementia or any of those things, that may well be an option for some, but that is not I think an option that many families find easy to accept. When somebody commits suicide it is an awful thing to go through. I know I dealt with suicides with the Honorary Police and it is the saddest issue to go through with a family that have not expected it and it is deeply affecting to all involved. I would not suggest that as a way forward for anybody when we could have a system in place with assisted dying that would offer an option to those that have got to end of life and need another option. By the way, most of those comments I have made that I am sharing today have been made while I have been writing emails, so this is not a speech I prepared specifically, it is more around many of the comments I have made to other people in regards to comments they have made. One of the issues was around dignity and what does that mean. Well, each of us I think have a different view of dignity and I think it is up to us to decide when their care becomes undignified and they wish to make a choice to potentially choose assisted dying. As much as assisted dying may well be, as one person said to me, denying natural causes, in terms of natural causes, I think this is true of many medical advancements, that has extended people's lives. Denying those in pain the option to end their life, for me it just is purely cruel, and those who are unsupportive of assisted dying, as I have already said, have a choice not to engage, but they should not deny others that choice. Another comment that was also made to me was around the psychological effect on family members who are present during a potential assisted death in future. I think you have got to

understand that or consider that again it is a psychological effect of a family who have lost a family member who has had to go through unbearable pain, excruciating pain or suffering and watch them do that. That is something I have only had happen once to me and I do not want to go through that situation again with a loved one. I know I would want a choice. I think many of the people that have written to me are clear that they should not be denied that choice. Another issue that I think is a relevant issue and one that must be considered is this difficulty in estimating lifespan in terms of long-term illness, especially around illnesses such as cancer, but there are those who suffer life-threatening injuries or are diagnosed with particular cancers where lifespan can be reasonably accurately calculated. For those unfortunate individuals, I do believe that providing an end-of-life choice is essential if they are suffering unbearable pain or suffering. I just wanted to finish by saying that this is clearly a very emotive issue and one that I think we will undoubtedly hear other speeches today from Members that have had personal experiences. I have not based my decision or my thoughts just on personal experience. It very much has been on the evidence that has been put to me and the views of others. It has not been one-sided in terms of the comments I have received, it has been pretty well-balanced, those that are for and against, but I have no doubt in my own mind that I do not want to be part of denying somebody the choice of how and when they choose to end their life if they really are suffering unbearable pain or excruciating pain. I would not wish that on anybody and I do hope Members today would at least allow us or at least vote in favour of this in-principle proposition. That will at least allow us to get to a point where we can look at the legislation and understand what the detail will be before deciding whether to rule this in or rule this out. For me, it is about personal choice and we should not deny people personal choice.

3.1.6 The Connétable of St. Saviour:

This is an in-principle debate and I, like a lot of people, have had so many emails and calls for and against and I can only say that the palliative care is fantastic. I had both my mother and my father at home and I took care of the both of them and the palliative care was lovely, but neither of them were in pain, it was just a case of old age and: “We have had enough, thank you very much.” I went out the other night for a meal with some school friends and one of them, the husband, had been very, very ill and in a lot of pain. He had asked her I do not know how many times to help him and she said: “I cannot” and he turned around and he said: “If I was a cat or a dog, you would be able to.” She said: “Yes, but I cannot” and he asked her right until the very end, when he was on so much morphine he had lost really sort of the understanding of where he was, bless him. She says now that when she takes an animal to the vet or has an animal put to sleep, she thinks of her husband begging to help him and she could not do it. This is something that he said that has been haunting me all the way through this debate and all the paperwork that I have read I thought if I had ... as everybody knows, I have got a farm, and if an animal is unwell the vet comes and I will be guided by the vet, who will say to me: “It has to be put to sleep” and it will be put to sleep gently and kindly at home, not a problem. I think that human beings should be given that dignity to be allowed to choose and if they are feeling unwell, like my friend’s husband, he would have been with her and he would have thought: “This is fantastic. I am going to be out of pain, she is with me and I am not afraid” and that I think is so important, to have your family with you. We should not have to ask people to travel away if they are that desperate to have their life terminated. They should be allowed to do it here and we should be allowed to do it here and not for anybody else, but just for Islanders. If you are here and you want to have the pain taken away and have the rest, then you should be allowed to do it. As I say, sometimes I wonder if we keep people alive so that we can still see them and they are there still with us because we do not want to lose them. That might be a little bit harsh, but I think that sometimes happens. I am going to vote for this because it is just an in-principle debate. I will not be in the next States sitting and I hope that they will be debating more into great depth, but I think people should have the choice because it is their life and if they are in pain and you are watching them suffer, but for what? It is so unfair and if they are looking to you for help, you should be able to give it to them.

3.1.7 The Connétable of St. Martin:

To be honest, I would rather be anywhere else today than in the Assembly debating assisted dying. This is by far the hardest debate that I have ever had to take part in. I have been for, I have been against and I have sat on the fence, and that is where I would like to be right now, sitting on a fence somewhere. However, none of us were put in this Assembly to abstain or sit on the fence. I, like other Members, have been inundated with emails and I apologise, it has simply not been possible to respond to so many of them. Many have been against and many have been in favour. This is an in-principle proposition. It is not legislation. The vote is only about the principle to do this. Rightly so, this is such a controversial subject. Some representations have been so moving, so heartfelt and tragic, some have been matter of fact and some have been quite aggressive. We all have to vote according to our conscience. Some, if not many, have alluded to the fact that if we even think about voting against, we do not believe in God. This is not the case. I for one do believe in God. There are good and compelling arguments from both sides. I myself have changed sides several times, but fundamentally this is about human dignity. Sorry, this is a very difficult and emotional matter to discuss. We have to consider the individual dying, their wishes and not the wishes of those who surround them, however close they may be. I have had close personal experience of 2 dearly loved people who had unbearable suffering at the end. One in particular suffered unbearably. She had dementia, she had broken bones and she was in constant pain the morphine did not alleviate. She was highly distressed, she was in unbearable suffering.

[11:30]

We could do nothing apart from sit near her ... sorry.

The Bailiff:

Take your time, Constable. There is no rush.

The Connétable of St. Martin:

Apart from sit near her bed and try to bring comfort. She was in the loving care of the Little Sisters. This wonderful person had often said throughout her life that if she reached such a stage - and I do not think she could even envisage how awful her experience of dying would be - she had always asked us that if she was suffering and had no quality of life that, in her words, that if we loved her we would help her out of her suffering. This we obviously could not do. Both my parents received palliative care, but palliative care, however loving and caring it is, to put it bluntly, not enough in some cases. Dying with dignity is the outcome of compassionate care. I will end by quoting from a 45 year-old lady who has a terminal illness and who emailed all of us. She says, as a final point: "While I empathise with anyone who has a terminally ill loved one, I must point out that they can never truly know how that person feels or what they are going through. The loved one may try to tell them, but our brains only have our own experiences of pain and suffering as a reference point. Our brains cannot fathom pain or suffering beyond what they already know. When the time comes that the Assembly are facing death, I will afford each of them the decency and respect, but how that happens is a matter for them, not for me. Please afford me the same decency and respect." I will reiterate, dying with dignity is the outcome of compassionate care and respect for the wishes of the person who is dying. After much soul-searching, I will be voting for this proposition. **[Approbation]**

3.1.8 The Deputy of St. Mary:

As many speakers have already said, this is a proposition in principle and with much detail yet to come. I have to say that even though it is only in principle, I would have had difficulty in accepting the original proposition because, for me, it did not contain enough safeguard and comfort as to what might come in the future. Having previously been a solicitor engaged in private practice and having occasion to advise many families in many instances, I can well appreciate the concerns that have been raised as to coercion, subtle or otherwise, as it might be, and that is one of my main concerns.

However, I will be supporting this proposition as amended, with the amendment in particular being of great significance to me the fact that such amendment requires final proposals to include all processes and safeguards on assisted dying, which was not there before. It does provide me with comfort. In saying that, I am mindful of the presentation given only last week when Dignitas was represented, where there seemed to be some - to my disappointment - opposition to the idea of some form of court or tribunal being involved. To my mind, that will be an essential characteristic of any scheme and I do hope that those with reservations on that aspect will have cause to reflect. In supporting this proposition, I am not in fact necessarily supporting assisted dying. I think it is important that we do proceed to the next step where all the various arguments, the processes and safeguards can be fleshed out in greater detail and we do therefore need this opportunity to make these public for everyone to understand. If I may conclude with an insight into my private life for an interval of 2 weeks, this occurred during my introduction to the law, when as an articled clerk - the then equivalent of what is now a trainee solicitor - I was much involved in conveyancing processes, which in turn involved the investigation of title. I recall that in my first 2 weeks of training, I came across 2 wills where the testator said specifically - and I apologise if this appears gruesome - where the testators had specifically requested that following death they had one of their limbs severed by an independent medical practitioner before they were interred. I say that because it does seem to me to strike a chord with the present state of mind of some people. It horrifies me that at that stage - and it was probably in the late 1800s - there were people who believed or who feared that on death there was a distinct possibility that they might be buried alive. My email box suggests that even now there are those who believe that one of the effects of assisted dying will be to allow those suffering from dementia or some such to be somehow hastened to their end without their say-so. It is clear from the law as it stands that it is not. You have to be of sound mind, but I welcome the additional time that will be given by this amendment to enable such misconceptions to be aired out in full and so that those who do have such a fear can be suitably assured. I will therefore be supporting this amendment simply to allow a more thorough debate to be given in the fullness of time.

3.1.9 Deputy R.J. Ward:

I thank the speakers that have gone before on whatever side, so to speak, of the debate. I am pleased to see such a considered debate happening in this Assembly. This is the most challenging debate and decision we face in this Assembly. It leaves us all addressing the complex relationship between the personal and the political. I do remind Members that this was a recommendation of the citizens' panel set up to consider assisted dying. We have all had many emails and communications on both sides of the debate and I thank everyone for the emails. I have tried to answer them all, but tried to avoid short and generic answers, therefore time may have defeated me in replying to all of them. My apologies if I have not managed to reply. I have also spoken to many people and many groups and attended talks on both sides of the debate because that is vital in addressing this issue. I start from a position of supporting the right to choose over all aspects of our own bodies and lives, but with similar concerns to some of the people who have contacted me. What does this proposition aim to achieve? The vote is about the acceptance of the principle of allowing members of our society who so choose to access assisted dying, the detail of which will come back to the Assembly for further consideration and the amendment adds to that. I am pleased to accept that amendment. By offering the choice to decide on when one's life ends, it does not mean that this is a compulsory action to be taken. Those who are opposed to this action for religious reasons can simply choose not to consider this as a choice in the same way as they do now, but for those who want the right to make this choice, given specific reason, it enables this choice. I remind Members of the proposition. In part it says: "has a voluntary, clear, settled and informed wish to end their own lives and has capacity to make the decision to end their own life and has been diagnosed with a terminal illness which is expected to result in unbearable suffering that cannot be alleviated and is reasonably expected to die within 6 months or has an incurable physical condition resulting in unbearable suffering that cannot be alleviated." I read that because I think we need to revisit what the proposition is saying frequently

during this debate. I cannot understand the feelings and emotions and physical pain of those who may be in the extraordinarily difficult position of a terminal illness and therefore I cannot deny them the right to assisted dying, the right to have a genuine choice about how they are going to end their own life and when. I do not accept that this is the beginning of a slippery slope, the inevitable development of pressure on the most vulnerable consequently from that. It will require careful regulations and the right for medical professionals to opt out and I fully accept that. I will speak more about that in a moment. We should not adopt a system, in my view, that allows unsupervised administering of drugs used, as in some of the jurisdictions that have been quoted to us as bad examples of when assisted dying has become seen as a problem. As for the idea that people becoming a burden will lead to assisted dying becoming widespread, this is part of a much wider societal problem with the value we give to our elderly, our vulnerable and those with perceived disabilities. Our failure to address genuine equality and inclusion in our society cannot be the reason to condemn some to pain and suffering that they themselves feel is intolerable. We need to deal with our society at the same time. I understand that palliative care has improved. I do not accept the premise that by agreeing to this principle today - and it is the principles, I say that again - that we undermine or stop the development of palliative care. It does not. These advances in palliative care are understood and have changed the end-of-life experience for so many, but it does not mean that those who choose to use the assisted dying provision should be stopped from doing so. Indeed, it may be less likely for some to choose assisted dying if they are not in severe pain due to effective care at the end of their life. I mentioned that I share concerns with those who emailed me with their opposition to this proposition. Another was coercion. This would be the case in any situation where someone has a choice of actions and others are affected, but I believe that we can regulate effectively to prevent this. We also have to look at the attitudes we have to the elderly, the vulnerable and those we define as having a disability. I say that again because it is so important. There has also been raised a notion that this is the beginning ... I mentioned about the slippery slope. Sorry, I am repeating myself. This is the right for an individual to choose to have control over their own body. Fundamentally I believe that we should have the right to choose. I will be looking at tracking regulations in detail and would urge that a specific review panel from across the Assembly is set up to review the input into regulations. So none of us really want to consider our own mortality and we cannot understand the pressures as the end of our life approaches until it happens. I believe we need a careful considered structure that allows me and all others to have control over that end of life should we wish to do that. I reiterate, those who oppose on religious grounds or other grounds have the right to not take this option, as does everybody. There are plenty of safeguards, there should be at any time when you can change your attitude to this and change your mind. I have experienced losing both of my parents and a loss of friends to illness. I would say in all of those occasions it is an almost impossible situation. I will be supporting this proposition because I cannot deny those who have intolerable suffering the right to choose when and how they end their life with dignity and care. I urge Members to think very carefully about those principles as they vote today.

3.1.10 Connétable R.A. Buchanan of St. Owen:

Like many other Members I have received a considerable amount of correspondence on this subject, some in favour, many more against. While measuring the constitute of such correspondence is not perhaps an accurate measure of public opinion, nevertheless many of the concerns expressed mirror many of my own. On the one hand, nobody with an ounce of compassion cannot be moved by the stories of those within incurable illness who are suffering greatly and want to end it all to escape the pain. There is no doubt the advances of medical science have allowed us to prolong life to the extent where one has to question whether there has been any consideration for the quality of life or indeed the unbelievable pain and suffering this may entail. I have seen it myself with my poor father who had acute dementia and many other ailments was kept alive by modern medicine long after his time and in some pain and discomfort. Was it right or not that he should have been eased into the next life a little earlier? While he would not have qualified under the current criteria proposed, how long

before a change to encompass those in his position is proposed? The taking of another life by another is a giant step and should not be taken lightly, not least because there is no going back.

[11:45]

The States misunderstanding cannot be rectified. While trying not to state the obvious it is a cliff edge event of no return. Before we go down this path we need to be sure we are clear about the criteria of where this option is available. As Members will know, 2 options are proposed. Physician assisted suicide, the doctor or nurse provide lethal drugs that the person takes themselves and euthanasia where lethal drugs are administered by professionals, e.g. by a lethal injection. The criteria to qualify is wide in scope, including both those with a terminal illness and an incurable physical condition resulting in unbearable suffering. It requires that the person has a voluntary wish to end their own life, it is why permitting all doctors and all nurses to deliver euthanasia requires assessment of capability and it requires proper regulation. In my view, firstly, before we can approve assisted dying we need to be sure that we have in place or at least able to put in place a mechanism of safeguards to robustly ensure and judge these criteria are met. Deputy Morel's amendment will ensure that most, if not all, these criteria are met, however it does require those of us, those of us who have concerns about the allowing of taking of life under any circumstances to cross the Rubicon and approve the principle. This is the key for me. The taking of life of another, whether justified or not, is in my view not somewhere we should go. It crosses a line that my own upbringing and values tells me is unacceptable. As a principle I cannot vote for any proposal that allows one individual to take another's life under any circumstances so by implication I could not vote for euthanasia because of this and because it does not involve a direct act by the patient. In my mind there is a huge difference between someone taking their own life voluntarily and this act being undertaken by somebody else. I could therefore be persuaded to vote for physician-assisted suicide alone. If I can elaborate. My biggest concern other than the act of one person ending the life of another is scope. Many sick and elderly are not as strong mentally as those of us who are younger or in good health. They also come to depend on family and carers and can feel increasingly a burden to those around them. This, in my view, makes them vulnerable to unscrupulous suggestions, for example being a burden and generating feelings of guilt about this. In other countries where assisted dying has been introduced there are doubts the safeguards and mechanisms have been enough. There is evidence to suggest that the scope of those who are eligible has been increased, paperwork has been lacking, people have been coerced to the decision and in some countries they have proposed to extend the law to include those without capacity. Will we see this if we approve this today? Who knows? Many of you will say: "Not on my watch" but views change; what is not acceptable now could quickly change as we have seen in the pandemic. Pressure on homecare facilities, hospitals not being able to cope with waiting lists, lack of carers, more causes to look at things in a different light and rethink the position of scarce family-care facilities for the terminally ill and the old to save the expense for young members of society with better prospective outcomes. I hope it never comes about. You can paint a picture of where this might. One thing COVID has taught us is our world, and indeed our values, can change and very quickly. My fear is that by approving this we are opening a door and this is a door we may never be able to close or resist pressure to open further. I hope not, but in my mind a line would have been crossed. I should like to finish by quoting from an extract of a speech made by the Archbishop of Canterbury during a recent debate in the House of Lords on this subject. I should make the point this is not a debate which is faith against no faith or anti-faith as this is not the case at all. However, the speech makes some strong points from a caring pastoral perspective and I quote: "Christ calls his followers to compassion. But compassion must not be drawn too narrowly, a point made indirectly and powerfully by Baroness Meacher. It must extend beyond those who want the law to provide help to end their lives, to the whole of society; especially those who might be put at risk. Our choices affect other people. The common good demands that our choices, rights and freedoms must be balanced with those of others, especially those who may not be so easily heard. Sadly, I believe this Bill to be unsafe. As a curate and Parish priest I spent time with the dying, the sick

and the bereaved. I still do. All of us have personal experience. I have as well. We know that the sad truth is that not all people are perfect, not all families are happy, not everyone is kind and compassionate. No amount of safeguards can perfect the human heart, no amount of regulation can make a relative kinder or a doctor infallible. No amount of reassurance can make a vulnerable or disabled person feel equally safe, equally valued, if the law is changed in this way. All of us here are united in wanting compassion and dignity for those coming to the end of their lives. But it does not serve compassion if by granting the wishes of one closest to me, I expose others to danger. It does not serve dignity if in granting the wishes of one closest to me I devalue the status and safety of others.” I hope the points that he has made touches a nerve in all of us. I will continue to listen to this debate with an open mind but I think I have made my concerns clear. I would just ask the proposer if he would consider a separate vote on part 2(1) and (2) at the end of the debate.

3.1.11 Deputy S.M. Ahier of St. Helier:

I agree in principle with the citizens’ jury that assisted dying should be permitted in Jersey and it is now time for the States Assembly to catch up with public opinion on this important issue. We all have to face the fact that we will die and this is inevitable but what we should now be able to influence and control, however, is the manner of our dying. Assisted dying is presently banned in Jersey and in the United Kingdom. Some people do have the option of accessing assisted dying at Dignitas in Switzerland. This is only available for those who have sufficient funds and it effectively outsources people’s deaths overseas at huge financial, practical and emotional cost to the families involved. Some people who have used this facility in Switzerland have taken the step of sharing their stories in open letters ahead of their death. One example is an open letter to Members of Parliament from Geoffrey Whaley dated 7th February 2019, written before he died at Dignitas. He said: “I have been able to fulfil my final wish: to be in control of my end, rather than endure the immense suffering motor neurone disease had in store for me.” In his case the terrible anguish he experienced was not simply due to the awful illness he suffered but because of the law against assisted dying. Mr. Whaley was 80 years old and described having lived a full life. He did not fear death but feared extended suffering in the process of dying. When he eventually got permission to be accepted at Dignitas he spoke of a weight being lifted from him and he was able to get on with living without constant mental anguish over his death. In Jersey, our own Alain du Chemin made it plain that he supported a change in the law to enable him to have a dignified death and to die as well as possible on his own terms, when he chose to do so. He was quoted as saying: “What makes anyone think they have the right to force me to die in a particular way, a way I don’t want.” He hoped that Jersey would lead the way for the rest of the British Isles and the rest of the world on end-of-life choices. Personally I do not wish any of us to be required to go to Switzerland to end our lives but rather to have the compassionate service of assisted dying in our home Island surrounded by the ones we love. In my view, giving the option of assisted dying in Jersey shows true compassion to those suffering allows them autonomy, dignity and freedom of choice. It is not for me to oppose that choice. I believe we need to act and bring Jersey into line with a growing international consensus most recently demonstrated in New Zealand where a referendum showed strong support for a change in the law. Momentum has also increased in the United Kingdom since the Assisted Dying Bill in the House of Lords passed unopposed in the committee stage, the first time in 7 years. Some medical professionals have spoken out strongly in favour of assisted dying. Most notably a retired brain surgeon and a patron of the campaign group My Death, My Decision, who now himself has prostate cancer. He said: “Having spent a lifetime operating on people with cancer the prospect of dying slowly fills me with dread.” He asserted the belief that if people in his situation knew they had the ability to choose how, when and where they would die it would greatly reduce their suffering. There has been some opposition from religious leaders but by no means all. At a recent debate in the House of Lords where Baroness Meacher presented her new Assisted Dying Bill a past Archbishop of Canterbury spoke in favour. I am personally moved by the words of leading rabbi who is chair of the Religious Alliance for Dignity

in Dying. He said: "There is nothing sacred in suffering and nothing holy about agony. Compassion in the face of suffering is a key component of all major religions." Some have expressed concern that an option of assisted dying would undermine the provision of palliative care. I do not see these 2 options as being mutually exclusive. A person may be receiving palliative care yet still wish to choose an assisted death. There is no suggestion that funding and resources for palliative care to be withdrawn or reduced in Jersey as a result of the existence of other end of life choices. The proposition before us today provides for a service to be available for those who are terminally ill with less than 6 months to live, but also to those experiencing an incurable condition involving intolerable suffering. These 2 categories are equally important. Intolerable suffering for some is worst to them than terminal illness ...

The Bailiff:

I am sorry, somebody has left their microphone switched on and we are hearing background chat about papers being sent to various places. Could that be switched off, please? I am sorry for the interruption, carry on, Deputy.

Deputy S.M. Ahier:

Thank you. Intolerable suffering for some is worst to them than terminal illness as it involves long periods of pain without reprieve. Having established that I am in favour of an assisted dying law in principle, the issues that remain are to do with safeguarding and the specifics of any legislation. I believe that Jersey should proceed with the confidence that we can manage these safeguards, as do our cousins in the Commonwealth nations of New Zealand and Canada. The proposal before us today include checks that the applicant for assisted dying is making a voluntary, clear and settled decision, meaning it is not a sudden spur of the moment thing and that they are doing so consistently. Checks by 2 different doctors and legal supervision of the process would provide assurance that there is no reasonable evidence of coercion. Assisted dying would only be available where a person is deemed to have capacity and similar safeguards are offered elsewhere and there is no reason why they could not be similarly established here. To summarise, I am supporting the principle of assisted dying because I am not willing to deny others that choice and would indeed wish to have that option for myself if needed. I wish to see the implementation of pragmatic, safe and compassionate assisted dying laws for those Islanders who really need them.

[12:00]

Blocking this proposition would not result in fewer people dying, supporting it, however, would help some to ease their deaths. Thank you.

The Bailiff:

Thank you very much, Deputy. Does any other Member wish to speak on the proposition? If no other Member wishes to speak on the proposition ... Senator Ferguson. Before you speak, Senator, Deputy Pamplin has a question for the Attorney General. Deputy Pamplin, do you wish to ask your question of the Attorney now?

Deputy K.G. Pamplin of St. Saviour:

I can wait as you have called Senator Ferguson. No rush.

The Bailiff:

The reason I ask is it may offer the Attorney the opportunity to reflect before he is called upon to answer.

3.1.12 Deputy K.G. Pamplin:

Of course. It is to refer to the comments paper that the Attorney General has kindly provided to all States Members. I was going to ask him for a summary of that and, in particular, in point 18 the

explanation the Attorney General has laid out there, if he could just expand on the explanation I think it would be very helpful.

The Bailiff:

I will allow you to consider that, Mr. Attorney.

3.1.13 Senator S.C. Ferguson:

I was interested in the comment about referendums. We have had a change in the voting structure of the Island without the benefit of a referendum, perhaps we should be looking at referendum on this particular topic. I find there were 23 members of the citizens' jury and apparently these were all in favour of assisted dying prior to being appointed to the panel. Accordingly the jury, so-called, was in fact self-selecting. It could also be said that those commenting directly to me were a self-selecting sample. However, in my sample 85 per cent were against any form of assisted suicide. I would also point out that mine was a larger sample than the citizens' jury. I had 164 comments rather than 23 and similarly the survey of the doctors by the B.M.A. supplied to us does not show an overall support of the change to the law. When questioned as to whether doctors would support a change requiring them to administer the drugs, only 37 per cent supported such a change. Indications were that trainees would support the change ...

The Bailiff:

I am sorry you are fading away, Senator, we are not hearing you any more, your signal is breaking up. The last thing we heard was a percentage of trainees, that was the last thing we heard in the Assembly. I am sorry, Senator, we cannot hear you. Senator, could you indicate in the chat whether you are trying to speak to us? Senator, what I propose to do is to move on to the next speaker but I will return to you so you can continue and finish your speech when the communication issue have been resolved. We now move on to the Deputy of St. Ouen.

3.1.14 Deputy R.J. Renouf of St. Ouen:

This is indeed a very significant and difficult debate for Members and for the Island. I think we must start by recognising that all, on all sides of the debate, approach this question with compassion. But there is a great sadness to me in that the proposals here and in other places to adopt assisted dying accept that vulnerable people will be put at risk by its introduction, and accept that safeguards ...

Senator S.C. Ferguson:

I am actually speaking from the treatment room at the hospital and unfortunately the wi-fi in the hospital is ...

The Bailiff:

Senator, I understand the difficulty. I have already indicated that we would be leaving you at the moment but I would call upon you again after the next speaker so that you have a chance to sort that out as well as possible. The Deputy of St. Ouen has already started his speech so I will call upon you again, you will not lose the opportunity to speak, it will just have to be a little bit later.

Senator S.C. Ferguson:

I have no problem with that but I am not sure you can do anything about the hospital wi-fi.

The Bailiff:

If you are able to maintain the hospital wi-fi at the level it now is we can hear you very well indeed. But I have let the Deputy of St. Ouen start his speech and I would invite him to continue and we will get back to you straight after that.

The Deputy of St. Ouen:

I was expressing sadness that proposals here and in other jurisdictions to adopt assisted dying accept that vulnerable people will be put at risk by its introduction and accept that safeguards have limitations and will not always work. To me that means accepting that we would be bringing about the early death of some people who need our protection. At present those people have our protection because no one can suggest to them that they have an option to bring about their death. Much of the argument is couched as being given a choice over how we die. Proponents would assert a right to choose. Of course, we would always love to be in control and to have as much rights as are available to us and exercise our own autonomy. Sometimes we do need to give prominence to the rights of individuals but no man or woman is an island entire of themselves. Every human being lives in a society and that collective life means that we carry responsibilities to each other and because of that we order our society and we work to maintain a common good. It is sometimes the case that desires expressed by individuals come into conflict with the common good and this is the case here and this is what creates the dilemma. This is difficult for all of us because the fundamental change assisted dying makes will change us. We must recognise the consequences to numbers of people to whom we owe a duty of care, people who are frail and could not be vociferous in a debate such as this. Therefore, I believe our duties as representatives lead us to the imperative of preserving the common good of avoiding harm to those people. Now, there are many points I could make and which others could make on this side of the debate but there is also something personal to me which informs my views on assisted dying, and it relates to the best part of 30 years that I spent in legal practice when I was acting for local clients, including many people who were unable to look after their own affairs. Sometimes as people draw closer to the end of their life they have much to sort out and not just financially. Sometimes they will confide in a lawyer or other professional in the way they cannot confide with their family. So I had those deep conversations with many clients and that was, indeed, a privilege. It was not just a case of perhaps making a will for them and this did not simply relate to elderly people but younger people facing the end of life. I have been thinking of many of them as we have all mulled over this question of assisted dying in recent weeks. I did meet clients who stoically lived with pain as they neared the end of their life but were firmly expressing the wish that they could end their own life. I felt for them in their suffering and I particularly recall one very proud gentleman who could hardly speak because his voice was rasping and he explained to me his lungs were like tissue paper. I remember speaking to him in his study surrounded by oxygen cylinders and all the tubes that were attached to help his breathing. I felt for him and I understood his desire. There were other clients, once robust and well, who had become frail and weak. They often suggested that they felt that they were becoming a burden to their families, or words to that effect, or that they were no longer of any use to anyone and such things. They knew their quality of life was diminishing, illness had brought them low over a long period and I saw they were doubting their intrinsic dignity and worth as a human being. For them, and others like them, they may well have felt that their pain was unbearable. They may well have felt that they did not wish to carry on, and they might well be the sort of people who would have wanted to think about an assisted dying process. They are vulnerable people, we need to recognise that. That feeling that life has changed for them, they are in a different position from what they were, they are dependent and they are weak and frail, leads to low mood, possibly depressive illness, mental health is poor. In the U.S. (United States) states where assisted dying has been introduced, feeling a burden to others is now the leading reason why people ask for assisted dying. I think that must be a damning condemnation of a society. I would hope we would not go there in Jersey's case but instead meet the challenge of an ageing demographic by demonstrating and improving our care for vulnerable people. In the course of my work as a lawyer I also dealt with the families of those vulnerable people. We must not imagine that families are perfect because that is, I am afraid, far from the truth. There were many views expressed to me about squandering inheritance on care costs. This was openly stated sometimes to the relative in care causing distress but in other cases it was quite clear that those views were expressed more subtly that a sense of resentment would develop over time, which I am sure would be felt by the loved one. I think as well as a society we must also be aware of the problem of elder abuse. It is an increasing

problem but the extent is still largely hidden and very difficult to uncover but it is happening and we should not think that in Jersey we are immune, and there are many good people trying to expose the circumstances of risks around elder abuse and that must be taken into account here. My point is that vulnerabilities will emerge and will be all too common in the assisted dying world, whether that is internal feeling a burden or whether it is external pressures applied by family or other pressures.

[12:15]

The question therefore is can any sort of measures be sufficient and effective enough to give us the assurance that those vulnerabilities will not result in a number of people dying prematurely. I think we must also take note because it has not been mentioned too much during this debate that so broad are the criteria set out in the proposition that assisted dying would be available if it is progressed, not only to those who are suffering terminal illness with no more than 6 months to live but also physically disabled people whose lives are not near their end but who may feel their suffering has become unbearable. That includes people that I am sure many of already know, people we look after in Jersey Cheshire Home or Les Amis or within families and other settings in the Island. Now, we know that we pass through many stages in life and that is no different for people with physical disabilities. They will pass through stages where they are down, they may feel their anguish is unbearable. Notwithstanding the requirement for a clear and settled wish to end their life as proposed, these people are not living with terminal illness and they are not facing death within 6 months. A desire expressed in their life could be transient, it could understandably - very understandably - be caused by a depression that had been building up in them over time. They need our support. It should be our privilege to care for them. In the future their condition could be alleviated or their pain could be no longer unbearable to them but in a dark period of their life they might have taken the option of assisted dying. Now, to me that is vulnerability. So faced with all these vulnerabilities, is there a means of protecting these people? Are safeguards sufficient? As a patient approaches end of life doctors discuss end-of-life care with them. For a person with incurable conditions, long term I am sure doctors have - and I know doctors have - serious debates with them about how they want their care to be handled. If assisted dying becomes part of the law of the land our doctors would become professionally obliged to discuss the option of assisted dying with all patients who meet the broad criteria in the proposition. That is something new. If you are in a vulnerable state and your doctor opens up a conversation about choosing to end your own life, even if that doctor is being entirely neutral about it and acting in the very best interests of their patients, what is the effect on the mind of that vulnerable person? Some will cope with it but some being vulnerable, being depressed may think the suggestion is being put before them that they are no longer worthy, they are truly a burden and perhaps the time has come. Even if 2 doctors were appointed as proposed, even if both speak to the patient and the family, such a process cannot provide the assurance that they have teased out the true motivation of their patients. That they have established the request is truly voluntary and has ruled out any suggestion of mental ill-health. Realistically it cannot discern the subtle pressures applied over time by family, friends or carers, even if those pressures are not overt by a growing or inaccurate perception of becoming a burden. Not only would the doctor's time with the patient undoubtedly be limited because of other professional obligations, it would be very unusual for any doctor nowadays to have that kind of deep relationship with their patient that we may have treasured in the past. That means a doctor may not be in a position to detect undue influence or even that their patient was feeling a burden. I question how could the involvement of courts or a tribunal add anything. Yes, I am sure a court could ensure a process had been followed, it could demonstrate that the required questions had been asked. All those sort of process issues but the court is unable to make a finding on what is deep in the heart of a patient. Safeguards can be built up to the best of our ability but not one of them can be truly effective. None of them would truly protect patients who are going to become vulnerable if assisted dying were to be introduced. I think we are beginning to learn from the experiences of other jurisdictions where citizens are becoming seriously alarmed at the failure of safeguards in use there which are suggested in this proposition. So if, having been

introduced in other jurisdictions, we see that the safeguards are not up to scratch, there is very little that can effectively be done, why do we need to start on this road now? The prohibition on killing is the safeguard. It is a safeguard we have now and is the only effective safeguard. So the current law provides the protection for the vulnerable. I fear we have a misplaced trust in the ability of a law to fix this because laws do not have that capacity at the end of the day. The question of the motivation of an individual is not medical or legal but it is a personal, social and domestic issue which is outside of the expertise of doctors and lawyers and it is very difficult to divine if somebody is approaching it feeling themselves under a burden or under coercion. So assisted dying will change our society fundamentally, it starts calculating and determining a value to human life that leads to an inevitable change in attitude because we are introducing a choice over the end of our life and for those with incurable conditions. There will be some who criticise choices that others make to preserve life and the resources that are involved following that choice because there are resources involved in care. Over time we will become desensitised to the value of life. To me it is no wonder disability groups around the world have generally opposed assisted dying. Our medical culture will also be corrupted. How valuable at the moment is our doctor/patient relationship when we know that when we are vulnerable, when we are low, there is that certainty that our doctors are there to preserve life and not to put other options around. Assisted dying would undermine our efforts around suicide prevention. This has been seen in other jurisdictions which have seen rates of suicide climb. Our assisted dying would compromise our palliative care efforts. The excellent service we have can be even better and I would want to make it better. Practitioners in palliative care assure us that it is very rare that that care cannot address and alleviate pain at the end of life, surely that is where we should concentrate efforts. Significantly it is the medics in palliative care, the people who are often closest to those who might be candidates for assisted dying, it is they who are strongly against adopting assisted dying. They know and they practice a better way for their patients. As I said at the beginning of my speech, all of us want compassion and dignity for those coming to the end of their lives but it does not serve compassion if by granting the wishes of one we expose others to danger. It does not serve dignity if in granting the wishes of one we devalue the status and the safety of others. Therefore, we should resist this change. A change this proposition needs to make and vote against this proposition.

The Bailiff:

Thank you. Senator Ferguson, are you now in a position to speak?

3.1.15 Senator S.C. Ferguson.

I hope so, Sir. In correspondence to me, correspondents were concerned that this approach is a version of the disposability culture, just because you are old or disabled does this give society the right to terminate you. Will it open the door for the unscrupulous to terminate well-to-do aged relatives or will it open the door to more Dr. Shipmans? What about the stress it will place on doctors? The mental effect on people dedicated to healing when faced with termination of life rather than preserving it must be significant and this is apparent in the response to the survey by G.P. (general practitioners). There were also examples quoted to me where the medics had given a prognosis of weeks or a few months. In those instances the patient outlived the prognosis by years, much to the delight of their families. With great respect to the medical profession, they are not 100 per cent infallible. I am supportive of freedom of choice and of free speech, however, given the fallibility of mankind, should we be legislating for the exception rather than the majority? Some will say this gives everyone freedom of choice in the manner of their dying but given the experience of countries who allow this, would take away security from the aged and the infirm. Are we really going to put the oldies - and I am one of them - who might have a few pounds put by, in a position to be frightened that their nearest and dearest will persuade them that they are becoming a burden and that it would be fairer to die now? If the elderly can be blackmailed like this, how much worse would it be if they are being persuaded to be assisted to die? One correspondent tells me that she was on holiday with her disabled child when a Belgian lady asked why she had not had the child

euthanised. Is it not better to have a society where the elderly provide a haven for the young if the parents are having to work, a haven where the young can let off steam about the perceived injustice inflicted by parents, which always happens, a haven where grandparents can advise and guide grandchildren patiently from their experience? Grandparents have time, where parents may be run off their feet, do not take that experience away from the family. Do we really want a society where the elderly and disabled are not permitted to live, a society where the young treat the old as a waste of space, instead of learning from them and appreciating them? It is the worst nightmare from science fiction. I say no.

[12:30]

The Bailiff:

Thank you very much indeed, Senator. Mr. Attorney, you have indicated you are now able to advise; this may be a good time, if you are able to do so.

Mr. M.H. Temple Q.C., H.M. Attorney General:

Yes, Sir. Deputy Pamplin's question asked me to refer to and expand upon paragraph 18 of my comments, which were circulated to Members last week. Paragraph 18 deals with safeguards and particularly from a human rights law perspective. I will expand upon those 3 subparagraphs shortly. But before doing so I just wanted to be clear that the comments that I make are obviously in relation to the proposition being an in-principle proposition and clearly we do not have detailed legislative-formed proposals as to what, for example, the regulatory regime will be. Clearly, my comments are simply directed at the principles and not at the detail of any in-practice legislative framework. I would also say, as I say in paragraph 2 of my comments, is simply restricted to the legal aspects of the proposition and there is no view in them on the wider ethical or policy issues raised by assisted dying. In terms of paragraph 18, as I said, they deal with the safeguards that are included in the proposition, particularly at paragraph (iii) of the proposition. I also set out an examination of the 3 safeguards in brief in the numbered 3 paragraphs of paragraph 18 of my comments. Those 3 paragraphs, the structure for them is taken from an E.C.H.R. (European Court of Human Rights) case, which is the case of *Lambert v France*, which was a case from 2015 and a judgment at the Strasbourg Court. That was a case which was a withdrawal of treatment case, rather than an assisted dying case. But the principles from the European Court of Human Rights judgment are helpful and they are consistent with other cases where the Strasbourg Court has specifically considered assisted dying or euthanasia cases. The structure for the 3 points is taken from paragraph 143 of the judgment in *Lambert* and there the Strasbourg Court sets out 3 factors which are safeguards in the context of withdrawal of medical treatment cases but which are also relevant to assisted dying cases. The 3 factors that are specifically stated in paragraph 143 are: "The existence in domestic law and practice of a regulatory framework compatible with the requirements of Article 2." Article 2 is the right to life, which is in the European Convention on Human Rights, which we have incorporated into our law in the Human Rights (Jersey) Law 2000. Then the second safeguard is: "Whether account has been taken of the applicant's previously expressed wishes and those of the persons close to him or her, as well as the opinions of other medical personnel." That is the second factor. Then the third factor is: "The possibility to approach the courts in the event of doubts as to the best decision to take in the patient's interests." Those are the 3 safeguards that are specifically mentioned in the *Lambert* judgment of the European Court of Human Rights and my comments in paragraph 18 follow those 3 factors that have been identified by the Strasbourg Court as safeguards. The first is that it would provide for the establishment of a precise and transparent regulatory framework and then the proposition also incorporates the essential requirement that the competently express wishes of the applicant are paramount. Then the third factor is that the proposition includes the possibility of approaching the court regarding whether the decision is in the person's best interests. I say that the ability to challenge an assisted dying decision or indeed a withdrawal of treatment case by application to a court is a minimum safeguard. In this case the proposition at paragraph (c) goes slightly further

than that, in that it envisages a pre-approval process, which would be via a court or specialist tribunal for cases which fall within the ambit of the proposition. As I say, I do not consider that the involvement of a court or a specialist tribunal at the initial eligibility stage is required by the European Convention on Human Rights. But, as it is included in this proposition, plainly it is an additional safeguard, which is likely to weigh in favour of the proposition being compatible with the European Convention on Human Rights. I hope that is of assistance to Deputy Pamplin and to Members. But I would also say that the judgments of the Strasbourg Court are clear, that states are afforded a wide margin of appreciation in this area of assisted dying and withdrawal of treatment cases. That is because the Strasbourg Court says that there is not consensus among states, among contracting states on this area of policy. The Strasbourg Court is going to afford states, it says, a considerable margin of appreciation. Within *Lambert* the court was also clear that it is not an unlimited margin of appreciation, that there are minimum standards, minimum safeguards that the court expects a state to have that in this area and those are the 3 sorts of safeguards that I have summarised at paragraph 18. I hope that is of assistance to Deputy Pamplin and to Members.

The Bailiff:

Thank you very much, Mr. Attorney. Senator Mézec, I am assuming you would not wish to start your speech now.

Senator S.Y. Mézec:

Sir, I anticipate that I would probably go on for maybe up to 15 minutes, so I suppose it is up to Members whether they want to leave me until after lunch but I am easy either way. I will start now if Members would prefer that.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is proposed. It is an appropriate time, in my view. If no one opposes, very well, the Assembly stands adjourned until 2.15 p.m.

[12:40]

LUNCHEON ADJOURNMENT

[14:15]

The Bailiff:

The debate resumes on P.95 Assisted Dying.

3.1.16 Senator S.Y. Mézec:

This of course is a debate unlike any that we have certainly had in the Assembly in my time. I think, therefore, it is one that requires a very different approach to how we might ordinarily approach a proposition in this Assembly. The Council of Ministers have said a few times that from their position it is not to be either recommended or opposed; it is a matter of conscience for Members. Just for the record, that is the approach that Reform Jersey has taken on this as well. I think there is no other way that you can deal with this subject because the seriousness of what it is about, it is literally a life or death matter and that is not normally what is before us in this Assembly. We have to consider it extremely carefully and deeply and consider what the effects of the decision we will make today will have on people in the future and how that can sit on our consciences one way or another. During the last election I was asked my position on assisted dying and I did say that I was in favour of the principle of it, and I have made a point of saying that this was so long as assisted dying was always thought of alongside assisted living, alongside palliative care and of course all the safeguards to ensure that nobody is ever pressured into opting for one choice rather than another. But in the run up to this debate and the prospect of having to pass the vote and ensuring that I vote in a way that is

in line with my correspondents, I decided to deliberately force myself back on to the fence on this and to deliberately manufacture doubts in my mind so that I could genuinely consider alternative positions on this and genuinely consider the arguments against it, so that I could not be held back by any sort of predetermined bias on it and genuinely consider all of those. Because I think that the arguments against are absolutely genuine and well-meaning and worth considering, which is why I have made the effort to read every single word we have been sent in correspondence on this. I have not been able to attend some of the public meetings because of COVID isolation but I have tried to watch what I can on YouTube and watched the ITV debate on this yesterday. Having considered everything that has been said by those who are so passionately against this, I still cannot move myself away from the core principle that I think this is about. It is ultimately about self-determination, autonomy and choice, for people to make what will be a very personal choice about how they choose to leave this world and end their lives. I simply cannot go down a route that would enforce my view or anybody else's view on those people because I fundamentally believe that it has to be a matter for them. Having paid as much attention as I could to the arguments against and for all of the very well-meaning correspondence that we have had on this, I have come to the view that some of the arguments that have been made against this are in fact fallacious arguments and I regret to say that some of those have started creeping into this debate recently. I think that many of the cases that have been presented to us for hypothetical scenarios just are not valid when you look at the wording of what we have before us in this proposition. We are being asked to allow for assisted dying in quite specific circumstances. This does not include children, this does not include people who are not terminally ill but who have a chronic illness or a disability. It is only for those who are going to die within 6 months anyway and it is not about people making the choice on behalf of others who no longer have capacity. It is about free and autonomous human beings who are going to die soon anyway, deciding for themselves to end their journey through life a few weeks earlier because they have decided that that is what is right for them and that that would be the most dignified way for them to die. I think, ultimately, the argument against that at this level of this debate is about some people saying to others that we know better, we know what is best for you, rather than you know what is best for you and that does not sit well with me at all. I think it has been inadvertently highlighted by those who have opposed this by talking about the value of human life. Of course you are not going to find anybody who disagrees that human life is valuable. But there will be people who, for whatever reason, reach a stage towards the end of their life where they perhaps, based on how they emotionally feel or perhaps based on how they have logically considered these things, who have come to the view that there is not any value in their life anymore because the suffering that they are having to endure outweighs all the benefits that they have elsewhere in life, and that is in the love of their friends and family or whether that is in anything else that they take joy in, where the value that they take from life is no longer there. The longer it goes on for, the less value there is, the worse off they become and are denied what, in their experience, could be as close as you can possibly get to such a thing as a good death. That has got to be something for individuals to reconcile with, not for other people to tell them that they cannot have that and to say to them that even though you are suffering, even though you would prefer another route out of life, you have to endure that suffering, you have to continue living through it because our law will not allow you what many people would consider to be a more humane way out of life instead. I simply do not accept that we, as representatives of the public, have the right to tell people what is best for them there. There have been a few other arguments against that I think have been flawed. The main argument, and I think the most important argument against, has been about safeguards and that is something that everybody is genuinely concerned about. I said when I stood for election that I would be concerned about safeguards and I have said to those who I have spoken to in recent days and weeks that there are circumstances in which I can oppose this if those safeguards are not good enough. But we are not at the right time for that. We are at a time now where we are being asked to decide on the principle of assisted dying. In some people's minds I do not believe that there will ever be safeguards that are good enough to persuade them to support assisted dying because they are simply against it on principle. But if we are prepared to entertain the

idea of the principle, if we are then going to consider the safeguards beyond what it specified in the wording of this proposition already, there is still a lot of time to do that. When this would eventually come back to the Assembly for further deliberations, that would be the moment at which to decide whether we think the safeguards presented in the legislation are fit for purpose or not. If they can be demonstrated not to be fit for purpose, then even some of those who are in support of the principle of assisted dying would vote against to protect other people. But we are not at that stage yet. We are only being asked to determine on the principle of whether it is worth us beginning this journey and putting that legislation together, consulting with the professionals, bringing in those who have very real and legitimate concerns on this, to try and come up with a framework that is as good as possible. I do not think now is the time to reject this proposition on the basis of the concerns about the safeguards; that will come later. That can be examined at that point and thrown out at that point if it is not good enough. Another argument has been made about the slippery slope and that is, I think, also a very bad argument. There is no such thing as a slippery slope when it comes to a democratically-elected Parliament debating on legislation. Because if at some point in the future somebody has an idea that they want to widen the scope or they want to take things down a different road, we have the ability to put the brakes on it immediately and vote against and, ultimately, the safeguard there is our democratic process guided by what the public, ultimately, want. I think that when there have been comparisons made to other countries saying other countries eventually widened the scope and look at what has happened there, I have looked into some of those countries and I have not, I think, found mass regrets in those countries for that. They simply evolved over time, considered these issues more and been through their own democratic processes on this. I think those who were uncomfortable with the scope being widened are largely those who were uncomfortable with the principle from the outset and of course they are entitled to that position. But we have our democratic processes for deciding what is right for our community and that is not a slippery slope. But I think the last argument that has been made against is particularly flawed, has been a focus on the process and the composition of the citizens' jury. Some in the media have made a specific point about this. I have to say that certainly from my conscience, and whether I believe it is right or not for Jersey to allow for assisted dying, the citizens' jury is completely irrelevant to me. I think what they have produced is extremely interesting but their inclusion is, ultimately, a minor issue, compared to what I think our consciences should say; that is, ultimately, what ought to determine what our vote is. If you do not like what the citizens' jury said, I think to criticise the process is not a particularly good argument. Ultimately, when you consider those arguments against, I think the ultimate principle behind those arguments is some people wanting to deny other people choice and saying that they know better. I simply cannot accept that. I mentioned the ITV debate on this and they produced a half-hour debate with 2 people on each side of the argument, which I watched entirely and in this debate it included a man who has a degenerative illness and who, not now but at some point in the future, believes he may well be in a position where assisted dying would be an option he would want to seriously consider. I listened to his argument and I listened to his perspective. Every time he spoke I could not help but think, who are any of us to tell him that he is wrong, that he is incapable of making his mind up and that his argument is illogical? I do not think we have that right. When it was put to him that there would be other options that did not involve assisted dying, he said no thank you to those because they would involve suffering that he would not want to experience. This denying of choice to those people I think is fundamentally wrong. Just to think of my own perspectives here, I have no idea how I will feel when I face death. I do not know if I will be somebody who will be grateful for a long and happy life or be resentful that it was ending. I do not know if I will be brave. I do not know if I will be scared. I am somebody who does not believe in God and believes that at the point of death there is eternal nothingness, just as there was for the billions of years of this universe's existence before I was born and I cannot comprehend that.

[14:30]

What I am sure I will not appreciate would be being forced to suffer and to feel pain if I did not want to. If I would not want that forced on me, it is wrong for me to seek to force it on other people. I will be supporting this proposition. I, at times, have been thinking how I would approach this. I think I may have felt an ambivalence on what the result ultimately was but I have now come to the view that I care deeply about this and seriously hope it is accepted because of the impact it will have on those who will benefit from it. I end with a variation of the same quote that I know others will have used versions of to the point where it may be seen as a cliché, but I certainly think you cannot put it any better than this but adopting this proposition will not lead to more death but it will lead to less suffering. I do not want to cast a vote that will leave my conscience feeling like I have put people through suffering when there was an alternative that they may have preferred instead. I will be supporting the proposition and I urge other Members to do so. But I see that a Member has asked for a point of clarification, Sir.

The Bailiff:

Thank you very much, Senator.

Senator S.Y. Mézec:

Sir, the ...

The Bailiff:

I beg your pardon.

Senator S.Y. Mézec:

... Deputy of St. Ouen wants a point of clarification and I am happy to take it.

The Bailiff:

I beg your pardon, Deputy of St. Ouen, yes, I did not see that. Point of clarification.

The Deputy of St. Ouen:

I understood the Senator to say that the only people eligible for assisted dying in this proposition are those who are reasonably expected to die within 6 months. Can the Senator confirm that he has looked at and considered part (a)(i)(3) of the proposition, which also refers to people who have an incurable physical condition, resulting in unbearable suffering that cannot be alleviated but without that time period of expectation to die?

The Bailiff:

Would you wish to clarify your speech, Senator Mézec?

Senator S.Y. Mézec:

Certainly, it is a fair point. The Deputy is right, that is in the proposition and that would be an option.

The Bailiff:

Thank you very much, Senator. The Constable of St. Peter. We cannot hear you, Constable, if you are speaking. Could you indicate in the chat, please, if you are attempting to speak? I will move on to the next scheduled speaker in that case and we will revert to the Constable of St. Peter in case there is some technical difficulty.

3.1.17 Deputy L.M.C. Doublet of St. Saviour:

I am a humanist and people often ask what this means to me and it means that I have a deep concern for my fellow human beings; that means that I strive to live a full and meaningful life and I determine my own values based on reason and empathy. It also means that I am committed to helping others do the same. My humanist beliefs include that each individual human being has an absolute right to

live by their own personal values and the freedom to make decisions about their own life, so long as this does not result in harm to others. Humanists feel a responsibility to their fellow humans and act not just in their own best interests but in the interests of wider society. Humanists U.K. and the Channel Islands Humanists have been campaigning on this issue for that very reason and I thank them for the work that they do representing non-religious Islanders. The Deputy of St. Ouen, I wanted to reflect on his speech, which I thought was really excellent and he touched on the concept of responsibility towards others. I can see that he is giving this a lot of consideration and, accordingly, has given a lot of thought to which arguments he chose to lay before us today and it was a very well-argued speech. The point that most struck me is when he urged us not to think on an individual level but on a collective level and to bear in mind the harm that could possibly be caused to a group of people if we do agree this in-principle proposition today and eventually implement a law. This argument is very persuasive of course because I think every last one of us in this Assembly has compassion for those that the Deputy was talking about, those who are frail and marginalised. What we have to do today is weigh up 2 things. The previous speaker touched on this as well. On one side we have a theoretical situation whereby we are theorising that if we introduce assisted dying that possibly one of our frail or elderly or vulnerable population could be taken advantage of as a result of that law. I mean the very thought of that is absolutely horrifying and we would never, any of us, ever want to cause harm or allow indirectly any harm to come about to a vulnerable person because of a law that we have implemented. That is what we have to weigh up on the one side as the worst-case scenario. However, on the other side of the scale, what we are considering today are the levels of extreme suffering that the previous speakers have outlined. That suffering is being experienced by Islanders in the here and now, it is not theoretical. There are people who right now and possibly people who might be listening to this, people living with constant pain in their body, and I cannot imagine what that does to the mind and there are people who have suffered a loss of dignity. Another speech that struck me was that given by the Constable of St. Martin when she spoke about the impacts of watching a loved one go through this. It must be unimaginably hard to want to help your loved one, to alleviate their suffering and to be unable to help them because of a law that prohibits you showing them this compassion. I have weighed this up and I believe that we need to remedy this, the theoretical future suffering that some are speculating may be inflicted versus the suffering being experienced by some of our fellow human beings here and now on our Island. I find that I am grateful to the Deputy of St. Ouen for raising this because after listening to it I remain resolute that we must approve this in-principle proposition today and start work which could ease that suffering, which is already happening. But I find that I am now equally resolute that when such a law is in place, that law and the accompanying policies within various departments must take absolute care for the frail and vulnerable. We must go beyond this and indeed it seems there are worries about members of our community not getting the care they deserve, then we must change not just our legislation and policies but we must also change our culture. I will not stand by and let Jersey become a place where the elderly are worried that they will not be cared for. We, the States, should be facilitating access to the best care and the best support, so that families do not ever have to worry about anyone being a burden to anyone. Perhaps if we as a society did not operate on the assumption that it is the duty of women to act as unpaid caregivers, then this issue of anyone being a burden would not arise. I would like to know from those who are arguing against assisted dying based upon this argument about becoming a burden, what are they doing to address this issue at the root? Because I believe that we must value those in our society who provide care and we must also value the cared for. We must recognise that the elderly and the vulnerable have an inherent value as human beings and ensure that they have a place in our society. We can do that and we can look after the rights of those who are suffering unbearably; we can do both. I will be voting for this proposition today, keeping in mind, as I do, the impassioned pleas from the late Alain du Chemin and his partner who appealed for us to approve this. I very much appreciate that the States Assembly will have an opportunity to ensure that the appropriate safeguards are put in place when the law comes forward following, hopefully, the approval of this in-principle proposition today and that no harm is caused by any new law in this

area. I really hope that the level of concern for the elderly and vulnerable, which many of us are expressing today, results in some actual cultural change going forward.

The Bailiff:

Thank you very much, Deputy. The Connétable of St. Peter, are you in a position to speak to us now? The Connétable of St. Peter? Apparently not.

The Very Reverend M.R. Keirle, B.A., Dean of Jersey:

I am very pleased to follow the previous speaker. We all know that this debate represents the single most important ethical issue that we will face in a generation. I have found this debate to be really respectful and I am very grateful to people for that who are listening to each other's points of view. People have been very vulnerable in expressing some personal stories. Of course, our starting point must be compassion, which is a mark of a civilised society. But of course, it must also be a compassion that embraces the full spectrum of this discourse, both those who were just mentioned, who are elder abused and people who are frightened that they will be in the way, devalued or defenceless and those who are fearful that they face a future of unbearable suffering. Compassion has to embrace those who shout loudly and those who have no voice. I am also very grateful to the Constable of St. Ouen for his comment on the religious dimension here and it is really important to underline that that is not the fault line for this debate, so I am very grateful to the Constable of St. Ouen for noting this. There is no fixed Christian position. There are many Christians who are against assisted dying and many for, and that applies to people of other faiths and none. I would like to comment, first of all, if I may on the citizens' jury and while I agree with Senator Mézec that the citizens' jury is not the be-all and end-all, I think it did set the scene and I think it requires some comment. In the briefing leading up to this proposition we were told and I quote: "The citizens' jury was carefully selected and was completely representative of the population." We were also told on the Government website that the jury was selected at random and demographically represented the Island's population. As a result of the initial report we were told that 18 out of 23 said yes to the question: should assisted dying be permitted in Jersey? Later reports, however, the one that came out a few months later, stated: "Prior to any meeting of the jury the selected panel was already 52.2 per cent in favour of assisted dying and a further 30.4 per cent were probably in favour, giving a total of 82.6 per cent; 19 out of the 23 were already in favour of assisted dying before the jury met." I simply hold that up to Members for them to decide if that is completely representative of the population of the Island but my inbox from my email account would suggest otherwise. I do recognise of course that the makeup of the jury needed to reflect something of the views of the wider population with regard to physician-assisted suicide but our jury percentage was based not on a specially commissioned survey in Jersey but on a British social attitude survey from 2017, in which 3,000 people out of the 66 million people in the British Isles were asked about assisted dying. From that it was extrapolated that 82.6 per cent of our jury should be made up of people who were in favour or probably in favour. I think Members need to reflect whether that was a healthy starting point for this debate, which did in fact set things in motion and whether the jury's conclusions, and I quote from the very beginning on the first page of the proposition: "Having regard to the key recommendations of the citizens' jury." I am not sure that can bear the weight of this proposition. It is interesting to note that in the final jury report the number went down from 19 out of 23 to 18 out of 23, such as it is.

[14:45]

We have heard a great deal in this debate and it has been really helpful hearing about human rights and autonomy and personal choice, and of course these are valid concerns. If it was just about that most of us would be wondering what the fuss was all about. But I think this needs some further reflection and I know we have had speakers mention this already but the reality is, is that we are in a community, we are not just concerned about autonomy. Our freedom of choice does have an impact

on others. It is important that Members understand that we are not just discussing personal ethics in this debate. We may sway towards that as our preference but we are also discussing societal ethics, our collective decision that will impact everyone on the spectrum. If we legislate for something it crosses the line from personal to societal and that has consequences for all of us. In many ways to my mind the question is not so much is assisted suicide right or wrong. People will come down on either side of that fence for many different reasons. The crucial question to my mind is: should there be legislation and what impact will that have? Will it do more good than harm or more harm than good? Will it protect not just the robust, the articulate, those who have resources but those who are susceptible, vulnerable or voiceless; that is the societal side of the ethics of this question? If we get this wrong either now or later, there is no putting the genie back into the bottle. The consequences are far-reaching because any legislation that results from this proposition will be transmitting a message about value one way or the other. We have to get it right. It could conceivably be the right thing to do in any individual case, to help someone who has a terminal illness and unbearable suffering with no hope of alleviation. But there is a world of difference between that and creating a licensing system, for want of a better phrase, for such acts for specific categories of people through legislation. The moment that is done it moves from being an individual to a societal issue. While I agree with Deputy Doublet, I do not think that it is theoretical in nature to be concerned about those who are vulnerable. In other jurisdictions where this has come into place that is not theoretical, that is actual. We have to be on guard. Of course, the best arguments for legalising assisted suicide are personal in nature and we have seen much of that in the media and people have shared that very vulnerably today, and I am really grateful to them for that. I have been a priest for 32 years. I have sat by the bedside of hundreds of people as they have suffered and dozens of people if they have literally died in front of me, from every walk of life and for that matter every decade of life. I could recite many personal encounters where a family has had an opportunity to show care, express their love, reconcile the irreconcilable because they did not end their lives early. My point is that if we allow the personal or the emotional to be the ultimate steering in this matter, I fear we miss the bigger questions that rush in the moment we step back from those stories, however valid they may be. What are some of those bigger questions? The Minister for Health and Social Services has already touched on one of those, it is a question of suicide. It is really important that we look at this subject either now or if it goes ahead into the future, that proper research is done surrounding the issues of increased numbers of suicide. Some have suggested that physician-assisted suicide or euthanasia will have a dampening effect upon suicide because those who would otherwise commit suicide would instead seek assisted dying as an alternative. But the statistics do not bear that out in jurisdictions where this is already taking place. There is an increasing evidence of a link between legally-assisted suicide and the increasing suicide rates from the general population; I can provide that statistical information if Members would like a copy. If we are looking at legislation that will do more good than harm through the lens of societal ethics, we need to tackle that thorny issue; it needs to be addressed as we move forward. Legalising suicide sends a message to our Island community, however unintended, that taking your own life is an action that you should consider. Again, if we are robust and know what we want we may not even hear that subliminal message but those who are vulnerable and frightened and at risk might. If you have spent any time with terminally ill people or sat with people as they have died, as I have and probably more so than anybody else in this Assembly, then you will know that many people are anxious. They are coming to terms with their mortality, they are concerned about their families; their mental well-being is fragile. The question we must ask is: do they need reassurance or a loophole to allow them to be removed from being a burden to others? I mean it is not as simple as that but that is one of the choices. It does cut across the grain of every other strategy that we have for suicide prevention; that also needs addressing. The other question I would like to draw attention to is the point that no one has the right to tell another person how or when they may choose to die. If this was just about personal ethics I would completely agree with that but the proposition seeks to involve the ministration of others, albeit with a conscience clause. It will involve a change in the culture of doctor/patient relationships and a change in the culture of

doctors' role in preserving life. That needs seriously looking at and that is one of my greatest concerns, the issue of trust between the medical practitioner and the patient. The other question that I have surrounds the word "dignity". It has been used a great deal in this debate so far. It is often argued that it is undignified to die in circumstances where people need the extensive care of others or because they are suffering, but that needs some very careful unpacking. Because, firstly, it has the potential to undermine the excellent palliative care available in this Island, which seeks at every turn to bring dignity to people who have a terminal illness and encourage them to live until they die. Secondly, this is often where I have seen humanity at its best, both in the caring and in the being cared for. I am not suggesting some kind of romantic nonsense here but rather that dignity, respect and compassion come in many guises and is not the sole possession of those who support assisted dying. I know that some of you will be saying that of course is why we have safeguards in place and I would like to move on to those. Because the critical thing is that any safeguard is completely worthless unless it can be consistently translated into practice. Safeguards, in my view, need not only to be integral to a proposition on assisted dying, they are the very essence of such a proposition. How are Members to proceed when they do not know how the safeguards would work in practice and satisfy themselves that they would be effective to protect vulnerable people? I think there is a danger here of writing a blank ethical cheque and so whatever happens it is critical that those safeguards are protected and ring-fenced. What we have at present are statements of intent with language that lacks both clarity and definition. I do not really have time to go into all the concerns that I have about that but forecasting life expectancy is not an exact science in the medical world. There is a risk, however small, that people could be pushed towards assisted dying far earlier due to improper diagnosis. There is the risk of trust being eroded between doctor and patient. Who will decide that someone has unbearable suffering and how will we judge that that is a physical condition and not one brought on by poor mental health treatment or inadequately funded care or, dare I say it, the coercion of others for their own gain? Someone once said to me in this debate: "Where there is a will there is a family." One of those whose role it will be to administer lethal drugs, what about their well-being and the impact upon them? Studies have already shown in other jurisdictions that there are long-term effects upon medical practitioners who do this; vulnerability has a wide definition. Please hear me, I am not trying to ridicule the so-called safeguards or to be insensitive to those who find themselves at that point in their lives. I have spent too much time with people at that point to do so. But I simply want to ask the question, why not 12 months? Why not unbearable mental pain? Why not save money and offer the patient P.A.S. (physician-assisted suicide) instead of expensive life-prolonging drugs? Why only give it to adults? My point is that safeguards are arbitrary and, therefore, they contain the seeds of their own expansion. Where do we draw the line? That will be critical and this does have the potential for mission creep to be built into it. As Claire Fox in her speech in the House of Lords said: "Looking across western societies in the last 50 years, it is hard to think of a single issue where for better or worse progressive campaigners accepted an initial piece of liberalisation and went no further. Indeed the logic of progressivism demands further continual progress." In conclusion, the questions we are faced with are: is this just about my autonomy, my human rights, my personal choice or is there a wider societal question that we need to ask? Is wider legislation the answer to the very small group of people who, despite the extraordinary advances that have been made in pain control and palliative care, feel that for whatever reasons they should end their lives prematurely or is there another way? When we talk about compassion we have to ask ourselves, compassion for whom? A law such as has been proposed has the potential to become a law to oblige the strong, not a law to protect the weak. Members need to be very clear about the impact of this proposition upon the Island you represent, upon the community in which you all live and the democracy that you characterise. As Senator Mézec said, what you decide in this Assembly will literally be a matter of life and death for the people of this Island.

The Bailiff:

Thank you very much, Dean. I will give another attempt to the Connétable of St. Peter if he is able to speak to us. The Connétable of St. Peter. If the Connétable is able to hear me, Connétable, I am not going to call upon you again. If you wish to speak, will you please indicate a desire to speak? Very well.

3.1.18 Deputy L.B.E. Ash of St. Clement:

I am delighted to follow the last speaker. This does on first appearance seem very easy, does it not? Someone has a very short time to live, they are in enormous pain and they wish to die. It is, as many previous speakers have said, your own life and as they have correctly said, you should have a right to decide how you end it. Why are we seeing so many emails and controversy around this subject, which is so emotive? Accepting that some are purely against this on ethical and religious grounds, which I can accept, what are the other problems that we can see will arise from this? Firstly, we have laws to protect the vulnerable, they are there because people do bad things; they are not there because everyone is the same. The law on people assisting dying or, to put it bluntly, helping people kill themselves, is no different. Let us be perfectly clear, that is what this is. It is not a medical solution we are looking at here or the Minister for Health and Social Services would be bringing this proposition. It is a change in the law to allow someone to kill themselves and perhaps more importantly, when we look at safeguards, to allow others to assist them to do so. There are of course some that will say that there will be strict rules that govern this process and I am sure there will and they will tell you that there is no chance of any wrongdoing. That is not necessarily true though, is it?

[15:00]

We are saying there is no chance of wrongdoing because of the people who are going to oversee this. Would we be saying that if politicians were to decide or estate agents or bankers? Certainly not, because they are certainly not people to be trusted by the vast majority of the population. Doctors, however, most certainly are but I am afraid doctors are not always perfect. Indeed, Britain's biggest ever serial killer was a G.P. But even allowing for that, hopefully, never being repeated, there are of course possibilities that pressures will build on medical staff to free up hospital space and resource. Unpalatable though that fact and thought may be, it is always a possibility. It may be that families will put pressure on elderly relatives when they are at their most vulnerable times of their lives. Sadly, it does happen, much as I and I am sure many others would like to pretend it does not; it does, especially where money is concerned. It may of course also be where the person involved sees themselves as a burden for their family, again, especially if realising that care is going to cost their family financially. Is that what, as a society, we should be saying is acceptable and to be encouraged? Of course when we look at money we should also look at whether this is going to be privately funded or Government funded. If it is a private facility it is a business and that is the stark fact, it is a business. This immediately raises concerns. Do you think such a business would be actively discouraging people from using their end-of-life options? They may but of course there is also the possibility that they would not. If it of course is Government money it would hopefully provide better safeguards. But would we not be better putting our money into the hospice, that I am afraid Government sadly lacks in doing at the moment and leaves them very much to their own devices, which, incidentally, they fill using tremendous resourcefulness but would we not be better putting Government money into a hospice and boosting our palliative care offering? Moving on, one of the major problems though, even if you get these things right, even if we have all these things right and that there is no wrongdoing or possibility of wrongdoing from anybody, is of slippage. That is to say that you move away from the concept that I already put out there, that someone has a very short time to live, are in enormous pain and they decide that they wish to die. What of people who have severe depression? Why should they not be allowed to end the huge suffering and misery that surrounds them? It is a good question, is it not? If they have had years of psychiatric help and no one can help them, why should they not be allowed to avail themselves of the same facility that others in physical

pain will be able to avail themselves of? Many will say: “No, we will not do that in Jersey, we are only going to go this far. This is as far as we are going, no further.” All I can say is in no country where this has been introduced has slippage not occurred and, in some cases, alarmingly. Let me give you a few examples, which I hope, I have no guarantee of course but I hope will further emphasise that this is far from an easy or simple road that we are being asked to embark on. Let me read you an extract from a doctor in Holland, it is in his words: “In 2001 the Netherlands was the first country in the world to legalise euthanasia and along with it assisted suicide. In 2007 I wrote that it does not have to be a slippery slope when it comes to euthanasia. A good euthanasia law, in combination with the euthanasia review procedure, provides the warrants for a stable and relatively low number of euthanasia cases. Most of my colleagues drew the same conclusion but we were wrong, terribly wrong.” He then stated at the World Medical Association that it was a mistake to introduce the law and he said: “Once the genie is out of the bottle, it is not likely to go back in again.” We then will have the problem with dementia patients and when it comes to show how difficult that problem is, I will outline one case that we had in Holland in 2016. A doctor accused of failing to verify consent before performing euthanasia on a dementia patient was cleared of any wrongdoing by a Dutch court. The 74 year-old patient had expressed a wish to be euthanised but also indicated that she wanted to determine the right time. Judges said the doctor acted lawfully, as not carrying out the process would have undermined the patient’s wish, therefore, the suspect was acquitted of all charges. However, prosecutors had argued that the doctor, who has not been named and has since retired, acted with the best intentions but broke Dutch euthanasia law by failing to ensure the consent of the woman may have changed her mind. They argued that a more intensive discussion could have taken place before the decision to end her life. The doctor, allegedly, sedated the woman who was suffering from Alzheimer’s, then she asked her family to hold her down as she administered a lethal drug. She maintained that she had acted cautiously. The trial was considered an important test case, as people are living longer and are, therefore, more likely to develop conditions that affect their ability to think and remember. One of the most alarming areas of slippage is in Belgium, where in 2014 it became legal for terminally ill children to be euthanised with permission from their parents. The BBC headline read: “The Parliament in Belgium has passed a Bill allowing euthanasia for terminally ill children without any age limit by 86 votes to 44 with 12 abstentions.” Bizarrely, if, and I pray this would not come in, but if it did we would have passed a law in the course of this parliamentary term where you could not smack children and later on, hopefully, as I say, it would never occur but parents would have the right to decide to kill them. I hope and pray it never comes to that. But in answer to those, and there will be many now and they are in the Assembly, who say: “We will never have that here.” Let me to refer you to the End of Life Choices group in Jersey, which asked the citizens’ jury to consider and I quote: “(a) In Jersey the age of majority is 18 and that is what we propose here. In rare, sad cases the law might enable parents to decide with and for their children in this matter.” There you have it, that first step, that first inkling that this is not as clear cut as perhaps many think and quite rightly think that it may be. In closing, would we rather have a choice of a doctor saying: “Sadly we feel that you have only a limited time to live; we have been wrong and obviously may be again. What we will do is put you on this treatment which will, hopefully, slow the process down. If it does not we can greatly help manage the pain and we have a wonderful hospice facility which can assist you and your family” or would we rather have one that, effectively, says: “I am afraid there is no real easy way to say this but I feel that your best choice may be for you to end your life”?

3.1.19 Deputy G.P. Southern:

I will be mercifully brief, I hope. I want to look at the situation from the other end of the telescope, rather than trying to justify, as I would, physician-assisted dying. Then I would look from the other end of the telescope at what are the alternatives? What does staying with the status quo do? One thing it would do is lessen some people’s lives who were in serious pain and within 6 months of dying. It would lessen their time because if they travel to a foreign country where legally assisted dying is in place, then they have to be fit enough to travel, by months or whatever, maybe years, that

is shortening people's lives and I do not believe that should happen. It also opens the assistant, if a U.K. citizen, to prosecution for doing that assistance and I do not think that is a position that we should continue to take. As earlier speakers have said, it is a question of choice. When I examine the question of choice I examine and look at the case of my own father, who was severely bipolar, went through massive highs and even more massive and dense lows all through his life. It came to the end of his life, what alternatives were for him? He did not see any, apart that is from suicide and that is what he did. He had several goes first but eventually a bottle of whisky and a tube to the exhaust of his car and carbon monoxide poisoning; he succumbed within hours. Would that he had some support to go in a less traumatic manner but he saw no choice and there was no choice for him. That is where I am when I say I am thoroughly convinced that the proposition before us today to bring about the position of assisted dying is the various steps taken.

3.1.20 Deputy S.J. Pinel:

Opinions vary hugely on this subject, based on personal circumstances, experience, belief systems, age and culture. Assisted dying is legal in many U.S. (United States) states, Canada, the Netherlands, Colombia, Belgium, Luxembourg, Switzerland, Australia, Spain and New Zealand, albeit under stringent conditions and with legal variations. People should not have to travel abroad to die and need to have their loved ones by their side. Everyone should have the right to choose the time and conditions of their death. This is a debate about the principle of assisted dying. If agreed, there will be time to examine in detail the required legal, medical and other safeguards to protect individual patients and professionals responsible for their care and, importantly, safeguards against coercion of the patients. Essentially, the in-principle debate is largely about whether patients should have the choice to ask for assisted dying within the safeguards that will be presented and debated in detail if the principle is agreed.

[15:15]

In general, however, it is likely that 4 witness statements will be required in Jersey, each signed by 2 doctors confirming that the patient is suffering from a grievous and irremediable condition and that the patient has the capacity to make the decision to end their life. Two other witness statements would also be signed by the patient confirming that it is their considered wish to be assisted to die and that the wish has been expressed over an extended period with relevant conditions set out by the patient. While I completely appreciate there is no clear cut yes or no determination to this very complicated and emotional issue, discussion and debate on the principles should not be delayed any longer. Safeguards that include the patients can only qualify for assisted dying by a series of criteria, which would include suffering a terminal illness that is likely to end their life within 6 months or grappling with a grievous medical condition, irreversible decline and unbearable pain and suffering. They must also be able to understand assisted dying and what will happen. We must remember this debate is about the principle, the detail will follow for further debate and indeed is likely to be shaped by issues raised in this debate. In terms of End of Life Choices, 78 per cent of the recent citizens' jury were in favour of having that choice. We can also and must champion the highest standards of palliative care, such as hospice care or hospital or home care, alongside assisted dying. It is not an either/or option. Death is an inevitable part of life. We all make choices throughout our lives, such as choosing our friends and our broader relationships, jobs and career choices, marriage and children, where we live and how we behave, among many others. Why then when it comes to the intolerable and insufferable circumstances should we not have the choice to end our own life without pain and with dignity? My beloved stepfather, who I have known for some 55 years, died in July this year at age 99. He was a long-term supporter of dignity in dying. He died in hospital but was in a nursing home for a while. One of the many occasions that I visited him was to help with his assessment by occupational therapists, nurses and care staff. I think they wished to determine whether he wanted to stay in the nursing home or go to his own home with a care package. When asked what he wanted my stepfather, in a very strong and booming voice, said: "I want to die." There was nothing wrong

with his mental capacity but he was constantly in pain, very frail and largely immobile, with little dignity left to him. His medical conditions were irreversible and deteriorating. In his view he had little or no quality of life and was simply living an existence. He subsequently had a very bad fall and died painfully; that could have been avoided. This is a debate about freedom of choice by the individual. In my view assisted dying is a human right. I shall be supporting the proposition.

3.1.21 Senator I.J. Gorst:

I want to just explore the opening comments of Senator Mézec and I think he was absolutely right to remind Members and the listening public that this is a matter of conscience and should be considered as a matter of conscience. With any debate of course there are always 2 sides and that is what we come to this legislature for. But I hope that all Islanders recognise that this is a matter of conscience. We may be divided but I want to explore why that might be. I would like to thank all those Islanders that have contacted me, and I know many other Members as well, with their own personal stories, moving stories, as we have heard from other Members during the course of this debate, of family members who have suffered great agony at the end of their lives, who have perhaps wished that they could have died in a different way. We have also heard moving stories from families whose loved ones have had a second chance at life and what joy that has brought to them, to their children and to their grandchildren when they thought all hope was lost. In those stories sometimes those individuals continued life no doubt with some level of pain, others without pain. This debate before us today poses some very profound questions about what it means to be in a society, what it means to be in a community together, what quality of life means. We live in a world of social media where we can see what someone across the world is doing. We see snapshots of each other's external lives and we know that we are all prone to judging our own internal life by others external lives. That asks some profound questions about: what is a quality life? In an Assembly like ours we of course rightly are seeking to improve the quality of life for all Islanders. What does that mean? Sometimes there are no easy answers to these profound questions. Medicine and surgery have been seeking to improve and extend people's lives for generations. As we arrive at this debate and others have had these debates before us, we are not the first and we do have to ask ourselves profound questions about the influence of medicine upon the extension of our lives and whether the constant improvement, an extension of people's lives, whatever the cost, whatever the quality, whether that is the right approach or not. Each of us, I think, in questions like this bring our own experience to bear, rightly or wrongly. But in doing so it shows our humanity and our shared humanity in this community. I was brought up in a household where my mother looked after 3 of my grandparents. My teenage years were lived out in that multigenerational environment, which is common to many; that is how society ordered itself. I cannot sit here and say that my grandparents lived that life free of pain because I do not think they did. Some would have had capacity, some of them would and some would not. I cannot answer the question of, would they have wished to avail themselves of these proposals today because we are discussing something which none of us have experienced. We have had loved ones leave us but we have not experienced it for ourselves. The reason I raise that question is because of course I want to explore, I think, 2 important questions or elements that we are discussing today and they are choice and suffering. I am a great believer in personal choice but I am also reminded of the words that the Dean reminded us of, that personal choice when legislated for becomes a community choice. There are some times that I sit here and consider the questions that we have to consider and I think that I am not well suited to being a legislator because we live in a world - and I have to be careful not to denigrate your profession - where legislators and Governments like legislation and ways to make their living out of legislation. But there are many times that I look back and think and ask, has that particular piece of legislation done the thing that we wanted it to do? Has it helped the community deal with a particular problem that it was encountering? If we are honest I think we have to say that it has not. I look at this issue that we are asking ourselves about today and it is a prime area where it is to me a regret that we are having to consider that legislation is the answer and perhaps the only answer for Islanders who are facing a painful death. Because each situation will be different and the

care that could be given will be different for each condition, the palliative care, the medical intervention, it will be different. It is not, I think if we look, an area which sits well with a piece of black and white law but we still have to face this decision today. The other question that we are needing to consider is one of unbearable suffering. Should we be seeking to alleviate 4 members of a community unbearable suffering? The only answer, I think, that all of us can give to that question is, yes, of course we should. Yes, of course we should.

[15:30]

The question is: how should we be seeking to do that? We should be approaching these issues with compassion. It is not always easy for a legislature to do but compassion is the right approach. But, again, I make the point on compassion on an individual basis, support to alleviate unbearable suffering on an individual basis. As other speakers have said, perhaps the crux of this matter turns upon the safeguards. I was very struck by my own Deputy's speech about the contrast between individuals who are able to make a choice if we pass this legislation in due course - and I am mindful that this is in principle - and then the potential difficulties that vulnerable members of our community would face in the future. I know that because it is an in-principle debate, some Members have felt that they will vote for the principle that is outlined in this proposal and they will deal with the safeguards and the detail at a later stage. When I see the details and the safeguards outlined in the proposition as it stands, I have great difficulty in believing that those safeguards will actually deliver a protection to vulnerable Islanders in the way that we would want to see. I could go and reiterate the statistics that other Members have spoken about, about the increased suicides, the increased use of assisted dying in other places that have introduced it but that has already been touched upon. Nonetheless, I think they are valid arguments and valid considerations. I must say when I first saw the outcome of the citizens' jury one thing that struck me was that they proposed that such assisted dying should only be available to those who were suffering physical pain and did not or left to one side those who find themselves in unbearable suffering with mental pain. That in itself is a real challenge for me. Right now 2 family members are suffering from dementia, only one of them would be able to avail themselves of this legislation were it to be passed because only one of them remains to have capacity. But I also know from first-hand experience in my own family the unbearable mental anguish that sometimes goes on for years with mental health issues and yet here we are as a community, on the one hand trying to say that we take those issues seriously and yet we are separating again out those issues in a way that struck me as unfair. Because life and death issues are individual issues; they are issues for the individual, they are issues for the family. Of course I do come from a tradition that values and holds the sanctity of human life above all other values. Like the Constable of St. Martin, I have considered these issues carefully. Of course I am mindful that at the Senatorial hustings 3½ years ago, I think there was only myself and Senator Ferguson who when asked the question said that, no, as we stood we were not in favour of assisted dying. But having considered all of these issues and having considered what the citizens' panel and the citizens' jury recommend, I understand why Members today look as though they are going to approve this in-principle decision but for me I cannot accept that the safeguards that are proposed will protect the most vulnerable members of our community. I can accept that it will help give those who want to, potentially, a better ending to their life, although there is of course the evidence that suggests that even some who avail themselves of the assisted dying process still do not necessarily have a good end to life. You know that my wife worked for many years at the hospice and that we all die differently in those final throes, the Dean no doubt would refer to it as the number of people that he has sat at the bedside of. I will not be today voting for this in-principle decision. As I say, I recognise from the majority of speakers that it will be approved. But I hope that if it is we can continue to have a conversation across our community which recognises that it is a matter of conscience, that recognises that some in our community feel profoundly concerned about what the implications might be for them, about whether they are later in life a waste of space and should, therefore, because they do not want to be a burden, choose this option. That as we think about the safeguards, that as we consider the safeguards, we

give each other permission to ask again, even after an in-principle decision, whether it will remain right for Jersey, having looked at the details of those safeguards, that it is not an open and shut case of having made an in-principle decision that we are then on a trajectory or on a particular route. Again, I say that for me today for the reasons I have sought to articulate but I recognise it is emotional, so I may not have articulated them terribly well, others have, I cannot support this in-principle proposal.

3.1.22 Deputy T. Pointon of St. John:

I am not going to rehearse many of the arguments that have been expounded today. I think the subject has been very well-discussed and debated. I am sure the decision is coming soon. But what I will speak to is my experience and for 42 years in one guise or another I was a practising registered nurse. During those years I had experience of people who wanted, because of emotional trauma, to end their own life and also people who had developed incurable physical disease, labouring on to death and experiencing unacceptable suffering in the process. My part as a professional and the intention of people wanting to end their own life was as an interventionist. There could never be any realistic conversation with individuals about their motivation for ending their life. We automatically assumed that a desire to end one's life was a wrong thought and that all efforts should be made to prevent the eventuality. It is of course difficult to collude with persons who are being reactive to immediate emotional trauma or the short-term prospect of intense physical suffering. But it is less of a problem to understand and to collude with if the reason to end one's life is based upon intractable long-term physical or emotional distress and the individual has a clear grasp of the future available to them. I begin with my first traumatic experience of death, a particularly harrowing experience for me, as I knew the person very well and knew that I did not have the weapons in my armoury to ameliorate his suffering. An old school mate was admitted to the medical ward I was working on as a student, who had a condition known as non-Hodgkin's lymphoma, a condition very treatable today but not so treatable then. He died following a protracted and painful period and required heavy sedation toward the end, a process that necessarily hastened his demise. He was 21 years of age, as was I. Over the years it has been my privilege to be at the bedside of many individuals who have taken their last breath, many of whom have been in pain and would have died in pain had they not received large amounts of opiate pain suppressant and in many instances that pain suppressant did not work. Examples of the medication I am referring to is morphine, diamorphine, fentanyl, et cetera. These opiate medications eventually render the individual cognitively incapable and unable to relate to the world of thinking for oneself. As a consequence, the individual is unable to take decisions concerning daily life, let alone any conscious participation in the process of dying. What I am coming to here is the process that is currently approach to terminal care that makes the individual a dependent being and any notion that the person is effectively involved in the process simply pays lip service, as at no point can the recipients take control. The remedies are always done to the sufferer and any determination of elongation or fall shortly of suffering is entirely in the hands of another. It is always good to be able to relate to one's own experience and I will do so here. Having spotted blood in my urine in December 2017 I concluded that such an event was serious and required a medical opinion. After presenting at the Emergency Department, after all this was in my understanding an emergency, I was seen by the urology registrar on call, sent for an ultrasound of my bladder and a suspicious mass was identified. The next few weeks and months were a roller-coaster of events. Firstly, I had become an electoral candidate and there was an election campaign to get through, followed by a resection of tumour plus 4 sessions of chemotherapy prior to recess, when I escaped to Cambridge for 4 weeks of daily radiotherapy. In this instance to date the treatment has been successful and frequent invasive checks and scans have borne this out. What might have happened and may still if the cancer returns?

[15:45]

All the best efforts of the oncologist, surgeon and radiologist come to nought, as the cancer becomes a law unto itself and defies the best efforts of medical intervention, becoming a reinvigorated threat to my body, spreading to other organs, bowels, lungs, liver, et cetera. The prospect of life is now greatly diminished and the prospect of a painful and heavily sedated death is now very real. What would I see as a viable way forward? Rather than wait for an opioid-induced coma I would choose to take my ending into my own hands but I would need assistance from a learned medical practitioner who knows about and can administer the medication dose required to bring my suffering to a final conclusion. At present there is no such course available. Physical illness has been at the forefront of this speech but I go back to the emotional trauma that is characterised by mental ill health. It behoves our society to inquire in some depth about the motivations of people who wish to take their own life because of psychological stress. We should understand that in some situations after in-depth and exhaustive efforts to establish that motivation is sincere, a wish to end life is the individual's right. Notwithstanding that, a number of people will bypass any professional scrutiny. I wish to address some of the concerns that those opposed to this proposition are expressing. My understanding is that a vote today is only about the principle and any subsequent law will be a long time in coming. The law drafting will take into account the many divergent views and concerns expressed in the submissions posted in relation to this proposition and will also benefit from the experience of other jurisdictions cited in the many papers for and against this proposition. This proposition, as some would like to portray it, is not the end game, it is the very beginning as far as legislation is concerned. There will be ample time to take into account the many experiences of other jurisdictions, Holland, Belgium, Switzerland, Canada, et cetera. What we have today is an enabling proposition, not the eventual law. The proposition seeks an agreement in principle, not a move to assisted dying tomorrow. My wholehearted support is behind the proposition.

3.1.23 Connétable D.W. Mezbourian of St. Lawrence:

As we know 78 per cent of 23 people, the citizens' jury agreed that assisted dying should be permitted in Jersey and, therefore having this debate today. However, I have been contacted by far more than 23 people; contacted by letter, email and in person, in the supermarket, at my Parish Hall, and even visited at home. The majority of those have expressed the view that they do not support the principle of assisted dying. Their reasons have been numerous and are rehearsed in the many emails, letters and documents that have been shared with us. Expecting this to be an issue that would provoke much discussion and the sharing of personal stories one way and the other, I called a Parish meeting last week to gauge the views of my parishioners. The meeting was held immediately after a Parish Assembly in order to encourage people to stay and share their views with me and their Parish Deputies, however, following the Assembly - to our surprise - most parishioners left and their remained only 3. Only 3 to share their thoughts with their elected representatives on what is clearly the most challenging decision that we must make on their behalf. But we were grateful to them for sharing their personal experiences with us, during which we learned that they did not support the principle of assisted dying. I know that the majority of the 23 members of the citizens' jury were in favour of assisted dying. I know that those attending my meeting were not in favour, and I know too that most of those who have contacted me from across the Island are also not in favour of this in-principle argument for assisted dying. Views expressed in this debate today are clearly strongly held, however, our decision today will determine in principle whether as a society we choose to normalise the taking of a life. Whether, as a society, we choose to normalise the taking of a life. In all conscience, based on what I have heard and read, I do not believe that the majority of Islanders support that view. I shall not, therefore, support the proposition.

3.1.24 Senator J.A.N. Le Fondré:

I have to say I have found this debate quite challenging, and I am sure a number of others do, and particularly after the speech from Deputy Pointon, which I absolutely commend him for. Like all Members I have received a whole range of submissions and emails from members of the public.

Equally I would like to apologise to those I have not responded to; there has been a large volume and I have tried to respond to very individual emails that have come through to me separately. As I said, it has been an extraordinarily difficult, it has been an emotive subject and debate so far but obviously - as has been referred to as well - it has been very respectful and I am in a position to continue to listen to the rest of the debate. I am still persuadable to change my view but at this stage I am leaning towards supporting the main proposition which ultimately is in principle but obviously it does represent a very clear direction. I am going to try and spend not too many minutes explaining why but also, as other Members have said, a brief speech does not mean there has not been quite a lot of deliberation behind it. I am going to start at the point which is not belittling the subject in any shape or form - and I thought was put very eloquently by the Connétable of St. Saviour at the beginning of the day - which is, in not the same way, to a much lesser extent, I have also had exposure to animals large and small through my life. She spoke exceptionally eloquently around the fact that for animals we do ultimately make a decision to put them out of their misery, to put them to sleep, and that is a decision we take usually very carefully, but under present legislation we keep intelligent human beings in pain. Then we also have things like D.N.R. (do not resuscitate) notices, or indeed living wills, and I know those are different areas but they are touching the area we discuss today and all of them are not without their flaws. It also seems to me, as I understand matters, that even in the House of Lords as we speak a similar legislation has gone through a second reading - and I will refer to that later - and it is now in the committee stage. Even if you put that aside, within let us call it the British family we obviously already do allow Islanders to travel to places that already have assisted dying for those purposes. But, as we have already expressed, the access to that for all those who might want to avail themselves of that facility, for want of a better expression, is mixed and probably subject to their ability to access the relevant income. It does remind me of issues in the past which have been I think equally as important and equally as emotive. For example, I am thinking of abortion, is that it is at some stage taking a life and it is somebody else making that decision to end a life. But equally it is recognising that in certain countries where abortion has not been permitted residents who wanted to avail themselves of an abortion have basically got in the car or got on to a plane to go to a neighbouring jurisdiction to have that procedure undertaken. I do not think that is acceptable in the current age. So in those terms, that is kind of an area where we are seeing this whole position evolving. I think it is worth noting, and it was in a set of slides that I think was presented to Members, in a number of jurisdictions not only have they passed laws to facilitate it but in Canada, Spain, Austria and Italy as far as I can see, in varying times within the last probably 6 years or so the relevant equivalence of the Supreme Court or the High Court, constitutional court, have all ruled essentially a ban on assisted dying did violate citizens' rights. That is the one I am quoting on Canada but that does seem to be a theme across a number of countries, as well as those that have already implemented the law. I do also think there is a concern from a number of members of the public who I have spoken to is what happens when the body fails but essentially the mind remains fine and essentially one has ended up in trapped potentially in something involving a lot of pain as well. Equally, and as other Members have alluded to - as we all do, I hope, to speak to loved ones, particularly older ones - and I know the ones that I have spoken to have given me a very clear message that they supported the principles that we are debating today. That really got me to thinking; is it all very well imposing my view, but what about the person who is facing a terminal and painful illness? Do they not have the choice? I thought about both when my father died and also my in-laws, and certainly in my father's case it was the morphine that ultimately ended his life, that was a decision that was made for him by the medical staff. It was the right decision and, as far as I am aware, and it was obviously quite a number of years ago, he had no say in it. In terms of other correspondence, and obviously they do come from a perspective, it is interesting to get an email from Baroness Meacher - it was one of the emails I have had in the last 10 days - has been very heavily involved in the debate or bringing the Bill to the Lords. I just want to read a few quotes from her email to me. I do not know if it went to other Members as well. She describes in her speech how the options available to dying people are grim: "We can starve ourselves to death, a horrible way to die; we can refuse treatment with more

uncertainty about how much suffering that will cause; we can take our own lives - thousands of people try to do that every year in the U.K. and nine-tenths of them fail with the most appalling consequences; we can poison ourselves with stored up pills and alcohol alone to protect our loved ones. The law leaves dying people who desperately want medical assistance to die to travel to another country long before they are ready to die.” It did strike one chord because I do recall reading I believe on a matter of a couple who had stored up sleeping tablets and took them with a view to achieving an overdose. I believe in one instance it was “successful” and they succeeded and they died, in the other one I believe liver damage ensued which I understand is incredibly painful.

[16:00]

Interestingly enough the email finishes in quoting Baroness Davidson, who is saying there is an even greater imbalance: “Those who wish this, who desperately want it, are not imposing the same outcome on those who do not. But those who are arguing against are denying others even the choice.” It was interesting, and I think we have probably all had an email I am going to refer to - and obviously I am not going to name that individual - it is someone with a terminal illness who wrote to us saying that they wanted to counter some of the views expressed by people against assisted suicide, and this is in reference to the media. Essentially the 2 points I am going to pick out which they identified, some common errors are (1) the belief it is always possible to manage pain with medication, and (2) the belief that the alternative to assisted dying is dying comfortably. They cite a personal example when they were admitted to hospital in unbearable pain for hours, doctors tried to get the pain down to a manageable level, and for 6 hours they wriggled and screamed in agony. I think again that was a very personal remark made which again struck home. The one concern I think everybody I believe has in common is about safeguards, and I think the point I would make, which I hope will be taken into the work that is done, is that the safeguards must ensure that well but vulnerable people do not feel so unwanted or a burden to society that they would take advantage of this - again that is the wrong expression I think - for all the wrong reasons, and that those safeguards need to be in place. But I think to start to conclude, somebody I was speaking to very recently expressed the view that while they had a faith they did not want to impose or they did not feel they could impose that view on to others. What got me thinking as well is that we have all experienced pain in some form, whether it is emotional pain, some obviously childbearing pain, physical injury and mental pain, and what I cannot in particular envisage personally is that unrelenting pain that one cannot ease that one cannot touch. I think that really is what has brought me to the conclusion at present of supporting the principles. I think I am going to sum up by another email that was sent to I think all Members which cited I think the Governor of Maine when they brought their assisted dying legislation into law. The quote was: “It is not up to the Government to decide who may die and who may live, when they shall die or how long they shall live.” I think ultimately that is not a bad place for me to conclude my speech. I think ultimately it is about giving that ability to those who may well be in the minority - although I do reference the fact that it started with a petition of just under 1,900 people in 2019 - but it would give those people the ability to face in a way with better dignity something that will come to all of us at some point at the end of our lives.

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

I will be very brief. This has been one of the most difficult debates and I have been listening and listening to all the emails that I got, and I tried to reply to all. I said I was reading as much as I can and I was still trying to make up my mind because on the principle it is somebody’s life and why would I not think that they should have the capacity, should be confident enough to make the right speech. As we speak we are 49 confident people; that is what we are because that is the job that we do. Not everybody is like that and some people are influenced who are not even frail but they are influenced by family, they are influenced by friends, and there is just this nagging concern. I know it is in principle. The reading of the second part of (3) that says “has an incurable physical condition resulting in an unbearable suffering that cannot be alleviated” worries me greatly. I think that could

be interpreted so many different ways. It is there. I think we have had some excellent speeches but the main thing in principle that concerns me today is I have to vote, if I do, in principle and I then have to trust a completely new Assembly to see this legislation and all the safeguards put in place because it will be after the next election. People are voting who know they are not going to stand again; that is absolutely fine. I do not know. I have got to know a lot of people in the Assembly, I trust them and I trust their speeches, but am I confident enough to say in principle let us get this started and then somebody else has got to make sure all those i's are dotted and t's are crossed and all the safeguards we talk about are in place. I am not sure that I can. I am not sure it would be right for me to do that. I know other people have made their decisions and I think it will go through. I am still on the cusp but at the moment I think just for that simple reason that I cannot guarantee that I will be there to make those decisions and make sure everything is really watertight ... and I do not even know then, I have looked around the world and it does seem to start off slowly but the numbers increase. Is that just pure demand that is not being fulfilled at the moment or is it other influences? So we do need to know a lot more. I will leave it there; I have not 100 per cent made my mind up but I think I cannot probably vote for this today.

3.1.26 Deputy J.H. Young:

I have been really troubled about this debate and I have chosen to speak at the end because I still struggle with it. I think I have drawn the conclusion that perhaps I am not well-suited to social policy decisions. That is not my natural area, but of course as a States Member it is my duty - I will not escape it, I will honour it - to make a decision on behalf of our community. Whether we open the door to a legal framework and a system and Government apparatus which enables people to decide in certain circumstances when and whether to end their own lives, and enables others to help them. Where I am struggling is there are clearly 2 very stark alternative points of view. Clearly the majority of speeches have taken the view - and I can understand this 100 per cent - of the rights or at least the choice of the individual; in fact it is not the rights but the choice of the individual to determine their own lifespan in the event of certain circumstances. But there are also the implications on our wider society of that arrangement, of moving away from what to me and to those at my age has always been a traditional historic position of the, if you like, very precious special nature of human life. Of course when you look at those 2 principles they are inextricably linked, absolutely. So it is not so much the weighing up of the balance, it is to try and work in the interaction between them. Of course I listened very carefully, and I have listened very carefully to all of the ... and the Deputy of St. Ouen I thought really helped us about this, about the wider effects on our society. As to our Dean, and I really thank them because I think that really helped me. But on the other hand the many accounts from most Members speaking so far which have been about the experiences of loved ones and their personal experiences have been hard to listen to, and I am absolutely sure they are right because we know that medical science has got a long way to go and palliative care has not had the priority of medical care, research and anywhere near enough resources to that. The reality is that, exactly as Members have described ... and of course Deputy Pointon gave us a really moving medical view about that, and those are the realities. The reservations of course are all there. Constable of St. Ouen, I found his comments very helpful but what it comes back to is I am being asked to make a decision that I would prefer not to have to make but I am going to have to do it. We are advised that the citizens' assembly represents the view of Islanders but of course in recent days in a number of emails I have received and communications that has been challenged, so I really do not know. Of course I have had, like many other Members, many, many emails from the public, lots of letters and telephone calls, and I want to apologise to members of the public that I have not been able to reply to them all. While I have read them all carefully I found it really, really difficult to come down one side or another clearly, and I did not think my role was to influence others; I want to listen here. But I obviously got the impression that in the communications I got the majority were against. I do wonder if that might be an age profile in the correspondence; I do not know. So for me personally, while I hope to retain my faculties at my age and looking ahead, but of course none of us can know what lies ahead of us

except the certainty of our own death. That is something which, I will be frank, scares me, but it is the reality. But I can be certain about a couple of things I think so far which I think are going to influence how I am going to vote. I am absolutely convinced that the proposal that we have, I believe that it will change the nature of the relationship between medical practitioners and patients. Sadly, I think that will weaken trust. Certainly, in my generation we have absolute faith in our medics; they can tell us anything and we believe it. But of course, recently that confidence has been weakened by gaps in our health service, the pressures that are there, and to some extent it is a lottery I am afraid and that represents the reality of scarce resources and the pressures on the service. So it is a significant thing that that relationship is going to change. Of course, the other position is that of course there will be many influences on people making their own decisions to end their life, but it is a reality as well that those influences, not all of them, will be well-intentioned. I am afraid the reality of life, as other Members have said, does not support that. Safeguards, yes, I wish I could convince myself that the safeguards are going to mend the problems, we can guard against those influences that are not well-intentioned, but what is the level of confidence that I can have about bringing in legal systems, courts and those kind of processes.

[16:15]

Of course, we know that generally they are imperfect. So, I think where that all comes to, voting on my conscience, I would have liked to have had a referendum so at least we knew what the public view is but we do not. We will have to make the decision on what we know. So, I think my conclusion is I think the changes being proposed are a step too far and I will not be able to support them.

3.1.27 The Connétable of St. Brelade:

I am grateful for all those who have been in touch to let me and others have their views on what is for most of us going to be a difficult decision. I am grateful, in addition, to those who have arranged the various presentations from both sides of the argument. One might say that I am more chronologically gifted than some in our Assembly and have, therefore, had more experience as a result. While I do have some personal experience, I cannot honestly say what the states of mind of my late parents were at the time of their deaths, and particularly whether or not they would have elected to have to die earlier than they might. It was not something that they would have discussed. They, like parents of many others of my generation who had parents of that era, had a zest for life, they had experienced the deaths and horrors that took place during the Second World War. This may well have coloured their outlook with regard to their own lives. I doubt they would have approved of this legislation. To balance this, I have a 96 year-old aunt who had a late husband with Parkinson's. He ended up in care. She visited daily and he eventually died. I do recall my father being convinced that she had, in his words, bumped him off. This caused him to distance himself from her and I honestly believe he was frightened of what she might do next. While I have no certainty of there being any truth to this it highlights that there is the potential of fracturing family relationships as all may not necessarily agree with the process of assisted dying if and when this is the case. This, I understand, took place in Belgium. The psychological effects cannot be overlooked and the death of close relatives is an emotional experience which sadly many of us eventually have to endure. I am apprehensive of approvals in principle because I have experienced in this Assembly the difficulty in changing the course of such an acceptance as this laid out in the proposition. Notwithstanding the respect I have for those participants of the citizens' assembly, I have to say I am sceptical as to their utilisation in Jersey. We are elected by the public of the Island and have mandates to represent Islanders' views. I am sure many other Members have asked numerous parishioners on a daily basis for the views since this proposition was lodged. Many are having very strong opinions against the concept; others have strong opinions which are supported and I empathise with all their points of view. I had a call only last night from a friend who recounted the painful experience of the final days of his father-in-law's life and that he would have welcomed an option to die early. I am not a medical

professional but have read the views and reports of the B.M.A. and medical professionals in the Island. A point was made from another former nurse that the difficulty is that nearly every situation or circumstance is individual and may well not fit what is being proposed anyway. Doctors are not unequivocally supportive of the proposition and I do perceive that it is being driven by a very well-intentioned but small proportion of our society. However, I am prepared to be proven wrong. My belief is that while palliative care is far better than it was there is always room for improvement and that we should be focusing on that. I would for my part prefer to hear more from the public. This needs to be an election issue and I think a clear steer after the June election would certainly be the way forward. I accept that Deputy Morel's amendment goes in some way to achieve that but for my part I am unable to support the principles at this stage. I do feel it is incumbent on me to listen to those members of the public who have expressed their views on both sides, and based on the weighting of these various representations which have come from all sectors of our society, young and old, religiously driven or not, I just cannot support the proposition without clearly demonstrated public support, whatever my personal opinion may be. I conclude with a letter to the *Times* last month from a palliative care consultant who says: "Choice is often code for 'I want' and the discussion is then the balance between individual wants and societal risks. I may want to drive 100 miles an hour but the societal risks have dictated that the likelihood of hurting someone else is too great, therefore, society has introduced rules against it in this case with speed limits. Assisted suicide is the same. Individuals want it but omit to consider the wider societal consequences." Were this proposition eventually to become for every person with a life-limiting condition who would be under pressure killing themselves just when they were at their most vulnerable and scared inevitably there would be many who will take this option because they saw themselves as a burden, had misplaced fears, felt a hindrance on loved ones, or worse were pressurised to do so.

3.1.28 Deputy G.J. Truscott of St. Brelade:

It has been a very interesting and very thought-provoking debate so far and I want to thank all Members for their contributions. I also want to thank everyone that has written to us. There have been a lot of very heartfelt thoughts being put through the emails and it has been most welcome because this has been very difficult and I have, I must confess, swayed to and fro, one way or the other and from an individual that ordinarily knows which way very early on in a debate he is going to vote I found myself swaying. I was reminded earlier - it was Deputy Ahier's speech - and he referenced a neurosurgeon. That particular neurosurgeon that he referenced was Mr. Henry Marsh who featured on the BBC HARDtalk programme with Stephen Sackur and it was about assisted dying. Now, unfortunately for Henry Marsh he had been diagnosed with advanced prostate cancer. His P.S.A. (prostate-specific antigen), for those that are in the know, is 130. He is one of 5 per cent of men still alive with that type of P.S.A. Ordinarily for a man of 65 to 70 it should be in the region of 6 to 6.5. He has had a lifetime of treating individuals with prostate cancer and he knows that the medium-term prospects for him are not particularly great in so much as that you end up with double incontinence and paralysed from the waist down, and invariably you die a very painful, agonising death. He was very frank and I found the whole thing ... and anybody, you can go back to the BBC iPlayer and play it back and it is well worth the listen. It is a frank exchange, as you would expect on HARDtalk, it is one of my favourite programmes, but it just kind of resonated with me because the only thing that Mr. Marsh has been left with is putting together a suicide kit because he does not want to face the reality at some point of what he knows is coming. He has also got a doctor friend to assist him when the time comes. So, I think from his perspective this type of legislation - and obviously it is making progress through the Lords - is well overdue. There was another case the BBC mentioned, and it made news, of some poor individual that had a stroke and was paralysed from the neck down. I do not know if anybody recalls that but it was a very, very sad set of circumstances. I think this is what all of this is about is sympathising with this people, with the living hell that that individual must have been going through. I think at that time he too was calling for assisted dying and the legal route out of what was for him an unbearable state of being. I will be supporting this, I

think. Clearly it has got to come back at some point and it is all about the safeguards; plainly it is about the safeguards. I agree with Constable Jackson; there is an election around the corner, I am very conscious of that, and I think it should make it into the hustings as one of those absolute up there, needs to be discussed, and it should be well-illustrated as Members go forward with their manifestos where they stand on this issue. I think that is important going forward because the big decision is effectively not ours, it is for the future Assembly down the line. I want to thank Deputy Morel for bringing his amendment; I think it just adds that extra surety. I will just probably finish there but I just do not want to finish my speech and wish I had have said something so just bear with me a second. Yes, so just to finish, for me this is about compassion, it is about empathy, it is about putting oneself in others' shoes effectively and wanting to be treated as I would want to be treated in their position. Nobody wants anybody to suffer. I think palliative care that is supplied throughout the British Isles, particularly in Jersey, is second to none. I am sure we have all had loved ones go through there. Their work is just outstanding, it really is. So, I will be voting compassionately for this, this afternoon. I am aware that safeguards are absolute paramount, I am aware of the potential ramifications. These are all the considerations that must be given obviously very strongly by the next Assembly, but for me I will be voting for this.

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

Today's debate I think has fully explained the arguments for and against assisted dying and there is nothing new that I feel I can add to what has already been said. I simply want to say a few words for the record. First, like other Members, I want to thank all those who have emailed and contacted me on this issue. In fact, I have had more emails on this topic than any other, including the proposals for the new hospital. I have as many as I could and I wish to apologise to those who I did not get back to. I have read what you have said, I have taken your views into account. But this is a topic which divides opinion in the Island and whatever way we decide to go today will disappoint all those whose view we do not follow, but it is the duty of Members to take decisions, not to abstain or base it on floor polls. In the end I think it comes down to a matter of consciousness and personal experience. My conscience prevents me from denying anyone the choice to end their life in the circumstances set out in the proposition, although with a caveat there should always be robust safeguards in place to prevent coercion, whether subtle or otherwise. If I am in the States when the details come back to the Assembly in the future, the strength of those safeguards will guide my decision at that time. Like others, I have experienced a family member dying in terrible circumstances. I would not like to see others have to go through the same as they did. I know they would have liked to have had a choice in how they died and when but at the time it was just not possible. So, my conscience and experience has determined my decision. I shall be supporting this proposition.

[16:30]

3.1.30 Connétable J. Le Bailly of St. Mary:

I too have received many emails both for and against assisted dying. For many of us this has become a very difficult subject and face-to-face conversations have not proved to be of an opinion to make this decision any easier. People are always referring to human rights, and surely the right to die by an individual must be considered and respected. There have to be safeguards, as we all know. Should a person not be able to make such a decision due to a medical condition that prevents them from doing so then a decision has to be taken by the medical profession if there is no possibility of recovery or improvement of an irreversible medical condition. Death is part of life, it is part of our destiny as soon as we are born. It is just a question of when and how. We would all want to live a long life and die in our sleep, and indeed some people do. However, for most of us life comes with a cruel twist and death can be a prolonged, painful existence without any enjoyment. If someone wishes to endure such an existence then that should also be their choice, but quality of life is also important to someone who has enjoyed an active life and has no possibility of doing so again. We make decisions to ensure

that our pets are dealt with sympathetically when the need arises; a very difficult decision, as many will know, but necessary in order to eliminate physical and mental suffering. That option should be available to human life by the individual in order for individual choice, and perhaps sanctioned on their behalf. I am in favour of the principle that there remains a lot of work to get this right.

3.1.31 Deputy I. Gardiner of St. Helier:

As Members are aware it is really rare when I speak so late in the debate. This is the most emotive and complex subject that has ever come before me becoming a Deputy. I have, as other Members, received numerous well-informed, well-reasoned emails and letters from Islanders on both sides of the argument and I am really grateful. Apologies if I did not respond to all of them; I tried my best. I am really grateful for the Members, I felt myself even now emotional for this day and I was close to tears several times today during the speeches. There were emotional speeches from both sides. The Constable of St. Martin and the Constable of St. Saviour from one side, the Deputy of St. Ouen on the other side. They were very well-reasoned and I am grateful. Speeches from Senator Mézec and Senator Gorst and other Members, they touch on compassion, they touch on empathy from both sides. Not easy. This is where I am trying to withdraw and look maybe factual-based, and I think as my general rule that the Assembly should not have an opinion or power over what happens in people's private life. If it is the will of some Islanders to be able to die in this way, I do not consider it to be my place to deny this. The ability of a person of a sound mind to decide what they want to do with their own body is one of their fundamental rights as a human being. I also believe that hospice and palliative care work is important and it should be enhanced and continue to be developed. I personally do not see it as hospice/palliative care or assisted dying. For me people ask for assisted dying as a separate additional end of life care choice. It is about giving choices. Palliative care access does not eliminate requests for assisted dying, nor does the request for assisted dying indicate a failure of palliative care. Rather, assisted dying is one of many options that can safely be made available to the people at the end of their life. Back to the facts; I read through all letters, presentations, sources that were available to me, and in the countries that have introduced assisted dying, such as Canada and Spain, I have not found evidence of the reduced provision, and as most of the Members stated about concerns, the safeguards that should be clear and protecting. Switzerland has seen a decrease in do-it-yourself end-of-life attempts since it introduced assisted dying 35 years ago. It is a long-term study. Also, from the statistics that I have seen I did not find evidence that assisted dying has been normalised in any countries that have assisted dying; the practice has become a normal practice ... it did not become a normal practice. Again, back to Switzerland; with 35 years of experience this still accounts for only around 1.8 per cent of all deaths through the assisted dying. So my thoughts are around the safeguards which should be very clear and protective, and personally I am reflecting after conversations that I had with my constituents and I am still not sure ... I know that I will support assisted dying, self-administrated, I am not sure about euthanasia, and as we know in Switzerland it is not allowed when in other jurisdictions it is allowed. It is a decision that we are making but we need to make this decision and, as the Chief Minister said, I do not want to deny to others the choice. I am grateful for Deputy Morel for bringing his amendment because it is allowing us to reflect, to continue the conversation, and the Deputy of St. John, which are really echoing using what effort to say it is the beginning of the journey, it is allowing the conversation. We are not voting for the assisted dying introduction tomorrow. I will be voting for this today to continue this journey and the conversation.

3.1.32 Senator L.J. Farnham:

I, too, would like to thank all of the Islanders that have been engaging with their elected representatives on this really important issue. This is an in-principle debate. I will not speak for long but I think generally we find if we agree something in principle it means it is going to happen in some way or another. This is one of the problems we have time and time again: can we support the principle without the detail? Like I said, I will come back to that towards the end of my short contribution to

the debate. We know that a lot of the arguments we have heard and will hear on this debate are ideological and are guided by religion, spiritual beliefs, ethics, opinions based on personal experience, age, culture. I think it is also a generational issue, as are many key political issues now as new generations of Islanders come forward and we see the change in our Assembly and, of course, the priorities change. Those are all major contributory factors to our thinking. In my case I have sat by the bedside with both of my parents who died natural deaths peacefully, albeit prematurely, surrounded by their family and with the aid of fantastic palliative care. We have no regrets about that and I have been thinking about had the family been confronted with a choice or had my parents had a choice to manage their destiny in a different way how would we have thought about it, would it have made the grieving process any different? Would we have felt pressure to support them? Would we want them to die sooner or if we wanted them to stay with us for longer in the hope that there might a recovery? I remember before my mother died - shortly before - there was a fantastic recovery and I thought that was it, she was better and then of course it went the other way. Would there be guilt or remorse? Those are things we have to think about very, very carefully. But of course rapid and continuous advance in developments in medicine and technology have provided the ability to save more lives now than it has ever been possible to do. Medicine has placed at our disposal the means to cure or to, at the very least, lessen the suffering of people afflicted with terrible illnesses and disease which were once fatal or most painful. At the same time, however, medical advancements have given us the power to prolong and sustain lives, or some might say prolong the deaths of patients whose physical and mental capacity just cannot be repaired or restored, deteriorating conditions cannot be reversed and, of course, whose pain cannot be eliminated. Before doing some research I found it difficult to believe that my own personal experiences, and with the advancement of modern medicine, that there was pain that could not be cured or could not be managed, but it is quite clear that in some, mercifully few, circumstances there is. The case for assisted dying is a powerful one, appealing to our nature and capacity for compassion and the obligation to support individual choice and self-determination. The case against assisted dying is also about choice and we have heard some powerful speeches today for both sides of the argument and it speaks to us of fundamental and important respect for life. Also, as some Members have said, the risks of moving perhaps towards, as some may see it, a diminished respect for life because, as I said, most of the arguments are ideological. Many Members started by saying: "We will struggle with supporting a principle without the detail." I think whatever we decide today this is coming because if we do not agree the principle today, future generations of elected representatives will. If we accept the principles the debate on the detailed legislation, which will be more important than this one when it comes, will compel us to choose which values are most important to us as individuals and as a community. I came into the debate pretty sure that I was not quite ready to support it. I think I might have changed, I am not sure and I do not think I am going to know until the time comes to press the button. But what I do know is this will be an option for the human race in most countries around the world sooner rather than later and maybe the sooner we move to discuss the detail and are compelled to make a final decision one way or another might be the best way forward.

[16:45]

3.1.33 Senator K.L. Moore:

As many Members have referenced, we have all received a very high number of communications from members of the public. It is, in fact, really good to see so many people engaging with what is a political decision. I think it shows the strength of our community and an engagement that I hope will continue and be enduring beyond this important debate. Today is just one day and this debate will return to a future Assembly, and that will be if adopted today in legislation. That is the point when, of course, the detail and the scrutiny will happen. One thing that has really struck me about the communication that we have received from members of the public has been the number of older members of the community in particular who have been really concerned and uneasy about the notion of this in-principle debate and the notion of assisted dying. I greatly regret that those people feel that

way and it is clear that a good deal more communication needs to be conducted with the community upon this topic whatever the result of the vote is today. That being said, there have been great efforts by members of the community to hold conversations for the public to attend and engage with, and that also is a positive thing. I am very grateful to the organisers of those debates and can only say that I would like to see more. That being said, I too struggled with the concept of this debate. A lot has been said today and I simply wanted to refer back to the words of my good friend, the late Alain du Chemin who wrote to us all before he died earlier this year. Alain, as we all know, had a brain tumour and in his letter he wrote: “The symptoms of late-stage brain cancer are not pleasant; pain, sickness, becoming unable to gain any enjoyment from my life, losing my dignity, I do not want to endure that kind of death, nor do I want my husband and my family to be left with memories of me suffering. Palliative care is wonderful and I am grateful for it but it can only do so much. I want to decide when the time is right for me to go to sleep comfortably, peacefully in my own bed with my loved ones around me. What makes anyone think they have the right to force me to die in a particular way, a way I do not want. I do not want to end my life, but it is ending. I merely want a choice over how it happens.” Having sat with my brother, my own brother who also died of a brain tumour, I struggled with Alain’s wishes. We discussed it on many occasions, but I thoroughly respected his wishes and I think the Constable of St. John, if I can remind Members of his excellent speech, also made a very important point about the level of consciousness that a person endures or experiences at those very last moments, often under the control of very strong levels of drugs. That is what Alain did not want to experience. Having seen somebody leave this world in a similar circumstance, I can completely understand that. Today we are talking about principles and today it is about choice. I would like to respect the wishes of Alain and others who feel that way, but I also think in doing so we must offer reassurance to those who do not want to see that choice for themselves, no matter the circumstances that they may face physically in the future. I would encourage for the life of this Assembly an ongoing conversation to ensure that the legislation that comes forward, if this is adopted today, will provide very strict safeguards and also a very clear framework of regulation that will give confidence to every single member of our community and also the medical profession who will be involved if they wish to in offering this to their patients. I think that is all I need to say and I am grateful to all Members today for their very heart-warming speeches. It has been a good debate and I thank you.

3.1.34 Deputy M.R. Le Hegarat of St. Helier:

I, like many today, have sat on the fence. I have gone round in circles and I have lost quite a lot of sleep in recent days wondering what I was going to do about this debate. As like everyone else, I have lost very close family members where that has had an impact on us and I think we will have all have had that experience. The last 3 years as the Health and Social Security Scrutiny chair we were presented fairly early in our time in the Assembly with those that wanted us to look at assisted dying and we had the presentations. I have to be quite frank, I never really thought much about it when I first was approached by them but as the time has approached we had more and more emails from all sorts of people with all sorts of views and across the spectrum. Because of that I decided to do a bit of random research myself and so what I did was I stopped and spoke to people who I see on a regular basis, I go in shops, I go in regular ... you know, the fishmongers, the butchers, et cetera, and so I just randomly started to ask members of the public what they thought about it. Some of them were very strict on the point of view that they were religious so they felt that they could not be supportive of it, others had not actually thought about it and others said that they thought that there needed to be strong safeguards. That is something that all of us today would agree. If it goes through and it comes back for debate in legislation, those strong safeguards need to be in place. But also I think Senator Moore made a good point whereby we need to make sure that the members of the public have a good idea of exactly what it is actually happening so we can alleviate any fears that they may have about what is coming. New Zealand had a referendum in relation to exactly this fact before their legislation was totally passed. They put together the legislation and then they asked the public by way of

referendum. That may be something that this Assembly in the future will consider. I would probably be supportive of that but obviously it probably will not be this Assembly and I may or may not be here in the future. But it is a good way that the public may feel that they have had their say and, as it happens, we would then know exactly what people do think. Principally I do think that people should have a choice. We all make very difficult choices in life and I am sure all of us at some stages have done that. Many people have said that they feel that the relationship with their G.P. will change. Unfortunately, my G.P. retired a few years ago but I had seen that same G.P. since the age of 17 and he took me through a very late pregnancy, he took me through the death of my mother, *et cetera*, the hard times and the good times. To be quite frank, I do not think this would have changed my relationship with him because I felt that whatever my problems were, whatever the joys of life came or went, I was always able to go and have a very strong, very honest debate with that G.P. as to what my options were as to whatever I was considering at that time. I think from my perspective I do not think that will necessarily change but obviously we will see. I think it is valuable that people have options and that I too would really hope that the Government moving forward will ensure that there is good palliative care and that people can be given what they want and what is necessary for them to come to the end of their life in the - how can I say it? - easiest possible way for that individual.

3.1.35 Deputy K.G. Pamplin:

It is a pleasure to follow my Chair of the Health and Social Security Scrutiny Panel, of which I am Vice-Chair. Before I get to my speech I would just like to, with my Scrutiny hat on, talk to our comments paper that we did provide to States Members for this debate. The reason I do so is because we were approached as a panel by some Members why we had not done a piece of Scrutiny review on this actual proposition. We felt it would be useful to outline our position in the work that we have done and that is what Members and members of the public will see in our comments paper, which I will not fully read out. I would just remind members of the public and Members that the decision to go down the road with this citizens' jury came in February 2020 when the Minister for Health and Social Services committed to establishing this citizens' jury to consider whether assisted dying should be permitted in Jersey. As his Scrutiny Panel we obviously have quizzed him multiple times in quarterly hearings. We have also met with the organisations putting together that process and members of the independent board and that is why we were safe to say in our comments paper that it did not have any political influence, was impartial in its uniqueness as well for the Island and it has been mentioned in previous speeches about the numbers of people and the decisions made. Much like a jury process, it is very difficult to go to members of the public, to ask and debate in the census of a jury on a subject matter which is universal. In saying that, the process of bringing people forward was very independent in its bringing together as people. Somebody mentioned that one of those people during the process changed their mind and was against. I just wanted to conclude that point of why the Health and Social Security Scrutiny Panel have not done a review, because we believe that this is an in-principle proposition today, the role of the Scrutiny Panel will not be best utilised at this stage until the policy legislative process begins and that process will be, as others have mentioned, in the future. I now turn to my own individual speech in this debate. I will speak in detail. Many reasons for that. One is there are no guarantees in life. There is no guarantee of tomorrow. Every day is a gift and we must treasure each day and live like it could be the last. I also, in a less serious moment of reflection, do not know if I will be here following the general election, which is fast approaching. I wanted to bring forward as much fact-based information and some of the voices that have struggled to be heard for this debate. Any debate on this subject matter is one where there are no simple answers. A debate in which we need to acknowledge that truth and moral decency lie on both sides of the argument. Crucially in my opinion it has never been so important, of all the debates the Assembly has had, that context is vital in judging - as we are sworn to do so - what is right from what is wrong today.

[17:00]

I also believe this is such an important time to have this debate for many reasons and also the genuine interest for real everyday folk of all walks of life who live on this Island. Given what this Island and the world has just been through with the pandemic but also highlighted again one of the biggest issues facing all of us in modern times. That is separating fact from fiction and how opinion is used as a weapon. To quote as I often have many times the following quote: "You are entitled to your opinion, but you are not entitled to your own facts." I say this now at the beginning stages of my speech because, as I started by saying, much of the wider discussion on this particular issue must be explored but can be mired in bad assumptions. Sadly, we live currently in a generation where misinformation can spread like wildfire and much like wildfire it just needs one spark to be out of control, most telling on social media platforms and some 24-hour news media presented as an opinion with driven agendas. Nothing new, some would argue, as tabloid media for generations have at times previously been accused of this but now on social media dangerously unregulated and manipulated with algorithms on social media linked to your chosen bias of media, it is a reality that we all face and one that must be challenged and spoken about. Back to this topic, when you step back and start at a neutral position, start to do your own research, you can see this more than ever. It is so much more accessible and easily done on both sides of the argument, sometimes done unintentionally, sometimes only done to win, no matter the costs. For example, on one side the idea that opposition to assisted dying is driven primarily by religious deliberate restriction and knowledge and truthful facts and the other side proclamations that those who support this issue are tantamount to murderers, not to be trusted, have zero value for life. These are not good places from which to have a hugely significant yet highly sensitive public debate. It is to this Assembly's great credit that this debate has not crossed many of those lines. At the heart of this subject is the critical argument about the sanctity of life. This is not just a religious or a faith-based argument, we all in our 49 each individual ways know well the special meaning of the right to live in a democratic and free society, that we represent and debate in this Chamber to improve the shared outcome, even though through different ways and political beliefs, to improve the lives of all. That we show respect and dignity to each other, to the professionals we work alongside and to the members of the public who do engage with us with their views and wishes. Some of us, of course, use the sanctity of life in absolute terms and while I do not belong to any known faith groups, I am a firm believer in having faith and that personal choice is to be respected. There is nothing to and should not be made to fear. Being transparent and having a very clear, honest reason for doing something, if that is your faith and the base of your chosen view, should be respected. But sometimes in the world of politics we also know all too well that sometimes the real reason or thrust for doing something is not so forthcoming. Such a sensitive subject we must be alive to that also. When we think about the stress of the intrinsic value of life and the worry that expanding the legal capacity on this subject, if approved, that somehow we are drawn into viewing human's worth in a devalued way. However, if we have been so perfect as a human race why has it taken humans - and thankfully so now - years of evolution to fight for disability discrimination rights as one example, as a priority, while still in some certain areas of delivery we are still asking and missing strategies on dementia and carers. The pandemic exposed, by putting a mirror up to our society and the planet in a larger context, how far we have come but we still have a way to go until everyone is treated as an equal. Still today people are suffering and sometimes in great pain. However, it is that capacity for subjective evaluation of another's suffering or choice that truly makes us human that this is the choice of freedom, free from the lack of liberty that this Island knows painfully more than most what not having that is like. A second argument heard is one I have encountered in my life and times in the previous jobs and roles before and in this job that I have now, and also mentioned by other States Members, the argument of slippery slope. In the world of mental health and personal self-improvement, this is now referred as catastrophising. It is one of the root causes of the feeding of irrational thoughts and anxiety. It has been a subliminal cultural issue for such a long time and it is so clear the way the 2 dangerously feed each other. In the context of this in-principle decision debate, combining the aspects of conceptual, presidential and catchall, the slippery slope argument uses quotative language and obscures the fact that there is a clear conceptual

distinction of what is being put forward today in this debate. On the subject of mental health and on the subject of suicide, sometimes we have heard that word today and it is difficult for me not to acknowledge that this terminology is very complex. In fact, for those who have been through the painful experiences of losing a loved one to this there are no simple answers and there is no simple reason for why people do this. We have to be careful. We have a responsibility in how we talk about these things and how these things are reported. One other observation I also want to highlight, which I have misquoted or used on both sides of the argument, is using some data from the state of Oregon. As part of their process and safeguards they produce a yearly report with the evidence that is gathered as part of that. There is a section called "End of Life Concerns". The context is in relation to the person providing that information meeting the legal safeguards of having a terminal illness and being mentally competent of their decision when doing so. In 2020 245 met the safeguarding needs and made their personal choice under the Oregon Death with Dignity Act. Of the multiple choices to choose from their answers the top 3 of their end-of-life concerns, by some distance, was as follows: 231 of the 245, 94 per cent, stated less able to engage in activities making life enjoyable; second, 228 of the 245, 93 per cent, losing autonomy; and 176 of the 245, 72 per cent, the loss of dignity. Those 3 are most frequently in the top 3 of this report in its 23-year history of and consistently as the top 3 choices in this report. They are also clear of those 245, 66 per cent of those people had a terminal cancer diagnosis, patients with heart disease 11 per cent and those with a neurological disease 8 per cent; 81 per cent of those patients were 65 or older. The total number of deaths in the state of Oregon for 2020 was in the region of 40,226 with only 245 taking their law passing the safeguardings with the Death with Dignity Act in the state of Oregon. As we know, it is not for everyone but they have that right and they have that freedom of choice in that state in that country. Again, numbers, context really matter on this subject. For comparison, the fourth chosen end-of-life concern in that survey for those with a terminal illness, as I have explained, 66 per cent of which have been a form of cancer, they have cited as a possible burden on their family, friends and caregivers. Of the 245 people in 2020, it was 130, which is 53 per cent, but it must be kept in context against the fact of a personal individual terminal illness when submitting that information and not because of their age or any disability. I see what they are saying as a compassionate admission to their loved ones; honest and brave. I believe our role and duty in this matter, which is the responsibility we have shown by engaging in this debate today, is the maturity of this Island's democracy that proposals on all contentious issues should be worked out through public debate and by the public's elected representatives like, for example, this debate on assisted dying laws, for example, the argument to value the lives of old or those with disabilities or access needs. We must be clear that our Island society should view vulnerable people to whom we have obligations as that and not as inconveniences weighing us down. I believe the real issue is less the laws than wider societal attitudes and priorities towards the vulnerable people that should be even existing to all of us. We can understand why, of course, when so many do feel cut off from the rest of Island society, the frankly unforgivable state I found our inpatient mental health facility in when I visited in 2018, even before I had my oath of office, the growing number of young people let down in care or the elderly struggling with rising costs, the cost of living, or those with disabilities and access needs still needing more reassurance and a carer strategy. It is just not right on any humane level that our fellow Islanders with a disability would fear in any way. We are simply not that Island and I firmly believe and have great faith that any laws passed in this Assembly would not allow that, not that on this Island, not ever. For those who are worried about processes, I have great faith in the staff and the professionals that serve this Island, be it those in the civil service, be it those in Law Officers' Department, be it those on the front line, the nurses, the carers, the care providers, those in charities. I will cite a recent mental health report that we are all aware about. This independent review noted that it met and spoke with many professional staff on the front line who had a real motivation to develop and improve the service and the care and have the potential to achieve positive change. It is crucial to remember so many of our wonderful services are supported on faith and charity. So, is that right? This, for me, is a very big moral question for the Island going forward, especially when we are talking about the Jersey Care

Model. It must be successful; it must. It is also a wonderful uniqueness in the heart of the DNA of this Island, much like our Honorary Police Service. It has to be valued, but valued, supported and evolved with the times. The amazing Jersey Hospice Care, of course, with its high standard of palliative care in its premises for those like myself who have gone through that service, caring for our loved ones as we said goodbye to them, is one that words just cannot justify what they do, but they have limited rooms and we would all love for them to be able to expand. Of course, others also provide that service via the hospital settings and Family Nursing and Home Care, but we must look at the provision of the care we offer as an Island and provide what is sustainable, especially for the elderly, and do more to support the unsung heroes of this Island, the carers of this Island, young and old, mostly unpaid. During the COVID pandemic in the United Kingdom there were some abuses of the “do not resuscitate” orders, reported to have been given to those with learning difficulties without regard for their wishes or welfare. These stories were shocking and it is right that it was called out because then you begin to understand and see the anxieties and concerns of those we have been hearing and why it is our absolute duty to protect them. But I would stand here firmly today and ask how many of us would argue that the solution would lie in getting rid of D.N.R. notices? For me, that same logic is the same for this debate. There are many other questions, from the need for improved palliative care to the relationship between an individual choice and the common good with which to wrestle in this debate. Too often, though, these get entangled in a common refusal to see the significance of the argument from the other side. Compassion and moral righteousness does not belong to the few. I will conclude by saying that when I was the business manager of the Jersey Brain Tumour Charity I met some of the bravest and strongest Islanders you will ever meet. Despite the sudden and tragic world that has now taken hold of their families, so many times the work that that charity and many others do is centred around the support needed for the loved ones of those feeling helpless, watching their loved ones change in front of their eyes, in pain sometimes, and slipping away from them in the cruellest of ways. Although I never met Alain, he sadly passed away on 1st May this year and although fortunately it was a peaceful end, as Senator Moore stated, his final months were without choice. I would also like to quote his final words to us in his email: “I do not want to end my life but it is ending. I mainly want a choice over how it happens. When you consider the outcome of the citizens’ jury you have a chance to do a thing for our community and to lead the way for the rest of the British Isles, and the world, on this end-of-life choice. I hope you will not waste it. Yours faithfully, Alain.”

[17:15]

This tiny, imperfect Island has stood as a beacon of hope and light in the darkest of times to many who need it, from more than 75 years ago and in different ways this past 18 months. Today, after showing much openness with a careful, truthful, compassionate and legislative-minded debate, we could go forward, protect the vulnerable, vow to improve all the lives, in and out of this debate, in the memory of those not with us today and the future of those to come. As others have said, the work to get the legal and ethical safeguards will commence, including political scrutiny on both sides and, as others have also said, and I could not agree more with the chair of our panel, as New Zealand led the way, engaging with the public every step of the way, much more than we have ever done in the past. I call for the proposer of this to take everything as it is written to give as much choice, to be less narrow-minded so it can come back in the future for the work that needs to be done with dignity for all. Today is that day. Empathy is a choice, one we are about to make to give choice in the name of those who are not here in person but with us always.

3.1.39 Deputy K.F. Morel:

I would like to thank everyone who has spoken so far, particularly all members of the public who have engaged with us and members particularly of my Parish, in my case, who have also engaged with me and others on this incredibly difficult subject. It has been well debated and well thought through so far in the main, certainly in terms of its tone, but I do feel that there has been a tendency

to overlook reality almost in a Panglossian manner, believing we live in the best of all possible worlds and it is that that I am going to concentrate on. I am going to have to speak through my reasoning on this because, quite simply, the first I really engaged with the issue of assisted dying was, in fact, the last election. It was an election issue at the last election, and we were all, as election candidates, asked by various people our thoughts on assisted dying. My thoughts were quite simple: in principle I am in favour of assisted dying, so clearly I should be pressing *pour*, but my principle is based on the fact that I believe in people's liberty. I have a tendency to believe in liberty and the desire of a choice; live and let others live. I am not someone who wishes to get in the way of people's choices when they are not harming others or when those choices can be made in a proper context, but I knew what I believed then, which is if we are to bring in an assisted dying system or regime or service in Jersey, we need to have a very clear, very sober Island-wide conversation and debate about it, not just a debate in the States. In my view, and I said back in 2018, this is not something to be led through the media. This is not something for any party to grab and raise as a burning issue. It is not something to be populist about. It is something that we need to think very carefully about, and this is all while believing that personally I would quite like that choice in certain circumstances and I do not particularly wish to deny it to others, but this is not about me. This is about the Island of Jersey and the people who live within it. It is about our society and the debate today has very much focused on the individual and a lot less on society. We heard the previous speaker who spoke excellently well, but in my view did not really speak about some of the reality involved in assisted dying and it is that that I really want to focus on. As I have listened all day, there has been very little discussion of the process of assisted dying and by that I do not mean the safeguards; there have been mentions of safeguards. I mean the actual process, the actual how does a person who partakes in assisted dying die? That has hardly been mentioned today at all. We, I believe, as a Chamber and people in general, me, myself, when I think about assisted dying, if I was doing it for myself in an awful situation where I have a horrible disease and it is causing me pain, I think we tend to think of it as being easy. You take some pills, you have an injection or whatever it may be and away you slip. In fact, somebody did talk earlier about going to sleep and slipping away, but this is not the case. The practice of assisted dying appears to be different. In fact, in the *British Medical Journal* from earlier this year there is an interesting letter from a pharmacist who says that: "Many promoters of assisted suicide often suggest that the use of medications during the assisted dying process results in a pain-free, dignified death for all. This is not the case. Modern medicine cannot guarantee a pain-free death. The difficulties and complications of medication administration during the assisted dying process are rarely mentioned by those promoting the introduction of assisted suicide or euthanasia to intentionally end a human life. Many deaths during assisted suicide are prolonged; patients may become unconscious relatively quickly but the dying process can take up to 30 hours or more. There are also reports of people re-emerging from a coma and sitting up during the dying process. This causes anguish to them and their loved ones. A number of medicines used in assisted suicide and/or euthanasia were previously used in executions. The use of medicines during executions has been described as inhumane with reports of people feeling burning sensations throughout their bodies prior to death." It has struck me that during today's debate there has been very little discussion of that element of this. Certainly, because I have taken a count and a tally, it does seem like this proposition is going to pass quite overwhelmingly today. So when it comes to that second stage - and I do apologise, I did mean to thank the Minister for accepting my amendment, which was there because of the way I felt back in 2018 about the need for a long, sober, prolonged discussion about this - it strikes me that when we come to that stage we have to look at this closely: what is the reality? Death does not come easy and I fear we believe today that it does. Another issue: there has been talk about slippery slopes and again Deputy Pamplin talked about that and the fact that it is a form of catastrophising and I understand that position and often would agree, and it has been raised with me, the slippery slope idea. That has happened in some countries, so let us not pretend that it cannot happen here. It can, it has happened. I do find it incredibly difficult to understand how Belgium or the Netherlands, it may be one or the other or both, have extended assisted dying for children. I find

that incredibly difficult to understand, but the area I would particularly like to focus on here is the issue of mental health. The proposition before us quite clearly states that we are talking about physical suffering. I will just briefly turn to it. If we pass this today the person must have been diagnosed with a terminal illness or is reasonably expected to die within 6 months or has an incurable physical condition resulting in unbearable suffering that cannot be alleviated. Why has there been the definition of physical? Quite simply because it is excluding mental and mental health. Here we are saying that physical suffering, you can alleviate that through assisted dying. Mental suffering we are saying: "No, you have to put up with that." I could quite simply understand how when it comes to mental health, if we pass this in the sense of it goes through all the stages and becomes legislation and becomes a system and a service that is offered and available in Jersey, it will not be long before mental health is brought into that and I can understand that. I have friends with mental health issues. I have people I know in my life who I believe have an illness which one day will lead directly to their death. People who suffer certain mental health problems, for many of them they are effectively suffering a terminal disease and yet we are going to be denying them this. So, I do not know if "slippery slope" is quite the right phrase but I would say it is going to be very difficult after passing this to deny the extension to people suffering from mental health issues because who are you or who am I to say that physical pain is more difficult to live with than mental pain or emotional pain. So, it is very difficult and I am trying to get to grips with that because I do not know if I have the right to say that everyone, whether it is mental health or physical health, should be able to access assisted dying or whether we should just say no. I think there is another issue which has not been discussed so much. It has been brought up once or twice and that is the issue of uncertainty in life. I have a very close-to-home example of this and that is a member of my wife's family who a number of years ago, 5 years ago, was given about 3 months to live, suffering from an awful cancer and it was over the Christmas period. So, on New Year the family organised and travelled to the U.K. to celebrate New Year and one of the strangest New Year celebrations I have ever encountered because you are trying to celebrate New Year while also knowing that you are saying goodbye to somebody. This person had been given a prognosis of not seeing the end of February and so it was a very odd situation. We also firmly believed it. The doctors had told her that she would not live past February. In the time between New Year and February, which is not a very long time, she discovered a trial programme for medication that was being put through tests, that was only being offered in the area of the country that she lived in. It was a very small trial but she was offered a place on it, so she took it, and the wonderful news is that she is here today, 5 years later, and she has an excellent quality of life. It is not a case that she is living a demeaned quality of life; she has an excellent quality of life, a life that she was told, by the doctors, she would not be able to lead. This is not somebody who has been given 6 months to live and ekes that out or lives a year longer than expected. This is someone who was given no more than 3 months to live and 5 years later no longer has cancer and is enjoying life with her family around her. I do find that very difficult because when we are talking about somebody who has been given a certain amount of time to live, therefore they may choose to end their life, how long should that period of time be? As I have discovered through my own family's experience, 3 months might be too long. Maybe we need to say it should be 2 weeks, something like this, because life is uncertain and we do not know what is around the corner. If I can go back, and I apologise for meandering in this speech here, but I talked about mental health and how that for some their mental health problems are effectively a terminal illness. That also brings up, I think, the matter that has been raised of the increasing suicide rates that apparently accompany - and I take other people's research for this - assisted suicide regimes, for want of a better word, assisted dying regimes. If I could quote a consultant psychiatrist who works in Jersey who referred to the Werther effect: "A phenomenon whereby background suicide rates rise when there is heightened publicity on the matter" and noted that suicide rates had increased by a third in the Netherlands since assisted suicide had been legalised.

[17:30]

In Jersey we are working hard to bring down our suicide rates. Do we really want to introduce measures that will make them rise? I do not know if it will make them rise but it is something when I talk about this idea we have been talking about individual choices, I firmly want my individual choice to be able to turn my life on or off but, as I have said, there is a reality. There is no way of turning your life off, no easy way, but on top of that if my desire for my choice means that the social effect is to increase suicide rates within our society, then what is the cost of my personal choice? I am finding that one really hard to come to terms with. It was something that I had not considered until I first read about this recently but it is something that has hit me hard. If decisions of this Assembly result in increasing suicide rates outside of the assisted dying regime, I find that really problematic. I am struggling with that. Then my final part, which is really I want to talk about Jersey and first of all I will go to the in-principle issue. In principle, I am in favour of this but in principle I am finding it hard to vote for this. Part of that comes down from the situation we find ourselves in Jersey today. Number one, in terms of the British Isles we would be pretty much, I believe, the first in the British Isles to be doing this. I am not sure this is an area we should be leading but outside of that I question our ability to deliver the regime, the systems, the regulations and the safeguards that are necessary. When this passes, because it looks like it will - there is no question I will be led by the Assembly on this, there is no question that I will in any way try to stop the Assembly's wishes going ahead - I will be, if I am still in the States Assembly, looking through those regulations and those processes with a fine toothcomb because we have an issue in Jersey where we are seeing processes within the health system failing due to individual actions, collective, corporate actions, time and again. We saw recently the mental health review, which Deputy Pamplin quoted from, and one Islander speaking about that recently published mental health review said: "The crux of the issue here is the significant professional improvements needed from our consultants to deliver treatment in care in line with guidelines and evidence-based practice. Unfortunately, professional processes and practice are not delivered to a consistently acceptable standard by our senior clinicians. This places our Islanders at risk." Now, that was about mental health but you can talk about that in many other areas of the health service. We speak to people, I speak to people, whether the problem has come at the primary care or the secondary care level, where processes and individual professional decisions have failed them. This is not an area where we can fail Islanders and so I really do worry about our health ... when I say health system, I mean the entire system not just the government elements of it, all of it. I question whether we can do this properly. I question whether at the moment ... maybe in 10 years after lots of investment maybe we can but at the moment can we after years of the lack of investment? I am not so sure. In a similar way, a very recent article, news item really disturbed me and spoke to me strongly on this. That was the issue that was raised recently in the coroner's court where, and I am going to speak about the news item and I am quoting from it here: "An elderly woman whose death was caused by the effects of sedatives and opiates was wrongly given end-of-life care after the pain she felt was attributed to cancer instead of a rib fracture, an inquest has concluded." That terrifies me. A lady had a rib fracture that was diagnosed as cancer and so they chose to go down end-of-life care. That is happening now. That is where we are today. How are we going to deliver an assisted dying regime when that is where we are today? That really worries me. What really worries me even more when we are talking about assisted dying is that same article then goes on to say: "The case very nearly did not come to inquest at all because the lady's initial cause of death certificate gave no indication that she had died from any condition other than natural causes." We would never have found this out if somebody somewhere had not finally realised what had gone on, that the processes failed this lady and her family, from the individual doctor who did not diagnosis correctly to the processes in the health service that then failed to pick that up until the very end, which was her life had gone but the inquest which nearly did not happen. So certainly if this goes ahead I will be making sure that anything with regard to the processes and procedures when that comes back to us ... I will be working as hard as I possibly can to make sure that every single assisted dying case goes to the coroner because we will need ... that will be the only way we can make sure that there is not abuse or failure of process in the assisted dying system, if that comes

through. That is something I resolve today because we will need to make sure because that cannot happen that people have been diagnosed incorrectly, given end-of-life care for something which was not end of life, and then not going to inquest. That cannot happen if this is to succeed. So I look at all this, I look at the picture of Jersey's health system at the moment, which is undergoing enormous change, and I question whether we can deliver this. That is the reason why despite the fact that in principle I am in favour of this, I do not feel I can vote for it. Maybe in 10 years after investment, et cetera, after the new hospital is in place, after the whole system with the Jersey Care Model, the hospital, after all of this has settled down, after we have got the primary care in the right place and working properly within that integrated care model, maybe then I will feel Jersey is in the place to deliver an assisted dying system safely. The previous speaker, Deputy Pamplin, did say we need to look at the context and the context here is that Jersey's health system is not capable of delivering this in a safe manner that protects Islanders. I will briefly touch on coercion because that is one of the biggest issues I have. One of the saddest things that has happened in my life as an adult, because it is a realisation again of the reality of the context, is the incredible sadness as I learnt how families can turn against each other, particularly when somebody has passed away and there is financial gain inheritance there. It is one of the saddest things and I really worry that when somebody who has a sizeable estate is there that there will be coercion. Today I do not understand how any doctor, any professional can be sure that there was no coercion involved, because coercion is so subtle. Coercion is what leads to the worst crimes in our society today. They start through coercion and the trouble is, of course, in this situation the person being coerced will not be around to let us know that it happened. So I am finding that really difficult to deal with as well. So I find myself in a very strange position that my principles tell me I should vote for this but my understanding of the place Jersey is in, my understanding of the realities of where this Island is are telling me that this is not a safe thing for us to do now because we cannot even get our existing processes right. We cannot even make sure that a rib fracture is not diagnosed as cancer. In that context, I do not know how I can bring myself to vote for this but as it will go through, I will make sure that, as I said, I will have such an eye on those processes and procedures. Sir, I see you lean forward and that may be a suggestion of the time. It may well be time to bring this to a close but I thank everyone who has taken part in the debate. It is not easy. It has made all of us search deep inside and some of us, in my case, have come up with surprising conclusions.

The Bailiff:

The time is now well past that we would normally adjourn. However, Deputy Pamplin wishes to propose that we continue into the evening, whether it is for a specific period or until the conclusion of the debate I am not able to say. I have one person listed still to speak. It may be helpful to inform that discussion if anyone who has not yet spoken but wishes to speak ... I will not write it down, you do not have to speak in this order but if you could indicate in the chat if you still intend to speak in the debate so we know how many speeches there may be. There is no need for people to say they agree with Deputy Pamplin. He will have to put a proposition and it will have to be voted on. I would ask Members just to say if they are intending to speak so that an informed decision can be taken as to whether we continue or not. No one has indicated that they intend to speak so we can, therefore, put the matter. Do you propose, Deputy Pamplin, to continue into the evening and if so for what period?

Deputy K.G. Pamplin:

Yes, for the benefit of the public I have recommended that, as you have just outlined, we conclude based on people left to speak and I have put it in at 6.00 p.m., if it seems there is only one person and we are concluding we would be able to reach a consensus tonight. Obviously I am in the hands of the Assembly, taking in mind the welfare of everybody who works in the building as well, but I do propose that. **[Seconded]**

Deputy G.P. Southern:

We are going against principle. We adopted a principle that we should be an equal employer and we are not. We are abusing the rights of some of our membership.

The Bailiff:

That is a reason to vote against it. It is not a reason for the proposition argument. I remind Members there is no one who has indicated a wish to speak other than one person and then the rapporteur will have the opportunity to respond back. Does anyone wish to speak on the proposition that we continue until 6.00 p.m.?

Deputy C.S. Alves of St. Helier:

I just want to echo the words of Deputy Southern. This is very late in the day to be deciding to extend the sitting. People will already have other commitments and, as the Constable of St. Brelade mentioned in the chat, we do still have other business to deal with tomorrow. In addition, people may change their minds overnight as to whether they would like to speak on this subject or not, which would give them more time to prepare for that. Deputy Guida has also mentioned that they also have an “Ask the Minister” event tonight. I would like to ask Members to take that into consideration when they vote whether to extend this sitting tonight.

Deputy J.H. Young:

This is a huge debate. It will have very significant effects and I think Members should be given the opportunity to reflect overnight, those Members who have not spoken, whether they wish to speak, and others. I do think it is important and also I do agree that at the last minute just to suddenly try to deal with this in what is now 17 minutes ... no, I do not think so.

The Bailiff:

Does any other Member wish to speak? I have noticed people are making observations in the chat. Really if you wish to say something it might be useful to speak, but does any other Member wish to speak? If no other Member wishes to speak, I close the debate and ask for Deputy Pamplin to respond.

Deputy K.G. Pamplin:

I welcome all contributions. I will keep this brief because it would be a complete contradiction otherwise, but the point has been made, the agenda has not finished the Public Business and we could be even debating what we do at the weekend at this rate, given the next debate is going to be equally very contentious. This is a very serious debate, I believe at the right time. We are in the States hands of course, so I maintain the proposition and ask for the *appel*.

The Bailiff:

The *appel* is called for. I ask the Greffier to place the vote into the link. The vote is on do we continue until 6.00 p.m., another 16 minutes or so, 15 minutes or so. I open the voting and ask Members to vote. A vote pour is to continue. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting.

[17:45]

I think the proposition is defeated. I will have to do some mental arithmetic. Pour is 20, contre is 16 in the chat. I have 8 contre in the link and 2 pour in the link. All of a sudden a list has appeared so I now cannot do the sums any more. Is that correct? This accords with my own calculation that the proposition is defeated.

POUR: 22		CONTRE: 23		ABSTAIN: 0
Senator J.A.N. Le Fondré		Senator I.J. Gorst		
Senator T.A. Vallois		Senator L.J. Farnham		

Senator S.W. Pallett		Senator S.C Ferguson		
Connétable of St. Helier		Senator K.L. Moore		
Connétable of St. Lawrence		Senator S.Y. Mézec		
Connétable of St. Saviour		Connétable of St. Brelade		
Connétable of St. Ouen		Connétable of Grouville		
Connétable of St. Martin		Connétable of Trinity		
Connétable of St. John		Connétable of St. Peter		
Connétable of St. Clement		Connétable of St. Mary		
Deputy J.A. Martin (H)		Deputy G.P. Southern (H)		
Deputy K.C. Lewis (S)		Deputy of Grouville		
Deputy M.R. Higgins (H)		Deputy J.M. Maçon (S)		
Deputy G.J. Truscott (B)		Deputy S.J. Pinel (C)		
Deputy K.F. Morel (L)		Deputy of St. Martin		
Deputy G.C.U. Guida (L)		Deputy of St. Ouen		
Deputy of St. Peter		Deputy L.M.C. Doublet (S)		
Deputy of St. John		Deputy of St. Mary		
Deputy S.M. Ahier (H)		Deputy J.H. Young (B)		
Deputy R.J. Ward (H)		Deputy L.B.E. Ash (C)		
Deputy K.G. Pamplin (S)		Deputy of Trinity		
Deputy I. Gardiner (H)		Deputy M.R. Le Hegarat (H)		
		Deputy C.S. Alves (H)		

Very well, is the adjournment proposed? The Assembly stands adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:46]