

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 8th JULY 2014

PUBLIC BUSINESS	4
1.1.1 Senator F. du H. Le Gresley:.....	4
1.1.2 Deputy M.R. Higgins of St. Helier:	5
1.1.3 Deputy M. Tadier of St. Brelade:.....	5
1.1.4 Deputy J.A. Martin of St. Helier:.....	5
1.1.5 Connétable J. Gallichan of St. Mary:	5
1.1.6 Deputy G.P. Southern:	5
2. Civil marriages: same sex couples (P.102/2014) - second amendment (P.102/2014 Amd.(2)) - proposition to reduce the minimum lodging period.....	8
2.1 Senator B.I. Le Marquand (The Minister for Home Affairs):.....	8
2.1.1 Deputy M. Tadier:	9
2.1.2 Deputy G.P. Southern:	9
2.1.3 Deputy J.M. Maçon of St. Saviour:.....	9
2.1.4 Senator P.F.C. Ozouf:.....	9
2.1.5 Connétable A.S. Crowcroft of St. Helier:	10
2.1.6 Deputy J.A.N. Le Fondré of St. Lawrence:	10
2.1.7 Deputy J.H. Young of St. Brelade:.....	11
2.1.8 Deputy J.A. Martin:	11
2.1.9 Deputy N.B. Le Cornu of St. Helier:	11
2.1.10 Senator L.J. Farnham:.....	11
2.1.11 Senator I.J. Gorst:.....	11
2.1.12 Senator B.I. Le Marquand:	12
3. Civil marriages: same sex couples (P.102/2014).....	14
3.1 Deputy S.Y. Mézec of St. Helier:.....	14
3.2 Civil marriages: same sex couples (P.102/2014) - second amendment (P.102/2014 Amd.(2)).....	16
3.2.1 Senator B.I. Le Marquand (The Minister for Home Affairs):.....	17
3.2.2 Senator S.C. Ferguson:.....	19
3.2.3 Deputy S.Y. Mézec:	19
3.2.4 Deputy G.P. Southern:	20
3.2.5 Deputy N.B. Le Cornu:.....	21
3.2.6 Deputy J.H. Young:	22
3.2.7 Deputy J.A.N. Le Fondré:	22
3.2.8 Senator P.F.C. Ozouf:.....	30
3.2.9 Deputy J.A. Martin:	33
3.2.10 Deputy M. Tadier:.....	35
3.2.11 Deputy J.M. Le Bailly of St. Mary:	36
3.2.12 Senator F. du H. Le Gresley:	37

3.2.13	The Deputy of St. Ouen:	38
3.2.14	Connétable S.A. Rennard of St. Saviour:	39
3.2.15	Deputy R.G. Bryans of St. Helier:	40
3.2.16	Deputy S. Power of St. Brelade:	41
3.2.17	Senator I.J. Gorst:	41
LUNCHEON ADJOURNMENT PROPOSED.....		43
LUNCHEON ADJOURNMENT.....		44
3.2.18	The Very Reverend R.F. Key, B.A., The Dean of Jersey:	44
3.2.19	Deputy J.M. Maçon:	44
3.2.20	Deputy M.R. Higgins:	44
3.2.21	The Connétable of St. Mary:	45
3.2.22	Senator B.I. Le Marquand:	46
3.3	Civil marriages: same sex couples (P.102/2014) - resumption - as amended	47
3.3.1	Senator P.F.C. Ozouf:	48
3.3.2	The Dean of Jersey:	49
3.3.3	Deputy G.P. Southern:	49
3.3.4	Deputy M. Tadier:	50
3.3.5	Deputy S. Power:	51
3.3.6	Senator L.J. Farnham:	52
3.3.7	Deputy N.B. Le Cornu:	52
3.3.8	Deputy J.A.N. Le Fondré:	53
3.3.9	Deputy M.R. Higgins:	54
3.3.10	Deputy J.H. Young:	54
3.3.11	Deputy J.A. Martin:	55
3.3.12	Senator I.J. Gorst:	56
3.3.13	Deputy G.C.L. Baudains of St. Clement:	56
3.3.14	Deputy S.Y. Mézec:	57
4.	Draft Aircraft Registration (Jersey) Law 201- (P.62/2014)	59
4.1	Senator A.J.H. Maclean (The Minister for Economic Development):	60
4.1.1	Senator L.J. Farnham:	62
4.1.2	Deputy M.R. Higgins:	63
4.1.3	Deputy J.H. Young:	63
4.1.4	Deputy S.G. Luce of St. Martin:	64
4.1.5	Connétable P.J. Rondel of St. John:	64
4.1.6	Senator P.F.C. Ozouf:	65
4.1.7	The Connétable of St. Brelade:	66
4.1.8	Senator A.J.H. Maclean:	67
4.2	Senator A.J.H. Maclean:	71
4.3	Senator A.J.H. Maclean:	71
4.3.1	The Connétable of St. John:	71
4.3.2	Senator A.J.H. Maclean:	71
5.	Draft Air Navigation (Jersey) Law 201- (P.63/2014)	71
5.1	Senator I.J. Gorst (The Chief Minister):	72
5.1.1	Senator S.C. Ferguson:	72
5.1.2	Deputy M.R. Higgins:	72
5.1.3	Senator I.J. Gorst:	73
5.2	Senator I.J. Gorst:	74
5.2.1	Deputy M.R. Higgins:	74
5.2.2	Senator I.J. Gorst:	76

Mr. H. Sharp Q.C., H.M. Solicitor General:	77
5.3 Draft Air Navigation (Jersey) Law 201- (P.63/2014) - as amended.....	80
5.3.1 Senator I.J. Gorst:	80
5.3.2 The Deputy of St. Martin:	81
5.3.3 Senator I.J. Gorst:	81
5.4 Senator I.J. Gorst:	81
5.4.1 Deputy M.R. Higgins:	81
5.4.2 Deputy J.H. Young:	81
5.4.3 Senator I.J. Gorst:	82
5.5 Senator I.J. Gorst:	82
5.5.1 Deputy M.R. Higgins:	82
5.5.2 Deputy J.H. Young:	83
5.5.3 Senator I.J. Gorst:	83
6. Draft Civil Aviation (Amendment of Law) (No. 2) (Jersey) Regulations 201- (P.51/2014).....	84
6.1 Senator I.J. Gorst (The Chief Minister):	84
7. Draft Public Finances (Transitional Provisions – States Trading Operations) (Amendment) (Jersey) Regulations 201- (P.50/2014).....	85
7.1 Senator P.F.C. Ozouf (The Minister for Treasury and Resources):.....	85
7.2 Senator P.F.C. Ozouf:.....	86
7.3 Senator P.F.C. Ozouf:.....	86
7.3.1 Senator S.C. Ferguson:.....	86
7.3.2 Senator P.F.C. Ozouf:.....	86
8. Draft States of Jersey (Transfer of Functions No. 7) (Economic Development to External Relations) (Jersey) Regulations 201- (P.54/2014).....	87
8.1 Senator I.J. Gorst (The Chief Minister):	87
8.2 Senator I.J. Gorst:	87
ADJOURNMENT PROPOSED.....	88
ADJOURNMENT.....	88

[9:31]

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

PUBLIC BUSINESS

1. Redundancy payments: businesses which have ceased trading - reduce lodging period to enable the matter to be considered at the present meeting.

Deputy G.P. Southern of St. Helier:

Sir, could I seek your advice on when it would be appropriate (a) to give notice I wish to defer P.119/2014 and P.122/2014 from next week's session.

The Bailiff:

From next week's session.

Deputy G.P. Southern:

From next session but to bring forward... if I may seek the permission of the House to bring forward and shorten the lodging period for my proposition P.120/2014 – Redundancy payments: businesses which have ceased trading. I think it is in the public interest that we debate this as soon as possible. I very much fear that next week's session is full of the Island Plan. We are not going to have any time to do any other business at all, and these are 8 people there not receiving redundancy or insolvency pay, and who will not be dealt with until September unless we can debate it sometime in this session, I think.

The Bailiff:

Right. Sorry, could you remind me, which are the ones you want to defer from ...?

Deputy G.P. Southern:

To defer P.119/2014 - Milli's Contact Centre, and P.122/2014 - Survivor's Benefit, neither of which, I think, are urgent, but I believe Redundancy Payments - P.120/2014 - it is important that we are seen to get some insolvency payments to these people because this is exactly what happened last time and it is happening again.

The Bailiff:

It would be as well for Members to know exactly what lies ahead of them on this sitting, so perhaps this is a convenient moment to take your proposition. So you wish to propose that the lodging period for P.120/2014 be shortened so as to permit it to add to the end of the list for this current ...

Deputy G.P. Southern:

Yes. It has been lodged for 3 weeks plus so it is almost there anyway and it is a repeat exactly of what the House accepted when we had a temporary insolvency scheme, which was not delivering support in a sufficiently prompt manner. It looks like what we have with the real law now this time, in 2014, is suffering the same fault. I wish to get that discussed and debated at least before September because it will be ages that they have been unemployed now. They have been made redundant now for some 9 weeks and nothing is moving. The system is stuck, as it was again back in 2009.

The Bailiff:

Is that proposition seconded? **[Seconded]** Does anyone wish to say anything about whether that should be brought forward?

1.1.1 Senator F. du H. Le Gresley:

I can understand where the Deputy is coming from, but the urgency is not going to be achieved by his proposition because it requires a law change. So he may say that we have to debate this today,

but it is not going to change anything because we have the insolvency benefit set in a piece of legislation.

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

Just following on from the previous speaker, perhaps the previous speaker could tell us if Deputy Southern's proposition was accepted, even though a law change would be required, does the Minister not have discretion that he would be able to do something?

1.1.3 Deputy M. Tadier of St. Brelade:

Just a procedural matter to say to Members and remind them that since we have changed essentially what is good for the goose should be good for the gander. At the last session we made decisions to shorten lodging periods without even any discussion, automatically voted for them; a few of us did not. If we are to be a fair-minded Assembly, we need to apply the same principles whether it is a Back-Bencher's proposition or Ministerial propositions coming forward.

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

Just as I seconded this, I think what the Minister for Social Security has stated is for the debate. Deputy Southern has offered up a couple of other propositions and for tidying of business if people do not agree with the proposition on redundancy they will vote against. But I think, as Deputy Tadier has said, we have moved so many times on the public interest and this is nearly 4 weeks. We are just building up and building up because Deputy Southern will probably ask for it to be put at the beginning of the next session. So we will have to have this debate and I urge Members to give Deputy Southern the same as we have done for Ministers since we changed the Standing Orders to be in the interests of the public.

The Bailiff:

That is probably sufficient unless anyone else is standing?

1.1.5 Connétable J. Gallichan of St. Mary:

I just want to say it seems to me staggering that we have gone from almost impossible to have things brought forward to having it done as a matter of routine. Notwithstanding that, I just feel there is a difference when it is proposed for the same sitting. We have a very heavy agenda. I have prepared fully for what is on the agenda this time, but I was preparing next weekend for what is on the agenda next time. I think to do this at the eleventh hour is wrong.

The Bailiff:

Very well. Do you wish to reply, Deputy Southern?

1.1.6 Deputy G.P. Southern:

Yes. I just wish to apologise for doing it at the last minute. I accept that that is the case. There are occasions, though, when it is appropriate that this House responds to situations out there. This is a group of 8 people who have received no payment now for going on for 9 weeks. If we do not debate this, then we will not debate it, I think, until September and that will be 3 months when we have been seen to do nothing about hardship caused to 8 people made redundant by a company ceasing trading but not pursuing *en desastre* proposals.

The Bailiff:

Do you ask for the appel? The appel is asked for then in relation to Deputy Southern's proposition, which is to bring forward P.120/2014 to this current sitting from next time's sitting and, of course, reduce the lodging period as a consequence. If you want to do that, you vote pour; if you do not, you vote contre. The Greffier will open the voting.

POUR: 28		CONTRE: 13		ABSTAIN: 0
Senator A. Breckon		Senator F. du H. Le Gresley		

Senator S.C. Ferguson		Senator I.J. Gorst		
Senator A.J.H. Maclean		Connétable of St. Peter		
Senator B.I. Le Marquand		Connétable of St. Lawrence		
Senator L.J. Farnham		Connétable of St. Mary		
Connétable of St. Helier		Connétable of St. Ouen		
Connétable of Trinity		Connétable of St. Brelade		
Connétable of St. Clement		Connétable of Grouville		
Connétable of St. John		Deputy R.C. Duhamel (S)		
Connétable of St. Saviour		Deputy of Trinity		
Deputy R.G. Le Hérisier (S)		Deputy S.J. Pinel (C)		
Deputy J.A. Martin (H)		Deputy of St. Mary		
Deputy G.P. Southern (H)		Deputy of St. Martin		
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

The Bailiff:

Very well. Well, Members were so anxious to discuss what they were going to discuss that they beat me to it in welcoming His Excellency to this current sitting. **[Approbation]** I am sure he is already enjoying it.

The Connétable of St. Mary:

May I just ask a point of order? Just for my own clarity, have we amended Standing Order 32? Do we not have to give 2 days' notice to the Greffier in order to debate something at the present meeting?

The Bailiff:

Well now, Connétable ... sorry, that was Standing Order ... remind me of the number?

The Connétable of St. Mary:

Thirty-two.

[9:45]

The Bailiff:

Quite right. Sorry, I missed that.

Senator L.J. Farnham:

Would it be in order to propose we suspend that Standing Order?

The Bailiff:

Yes, Members will now, if they wish to ... we have taken it but I do not think we should have. I think you will need to propose to suspend Standing Order 32.

Deputy G.P. Southern:

Suspend Standing Order 32? Right.

The Bailiff:

Is that seconded? [**Seconded**] Right, and we do not need to have a debate on this, it seems to me, do we? Minister, do you wish to say anything?

Senator F. du H. Le Gresley:

Yes. I can understand what Deputy Southern is trying to achieve here, but I did not come to this Assembly, as the Constable of St. Mary said, in a position to debate P.120/2014. In fact, my department is working on the comments, which normally Deputy Southern would be furious if we had not lodged comments on one of his propositions. We have not finalised those comments. Therefore, Members are not going to be *au fait* with what my position is as Minister for Social Security, where the law stands, and I just think it is rushing something through. As I said before, it is not going to change anything because we have to change the law.

The Bailiff:

Very well. I must apologise to Members for not having reminded them of Standing Order 32. You will have to make that proposition, which you have, Deputy, and it has been seconded. Members need to vote on it. The consequence will be if this is passed then I think we can take the previous vote as having been valid. If this is not passed, then I am afraid the previous vote was not valid and, therefore, the proposition will not stand. The appel is called for then. The proposition now is to suspend Standing Order 32 so that Deputy Southern can bring his matter forward as discussed previously. The Greffier will now open the voting.

POUR: 25		CONTRE: 17		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator F.du H. Le Gresley		
Senator A. Breckon		Senator I.J. Gorst		
Senator S.C. Ferguson		Connétable of Trinity		
Senator A.J.H. Maclean		Connétable of St. Peter		
Senator B.I. Le Marquand		Connétable of St. Lawrence		
Senator L.J. Farnham		Connétable of St. Mary		
Connétable of St. Helier		Connétable of St. John		
Connétable of St. Clement		Connétable of St. Ouen		
Deputy R.G. Le Hérisssier (S)		Connétable of St. Brelade		
Deputy J.A. Martin (H)		Connétable of St. Saviour		
Deputy G.P. Southern (H)		Connétable of Grouville		
Deputy of St. Ouen		Deputy R.C. Duhamel (S)		
Deputy J.A. Hilton (H)		Deputy of Trinity		
Deputy S.S.P.A. Power (B)		Deputy E.J. Noel (L)		
Deputy K.C. Lewis (S)		Deputy S.J. Pinel (C)		
Deputy M. Tadier (B)		Deputy of St. Mary		
Deputy M.R. Higgins (H)		Deputy of St. Martin		
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

The Bailiff:

The Standing Order is suspended: so the previous vote stands. That brings us on to Public Business. Senator Le Marquand, would this be convenient if you wish to ask for your second amendment to be debated?

2. Civil marriages: same sex couples (P.102/2014) - second amendment (P.102/2014 Amd.(2)) - proposition to reduce the minimum lodging period

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

I was just going to ask you whether that was appropriate. Could I just explain to Members a further development over the last 24 hours? In fact, I was notified of this this morning. I had intended at the close of the speech of Deputy Mézec to basically ask the Assembly to refer his proposition to Scrutiny. I have now heard back from the Chairman of the appropriate Scrutiny Panel that they are of the opinion that they should not be scrutinising Back-Benchers' propositions. I respect that and, therefore, I am not going to make that proposal, which leaves me now in a situation where I need to apply for shortening of the lodging period on the second amendment so that this can be heard as part of the overall debate. The test which is applied is a public interest test now and it is, in my view, in the public interest that this Assembly be able to consider this amendment, the second amendment, at the same time as the proposition and the first amendment. In my view, the case for this is even stronger than it was for Deputy Southern's because this is an amendment to an existing proposition. The same issues are going to come up in relation to consideration of this as would come up in relation to the main debate. Also, once I realised that this was something that I should do - and I realised that Thursday of last week and acted on it on Friday, although it was only, in fact, technically lodged on Monday - I did give as much notice as possible to the Members of this Assembly of my intention so that nobody was taken by surprise and people had the opportunity to be aware of what I was proposing. In my view, this is in the public interest because it is in the public interest that there be a proper debate as to whether or not prior to the ...

Deputy M. Tadier:

May I make a point of order? It seems that we are in risk of having a second speech later because surely the amendment is down as the second item and it should be up to ... Deputy Mézec's item is in order and once that has been made it will then come to the amendment and then is the right time to be asked for the shortening period.

The Bailiff:

No, the normal and better practice is to do it beforehand so everyone knows whether they are going to be debating an amendment or not. Carry on, Senator.

Senator B.I. Le Marquand:

I have lost my flow there so I have to think where I was. Yes, it is, in my view, in the public interest that this Assembly is able to debate the issue which is set out in the second amendment as to whether prior to a decision in principle being made on this matter there should be an in-depth study of the issues involved. Now, it is my view that that is what should happen. Effectively, otherwise, we are rushing into making a decision on what is a most momentous matter which involves a complete redefinition of marriage, which has been at the very core of our society - and hopefully will remain at the core of our society and community - from time immemorial. To make such a change, even in principle, in my view, without there having been a proper study of the issues involved is insulting to the general public. It is probably insulting to both sides of the argument in relation to this matter because we as responsible Members of a responsible Legislature really should not be making major decisions in principle on the hoof without having all the facts, all the

details, all the risks, as it were, associated with the proposition before us. I am not going to outline in detail ...

The Bailiff:

No, I think you must confine yourself to why you think it should be debated ...

Senator B.I. Le Marquand:

Yes, I am not going to outline in detail the issues, but they are set out clearly in the second amendment, the issues which I think are well deserving of more detailed study. If you think it is improper for me to go into the detail I will not, but I hope that Members have the second amendment and will have read that and will be aware of what these issues are. I ask the Assembly to reduce the lodging period on the amendment so that this can be debated now as part of this overall debate.

The Bailiff:

Is that proposition seconded? [**Seconded**] Does any Member wish to say anything on it? Yes, Deputy Tadier.

2.1.1 Deputy M. Tadier:

Two points, essentially. The first one is if it is such a momentous issue, why did the Minister in his busy schedule not find the time to put an amendment in in time so that he could have had this in order and be guaranteed a debate? It is clearly because it was an afterthought. It was a desperate attempt to scupper something which had been planned and on the table for the correct period of lodging. The second point is the right time to scrutinise this is not to use a device but it is when the Chief Minister, whoever that may be in the future, comes back with the substantive legislation after a period of consultation, which will necessarily have to take place anyway, and then Scrutiny can decide off their own bat if they want to scrutinise it. I would imagine that any Scrutiny Panel would want to scrutinise it. They would want to engage in the process. I am speaking ...

Senator B.I. Le Marquand:

With respect, the Deputy has not understood what I said. This is not sending to Scrutiny.

Deputy M. Tadier:

Essentially, the consultation period amounts to the same thing. It will happen anyway so there is no public interest test here to secure what will happen anyway. Any decent Chief Minister will have to engage and any decent Scrutiny Panel, when the legislation comes back, will at least want to look at it, issue comments, *et cetera*. My point is that there is no public interest to be gained by shortening the lodging period; quite the opposite because it does not do what it seeks to do. So I think we should robustly vote against the proposition that is currently being made.

2.1.2 Deputy G.P. Southern:

Yes, briefly. Despite my plea previously, I see no merit in this particular request. [**Members: Oh!**] We have a wrecking amendment here designed to derail the process altogether, which is late. In fact, I would never come to the House - I do not think I have done that in 12 years - and say: "Sorry, I was late lodging it. Can you please consider it anyway?" No, you take the rules. That is the reality. I see no justification in what has been said today that we should bend the rules in this particular case.

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

I am just wondering whether we could speed up time and if the Chief Minister could just give an undertaking that he would do this anyway if the proposition was lodged, as I would suspect would be appropriate with this type of legislation anyway. We could speed up the whole process.

2.1.4 Senator P.F.C. Ozouf:

I am the only openly gay Member of this Assembly and over the years it is not something that I speak about often. But over the years of my service in this Assembly I have been humbled by the acceptance, the tolerance, the inclusiveness and the respect that I have been treated as an entirely equal Member of this Assembly. Gay people have been the subject of unfairness, inequality and discrimination for decades and this Assembly has over the period of time since I have been a Member passed symbolically landmark and important ending of discrimination in the eyes of the state. These issues have been discussed, debated, ventilated in many parts of the world, including in Jersey. There is a detailed issue in relation to the established Church and the detailed legislation and I have an amendment before Members designed to achieve just that. I say with the greatest of respect to Senator Le Marquand that nothing is, I am afraid, going to yield any more information than is currently known and that currently Members know about this issue. If we accept the amendment, we are going to catalyse a divisive debate on both sides of an extremely difficult set of issues and I see no merit in accepting this late amendment. I suspect that nothing, if I may say respectfully to Senator Le Marquand, is going to change his mind and I would hope that Members would not accept this late amendment. I do not say anything unkind to Senator Le Marquand, but many people will say that this is an amendment just simply to put the issue off. We know enough about these issues to make a careful, general degree in principle and to move on and to move to the drafting of the legislation if the Assembly approves it and then to have a proper consultation on the detail. This is a proposition in the eyes of the State only and that is what is before Members. Sending a message that we are not going to be able to have that in principle, in the eyes of the State only, putting that beyond doubt, I think would be a sad day and would send an unfortunately negative message towards the community in terms of tolerance, inclusivity and acceptance.

The Bailiff:

Sorry, Senator, I am going to have to ask you to press on.

Senator P.F.C. Ozouf:

I know, but I want to say that there are consequences to what Senator Le Marquand is saying and I see no case. I do not think he is ever going to be persuaded in having more debate.

The Bailiff:

You have said that already, yes.

2.1.5 Connétable A.S. Crowcroft of St. Helier:

The last speech was a very good speech against the amendment but, correct me if I am wrong, we are now debating whether to raise Standing Orders. We did that ...

The Bailiff:

Connétable, sorry, just to interrupt, not to raise Standing Orders because in this case the 2 days' notice was given, so it is whether to reduce the minimum lodging period.

The Connétable of St. Helier:

Thank you. We are debating whether to reduce the minimum lodging period so that the debate can be had on Senator Le Marquand's amendment. I am going to vote against that amendment, but I do think he has a right to be heard, just as I feel that Deputy Southern has a right to be heard and that is why I supported his similar request.

The Bailiff:

Does anyone have anything new to say just on whether the period should be shortened? Deputy Le Fondré. This is not a debate on the amendment.

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

Yes, I was worried that the last but one speech was a speech about the matter rather than whether we take it early. I think it is clearly a matter of public interest and the point I would like to make is while there are some members of the community who want this matter approved today, it is clearly the case that there are other members of the community that want the matter, in their view, properly consulted upon.

[10:00]

Surely, whichever side of that argument we sit, it is respectful of all of those views to have the debate in this Assembly; in other words to allow Senator Le Marquand to bring his amendment and have that debate today. So I will support Senator Le Marquand.

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

We are obviously deciding whether or not to debate an important amendment. The question I would like to ask is: as there are clearly contextual issues here, if we do not allow to exercise the Standing Order discretion in the public interest, can I have it confirmed that means that the amendment completely falls away and we will go ahead with the debate without that opportunity to have those contextual issues?

The Bailiff:

Yes, it does. Does any other Member wish to say anything?

2.1.8 Deputy J.A. Martin:

Yes, it is quite a simple question to the Senator because in his proposal to shorten he never explained why to shorten it. On 28th May P.102/2014 was lodged. I want to make up my mind honestly and I want to hear an honest reason why the Senator has now brought this very late amendment.

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

This is a delaying tactic, there is no question of it, by the political right, the homophobic right. They are doing so because they are frightened of going to an election which is in October having made clear their own position on this issue. They are aware that their supporters in the Evangelical Christian right are homophobic in many cases and they do not want to have to face them down. Likewise, they do not want to have to face down the liberal opinion which would be disgusted by the rejection of this proposal. That is what lies behind it.

Deputy J.G. Reed of St. Ouen:

I would like to ask Deputy Le Cornu to withdraw his comment he has made about the Evangelical church. **[Approbation]** He cannot claim that the church is homophobic in that general term.

Deputy M. Tadier:

It is the only true speech of the day and Deputy Le Cornu is being shouted down for it.

The Bailiff:

Can we return then? Does any other Member have something relevant to say on whether we should debate this amendment? There is a limit to how much Members can say about it I would have thought.

2.1.10 Senator L.J. Farnham:

Can I just appeal to Members to conduct themselves in this debate without vilifying other Members for simply having a different opinion? **[Approbation]**

2.1.11 Senator I.J. Gorst:

It is always difficult to know whether one has something relevant to say having been ruled by the Chair. Today I hope is not going to be a difficult debate. I hope that we are going to be respectful of each other and respectful of the differing views within our community because I think it is an important issue. We are elected to do what we think is best on behalf of our community and I hope that we can be respectful of each other. We may not agree but it is important that in our disagreeing we are respectful. I suspect I know where we are going to end the day, but I do think it is right that all aspects of opinion do have the right to be heard today. Therefore, I think that whether Senator Le Marquand's amendment is ultimately approved or not is right for this Assembly, but I do think it is right for the debate to be had on the amendment and then all opinion can have been considered.

Senator P.F.C. Ozouf:

May I just add a point of information for Deputy Le Cornu? I would just ask him, if I may, he said the Evangelical right and I would just invite him to avoid a divisive debate. Not all the Evangelical people believe what he said.

The Bailiff:

I am sorry, Senator, this sounds to me like a second speech.

Senator P.F.C. Ozouf:

I would invite him to consider withdrawing his remarks because I think that they are not helpful and also I believe not true because I have had many people from the Evangelical community supporting this proposition. I would just invite him if he could just withdraw his remarks because I think they are unkind, genuinely speaking, and I hope Members would understand why I am saying that. **[Approbation]**

The Bailiff:

That is a matter for the Deputy. Now, Senator Le Marquand, do you wish to reply?

2.1.12 Senator B.I. Le Marquand:

I will start in response to Deputy Martin. The relative situation, as I said in the second amendment, is that I thought that someone else was putting in a similar amendment. Indeed, I was not certain that Senator Ozouf was not putting in a similar amendment. When Senator Ozouf's amendment came forward, I noticed that although it was referring on into the future for study of a particular narrow issue, it was not altering the position that this Assembly would have made a decision in principle first. I was unhappy with that but then, I am afraid, I became embroiled in preparation in relation to States propositions last week. Members may recall that I had 6 propositions before the States last week, 2 of which were major pieces of legislation. I am afraid my focus and my concentration went almost entirely on to that. It was only once I had finished with those on Thursday that I began to think seriously and then I thought about referral to Scrutiny as a way forward. Then subsequently I realised that there was a risk involved with doing that that Scrutiny would do exactly what they have done, which is decided that it is not appropriate to scrutinise a Back-Bencher's amendment. It was from that point onwards that I realised that I needed to go ahead and lodge this amendment. This is not a wrecking amendment because apart from other things the amendment provides a timescale for the Chief Minister to consult and report back by the end of the year. Neither the proposition nor the amendment provides any such timescale. In a sense, potentially it accelerates forward the process of consideration, not slowing it. What it does is ask Members not to make a decision in principle before they have had proper consideration and study of the issues concerned. I was asked whether this will change my opinion on matters. That is, in my view, completely irrelevant. The issue here is should the States, before it makes a major decision on public social policy, have ensured that a proper detailed study of the effects of that has been made. That is for the benefit of all Members and it is also so that the general public will see that we have gone through a proper process in relation to this matter and not simply decided on the

hoof, as it were. I maintain the proposition of the reduction of the lodging period so that the second amendment can be debated.

The Bailiff:

Do you ask for the appel?

Senator B.I. Le Marquand:

I ask for the appel.

Deputy G.P. Southern:

A point of clarification, if I may, of the speaker. He said he decided to lodge this after learning that the appropriate Scrutiny Panel had turned down the opportunity. Did he really mean that?

The Bailiff:

I did not understand him to say that at all. I thought he said he related it to Senator Ozouf's proposition.

Deputy G.P. Southern:

He did say after learning that the Scrutiny Panel concerned had turned it down.

Senator B.I. Le Marquand:

No, that is not what I said. What I said was I was considering on Thursday a course of action of asking today for a referral to Scrutiny, but I then realised that there was a risk in that approach that, in fact, the Scrutiny Panel might decide that they did not want to scrutinise it. That is why I then proceeded with this. That is what I said.

The Bailiff:

Very well, so the matter before the Assembly on the appel is the proposition of Senator Le Marquand that the lodging period for his second amendment be reduced so that the matter can be taken as part of today's debate. If you wish to do that, you vote pour; if you do not, you vote contre. The Greffier will open the voting.

POUR: 31		CONTRE: 9		ABSTAIN: 1
Senator A. Breckon		Connétable of St. Lawrence		Senator P.F.C. Ozouf
Senator S.C. Ferguson		Deputy R.G. Le Hérisssier (S)		
Senator A.J.H. Maclean		Deputy J.A. Martin (H)		
Senator B.I. Le Marquand		Deputy G.P. Southern (H)		
Senator F.du H. Le Gresley		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy E.J. Noel (L)		
Senator L.J. Farnham		Deputy of St. Martin		
Connétable of St. Helier		Deputy N.B. Le Cornu (H)		
Connétable of Trinity		Deputy S.Y. Mézec (H)		
Connétable of St. Clement				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				

Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

3. Civil marriages: same sex couples (P.102/2014)

Senator P.F.C. Ozouf:

Could you please now clarify the order of the debate that we will now have?

The Bailiff:

Yes. The order now then will be clearly the proposition will be made by Deputy Mézec. Then the amendment to be taken next is that of Senator Le Marquand on the basis that it effects the greater change to what is proposed. If that is carried, then I think yours will fall away, Senator. If, on the other hand, his is not carried, then we will move on to debate your amendment. Very well, I invite the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to agree in principle that same sex couples should be permitted to enter into civil marriages and to request the Chief Minister to bring forward for approval by the States the necessary draft legislation to give effect to the proposal.

The Bailiff:

Before inviting Deputy Mézec to propose it, may I just endorse one or 2 comments that have been made? This is clearly a subject on which strong feelings may be held on different sides, but this Chamber must debate things in a courteous and measured manner and that is what Standing Orders provide. Therefore, Members are not to impute improper motives or make offensive remarks about other Members. **[Approbation]**

3.1 Deputy S.Y. Mézec of St. Helier:

This is inevitably going to be one of those debates where the States of Jersey has 2 options. On the one hand, we have a chance to do something good and do something right. We have an opportunity to take a step forward to becoming a fairer and more just Island that treats all members of the community with dignity and respect. On the other hand, we have a chance to send out a message that this is an Assembly that lacks the bravery and the courage to do what is right because of a noisy but influential minority group that wants to hold back the aspirations of other people. I sincerely hope that we choose the former and stand up as an Assembly worthy of the title. This proposition is motivated by one self-evident and inalienable truth and that is that gay people are completely normal human beings. There is nothing wrong with them. They do not choose to be the way they are and there is nothing wrong with the way they are. To them, their relationships are equally as legitimate as heterosexual relationships. They mean exactly the same thing and their purpose is exactly the same. They live their lives the same way as everybody else. They want happy and fulfilling lives in the same way that everybody else does. If you accept that as being true, then there is no legitimate argument that says they should not be treated as full and equal members of our society with full and equal rights. If you really believe that, then you should also believe that they should have equal access to the same institutions as everybody else. So this is a matter of justice and equality. It is about saying to a group of people who have been marginalised throughout history that you are equal to everybody else and your sexual orientation does not make

you less worthy of respect than anyone else. That is the message that we have an opportunity of sending out here today. Now, obviously, it is a contentious issue that has stirred public discussion. Some have said that this is not about equality because gay couples can already have civil partnerships, but I say that is a disingenuous argument because those same people will shout from the rooftops about how valuable an institution they think marriage is, how sacred it is, and how worth defending it is, and they are absolutely right, of course. Who would not agree with that? But they do not espouse the same emotions for civil partnerships. They do not care about those. They are not important enough to start campaign groups for or to lobby politicians to defend, so how can they possibly say that this is not about equality when it is second best that they expect gay people to settle for? Whatever anyone says, this is about equality. Some are worried about the impact allowing same sex couples to get married will have on society, but I can assure Members that there will only be one consequence of allowing same sex couples to get married and that is that same sex couples will get married. It will not speed up the melting of the ice caps. The Russians will not invade and a plague of locusts will not ravish this year's harvest. For any U.K.I.P. (United Kingdom Independence Party) sympathisers in the Chamber, it will not spoil our weather this summer. Everything will be exactly as it was before except a few good Jersey men and women will be able to live their lives just that extra bit happier, and I cannot see what could possibly be wrong with that. Some very interesting things have been said in the run-up to this debate by people that oppose equal marriage. Some have said that their position comes from a point of view where they are not anti-gay but are pro-marriage, but how can you possibly not be anti-gay when you are vociferously insistent that gay people are excluded from something you consider to be special and good? That is just a complete contradiction and excluding them on the basis that they are gay. You either believe gay people are equal or you do not. This debate has brought out the worst in some people. Some of the messages we have had in our email inbox have been utterly atrocious and I deplore them and hope Members of this Assembly will deplore them. There was one in particular that said: "Rather than extending the benefits of marriage to same sex couples, redefining marriage would introduce the instabilities and infidelities commonly associated with homosexual relationships into society's understanding of marriage." Now, those words are homophobic. I am not casting aspersions on whoever said it, but those words are homophobic. To associate negative attributes to an entire category of people who do not choose to be the way they are is utterly senseless and offensive. It is no different from saying that black people are commonly associated with crime. It is exactly the same sort of thing and I deplore those sorts of comments.

[10:15]

Homophobia has no place whatsoever in the 21st century in a civilised discourse and I hope all Members will agree with that point. There are some people who have legitimate non-bigoted concerns of this issue and it would simply be churlish not to treat them seriously and try to address them. There are some who have concerns about the impact it might have on their churches and that is fine. That is a legitimate concern. It is an important discussion to be had and watertight safeguards have to be created, which is why I completely support the amendment lodged by Senator Ozouf. But the time to discuss these safeguards and these issues is in the legislation drafting phase. There will be a public consultation and any worries that might exist can be nipped in the bud there and then through that consultation process. It is not right or necessary to avoid making a decision today and instead having a consultation on the principle, which will inevitably drag out the same comments that we have already had in our email inboxes from lobbyists. The consultation will end up being about the principle rather than the substance of the legislation, so the States should today make a decision that it is right that we treat gay people with equality and dignity rather than delaying that decision to another day. Now, Members' faiths are obviously going to affect how they vote today and I personally do not have a problem with that. I believe that politics is fundamentally about your values and your values are going to be determined by all of your experiences in life, including your faith, and that is absolutely fine. But I urge those Members who have strongly held religious views on this subject to respect that not everybody shares those

views and their happiness should not be determined by a faith that they do not subscribe to. That would just simply be unfair. Religious institutions are not being asked to change their doctrines. In fact, religious people and groups we have seen have been torn on this issue. I have met many people who passionately believe in equal marriage specifically because of their interpretations of the teachings of Jesus, so there is a diversity of view within the religious community and that must be respected. If that is respected, then so should the right of other people to have their relationships recognised in law as equal to everybody else's. In 2009, when the States first decided to accept the principle of civil partnerships, there were 7 countries in the world that allowed same sex couples to get married. Today, that number has more than doubled to 16. There has only been one opinion poll done in Jersey and I accept that it was not scientific but the question was non-biased and it showed 81 per cent in favour of equal marriage here. But more scientific polls that have been done across the U.K. have always shown a consistent majority in favour but, in particular - and I make this point because I think this is important - when they have done polling for people between the ages of 16 and 34 they have all shown around an 80 per cent majority in favour. This is just the way society is going and how attitudes are changing, how we are becoming more accepting, more respectful and more tolerant. As we live lives in which we encounter more openly gay people than was likely to happen several decades ago, if you were growing up then, you just begin to realise that these people are completely normal and you do not develop any sort of instinct to treat them differently. When I was growing up, a very, very close relative of mine was a lesbian and she was in a long-term relationship with another woman. I absolutely adored them both. I adore them both still. Growing up, I saw nothing unusual about that. At school, every now and then somebody would come out as gay in their teens and these were people who you would have known for several years. They come out, it is no big deal. You do not really think that much of it. As you have these experiences, these attitudes just become more and more common and that is the way things are going. Jersey often lags behind the U.K. when it comes to these sorts of things. Jersey legalised homosexuality far later than the U.K. It took decades to allow abortions and to equalise the age of consent for homosexual couples. We still do not have statutory maternity leave or discrimination law for categories other than race. So I am urging Members not to let it be decades before we follow the U.K. on this important social issue, too. If Members grasp this opportunity and vote for this proposition, it will just be a year or 2 before it is sorted rather than the decades that it historically has been. We do not have to lag behind. We could lead the way. It is simply a matter of political choice. One of my heroes when I was growing up was the singer/songwriter Bob Dylan. He famously wrote the song "The Times They Are A-Changin'" about the civil rights movement in America. Now, we look back now on that struggle and just think how obviously right it was to give equality to black people. One of the main points of Bob Dylan's song is that these issues may be controversial at first, but over time history does not look back favourably on those that got in the way of change. Now, I will not torture Members by attempting to sing it, but the most poignant line in that song goes: "Come, Senators, Congressmen, please heed the call. Don't stand in the doorway, don't block up the hall. For he that gets hurt will be he who has stalled. There's a battle outside and it's raging. It'll soon shake your windows and rattle your walls for the times they are a-changin'." That is the point. In years to come, people will wonder what the big deal was. Jersey has a long way to go. There are all sorts of other things we need to do. We need to prioritise bringing in anti-discrimination law for things like age, gender, disability, *et cetera*. All of this is better off done sooner rather than later. With this proposition, we have an opportunity to take one huge step forward and send out a message to the rest of the world that we are a modern, progressive and respectful society that treats all of its citizens fairly and equally. I urge Members to back the proposition.

The Bailiff:

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

3.2 Civil marriages: same sex couples (P.102/2014) - second amendment (P.102/2014 Amd.(2))

The Bailiff:

Very well, then we come next to the amendment of Senator Le Marquand. I will ask the Greffier to read that amendment.

The Greffier of the States:

Page 2 - for the words "in principle" substitute the words "in relation to the proposal"; for the words "and to request" substitute the words "that the" and for the words "to bring forward for approval by the Assembly the necessary draft legislation to give effect to the proposal" substitute the words "be requested by 31st December 2014 to investigate and report to the States as to whether it would be appropriate to introduce legislation to allow this, with appropriate safeguards, and as to the arrangements which should be made for the recognition in Jersey, in some way, of civil partnerships and civil marriages entered into outside of Jersey."

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

Because it is quite confusing, that amendment, without it being consolidated, I am going to read out slowly the effect of that amendment on the proposition so that Members can hear and assimilate what it would mean in practice if it were passed. The proposition would then read: "To agree in relation to the proposal that same sex couples be permitted to enter into civil marriages, that the Chief Minister be requested by 31st December 2014 to investigate and report to the States as to whether it would be appropriate to introduce legislation to allow this with appropriate safeguards and as to the arrangements which should be made for the recognition in Jersey in some way of civil partnerships and civil marriages entered into outside of Jersey." The important difference between this amendment and that of Senator Ozouf - the important changes - are as follows. Firstly, the process of investigation reporting would take place prior to the States making a decision in principle. Secondly, as I said before, it imports a time period for the work to be done, which does not exist either in the proposition or in the amendment. Thirdly, it brings into the work to be done the important issue of decisions on recognition of civil partnerships and civil marriages entered into outside of Jersey. I begin with the last point. Although within our existing legislation there is a degree of recognition, the fact is that the world has changed. If I take an example of a country quite close to us, we have a situation in which in France same sex marriage is now permitted, but our legislation has not, as I understand it, moved in order to recognise that in any way. Similarly, it has not as yet moved and needs to move to recognise the same position in the U.K. Now, it seems to me it is important - and I concede this principle - that where other jurisdictions have permitted other relationships which are analogous, as it were, to civil partnership or to marriage that we have some method of recognising it. So that is an addition - I believe an improvement - which most Members would recognise in relation to the original proposition. Turning now to the proposition, it is a highly significant matter which we are debating here. I can conservatively say that at least 1,500 years of marriage as a committed for life, exclusive relationship between one man and one woman would be changed by the proposition. I have been conservative with 1,500 years because I think it has been understood as such in many communities for longer periods, but I am unable to say what exactly was going on in Jersey in those similar periods. What will the effect of redefining marriage be? It is at best a redefining of the term. At worst, it could be described as an undefining of the term of marriage. What I mean by undefining is by significantly changing the original definition, creating a situation in which there is great uncertainty for the future as to what will be considered in or not considered in marriage. Once the doors, as it were, have been opened in terms of one change, what other changes may follow? I do not need to tell the Members of the Assembly - but I am going to do so - how important marriage is. It is the solid foundation block of our whole society. People coming to the end of their political careers, as I may be, sometimes think in terms of a legacy, so what is the legacy of Senator Le Marquand? I will tell Members that. It is nothing that I have done either in the legal field or in public administration or in politics; it is none of those whatsoever. It is my family, my daughters, sons-in-law, grandchildren; my wife, of course, very much involved in that process [Laughter] along the way, but I am talking about legacy on into the

future. Where has that come from? It has come from the covenant relationship between myself and my wife, which has been replicated in the next generation and which I hope will be replicated in generations to follow as the absolute bedrock of society. That is my legacy. My daughters and grandchildren would be embarrassed probably by my saying that, but that is my legacy. The other things probably someone else would have done anyway. I am passionate about marriage and I do not want anything, no matter how well meaning, to water it down. Members of the Assembly will see in the report that I have set out major areas of concern that in my view need to be looked at in depth before the decision is made in principle on this matter. Firstly, the effect which the undefining or redefining of marriage will have in the medium to long term. I have already said that once the definition is loosened in this way, when will it next be loosened? Will the lifelong commitment go at some point, which is a vital part of it? Secondly, the medium and long-term effect on Church of England clergy in particular and on the relationship between them and their Parish, in the case of rectors. Redefining in this way will leave the Anglican clergy and the clergy of any other church which decides that they are not going to marry same sex couples wide open to the accusation of unjust discrimination in a position in which conscience and belief mean that they cannot go ahead in this way and perform this particular set of marriages. How long will that situation last before there is a judgment in the Human Rights Court or elsewhere or political pressure moves things on to say: "No, it is not right that churches be able to maintain this position of conscience in relation to this matter"? If that happens, the only way they will be able to respond reasonably is by saying: "Well, we are not going to marry anybody then." The matter then will become a civil matter and so on. There are, in my view, issues here which need to be looked at very carefully, and they are particularly pertinent because of the historic arrangement and relationship between a rector and his Parish. With respect to Deputy Mézec, he has tried to talk in terms of civil marriage as if civil marriage was something separate from marriage as conceived and understood within the Church of England.

[10:30]

My understanding of the position is this. Although there have at times been restraints and controls in terms of who could remarry within a church, there has never in the past been any difference of opinion on the definition of what marriage itself was. The effect of this, if the state decides that marriage will now incorporate something which, as it were, the established church cannot accept is so, will be to create a division and a split and a totally unsatisfactory position. It may be that there are Members who are quite happy about that. There may be Members who would prefer if there was not an established Church of England as part of our community life and so on, but that is the reality. In my view, serious study has to be made of this kind of issue. There is also the issue of individual conscience and of church schools. What of people whose personal faith means that they cannot accept this new definition? What of church schools whose ethos and faith means that they cannot accept this definition? History, I am afraid, elsewhere shows that it is likely that the state will at some point ride roughshod over their conscience and say: "No, you have a duty to accept that which we have put into the law." That will be the official line and perhaps: "We will take away your funding unless you do so." Those matters need to be very carefully considered and there may be other issues of which I am unaware. As I said before, this amendment provides a timescale for the work to be done with reporting back by the end of this year. If we decide the principle today, this could put the Chief Minister into an extremely difficult position because what if, as part of the process of consultation and the consideration of issues, he comes up with some issue of fundamental importance which makes this very, very difficult to decide upon and we have already made the decision in principle, unaware of those issues or the impact or import of them? It puts him, in my view, into a very unfair situation. We should, in my view, pass the whole issue, including the principle, to him for consideration at this point. It is, in my view, frankly insulting to the people of Jersey, of whichever side they are in this argument, for us to be seeking to make a snap decision on this most important area. I cannot conceive of a more important area than this of social policy. Whichever way people are minded or if they have no opinion on this, in my opinion

this Assembly owes it to the people of Jersey that we should engage in a proper study through the Chief Minister's Department as to the effects, *et cetera*. To fail to do so, I cannot conceive of any other area in which we would not insist that such a detailed study had happened before we made the decision. I move the second amendment.

The Bailiff:

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

3.2.2 Senator S.C. Ferguson:

I think my comments will probably go for all amendments on the main proposition so you will be spared my continual rabbiting on. **[Interruption]** That is a bit unkind, is it not? **[Laughter]** I must admit, though, I do not understand the full collateral effects of this proposition. As Deputy Mézec will know, having studied law, there is a law of unintended consequences and I have not yet heard any explanation of the unintended consequences of approving the main proposition. I have also not received any comments from the Council of Ministers. Why not? This is a change in policy which did not figure in the Strategic Plan, so why has there been a deathly silence, apart from amendments from the Minister for Treasury and Resources and the Deputy Chief Minister? At the same time, I have heard comments from the public, roughly evens for and against. I understand the position of the Catholic Church. I have heard the position of the Church of England, so I thought I had better find out what my own church, the Methodists, were officially thinking. I have heard plenty of the grassroots thinking so I thought I had better find out what the official line was. They have a working party working on the concept. They have found that opinions are sharply divided and their phrase is "contradictory convictions". The working party has recommended, as I understand it, that there be a 2-year review, a period of discernment to consider the question of relationships on a much wider basis. There are inherent problems in redefining marriage which could lead to a sharply divided society in the Island, and I am sure this is not what is desired by the proposer of the main proposition. I do wonder why we have not looked seriously at the Guernsey option, for example, which follows the French model rather than the United Kingdom, with a *union civile* and then an optional church ceremony. I would suggest that, as the Methodists are doing, more work needs to be done in order to achieve a consensus regarding the proposals and I, therefore, support the amendment.

3.2.3 Deputy S.Y. Mézec:

I did send an email to States Members over the weekend, which I hope they had a chance to read, where I gave some of my thoughts on this. I absolutely completely 100 per cent oppose this amendment and I think some of the points that have been made by Senator Le Marquand need addressing because I think some of them just do not make sense. He says that we need some sort of investigation to find out the effects of allowing same sex couples to get married. Well, there is only one thing that is going to happen from letting same sex couples get married and that is that they will get married. If the proposition is accepted without Senator Le Marquand's amendment, there is going to be a consultation process anyway on the form the legislation takes, so it will be possible to address some of these issues they may have about churches carrying out marriages and what implication that may have under the definition of civil marriage. But Senator Ozouf and I have spoken to the people at the Law Draftsmen's Office and they have told us that it is perfectly possible to do this. It will take a bit of thinking to get around it but it is totally possible. Senator Le Marquand talked about the longstanding definition of marriage and he talked about how it has lasted for 1,500 years, or whatever the figure he gave was. Marriage 1,500 years ago was a very, very different thing to what it is today. Going back historically, you can even take biblical references if you want to about what marriage has meant previously. Monogamy has not always been a staple part of marriage in this world. There have historically been lots of examples of polygamist marriages in Judeo-Christian society. He talked about marriage being life long and I thought that was really interesting. There was a guy about 500 years ago called Henry who had

something to say on this issue. Admittedly, he took it a bit too far when it came to lifelong commitment, but divorce has been around for a very long time and the issue of marriages being lifelong we now accept needs a bit of flexibility because you cannot have a lifelong marriage. If 2 people get married and all of a sudden one of them realises that the husband is an alcoholic, he is abusive and all sorts of things, there has to be some sort of get out clause. That is absolutely fundamental to a human being's wellbeing and for community. Senator Ferguson talked about the law of unintended consequences that I know about from having studied law. Just to let Members know the law of unintended consequences is not an actual law, it is just a saying. The Netherlands has had same sex marriage since 2001 and the last time I checked, I was there just a couple of years ago, they seemed to be getting on quite all right. The community still exists. People are still happy. For all we know they may even go on to a World Cup victory in the next week or so. Their society still manages just fine. In the wording for Senator Le Marquand's amendment, he has raised a few issues. Under section A in the report he talks about whether arrangements can be made for the recognition of civil marriages outside the Island in Jersey. Well, I have already asked about this issue in the States. I asked the Chief Minister what he was going to do to look at this law once the U.K. started having their first same sex marriages because there was a gap that would exist. The Chief Minister told me that he would look at it and that he had already sent his officers to look at it. If you look at Schedule 1 of the Civil Partnerships Law it already has a list of various legal relationships that exist in other countries that in Jersey are recognised as civil partnerships. That list just needs to be updated really so that it includes whatever there is now in France, whatever there is now in England and Wales. So that issue in itself is one that can be dealt with completely and separately, is being dealt with completely separately and is not anything really that means the States should not back the principle of equal marriage today. Senator Ferguson mentioned what Guernsey are thinking about, about the *union civile*. We do not know a huge amount about that. We do not know if it definitely is the right way to go about it. Maybe it is, maybe it is not, but once we have agreed in principle, this is what it is about, we agree in principle that same sex couples should be allowed to get married. Then we look at how we do it because maybe the Guernsey option is the one we want to go for. Maybe it is not. That discussion will take place during the consultation with the Chief Minister. What I see with this amendment, if States Members adopt it, is that it is what I spoke about at the beginning of my speech on the main proposition. It would be the States lacking the courage to stand up and say in principle we believe that gay people are equal and their relationships should have equal status to other people's relationships. Having this consultation or this research into the effect, which by the way most of that research we just need to look at what went down in the U.K. when they were passing their Marriage (Same Sex Couples) Bill. They will have done all of this stuff. We just need to look at that. Having this consultation process will not change anybody's opinion. You either believe that gay people are equal or you do not. What is a report looking into the effects going to do to change people's minds on this? It is not an issue of practicality, it is an issue of morality. It is whether you believe in principles of equality and this amendment does nothing whatsoever to address people's concerns on that. All it will do is delay the inevitable, and I say that we say to Members of this community that we are an Assembly that will stand up for equality, not an Assembly that will kick things into the long grass because we do not have the courage to deal with it today.

3.2.4 Deputy G.P. Southern:

The proposer of the amendment asks about what impact this is going to have. He talks about what risks this might bring on for our community, our society. Deputy Mézec talks equally as emphatically about the moral issues and about equality. I would just like to add a contribution which I found very clear, which seems to deal with the impact of what we are proposing today as a whole, which comes from the Clerk of the Jersey Quaker meeting because the Quakers perhaps embody the nearest I get to a spirituality. They say very clearly: "In considering changing the law to allow same sex marriage we would like you to know that Quakers in Jersey would welcome this change to the law. Quakers see the light of God in every one and this leads us to say that all

committed loving relationships are of equal worth and so Quakers in Jersey wish to celebrate same sex marriage in the same way. The Civil Partnerships Law is a legal contract not a spiritual one and that is why we hope that changing the law so that same sex marriages can be celebrated within a couple's worshipping community will be passed in Jersey. We do not seek to impose this on anyone else. For Quakers this is an issue of religious freedom. Quaker marriage is not open to all but is for members and those who, while not in formal membership, are in unity with its religious nature and witness. Some of us were at a Quaker yearly meeting in York in 2009 where over 2,000 Quakers agreed to seek a change in the law so that same sex marriages can be prepared, celebrated, witnessed, reported to the State and recognised as legally valid without further process in the same way as opposite sex marriages are celebrated in Quaker meetings. Quakers consider that they should be able to follow the insights of their membership in celebrating lifelong committed relationships between a man and a man or a woman and a woman in exactly the same way as they currently recognise the marriage of opposite sex couples. Quakers in Britain welcome the Marriage (Same Sex Couples) Act, which received Royal Assent on 17th July 2013, and we hope that you will pass the law allowing same sex marriages in Jersey."

[10:45]

I think that sums up certainly my attitude to same sex marriage and I think points the way to the absence of impact and the absence of risks on our particular society.

3.2.5 Deputy N.B. Le Cornu:

When in 2001 the Netherlands became the first country to grant same sex couples the right to get married and adopt children many abroad looked at this as the latest eccentric Dutch approach to social policy. As with legalised marijuana and prostitution on display, this was expected to remain a peculiarity of Europe's liberal Dutch heart. Contrary to expectations, the last decade has witnessed the rapid expansion of same sex union regulations across the Continent, at the moment 16 out of the 27 E.U. (European Union) Member States have some legal provision for gay and lesbian couples in long-term relationships. All West European countries, except Italy and Greece, have at least some form of a registered partnership while 11 countries, I think I am correct, plus Norway and Iceland, have full marriage equality. Slovenia, Hungary and the Czech Republic also offered registered partnerships to same sex couples. The point here is that Europe has accepted that this issue is pretty much a non-issue. They are prepared to grant these rights of toleration to their minorities, and minorities have historically always been a problem, particularly in Eastern Europe, where there is a less democratic tradition. One thinks of the way that in the inter-war period Jews were treated in places like Poland. In the sense, there is a similarity here. I think Jersey society itself is at ease with this issue. It does not need a further debate. It does not need further consultation. These are all delaying issues. The debate was already had when the issue was debated in the United Kingdom. Everyone read the newspapers, everyone knew what was going on, everyone had opinions. They followed what was happening. The outcome was approved. We should also bear in mind Jersey has an international finance centre here. It has many staff members who will be moving and transitioning across Europe and across the world who will want to know, and some of them will be in very senior positions, who will be in these sort of relationships, who will want to know that they are not going to be discriminated against when they come to Jersey in a senior position. That is a little toy for the finance industry to consider, when Members consider it. Finance needs it as well because they may be hard on economic issues but on social issues they are a lot more liberal, whether your nationality, your sexual orientation, in finance does not really matter so long as you are doing the job and making the money. So that is why I conceive of this as merely a delaying tactic. I would also make a point that it is also an attempt to deny Deputy Mézec, the youngest Member of the Assembly, age 23, the glory of bringing forward a proposition that is genuinely socially progressive. Where is the Government that was bringing forward these kind of socially progressive proposals immediately after they had been debated in the U.K.? There was no indication that was going to happen. We know that is historically the problem in Jersey;

there has been delay. The 1967 Abortion Act gave women a lot of freedom and liberty. It was not until the mid-1990s that it comes into Jersey after a very hard fought debate and battle, of which I was a part and I was very proud to be part of a group called Pro-Choice fighting for women's rights to choose. We have seen it on the issues of homosexuality, decriminalisation of homosexual acts. It has taken so long to come to Jersey and I can remember as a teenager how on Sunday night you could go to a pub but if you started moving and shuffling your feet to the music a bouncer would come up to you and tell you not to do it. That is the kind of stupidity and intolerance that I have had to live with, in this Island, for so long. I think it is about time we followed the trend, as it clearly is obvious and apparent in the United Kingdom and elsewhere in Europe, this is really a non-issue. We should just put it into place and allow a minority to decide how they wish to live their lives and if they wish to enter into marriage, which my speech later on will critique marriage, if they wish to do so then let them do so. Although one may ask why do fun-loving gays want to get involved in marriage at all. But I will leave that for a later debate but I think it is not appropriate to delay now. We need to get on with it and do it immediately, and there is an expectation among civil society we do it.

3.2.6 Deputy J.H. Young:

I am only going to speak once and briefly. For me, I am in support of the amendment. The reason is, is because I believe that there are very big contextual issues here, which I really want to have looked at in detail and I do not tackle this from the point of view of being a regressive. I regard myself as a very liberal person and socially progressive. But I have a problem with how we have currently finished up where we changed the law in civil partnerships for 2012 but we did not include in that arrangement the opportunity for persons of different sex to also make a decision not to be married and to instead opt for a civil partnership. I think that was a wrong decision because in France that is not the case, and we know in Guernsey they are looking at doing that exactly. In France, since that was introduced in 1999, 95 per cent of their equivalent of civil partnerships has been for different sex couples and couples in France now are choosing to have civil partnerships - that is different sex - by a ratio of 2 to 3, compared with marriage. I think that shows the sort of modern issues in society that some parts of our community want to find new forms of how people can have the emotional support and the sharing of life together. That is absolutely important. Our law does not even recognise people that have come to Jersey who have entered in arrangements. No, they do not count in Jersey. So I want us to have those aspects looked at. I want to see that the legal issues there are looked at. So I really feel that that is a broader contextual issue that should be brought into the investigation that Senator Le Marquand's amendment asks so that when it comes back we can have the equivalent of what was done in the build-up to the 2012 decision in Jersey to have civil partners, which was a very progressive piece of legislation. A real in-depth study and we made all the legal changes for that, and I think we now need to do that again. I say that with ... I am not approaching this from a religious point of view. I absolutely respect those people that have that religious faith that see deep spiritual reasons for their positions on this for and against. It is nothing to do with that. This is about civil structure to society and I think in a situation where many people choose to live together rather than marry because there is no choice, for those same sex couples there is no choice. You either have a marriage or nothing and many of those relationships have children, which does not provide the stability for what we need in society, so I want to see a wholesale reform of that law and I want to see it in this report. I am delighted that Senator Le Marquand has set that date, very soon, to have that detailed report.

3.2.7 Deputy J.A.N. Le Fondré:

I am delighted to follow the last speaker. I was kind of thinking there is almost a story in there of the tale of the younger politician who wants to do something and said: "Let us do it. It is the right thing to do", which I do not necessarily disagree with him on, and it is simple. Then we have, with due respect to Senator Le Marquand, the older politician, probably more experienced in where things can go horribly wrong. He was saying: "Let us just look at this a bit more carefully." One

comment I would just make before I start the speech, as it were, is I think it was Deputy Le Cornu, I know other people made reference to it, about how the world is changing and how so many countries are doing it. Just looking at Senator Ozouf's amendment, who has helpfully listed the number of countries of same sex marriage, so Mexico for example, and he puts in brackets, 2 states. Mexico is 31 states. The U.S. (United States) 19 states but obviously it has 50 states. So I just put that because it is about how we understand things and how we portray things. Obviously Europe, on my count, which could be wrong because it depends on the currency of the information, there are either 7 or 9 countries involved and obviously there are 28 countries in Europe or the European Union. Where Deputy Mézec and I absolutely agree on one definite point is that homophobia is unacceptable and to be honest I have got a lot of sympathy for the view that gay and lesbian couples should have the same rights as heterosexual couples in respect of the law. If I interpret that last statement in saying I support them as having the same rights, for example, under inheritance law, under taxation, all that type of thing. I have no issues there whatsoever. Where we do part company at this stage is over the wider issue of same sex marriage, and it is the expression and the term of marriage. More importantly, which I will get to later, is this thing about unintended consequences and yes, we know it is not a written law, but it is what the experiences have been of other jurisdictions who have had this in for some time. Thus far the actual main debate has been quite disciplined but there is a concern - I certainly have got them and others - I simply do not want to be labelled as homophobic. I remind Members that the definition of homophobia is an extreme and irrational aversion to homosexuality and homosexual people. I do not consider my stance to be either extreme or even irrational so I hope my perspective will be respected. I fully support civil partnerships and I voted for them and I would endorse any moves, for example, to regularising the discrepancies in relation to civil partnerships. But I am a father, I am a husband, I am married and therefore was obviously a groom. The consequences that are starting to be seen in relation to all of those terms in jurisdictions who have introduced same sex marriage is that they are all changing or being eradicated. So for me it is a little bit about ... perhaps more than a little bit about the institution of marriage and whether the original proposition weakens it, and obviously I am applying the present definition of marriage, namely the joining in wedlock as man and wife. The amendment by Senator Ozouf may be a marginal improvement in it that it requires consultation. That obviously can mean anything to anyone. But my understanding in reading his amendment is that will be consultation on the mechanics of implementing same sex marriages, not whether we should have them in the first place whereas the amendment by Senator Le Marquand is obviously a far wider consideration and obviously for me should be supported. Now obviously the main proposition was lodged about 5 or 6 weeks ago. But it is a seismic proposition. It is not simple. It is a major change. Deputy Le Cornu is right in what he said to this Island. Therefore I agree, it is not something that should be rushed through, particularly there is an argument that has been put by certain people when no one, as far as I am aware, stood on a platform saying this is what they are going to bring. But that is not that strong an argument; that can apply to every circumstance in existence. But it is critical that we understand what the wider issues are, for example, I will use freedom of speech. Within freedom of speech the preservation of rights and beliefs. I will say at one point I contemplated should we try and make this into a referendum question, but just decided it was going to be way too complicated and really was not a good way to go. But interestingly enough there has been a call for it. But in my view we do need some objective data here because what are the views of the majority? Then one can turn around and say: "Well, it does not matter because it is something we have got to do" but it would give us a steer. But one part of what we are dealing with are religious freedoms and beliefs that have obviously been established in certain places at some human course over hundreds if not thousands of years. So while it is absolutely the case that society has changed and legislation does need to take account of that, to me it is also beholden on us as Legislature to make sure we do things properly, not just quickly, because the widening issues that appear to come as a consequence of same sex marriage are what is the impact on family. Most importantly on role models and rights of children: what are the unintended

consequences of just voting this through? In all honesty, how many of us fully understand what the issues are involved in this?

[11:00]

It is all very well to say the research has been done in the U.K. - it is not obviously attached to the proposition - I do not like just blindly accepting what another jurisdiction has done because they have done it. The example I use, and it has been used elsewhere, in Canada the terms “mother” and “father” have been removed from birth certificates to avoid discriminating against gay couples who procure children, for example, through I.V.F. (in vitro fertilisation). They have terms such as parent or ... and I believe it is Canada, it might be Spain, progenitor 1 or progenitor 2 because one cannot tell in a lesbian couple who the father is because obviously the father does not exist in terms of the new lesbian family. In an article in the British press earlier this year about this general issue, there was reference to guidelines being issued which made clear that certain pieces of legislation be read in such a way as to allow the term “wife” to apply to men and “husband” to women. Again, that can be just a legal nicety but it might be something that people want to be aware of. One of the biggest issues which does seem to be trending in the U.S. and also Brazil is the move away from marriage being of a binary nature, in other words 2 people, because there are legal challenges in Brazil to extend the definition of marriage to include 3 partners, and the difficulty when you start looking at some of this research by internet is how accurate is the information you get, so it is trying to go to at least saying well there is a newspaper that has published this story rather than, for example, it is a blog and it is an opinion. But there was a publication in Virginia, which has got the circulation of over 150,000 people, where attorneys for the Norfolk Circuit Court Clerk stated the following: “Same sex marriage proponents want to open the door of marriage for their benefit and then slam it shut behind them but it will not be long before other groups come knocking.” This is obviously the quote from the article. For example: “If the definition of marriage is no longer based on procreation or the ability to procreate naturally then what is the purpose in prohibiting marriage between persons of close kinship? Would it then be unconstitutional for 2 brothers who are confirmed bachelors and live together to marry so they could re-own property as tenants by the entirety, file joint tax returns, qualify for health benefits and obtain better insurance rates.” I do not subscribe to these views but I am just saying those are legal arguments that are starting to be put out there in the U.S. who have had 10 years’ experience of this. So the legal arguments are starting to be made, and I do not know if they are allowed it. Just before everyone starts ridiculing that one, let us go for this. This is from the *Boston Globe* which has a circulation of 250,000: “The Federal Court decision this month [which was December last year] that struck down most of Utah’s anti-polygamy law as unconstitutional is yet another reminder of the slippery slope argument so frequently ridiculed deserve more respect than they get. This is about unintended consequences and understanding where we are going”, which is why I think Senator Le Marquand’s approach is quite important. “Not every change in law or policy is the first step down a slippery slope to a more drastic or welcome change but when a longstanding consensus of the meaning of a bedrock societal institution is altered, especially one as entwined of the moral values and social attitudes as marriage it is naïve or disingenuous to claim that even more extreme changes might follow, and yet time and time again advocates of same sex marriage have pooh-poohed the warning that if marriage is redefined so that the sex of the spouses is irrelevant it can be further redefined so that the number of spouses or the family relationship of spouses is also irrelevant. Many gay marriage proponents oppose polygamy saying: ‘We will not let you legally marry more than one person’ but the problem is if the essence of marriage is a right to marry, whomever you love, what reasonable grounds are left for saying no to polygamists like [and there is name] Kody Brown, and his multiples wives or any other union of consenting adults?” The problem is as well is how things have progressed over time. To continue the article: “When the Massachusetts Supreme Judicial Court was grilled in 2003 [so 11 years ago] that same sex couples had a constitutional right to marry, the majority of opinion dismissed such concerns, ‘Plaintiffs seek only to be married not to undermine the institution of marriage’ the Chief Justice wrote, ‘They do not attack the binary nature of marriage or

any of the other gatekeeping provisions of the Marriage Licensing Law’.” That view would now appear to be proved wrong. “So legal opinion, almost political assurances, are only valid now, if at all, is understanding where one is going.” There is another quote, this time from an advocate of polygamy: “Legalising same sex marriage creates a legal precedent where there can be no valid legal premise for denying marriage to more than 2 people who wish to marry each other.” So in other words, the supporters of polygamy see same sex marriage as a means of achieving legalisation of polygamy.

Deputy M. Tadier:

Would the speaker give way? We are privileged to have the Solicitor General in the Assembly and he has raised some legal issues there ...

Deputy J.A.N. Le Fondré:

I will not give way, he can ask at the end.

The Bailiff:

He is not raising legal issues at all. He is saying to Members that there can be some unintended consequences. It is not a legal issue.

Deputy J.A.N. Le Fondré:

It is not a matter of law it is a matter that there appear to be opinions out there, some of them issued by lawyers, as to where things are going in other jurisdictions. So the point there is this is not about just changing a label. That is why I want to know where we are going and also what the alternatives might be. When I was trawling the internet, as it were, I came across a very sensitive view from which I will also quote and it starts: “In our sometimes misguided efforts to expand our freedom selfish adults have systematically dismantled that which is most precious to children as they grow and develop. That is why I am now speaking out against same sex marriage. By the way I am gay.” I will not read the whole article. **[Aside]** That was a quote. I will not read the whole article but the writer continues: “In developing their goals of policy and law politicians often look no further than the next electoral cycle. They are concerned about votes and supporting the same sex marriage now looks like a winner for them.” In other words, the writer was trying to argue that politicians do not look necessarily at the longer term consequences. His view was that: “Same sex marriage will not expand rights and freedoms [I think it was in the U.S.] in our nation. It will not redefine marriage it will undefine it. It will undefine marriage and unravel it and in so doing it will undefine children. It will ultimately lead to undefining humanity, that is neither progressive nor conservative legislation, it is regressive legislation.” Now again, I do not necessarily subscribe to that but it is about putting that view out there as to why the public concerns I think do need to be at least recognised and why this matter needs to be dealt with sensitively. What I thought was quite interesting ... I will not quote the next one but there does seem to be an issue that the balance between basically same sex couples and love. In fact it is a quote from another commentator: “Same sex marriage advocates will counter that same sex couples are exactly like opposite sex couples and they should be treated the same.” Now we have heard that argument and that is why I thought it was relevant. “Their relationships are based upon love [that is great] and the law should not penalise them in such areas as taxes, inheritance rights and access to a partner’s medical records.” I agree. “Proponents of traditional marriage - one man, one woman - will hold that the institution lies at the very foundation of our civilisation and in fact is the glue holding society together.” I agree with that as well. The article carries on with a comment: “Yet both sides are missing another essential point and that point is that a sweeping redefinition of marriage without understanding the consequences could become a classic slippery slope leading to unanticipated consequences such as the eventual acceptance of virtually any relationship involving any number of adult members of our species as marriage [and it continues] the most likely is polygamy.” That particular writer’s comments were a plea that can one distinguish between what we call opposite and same sex couples but provides both with the protection under, I think it was

the 14th amendment in the U.S. They consider that might well serve our society better than a sweeping immediate dismantling of existing discriminatory laws. "Call one marriage and the other civil unions but provide them with equal treatment." That is the quote. To do that until such point we have had to resolve this whole conundrum about marriage. So the commentator said their view was, and I will bring it more significantly to us shortly: "Be in no doubt once the definition of marriage is opened up marriage will eventually have to be opened up to every type of union." That is the perception and that is certainly what we are now seeing a number of years down the line in jurisdictions that have introduced this legislation as to where the legal attacks are coming from. So you see, for example, and that is why I think Senator Le Marquand's proposition as a wider investigation of what is going on is eminently supportable because the Guernsey model of a *union civile*, which seems to have the support of what I would call the Guernsey gay community - certainly from the emails I have been seeing - but would also seem to be attractive, I am going to say, to certain church representatives, I do not believe that the original proposition of Deputy Mézec allows or particularly encourages that level of consultation because the focus certainly from the third paragraph of the report going onwards is all about the U.K. and is about same sex marriage. I am trying to do this balance where I think it would be worthwhile seeing what our sister Island is doing and seeing whether we, as a Legislature, would want to be consistent with them, for example. I would certainly hope that Senator Le Marquand's proposition would allow that kind of consultation to take place. Up to now I think I have managed to avoid the views of various religious organisations and I am going to try and continue to do so. But I want to move on to the actual issue of the church and the impact on the church. That is kind of relevant as well to potentially the amendment by Senator Ozouf. Deputy Mézec and Senator Ozouf have been very careful to try to exclude churches from any proposed legislation and that is very laudable. I believe the quote that Deputy Mézec has made is: "So those of religious objection to same sex marriage can still vote for allowing civil same sex marriages and can be assured it will not impact on their church's position." In fact, as he said to us, he emailed over the weekend: "I can assure Members that there will only be one affect should Jersey introduce same sex marriage and that is that same sex couples will get married, nothing else will change. Faiths will not have to alter their ..." I do have to say the next sentence I thought was a little bit too mocking: "Faiths will not have to alter their doctrine, the family unit will not disintegrate [that is all valid views] heterosexuals will not be legally required to convert into homosexuals." I do not think that was ever part of the argument. Oh, and apparently: "Holland or the Netherlands may or may not win the World Cup as a result." Again, not entirely relevant to the argument, I would suggest. But he does suggest that all of the research into societal effects was done in the run-up to the Marriage (Same Sex Couples) Bill in the U.K., so there is a consistent reference back to the U.K. legislation. I do not know if all the research was done. It looked like it was an agreement from the Liberal Party, as far as I can see, that seemed to push it all through. Certainly if you read briefly - it is on the Hansard in the House of Lords - there are similar questions being asked. As I said, the other difficulty is in the U.K. it has only been in place I think since March in terms of the number of months whereas obviously examples that I have referred to and probably will refer to in a minute as a well, is spread over 10 or 12 years. Potentially the amendment as a result of Senator Ozouf's amendment, if that goes through, provides the safeguard that religious and faith communities would not be required to conduct same sex marriages unless they wish to do so. But that is to me completely different being required to recognise same sex couples after being married, and that can work in all sorts of different ways. So therefore, for example, what is the position of individuals who through their faith may not be supportive of same sex marriages. That is not necessarily a vicar or a rector, for the sake of argument, presiding at a wedding. Thirdly, the assurances - and this is relevant to the U.K. debate - of the Senator and Deputy may not be capable of being implemented or may be capable of being overridden, and that takes us straight into the European Court of Human Rights. Let us talk about the U.S. experiences and against that unintended consequences and the impact on individuals or organisations, some of which to me would seem to be not a matter of law but more an application of policy. That is probably one of my key concerns. So while I think we all agree

with Deputy Mézec about respecting rights of one part of the community I want to ensure that safeguards are in place to protect the rights of another possibly quite large section of our community to express their own rights. An example I would use, which was given to me not so long ago is consistent with other results that I have seen, is a baker in the U.S. who was requested by a same sex couple to bake a cake for their wedding and my understanding is that it had very specific messages on the cake, and he declined, I believe he was a practising Catholic or something, and was happy to bake a cake but did not want to do the messages because of his particular beliefs. He was sued and lost. That is the problem. I think we all agree that was ridiculous but that is where the law goes and that is why it has got safeguards.

[11:15]

Approximately 10 years ago in the U.S., one U.S. state, a Justice of the Peace who refused to preside over same sex unions due to moral or religious objections was summarily fired because since same sex unions are entitled to be treated the same as traditional marriages it was discriminatory and a firing offence, so that is why the amendment of Senator Ozouf, which is very narrow about the conduct of wedding services, does not extend further to protect people with particular beliefs. Again, I do not know the details, I do not know if the beliefs of those individuals were very strong or not, but it is about protecting their right to have those beliefs and being able to not go in fear or favour. What happens with a priest or a minister who similarly refuses to preside at such ceremonies? That is assuming the carve-out was not there. But the State cannot fire such people but you could see other sanctions. You could see loss of tax benefits being imposed on churches because if gay marriage truly is no different from traditional marriage by what justification can the Government give preferential treatment to an entity that discriminates? Just bear in mind of the discussion to be had on the Charities Law and the presentation we had, and how people will be eligible for charitable status. Now much more recently 2 women filed a complaint in New Jersey because they were denied use of a pavilion for their civil union ceremony. The pavilion was owned by a Methodist ministry. It had been rented out for marriages but the minister refused to rent it for civil unions because it was a religious structure and civil unions were not recognised by that particular church. Due to their refusal to rent it for the lesbian ceremony New Jersey revoked, at the time, its tax free status. There are going to be all sorts of reasons if why, *et cetera*, on some of these, but these are the type of things that I think we need to get to the bottom of and understand the facts. The Des Moines Human Rights Commission found that the local Young Men's Christian Association, the Y.M.C.A., in violation of public accommodation laws because it refused to extend family membership privileges to a lesbian couple. Accordingly they were forced to change their behaviour or face a fine of 100,000 dollars. Perhaps one of the more interesting examples is Catholic adoption agencies, both in the U.K. and the U.S., where some have either had to sever their links with that Catholic church or they have decided to close because obviously there is a conflict between the views of the Catholic church. As I said, it is about the unintended consequences here. It is not that nothing else will change and, as we have heard some people say, they should change. That those views are outdated, outvoted and not responsible. Those views are held by quite a lot, I would suggest, of our community because to me it is about freedom of expression. If they choose to express their own views that marriage should only be between a man and a woman will those individuals be subsequently faced with some form of legal proceedings, as has been the case in the U.K. for other matters, because the carve-out being proposed by Senator Ozouf when we get there, is only about conducting the same sex marriage, not in any other aspect. As I said, to go to the issue about human rights and discrimination legislation. It is already the case that some lawyers have argued that the ban or opt out by the Church of England from participating in same sex marriages is challengeable. Similar concerns have been raised by lawyers representing the Church of Scotland. They have warned that nothing prevented the European Court of Human Rights ruling now or as attitudes change the safeguard to discriminate against homosexuals. That was September last year. So we do not know the unintended consequences of all of this and we have not had time to assess the impact of such a huge and seismic change. There are already stories

of a U.K. couple looking to challenge the U.K. carve-out that has been granted. The Church of Scotland has reported as stating it had no current plans to stop offering marriages but was examining whether it should continue to preside over services in the way it does now. So if you apply that logic to the Catholic Adoption Agency - which is what I quoted - depending where this goes will churches end up not having any weddings, including to heterosexual couples, if it turned out they did not have the protection that is being promised and were held out to be legally discriminating against same sex couples. That is a concern that is also out there. Would Members seriously support that as a consequence? I know I certainly would not. Again, I began about the overall message about the institution of marriage on a different level. What is the educational impact and what will the views of parents be? Senator Le Marquand has referred to that. It is the case that children will have to be taught that there is no distinction between the marriage of a man and a woman and a marriage between 2 men or 2 women. Deputy Mézec has said that is absolutely right. It comes down to degrees. But the question will be, perhaps even later, will it be more than 2? Certainly some people have put to me that some parents will object to this. I do not know. It may well be that some teachers will object to being required to teach this because it is against their beliefs, for example, FCJ or Beaulieu. Will the teachers there be sacked or prosecuted because they do not support teaching about same sex marriages or would the Minister for Education, Sport and Culture for example, be required to either force the Catholic school to teach this subject in greater depth than they would like or remove their educational grant? That is not covered by the carve-out of this amendment because even though it is a matter of faith, and that will be, and some of us here today, there will be members of the clergy who would be potentially prepared to go to prison if their faith is impinged on in such a way. One thing I would like to address, which Deputy Mézec, and I am getting close to finalising, Members will be delighted to know ...

The Bailiff:

Deputy, I am sorry to interrupt, and of course you must say what you wish but you have been speaking now for nearly half an hour.

Deputy J.A.N. Le Fondré:

I know, Sir, I have got about another 5 minutes. But the reason I wanted to speak early is because there is a lot to cover and also I think some of the arguments have been over simplified. Deputy Mézec has talked about the distinction on civil marriage. Now all I can say is that the response from the Church of England, which I dug out from their website, which somebody kindly referred me to, says: "The implication that there are 2 categories of marriage, civil and religious, is a mistake." It is basically wrong. The paragraph continues: "This is a mistake, the wedding ceremony for the institution of marriage. The assertion that a religious marriage will be unaffected by the proposals [this was the U.K. at the time] is therefore untrue. Since fundamentally changing the State's understanding of marriage means that the nature of marriage is solemnised in churches and other places of worship would also be changed." They also talk about the issues if you address marriage and leave same sex partnerships out the way that will also cause some problems. Certainly the advice by the Church of England, which I presume was based on legal advice, is that there is no distinction in law between religious and civil marriage. In law, there is one social institution called marriage which can be entered into through either a religious or a civil ceremony. To suggest this involves 2 kinds of marriage is to make the categorical error of mistaking the ceremony for the institution." Particularly in relation to the European Court of Human Rights, is whereas ... and this is about the carve-out. This appears ... sorry, I am just trying to find the quote: "Whereas the European Court of Human Rights has upheld the rights of States to retain marriages as the union between a man and a woman it seems extremely doubtful if they were to uphold the right of a State to retain gender inequality in civil partnerships once the State has legalised legislation for equal marriage." At the moment - and I will stop on those particular areas, I think - there is doubt ... sorry, one final quote from the Church of England. Their conclusion on this particular issue is: "There would be a serious prospect of a successful challenge to that arrangement

under Article 14 taken in conjunction with Article 12 on the basis that same sex couples are being discriminated against in relation to the matter between the ambit of Article 12, which is all to do with the European Court of Human Rights and the human rights legislation.” That is opinion, it is not fact at the moment. But that is the concern as to where we are going and why the carve-out that is being proposed under Senator Ozouf’s amendment is not in my view strong enough, whereas the proposals by Senator Le Marquand is to investigate this in a lot more detail. The reason I have laboured on those few points is to counter, I think, what seems to be a key theme running through the proponents of this proposition, to quote our local press: “No one is going to force anything on these people, i.e. people not supporting same sex marriages if we decide to allow gay couples to get married. No church will be forced to host same sex weddings. If it does not affect you what gives anyone the right to tell other people what they can do or cannot do.” That goes on about it would make no material difference to those people against it. I would hope I have demonstrated I think an overly simplistic argument and that is why we need to understand where we are going and if any safeguards we need to put in place need to be stronger because the very narrow arguments seem to centre on the wedding day ceremony. It completely ignores the far wider picture. It completely ignores... and I accept you can redefine marriage to cater for one group of people but you potentially open the doors to others. It ignores the fact that once you treat same sex marriage as the same as heterosexual marriage you will almost certainly have to teach it in the same way, even if as an individual you do not support it or you may lose your job. It ignores the fact institutions that do not support same sex marriage have either had to close, be threatened or receive fines or other penalties because they stick to their beliefs. It has happened elsewhere, it is not going to happen here tomorrow, it is not going to happen here next year, but there is the risk it will happen. The carve-out as proposed does not cover the wider beliefs of those individual institutions to have a certain faith who up to now have had those religious freedoms to protect it. It completely ignores such matters as refer that insidious creep of political correctness, such that even forms will no longer refer to husbands and wives or mothers or fathers. I am not progenitor 1, I am a father, thank you. To conclude: I do not denigrate anyone who is in a loving, caring relationship. I hope I have tried to stick to that theme as I have been going through my speech. I do not care whether they are heterosexual or single sex. I do care about the consequences that changing the definition of marriage would have on our society and the unintended consequences potentially on children and the further weakening of something that still forms the bedrock of our society. That is why I want to know what are the safeguards for those people who do not agree and the protection of their freedom of speech and belief. So I fully support civil partnerships. I have no issue with them whatsoever but surely at some point does there come a point when one has to accept that certain people are different. I do not know. The wording in the original proposition unamended in my view basically commits us to same sex marriage and the carve-out is narrow. I submit we do not know the unintended consequences. That is why we should be supporting Senator Le Marquand. For example, the route being followed by Guernsey, *union civile*, seems to have a lot of merit I think, but I would like to know the detail. But if we sign up to the principle of same sex marriage by voting for the unamended proposition that seems to me to take us down a particular route as it is very clearly predicated on what has happened in the U.K. It therefore seems to make more sense to me that we consider, for example, whether we want to achieve consistency with our sister Island and also what would be acceptable from that point of view to wider communities or at least speak to them before we sign up to the principle. It may well be there is not a meeting of minds but maybe we can get to a position that we can all go forward. Senator Le Marquand said we can get that done by Christmas. I think, if you are gay, be proud of it, celebrate it, be in love but do respect other people’s views on this matter as well. Let us understand and provide for those views. It is both sides of the argument. The unintended consequence of putting this proposition today unamended to me are huge. It would be a seismic shock to the community and we do not have the information to understand where those supposedly simple few lines will take us by rewriting the definition of the word “marriage”. So for all those reasons I really do urge Members please support Senator Le Marquand’s proposition and apologise for the length of time.

3.2.8 Senator P.F.C. Ozouf:

This proposition is remarkably simple and at its heart, and I am going to speak not for half an hour, I hope, but of course I will address some of the issues that need, I think, to be ventilated because if Senator Le Marquand is successful you have rightly said that my own amendment will fall. Therefore I hope you will permit me ... I hope we get to my amendment but I want to be able to be permitted to explain why I would like Members to consider my amendment as appropriate.

The Bailiff:

Senator, you are perfectly entitled to say an argument along the lines: "Do not vote for Senator Le Marquand because my amendment provides the protections you need." You obviously can develop that to a reasonable degree.

[11:30]

Senator P.F.C. Ozouf::

At the heart of this whole proposition is effectively a situation where Jersey would today, in principle, subject to consultation, that no matter whether you are, after that legislation would be properly consulted upon and would be passed by a future Assembly, but it would not matter whether or not you were heterosexual or gay, is that the State would recognise you as equal. That is at the heart of what this debate is about. I do not believe that there is a need to have what I think would be a visceral, difficult, problematic debate around the principle of heterosexual and gay couples in the eyes of the State being treated as equal. My amendment puts beyond doubt the carve-outs of the religious and faith communities and I absolutely think that that is right. This is a difficult debate for many Members and I understand that. I understand ...

The Bailiff:

Sorry, Senator, we have just gone inquorate. The Usher has gone to get some more Members. Usher, could you summon back Members we are still inquorate. Now we are back.

Senator P.F.C. Ozouf::

Delighted that the Minister for Health and Social Services and the Assistant Minister for Treasury and Resources have returned. This has been portrayed as almost a seismic shock. I hope that there will be a seismic shock. A seismic shock of importance that sends out a message of equality, of acceptance, that Jersey is an open society, which does not seek in the eyes of the State to discriminate. Many Members in favour of Senator Le Marquand's proposition, and particularly the last speaker, have spoken about the unintended consequences of making a simple decision that in the eyes of the State couples who are engaged in a relationship, which is akin to marriage... I will come to the issues of *union civile* and 2 people living together and having the same issues in a minute. But it is a clear statement effectively to end what is to many people ... and I know it is very easy in this debate, and I know that some Members do not mean it, they say: "I am not homophobic but ..." but people often say: "I am not racist but ..." And I know that they do not mean it but there is an unintended consequence for those remarks taken by people who have an opposite view that their remarks are taken as homophobic. I realise that this debate is very difficult for a number of Members with very strongly held faith positions. I understand this issue. If I may say on the right, and I do not believe this is a debate of the left and the right. I voted and seconded Deputy Mézec's original proposition. I said before Deputy Mézec, but I congratulate him on bringing the original proposition, that would I have brought a proposition to the same effect before this term but he beat me to it. We have heard, if I may say, some of the remarks that will flow from a wider debate from the right who basically talk about all sorts of consequences that will flow from acceptance of marriage equality in the eyes of the State. If I may say, Deputy Le Cornu has also probably given Senator Le Marquand... and I hope Members are not tempted in this, they may have given Senator Le Marquand some votes because of what Deputy Le Cornu said about the Evangelical Alliance. Since this debate has been going on I have been humbled again by being contacted by many gay

and straight people, young and old, who say to me, who voted for me, some have not voted for me, but know how strongly I believe in these matters, who have said: "I am in favour of marriage equality in the eyes of the State" and my own church, and when I am talking bible classes, when I am talking with my religious communities we believe that Jesus was a loving man who accepted everybody, and who did not cast stones, who was inclusive. I make no observations but I just would simply say I do not want to enter into the religious faith arguments, apart from to say that there have been some shifting positions and there is plurality of view in faith communities. A lot of people in churches do not believe that this is the thin end of the wedge and would require a period of consultation to deal with what ...

The Bailiff:

Senator, does this not relate more to the main proposition?

Senator P.F.C. Ozouf:

Senator Le Marquand is arguing that we need to identify what the unintended consequences are and I am just going to very briefly deal with the issues that have been raised and shut them down.

The Bailiff:

That is fine but you were dealing with whether the faith community does or does not believe in this proposition. That seems to me a matter for the main proposition.

Senator P.F.C. Ozouf::

I take that guidance, Sir. But Deputy Le Fondré said that there were unintended consequences which did need to be addressed and I have met with some proponents of these views. This view that passing marriage equality in the eyes of the State will lead to polygamy. I have heard other arguments to say that there is a... and Deputy Le Fondré did not say it but I have heard a proponent of this saying to me that he believed passionately that a move in terms of marriage equality will move to the acceptance of and the legalisation of paedophilia. That is the reality of what I have heard. I heard it from a Member that I met, from somebody in this Assembly, who addressed me on the matter. Other people have said it is a Marxist plot. Somebody says that it is going to be ... and Deputy Le Fondré, and I will deal, if I may, with compassion and with a genuine sense of hurt with the remarks that Senator Le Marquand says that we need to understand and do more work because of the concept of a breakdown in family values. He said that his legacy was the foundation of being a family man and having children. Now I say to Senator Le Marquand, does he really believe and is he going to argue that we need a debate about relationships that are capable of producing children or not? Are marriages ... because I have heard these arguments repeated by other individuals. Are marriages that are childless any less valid than marriages that have children? I have struggled with the issue of children and same sex couples becoming parents. I have struggled. I have asked ... I have been asked to be a godfather to a child of a same sex couple. I know 2 same sex couples who have adopted 2 children from terrible circumstances and who are giving these 2 young children a chance in life and a loving environment, supportive in a way that the heterosexual couple from which they came could never do. I find it very difficult to accept a statement that somehow we need to have a public debate on the consequence of changing the definition of marriage and saying that marriage simply needs to be primarily a child-producing, overarching, higher level form of relationship than frankly, and I have no intention of being a father, that relationships of my type and of my own are different and second class. I stood in this Assembly and I voted in favour of civil partnerships, and as Deputy Tadier has reminded me, I said that I was content at the time that civil partnerships were equal to marriage. Now, the difficulty which has arisen since is that countries around the world, which have had the debate that Senator Le Marquand thinks that we need to have in Jersey in the next few weeks, we have seen the debate that he is asking us to have. We have seen it in the United Kingdom, we have seen it in France, we have seen it in Norway, Denmark, Sweden, Spain, Portugal, Luxembourg, Canada, New Zealand. It is happening in Australia, it is happening in ... well, they are legislating. It has happened in

Argentina, Brazil - the Catholic areas of the world - South Africa, and there are some features of this debate which are visceral, are extremely difficult; they are painful, and in my view they cause almost more damage to the whole debate than they solve. I was brought up in a world of prejudice where I knew the reality of what I was from a very early age and there is the reality of homophobic bullying. Deputy Le Fondré may not take it very seriously when he says, and defends that we need a debate and we need to do more work about the issue of protecting schools and the way they teach. The damaging effect of telling a child that he or she is any different has long-term implications to the mental health and to the stability of those individuals. I know, because I see and am friends and work with charities in the U.K., particularly Stonewall, on homophobic bullying... and I have godsons who are 19 and 22 and who know they have a gay godfather and who have absolutely no discrimination whatsoever. There is the reality of homophobic bullying, and I do not want to have a visceral debate in society, in Jersey, which promotes this view that somehow people, and despite what anybody can say, could change somebody's sexual orientation. I say to Members, this is a serious issue. We will come to the issue of whether or not we need a debate because the Evangelical Alliance will of course make these views very strongly known. They will say some pretty strong things at the extreme end; these are not mainstream views. But we will have extremely difficult, extremely hurtful, divisive debates about what is the right model of a person's lifestyle. In a sense, the Evangelical Alliance was right when they said homosexual relationships were unstable and promiscuous. For decades it was illegal, it was driven underground, there was no stability in terms of gay relationships. How could they be stable? We have got civil partnerships. I thought that that was going to be enough, but I recognise, and I do recognise, after the debate in the U.K., to the north, to the south in France that, in the eyes of the State, and in the eyes of the State only, that there should be no discrimination. There should be complete equality. The State should be blind, should be non-judgmental about 2 people who decide to get into ...

The Bailiff:

Senator, once again it sounds terribly like the main proposition.

[11:45]

Senator P.F.C. Ozouf:

Well, it sounds like the main proposition but effectively I am arguing that there is no need to have a further debate, which will be visceral, on this issue. Senator Le Marquand has raised the fact that there are consequences which do need to be ventilated, and I am saying to him, and I am saying to this Assembly, that we can make this decision, in the eyes of the State only, and we can then consult on the appropriate legislation without a need ... and get it right for the faith communities and their opt-outs or opt-ins, as they wish, and we can simply have equality. I do not want to have... I will be absolutely honest with Members. I do not want to have a debate which leaves us in a position where we have left this issue open. We know enough about these issues. We know enough about equality. We know enough about fairness. We have done much good work, in this Assembly in recent years, about mutual respect and acceptance and we do not want to now have a visceral debate which will have the extremes of the arguments ventilated, and it will be unpleasant, it will divide us. I think we know enough to simply say today, in the eyes of the State, people should be equal. So I look forward to Members rejecting Senator Le Marquand's amendment. I hope Members will go on to discuss my amendment, which puts safeguards, I will not be speaking again on those issues. I will say 2 final things. Senator Le Marquand said that local opinion was not known. I think we do know what local opinion is, I think local opinion is, to some extent, divided, at the extremes but I think the central middle ground of Jersey people that I speak to, say: "Why is there a difference in the eyes of the State? Why is there a difference?" There should be no arguments whatsoever, and I think that that issue is clear. I will end my remarks on that with a passionate, fervently held, long established view on equality and the need for the State ... the problem has arisen because of the established church. We can set those issues aside. This is

marriage in the eyes of the State only and that only issue and we should make that decision and consult on the detail.

3.2.9 Deputy J.A. Martin:

It is a privilege to follow Senator Ozouf and his sentiments. I will try and keep to the amendment. On researching yesterday, I remembered a very similar debate with... I thought it was on about same sex marriage, that Senator Le Marquand answered a question on in the Youth Parliament on 23rd June 2011. I will get this circulated but I have to quote. So this is where the Senator is coming from with this amendment, it is knocking it into the long grass because of his beliefs. He says that ... and the hypocritical bit of the last amendment is in some way of civil partnerships and civil marriages entered into outside Jersey, and what he is saying is let us find a way to recognise them. But his answer in 2011 to the Youth Assembly, and there were supplementaries, I will read. The question was: "Why does Jersey not have the equivalent to the French P.A.C.S. (Pacte Civil de Solidarité) or common law marriage and would this be something which the Minister would consider introducing in the future?" For those of you who think he has a miracle cure like Deputy Young and others, this is his answer: "Firstly, to clarify, there is a distinction between common law marriage and the French P.A.C.S. because there is, in Jersey and the U.K., no such thing as common law marriage. Many people think that after they have been living with their partner for a couple of years they become common law husband or wife with the same rights as married couples. This is not the case. The French P.A.C.S., on the other hand, does have legal standing and provide the couple with some rights. The French P.A.C.S. requires the consent of both parties and is, for heterosexual couples, an alternative to marriage with a lower level of mutual obligation. It is also open to homosexual couples." The Minister goes on then: "There is further a possibility of an alternative which is for the law to be changed, that once the people have been living together for a period, in a sexual relationship, this would give rise, without consent on their part, to mutual rights and obligations. The difficulty with both P.A.C.S. and the automatic right after a period of cohabitation is that it could be viewed as undermining marriage." This is the Minister's thoughts then in 2011 and it does not change today. "Marriage in which 2 people commit themselves for life is a very important societal institution even if looked upon from a purely secular viewpoint. I currently have no plans to introduce the equivalent of P.A.C.S. or compulsory rights and obligations upon cohabitation." So we can absolutely see where Senator Le Marquand is coming from. He believes, and he said this in his opening remarks: "Marriage [and he underlines it] is between 2 people until death do us part." I did comment to the Deputy on my left when this was said: "Well, yes, and before the Second World War, before the second world state, people like my mother, my grandmother, who had 6 and 7 children, had to stay with violent partners." Things ... and third world countries, still forcing people to marry under this till death do us part, and in a lot of cases it is death and that is what does part them because they are killed by their violent partner, and the Senator has done nothing to do with that and that is the most rising crime we have. I will get back to the amendment. I find it hypocritical that some churches very often will meet people to match, hatch and despatch, and they do not see them very many other times after that. I think what people here - same sex marriages - are asking to have their spiritual side recognised. It does not affect me. I quote Senator Breckon, it is not compulsory. Do they want to do it? They will be able to get married, they will have to go through a divorce ceremony. Now, out there this is a debate. This amendment is going to put it off. We have even heard from Deputy Le Fondré who wants the baker consulted. You know, and how far down the line? He wants to go back 1,500 years to consult everybody to say whether this should be allowed to happen; it is a matter of principle. Now, I spoke to, like Deputy Mézec said, age groups from my parents that are 90; not quite sure. They are not quite sure, I admit that, to children who Deputy Le Fondré thinks will have to be taught something different in school. No. You would have to teach children not to be racist when I was at school. In my school I had one ... I sat next to the only black child in the school. Absolutely natural for me but there were comments going around, and very nasty comments. I looked at this child as another person. He was my friend, I sat next to him and anybody ... sorry, they never

crossed him because I always had his back. I know. But this is where it comes from. It is a matter of principle. You can argue until the cows come home that marriage is an institution for only men and women, and let me just expand on that point. This morning, the Vicar of Gouray said on the radio: "Men and women are allowed to marry because they must have children. It gives them the right to have children. Same sex marriages cannot do this" he said. He also went on like Deputy Le Fondré, who made, in his speech, said: "It is not natural unless you have the ability to have babies." He did use the word, I think, procreate - but I cannot say the word - so have babies naturally. So where does that leave couples nowadays where science allows, you know, infertile couples, and there are more and more of them, due to things, who can have children. Is the Vicar of Gouray saying: "Well, we married you, 10 years down the line you have not had children. We think we ought to annul your marriage." That is how bigoted ... sorry, I should not have used that word. How narrow-minded that Vicar sounded to me this morning. I sat, last week, in the town church with 7 young women, one of them was my daughter, and she asked me to explain the Plémont debate. I will keep it very short, I said: "Well, basically we took a little bit of your I.T.I.S. (income tax instalment system) out of all your pockets and we have bought this bit of land up at Plémont." The basic reaction was: "What a bleep bleep cheek." My daughter said: "Now explain what you are doing next week." I said: "Same sex marriage." They all said: "Well, it is a no-brainer." This is from the words of babes; it really is. Do not let Senator Le Marquand ... and I have quoted it, I will get this circulated. In 2011 he did not believe in legalising common law marriage, he did not believe in the form of P.A.C.S. from France because it included homosexual marriages or homosexual P.A.C.S. He still does not believe, and what he wants to do today is avoid, and it might be a very easy way out for a lot of people in this Assembly who do not want to make a decision. Kick it into the long grass. But read his amendment, his amendment negates most of what Deputy Mézec is trying to do. He is trying to go: "Go away, find another word for it. Do not call it marriage and let us see how we can introduce it in Jersey without affecting the institution of marriage." Well, the institution of marriage is, and should be, between 2 people in love, and I am not cynical, I entered both my marriages, and I emphasise both my marriages, in love and I am very glad that there was a get-out clause. **[Laughter]** No, because one was a very, very difficult marriage and we were both very young at the time but I was allowed, with the State and the law, to get out of that marriage. So what I am saying here is we have moved on. I am pleased that, like many people in this House, Senator Le Marquand is in a loving one marriage relationship and it looks like to death do he part and **[Laughter]** ... well, from his opening remarks, and I am very pleased. But the world has moved on. People get divorced at the drop of a hat, people are allowed to marry at the drop of a hat, and these have not even had to fight for the right. You have got people here wanting to fight for the right for their union to be recognised spiritually, and that is basically ... what do you do, you believe that is right? Probably I did not need to say all this but I do feel strongly about this. Not about the point of same sex marriages, about the point and the word is equality. Are you equal, am I equal? Am I equal because ... is Senator Le Marquand more equal because he was lucky at his first attempt? If I chose to get married a third time would I be less blessed by God, if I was allowed to get married in a church? Now, this is the question.

The Bailiff:

You are coming back to the amendment, are you?

Deputy J.A. Martin:

Yes, well, the amendment ... all what I am trying to say... and I think it is unfortunate that some people have discussed the amendment, some people have strayed into the main debate. They are worried and I think that they think this amendment will go through because it is a way to kick it into the long grass, and some people who have saved speeches, like Deputy Le Cornu, might be sadly cut short at the knees, as the Constable of St. John would say. I am keeping to this. I will get this circulated. Please really believe where the Senator is coming from. The Senator does not

believe in anything but marriage between 2 people, to death do us part, to have children. He does not believe in common law marriage and he does not believe in P.A.C.S. which is the French version for homosexuals. It is here on one side of A4 and this is exactly what he is doing today. I will get this circulated and, please, I implore Members to kick this amendment exactly where it needs to be kicked. Thank you.

3.2.10 Deputy M. Tadier:

This is such a difficult debate, not because the issue itself is such a difficult one to come down on a side of an opinion, it is just that the actual debate is very difficult with the kind of arguments that are being put forward, to know where to start. It is almost something that you just feel what is the point?

[12:00]

We know that, I believe, society has moved on so much. Like, as Deputy Martin said, the younger generation, in particular, but also the young-minded generation who happen to be older, it is such a non-issue. It is like of course: “Do you really have to bring this back? This should just have been regularised a long time ago.” Now, let us put this in context, and I will be addressing why the consultation period is not necessary and why we should forego that completely and move on to the main debate. What is the significance of the number, I have got it written down here, 7053? If anyone knows, that is the number that Rosa Parks had on her mug shot when she was taken to prison because she had the temerity to remain seated when asked to give up her seat to a white man on the bus. I think the world has moved on a long time since that. There were similar things going on in South Africa where there were buses for blacks and buses for whites - *busse net blankes* - buses for only whites, and you can imagine somebody going into South Africa and trying to get on the bus and being told: “Sorry, mate, you cannot come on to this bus.” They would not be talking to you that politely of course, there would have been the usual Afrikaans racial slur for the blacks back then, saying: “You cannot come on to this bus.” “Why is that?” “Oh, it is not that we are racist, it is just that you would be redefining this bus, you see, because this is a bus for whites, and if we were to allow blacks to come on to it, then I am afraid that you would be completely changing the definition of that bus.” People shake their heads saying: “That is not a fair comparison.” It is exactly how many people of my generation think because it is such a ridiculous proposition to have, in this day and age, a prohibition on same sex marriage, which is exactly what we have. We have banned same sex marriage by default because that is what currently exists and it is against the discrimination. What I have heard from people like Deputy Le Fondré, who I believe is the secret mover of this amendment. I know and have worked with Deputy Le Fondré in the past. I know how he works. Obviously give it to a Senator who is retiring, he can take the political flak for it. Whatever. The argument I heard from him is that we do not know what the unintended consequences are of adopting this, therefore we should not do anything. You can make that argument about anything. We do not understand the unintended consequences of anything because they are unintended. By the very nature you are not going to understand unintended consequences. Therefore we should not do anything until we know the unintended consequences of everything, i.e. until we are omniscient. We should not get up in the morning, you should not have children because we do not know what the unintended consequences are. That is chaos theory, that is the butterfly effect, but it is not the real world when it comes to politics. What Senator Le Marquand is asking us to do here, he is asking the Chief Minister to go away and he should decide whether or not it is appropriate for this legislation to be introduced. No, it is this Assembly which should decide. It is a political decision to decide whether or not to introduce same sex marriage, equality of arms and equality of rights for those minorities in our society. It is for this Assembly to make that decision, it is not to abdicate that responsibility, a couple of months before an election, to a future Chief Minister to then come back to the Assembly. The arguments that we have heard are quite remarkable because what they have centred around ... and I had a lengthy phone call with a very articulate Catholic lady last night who said to me ... and essentially this is the argument being

put forward by the Evangelical or Christian right, if you like, is the impact it will have on the family unit. That is the essential concern that they have. Now, what is remarkable is that gay marriages or any kind of marriage is not for procreation purposes, as Deputy Martin has reminded us, you do not have to procreate to get married. You can get married if you are infertile or barren, as people used to be called, and no one would suggest in their right mind saying that 2 60 year-olds who cannot procreate should not be able to get married; that would be an affront to their humanity. Similarly, the same thing goes for same sex couples. But the other irony is that this Assembly, only a couple of months ago, said it is okay for gay couples, and men in particular, to adopt children. That went through without batting an eyelid. That surely is the most fundamental point. I can see that being much more controversial because of people saying: "What would happen if gay people get married and then they start to want to have children?" Well, the current *status quo* is that gay couples can live together they can have civil partnerships. They cannot get married but they can adopt children. So all those arguments have already come out. Nobody suggested having a consultation on that. That certainly could have been, arguably, a grounds for more consultation but not simply a realigning of something which is quite narrow. The freedom of ... you can imagine ... again, I do not like to overuse the comparison, but there would have been people back in the day saying: "Oh, well, we cannot ban slavery, we cannot give blacks equal rights because who knows what the unintended consequences could be? As soon as we say that blacks are no longer inferior humans and we can own them as our personal possessions to work in our plantations, then who knows what can happen, the whole structure and fabric of our society - certainly if the fabric is cotton - may come crashing around our ears." But that did not happen. What happened is that society just became more tolerant and life went on. That is exactly what will happen and that is why I have circulated this, what I thought was quite amusing. The consequences of gay marriage is represented by blue within the circle. The consequences of gay marriage: blue, gays married. All the rest, which do not feature there, the world ends, judgment day begins, families are destroyed, Russia invades and the ice caps melt. Add to that the finance industry. You know, the finance industry will not leave if we do not adopt same sex marriage. It may leave in the long-term if we do not accept it because, as Deputy Le Cornu and others have perhaps alluded to, the young liberals in our society, and in fact whether you are left, centre or right, if you are socially liberal, you do not care what your neighbours are doing, you have an ethos. You care in the good sense but not in the curtain twitching nose sense what they are doing, you just get on with life and that is what life is all about. So I think those are essentially the points I wanted to make. Finally, I think, perhaps to finish on this note, is that those who advocate waiting for a study on the unintended consequences, as somebody reminded me last night, they believe that the unintended consequences of gay marriage, of equal marriage, same sex marriage, will not be recognised for a generation anyway because you have to let a generation or 2 go by to see what impact it has on society. So what they will be advocating is saying: "Well, thank you for adopting this amendment, now we will go away. Oh, there is no information on the unintended consequences of gay marriage because it has not been around long enough. Let us wait 60 years and then after 60 years maybe bring back a change and that is when the legislation can come in." That is when Scrutiny can look at it. Is that really the kind of society we want to live in? This is a very simple issue, it can be debated here and now. By all means vote against it, by all means say that you think that this is going to fundamentally change the social fabric of society. But do not come to this Assembly when nobody stood up and spoke, when Senator Bailhache was proposing for men and men to be able to adopt children, without even raising an issue on that, to say that this very basic and fundamental change should not happen today. I ask Members to oppose this amendment.

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

There is a saying that says: "Avoid discussing politics and religion." This proposition makes that extremely difficult as the subject embraces both. Also, our constitution embraces both, as a Christian church and the Dean are part of this Assembly. To accept legalised marriage between 2 people of the same gender is still very much a taboo subject because it is deemed unconventional.

Not just with public opinion but also within religion. I have been able to discuss this issue with our Rector of St. Mary who takes a very open-minded approach when giving his opinion. It would not be fair to give his personal viewpoint but I did find our discussions very helpful. It has taken over 2,000 years in our calendar for parts of the civilised world to establish human rights. It is something that may never, ever be achieved throughout the world. As a civilised Christian nation, we have agreed to be part of that process. Putting this off will not improve the outcome or make it go away. We, or our successors, will have to deal with it some time. I do envisage that, whether it is voted on today or in the future, the easy option will be to use the abstain button. Unfortunately that will also achieve nothing. We are all equal, we are only divided by the jobs that we do or by the money that we have or do not have. I truly believe that everyone is equal, it is the only way to avoid the hatred and the conflict that we see throughout the world. We must overcome issues which have nothing but a stigma attached. Everyone has a right to be happy in life, it is their prerogative to do that in whichever way they choose as long as it does not harm others or take away the rights of others. It is not a legal requirement for a man and woman to have a Christian marriage in a church, that procedure can be done legally in a registry office, or indeed a private property which has a licence for that purpose, in the form of a civil partnership. That ceremony is also available to gay couples, so why is there any need for a change? A civil partnership is acceptable in the legal definition outside of the church and the church may give a blessing to those who have not been married in church. Once again, the electorate in St. Mary have urged me, in vast numbers, to state their view that marriage and the term “marriage” must remain sacrosanct to a man and a woman. There is no reason for the term “marriage” to apply to anyone else other than a man and a woman. They also recognise that everyone is equal and that discrimination must not exist. Legally, everyone is equal, but out of respect for religion, marriage must remain the prerogative of the church for the union of a man and a woman. The word and term “marriage” is now under threat. It is no longer the exclusive term for commitment between a man and a woman in a special relationship usually conducted in a church ceremony. There is a danger of further eroding the rights of others by accepting the main proposition. On the wishes of the majority of my electorate, I believe that Senator Le Marquand’s amendment allows for a far more flexible approach to be devised. It may be that the Guernsey method would suit us equally. So I will support his amendment. Thank you.

3.2.12 Senator F. du H. Le Gresley:

I would like to start by commending Deputy Mézec for bringing this proposition, which is challenging a lot of us today, in the concepts of same sex marriage. I do feel though that he has put us in a very difficult position with the wording of his proposition, which basically says we have to agree, the States have to agree. So that is 45 of us because there are some people absent today; 45 of us have to agree, on behalf of the Island, that we agree, in principle, that same sex couples should be permitted to enter into civil marriages. Now, I, since I have been in this Assembly, rarely, if ever, have had a difficulty in making a decision. In fact I pride myself on making decisions. I accept I make some wrong ones but on the whole I have no difficulty making decisions. But this particular proposition does pose a problem for me. Why is that? Well, basically because I have heard, through ... mainly through emails, although speaking to some people, the views of the gay community, and quite rightly, they have expressed their views, and I have also heard the views of religious groups. But what I have not heard is the voice of the man in the street, as I call him, and I think Senator Ozouf call them mainstream views.

[12:15]

I have not heard those mainstream views, and therefore I find it very difficult to make a decision on this issue. Discrimination Law was passed from the Home Affairs to Social Security 3 years ago and I embraced that job and I brought to this Assembly, within the timescale allocated to me, a discrimination law that I believe is fit for purpose, and we, from the 1st of September, the first characteristic of race will be illegal basically, racial discrimination will be illegal in this Island, and

quite rightly so. We are currently consulting on sex discrimination and I was very anxious that during that process we did discuss the issue of sexual orientation. So one of the questions posed was: "Should discrimination based on sexual orientation be unlawful?" So that was a public consultation. It closed at the end of May and I now know the result. Now, some people will say to me: "Well, we did not take part in the consultation." Well, I now say tough because **[Laughter]** it was a public consultation. If people did not choose to make a response or fill in the form or whatever, online or whatever, it is tough. But I can say to this Assembly that I know, from that public consultation, that 94 per cent of respondents said: "Yes, discrimination based on sexual orientation should be unlawful." I know that because we did a consultation. So, when I read Deputy Mézec's proposition, and he says on page 4: "I am confident that the residents of this Island would welcome this change with open arms." Well, I am not confident because I do not know. I simply do not know what the members of the public think, and it is very easy to say: "Well, come on, you know, you are a States Member, you have been elected to represent the views of the public and you have to make decisions on behalf of the public." But I do not know their views. I want to know their views, I want some degree of consultation. Now, when I got an email from Senator Le Marquand at the end of last week, I was quite angry. I thought, here we go again, as Deputy Martin said, kicking it into the long grass, and I was quite annoyed that we were not going to have the real debate on Deputy Mézec's proposition. But the more I think about it, and I have had time to think about it, and the more I go back to the consultation we have done on sex discrimination, and in particular sexual orientation, I think we have to ask the public. I am not ... I was brought up in the Church of England but I have to tell you I left the Church of England years ago, when I was about 17. I am looking at the Dean and he is probably going to curse me tonight when he goes, or says his prayers for me, perhaps, tonight. I do not know, but I did, and the reason was I could not take all this mumbo jumbo, as I thought it was at that time, and unfortunately I still believe that. But people are entitled to have their views, of course they are, and if you believe strongly in God and Jesus and all these things, of course you are going to have your views about marriage and you are quite entitled to those views, and the last thing we should be doing in this Assembly is criticising people for having those views because it is a free State and you can say and think what you like, quite rightly so. Of course I strongly believe that the gay community should have more rights, I do believe that and that is why we are doing this sex discrimination consultation which will lead to legislation. I am in both camps; I understand what people are thinking but I do not know what the ordinary man in the street, the mainstream views are yet. I want to know those views before we go down the decision that we are required to do without Senator Le Marquand's amendment. So really, where I am is, unfortunately for Deputy Mézec, who has brought this with absolutely the right intent, I have to support the amendment because I want to have that consultation and know that when I stand up and vote, if I am here, I doubt if I will be here to make that vote, but I want to know that I have got the people's views before I rush into a decision. Thank you.

Deputy M. Tadier:

Does that apply to all policies when the Minister brings cuts to people on income support? Does he have wide consultations about how it affects those?

The Bailiff:

That sounds like a second speech. Deputy of St. Ouen.

3.2.13 The Deputy of St. Ouen:

Deputy Mézec, I think, at the start of his speech spoke about the need to treat everyone with respect and dignity, and I would suggest to those proponents of this particular proposal that they do just that. It is absolutely wrong to suggest that your view is the only one and diminish the views of others, albeit that they are as strongly held, regardless of what position you take. I happen to be a Christian. I believe in Christian values but I also fully subscribe to treating everyone with respect and dignity, and I challenge anyone, whether it is in this Assembly or outside it, that I have not done just that in my life. This is no different. This is not a divisive debate, as Senator Ozouf

suggests. We are not making it a divisive debate. We need to properly consider all of the issues around same sex marriage; all of them. Senator Ozouf dismisses some of the issues that surround same sex marriage by suggesting we do not need for a debate on the principle because it is a simple decision. But then he goes on to say but it has not been and he lists a whole range of countries that have either gone through the process or are going through the process, and it is a process. It is understanding and acknowledging that our community will share different views, and it is how we best accommodate those views as we move forward. The U.K. took years, 2 years or more, to come to and draw this matter to a conclusion. Why? Because they were intent on ensuring that the views of their whole community were represented and properly respected in any new law, as we did, I hasten to add, when we agreed to introduce, quite properly, civil partnerships. The same applies with this. There are issues to do with the churches and other faith groups about how they will be able to exercise their rights within the beliefs that they hold. We need to make sure, along with any decision, that those are properly protected. We equally need to understand the implications of some of the discrimination laws and the impact on that. It is not simply a case of we will exempt the churches or faith groups. That is to minimise the issue and does not deal with the problem. The U.K. have tried to deal with the problem but questions remain that now that it is law and they have created what they believe to be protection around the churches, there is still a question about how the human rights issues, both now and in the future, will have ... how that will affect those faiths and churches. But that is not a decision for today. But it is important that we properly understand all of the implications. From my point of view, it is not clear what additional new rights, opportunities or responsibilities the introduction of same sex marriage would achieve, given, as I said before, that the legal inequalities between heterosexual married couples and same sex partners have already been addressed through the introduction of civil partnerships. But we cannot lose sight of the fact that marriage is a public institution. Consequently, proposals that could harm the institution of marriage must be subjected to the same sort of objective analysis that we would give to any public policy question. I therefore would suggest that we need to support Senator Le Marquand's amendment and allow the Chief Minister the time to properly consider the issues, speak to those that hold different views, and ensure that when we do introduce and deal with this matter we do it in an informed way that meets the needs of our whole community rather than simply focusing on one group. Thank you.

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

I have found this a very, very interesting debate because we have gone from Rosa Parks sitting on a bus, which has really nothing to do with same sex marriages, because recently we had a - if we are going to say about things - delegation of Arabs who frequented and came to this Island and the ladies of this Assembly were told how to dress not to offend. So I do not think we have come on very well at all, to be honest with you. I also have a lot of gay friends, well, same sex couples. I have even sung at one of them's civil service ceremony and I have been in contact with them, they contacted me, and one of them, because the Church of England seems to be getting a slamming here and I am a Methodist, so I have no axe to grind here whatsoever. But one of the gentlemen that I spoke to said to me: "I am very happy with what has taken place. I am very happy that we have civil rights and there is not a problem. I would not be interested in getting married at all and if you pass the law it will not make any difference to me because I am a Catholic and if my Pope says I cannot get married, I will not get married. But I do have rights and so does my partner because if anything was to happen to us, either of us, we are both covered and both looked after. But the Catholic church, if it says we are not open for same sex marriages, then we will not be." As for saying about things not ... I do not quite know how to put this. There was a couple in England who did not want to have 2 gentlemen staying with them and these 2 gentlemen knew about this guest home but they still insisted on staying, they still insisted on taking them to court, and these 2 gentlemen won. The couple who had the home, and under religious feelings that they had, not any particular church but their religious feelings did not come into it whatsoever. They could not choose who they wanted in their home. I just think that Senator Le Marquand's proposition here

gives us a chance to have a look and for other things to be put on the table. I have a lot of same sex friends and couples and we have a wonderful time together, I suppose maybe being in the theatre one has more than most. But I do not have a problem with them whatsoever and one of them did say to me: “This is going to cause us a problem because there is going to be a lot of arguments about this. The civil ceremony went through, that was not a problem. The adoption went through, that was not a problem. This is going to be a major problem for a lot of the gay community to have to put up with.” I would not like to see my friends go through a lot of trouble because of what we are arguing the toss here. Let us go with Senator Le Marquand. Let us have a look at the consequences.

[12:30]

If there are rights, wonderful, but as I say, this couple who had a guesthouse in England did not have any rights, and I am sorry, there should be. You should be able to, whether you are heterosexual or whether you are gay, you should be able to have the choice of what you do and you should not have a threat of being taken to court or anything like that at all. As for being married for life, God rest my parents, they have just not recently passed away, but both of them were married together, obviously, and they were married for 70 years. It was not easy, trust me. My brother and I are the response of their marriage. There is a hell of a difference between my brother and I so maybe they, you know ...

The Bailiff:

There is a considerable difference. [Laughter]

The Connétable of St. Saviour:

Bless you, Sir. Just to end on a very light note, if this all goes through and they get married and there is not a problem where I am concerned because I just love them regardless, the people, the same sex people. One of them said to me: “What will I put down as a maiden name?” So let us have a little think about that. There is a lot to think about. Thank you.

3.2.15 Deputy R.G. Bryans of St. Helier:

I will be brief as I was not going to speak at this point but Senator Ozouf provoked me into thinking that perhaps there may not be an opportunity to do so because I think there is a predictable cause of repetition and many of the elements of difference have already been well exercised, both publicly and in the media. I was pleased to hear Deputy Mézec talking about Bob Dylan because last night I was working on an art project and, thank God for iTunes and shuffle, I was listening to Paul McCartney and a Beatles number, and what happens when you listen to music occasionally, it takes you precisely back to a particular moment in time, and that particular track reminded me of the visceral feel, the liberation, the sense of joy that the Beatles seemed to herald back in the 1960s. Gone was the bleak austerity of the post-war years, and now in roll, like a social tsunami, a real sense that we were indeed going to change, that society was going to change; a sense of freedom. Freedom from the social mores that compromised our society, particularly in the 1950s, and as a student in the early 1970s I embraced everything, every opportunity to get involved in that sort of thing. Women’s liberation and feminism was embraced, as much as any man can embrace those things. I was part of a generation born after world wars who saw an opportunity for change. To make the world a better place to live in, to eradicate racism, prejudice, poverty, hunger, bigotry. To support free speech, equality, *et cetera*. I still hold those values and those of my family who fought in 2 world wars, close to my heart, they inform my life and the decisions I make in this Assembly. Yesterday I asked my dad, who is 91, what he thought of the matter. He said to me: “What are you debating?” I said to him: “What do you think of that?” His reply was: “Have you not got bigger issues to get on with?” He is right, and this kind of reply is what Senator Le Gresley was asking before because I have asked people what they thought. I asked a student yesterday, in the same day, the same question and her reply was little different from my father’s, although she asked: “What example do you think you are setting to us? Where is this tolerant equal society?” My

answer is here in my values in my vote. In speaking with friends and constituents, there are really only 2 points of view I particularly found. Firstly, surprise that this was not already the case; people genuinely thought that, like the U.K., we had already signed up for this. Secondly, an annoyance that this was even an issue to be debated in the Assembly. At least 3 times I was admonished for not dealing with bigger issues that still confront us like jobs, health and housing. I mention this simply to put in context what I have found and why I will wholeheartedly support Deputy Mézec's proposition and Senator Ozouf, and I will not support Senator Le Marquand's. When you strip it back and look for its essence it is a simple matter of morals. I believe that people genuinely have struggled with their own beliefs in attempting to appreciate what is the fundamental question being asked of them, and I respect them for that. I sense there is a lot of respect going around the Assembly. But what is disappointing is that religions based on kindness, forgiveness and charity cannot find it in their hearts to promote those values and provide for our children a clear guide to how a liberal society can behave. Every time I come into this Chamber, this Assembly, I remember the Margaret Mead quote: "Never doubt that a small group of thoughtful committed citizens can change the world, indeed it is the only thing that ever has." I believe we are committed citizens, that we want to make our society a better place to live. I do not support Senator Le Marquand but I do support Deputy Mézec. Thank you.

3.2.16 Deputy S. Power of St. Brelade:

Briefly. I picked up on what Deputy Bryans said a minute ago, and Senator Le Gresley, and in the hierarchy of the major issues that are facing us and this Island, and indeed the world right now, I would have thought that this, as Deputy Bryans' father said, and it has been said to me, that this is one that does not ... is not high on the Richter scale of Jersey things, or indeed European things, or indeed global things. Senator Le Gresley talked about the big silent majority out there who really have not had a chance to say anything about this. The vast majority of people that are on the Island who are in married relationships, I think over 60 per cent of people living in the Island are still in a marital situation, and they really have not had a chance to express any kind of a view on this and I would say to Deputy Mézec the vast majority probably will not have a view and will not, if there was to be a public consultation, will probably not come forward because I think the majority of people in Jersey, were this to go to a public consultation of some kind or further research, will be like the rest of Europe, they will agree with same sex marriages. If one looks at the results of public consultation across Europe in the last 10 years, I think the lowest was 52 per cent in Finland and the highest was 80-something per cent, again, in another Scandinavian country, it might be... whatever. So, my view at the moment is Deputy Mézec was elected recently and for some of the public out there this subject, this topic, this debate has been parachuted into the Assembly at very short notice, and I think people ... I think the public need to come to terms and to evaluate and to be comfortable with what the implications of this same sex marriage proposition, what they are going to be. My view is very similar to Senator Le Gresley, I think we do need to let people, for want of a better phrase - and I say this to Deputy Mézec - people need to draw breath a little bit on this one for the next few weeks and few months. We have a very indicative timescale from Senator Le Marquand and my view on this one is that let us just ... I am absolutely ... for absolute clarification I am in favour of approving a same sex marriage proposition in Jersey but from where I am right now, this afternoon, I would like this Assembly to draw a little breath, just slow down a little bit because Deputy Mézec's timescale on this is meteoric. It is so fast and I would be minded to support Senator Le Marquand at this stage. Thank you.

3.2.17 Senator I.J. Gorst:

I am mindful that the amendment, the next amendment and the proposition calls upon the holder of this office to do certain things and I just wanted to start by saying whatever this Assembly today asks me to do, in the few months that I have left in office, I will of course do that. I think that is important that Members know that that is the case, whatever my own personal views might be. So I think you struggled in some ways in your chairing of this particular amendment because

inevitably the main debate might in actual fact be whether there should be some consultation before the decision or consultation after a decision and this may indeed be the longest running debate. Therefore, I ask that you give me a little latitude, despite the fact that I am conscious that there is an event at lunchtime and we are running up to the lunch adjournment. For me the historic view of marriage has been one shared by society and by the faith communities and that is that marriage is between a man and a woman, and many Members have spoken about its purpose, one of which is procreation. But even that is not straightforward and some find that they are not able to do that and therefore offer themselves in other ways to vulnerable members of their community. But for me, also, being a member of the faith community, the important fact for me has always been that that union has had a spiritual element to it and has been before God, and that is what the faith community believes. Societies change. Society's view changes of its institutions. Institutions change. I think that when we are considering this today I come to the conclusion that society's view of marriage, and the view that I might have historically held, and the community to which I belong holds, have diverged. Deputy Le Fondré said that he did not believe that you could separate the 2 out, that marriage for society and marriage for the faith community were in actual fact one and the same thing; there was just something called "marriage". I think again historically that has been the case. I do not think that that is the case as we stand here today. But members of our society who belong to the faith community are married, members of our society who do not are married and therefore marriage is a societal institution and it is largely owned by society. So you would expect me to have spoken to church leaders, and others have been forthright in giving me their views on this particular issue. I have not necessarily had to find people's issues; they have brought them to me. I think that one conversation struck me of the truth of this position and that was with the leader of the Catholic community who said that for his particular faith group they had always viewed marriage, not necessarily in a secular societal way, but in a way using the term of "holy matrimony". That idea resonated with me and I think it is that differing view of marriage that is one of the reasons why we are having the debate today and one of the reasons why, for some, the debate that we have been involved in has been difficult. I do not think the faith community's view of marriage has changed very much over the years and I think that Senator Le Marquand expounded that in his opening statement. I think society's view of marriage has become very much about equal love which is why we have the term "equal marriage" which the mover of the original proposition refers to, so that it is the love that binds us together as well as the formal words and the legal coming together. I think that Jersey is an accepting and tolerant community and I think that that is part of our community that we can be proud of. Therefore, it gives me no pleasure to have to distance myself from what some have said has had the genesis in part of that section of society that I belong to, words which I have not seen because the supposed correspondence ... I do not know whether other Members have seen it. I have not, so I cannot say whether it is a fair reflection, but some of the ways that that message has been reflected I do not think have been helpful and I would not wish to associate myself with. Why is this differing or divergent view of marriage so important to this debate? I think it is because we are a community where the church is established. Whether one thinks that the church ... I cannot quite recall the words of Senator Le Gresley what he felt about the church's teaching but we are in a community where the church is established and this is something that was also a struggle I think in the United Kingdom. So we have this divergence and yet at the same time we have an established church which is carrying out marriages under what is society's legal interpretation of marriage. It is out of that difficulty, I think, that in Guernsey my counterpart has proposed that he would be supporting and trying to deliver a *union civile* in the same way that the French do because of the recognition of that difference, so that we simply have a view of marriage that society has decided. Then anybody who belongs to the faith community can have that ceremony performed and then they go to their place of faith and have another ceremony as well.

The Bailiff:

Minister, you are leading up to the amendment ...?

Senator I.J. Gorst:

This is quite important, yes, thank you. It is taking me a little longer than perhaps I had envisaged when I stood up, for which I apologise. Therefore, if we are to change in that way we need to think about what the implications are for the established church. We know that this was such a concern in the U.K. that in the U.K.'s Equal Marriage Act it is illegal for the Church of England in England and the Church of England in Wales, probably called the Church of Wales, to perform these ceremonies within the law. Other religious institutions are in the process of thinking about whether they might wish to do so or not.

[12:45]

I say that because I do not believe consulting and trying to understand how we might deal with these different views of marriage, I do not think that that is putting something into the long grass. No doubt others will say that Senator Ozouf's amendment allows for consultation but just at a different point in the process, and it is for Members to decide whether they think that, prior to an in principle decision, consultation is better in trying to deal with some of those issues or whether we will only be able to do it during a legislation-drafting process. I have, as I have said, been inundated with people giving their opinions to me, from the line of people asking me to be strong and not accept equal marriage, to others saying that they wish me as Chief Minister to be supporting it. I see in the "Tweetsphere" only a couple of minutes ago that some members of our community are saying that any Member of this Assembly who either votes against the main proposition or votes to accept the amendment, they will not give them a vote in the forthcoming election. That is life, we have to make decisions in what we think are the best interests of our community and members of our community will judge us upon those decisions. But I want to reiterate that I am proud of Jersey being a tolerant, inclusive and accepting society. I am going to upset some other people now by saying I believe that Jersey will in due course have equal marriage. That to me is absolutely clear and I suppose the corollary for me is it is how we arrive at that point. We have had expressed today divergent views. I pick up on some of the things that Senator Le Gresley said about what does the public at large think. I think they have not given it very much thought. They have not thought about these issues about what marriage means and what it is going to mean going into the future. Deputy Mézec said the under-35s do not think there is an issue at all and they will be extremely supportive of it and I absolutely accept that. I think some other generations will find it more difficult and want some time just to consider the issues more fully that some Members have had because we have had the proposal on the agenda paper. So it is coming; it is. I think it is right that society thinks about what it thinks about marriage. I think that that will be, and it is right that it is, equal marriage. I think the difficulties are largely around how then that interacts with the church and the faith community. I think it is absolutely right that the church and faith community have the appropriate safeguards. We could say that is going to be easy because they have already done it in the English Equal Marriage Act. I think there will be other things that need to be considered in a Jersey context but I do not see that doing the piece of work is putting it off or putting it into the long grass. If this amendment is not accepted then I will have to consider how I vote on the main proposition but Jersey will in due course have equal marriage. The question for me is how do we engage with our community and take people with us so that we can do it in an inclusive way, recognising those for whom it might be a struggle and giving opportunity for the appropriate carve-out. I know I have spoken largely not so much about the amendment but I think it is important that we consider that context because that is what this amendment is all about. Thank you. Perhaps I could at that point propose the adjournment.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Very well, the adjournment is proposed so the Assembly will reconvene at 2.15 p.m.

[12:49]

LUNCHEON ADJOURNMENT

[14:16]

The Bailiff:

Before we recommence I can inform Members that an amendment has been lodged by the Minister for Housing to the Draft Residential Tenancy (Deposit Scheme) (Jersey) Regulations 201- Projet 111. Does any other Member wish to speak on Senator Le Marquand's amendment?

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

Because I speak not simply for the Church of England but for faith communities, the Islamic, Jewish and so on, I have prepared my speech for later, not for this amendment. But it would be quite wrong of me not to pass on to Members something from my colleague Monsignor Nicholas France, the head of the Roman Catholic community in this Island, that cross-cultural community which has done so much to promote social cohesion. May I quote from what he has said: "I believe it would be wise for Members of the States to give themselves and their electorate more time to consider carefully this important issue and any long-term consequences arriving from it" which I think means we do not know what we do not know. Therefore, to take a period of time even before an in principle decision to consult so that we may move forward as an Island together I think is what Monsignor France would be advising the Assembly to do. So because I feel it right to speak for all the faith communities, that is why I am here, it would be wrong of me not to pass on my colleague's comments at this point in the debate on the amendment.

3.2.19 Deputy J.M. Maçon:

Where are we now? When I think about the criticisms that often are made of this Assembly, 2 things seem to strike me. The first one is always the complaint that the States is always so slow and takes for ever to get on and make a decision. Or the other one, which is if there is any opportunity for the States not to make a decision that is what the States will often find themselves trying to do. I see a couple of Members recognising that. So where are we today? Looking at the amendment of Senator Le Marquand, for me, it seems to be boiling down to: do we have consultation before we make the in principle decision to go this way, which the Assembly is slowly getting to the position where there is the acceptance that is going to happen anyway, or do we make the in principle decision and therefore delay for consultation to look at all these things anyway? So it is very difficult to slice what we are being asked to do. On reflection, what seems better in my view? I think perhaps for the community as a whole and what we can stand up and say would be to show the Island is being a tolerant and inclusive society, accept or reject this particular amendment, adopt the proposition and go with the consultation which inevitably is going to happen no matter what decision is made. So for my part I do think in that regard that is how I am going to be voting today because I think it is a better message to be sending out from this Assembly of inclusiveness and acceptance rather than what can be seen as kicking something into the long grass, not making a decision and just allowing matters to ramble on. I think the States Assembly would be in a better position if a decision is made. Thank you.

3.2.20 Deputy M.R. Higgins:

I was not planning on speaking and I will also say to States Members that when I came in this morning I came in with the intention of opposing Senator Le Marquand on this particular issue. I do think that gay marriage is coming and I also do not believe that we should be discriminating against any members of our society. I think at some point we are going to have to bring up issues to do with transgender and all the rest of it, all the other sort of problems, and deal with these issues and make sure they are not discriminated against as well. However, and I am going to alienate some of my colleagues on this on the more liberal side, I have been persuaded by listening to part of the debate this morning that I think a delay until December while other information is gathered is reasonable in the circumstances. So I will probably give my intention, if I am in this House in

December after that, I do believe I will be supporting bringing in the proposition. But I do believe, and I have criticised this House time and time and time again for making decisions without the full information, and I have heard this morning, that there are a number of implications around this and I would like to have the facts before I do vote. So I just wanted to explain my change of opinion here so people know where I stand. Thank you.

3.2.21 The Connétable of St. Mary:

Like Deputy Higgins I came here this morning with my certain views that I thought I knew where I was going to go. At this moment in time I am still confused. I have had several chats this morning, quick chats with the Dean, and I was hoping that what he said might give me the illumination that I needed and it has not. I am struggling, because fundamentally I believe that we need to deal with people equally, we need to treat people without divisiveness. The phrase I have heard more and more is: “Civil partnerships, we have got them already, and that is all right for the homosexual community.” Well as soon as you say that is all right for them, you are saying there is “them” and there is “us”, and it is wrong. I really do have a fundamental problem with anything that does not deal with equality. Similarly, I have got a fundamental problem with not owning up to the fact that we do not know everything. Now, Deputy Mézec, when he spoke before, said: “There are no unforeseen consequences. The only consequence of this is that gay people will be able to get married.” Well that is what we want to happen but I cannot be sure that there will not be unintended consequences. But what I equally am convinced about is that the principle of giving people equality is not what I want to investigate. I am only concerned with the structure here. I am a member of a faith community; I make no bones about it, but I do not see that as a bar to this. What I do see as a bar is not understanding how the structure of our set-up, of our established church, of other peripheral churches, will be affected by this. I have heard much talk about what marriage means in the definitions. As I say, I had a talk with the Dean about it this morning and the 3 things that you need to fulfil: about a sexual relationship, about a commitment to love and children. But I said: “I have been married now for nearly 34 years and the first 11 years we had decided not to have children and I did not feel any less married because of that.” So I felt fundamentally alienated by some of the comments that it is only about having children; really, really fundamentally alienated by those comments and that as a member of the Church of England. As the point was raised to me this morning, we do not sanction people who find love in the third age, as it were. Elderly couples who come together ... no, I am not looking at you, Deputy Martin. People who come together and meet in nursing homes perhaps when their other life partners have gone; we do not sanction them because they are not having children. But the other point that was very good this morning that has been nagging at the back of my mind, and I was in this Assembly when we passed the Civil Partnership Law, is that that is not equal for heterosexual couples. I was with someone today who is considering getting married, even though they do not want to be married, but they want a formal partnership and that is not available to them at the moment in Jersey. There are a lot of different things we need to look at. It is not just about civil marriage, it is about a much broader context than that. I am looking for some sort of guidance that if I do not accept Senator Le Marquand’s amendment that everything I think needs to be looked at will be looked at in the consultation, but if in the consultation we decide that civil marriage, as I think it is put in the proposition, there is a tweak, there is something different that we need to embrace in that, that we will be able to then do that as part of bringing the legislation forward. Because the Chief Minister said ... I think he gave a very good speech; he spoke his concerns but he said several times in that speech: “This is coming.” So if it is coming, why do we just not accept it and work very hard to make sure that the way it impacts on us and our society is the way that people want and consult with them about what they hope to achieve at the end? I am having the greatest difficulty with this but fundamentally my moral principles say that every person on this earth deserves equal treatment and respect.

Senator P.F.C. Ozouf:

Can I just ask a point of clarification? If the amendment is accepted, then there is no certainty that civil marriage will happen? Is that reading effectively ...?

The Bailiff:

Senator, that does not seem to be really a point of clarification. The proposition will then read as is said by Senator Le Marquand: "... be requested to investigate and report to the States as to whether it would be appropriate to introduce the legislation to allow this ..."

Senator P.F.C. Ozouf:

I just could not reconcile the statement of what I understand to be with some of the speeches that I have heard which indicate that effectively there is no ...

The Bailiff:

Sorry, you are coming on now to make a second speech. Does any other Member wish to speak and do they feel they have something new to add which has not already been said? Very well, then I invite Senator Le Marquand to reply.

3.2.22 Senator B.I. Le Marquand:

I will try to conclude this quite lengthy debate speedily but I do need to deal with a number of points. The point in relation to delay and consultation, the fact is that there is going to have to be detailed consultation in any event and in my view by setting a time period for the Chief Minister to report back of 31st December 2014, I think that accelerated the process forward so I just do not accept that this is going to create delay. I seem to have been accused of living in the year 600, that I do not understand that divorce laws have moved on and so on. I clearly do understand those issues but this is the point in relation to marriage. When people marry they make, and hopefully they intend to make, a life-long commitment. The fact is sadly things do not always work out for them; there are never any winners in that situation and it is to be regretted but at least they start off on that basis. One of my concerns is that a change in the definition of marriage may eventually lead to a change in that definition. The question in relation to marriages in which there are not children; the marriage in which there are not children is just as much a marriage, of course it is, but that is not the issue. But the difference in relation to heterosexual couples marrying is that children are the natural result of that union, not the inevitable result of that union because some choose not to have children, some cannot have children, and so on. That is the point that I was seeking to make. It has been said that we should simply trust that the work has been done in the U.K. and we follow that. Well I am afraid Jersey has never done that in any area. Our circumstances are different; our relationship between church and state are different than the U.K.

[14:30]

It is important that we consider things properly and make up our own minds, as it were, and I believe to do that we need to have this detailed work done. Senator Ozouf quite rightly talked about the sadness of there being divisive debates in relation to this issue. I am afraid that that is going to happen anyway because whatever the decision today this will be a major electoral issue. There is going to be a major debate that will be divisive and in any eventuality, whatever happens today, the matter is going to come back to the next States for decisions. I am afraid that debates and discussions ... I hope there will not be rancour. I hope that there will be proper debate. I regret some of the things that may have been said in the process - not by myself - on both sides in relation to this. I very much regret those things but nevertheless I am afraid that we cannot avoid future debates. I want to talk about Deputy Young's intervention which was particularly interesting and tie that in with Deputy Martin. I am really not sure what Deputy Martin is accusing me of here. I have read what I said on that occasion; I do not see anything objectionable in that at all. I am not sure whether she is saying it is objectionable because I said: "It is also even homosexual couples." The reason I did that was because the question was about common law marriage and that is normally viewed as being heterosexual, so there is no slur intended there, and all I am doing is

explaining the difficulties which inevitably can arise in such a system. Having said that, I must confess that in my own mind I have been torn for years on this particular issue. Members know that I want to maintain high standards in relation to marriage and see that as absolutely vital for the future of society. But on the other hand I have recognised for some years pragmatically that many people choose not to get married and they are faced with a choice of either marriage or, as it were... well I will not say “nothing” because the States have amended things and adjusted things in various ways to try and ameliorate the effects. Some of our laws were really quite unjust historically in relation to this area and so I do accept the study needs to be done of this area. Is there a place for, as it were, a lower level of commitment relationship between heterosexuals to be looked at alongside? Pragmatically I would accept that is so and I welcome his support for that reason. I think it is an area that does need to be looked at. Finally, to wrap up the debate, I think the issue comes down to this simple question: are Members content to make a decision on the most important change to social legislation affecting what has been described as the very bedrock of our society without a full and detailed study? If they are, then they should vote against the second amendment. If they are not, then they should vote with me and I hope they will support me on that. I maintain the second amendment.

The Bailiff:

The appel is asked for then in relation to the second amendment which is lodged by Senator Le Marquand. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 24		CONTRE: 18		ABSTAIN: 0
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Senator B.I. Le Marquand		Senator A. Breckon		
Senator F.du H. Le Gresley		Senator A.J.H. Maclean		
Senator I.J. Gorst		Senator L.J. Farnham		
Connétable of Trinity		Connétable of St. Helier		
Connétable of St. Clement		Connétable of St. Mary		
Connétable of St. Peter		Connétable of St. Brelade		
Connétable of St. Lawrence		Deputy J.A. Martin (H)		
Connétable of St. John		Deputy G.P. Southern (H)		
Connétable of St. Ouen		Deputy M. Tadier (B)		
Connétable of St. Saviour		Deputy E.J. Noel (L)		
Connétable of Grouville		Deputy A.K.F. Green (H)		
Deputy R.C. Duhamel (S)		Deputy J.M. Maçon (S)		
Deputy of St. Ouen		Deputy J.P.G. Baker (H)		
Deputy J.A. Hilton (H)		Deputy of St. Martin		
Deputy J.A.N. Le Fondré (L)		Deputy R.G. Bryans (H)		
Deputy of Trinity		Deputy N.B. Le Cornu (H)		
Deputy S.S.P.A. Power (B)		Deputy S.Y. Mézec (H)		
Deputy M.R. Higgins (H)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.J. Rondel (H)				

3.3 Civil marriages: same sex couples (P.102/2014) - resumption - as amended

The Bailiff:

Very well, that means, as indicated earlier, that the amendment lodged by Senator Ozouf falls away so we now return therefore to debate upon the main proposition as amended. Can I remind Members that that now reads, without reading it all in full, that the Assembly is requesting the Chief Minister to investigate and report to the States as to whether it would be appropriate to

introduce legislation to allow this, meaning marriage, and as to the arrangements which should be made for the recognition in Jersey, in some way, of civil partnerships and civil marriages entered into outside of Jersey. So the effect of the proposition now is to mandate the Chief Minister to investigate and report. Does any Member wish to speak on that limited proposition? Senator Ozouf.

3.3.1 Senator P.F.C. Ozouf:

I am very rarely moved to emotion in States debates but the amendment, which I will vote in favour of, I have to say that I am surprised the amendment was accepted because I think that it is such a fundamentally different proposition than that which was originally requested because effectively it was an agreement in principle which is now nothing more than a request to consult. Senator Le Marquand, in his closing remarks, was quite right. He said it will become an election issue. It will be an election issue. We will have people being asked whether or not they are going to sign up to same sex marriage or otherwise. There will be division and it is that difficult debate, and that difficult debate which will now inevitably, now my amendment has been thwarted and unable to be discussed, mix politics and faith, which I understand has got some cross-overs. But it will be difficult and it will, I predict, not yield any compromise on the side of those who are uncompromisable in this area. There will be no solutions that have not already been looked into in the United Kingdom and Canada ...

The Bailiff:

Senator, I am sorry, this is the debate that has just been had. We cannot re-visit the debate on the amendment. We are now discussing it as passed.

Senator P.F.C. Ozouf:

I am predicting the debate, trying to put some oil on troubled waters, on to the inevitably of a difficult and visceral debate. I will not speak for very long but when you have been brought up in a world which does tell you from a very early age that you are different, that in some cases you are unacceptable, in some cases you are wrong, immoral, it is a very difficult situation to find yourself in. Society has moved on; society has moved on in a massively progressive and fair-minded way. But there are still today hundreds of children at school, young teenagers, there are millions of people around the world who know who they are and know what they cannot be and they will be now in Jersey subjected to a division. A Member before mentioned, perhaps wrongly or otherwise, the word "apartheid". Apartheid is separation, a different way of being. I fundamentally believe in equality and I fundamentally believe that everybody in the eyes of the State should be treated equally. Some people find this issue extremely difficult and the debate on this that we have now agreed, if the Assembly agrees the amended proposition, many people will find this issue extremely difficult. We will then of course have to have an agreement in principle, again, and then we will have to have a debate on the detail. I hope many Members will stand up in this debate, even if it is briefly, and say that they agree in principle but they recognise the fact that there needs to be a debate, and that they will be supportive of the people who, not by their choice, but by who they were born, or genetics, or whatever the reasons are that people are gay, that they will give them, by their words, a degree of confidence that they are not second class citizens in the eyes of the State, that they are equal and that they should be treated in no other way in any choice that they make in their lives than anybody else. I am sorry if I have gone over some of the amendment debate. This is, as Members will know, a subject which is extremely important to me and I believe I never use the issue of gay politics or gay issues as a politician but I believe that I have a responsibility, having lived through - I am 44 - a whole dramatic change in approach and acceptance that is a lot better than it was when I was growing up. I think that Members should just reflect upon the really difficult message that will be sent out that somehow gay people, in the eyes of the State, and the choices that they should be able to make in the eyes of the state, of having a relationship which is equal to same sex, heterosexual relationships, the State does afford certain rights and privileges and gives the other person rights over their lives and language to people who decide to join into a union.

Not in polygamy; that is not going to lead to that, it is not going to lead to all the other things. The hell and fire of damnation is not going to come down. It is the way that people live and it is the reality of millions of people around the world who are discriminated against. Some people may say civil partnerships are the same as marriage. Well, what I have learnt is that the very different now means a lot to people and says that you are different and in some cases you are second class. I will, with a very, very heavy heart, vote for the amended proposition but I passionately hope that there can be a responsible, inclusive, fair, non-judgmental and accepting debate that can be concluded quickly, that does not become a divisive electoral issue, which it could do, and that Jersey will re-establish what I thought was a path of equality, acceptance, fairness and genuinely, in the eyes of the state, being completely non-judgmental.

3.3.2 The Dean of Jersey:

I count it an immense privilege to be able to speak after Senator Ozouf and to do what little I can to pour more oil on troubled waters. This is not the speech I had written. It seems to me that all of us in this Chamber have the responsibility to set an example to the rest of society as to how we conduct debates in which many of us have not only intellectual opinions but immense emotions, whether coming from our own sexuality or our faith or both or anything else.

[14:45]

You will know the story of the preacher who wrote in his sermon notes at one point in the margin: "Argument weak, shout loud." It seems to me that when we simply yell words that we do not either understand or which we use in a way that simply is not a correct translation of their Greek origins, then we take the debate into the primary school playground rather than into a governmental Chamber. It seems to me that whatever views we have, we should be trying in these next months to understand, to listen, to accommodate and to affirm. I want to say, if you will allow me mentioning God in this Chamber, that God loves heterosexual and homosexual people to exactly the same degree, in exactly the same way. That would be the foundation of any contribution that I might make in the months to come. Senator Le Gresley, in a lovely comment before lunch, asked if I would be cursing him. I think he meant that humorously. No, I want to say that the number one thing that the faith communities must do in these next months is to pray and to listen and to bless and to understand. It is not wrong to be able to say what people think about marriage, whatever those views are, but it must be done with respect and it must be done with care. I mean care for people. It would be quite wrong for any faith communities to use language or concepts that are deliberately, or as far as possible can be avoided, unintentionally provocative or read by the listener as insulting. It is equally hurtful when members of those faith communities are written-off as bigoted homophobes simply because the speaker cannot be bothered to engage with the arguments. **[Approbation]** I want to commit, along I am sure with people of all sides on this Chamber and on this issue, to a period of months where we work together for a just and peaceful outcome for all the people of this Island, atheists or Christians, Jews or Muslims, reformers or traditionalists, irrespective of their sexuality. As Members of this Assembly I think we can do nothing less nor operate to any lower standard. Thank you.

3.3.3 Deputy G.P. Southern:

Once again this Assembly has disappointed me. Here we had an opportunity to demonstrate our real commitment to equality and to fairness and we managed to duck it. **[Approbation]** I find that extremely disappointing. We had the opportunity to say: "Welcome to the 21st century" and what we did, I believe - because there is a difficult election coming up - was to avoid that decision and to advance to the 15th century. Now I just hope that the - and there are thousands - thousands of young people who really are in the 21st century and do not have the history of prejudice that some of us with our grey hair and our grey suits now will look at this decision and say: "What? You managed not to vote ..."

The Bailiff:

Deputy, I am sorry, we cannot allow this debate to be a re-run of the last one, in other words, why the Assembly's last vote was, as you said, wrong. We have to move on to the debate which now is whether to investigate it.

Deputy G.P. Southern:

To investigate, okay.

The Bailiff:

So otherwise every Member will stand up: "We should not have decided the way we did."

Deputy G.P. Southern:

So those young people will say: "Given a choice to back equality you said, 'No, we are not sure now, let us investigate it'." They will look at that and say: "What is to investigate? Where have you been the last 50 years?" They will look at us with complete disbelief. I only hope that those thousands of young people, 16, 17, 18, 19, 20, *et cetera*, they ought to understand how these grey-haired and grey-suited men by and large came to that conclusion, turn out and vote and not go away and run away from the election because it is completely irrelevant to them because that is the measure that we have done.

The Bailiff:

Deputy, I am afraid you must **[Interruption]** ... just as well. Deputy Tadier.

3.3.4 Deputy M. Tadier:

The Dean has left but I wanted to ask him if he knows what the Greek is for "guff"? It is not a parliamentary word but maybe in Greek democracy it would have been permitted, because what we heard there from the Dean is complete and utter twaddle. To try and say that an institute, which for 2,000 years has oppressed and repressed and suppressed homosexuality, to come up with a statement which is factually incorrect to say that God loves heterosexuals and homosexuals exactly the same does not stand up to the teaching in the good book of the Bible. If we look at Leviticus - and I will show how this is relevant - God himself, ostensibly we are told, says: "You shall not lie with a male as one lies with a female. It is an abomination." "You shall not lie with a male as with a woman, it is an abomination." In a different version. Leviticus 20(13) says: "That if there is a man who lies with a male as those who lie with a woman both of them have committed a detestable act. They shall surely be put to death. The blood guiltiness is upon them and if a man lies with a male as with a woman both of them have committed an abomination. They shall surely be put to death. The blood is upon them." Now, either God said that or he did not and if he did not say that they should not be putting any store by it. If God did say that then the position of the Dean is completely untenable. What he is saying is that God loves homosexuals in exactly the same way that he loves heterosexuals but he shows his love for homosexuals by telling people in society to put them to death but he loves heterosexuals by letting them live. This is the gracious Father we have in the sky, apparently, which is dictating the whole moral code which underpins this Assembly and this God is saying ...

The Bailiff:

Are you coming back to ...

Deputy M. Tadier:

I am coming back to the point.

The Bailiff:

Because you are not on it at the moment.

Deputy M. Tadier:

No, nor was the Dean. Yet we put so much store and give him a foot-stamping round of applause whenever he speaks. The issue I have got is we know that we have a Chief Minister who is a member of the Evangelical Church. Whether or not he is on the hard right, the centre or left of that church remains to be seen. We are now in a position to have to vote on a proposition which has been amended so thoroughly that it can no longer be said to be proposer's, Deputy Mézec's. Absolutely it is his right to maintain that but it is certainly far from ideal. The issue I have got is, how can we ask the Chief Minister to engage in a process to determine, let us quote: "Whether or not it is appropriate to introduce this legislation with appropriate safeguards"? How is the Chief Minister, or the future Chief Minister, going to be able to determine what is appropriate and what the appropriate safeguards are? We have put ourselves in a very difficult position. We did not make this debate divisive, it was the very fact that it was amended when quite simply a decision about equality, which is what this boils down to, was allowed to be put out there in the debate and to let it be taken over by a hard right social group, not necessarily hard right economically, but socially who do not represent the vast majority of opinion in this Island. We have disgraced ourselves today in this Assembly. If it were my proposition I would ask for it to be pulled. It has not so I shall have to be thinking very carefully about whether or not that can stand. I do not have a problem with Christian views being aired in this Assembly and there are quite sufficient Christians who are elected in this Assembly in their own right without having additional non-elected speakers coming up with these kind of positions. Members cannot have it all ways and Christians out there who want to be liberal, that is fine, but your Bible does teach you that God hates homosexuality. God is a homophobe if you believe in the Old Testament God and if you do not believe in that then what are you doing perpetuating this kind of ethos in modern society. It has basically no place in the State. What you choose to believe behind closed doors, or on Sunday in your churches, is fine but do not drag it into here and do not drag the rest of society down with you.

3.3.5 Deputy S. Power:

I was grateful for the manner in which Senator Ozouf spoke with the passion that he showed today because he does not always show passion. Sometimes he approaches a lot of things that some Members have strong feelings about with the approach of a clinical forensic pathologist but today he has a separate view on this and I am grateful for that. On this debate we are asking the Chief Minister to do certain things and bring this back to us by the end of the year. In preparation for this debate I told Deputy Mézec last week there were 2 interviews which I watched which were in conjunction with this debate. One was by Elton John with CBS in New York and the other one was by Pope Francis in Rome. Elton John talked about his life, his sexuality, his relationship and his civil partnership with David Furnish. He talked about being a parent and because same sex marriages have now been passed in the U.K. he talked about at some time in the next 12 months going through and having a same sex marriage with his civil partner. He explained that in his life... he explained about his faith system, his understanding of Jesus and if Jesus had been alive today that he would have been a loving and forgiving Jesus and would recognise same sex relationships. It was an interesting interview. Pope Francis spoke last week in Rome and he said in *Corriere della Sera*, the local paper, he said that countries around the world were normalising different arrangements of cohabitation and that we must consider cases and evaluate as it approaches, which is a seismic move for the Vatican to come out. The whole of his interview, which was a long interview, shows a much softer inclusive stance on issues of core concern for the church since this man was elected Pope last year. When he was asked about gay and homosexual priesthood he said: "If someone is gay and he searches for the Lord and has goodwill who am I to judge?" That is an enormous move for a Pope to do that. What it also shows is that the churches are changing, inexorably changing, towards a new faith system, a new belief system, which is all inclusive which is what Senator Ozouf referred to and is striving for and is what Senator Mézec is trying to achieve here and, indeed, in this Assembly what we are trying to do as well. It is important that if one looks at Christianity and the way it has evolved in the last 150 years, it has

been an enormous move towards liberating freedom, tolerance and all that kind of thing. Deputy Tadier quoted selectively from Leviticus. All of us who were brought up in a ...

Deputy M. Tadier:

That is because there were no pro-gay comments in Leviticus. I looked thoroughly throughout the Old Testament and the bible and there is nothing that is pro-gay in there.

Deputy S. Power:

I did not mean to focus on what Deputy Tadier said about Leviticus but what he did do, he took one quote out of the Old Testament. The Old Testament and the traditional teachings of the church are full of quotations on violence and on discrimination against women, against children, against everything, it is all in there. I have printed off 900 quotes that I could have used but I am not going to use any of them. I remember as a young man ... and I am getting to the point before you pull me up. The point is that things take time and this is where we are today. There has been a seismic shift in the churches across the world. There has been a seismic shift in Jersey's population and its attitude.

[15:00]

There has been a shift in this Assembly over the last 20, 30, 40 years and as sure as eggs are eggs the Chief Minister's office will come back at the end of the year, whoever the Chief Minister is, one presumes it will be the same one, and we will have a report and proposition that will be fit for debate. That is where we are. But the movement, the world movement, towards the recognition and acceptance of same sex civil partnerships and same sex marriages is inexorable. It is not going to stop because it is the correct thing and we, this Island, this little place called Jersey, will take its place among the rest of the world and we will legitimise this and we will accept this and we will stop what Senator Ozouf called the apparent discrimination of that part of our community. So I think that is relevant and that is all I have to say.

3.3.6 Senator L.J. Farnham:

It worries me and I am sad that the proponents of gay marriage - and Deputy Tadier is not going to like this but - are, in my opinion, acting in an intolerant manner which they are claiming the people who oppose their views to act, which is not productive at all and it is going to make things more divisive if we do not work together on this. As I have said publicly recently, my religion is based upon kindness, mutual respect and understanding and I try to apply that in everything I do and I try to apply it in my politics. Gay marriage is coming at some time in the future. It is not "if", it is "when", because not only is it the right thing for the State to do it is something that society will demand and the demands will get stronger the longer we leave it. Now, if it makes the Assembly feel better to go away and discuss this and look at the consequences or lack of consequences of what this might bring then so be it but it will not change anything except it just goes to show, while respecting the views of individual Members, whatever angle they are coming from at this Assembly, it is out of step with society at times. Nevertheless I will embrace the process over the next 6 months and work towards, with other Members, delivering the right legislation for a modern and forward thinking society.

3.3.7 Deputy N.B. Le Cornu:

I am very disappointed that we are in this situation. I thought that a year after the British Parliament having discussed it, of British society being generally at ease with the issue, that Jersey would follow on. It is going to be another situation just as with women and abortion that there is going to be delay. I would say to the electorate who were listening to the voters, to the people of Jersey, please do not despair, take up an old slogan about do not moan, organise. Get angry and do something about it and make sure that this is a contentious issue in the forthcoming elections so that the homophobes are not re-elected to this House. Now there was a time when the gay ...

The Bailiff:

I am sorry, Deputy, you cannot impute that to other Members of the Assembly.

Deputy N.B. Le Cornu:

I apologise to them then and ...

The Bailiff:

And withdraw it.

Deputy N.B. Le Cornu:

I will withdraw it. Thank you very much. There was a time when the Gay Liberation Front once pronounced, quote: "Think queers are revolting. You're damn right we are!" "The patrons of the Stonewall Inn, the spark that ignited the modern L.G.B.T. [Lesbian, Gay, Bisexual, and Transgender] movement, faced down the police in curlers and heels. Yet now, the modern radical demand is the right to conform; to march down the aisle and perpetuate the myth of The One." Marriage is a very conservative institution and we are saying to the gay community: "No you cannot join that conservative institution." Is that not ironic? Many in the L.G.B.T. community reject that and want to fight, because as I mentioned before about fun-loving gays, they do have a different version and vision of what society might be as heterosexuals should do and also, of a vision of a world beyond simple conventional marriage. Conventional marriage is a structure of capitalism. It is designed to ensure the continuity and perpetuation of property rights, the transfer and it is designed to ensure the legitimacy of children. That is its function. It is a very conservative institution. The new laws that are being proposed do not force any religious institution to perform same sex marriages. That is not what really the Church of England and the Catholic Church are protesting about. The church is terrified about damaging the straight sanctity of marriage in society as a whole. It is fighting to maintain its moral authority over the concepts of family and relationships and beneath that its authority to prescribe sexual norms and practices into prescribed gender roles and identities. There is a much bigger battle going on here but today we have rejected the right of a minority, some 10 per cent maybe 15 per cent of society, a minority, to be equal with others. That is unfortunate. I am considering probably abstaining on this. I am not sure what to do. One thing we ought to do is ... I saw that Deputy Tadier had sent out a Tweet, organise a demonstration in the Royal Square on Saturday. Get the gay community and other supporters, liberal Jersey, out into the Royal Square to make it very clear we want change. We demand change. We are fed up. Just as I was as a teenager of not being able to tap my foot whenever the music came on in a pub on a Sunday. I am fed up. It is time for change. It is time to get militant. It is time to get angry and I am angry at this prevarication; this provincialism; this parochialism. I shall probably abstain and I look forward to the future debate on this, as it will happen, and we will ensure that it is well debated in Jersey society and that everyone is comfortable and I feel society here is accepting of it. It is just that this institution, this gentlemen's club, is very much out of touch and is far too conservative.

3.3.8 Deputy J.A.N. Le Fondré:

I was going to try and be positive and I am absolutely happy to endorse the proposition as it has been amended. Our society is made up of a variety of groups and years and that is the important thing, we have got to take all of them with us. I wanted to make 2 points, one was ... and I hesitate to say this in front of the ... and given some of the onlookers and people present in the Assembly. My understanding is Leviticus was Old Testament and therefore was pre the birth of Christ and therefore, presumably, is not attributable to Christianity but I may be wrong, that may be splitting hairs. Really to also extend a word towards Deputy Mézec because I am sure he will be disappointed. It is, I think, his first major proposition he has brought. I am sure it will not be his last. We may be on the same side of a different argument on a different day but I think for me I do not think the direction of travel has significantly changed and it is more about taking everybody

with us, that is the Island with us, and making sure for me that the safeguards are properly in place and I hope the consultation will allow proper consideration of all the issues. So I am very happy to support the proposition.

3.3.9 Deputy M.R. Higgins:

I am unhappy, I must admit, about some of the remarks that have been made in the House today. I personally condemn the extremists on both sides of the argument and I am talking about the homophobes and the religious extremists on the one hand. I would also say you could almost argue gay zealots on the other. Those who want instant change, right here and now, without full consideration of all the issues. I said earlier, I came into the House, planning on voting against Senator Le Marquand. I must say it was not Senator Le Marquand who convinced me, it was listening to Deputy Le Fondré and some of his arguments he put forward. There were a number of points that ... I certainly wanted to get a bit more information. Now, I believe this is a delay. It is not the end of the world. If anything it is a delay to December, the end of December, and I can assure you certainly with how the Members of the House on this side of the Chamber feel, such as Deputy Mézec and Deputy Tadier, it will be back and it will be back in January and we will have the information and we will be better informed for it. Now, I think we are talking about a 6-month delay before this is going to be debated again and I can assure people unless there are very insurmountable objections to it that come forward, I personally cannot see them, but I would like to know the full implications, then I expect to be supporting them on it. We demand no discrimination in this Island. I do not care if they are gay or not gay, if they are black or they are white or anything else. We are all, I would say, equal under God. Let us just look at the ramifications in terms of the law. When we had the civil partnership one we had to do an awful lot of exercise looking at all the different laws, all the different bits and pieces that had to be amended and consider the full implications. That is all I am seeking at this particular time and I just hope that ... there are people out there who will probably be disappointed with my stance. I have helped, in the past, gay couples with the issues that they have had with the authorities just like I have with ordinary heterosexual people, and that is the way it should be. What I will say is I do not want to see this as an election issue because to be honest no one wins. All they are going to do is polarise society. On the one hand you will have all those who believe that we were wrong, we should have brought it in right now, condemning us, and all those who do not believe it should come in at all will be condemning us. So you are not going to gain votes one way or the other. Let us take this out of it. It is a social issue. It is down to conscience and so on but whatever we do let us make our decisions based on information. I have said that before. I have been a constant critic of this Assembly for 6 years on the decisions that we have made on numerous issues and we have not had the facts and I will keep on using the same argument again and again. So, as far as I am concerned, it is a delay of 6 months. It will be back on the agenda in January. If I am in this House I imagine I will be supporting it coming in but I want the facts first.

3.3.10 Deputy J.H. Young:

I was not going to speak again but some of the things that have been said I think cannot go unanswered. Government's job in a democracy is to debate change and manage that change in society on behalf of all of society. I think it is our duty to do so with tolerance and fairness and tolerance and fairness are a fundamental principle of British society and culture. One only has to look at our history and the history in these Islands to understand that. Of course here we have an issue that cuts right to the root of society, both the secular world and the religious world, and what do we find? We have got the range of people, the range of opinions in both those worlds. In religious groups Deputy Tadier cites sections from the ancient scriptures, the Hebrew scriptures, the Aramaic scriptures. There are fundamentalist groups in society who will follow but thankfully that does not reflect the majority of religious opinions and there will be progressive opinions there too. The same way in the secular world where we have got traditionalists and reformists. I ask those disappointed Members, and plainly they are hurt and I understand that, but please do understand

that this issue goes right to the heart, cuts right across those worlds, and it is right that we take people along with us and ensure that the progress we make in society is done with fairness and tolerance that nobody feels excluded. Now, the direction of travel has been set. I think there is one word in here that troubles me a little bit in the proposition but I will go with it, about safeguards. I hope the Chief Minister does not see that as a negative but nonetheless I am really hoping that the Chief Minister will do this piece of work and get it completed on time and pick up all these issues so that what we get back here has got the substance and the agreement in sufficient common ground between all those cross-sections and groups in society that it can be embraced. That is all I would like to say.

3.3.11 Deputy J.A. Martin:

I will be brief and it is the people who have stood up after the amendment and the majority who have voted for the amendment who seem to think, like Deputy Young, the direction of travel has been set. Deputy Higgins, the words “if I am here after the next election”. Somebody is absolutely certain that Senator Gorst will be our next Chief Minister. He is shaking his head because we do not know. I do not know where I will be after 15th October but I did know today where I could send this Assembly, where I could send this law, and I chose to vote against the amendment.

[15:15]

Again I am probably a bit like ... feeling not so strongly because I am probably older in the tooth but Deputy Le Cornu and Deputy Tadier; I was so angry. I will say to Deputy Mézec, well done for his maturity because if it would have been the other 2, even if it had been me, the way that the wording is now left with the safeguards in place. Now, again, we go back to who, obviously, in society this will affect, but how do you have that with equal rights. How do I listen to the Dean tell me God loves everybody? Does it lose translation when it gets down to delivering it from a church, but God loves everybody? I am sorry people have been offended by language that has been used and I do not know what the correct language is. I do have worries that people here in this Assembly today could have made a straightforward decision even if that decision had been no. I would have totally respected them and I think people out there, whatever side of the argument, would have done as well. So, as I said over ... somebody who was speaking, and I have said it before, we do have a very young States Member in Deputy Mézec. We have a very young States Member and he has only been in the House for a few months but this will not be his last piece of legislation that he brings to this House. I must say I do hope he keeps his summing up speech to the facts. I am sure he will. He knows the research is done on this one. As he probably said in lots of longer words, it is a no brainer and it will come back. Unfortunately a lot of us will not be here to see this piece of legislation through; that the majority say they absolutely want but again not today. Let us put this off again. So I am in the hands of Deputy Mézec. I think he has much more maturity than probably myself, Deputy Tadier and Deputy Le Cornu because I would have probably now, where we have gone with this, I would have pulled the debate but he is telling me he is not. So I absolutely respect his wishes and I will vote with the amended version with a very heavy heart because this is the only vote I will get possibly if I am not in the House after 15th October and that gets to the timeframe as well. There is nobody looking at this up to the ... we have got a Chief Minister now. We do not know who it will be and we have asked somebody with all the safeguards before 31st December 2014. It is an impossible task but we have achieved what some will say is probably a cynical comment of me, we have kicked, again, this into the long grass and it is a very sad day when you are elected, whether you are leaving ...

The Bailiff:

Deputy, I am sorry but you are going on about what a mistake the Assembly made and we cannot reopen that debate.

Deputy J.A. Martin:

I will not speak but you have let a lot of people lean, who lean in, before the amendment speak completely ... speeches written on the amendment before it was amended and they have gone on but people ... I respect what you say.

The Bailiff:

Well, let us be clear about this, Deputy. I have been even-handed on either side in that we cannot re-debate now the amendment that has just taken place and if you were inferring that the Chair has been partial you must withdraw it because I have done my very best not to do it.

Deputy J.A. Martin:

I totally withdraw that.

3.3.12 Senator I.J. Gorst:

These debates... and I recall the civil partnership debate was difficult as well, and the incumbent of the office of Chief Minister has been called upon to carry out a process and that process is not the process that some of the Members in this Assembly would have wished for. I am not sure that I can really add too much to what I said in my speech earlier. Equality under the law of marriage is going to come to Jersey and I support that. I think what I said then I say again now. It is about how we get to deliver that equality and for me when we mention the word “safeguards” we are talking about how we deal with the different understanding of marriage within our various institutions. So, yes, delivering equality within our society but also recognising that delivers difficulties for some institutions and they need to be dealt with as well. I believe that we can have a process that does not need to be divisive. It may not feel like that this afternoon and I am sorry about that but I believe that we can deliver a process that does not need to be divisive, that can help the community understand the issues of equality which need to be addressed and will ultimately deliver equal marriage and I know that some will be upset with me saying that. I know that my department, I think, will be able to deliver on this work in less time than the timeframe set down. Other places have done Green Papers and consultations on this work. Other communities have enacted equal marriage legislation so I do not think that it needs to be a difficult or unnecessarily time consuming process but I do think it is important and has been important to try and take as many people with us in this process that we possibly can. So I, once again, want to say what I said in my earlier comments and that is that I personally disassociate myself with the view on both extremes of this debate. It is right that we try and deliver equality. That is what I believe we should all be committed to and, therefore, I hope that Members will support it as amended even though I recognise it is not exactly what some Members came here wishing for but I think that we can, as I said, have a process that will deliver what the majority of Members wants in a timely way anyway.

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

Following on from the previous speaker obviously I am not in the majority. I would like to start first of all with an observation, and I think it was Deputy Le Cornu who made this quite clear, because I think it is very sad that many people feel unable to express their opinions on the whole subject because if they do they are usually labelled homophobic or intolerant or discriminatory or some such, and this discourages natural rational discussion. I sometimes wonder if that is the intention but in any case it is very unhelpful and in my view it is going to make the implementation of this proposition very difficult. Of course it is absolutely right that we should not discriminate against people simply because they were made a certain way; they might be tall; they might be short; they might speak a different language. They might be heterosexual, homosexual, whatever, there are a thousand different variations. I want to apply some logic here and slightly less emotion because that discrimination has to be qualified. For example, when applying for a job one assumes sexual orientation is not relevant and it should not be but when it comes to marriage to me it is a completely different argument because you cannot equate a homosexual and a heterosexual couple in marriage. For a start, as we all know, the homosexual couple are unable to reproduce. Another

battle cry is equality. Yes, of course there should be equality but it is usually taken out of context. There is a vast range of inequality nearly all of which was not of our making. We are all different. We cannot always do the things we want to do. A blind man cannot fly an aircraft. A short person is never going to make it into a basketball team. There are a thousand different variations. So the idea that everybody is equal just simply does not work in this particular scenario.

The Bailiff:

Deputy, I am sorry, can I just remind you the proposition now is to look into it not whether you are for it or against it in detail. I mean obviously you can put your views briefly in passing but the proposition now is whether to look into it.

Deputy G.C.L. Baudains:

I can hear what you are saying but if I am against it then there is not much point in looking into it, is what I am trying to get across but I ...

Deputy M. Tadier:

Can I make a point of order? I think the speaker may have misled the House inadvertently when he talks about short people not getting into basketball teams because the Charlotte Hornets in the 1990s had a 5 foot 3 basketball player called Muggsy Bogues who played for Charlotte Hornets and he was a top class professional and scored many points as a defender.

Deputy G.C.L. Baudains:

I dare say he did and there are various degrees of shortness and tallness. No, I come from the old-fashioned point of view that marriage is not a club for those who love each other because if that was the case why should not 2 brothers marry or whatever. To my mind it is an institution for the creation of a solid foundation of a family and it is for that reason I shall not be supporting the amended proposition.

The Bailiff:

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

3.3.14 Deputy S.Y. Mézec:

This is not easy. This is very difficult to now stand here and speak in favour of something that does not come close to what I believe in. What I believe in is that all gay people on this Island have an equal right to achieve happy and fulfilling lives as everybody else and this proposition, I think, does not go anywhere near far enough towards that aim but it is a start. I am going to urge Members to vote for it. When I was first elected to this Assembly, in fact it was even before I had my States of Jersey email account sorted out, I was messaging Ministers trying to find out what was happening with this subject, what was on the agenda in terms of taking equality forward and I very quickly found out that there was nothing on the agenda. They were not considering doing anything and this was at the time where the U.K. was just about to introduce equal marriage there, and that is why I felt like I needed to do something because as a newly elected Member I did have the right to stand up and make propositions just like any other Member of this House. So that is what I wanted to do and I was doing so on a principle that I would have hoped States Members would have universally agreed with. We have heard from the Chief Minister that he knows it is inevitable. It absolutely is inevitable. It will happen one day and I am proud that I have now had my small part played in getting the ball rolling in Jersey for that happening sooner rather than later though nowhere near as soon as I would have hoped. On Liberation Day this year I was at an event at the Town Hall in the morning and I had somebody come up to me, very angry with me, to say that she was never ever going to vote for me again because she had found out that I supported legalising cannabis. I had to tell her that is not true, I do not support that. She must have misheard me somewhere else and it sort of ruined my morning a bit. Shortly afterwards an elderly chap came up to me and said: "You are the one pushing this gay marriage thing, are you not?" and I thought: "Oh, no here we go again,

another person to have a go at me”, when I have just come out for a nice morning on Liberation Day. He leaned in a bit closer and he said: “I have been with my partner since the 1960s and it was very difficult back then. I really appreciate what you are doing. It makes people like me feel much better because my partner will not have a civil partnership with me because it does not mean the same thing as marriage. We want to get married. So thank you very much.” That turned a bad morning into an absolutely fantastic day. I felt great after that. This weekend I was out on the street with my Reform Jersey colleagues trying to get people signed up to the electoral register and a gentleman walked past me, looked at me, took a few steps further and it suddenly clocked who I was. So he turns to me and said: “You are the one pushing this gay marriage, are you not?” and I said: “Yes”, wondering which way it was going to go. He told me that he had been with his partner for 43 years and he was glad that somebody was finally standing up for his section of the community. I had another message last night from somebody again who I do not know who has been with his partner for many years. The essential message I wanted to get out from this Assembly today to those people is that we are an Assembly for all Islanders not just certain sections of it and I think that we have failed that today. What we have said is that we cannot agree in principle today that you are equal, instead we will have a consultation to find out whether you are equal and I do not think that that is anywhere near good enough. In fact I think that is very depressing. There has been criticism of both extremes in this, on the one side the homophobic element and on the other side people who stand up to homophobia.

[15:30]

Well, I make no apologies for believing that the way you defeat bigotry is by standing up to it. It is not by accepting it. If Rosa Parks had not believed that who knows what the situation would have been in America. You defeat bigotry by standing up to it. When I have seen some of the comments particularly by the Evangelical Alliance I was incredibly offended. I thought they were absolutely vile comments and somebody needed to say something so the public out there know that there are people who are willing to stand up and point out when something is unacceptable and I think it is absolutely the role of politicians to do that. Some have criticised the words we have used. Well, I learnt at primary school that sticks and stones may break my bones but names will never hurt me. Following on from that the suffragettes, they talked about deeds not words. It is actions that count not words and I am proud that I have stood up for people. I may have upset people at times using certain language. I know colleagues of mine have definitely upset people using certain language but the ultimate aim is equality and that is objectively good and objectively right and there is nothing to apologise for, for standing up for equality. It is the Members of this Assembly today who have gotten in the way of achieving equality sooner that should be ashamed of themselves. I have been looking at Twitter since the result of the previous vote has gone and there has been universal condemnation from what I have seen. Today the Assembly has shown itself to be out of touch with the public and while I am glad that we may have taken a small step towards getting something done eventually what this means is this will be an issue at the election and if you think the debate has been divisive so far just wait until then. It will be even more divisive and this consultation being stretched out in the way that it will be done by this will bring out these elements, they may be even worse than what we have seen already, and I considered that to be completely unnecessary. So at one point in the debate I was accused of parachuting this issue in. Well, I think there are lots of issues that deserve to be parachuted in to this Assembly because they are not receiving the attention that they deserve. There are lots of things that we have not achieved yet that we need to, particularly on the equality agenda, which is one of the most important agendas that I can possibly think of for a parliament to be trying to address. So I want to endorse 100 per cent every word that was said by Senator Ozouf in his speech. It is not often that somebody like myself on the left will agree with somebody like Senator Ozouf but I think he deserves to be congratulated by the people of this Island for the stance he has taken over this issue and for some of the very moving comments he has made. He absolutely deserves to be commended for that. On that note of unity on this point I hope that one day very soon we will see equality for

gay people in this Island because they deserve absolutely nothing less and so I hope Members will back this proposition and I hope Members who voted for the amendment will answer to their electorate in October because they deserve nothing less.

The Bailiff:

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

POUR: 39	CONTRE: 1	ABSTAIN: 0
Senator P.F.C. Ozouf	Deputy G.C.L. Baudains (C)	
Senator A. Breckon		
Senator S.C. Ferguson		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F.du H. Le Gresley		
Senator I.J. Gorst		
Senator L.J. Farnham		
Connétable of Trinity		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Saviour		
Connétable of Grouville		
Deputy R.C. Duhamel (S)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of St. Ouen		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy E.J. Noel (L)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy R.J. Rondel (H)		
Deputy N.B. Le Cornu (H)		
Deputy S.Y. Mézec (H)		

4. Draft Aircraft Registration (Jersey) Law 201- (P.62/2014)

The Bailiff:

Very well, the next matter in Public Business is Projet 62 - Draft Aircraft Registration (Jersey) Law 201-, lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

The Greffier of the States:

The Draft Aircraft Registration (Jersey) Law 201-. A Law to provide for the registration of aircraft, aircraft engines, aircraft mortgages and aircraft engine mortgages in Jersey and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

4.1 Senator A.J.H. Maclean (The Minister for Economic Development):

Clearly, Members do not think this is a very exciting subject as they run for the exits I notice but never mind. To establish an aircraft registry is not a new concept. Indeed there are 220 various registries worldwide. A relevant comparison for Jersey is the Isle of Man which opened its aircraft registry in 2007 as a sub-registry of the United Kingdom. That was the ninth registry to which the United Kingdom accepts responsibility and in late 2013 Guernsey became the tenth sub-registry. The enabling legislation before Members today, if approved, will open the opportunity for Jersey to compete in this potentially lucrative market. Jersey can become the eleventh sub-registry of the U.K. following this tried and tested model. Following the credit crunch of 2008 the business aircraft market took a huge battering with some manufacturers reporting that order numbers dropped by two-thirds between 2008 and 2010. However, 2013 saw the first rise of 0.9 per cent in business aircraft deliveries since 2008. In late 2013 Honeywell's Annual Business Aviation Outlook forecast up to 9,250 deliveries of new business jets valued at more than 250 billion dollars over the next 9 years; that is through to 2023. This suggests that a reassuringly busy decade lies ahead for the business aviation market. Members will be aware that we initially worked hard to create a joint Channel Islands Registry because at the time the regulatory and administrative functions undertaken by such registries were typically viewed as a cost and not intended to be profit driven. The Isle of Man established their registry in 2007, as I have mentioned, with a clearly stated aim of it covering costs, not as a profit centre in its own right. The Isle of Man intended their registry to open up commercial opportunities for industry to profit ...

The Bailiff:

I am sorry, Senator, we are not quorate. I shall again summon back Members. Very well, please continue.

Senator A.J.H. Maclean:

I am tempted to start my remarks from the beginning as a penalty, but I will resist that.

The Bailiff:

You would be penalising those who stayed.

Senator A.J.H. Maclean:

Well, indeed I would and probably penalising myself as a result. So I think I will carry on. As I was saying, the Isle of Man intended their registry to open up commercial opportunities for industry to profit through aircraft, mortgages, insurance and many other areas. Jersey and Guernsey initially sought to establish a joint registry function to share the administrative and regulatory costs as we have done in the past in areas such as the Channel Islands Competition and Regulatory Authority and the Director of Civil Aviation. However, after long drawn-out discussions, sadly agreement could not be reached with Guernsey. Interestingly in the intervening period, the market has recovered and indeed evolved to such an extent that even the regulatory function now appears to offer the opportunity of generating a profit. As an example the Isle of Man Registry function now with close to 700 aircraft made an estimated £1 million profit in 2013. The opportunity for us to establish an aircraft registry first presented itself in 2005 when the laws governing the registration

of private planes in the E.U. were changed to allow the formation of sub-registries. The proposition before Members today is therefore the enabling legislation for the creation of a Jersey Aircraft Registry that will, as I have mentioned, be a sub-registry of the U.K. Guernsey proceeded to establish their own aircraft registry in December of last year and confusingly, and if I may say so, misleadingly, named it the Channel Islands Aircraft Registry. This was despite, I might add, an undertaking in writing that neither Island would use the brand Channel Islands in the event that our joint registry project did not progress. We move on and we are now focusing on introducing a Jersey Aircraft Registry and ensuring that it is a success. We believe that the Jersey brand is strong and clear, a view shared by industry. A joint government and industry working group chaired by my Assistant Minister, Deputy Baker, was formed in late 2013 to progress the project of the Jersey Registry. I would like to take this opportunity to thank Deputy Baker for all his hard work and expertise in both leading and driving the project forward. His working group were tasked with defining the optimum model for an aircraft registry and to make a recommendation to implement as necessary. The United Kingdom opened its aircraft registry in 1919 after regulations were passed requiring all aircraft to carry registration marks and any passenger-carrying aircraft must have a Certificate of Airworthiness. It is worth clarifying why a new aircraft registry established in Jersey would be, as I have said, a sub-registry of the U.K., just like the Isle of Man and Guernsey; and that is because the United Kingdom is the contracting state to the Chicago Convention to oversee and regulate international air travel - that is, the International Civil Aviation Organisation. From the 1980s onwards, a number of registries emerged, based in the Caribbean States, overseas territories of the United Kingdom or the Netherlands and were established to provide economic benefits to their respective territories. These benefits range from financial structures for ownership through to providing finance, leasing arrangements, insurance and legal services, to mention a few. Many of these added-value services are of course key strengths of Jersey's financial services' industry and will therefore help to support and create jobs in our larger sector. The financial and economic benefits of a registry are potentially significant. One only has to look at the Isle of Man Registry which is registered, as I have said, nearly 700 aircraft; interestingly, 51 were registered in its first year of operation in 2007. Indeed, we can see Guernsey that established its registry at the end of last year, have already registered 18 aircraft. The flow of business also provides work for a number of technical service providers that manage and maintain these assets. The original research for either a joint registry with Guernsey or a sole Jersey Registry projected potential opportunities available to industry in a range between £18 million to £33 million gross over the first 3 years of operation and are likely to accrue to a range of stakeholders. The benefits to industry within Jersey are therefore, as I have said, considerable and importantly a new opportunity for revenues, rather than simply replacing existing activity. A recent report produced by Bombardier, one of the leading aircraft manufacturers in the world, estimated the number and value of business jets over the next 20 years to be in the region of 30,000 with an estimated value of \$650 billion. These key growth markets for private and corporate aircraft such as the Middle East, Russia, India, China, Brazil coincide with the target markets for both Jersey Finance and Locate Jersey. In order for the Jersey Registry to be a registry of choice, consideration has been given as to what competitor registries currently offer, as well as what they are currently not offering, but for which there may be opportunity in the future. These so-called unique selling points have been devised around customer service and the high quality of flexible professional services. This is something of course that Jersey not only prides itself on, but which we built with considerable success in the financial services sector. The focus of a registry will be on modern, new or nearly new, private or corporately owned aircraft, including business jets and twin turbine helicopters. Newer aircraft are more straightforward to place on a register as they are generally maintained and operated to a high standard and their owners tend to be able to appreciate a higher standard of service as well as a cost-effective scheme of charges. These aircraft owners will also appreciate the benefits of Jersey in terms of their overall wealth management arrangements when purchasing an aircraft. While the registry along with existing Jersey service providers will want to promote the register to key growth markets in aircraft owners, locally owned private aircraft will also be eligible to be on the register

irrespective of size or type of aircraft. As well as having the ability to register aircraft, mortgages created in a number of countries, this draft law allows charges to be created in Jersey. In addition, one of the unique selling points for the Jersey Registry will be the ability to register commercial aircraft engine mortgages, an area of revenue that other off-shore jurisdictions have not yet capitalised on. The online registration system available 24 hours a day will give access to all time zones and will be seen as another of the registry strengths. The growing market which the registry will be able to exploit is what is termed “parked aircraft.” These are aircraft that have been leased and which have come to the end of their lease and the owners do not wish to continue using these assets.

[15:45]

My department, as part of the overall vision of the States Strategic Plan, is charged with creating a strong and sustainable economy through delivery of growth, improving competitiveness, diversifying the local economy and creating employment. The development of the Aircraft Registry will complement the current suite of products and services already designed to attract potential, high network individuals and new inward investment businesses considering moving to the Island. It is clear from initial researches that the recent manufacture of predictions on new private and corporate aircraft ownership that the registry is likely to provide new opportunities for the Island in terms of new skill sets and direct and indirect revenue to the States. Having considered a number of options, the preferred registry model is that of an outsourced technical service provider, with the department retaining the elements of the registry, notably customer interface, invoicing and regulatory activities. While a contractor undertakes airworthiness surveys, aircraft inspections provide continuing technical and flight operations advice as well as recruiting expert staff and ensuring that they are suitably qualified. This model has been adopted by the highly successful Isle of Man Aircraft Registry and the proposed legislation reflects this option. This draft law went out as a closed consultation to Jersey Finance members and to industry experts. In addition, a number of independent legal firms were also consulted. Of particular interest to them was the legal framework and enforcement of mortgages for both aircraft and aircraft engines registered. There are still details surrounding the final aspects of the draft business case that we are discussing with the Economic Affairs Scrutiny Panel. I have given the panel an assurance that the registry will not progress and open until such time as they confirm that they are comfortable in this regard. I hope Members will appreciate that we do not wish to discuss or publish the exact details of the business case in public. To do so would potentially give our competitors advance notice of what we consider will be the unique selling points for the Jersey Aircraft Registry. I ask Members to support this enabling legislation and open the many opportunities for industry to exploit it. I propose the principles.

The Bailiff:

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

4.1.1 Senator L.J. Farnham:

I warmly welcome the move to set up an aircraft registry and I congratulate the Minister and the Assistant Minister on the work they have done, although I cannot help feel - this is not so much a criticism as an observation - that given this opportunity was first identified back in 2004 by the Emerging Industry Board, why it has taken 10 years to get there. I cannot help but feel that had we have moved a bit quicker we would have been better placed to take advantage of the hugely growing aviation industry. The second point of concern is that our cousins in the northern Island have seemed to have commandeered the name Channel Islands Aircraft Registry name, which I think is against the spirit of all that we were trying to do with them. Now, I know we are working very closely with Guernsey on a number of issues and long may that continue. I had a similar experience when I was Chairman of the Tourism Board and we were discussing marketing the Channel Islands as a joint brand and the week before our exhibition at the I.T.B. (International Tourism Bourse) they pulled out and decided to go their own way. Imagine my surprise when not

so long after that I noticed Guernsey were marketing themselves as the Channel Islands of Guernsey on national television. Now this sort of thing, I cannot understand why it happens. You know, we have had that happen to us twice now. So I urge the Minister to deal with Guernsey, please; to perhaps bring this up. I want to ask the Minister exactly: is that the end of the story? Are we going to accept that Guernsey are not going to abide by the spirit of your previous discussions and perhaps trade as a Guernsey, or are they determined to stick with that? If they are determined to stick with that, is there any legal recourse for us to take. But I just wanted to reiterate where I started from: congratulations. It is long overdue but we have it now and let us hope we make something out of it.

4.1.2 Deputy M.R. Higgins:

Senator Farnham has mentioned one of the things I wanted to ask. I would like the Minister to explain to us exactly what the problems were with Guernsey and why Guernsey chose to go its own way. Now, I have always been a believer in having an aircraft registry and I hoped that it would stand up. I believe there are reservations about the business case and other things, and I am hoping the Scrutiny Panel will look. But the point is that so far as Guernsey is concerned, Jersey tends to negotiate in good faith with them. I have been part of negotiations in the past for the Financial Services Commission and right at the very end they tend to drop out. Now in this particular case they have. I would like to know the reasons why they went alone and why we stayed with them for so long. Equally, I would like to know, as Senator Farnham does, I think it was talked about that there would be legal action to prevent them using the C.I. (Channel Islands) name because it is certainly giving the impression that they represent all the islands and it will certainly be a disadvantage to us if we are trying to market our own case. I would like some information on that. I am surprised he says that it is not really a case of making money. We are supposed to be looking at ventures that will generate money for the Island and business and yet we are told that it is not necessarily a big thing that we make money out of it. We do not lose money on it and certainly, where is the business case for it? How strong is that case?

4.1.3 Deputy J.H. Young:

On a similar vein about the business case, let us accept the fact that the Assembly is not in the best place to have commercially sensitive details. But looking back on the Scrutiny Report that we had in 2012, they explained to us that there was a problem at that time about the Aircraft Registry being at a competitive disadvantage because Guernsey of course does not have G.S.T. (Goods and Services Tax) whereas Jersey does. This potentially puts... without the right local G.S.T. regime being agreed by our Minister for Treasury and Resources, this would put the Aircraft Registry at a disadvantage. In fact there was some comment in there about the Treasury dragging their feet at that time, showing lack of urgency. If the Minister could tell us what the current situation is there - has that been dealt with? Because obviously I think that is going to be important, because if we have a situation where commercial services, commercial air, are zero-rated and private aircraft are not zero-rated for G.S.T. purposes, that kind of seems to be quite fundamental. This registry is for private aircraft, as I understand it. Of course, the Isle of Man also is in well ahead on that field and doing pretty well. But of course they have... again the Scrutiny Report told us that they have special arrangements with the E.U. so that they are part of the E.U. customs' territory and therefore have the free access to the trade freely within the E.U. without the complications of V.A.T. (Value Added Tax). The suggestion there is that that was seen as a problem at that time. So if the Minister could tell us how those issues have been overcome, because I think, it strikes me being if we have people active in this that we want to make sure of course we do at least get sufficient business to pay for the costs. Of course the costs are stated, I think, in the report as saying we need a registrar and the salary of the registrar will be £66,000 to £83,000 a year. I cannot see on there that it tells us what the rest of the cost will be. Obviously it says it hopes it will be cost neutral. So I think I would very much like to be assured that those fundamental problems of tax have been overcome and that we can now look forward to achieving a profit on this business.

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

I would hope that Members would know the names of the 4 members of the Economic Affairs Scrutiny Panel: myself, Constable of St. Brelade, Constable of St. Ouen and the Constable of Grouville. The one thing that Members may not know about us is another factor that makes us similar and that is that we all were in a previous life self-employed and in my view successful businessmen using our own money to run our own companies; 4 people who were used to spotting and taking commercial opportunities and making decisions accordingly. The whole subject of an aircraft registry has been on the table at E.D. (Economic Development) for all of the time that we as a Scrutiny Panel have been constituted and as we have heard previously, even longer. From the outset we as a panel have thought it was a good idea. It seemed a shame to us that no one until very recently had grasped the aircraft registry nettle and run off with it at great speed. Indeed, E.D. seemed to have amused themselves with playing some sort of strange game of political hokey-cokey with our Guernsey neighbours. First we are in the joint registry room with them, then we are out, then we are back in and finally we are out again on our own. Unfortunately after the in-out in-out, when we have come to the shaking it all about part, some parts of this registry plan seemed to have survived better than others. Members may well remember that as a panel we scrutinised the idea of a joint Channel Islands Registry and although we are disappointed that this has not moved ahead, and I think also as a panel we can understand why, we have not however until very recently done a great deal of work on the various proposals we have before us today. We took a view that if the business case stacked-up, and having done our previous work, that we would let it go ahead and we would agree the legislation that we have before us. However, I have to tell Members that when we eventually saw a business case - and it was some time coming - we were not all that satisfied at all. We might be ex-self-employed businessmen who think this is a great idea; we might well have committed our own money to this scheme had we been looking at it from the private partnership, but we could not advocate putting taxpayers' money to this without a better cost-benefit analysis. So the panel find themselves in a difficult situation. With the summer recess almost upon us, and then very shortly after our return, nominations and elections followed by appointment potentially of a new panel and then the Christmas holidays soon after, we are well aware that a major review at this stage will mean at least a 9-month delay in this registry project - a delay that my panel do not feel they want to be responsible for. Consequently and in order to attempt to progress matters, we took a full briefing from Law Officers last week concerning the draft registry legislation, the stuff that we have before us today. I can tell Members that we are satisfied that this enabling draft does what it says on the tin. It creates the rules that will allow us, should we so choose, to set up an aircraft registry. I say: "Should we so choose" because as a panel we are still not giving this a green light. The Minister knows the areas of the business plan that need strengthening and, as we have heard from him just now, he has given us his word that he will continue to work together on this until we are all sufficiently satisfied that we have financial numbers that are accurate. As I have already indicated, we are absolutely sure that this is a workable idea. It is just the type of diversification that this Island needs. It will create jobs; it will help consolidate our financial services offering. We just need to be sure that we fully understand the financial commitment we are making before signing the cheque. Finally, the panel are happy to give qualified support, to be able to agree this proposed legislation and we look forward to a robust business case in the very near future. Now is not the time, as I have explained, to a full review and more importantly for a 9-month delay. Now is the time for Scrutiny and their Executive counterparts to work together with each other at best speed with utmost co-operation to enable something that should have been put in place many, many years ago. I would ask Members to support all these various pieces of aircraft registry legislation they have before them today.

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

As a former Vice-President of the Jersey Transport Authority I do have concerns. Firstly, I recall at the previous time of putting in place along with Guernsey the Condor licence. Both the Jersey Transport Authority and Guernsey Transport Board had agreed a new operator, that being Pinot

Ferries. It was voted upon by the 2 boards together. We had agreed that Pinot Ferries would get the licence. Then the States of Guernsey were nobbled by shareholders of Condor and they replaced a number of members on their Guernsey Transport Board and called an emergency meeting where they asked for the decision to be reviewed.

[16:00]

The outcome was that Condor gained the licence, although Pinot Ferries had already been notified that they had received it. Then we, in latter times, had the fishing wars with Guernsey. Yet again that was under the Ministerial system. That proves we had difficulty in doing any dealings whatsoever with Guernsey. We heard what Senator Farnham has told us about the tourism agreement and the rug was pulled from under their feet at the 11th hour and 59 minute. Likewise without agreement over the aircraft register with Guernsey, expecting it all to go ahead and likewise getting the rug pulled under our feet. But we were told by Senator Horsfall and Senator Walker back prior to Ministerial government, that moving down the road to Ministerial government would make things much easier and much quicker decision making would happen. That was back in 2003 and 2004 and 2005, and we are now at 2014, getting close to 2015, and something that was put in place over 10 years ago, debated on, that we should have an aircraft register, still has not happened, Minister for Economic Development Department. Have you been sitting on your hands for the last number of years? I think the Senator has been sitting on his hands along with his officers in his department, because to allow the bird to have flown to the Isle of Man and in part on its way here across the channel on the way back it stopped off in Guernsey; to try and pick up the loose ends now, we are going to get the crumbs at the edge of the table. You may have noticed I went over to check with the Chairman of the Scrutiny Panel for E.D.D. to find out whether or not they had reviewed that, and I took note of what he said, that he gave it a qualified yes, but he still needs to see the business case. Will you please get your act together, E.D.D?

The Bailiff:

Rather would the Minister get his act together

The Connétable of St. John:

Well, E.D.D. or the Minister, I do not mind which. But somebody needs to get their act together to prove to the people of Jersey that Ministerial government ... this should be aimed I should think to the Chief Minister or whoever is going to be the next Chief Minister, to make sure that things do happen and it does not take 10 or 15 years to get our act together. Because, what was the good of spending all these tens of millions of pounds and going down the road of Ministerial government if these decisions cannot happen within a very short period of time. I will sit down now, hoping that the Minister for Economic Development can make this happen before the end of his term, but I doubt it.

4.1.6 Senator P.F.C. Ozouf:

Very briefly, I enthusiastically support the setting up of an aircraft registry. Jersey's economy is successful, but we must, as many Members have said, be looking for diversification. Diversification in the areas that are providing services is one of the most potentially implementable and complementary areas of business that we can do sitting alongside our existing financial services industry. There are lots of spin-off benefits, and I have not looked at the detail, I must admit, recently. But I know that it is easy to just simply look at the business case directly as to whether or not the registry itself will effectively create a profit itself. It may or may not be the case, but there may well be a case of providing some support and subsidy, dare I say it, initially to get it going - particularly because perhaps we are a little late on to the party in terms of the now very strong growth for aircraft registry. The Isle of Man Registry with its very eye-catching M registration has been proved to be extremely successful. There are, as I understand it, hundreds of people engaged in servicing and providing all the collateral services to an aircraft registry, all of the financial services, the structuring, the legal services; all of that that happens is all good quality

Manx-based business. It is a shame that we do not have a Channel Islands Registry. I think E.D. has been put in a difficult position in this matter. But it seems to me that they have moved quickly in order to solve the problem. Why that problem happened, I will leave that to the Minister to feel what he is able to say. But where effectively the ending of the Channel Islands Registry and the Guernsey Registry in my view, I agree, it should not be called the Channel Islands Registry. But for various different reasons at the moment, it seems that it will be called the Channel Islands Registry. I think that E.D. has moved as quickly as they can. We need to support E.D. Treasury will support E.D. in every way that we can. I think all the financial arrangements have been dealt with. I will leave the Minister to deal with that. I would say to Members that I think that this is an exciting opportunity. The confidence of the world-wide economy is returning and one of the early symbols of returning confidence is the amount of corporate jets that are being used by business people find their time most efficiently used and cost effectively used by the corporate jet market. Indeed, it has been improving by double digits over the last 2 or 3 years. There are huge opportunities for a quality jurisdiction that runs a quality registry to provide its registry services. Our finance industry can benefit, our lawyers can benefit ... all sorts of areas. I would just say finally, I do think we do need to deal with this issue of the Channel Islands name. I have myself come to the conclusion that there has never been a treaty between Jersey and Guernsey and indeed the one way of binding 2 Assemblies together, I have thought of other things in the past, but in my current view I think we should be now embarking upon the designing and the writing of a treaty that would effectively overarch legislation between both Legislatures, to which Ministers in either Assembly would be effectively subservient and that would mean that it would move quickly and it would mean with certainty in creation of various different areas. Protection of the Channel Islands name is one area, *et cetera*. So I am enthusiastically supportive of this. We do need to fix the issue of the Channel Islands name and I wish E.D. all the speed because they do need to be speedy, just as a jet is speedy, they need to put on rocket boosters with additional full power ... the acceleration of this aircraft registry because it is not too late to carve out a niche in what is going to be an important and significant growing market for aircraft registries.

4.1.7 The Connétable of St. Brelade:

I endorse everything that the Economic Development Panel Chairman has said previously but the longer I am on my feet, the more contradictory I am likely to get so I am not going to be here very long. There is one point that sticks with me and will carry on sticking with me until the doors of the registry open and that is one of a level of trust. We did review the Channel Islands Registry but we have not reviewed the Jersey Aircraft Registry, not in total isolation. We have been given a business brief that we had a lot of questions over and we gave the department a list of questions, asking them to reply. I am not going to go into that list of questions but one of the questions, which brings around the issue of level of trust, does stick in my throat somewhat and that is a comment that was made in a news release back on 29th April when the E.D.D. said, and I quote: "Independent research commissioned by the department has indicated that an aircraft registry, based in the Island could generate significant income." We asked that question recently: "Where was the independent research?" to which we got the answer: "There was none." Not only did we ask that question recently, the question was asked back on 30th April, the day afterwards, through the Scrutiny office and again, I quote from an email that came back: "Your comments, no to new research." So all I would say to the Minister is that as with the panel chairman, I do support the registry. I think it is a good idea but the business case does not, at present, stack-up. It needs to be reviewed; it needs to be written ... I will tell you how they need to write it. They need to write it by not just getting the commerce and employment strategic case for aircraft registry out and just copying and pasting bits of it together. They need to put their own business case together and ensure that the panel is happy with their business case before they go any further. So that is where the level of trust is with myself and I think the panel as well. So as long as they are going to stick by what they say, then I am happy to press the 'P' button when it comes to voting on this. But it is about a level of trust and I hope that that level of trust is going to be in both directions.

The Bailiff:

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

4.1.8 Senator A.J.H. Maclean:

I will just try and cover the points that Members have raised. Senator Farnham started and he referred back, not quite as far as the Connétable of St. John when he talks, who goes back a number of decades ... could draw on his wealth of experience, but Senator Farnham nevertheless spoke about his time on the Industries Committee back in 2004 when this was identified as an opportunity. I would just say that that is slightly curious because it was not until 2005 that the law in the E.U. was changed to allow the registration of private aircrafts. So indeed the opportunity did not present itself. I think the old Industries Committee had a crystal ball of some sort.

Senator L.J. Farnham:

I do apologise, Sir; it has only taken 9 years and not 10. Sorry. **[Laughter]**

Senator A.J.H. Maclean:

Moving on to the question about timing. Since 2005 when the opportunity first presented itself, indeed the Isle of Man without a doubt got to the start line first by introducing their registry in 2007. Members have to remember that 2008, when the global crisis started changed the market dramatically and between 2008 and 2010, as I mentioned in my opening remarks, the market fell for business aviation by two-thirds. That is a dramatic change in the profitability and opportunity of the business aviation market. As such, that did make a difference with regard to our view on the priority of this particular opportunity. It also was one of the reasons that drove us towards discussing with Guernsey about a joint Channel Islands registry. We did appreciate that in the future, this opportunity would come back, that the market would recover in due course, which indeed it appears to have done now. Last year, as I mentioned, there was a 0.9 per cent increase in business jet deliveries; that is encouraging. The market is returning but we realised there was a cost involved in the regulatory function of a registry. As such, as we have done before - successfully, I might add - with Guernsey in regulatory areas like the Channel Islands Regulatory Authority, like the Director of Civil Aviation and other places, the data protection function as well, we have shared costs to mitigate those costs to allow the greater opportunity to present itself from the business that flows from a registry, which we have to remember is an administrative and regulatory function only. Senator Farnham and others mentioned, quite rightly, the issue around the Channel Islands name, in particular in relation to this issue of an aircraft registry. We did have an agreement in writing that if, for any reason, we were not able to progress either partner in this intended partnership for a Channel Islands registry then neither party would use the Channel Islands name. It is a regret that that agreement and the spirit of that agreement - it was a letter - one would have hoped the spirit would have been met and it was not.

[16:15]

We considered legal recourse in this matter. We considered taking legal action but upon advice, the cost and time that would have been involved frankly would not have been a good use of taxpayers' money. We decided not to pursue that and focus instead on ensuring that our registry, the Jersey Aircraft Registry, is going to be a commercial success. That point about slowness that was made by the Chairman of the Economic Affairs Scrutiny Panel, I would simply say to Members that we have, since December, moved, I think, remarkably fast and I would like to pay particular tribute to the Law Officers who have done a fantastic job in developing the legislation and getting us to the stage we are in now, 6 months down the road, to be having this debate on this enabling legislation, which now opens-up the opportunity for Jersey to have its own aircraft registry, some months behind Guernsey, but nevertheless, we will have one and certainly the information that we have, coming back from industry, suggests that it is going to be a very successful and much needed piece of legislation to open up commercial opportunities for business.

Deputy Higgins, again on similar issues around the name, and I think just to finish on that particular point, it is a matter that the 2 governments of both Jersey and Guernsey need to discuss and agree in a formal fashion as to where and how the Channel Islands brand and name will be used in the future to avoid a circumstance such as this. There are many good areas where Jersey and Guernsey work together. It is without doubt, in my view, beneficial for the islands to work together in areas such as regulatory matters, administrative areas. We see the Brussels Office, we see C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities), the D.C.A. (Director of Civil Aviation), data protection, as I have mentioned, the Channel Islands Lottery, you can think of. Going back to Senator Farnham, the I.T.B. tourism show in Germany, one of the largest tourism shows. We have a joint Channel Islands stand and it works really well. We have other areas, we have a Channel Islands website for European marketing from a tourism point of view, so there are initiatives out there where the Islands do work well together and can, in my view, continue to do so as we develop more of these opportunities in the future. What has happened over the aircraft registry is clearly regrettable. Members have also mentioned the point about the business case and the opportunity for an aircraft register and the fact that we are perhaps slow to the market. I will use some of the emotive language that the Constable of St. John likes to wheel-out. He has his own little dictionary of emotive language: "... bird has flown the nest ... crumbs falling from the edge of the table" and the one he uses all the time: "I have been chopped off at the knees." [Laughter] Underneath all that sort of emotive rhetoric, the fact of the matter, I can say to the Connétable, is that there is opportunity here. We are not too late. We have not missed the boat, or the plane for that matter.

The Connétable of St. John:

Is it a hydrofoil or a Condor or is just a slow boat to China, Sir? [Laughter]

Senator A.J.H. Maclean:

The Connétable spent a long time talking about boats. This is an aircraft registry we are referring to. [Laughter] He was slightly off-track but nevertheless ...

The Connétable of St. John:

It is in response to his own comment on boats, Sir.

Senator A.J.H. Maclean:

I am not giving way to the Connétable. I am afraid I am not giving way to him. He has had his go and now he will just have to sit and receive. [Laughter] What I was going to say to him, which I am sure he will find interesting because of course facts are what we like to deal with in this Assembly, is that the future is looking bright for the aircraft and business aviation industry. I have mentioned the Honeywell Report, the outlook of 9,250 deliveries over the next 9 years. That is 250 billion dollars of business, which is out there protected by the Honeywell Business Aviation Outlook Report. There is also a separate independent report from Bombardier, the next 20 years, 30,000 new aircrafts, 650 billion dollars of potential business. We do not need many crumbs, Connétable from St. John, from that table to be doing very nicely, thank you very much. I think that this ...

The Connétable of St. John:

Let us see the table then.

Senator A.J.H. Maclean:

No, I am not giving way, Connétable. I think you have said quite enough. [Laughter]

The Bailiff:

Through the Chair.

Senator A.J.H. Maclean:

I do apologise, Sir. Yes.

The Bailiff:

Or did you tell me that I have said enough? **[Laughter]**

Senator A.J.H. Maclean:

Sadly, Sir, I appear to be picking up bad habits from my good friend, the Connétable. He should be a little bit more positive about this. This is a good news story. Here we are at the cusp of opening up the opportunity for Jersey to have its own aircraft registry, which, with the numbers coming out from industry, suggest that in the future, there is a lot of business that Jersey can be the recipient of. Deputy Young, sitting over there, asked a really important question around G.S.T. and in particular, competitiveness. That was an issue that was discussed in great detail between Jersey and Guernsey when we were looking at our joint registry option because of course, without G.S.T. any form of consumption tax in Guernsey currently, they have an advantage. We have worked closely, I am pleased to tell Members, with the Department for Treasury and Resources. We have agreement, as we have indeed with the shipping registry, with regard to G.S.T. on planes in the future when they are registered that come from our target markets in Russia, India, Brazil, Far East or wherever, which will allow an exemption and ensure the competitiveness of the registry. Clearly that was going to be of critical importance, especially as we are going to be competing with our friends somewhat to the north. The Connétable of St. Brelade mentioned the point about trust and I do not want to leave that point unaddressed. Simply to say that he referred to a news release that came out from Economic Development and I have to say he was right. The release was not well written. It was not as accurate as it should have been. In fact, it was not accurate in that regard and that is, as I have said to him and to the panel, a regret. It is a small point but it is nevertheless an important point because it was a matter that went out into the public domain and it did give the impression of an independent report, which was not the case in the regard that it appeared in that particular press release. With regard to the broader business case, I have no doubt that it will not be a difficult job to finally get the Economic Affairs Scrutiny Panel over the line with regard to the business case. I have given an undertaking to them that we will go through the way in which it is presented with a detailed explanation to ensure that it is properly understood, better presented to detail the significant opportunities that exist. I think that the point with the business case that I will say to Members, is that the underlying cost in terms of operational cost on an annualised basis, it is around about £100,000 to £120,000 or so per annum. We are seeing considerably greater potential benefit and I think one of the issues that the panel perhaps had was that the business case was demonstrating considerable profit as a result of the activity of the registry and quite understandably because from the very beginning when we first started talking about a registry, being a regulatory function, we said that the aim and objective was for it to be cost neutral. That is what the Isle of Man started with. That was their aim in 2007. They made last year, as I have mentioned to Members, £1 million on the regulatory function alone. So the game has changed and as a result of that, the business case did not represent perhaps what the panel had imagined it was going to. We have got a bit of work to do with the panel, we will work with them in a constructive way as we have in the past and will continue to do in the future and I have no doubt in that respect that by working together we will get that over the line and ensure that the registry progresses and is open as early as possible to benefit local industry. I believe that I have answered all the questions that Members asked. I maintain the proposition.

Deputy M.R. Higgins:

Sir, I do not think the Minister did answer all the questions. I have been popping in and out because I have been trying to get an answer for the next debate on something. Did the Minister explain in detail why the negotiations broke down with Guernsey as to why they went alone and we are left in this situation? What were the reasons?

Senator A.J.H. Maclean:

I think it is easiest for me to summarise where we got to. It was a matter of negotiation, as all these points always are. It was a question as to where the actual regulatory function was going to be located and we agreed, after some time, that that would happen in Guernsey. We felt there needed to also be a function and an office available in Jersey as well for people who wish to access the registry in a physical sense here. That was the final point where we were unable to reach agreement and to summarise, I would say to the Deputy that we got to a position where we felt that Guernsey were wanting to take far too much of the cake in terms of what was supposed to be a partnership for a regulatory function, an administrative function. We did not believe it was in the interest of the Island. I made the decision to go to Guernsey because we were getting no direct answers as to why the matter was not progressing and we held a summit meeting with my opposite number and we got to the point where we could not reach the agreement as a result. They wanted to have all the functions based in Guernsey. It was not in the interests of Jersey so we withdrew from the discussions at that point and agreed that we would both go our separate ways.

The Bailiff:

Very well. Is the appel called for then or not? Yes, the appel is called for in relation to the principles of Projet 62. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 38		CONTRE: 0		ABSTAIN: 0
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				

Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

The Bailiff:

The Deputy of St. Martin, do you ...

The Deputy of St. Martin (Chairman, Economic Affairs Scrutiny Panel):

No, thank you, Sir.

The Bailiff:

Well then, Minister, do you wish to propose the Articles *en bloc* and simply take questions?

4.2 Senator A.J.H. Maclean:

Yes, Sir. I think that is a very sensible idea, if I may say so. There are 6 parts, 2 Schedules and 67 Articles. Members, I am sure, will have read them so the details are all very well explained but if Members do have any particular questions, I am more than happy to answer them.

The Bailiff:

Are those Articles and Schedules seconded? **[Seconded]** Does any Member wish to speak on any of the Articles or Schedules? Very well, all those in favour of adopting Articles 1 to 67 and Schedules 1 and 2, please show? Those against? They are adopted. Do you propose the Bill in third reading, Minister?

4.3 Senator A.J.H. Maclean:

Yes, Sir.

The Bailiff:

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

4.3.1 The Connétable of St. John:

I hope that in the next 6 months we can get some real movement on this. Thank you.

The Bailiff:

Does any other Member wish to speak? Very well. All those in ...

4.3.2 Senator A.J.H. Maclean:

Sir, I would like to respond to the Connétable. I would just say that with his support behind the project, I have no doubt it will be an overriding success. **[Approbation]**

The Bailiff:

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

5. Draft Air Navigation (Jersey) Law 201- (P.63/2014)

The Bailiff:

We come next to Projet 63 - Draft Air Navigation (Jersey) Law - lodged by the Minister for External Relations. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Air Navigation (Jersey) Law 201-. A Law to provide for the regulation of air navigation and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

The Bailiff:

Chief Minister, I understand you are going to ...

5.1 Senator I.J. Gorst (The Chief Minister):

Yes, the chalice is passed to me as Senator Bailhache is out of the Island. The Draft Navigation (Jersey) Law updates the regulation of civil aviation in Jersey in 3 important ways. To enable the creation of an aircraft registry in Jersey, which meets International Civil Aviation Organisation obligations, to introduce a number of changes in line with the most recent international standards for aviation and safety and includes provisions for the standard European rules of the air, and thirdly, to transfer the legislative capacity with regard to civil aviation in Jersey from the U.K. to primary Jersey legislation, which can of course be supplemented or amended in parts where necessary by regulations made by the States, thus ensuring speedier changes. I think it is perhaps important that I say now, during the principles, that the Draft Air Navigation Law represents the current best practice legislation based on the most recent developments in the U.K. Air Navigation Order 2009 and the Air Navigation Overseas Territories Order 2013. The draft law is the minimum required to comply with the I.C.A.O. (International Civil Aviation Organisation) and its standards and recommended practices. It is therefore sadly not possible to cut out any of these provisions if we wish to establish an aircraft registry in Jersey. The drafting instructions were supplied by the Director of Civil Aviation, the regulator for civil aviation for Jersey, who provides of course independent specialist professional advice on this subject. Just as a second element of security for the Assembly, the draft law has been reviewed by the Head of International Aviation, Safety and Environment division from the Department of Transport in the United Kingdom, who has spent a number of days in Jersey going through the legislation, line by line, and he has confirmed it meets the necessary requirements.

The Bailiff:

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

[16:30]

5.1.1 Senator S.C. Ferguson:

Yes, I just ought to perhaps enlighten the Assembly, Sir. Although this comes under the auspices of the Minister for External Relations, it has not been looked at by the Corporate Services Scrutiny Panel, partly because we are up to the eyeballs ... I am sorry, we are extremely busy, and up to the eyeballs, with the Budget and the Public Sector Pensions Reform and Regulations. However, for the benefit of Members, I have spoken to the officer concerned with this because my concern was that the Guernsey Law and the Jersey Law should mesh together and not be dissimilar. I am assured that they have taken great care to make sure this happens and that as far as the Air Navigation Laws are concerned, the regulator has sought similarity. For the benefit of the Assembly, it appears as if everybody is thinking in the right way.

5.1.2 Deputy M.R. Higgins:

I do have some concerns about this particular law and in fact, I have been racing in and out of the Assembly because I am trying to get confirmation of one particular fact. Last week I was going through it and going through it in detail. In fact, the only way to really go through this is almost to have a large sheet of paper and follow each of the Articles and follow them through. I must confess, I got myself into a little bit of a tizz last week and I made an error. I left out an important comma and I had something in there that I thought was totally out of the ordinary. Extraordinary, for that matter. However, I still do have concerns about the law itself and I do believe, and I will

certainly come to it if obviously the principles are passed, I will go through it Article by Article because basically, we are giving an unbelievable amount of power to the Director of Civil Aviation, where there is no framework whatsoever. So in other words, when you go through the Air Navigation Order, it says, for example, at one point: “As specified ...” and yet there is nothing specified whatsoever. It was always my understanding of human rights law, that if people are going to different agencies, whether it be government or whatever, and they are seeking decisions being made, that there should be a framework that the person is at least operating to. There should be guidance, there should be ... whether it be a rule-based framework, but what we are doing under this law is granting all the decisions to the Director of Civil Aviation and I just find it absolutely remarkable because there are certain areas where I find it extremely concerning. Now, the point of clarification I was just trying to get at the moment is to do with flying training. For example, under our own law, we state that there are 2 categories of aircraft. I will come to it later but essentially you have aircraft that have a Certificate of Airworthiness and others are operated under a Permit to Fly. I might add that the difference between the 2 is that the standards of maintenance, overhaul, inspection, *et cetera*, for aircraft with Certificates of Airworthiness are much stricter than under a Permit to Fly. For example, I have a part ownership of an aeroplane in the United Kingdom, which is under Permit to Fly and I know the standards are much lower for that. However, what surprised me, and I am trying to get clarification of this at the present time, is that we are allowing aircraft with the lower standard in terms of standards of inspection, maintenance, *et cetera*, to be used for flying training. Whereas my understanding in the U.K. is - and this is the point I am trying to get clarified - that they require a Certificate of Airworthiness there. I am surprised that we are going to send students up on aeroplanes that are operated to a lower standard than let us say, passenger aeroplanes or the BizJets that we are going to operate. So I am concerned. I think my main concern is the lack of detail. Yes, we have a law and I know regulations can come in but we are told this has got to come in now but we are leaving everything, and I mean virtually everything, to the Director of Civil Aviation, to determine for us. I do have concerns on this and in fact I do not think I am going to vote for the principles. I am sure it will probably go through because Members tend to vote for these things anyway but I will try and illustrate the fact when we come to individual articles. Meanwhile I am just going to go outside and try and get the answer to my question. I will be right back.

The Bailiff:

Does any other Member wish to speak upon the principles? Very well, then I invite the Chief Minister to reply.

5.1.3 Senator I.J. Gorst:

I, of course, respect Deputy Higgins’ knowledge when it comes to the aircraft world and, as he said, it is by nature a complex piece of legislation, which is why I sought to give comfort to Members when I was making my opening remarks about the principles. The one thing I would just say is that the Deputy suggests that we are relying entirely on the Director of Civil Aviation and of course that is not entirely the case. Yes, the instructions were supplied by the Director of Civil Aviation but as I said, the Head of the International Aviation Safety and Environment Division of the Department of Transport came to Jersey and spent 2 days looking over, as I said, line by line of this Navigation Law, to give, I think, just the confidence that the Deputy is rightly seeking. Therefore, I maintain the principles.

The Bailiff:

Very well. All those in favour of adopting the principles, kindly show? Those against? They are adopted. Senator Ferguson, do you wish this matter referred to your Scrutiny Panel? I think I know the answer.

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

No, and in fact, Sir, I am rather inclined to say that it should perhaps be referred to the Economic Development Panel but certainly we will not want to.

The Bailiff:

Very well. In terms of individual Articles, there is one where there is an amendment, Chief Minister, so do you wish to propose Articles 1 to 51 *en bloc*?

5.2 Senator I.J. Gorst:

Yes, it is quite complex and I just wonder, I do not want to rush Deputy Higgins because he has legitimate questions and we must try to address them.

The Bailiff:

I was going to suggest that you propose them *en bloc* and then obviously he will raise questions on any Articles that he wishes to and then we can take a separate vote on anything he wishes to have a separate vote on.

Senator I.J. Gorst:

Okay, in the hope that I can answer. If we then could take Parts 1, 2, 3, and 4 and Part 6, as you rightly say, up to Article 51, that will include of course schedule 1 and 2. I have quite detailed notes, I am not going to go over them now because I do not want to take the rest of the afternoon so I will endeavour to answer any questions that Members might have.

The Bailiff:

Are those Articles and schedules seconded? [**Seconded**]

5.2.1 Deputy M.R. Higgins:

Obviously it is too quick for me to get my answer but perhaps while I am asking these questions and the Minister is trying to think of answers to them, he has several colleagues in the back and I must admit I asked them also if they could try and get the answer to the question I am posing. What I would say is I am concerned about this. I may be wrong but I just want to clarify the position to make sure that we are not having a lower standard than the U.K. when it comes to training aeroplanes in terms of the maintenance and so on. In terms of the actual Articles, if I draw the Minister's attention to Article 2 and under Article 2(2) it says: "Any aircraft may fly unregistered on any flight (a) which begins and ends in Jersey without passing over another country, and (b) is in accordance with the conditions of a permit to fly issued under Article 9." My questions here are: why are we allowing unregistered aircraft to fly in the Island? In other words, by that I mean for example a British aeroplane has the registration G for golf at the start of it, other aircraft have a letter such as the Americans use the N letter, and then there are others as well. But why are we allowing aircraft that are unregistered to fly in Jersey? There may be a valid reason for it but I just find it rather strange, and I certainly could not think of one. Secondly, Article 2(2) refers to Article 9 which refers to a permit to fly aircraft. Under Article 9 it makes no reference at all to registration, it was not a requirement of Article 9 so why are we mentioning Article 9. Again, on Article 3.1 says under this one: "An aircraft other than an aircraft permitted under this law to fly without being registered shall not fly unless it has painted or fixed on it, in the manner required by law of the country where it is registered, the nationality mark and registration mark required by that law." So, again, if we are allowing aircraft to fly without registration marks, and all aircraft are supposed to have a registration mark, but we are giving an exemption for that, why are we giving an exemption for it? That is Article 2(2) and 3(1). If I then move on to part 3 which is concerned with airworthiness and equipment of aircraft. We say that all aircraft are required to have a type certificate issued by a contracting state or by the European Aviation Safety Agency on behalf of the European Union, on behalf of an aircraft type and it is to certify that the design meets the appropriate airworthy requirements of that state. So all aircraft have to have a type certificate so it meets the requirement. We are told that under (2) a Certificate of Airworthiness for an aircraft that

is registered in Jersey shall not be issued unless that there is in force a type acceptance certificate issued by the Director for that aircraft type. So a type certificate and a type acceptance certificate. A type acceptance certificate is in the Regulations, it means: "A document issued by the Director for an aircraft on the basis of a type certificate for the aircraft type that is acceptable to the Director." My question here is: are we duplicating things? For example, if there is a type certificate, let us say a Bombardier aircraft has a type certificate, or a Boeing aircraft has a type certificate, then we either accept that standard because we are saying that the Director may accept it, but then he is going to issue his own type acceptance certificate. Is this bureaucracy or is it moneymaking or what? Why do we not simply just say we will accept the type certificate for an aeroplane that has been approved by their safety standards, their design authorities and all the rest of it, why are we laying down this extra type acceptance certificate? As I say, is it bureaucracy or moneymaking or what? If the Director of Civil Aviation is going to independently issue type certificates for an aircraft, what skills, knowledge, does he have, what team does he have, and what standing will it have? That is my questions on part 3. Also in part 3 under Article 5 - and this is the one I started off with - it says: "All aircraft, with the exception of a glider, balloon, kite, in certain circumstances must either have a Certificate of Airworthiness or a permit to fly." I just find it amazing that we appear to be saying that training aeroplanes will be able to do aerial work which, for the purpose of the law, consists of giving instruction in flying or the conduct of flying tests. It is my understanding the U.K. does not but that is what we are trying to clarify at the present time. Article 14, and this is again where I am talking about the powers of the Director of Civil Aviation, and we seem to be giving an awful lot of power to them. Under Article 14(1) it says: "The Director shall grant an aircraft maintenance engineers licence upon being satisfied that the applicant (a) is a fit person to hold a licence, (b) is qualified by having the knowledge, experience, competence, and skill in aeronautical engineering, and (c) meets the specified requirements for holding such a licence." Part (2) says: "An aircraft maintenance engineer's licence authorises the holder, subject to such conditions as may be specified in the licence, to issue certificates of release to service under this law in respect of such repairs, replacements, modifications, maintenance, and inspections of such aircraft and such equipment as may be specified." Part (3) says: "For the purposes of paragraph (1) the applicant shall supply such evidence and undergo such examinations and tests as the Director may require." There is no specification nowhere about what those tests are or those requirements are: "The Director may validate, for the purposes of this law, and aircraft maintenance engineer's licence granted under the law of a country other than Jersey."

[16:45]

But the first 2, 3 paragraphs were talking about him: this is the Director of Civil Aviation granting an engineer's licence. So my question is: where are the Jersey standards and licensing requirements that the Director of Civil Aviation will apply? Where are they published? Or are we giving him *carte blanche* to decide? Again, I question whether that would be human rights compliant because if people have a dispute with it what can they refer to? Has the Director of Civil Aviation complied with his powers or not if they are not specified and if the standards are not there and if they think it is unreasonable? Where is the information? Article 15, maintenance approval: "The Director shall issue a certificate of approval to an organisation that complies with specified requirements." I cannot find where specified requirements are stated, (3): "A certificate of approval shall be subject to such conditions and limitations and contain such particulars as may be determined by the Director." Again, I have not seen anything. In the United Kingdom there is a regime for aircraft maintenance and various other type activities. For example, one of them is known as the A8-20 organisation and I am aware of this because many of the war birds that take part in the air display are covered by those requirements, but there is nothing in our legislation anywhere about particular standards that are laid down. So I find it rather strange that we have a law which is coming in which gives the Director of Civil Aviation an awful lot of powers but there is no detail. Another one, Article 20, inspection for airworthiness purposes: "The Director may require such inspections, investigations, tests, experiments and flight trials to be made as the

Director deems necessary for the purpose of this part.” Again, what standards is he applying? When we come to part 5, protection of air crew, there is a section here that talks about fatigue of crew, operators’ responsibilities. There is a requirement that they must have a manual but there is absolutely no requirement that flight crews cannot exceed certain hours, or minimum hours, maximum hours, or anything. So is it for the operator to determine how many hours he wants to work his crew? I know there may be a get-out in the sense that the Director of Civil Aviation may lay down certain criteria, but surely it would be better that we lay it down within the law. Part 6, under the section aircraft in flight, I was looking for the rules on parachutists and again I found them under paragraph 101. Under this particular paragraph, 101 is dropping of persons and essentially when you look at it, it comes down to the Director of Civil Aviation will decide.

The Bailiff:

Sorry, Deputy, we are not on Article 101 at the moment, we are stopping at Article 51.

Deputy M.R. Higgins:

Well, I will stop there then and try and get the Minister to come back and answer some of those questions for me.

The Bailiff:

I am sure he is looking forward to it. [Laughter]

5.2.2 Senator I.J. Gorst:

Thank you, yes, quite where to start. The Deputy has raised a number of points and I think we need to start from the premise of just going back to the principles of what is happening here. This is putting into Jersey law largely the Air Navigation (Overseas Territory) Order 2013, and the Air Navigation (Jersey) Order 2008. So they are obligations which we are already operating under, so we are simply bringing them largely forward and following them then in this new law. I go back, and I appreciate that the Deputy himself will not be satisfied with this because, as I said at the start, he probably has more knowledge on this particular area than any other Member of the Assembly. But we are following the minimum international standards which is exactly what the United Kingdom does, and the reason that Ministers can bring this legislation forward with confidence is that we want to meet those standards and that is what these provisions do and it is why we have not simply relied upon the Director of Civil Aviation. I appreciate it is not going to satisfy the Deputy.

Deputy M.R. Higgins:

Would the Minister allow me to interrupt for a second? The point I am trying to make is in the United Kingdom all those rules and regulations exist at the present time. There is that standard by which people are being judged and the Civil Aviation Authority are doing it. According to what we have in front of us we do not have that framework in place and, therefore, you may have a law but you are giving the power to the Director of Civil Aviation without anything that he refers to, unless he decides to adopt *en bloc* the U.K. Regulations which why do we not say that here in the law if that is the case.

Senator I.J. Gorst:

The Deputy is indeed confusing me as well now. What I was saying was that the Overseas Territories Order and the Navigation Order have been brought together here and they, we can be confident, meet the minimum international standards of the I.C.A.O. which follows exactly the same process that the United Kingdom does. I think the point that the Deputy was making was he was concerned that some of them were not necessarily human rights compliant. Well, it was not me as the Chief Minister signing the human rights compliant obligation with this legislation but the Minister for External Relations has done that and I have no reason to doubt, therefore, that it is anything other than human rights compliant. I, of course, would bow to the superior knowledge of the Solicitor General who is with us, if he wishes to, to add anything in that regard. These are

technical. They are indeed lengthy and I am not sure that I can say much more. We must follow these minimum standards. We must bring them in if we wish to have, as I said right at the start, and the reason for me saying that was if we wish to have an Aircraft Register, and I was very grateful for Senator Ferguson's comments under the Articles, which is another point worth reiterating, that they follow a similar model to the Guernsey legislation. I am reminded that my comments about them being human rights compliant have been verified for a second time in front of me and, as I keep saying, they meet all the minimum standards required of this sort of legislation. I appreciate that if the Deputy is going to go on and have detailed technical questions, which we would need an expert in this particular field, which I am not, the Deputy is more expert than myself in this regard, that perhaps he wishes to meet with officers and if after consideration he wishes to see amendments to improve the standards, which is what he seemed to be saying, then of course Ministers would consider that in due course.

The Bailiff:

Chief Minister, I know nothing about this law but one of the Deputy's points was whether the Director would be setting out his criteria. I just happen to see Article 164. Does that assist? It seems to provide: "Where the Director is going to grant, issue, validate a licence and do anything else he shall before determining that publish in such manner as the Director thinks fit the requirements which the Director considers relevant to determining his or her satisfaction in respect of those matters." So it would seem as if there is a duty on the Director to publish his criteria before he takes any decision.

Deputy M.R. Higgins:

We have a problem there then because there is a lot of detail in this Regulation. In fact one of the problems with the U.K. Civil Aviation Authority, I am trying to understand this. It is a minefield. I do not claim to be an expert either. I struggle with their Regulations. It is mammoth. The Director, once this law comes into force, is going to be making decisions all the time in many areas but it is going to take us a long time, I believe, to get this legislation here. In fact, if I could ask the Solicitor General because I am concerned about this particular point. The question is, quite simply, if someone was unhappy with the decision based on whether they were granted a licence to be an engineer or a pilot or something else, now normally if they go for judicial review on it or something in that way, they are saying it was unreasonable, how can anybody argue that it was unreasonable if there is no standard to compare his decision to? In other words, if we have got nothing in place where it is laid down what the requirements are, how can anybody challenge him? So I just find it crazy that unless we have these Regulations how we can do it.

The Bailiff:

Shall we invite the Solicitor General to respond?

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

Can I just follow on by adding that you helpfully referred to 164, which requires the Director to publish various matters? I was also going to draw the States Assembly's attention to Article 177, which provides a right of appeal for anyone who is unhappy with a decision that the Director takes. All I can really add in addition to drawing attention to those 2 provisions is really this. Most of these Articles are geared towards safety requirements and whether or not an aircraft is fit to be in the air, if I may use that expression. Either it is fit to fly or it is not, by reference to presumably particular standards, so I am not quite sure I understand at the moment, assuming this publication as to what those standards are, it must be possible for someone to say: "My aeroplane meets those standards" or for the Director to point to something and say: "No, I am afraid not." I cannot quite see what the complicated issue is. I quite accept that there is technical evidence but in terms of the actual issue, I am not sure. At the moment I cannot quite see what the difficulty is.

Deputy M.R. Higgins:

If I can come back on that. What I am trying to say is that every country that has its own registry, it lays down standards of air worthiness and so on, has detailed regulations so everybody can go to them and see if their aeroplane meets that standard. Now I acknowledge the Solicitor General is saying: "Oh well, you can look at the standard." We do not have any standards. In this law, at this present time, we have not laid down the requirements for meeting engineers' licence, Certificate of Airworthiness and so on. We have got a category, for example, that the Director of Civil Aviation can grant a Certificate of Airworthiness. We are creating the standard ourselves for that particular aeroplane. If you buy an aeroplane from the Americans and it is a Boeing aeroplane or an Airbus aeroplane then you can look at the certificate that comes with it. You know that it has met the standards that have been laid down by I.C.A.O. and everything else. We have no standard at this particular point in time. They may come, but they may take some time. This Registry may come in before those Regulations come in. How can anyone judge whether it is meeting the requirements, because there are no standards? It just seems we have got the cart before the horse.

The Solicitor General:

I may have misunderstood but it sounds like we may be conflating 2 different issues. The first issue is whether or not the Director has to publish the criteria that he will apply in taking a particular decision; see Article 164, yes, he does. Article 177, there is a right of appeal if someone is unhappy with that process. If I may say so, Deputy Higgins sounds like he is raising a slightly different point, which is whether the States Assembly and Members should decide for the Director which particular set of safety standards he should apply. They are not the same thing. Insofar as Deputy Higgins is concerned that the States Members should be determining what safety standards should be set, that is not a legal question for me. That is simply a matter for States Members, but from a legal point of view, and process, there is a duty to publish criteria and there is a right of appeal. For those reasons it is human rights compliant.

Deputy M.R. Higgins:

I must just ask once again on this here. Yes, the Director of Civil Aviation should publish the standards. I am not saying the Assembly should be determining the safety standard although if it was Regulations in the past they would be coming to this House for approval. The point I am trying to make is if we are going to issue a Jersey Certificate of Airworthiness and we have not laid down what the standard is, we cannot turn around and say ... already in the law it says: "By the way we will accept the standards of America, Britain and all the other convention countries", but if we are going to grant our own Certificate of Airworthiness and we have not stated what those standards are, how can anyone appeal against it if one is not granted. I just find it crazy that we are doing this.

The Bailiff:

As I understood it, Deputy, the Solicitor General is saying that before any of these licences can be granted the Director must publish his criteria. Is that correct?

The Solicitor General:

Yes, Sir. Can I just draw the Deputy's attention to Article 164 again. It says: "The Director shall..." and then it goes on to say what the Director has to do in terms of publishing. So the point is the Director does not have a choice about it. He must publish his criteria, his guidance, his safety standards, whatever you want to call them.

[17:00]

The Bailiff:

Have you finished your reply, Chief Minister?

The Deputy of St. Martin:

Also, if I might refer the Deputy back to the Registration Law, which we have just approved on page 6. It sets out the provisions for the classification of aircraft and says that there is a general classification that has to be used when the Registrar is registering aircraft.

The Bailiff:

Have you finished your reply, Chief Minister, or is there some more?

Senator I.J. Gorst:

I think I have. I thank you for your intervention. You had slightly more time to look through the law than I have, by the look of it. The difficulty of course I find myself is, it was late last week that I agreed to take these on. I knew there were potential issues and I asked for it to be referred to Scrutiny and they helpfully looked at it and gave their opinion. It was impossible to find a convenient time to meet with Deputy Higgins because I had become aware that he had these technical issues, which I have no doubt whatsoever can be answered to his satisfaction. They just cannot be answered across the floor of the Assembly on the hoof in this particular manner, so we end up in a difficulty. But as you rightly pointed out, and the Solicitor General has confirmed, that with regards to concerns he has about standards, they will have to be published so that those with aircraft can know, as Deputy Higgins says, what the conditions and requirements will be placed upon them to know whether their aircraft meet this standard of air worthiness or not.

Deputy M.R. Higgins:

Just one final thing on a non-technical issue ...

The Bailiff:

I am sorry, Deputy, the Minister has replied.

Deputy M.R. Higgins:

The Minister did not answer the question in terms of why we have a category of unregistered aircraft, why we are going to allow unregistered aircraft to fly in Jersey airspace? That is not a technical one relying on the D.C.A.

The Bailiff:

That was a question, Chief Minister.

Senator I.J. Gorst:

That Article, I think it was Article 2, is no change from the current position, which was Article 14 and in the Overseas Territories Order and the 2008 Order, Article 3.

The Bailiff:

Very well. All those in favour of adopting Articles 1 to 51? The appel is called for in relation to Articles 1 to 51 and schedules 1 and 2. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 36		CONTRE: 2		ABSTAIN: 0
Senator P.F.C. Ozouf		Deputy R.G. Le Hérisssier (S)		
Senator A. Breckon		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				

Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

5.3 Draft Air Navigation (Jersey) Law 201- (P.63/2014) - as amended

The Bailiff:

Then Article 52 there is an amendment. You presumably wish to propose it as amended, Chief Minister, so I will ask the Greffier to read the amendment.

The Greffier of the States:

Page 17, Article 52 - (a) for paragraph (4) substitute the following paragraphs – “(4) The person in charge of a small unmanned aircraft shall not fly the aircraft – (a) at a height of more than 400 feet above the surface; or (b) within an aerodrome traffic zone during the notified hours of watch (if any) of the air traffic control unit at that aerodrome, unless the permission of the appropriate air traffic control unit has been obtained. (5) The person in charge of a small unmanned aircraft which has a mass of more than 7 kilograms, excluding its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of its flight, shall not fly the aircraft in Class A, C, D or E airspace unless the permission of the appropriate air traffic control unit has been obtained.”; (b) renumber the remaining paragraphs and cross-references in the Article accordingly.

The Bailiff:

Do you wish to propose Article 52 in its amended form then, Chief Minister?

5.3.1 Senator I.J. Gorst:

If I may, Sir, and this is an issue which arose which it was felt could be amended post-lodging of the law with regard to the regulation of small unmanned aircraft and hopefully the amendment is self-explanatory.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on Article 52? So those in favour of adopting Article ... I am sorry. Yes, Deputy of St. Martin.

5.3.2 The Deputy of St. Martin:

I do not wish in any way to hold this back but I would draw the Chief Minister's attention to the subject of drones. There will be no doubt in the near future that he will be subjected to people who are complaining about their privacy being taken by these vehicles. These drones now carry high definition cameras. They are in the control of people on the ground, who can be some distance away and I would urge the Chief Minister to, with this officers, look at this issue before it becomes a real problem.

The Bailiff:

Does any other Member wish to speak on Article 52? Then I invite the Chief Minister to reply.

5.3.3 Senator I.J. Gorst:

I understand that there are opportunities in this particular area as well as downsides and I know that officers will keep it under review. Thank you.

The Bailiff:

All those in favour of adopting Article 52 kindly show? Those against. It is adopted. Do you wish then, Chief Minister, to propose all the remaining Articles and schedules *en bloc*?

5.4 Senator I.J. Gorst:

I do, Sir, if that is possible. Schedule 3 and the remaining Part 6, starting at Article 53 to Part 24. Thank you.

The Bailiff:

Seconded. **[Seconded]** Does any Member wish to speak on any of these Articles? Deputy Higgins.

5.4.1 Deputy M.R. Higgins:

I was going to draw attention to paragraph 101 which is again to do with parachuting and again we have left everything to the Director of Civil Aviation and I acknowledge the comments that have been made but I do think it is very unsatisfactory, the way that we are planning on introducing this law. In fact, to be perfectly honest I think our Director of Civil Aviation, the one who has just been appointed, is going to spend probably his whole time writing rules and regulations that are going to have to come forward because I do not see how he can make decisions unless he has some framework in place so he is going to be an exceptionally busy man trying to fill in all these gaps.

5.4.2 Deputy J.H. Young:

I would like to raise 2 points on Articles 134 and 135 which keep our feet on the ground. This is about ground-based obstructions. Just reading Article 135 deals with en route obstacles which I think I am particularly concerned ... I would not say concerned, I would like to raise questions about cranes. Obviously the construction industry these days frequently uses very substantial cranes for building operations and, of course, being a small Island sometimes those activities take place reasonably close to our airport and flight path and so on. I was reading the articles in the magazines and apparently it is that 80 per cent of these cranes in the U.K. do not meet the U.K.C.A. (United Kingdom Civil Aviation) lighting requirements. Here under this Article 134(8) it talks about ... that it seems to say that anything below 150 metres is okay. Well, that is a huge crane. That is 450 feet and when I read the standards in the U.K., what I am reading here is that cranes within the vicinity of an airport, there is a lighting requirement for cranes up to 45 metres which obviously is a lot ... seems a lot more reasonable. I am a little bit worried here. Are we sure that in bringing this we have not just copied a law from somewhere and have not factored in the fact that

we have got an airport and things are very close to it and therefore we need ... there are progressive standards. So I would like to hear from the Chief Minister on that one. On the question of dangerous lights, I think I am a little concerned about ... I would like some reassurance on photovoltaic panels and reflections. Again there are numerous articles and numerous studies about reflections to pilots and obviously this is a growing thing and I think this might be an area where we might need to think about regulations tying in perhaps with the ... through our Planning Law to ensure that where we have such large areas of photovoltaic glass that might cause hazards, that there are standards to ensure that the right type of anti-reflection glass is used and so on. So again, I would just like to be sure that in the process of evolution of this law, there has been a process that will deal with it, identify those sorts of issues and what we are asked to sign up to is fully tested in that. I ask that, if you like, those 2 questions as samples out of what is a very big and major law. Obviously it is right that we have the right safety standards so I ask for the Chief Minister to respond.

The Bailiff:

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

5.4.3 Senator I.J. Gorst:

If I could take Deputy Higgins first, that is a read across, as I have said previously, so Article 101 that he was asking about already exists in Article 131 of the Overseas Territories Order 2013 and Article 67 the Jersey Order 2008. There is a difficulty with legislation like this that we have to meet those minimum international standards and sometimes that causes issues for us in a small Island community as we have seen at the airport already, that decisions have had to be made to ensure that the services provided up there are safe and meet relevant international standards but they do meet them on a minimum basis. They do not try and go over and above those standards. They deliver the minimum necessary to comply, which I said is exactly the same approach that the United Kingdom takes in these particular areas. I have no problem at all with relaying the issues that the Deputy raised about how they are going to deliver it in practice and what the implications might be but I simply reiterate if we wish to have the aircraft registry that we do, and I think it is the right approach, and we wish to continue to comply with the minimum international standards then we have to go down this route. We have, in this process, tried to keep the Overseas Territory Order as our benchmark because that is the most recent order which complies with international standards and, again, that is what we have done in this case.

The Bailiff:

Very well. All those in favour of adopting Articles 53 to 183 and Schedule 3, kindly show. Those against. They are adopted. Do you propose the Bill in Third Reading, Chief Minister?

5.5 Senator I.J. Gorst:

If I may, Sir, and I thank officers for all their work on this difficult and detailed legislation.

The Bailiff:

Seconded? [**Seconded**] Deputy Higgins in Third Reading.

5.5.1 Deputy M.R. Higgins:

I am just going to repeat what I have said before. I think this is a terrible way to pass laws. The States are passing a piece of legislation where there are no bones to the legislation. We have got no idea how he is going to apply it. I know he is required to apply to the new Director of Civil Aviation but what we have is a situation where the outgoing Director of Civil Aviation wrote this or advised Ministers to accept this and they have gone through it and everything else. We now have a new Director of Civil Aviation, who I think starts in a month's time or a few weeks' time. I wonder if he knew what he was letting himself in for. But he is going to be responsible for having to draft all these rules and everything else and set out the standards because despite the answers

being given, I cannot believe that if a person finds themselves aggrieved by decisions made by the Director of Civil Aviation, if there is no established guidance or policy, that they would not be open on Human Rights grounds to the fact that they have failed in their job, I think, basically. I am just saying I think it is absolutely appalling and the Island is terrible for this. I can remember the time when I was with the Financial Services Commission. We went through every last single Regulation, Order and guidance note to make sure they were compliant, to make sure that people, if they did challenge the Commission on it, had grounds to challenge it on. In other words, the rules were there, clear for everybody. What we are doing is passing legislation today where probably the guy is going to be writing it for the next 5 years and therefore they will not be able to make decisions in certain areas or, if they do, it is going to be amazing how they do it. So I am afraid I shall not be supporting this, not surprisingly. I think it is just a terrible way of doing it. I know that States Member cannot be experts on everything and I do not even claim to be an expert on this but we sometimes rely on Ministers far too often and adopt legislation and I just think it is a crazy way of going about it and I just cannot support this type of legislation making. Thank you.

5.5.2 Deputy J.H. Young:

I accept the fact that this Assembly is not the place to do detailed scrutiny, certainly a law of this comprehensive nature, and it is a law we need but I do feel that I am rather disappointed in the answers I have been given and I think what it boils down to is that really the Assembly has just got to say to itself: “Well, okay. The Chief Minister has come forward for this.

[17:15]

We have not got the clarity of the answers but we just have to vote for it and accept on trust” and I think, on record, I think that we ought to be doing better in our processes. But I support it. We need the law.

The Bailiff:

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

5.5.3 Senator I.J. Gorst:

I do understand Members’ frustration about a detailed technical law and no Member of this Assembly, I think, is going to be expert enough to be able to necessarily get into the detail of the requirements imposed upon us to meet with the relevant international minimum standards in this particular area which is changing all the time but is critically important. Which is why we rely on the expert that is the standard monitor, as it were, in Jersey, and at the same time, have an independent expert from the United Kingdom to come and spend a number of days going over the law in detail to make sure that it complies. As I said when I picked up this legislation at the end of last week, I did try and get a meeting with Deputy Higgins, and officers in departments, when it comes to detailed legislative changes, are more than willing to sit down with Members and go through detailed questions and provide them with the advice of Law Officers and, again, international independent experts from the U.K. That should deliver a process where Members can be satisfied but none of us can be experts in these areas but we must rely on the advice of the experts that we employ and instruct and we also must accept that, whether we like it or not, if we wish to have an aircraft registry, if we wish to have an airport, an air service that complies with international standards, it means that we have to, by nature, accept this type of legislation and therefore I ask that Members give it their support in Third Reading.

The Bailiff:

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

POUR: 37		CONTRE: 1		ABSTAIN: 0
Senator P.F.C. Ozouf		Deputy M.R. Higgins (H)		

Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

6. Draft Civil Aviation (Amendment of Law) (No. 2) (Jersey) Regulations 201- (P.51/2014)

The Bailiff:

That brings us next to Projet 51 - Draft Civil Aviation (Amendment of Law) (No. 2) (Jersey) Regulations 201-, lodged by the Minister for External Relations. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Civil Aviation (Amendment of Law) (No. 2) (Jersey) Regulations 201-. The States, in pursuance of Articles 1, 2 and 10(6) of the Civil Aviation (Jersey) Law 2008, have made the following Regulations.

6.1 Senator I.J. Gorst (The Chief Minister):

The airport recently commissioned a review and update of the airspace around the Channel Islands and that has resulted in these amendments: All passenger-carrying aircraft are managed within 5 main types of airspace, the control zones, which are established around airports, extending from ground level up to a specified upper limit, controlled areas located on top of controlled zones; they

have a specified lower and upper limit. The Channel Islands Controlled Area covers Jersey, Guernsey and Alderney airports up to 19,500 feet, providing protection for aircraft operating in and out of all the Channel Islands airports. Terminal control and moving areas which is larger than the control area and airways and the upper airspace and these amendments substitute a new definition for the Channel Islands controlled area which Members will see in numbers in front of them and it also substitutes all references to the Channel Islands Control Zone to the new terminology of Channel Islands Control Area which will cover those areas which I have just explained to Members. Thank you.

The Bailiff:

Is the principle seconded? Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show. Those against. They are adopted. Senator Ferguson, do you wish this matter to be referred to a Scrutiny Panel?

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

No, thank you, Sir.

The Bailiff:

Do you propose Regulations 1 to 3, Chief Minister?

Senator I.J. Gorst:

I do so and they are just as I have described.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on Regulations 1 to 3? Very well. All those in favour of adopting Regulations 1 to 3, please show. Those against. They are adopted. Do you propose the Regulations in Third Reading, Chief Minister?

Senator I.J. Gorst:

If I may, Sir, thank you.

The Bailiff:

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

7. Draft Public Finances (Transitional Provisions – States Trading Operations) (Amendment) (Jersey) Regulations 201- (P.50/2014)

The Bailiff:

We come next to Projet 50 - Draft Public Finances (Transitional Provisions – States Trading Operations) (Amendment) (Jersey) Regulations 2010-, lodged by the Minister for Treasury and Resources. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Public Finances (Transitional Provisions – States Trading Operations) (Amendment) (Jersey) Regulations 201-. The States, in pursuance of Article 70 of the Public Finances (Jersey) Law 2005, have made the following Regulations.

7.1 Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

This is a Public Finances consequence to the Regulations that the States have just passed. There is under the States Finances (Transitional Provisions – States Trading Operations) a designation that the Jersey airport facility called the Channel Island Control Zone be a States trading operation. It is

consequence upon the change that the States has just made that the definition needs to be amended in relation to the Civil Aviation Law and so we need to now refer to that as the Channel Island Controlled Area in the Public Finances legislation. The Regulations effectively do that so I move the preamble.

The Bailiff:

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

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

No, thank you, Sir.

The Bailiff:

Minister, do you wish to propose Regulations 1 and 2?

7.2 Senator P.F.C. Ozouf:

Regulation 1 and 2 simply are as they are. I will answer any questions Members may possibly have.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on Regulations 1 or 2? All those in favour of adopting those Regulations please show. Those against. They are adopted. Do you propose the Regulations in Third Reading?

7.3 Senator P.F.C. Ozouf:

Yes, please, Sir, so Senator Ferguson can ask her question.

The Bailiff:

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

7.3.1 Senator S.C. Ferguson:

I just wondered who conducted the negotiations with the French authorities over the passage rights through the control areas.

The Bailiff:

That is back to the last matter, is it? I think.

Senator P.F.C. Ozouf:

All I can say, Sir... oh sorry.

The Bailiff:

Just checking whether anyone else ... does any other Member wish to speak? No. Then I call upon the Minister.

7.3.2 Senator P.F.C. Ozouf:

I seem to have been silenced.

Senator L.J. Farnham:

I think it has just worn out.

Senator P.F.C. Ozouf:

I will just push Senator Le Marquand out of the way. **[Laughter]** All I know is it was not anybody in the Treasury. **[Laughter]** I move the Bill in the Third Reading.

The Bailiff:

Was that answer worth waiting for, Minister? [Laughter]

Senator P.F.C. Ozouf:

I thought it was extremely important. Senator Ferguson clearly wanted to, I think, know whether or not it was somebody in the Treasury but it was not.

The Bailiff:

Perhaps the Chief Minister will provide the information at a later stage.

Senator P.F.C. Ozouf:

Indeed.

The Bailiff:

Very well. All those in favour of adopting the Regulations in Third Reading, please show. Those against. They are adopted in Third Reading.

8. Draft States of Jersey (Transfer of Functions No. 7) (Economic Development to External Relations) (Jersey) Regulations 201- (P.54/2014)

The Bailiff:

Finally under this group of matters, we come to Projet 54 - Draft States of Jersey (Transfer of Functions No. 7) (Economic Development to External Relations) (Jersey) Regulations 201-, lodged by the Chief Minister. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft States of Jersey (Transfer of Functions No. 7) (Economic Development to External Relations) (Jersey) Regulations 201-. The States, in pursuance of Articles 29 and 50 of the States of Jersey Law 2005, have made the following Regulations.

8.1 Senator I.J. Gorst (The Chief Minister):

Last year when we created the office of Minister for External Relations we passed political responsibility for aviation safety and security to the Minister for External Relations from the Minister for Economic Development and this just passes 2 further responsibilities under the Civil Aviation Act 1982 (Jersey) Order 1990 and the Civil Aviation Investigation of Air Accidents and Incidents (Jersey) Order 2008. Thank you.

The Bailiff:

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

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

No, thank you, Sir.

The Bailiff:

Then do you propose Regulations 1 to 6 Chief Minister?

8.2 Senator I.J. Gorst:

Yes, I do, and it is the transfer of those 2 Orders, as I said, with connected rights and liabilities transferred at the same time with transitional provisions as well.

The Bailiff:

Are those Regulations 1 to 6 seconded? **[Seconded]** Does any Member wish to speak on those Regulations? Very well. All those in favour of adopting the Regulations kindly show. Those against. They are adopted. Do you propose the Third Reading, Chief Minister?

Senator I.J. Gorst:

If I may, Sir, thank you.

The Bailiff:

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

ADJOURNMENT PROPOSED

The Deputy of St. Ouen:

Sir, can I propose the adjournment?

The Bailiff:

If you intend to make a proposition, you should stand up.

The Deputy of St. Ouen:

Sorry, Sir. Can I propose the adjournment?

The Bailiff:

Very well. Is the adjournment agreed? Then we will recommence in the morning then starting with Projet 100, the proposition of Deputy Baudains. Very well. The Assembly is agreed. Adjourned until 9.30 a.m.

ADJOURNMENT

[17:26]