

STATES OF JERSEY

OFFICIAL REPORT

THURSDAY, 28th APRIL 2022

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[9:32]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

The Bailiff:

1.1 Welcome to Barneville-Carteret delegation

Before moving on with Public Business, we have 3 very distinguished visitors in the Chamber with us this morning. We have Messr Gilbert Chodorge, who is the mairie adjoint de Barneville-Carteret, we have Messr Jacques Haebig, who is conseiller du commerce extérieur la France, and Madam Isabelle Bouyer-Maupas, vice-présidente of the Maison La Normandie de La Manche and councillor of La Manche County in charge of the external relations. Perhaps Members would welcome them in the usual way. **[Approbation]**

PUBLIC BUSINESS - resumption

2. States Meetings - Remote Participation and Proxy Voting (P.63/2022) - resumption

The Bailiff:

We now continue with the debate on P.63. I remind Members, after this debate is over there will be a statement by the Chief Minister and after that then there is a matter to be dealt with in-camera. But we continue with the debate. Does any other Member wish to speak on the proposition?

Deputy R.J. Ward of St. Helier:

Sir, sorry, before Deputy Pamplin starts, can I just ask whether the statement could be circulated to us because we have an ideal window so that can be done?

The Bailiff:

There is an ideal window where no one will be listening to this debate **[Laughter]** in which the statement can be read. I wonder if it can be circulated; has it been circulated?

2.1 Deputy K.G. Pamplin of St. Saviour:

I will not take that personally, Deputy. Good morning, everyone. To start with this and I hate to say “to be brief” because that usually means 15 minutes but, however, since the Deputy joined the Assembly, and we must remember not at the beginning of this political term, she has been an absolute asset and tour de force and a tribute to herself. Many Members when we come into this Assembly often do not speak let alone get involved in parliamentary business but in her first 4 years, much like my other inspiration of this Assembly, Deputy Alves becoming the chair of P.P.C. (Privileges and Procedures Committee) in her first term, it is an extraordinary achievement to new Members for doing so. But I say that with a caveat because I understand where she is coming from with this. This has been a political parliamentary hot potato for many years which was brought to the fore because of the global pandemic. As Members would probably imagine, I have done some research on this, and there is a fascinating piece of work by a parliamentary international journal of parliamentary studies which looked at the remote participation and proxy voting in the United Kingdom House of Commons and compared it to many other jurisdictions across the world. It is important to note that the U.K. (United Kingdom) House of Commons introduced this idea based on family-friendly proposals back in 2018-19. It was then asked of the House and the equivalent to P.P.C. to look into matters relating to Members who were not ill, they were simply unable to join because either for childbirth reasons or for tragic reasons that is not an illness, and so it was looked into. It took them 2 years to come to the proposition that they brought but then at that point it was around the time of the global pandemic and the U.K. House of Commons Speaker made a very good decision to allow a look at because of the public health emergency that was currently in place. What was agreed is

very robust and very, very well-governed where the issues of certificates are issued. But the big caveat of course in the United Kingdom House of Commons is the size of the Commons, with many hundreds of Members of Parliament but equally how the parties work. I return to this paper that really sums it up, that the idea of proxy voting is an important factor in explaining the decision for political party reasons. Here, in this Parliament, we do not have - even though we do have parties emerging and one very much established party - that this means a lot of work and a lot of consideration. I do not think today is that day. Equally also, because we are soon to have a new Greffier of the States, we are obviously going to have a new Assembly, that could be a new Chair of P.P.C., and a new Assembly, we cannot ... and I think of the last Assembly when a very interesting decision about P.1, as it infamously is now known, hampered us, as this new sitting, which has caused many controversial debates since that decision was made before we could. I use that comparison because for me this Parliament, this Chamber, is paramount. It has to still stand for something and I think there is too much slippage in the reasoning behind why the Deputy is bringing this because I think the way we have operated and worked, especially at the beginning with the global pandemic, which the Deputy referenced by going to Fort Regent, because 2 years ago we did not have the vaccines, we did not have the knowledge, we did not understand. That was a protection of each other, which the public health emergency has always been about. Two years later we are in a very different place, much of the community have been returning to work but understanding now that one of the key issues is the environments in which we work. As much as I love this historic place, this special place, it does bring challenges in terms of its ventilation, which is a key issue in terms of the transmission of viral diseases. However, I believe, Sir, you and your team, have given great consideration to Members when they have asked and requested not to be here on terms of health and illness. We have seen that play out and I commend you for that and the way the remote working works. We have to learn from that and also put in place this system of Teams going forward. But it is one step too far too early and I think, just before the election, the public still see this as the governing ruling house of the Island and they want to see us here as much as possible. We have to trust the members of the public for explaining rational decisions but the nuances of the debates over the last 4 years, and I think especially of the assisted dying debate, where being in this Chamber and watching and looking and taking the emotion of that debate in this Chamber. We have had other debates of course where people amazingly have changed their mind. It does happen during debate. That has also worked with hybrid sittings. Sometimes the nuances where people have suddenly disappeared and not present for votes and also people who unfortunately may have to go on official States business. But for me attending this Assembly is paramount. This is not a job, this is a way of life, and I think we have to take a step back at this stage, look at where we are, but that is why I cannot support this at this time.

2.1.1 Deputy J.H. Perchard of St. Saviour:

My dear friend, Deputy Pamplin, I think I am going to start by trying my best to change his mind on this particular issue, and I am also going to address some of the comments made by the Constable of St. John as well and hopefully change his mind as well. Firstly, part (a), I do not think there is an issue with part (a) but just to recap because we have left this overnight, part (a) simply requests that when remote participation is generally allowed, which may not be the case at some point, we may agree as an Assembly that we do not allow it at all, but part (a) says when a remote sitting is generally allowed that Members who find themselves in exceptional circumstances, defined by the Bailiff in guidance, will be allowed to participate remotely. Deputy Gardiner gave a great example of that yesterday when she was stuck in the U.K. with COVID, she was well enough to participate remotely but simply was not allowed to. I think we all agree that that is an exceptional circumstance and we would all expect that guidance would have to be issued in order for those exceptional circumstances to be clearly defined.

[9:45]

Any breach of that would indeed be a breach of the rules as it would be a breach of Standing Orders when we break the rules in the Chamber. I do not think there is an issue with part (a) and I am yet to hear someone speak out against it, so I will not dwell on that. Proxy voting and part (b). It is first my intent to remind Members that Deputy Gardiner has not proposed what the rules and governance around that would look like. She has proposed that that is brought back to the Assembly. Firstly, it is worth reminding Members that at that time Members will be able to weigh in on those rules and play a part in defining and dictating what they should and should not look like. Members may decide to make that very, very, very narrow. Members might decide that that looks like, well, in the case where you have ... as is the case for some Members, you come to the Assembly in the morning, you are present in the morning, but you have a particular, again, exceptional circumstance which requires you to leave, say a hospital appointment or indeed if you wish to attend a funeral. In those particular cases we might decide that those are the only instances where a proxy vote would be acceptable. We have the power to make that decision. But what I do not think we should be doing is shutting the door on having that conversation, which is what we would be doing if we vote against this proposition. I know this, because reading the report accompanying the proposition and discussing the intent and the spirit of the proposition with the Deputy, that is the intention. We have had conversations about this because obviously the concerns are we do not want people to abuse the system. We do not want people to just never be here. Deputy Gardiner and I had a conversation this very morning about the hierarchy of priority. We swear an oath saying that we will prioritise attendance in the Chamber. So Deputy Gardiner and I both agree, and I know Members agree, that the priority is physical presence. If that is not doable because of a pandemic, for example, remote participation is the next best thing. A proxy vote in this proposition, in Deputy Gardiner's mind and in my understanding of it, is an exception. It should only be used in exceptional circumstances where the first 2 things cannot happen. If you cannot be present and if you cannot attend remotely then a proxy vote should be an option. I think that that is the spirit and intent of this proposition. For Members to close the opportunity to allow access in this way without even having a discussion around what the rules should be is a shame. For me, this is about inclusivity. This proposition is an issue of inclusion because if a Member is ill and needs to attend a medical appointment during a sitting and they are present in the morning and wish to have their vote cast in the afternoon when they cannot be present personally I think they should be allowed and enabled to do that. This is about access and inclusivity. That is the intent of this for me. There is absolutely no way that anybody would tolerate an agreement for proxy voting without any rules or guidance. I think it is quite obvious and fair to state that no one in this room would expect there to not be issued guidance or rules following this debate. If this passes, of course there should be and will be Member consultation. P.P.C. have to look into the detail, the Bailiff will need to weigh in. That should absolutely all happen but I do not think we should just shut the door on it because we do not want people to abuse the system. That argument needs to come in the next phase. Just commenting very briefly on the comment made by the Constable of St. John about going back to normal. He is absolutely right. We all need to be here as much as possible because we know that the debates, discussion, relationships, working together is all benefited from a physical presence. The eye contact. It makes such a big difference. However, normal for some people has not always been inclusive and so I would say, yes, let us get back to normal and all the good things that the old normal worked for everybody, but if we have an opportunity to develop our normal to be more inclusive and to give access to people who may be poorly, who have other responsibilities to attend to that they cannot avoid, let us also take the opportunity to make our new normal more inclusive.

2.1.2 Deputy R.J. Ward:

It is good to follow people because one of the things we have to do in this Assembly is learn how to disagree effectively and do it in a thoughtful way. This has provoked a debate, and I am pleased that we are having this debate. But unfortunately there are I think some issues with this proposition for myself. We have been through a really difficult time with COVID, as has everybody else, but we are

here to represent people during COVID and it has been one of the biggest challenges. For somebody who this is the first time I have been in this Assembly, those 2 years of COVID have really been an awkward one to deal with because that is not the way I wanted it to be. I wanted to be here. I wanted to be here representing and stood with other Members and really getting into the nitty-gritty of that debate and it has been a challenge. Notwithstanding the incredible work that was done to keep it going, and I think we all genuinely appreciate that. Personally, I really disliked meetings on Teams. I really disliked it online because it lacked something. I think in person is so important for us in this Assembly. I will say though that sometimes the briefings on Teams have been actually quite valuable because you can spread your stuff out, you can ask the questions, you can take notes, et cetera, and I hope we do not lose that because there is a forum there that can work. Let us get back to the proposition. What it actually says is that Members should be able to participate remotely from outside Jersey in the event of an unforeseen circumstance but the debate has gone into what I think are foreseen circumstances, such as being off-Island for specific reasons and they are very different. I have a real concern at this stage and where this Assembly is with the advent of Teams and post-COVID that we are not in a situation where the public or indeed, and it is difficult to say, and that is why I started off by saying we need to learn how to disagree nicely, this Assembly has the trust to say that that will work. It is a difficult thing to say publicly but I have to say it and I will have to take on that challenge. I do not think we are in a position to do this yet. The second part about proxy voting. In other jurisdictions what they do ... I think in the U.K. what they do is they have a sort of agreement between the parties to say: "If somebody is off on maternity leave one of our members will not vote either." It is a sort of quid pro quo I think the phrase is to say that we will do that. We do not have that structure here. However, I do believe that at some point, proxy voting for maternity or paternity or long-term illness or whatever is important so that people can vote from a distance in terms of that situation. But we have to work out a way that that works. I would like P.P.C. to go away during the next Assembly, and I think it is really important for the next Assembly to vote on this and not now, which is why I cannot support it because we have to look at the structure of that Assembly. What that Assembly has to do is sit down and have a very frank and honest discussion about how it is going to conduct itself in terms of presence in this Assembly. That I think is going to be a really difficult one, and I suggest it happens early on so that people get the issues right out in the open from the beginning because I think that will be the healthiest way forward. I think then the third part does not simply say come up with the best way for this to work. It says the amendments to the Standing Orders to implement paragraphs (a) and (b). Therefore be very thoughtful about what you are voting for. If you vote for part (c) only without parts (a) and (b) it does not really make any sense, in my opinion. What I would say is that remote ... if somebody is off sick, if somebody is ill to a point where they are protecting each other, and I said this during the COVID debate, we are going to have to really think the way that we act when we are ill after COVID. For many occasions, and I worked in a profession where it was an absolute nightmare, nobody would take time off and then everybody would get ill, but we are going to have to rethink the way that we act. If we are ill we are going to have to take personal responsibility and say: "I am staying away from other people so that illness does not spread." Enabling that remote participation on-Island for very specific reasons I think is something we do need to look at as an Assembly because we do have Teams and there is a hybrid system, but we have to look at that hybrid system. Personally, I would like to see a hybrid system where there is a screen in this room so that Members can, if you like, remotely attend in person visually as well as just with sound, and I think that would enable the system a little, if that is necessary. However, the priority is to be in this Assembly and to represent our constituents. We have seen pressures on that. I have never supported the 3-week sitting and I know we can have this debate ... it is quite a nice debate at times because we disagree on it and it is one of the things we can disagree in a nice way. I do not support the 3-week sittings because it does lengthen the time in between when we are stood here looking at each other and having those debates. I am really worried about some of the things that have been perhaps suggested with the coming election about lessening question times. It is as if the questions seem to be a problem. I will be honest and say that right at

the beginning of my time in this Assembly - I will not say who because to be honest I cannot remember who it was - somebody said to me: "You just ask too many questions" and I went away from that. I thought that is a very strange thing to say. "You ask too many questions. You ask too many questions on behalf of your constituents. You want to gather too much information so you understand the workings of Government. You want to gather too much information because you want to know what the drive is behind these policies and how they are going to work." I am sorry, you cannot ask too many questions in those terms. If those who are in Government do not like that then they need to get used to it and they need to be prepared to deal with it and come up with concise answers. Anything that erodes what we are doing I think is a problem. At face value, this extends what we are doing but my problem is that as soon as you say outside of Jersey you do have an issue with tracking that remoteness and the reason why. Sir, I believe it puts pressure on you to make those decisions, and I do not think it will help us as an Assembly. I do not think it should be put in that position, to be quite frank. I am sure he can handle it but that is not the point. I think that this Assembly has to have its procedures clear, to the point and reasoned. I think this is just the wrong time, and it is bizarre that I am saying that I know because I have argued so much against that. But with this particular situation, where we have been through COVID and where we are now, and at the end of this Assembly, I do not think I can support this. I would like to see more work on proxy voting and a way in which we can do that effectively so that people are not excluded. I agree with Deputy Perchard about that. True inclusivity will mean that we will have proxy voting. You cannot exclude somebody because they have had a baby or because they are on paternity leave. That is both misogyny in action, and there is a male equivalent and I have forgotten what the word is but there we go. But it is similar. It happens. We are not, getting back to putting children first, we cannot do that and then say that if you are a States Member you cannot put your children first. We can be flexible and we can have a working system where that happens. Finally, I would say that in places I have worked in - I have worked in a number of different places, not just in teaching but in all sorts of places, to be quite frank - taken time off because there was an unforeseen circumstance meant: "Well, you just have to make the time up I am afraid or you are not going to get paid." So there was not that flexibility. Now, great, let us have that flexibility but let us have it for all. Let us have equity. Let us have equality. Let us have genuine respect for our workforce. Until we do that I think we are on shaky ground. That is all I would say, but I thank the Deputy for bringing this forward. Can I just finish by saying: I was not suggesting and I do apologise to Deputy Pamplin, it was just an unforeseen consequence of me trying to think of some sort of efficient thing which really has backfired, so I apologise. I listen to every word intently that Deputy Pamplin says. I can honestly say that, and he is not listening to me now so that is great. With that, I say thank you but I am afraid I cannot support this proposition.

The Bailiff:

I do not think for a moment anyone took seriously the fact that no one was going to be listening, well at least they did not.

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

In the very many jobs that I have been lucky enough to do over my lifetime, things like planting potatoes by hand, cutting cauliflowers, driving tractors, being a herdsman and a vet, heavy goods lorry driver, commercial boat skipper, a manager, director for companies and stuff, in every one of those instances it has been possible, if I was not there, to get somebody in to do my job for me.

[10:00]

But as an elected Member of this Assembly, as the Deputy of St. Martin, I do not enjoy the privilege or the possibility of getting somebody in to do my job because I am elected by the parishioners of my Parish and I cannot just get somebody to deputise for me. I need to be here and we need to be here, and we know that when we take the oath in the Royal Court. COVID was a strange time and

we knew we had to keep our Assembly, our legislature, working, and we came up with the rules to do that and it did work, and it is a credit to you, Sir, and everybody else in the team that we managed to get that to work. Deputy Tadier, who is not here, used some words yesterday. He used the word “direction of travel” and I had written down in my short speech “thin end of the wedge” because I, like he, am concerned about the way this proposition might take us. COVID came. We had some rules, we had to invent them very quickly but we had some rules about how we were going to run this Assembly and those rules said we had to be in Jersey. I found myself sitting in my office in St. Martin thinking what exactly does “in Jersey” mean?” If I sit in my office is there any difference if I sit in my garden? If I sit in my garden is there any difference if I sit on the beach in St. Martin or on my boat? If I am sitting on the seashore at the Écréhous I am still in my Parish, can I participate? If I get back on my boat and push closer to France and find myself closer to France than Jersey but still in Jersey territorial waters am I in Jersey? The reason I raise the point is where does it end because if we are not careful we find we have Members participating in this Assembly from all parts of the globe? Deputy Gardiner made a really good case. We know we have to be in this Assembly and we take it seriously, we plan our holidays, we plan our events, we plan the way our life works around the sitting of the States. In Deputy Gardiner’s case, I think we would all agree that finding yourself in London a considerable amount of time before a States Assembly is due and having to isolate for 10 days was certainly outside of something that she had no control of. In that case, there might well be an instance where we might want to make some arrangements but the danger is, in making those arrangements, that - I have to unfortunately use this word - those arrangements get abused. The Constable of St. John quoted 2 cases yesterday. There are others. I have to say that yesterday, and it pains me to say this, I had a whole load of emotions at lunchtime - sadness, frustration, anger - where Members of this Assembly who have not been here this week turned up for the photograph and then went home again. **[Approbation]** That is letting us down. That is one of the reasons why I am not going to be able to vote for this today because until we can find a better way of making sure we are doing what we should do, I cannot see how we can move forward. Deputy Ward said he does not think this will work. I have to say I agree with him. I am not saying that we cannot go back to this in the future but I think it would be incumbent upon any proposition to bring a lot more detail before we see where we go. My worry would be that we sign up to (a) and particularly (b) and the detail comes after we have made the decision to move in that direction. Unfortunately for me, as much as I can see Deputy Gardiner’s case and understand why she has brought this proposition here today, I will not be able to support her.

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

Much of what I was going to say has already been said so I will not repeat it. We did have an emergency, we did adapt very well. Firstly by separation with Fort Regent and latterly with Teams. That has worked extremely well and is possibly a model for the whole world if such a thing happened again. But hopefully we have seen the tail end now of COVID, and I do believe we should get back to normal and everybody in the Chamber whenever possible. I will not repeat what has been said. I do have a query regarding (a), (b) and (c). Is it possible to separate them or does (c) eliminate that by asking P.P.C. to implement paragraphs (a) and (b)? I could be tempted to vote for (a) in an emergency but certainly not (b). If they cannot be separated then unfortunately I will have to vote against the whole proposition.

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

Call me a cynic, and some do, and I may well give the impression of being cynical about some of the business that goes on in this House, but my basic question is can what is being proposed be used and/or abused? I have reluctantly come to the conclusion that it could be abused in the sense that I have a vision, it is not a vision that is a positive one, it is a negative one, it is a nightmare. I have a vision whereby someone, a Member of this Chamber, has a flat in London and has a flat on the waterfront and votes by proxy half the time because they spend most of their time abroad. That must

not happen, I do not think. It is going to require far more detailed examination if we are going to have some sort of system of votes by proxy but it is not this proposition today, and we have to be very careful about the proposition that may return at some future time.

The Bailiff:

If it assists Members, I have given some brief thought to the ordering of the proposition. I think it would be possible to take (a) and (b) separately if the Deputy wanted because the consequences, for example, passing (a) and not (b) or vice versa is that the reference to that subparagraph in (c) would simply fall away. So I think that it would be possible but that is a matter for the Deputy, she will take the propositions as she wishes.

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

We moved to 3-week sittings. There is a potential to move to remote participation. There is potential to have proxy voting. And there is potential to move to the Bahamas. Because quite frankly ... I jest, but I am serious. I do jest because when we moved from 2 week to 3-week sittings one of my concerns was this, the only thing that we swear on oath to do is be in this Chamber and the more the opportunity is to have less sittings the more opportunity for remote working, wherever that may be, and then to have proxy voting on top of that I feel we could end up in a very bad place. Once we are going that way, it is going to be difficult to change it. What I am saying is that we need to be very careful. I will not be voting for this and I did not vote for 3-week sittings. I am fully aligned to equality. I am a mother and I did a 24-hour rotating shift job and it was a challenge, and it was a challenge not only for me but obviously for my husband because we have the same child ironically. It was more difficult for some of my colleagues because some of them both worked rotating shifts at the same time. We were fortunate that we did not. Unfortunately I had very little childcare because I was an older mum, but I had very good neighbours and I did have one of my sisters who helped me out and took my child to school when I came back off nights because they thought I might be dangerous taking her myself. But the point is, is that we need to look at how we deal with equality, people being able to participate, and those people that need to look after their children but also let us not forget people's elderly relatives, let us not forget serious illnesses with our partners or loved ones. There are all sorts of things that we need to look at. But I do not think that this is necessarily the answer. I think this is what we need to look at, is how we can make it more inclusive but still show and be here as much as we possibly can. For me I would prefer to go back to 2-week sittings because I believe that that is what the public anticipated that we would do. I have been voting since I was 18 years old, I was brought up in that environment. You could not wait to get to the age of 18, not only could you go into a pub and have a drink but you could go in and vote, and it was a big deal. It was a big deal to be able to vote. I think that when people vote for us they expect that we are actually going to turn up and be here. In fact, earlier in the week we saw people campaigning outside and I stopped and spoke to them and they said: "Oh, thank you for speaking to us." If we do not come in here, they are not going to be able to stand outside because they are not going to see any of us. Yes, we all know we have had a very difficult 2 years, but we have all had a difficult 2 years; doctors and nurses have had a difficult 2 years, people in retail. None of them have had any time off. They have had to go into work every day. They cannot work from home. It is the same as all of our emergency services. So I do accept we have had a brilliant and a very fortunate system, but let us be frank here. Do you genuinely believe that the remote working, the participation of people that are not sat in here this week has been as good? Definitely not, because let us be honest, we get very distracted. I sit at home looking at a screen for 8 hours and I look at the bird that is sitting out the window. Then all of a sudden somebody arrives at the door. Oh, I will just go ... and you get distracted. If you are telling me that you can sit there for 8 hours at a screen and pay attention, I would doubt it. I certainly can admit that I cannot. I have a short attention span and I need to be sitting here and I need to look across the Assembly. Interestingly, I too remember, like the Constable of St. John, last year when we were very remote. In fact, there are a couple of people in this room that will remember the

accident I had in the corridor behind when I came in and asked for some ice. They looked at me as if: “What is wrong with her?” I remember, and I have a memory about who was dotted around on the opposite side of the room, and there was very few of us. I accept in that scenario that was acceptable, but we are moving forward and we are asking people to go back to work. So I do think that we need to be doing and being present in this Chamber. I think the public expect that of us. I fully appreciate what Deputy Gardiner says about the situation that she found herself in and hopefully that is going to change as things move forward with COVID. Hopefully it is going to change. The other side of it is - and somebody mentioned this yesterday and it might have been Deputy Martin - if you are ill, you are ill and that is why we can be *malade*. We can be sick. I am a very fortunate person and it is a very rare occurrence, but I have had 2 things, odd things, in the last 4 years. One was breaking my wrist and the other one was when I went to the dentist and a little misdemeanour and my face exploded. So the point is I could not come into work but, quite frankly, was I in a position to be able to do it remotely? To be honest, I was not. I was not well and there are a lot of people that are not well, have not been well, and we should be able to say: “I am not well so I cannot attend and I am not going to participate.” I think we need to address that. It was interesting yesterday because Deputy Gardiner said about some of the urgent oral questions she had brought forward, and maybe that is something that P.P.C. could look at. Rather than changing our rules about proxy voting or doing that, we could have said: “An urgent oral question, that person is indisposed, can we get somebody else to ask it on their behalf?” That might be a rule that I certainly for one could live with because I think that would make a little bit of sense. Because the question is the same and they can certainly talk to the person and be able to feed that back in. The other thing is that our electorate, me included, probably think this ... maybe not now because I have been here for 4 years, but I used to think that when the summer came you all went on holiday because everybody was gone. But let us be frank, that is not true. I remember in our first summer when we launched our mental health review, I was at a wedding in the south of France taking phone calls and doing emails because we were working. People say: “You all have the summer off” and you have to try and say to them: “No, we do not.”

[10:15]

If we move to something like this, I think they genuinely think we will all be on holiday on a permanent basis. I think the thing is that is why we really need to consider how we ... we need to be inclusive, I fully accept that. I have been there, done that, got the t-shirt, like everyone in this room has and most Islanders. So we need to work out how we can do all of this but still ensure that our participation in this Assembly is as much as possible in person. Everybody has been delayed on a flight coming back from a holiday, but the thing is if you are delayed and you are stuck ... and obviously we have had the pandemic the last 2 years, and I am sure a lot of us will remember about the ash in Iceland. That had people grounded, literally, across the world. It was far worse probably than COVID because people could not get back from America. It is interesting because I think Deputy Ward said something about if you were a teacher or in the police or whatever, if you did not come back for 2 weeks you have lost those 2 weeks of holiday. It was not a case of: “Oh, well, that is okay.” You made that time up. So I just feel that we need to look at this and we need to be able to be inclusive and help people be able to facilitate their involvement within this environment. That is why I also yesterday voted against staying late today because we do have to consider beyond 5.30, and let us be fair, most of us have already gone past the fatigue mode and we are on the way downhill, but also people do have other commitments. It is not only about childcare, we also have lives outside of this environment and sometimes you are not the choice maker. You do not choose when it is going to be your husband/wife/partner’s child’s birthday or you have a relative over, so sometimes you just cannot say: “I can stay late” or you do not want to. I think the thing is we put ourselves under pressure to say yes all the time and we should not. That is another reason why I never wanted 3-week sittings because I genuinely believe that I would prefer to sit every fortnight for 3 days rather than sit for once every 3 weeks and then stretch it out. We have gone from Monday all the way through Friday

and, let us be quite frank, most of us are exhausted. On that note, I think I will say thank you very much and that is it.

2.1.7 Senator J.A.N. Le Fondré:

Just to address the very last part of the previous speaker, the last week, the last sitting usually before the end of the Assembly is always busy. It is not just because we have gone to a 3-week cycle. If it was a one-week cycle this would be full. Sorry to destroy the illusion there but that is the way it is. As I think Deputy Pamplin, who is not there, pointed out, at least this time around we are not rushing off to a nomination sitting, which I do recall, as I am sure many other Members do from that particular time, that I think we finished at 6.00 in the evening with nominations at 7.00 and that was not fun. Anyway, I am going to try and be a bit more positive for Deputy Gardiner, particularly as I was one of the people that I think she referenced in the debate. Possibly slightly tongue in cheek, Sir, I was very, very disappointed because I did offer, as you will recall, that having been caught up with I think it was the British Airways carnage around half term and flights being cancelled and things, I did offer to do questions without notice while I was away because of unforeseen circumstances. There was no way I could get back to Jersey on time. I was very disappointed, Sir, that you turned me down. Senator Farnham was obviously delighted that he had to step into my place, which may have been the alternative solution that we had but it was obviously a particular circumstance. I have to say I was rather looking forward to accidentally putting my camera on and having a scene behind me of a mountain or something along those lines, but anyway, obviously that was not to happen. However, a serious point. We have, as has been said, gone through an extraordinary 2 to 2½ years, and we have adapted to technology in a completely different way at a much faster rate of change than we would ordinarily have thought about. Hopefully, this is relevant. People will remember that we were criticised for the amount of I.T. (information technology) spend we were putting in, but part of that first rollout was Office 365. I am going to identify it because I remember Deputy Alves making some point about the merits of Teams, and I have to say at that point I did not know what Teams was. Boy, has that changed. The point was that if we had not done that, that would have ... well, we would have been in a fundamentally different and far more difficult position. Now, I am not making the point to say ... what I am saying is that change from a lack of knowledge to where I think we have all now ... I will not say we have all, various people have far more levels of expertise in that area than me, but we have all changed our habits. So, for me, the technology side, we all know that, the impact of technology changes how we do things. What we have to decide is do we want to make another step or not. I was thinking around some of the arguments I have heard. The comment I think was made the public, rightly, expect us to be in this Assembly. However, what we are talking about, and I am particularly focusing on part (a), if through unforeseen circumstances that individual cannot represent the public in this Assembly, what is the next best option? Either they do not represent the public in this Assembly or they are allowed and facilitated to do it under very strong and careful circumstances to still carry out that representation but doing it remotely. I can tell you for the purposes of the Deputy of St. Martin, and I cannot remember when it was, it was when we were in a remote sitting and I was on States business, but I can tell you that the Teams signal does work on the Écréhous. You can actually hear the States Assembly, if you wish to, in Jersey, in St. Martin, but separated by water. That raises issues in how we deal with things, but the technology does work. We are not talking about that because that was a remote sitting and we were accompanying official visitors, but if in circumstances that Members are away and they are caught out, I do think, certainly for part (a), we should be asking P.P.C. to look at that, which as far as I am concerned is what is being asked under very careful circumstances. I think Deputy Gardiner is trying to find a solution to a problem that does happen. It has happened to me on at least 2 occasions and for me I think it is something that we should look at. I do find sometimes when we have talked about that we do not want to do remote but we want to be inclusive and all those type of things, there is a slightly contradictory argument. We have been swept up in all areas, the thin end of the wedge. I cannot remember, we have gone all the way through 2 and 3-week cycles, et cetera, which I do not think is

relevant to this debate. But for me fundamentally it is about this is in particular circumstances, allowing us to continue representing Islanders when ordinarily we would not be able to. I am very much in the territory of, obviously in accordance with guidelines issued by yourself, Sir, what the proposition says and obviously asking P.P.C. to put that together. That for me is a matter of trust in what I think would be appropriate circumstances. Sorry, I have just been scribbling down ... I shall try and remove certain bits from the proposition. I would ask if Deputy Gardiner would think about taking it in separate parts because I now want to move on to part (b). Part (b) I do have a bit of an issue with. I note that Guernsey and a number of other Assemblies do it. I do remember on a C.P.A. (Commonwealth Parliamentary Association) conference that I think we were informed that the voting ... they did all the debates in that particular Parliament all the way through the day but the votes were at 5.00 in the evening. So, essentially, you kind of thought what was the point of the debate because by that time ... and obviously it was done by party majority, et cetera, and as I understand it whoever it was gathered up the votes, effectively *en bloc*, and that was the outcome. I am not entirely convinced that in the nature of this Assembly, as we presently speak, that is something I particularly could go for. I think other people have spoken to that so I am not going to be quite so long on that area, but for me I have a reservation around proxy voting. I think that would need a lot more work. There is nothing that stops P.P.C. looking at it in the round anyway. They can always do that and come back and say it works. I will definitely be supporting part (a). I will make a comment. I think it was Deputy Le Hegarat who said about working in the office and about people obviously who do work 24-hour shifts and things like that. It reminded me I have had an F.O.I. (freedom of information) request at some point which has asked me for the hours I work in the office, to say how many full days and how many half days I work, for example, 9.00 to 5.00. The problem I have is that I have probably 3 offices. I have the office in Broad Street. In fact, technically you could say 4 if here is one of them. I have my office at home and I have this thing. The thing with that is if your office is where you hold meetings, I have held meetings on the South Bank of the Thames, dialling in. I have been on the motorway going down to the south of France in telephone calls, obviously while my wife was driving. I have been in full Teams video links driving back up from Provence on the motorway, again while my wife was driving. I have been away. The last holiday I had we carried on with normal business. I had meetings with the C.E.O. (chief executive officer) on the Monday evening. Funnily enough, that was when we discussed the additional funding we wanted to put into Ukraine. Deputy Pinel will remember that I rang her, in a very expensive call for her, on the Tuesday morning and said did she have her chequebook ready, and by the Thursday when we were back, the Thursday or Friday when we were back, we did the announcement about the extra million pounds of funding for Ukraine. So, business carries on wherever we are. We do not actually have an office these days. I do take the point, by the way, that was made about if you are ill, because one of the debates I think when I had COVID I was ill and not available for one day, but we had 3 days of debate and I came in later. I would have much preferred not to, so we have to watch the pressure there and things like that because that is what we will end up with. However, to deal with the proposition, as we have always been told: "At any time when remote participation in States meetings is permitted generally [that is condition number 1] then Members should be able to participate remotely from outside Jersey in the event that unforeseen circumstances prevent their participation from in the Island, with the circumstances permitting such participation to be determined in accordance with guidance issued by the Bailiff." I think for me that is a strong position. It is something that if we are looking to continue to adapt to how technology has affected us, how we can then strengthen in my view the ability of us to represent the public in this Assembly, for me it is definitely something that we should be looking at and we should definitely be supporting. On that basis, I do urge as many Members if they can to certainly vote pour for part (a) if the Deputy will allow that separate vote. I will not be supporting part (b), but if P.P.C. was to look at that and come back for a future Assembly that will be a matter for them.

The Bailiff:

Thank you very much, Chief Minister. Does any other Member wish to speak on the proposition?

Male Speaker:

Sir, a point of order.

The Bailiff:

A point of order?

Male Speaker:

Yes, could you check that we are quorate, please, Sir? Standing Order 56.

The Bailiff:

Yes, of course. You are entitled to do that. One ... 27, because we are counting those participating online. I am working on the assumption, because it is impossible to say, that anyone who is present online is actually physically listening, but as I cannot know that we give people the benefit of the doubt and we deal with that accordingly, Deputy.

2.1.8 Deputy R. Labey of St. Helier:

I think it is absolutely right that in the light of the last 2 years we do look at how we embrace technology going forward to the benefit of the Assembly, not the detriment of the Assembly. That is a big conversation. Every Member will have opinions on it and it is right that they are heard. I am not sure that this morning is the right time to have that discussion, but it needs to be had with perhaps the new P.P.C. after the next election and with yourself, Sir, so that we can see if we can make progress and all agree on a sensible way forward. So as long as (a) is not locking us in and that discussion will happen, I am happy to support that. I cannot go with (b) for the reasons that have already been stated, and (c) seems sensible. We are not going to fall out over it, but I do feel that the Constable of St. John's words earlier in this debate yesterday afternoon were ill chosen and have caused upset and offence as he seemed to appear to take a swipe at every Member apart from himself. I have to say that the cases he cited, from what I know and from what I can gather, are not in breach of Standing Orders. So the Constable cannot know the circumstances of every Member of this House and why they are here or why they are not here, and he should not leap to a judgment in that way. So I just feel, as I say, we are not going to fall out about it but I feel that the Constable was out of order. I know Members are upset and I am sorry for that.

[10:30]

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

Following on from your comment earlier on, Sir, about quoracy, I think that is an element which would need further consideration if the gist of the proposition were to proceed. We have heard from many and I think what I picked up is that we need to learn what we have done in the last 2 years, pick the good bits out of it and take that further. I would urge P.P.C. to consider it. I do not believe I can support the proposition at this stage, but we must look ahead and take heed of what we have had to do over the last couple of years. On a final point, just for clarity from the point of view of the Constable of Grouville, I would say that the ability to get online in the Minquiers is not good. The signal is poor down there.

2.1.10 Senator I.J. Gorst:

I just want to follow up on Deputy Labey really because I think he put his finger on what this issue should be about. We have been or we are inclined to think it is about COVID but the reality is, of course, it is about the enabling power of technology and how we use that to the benefit of Islanders in this place. That is far from straightforward because the things that we can now do through

technology, the places we can be, the meetings we can be in, the decisions we can make, perhaps were not comprehensible to us prior to COVID. All of the work the Chief Minister has just explained, we used to have to do that on the old-fashioned telephone when we were away. Work has never stopped for parliamentarians, as we all know, but now we have technology which has advanced so much and has transformed where we can be and what we can do in a way that we had not envisaged. Therefore, I think there does need to be that conversation and the incoming P.P.C. really need to consider how that can be used to enhance democratic processes, as we have done through necessity in COVID. There is no reason why we cannot continue to set the standards and records and be the first Parliament to use technology in a supportive and innovative way into the future. I think that if (a) is given in that spirit, which I think, although it is based in COVID experience, it is given in that spirit, then in that spirit I can support it. But I would expect an incoming P.P.C. to do a proper review. It is not something that they just come in and say: “Okay, yes, everybody can stay at home” because that we all know is a nonsense for all of the reasons that we have said. Because although technology enables, one of the things that we know arising out of COVID is that without connection, without human interaction not via screens, then all of our mental health suffers. Therefore, being in this place has many benefits. So, in that spirit I can accept it, but if it were to come forward just as a straightforward yes or no issue, then I will not be able to accept that because there is a bigger and more important piece of work that needs to be done. We can either use technology to enhance trust and enhance engagement, or we can fall into the trap that many Members have said of allowing those of us who might for all good reasons take advantage and then that would undermine the parliamentary process and those elected to this place into the future. This has to be dealt with carefully. I think there can be great benefits but there are equally great pitfalls that we need to avoid.

The Bailiff:

Thank you very much, Senator. Does any other Member wish to speak on the proposition? Deputy Alves, but before I call on you, it occurs to me that I can probably be more refined in assessing whether there is a quorum or not by asking anyone participating remotely simply to note in the chat their immediate presence when I am doing a quorum. Now we are not quorate within the Chamber, so could we have one person indicating they are here? Could anyone else participating ... yes, in which case there are another 2 and so we are quorate. Thank you very much. No one else needs to indicate their presence at this point.

2.1.11 Deputy C.S. Alves of St. Helier:

This puts me in a bit of a difficult position, I think, as P.P.C. Chair and Vice-Chair of the Diversity Forum. I can say that there have been some quite robust discussions about this. Even before the pandemic I do recall that in the Diversity Forum we did talk about proxy voting with regards to those that have difficulties getting into the Chamber or are maybe on maternity leave and other things that have been already mentioned in this debate. I think the point regarding foreseen and unforeseen circumstances that Members have raised in this debate is a very good one. I do not think I have ever said this publicly, but I do have an autoimmune disease and I know that there are others in this Chamber that also have autoimmune diseases similar to mine. At the moment, I have it quite well controlled, fortunately, but this is not always the case. There have been times where it has been difficult to work and that has been the case for me for many years, even before I was elected and when I was still teaching. This probably comes back to the point that was made by I think it was Deputy Le Hegarat as to whether we should, if we are not well enough, be working or not, but there were often times in teaching I know that I would drag myself into the classroom because it was easier than providing work for the supply teacher and not having it get done. So, I think it is really important that we consider that sometimes people have conditions that are not always linear and that there can be things like flare-ups from day to day. But I think whatever happens I want to echo what Deputy Ward said about applying these types of things equally and to our public service employees as well. I think there probably needs to be a lot more awareness of things like autoimmune diseases, which

are not visible. People really do not understand quite how debilitating it can be to have one of these diseases. In a way, I am grateful to COVID for highlighting things like fatigue, which is something I have suffered with the past 10 years. There are times where it is very difficult to drag myself out of bed and there are times it is very difficult to even fall asleep because of it. So, just drawing on some of the words as well that Deputy Le Hegarat said, moving on from that, regarding the summer recess and the public perception around the work that we do, there is a body of work that I am really grateful for that the States Greffe communications team have started around what Members do and our roles as Members and what that involves. I hope that that body of work can continue and that we can continue to raise that awareness with the public to make them aware that this is not a part-time job, as some may think it is, and what our job really involves. Personally, I do not know whether I am going to be here in the next Assembly or not. I do not know whether I am going to be part of P.P.C. or not, but I would like to give that assurance that these 2 options that Deputy Gardiner has brought ... and I am grateful to her for bringing this debate. I do not think the timing is great but it is what it is. I would like to give my assurances that I would like to see this looked into. I think ultimately it is not a simple option and those of you that have read the P.P.C. comments hopefully - only a page long again, we like to keep things simple and concise - it lists some of the different options there and the possible issues around each one of these things that are being proposed today. So whatever happens with this proposition I think members of P.P.C. will agree that we will be recommending that this is looked into in the next term. I think that once again if it had not been for COVID it would have probably been looked into already this term, but there is a lot of work and research that needs to be done into this.

The Bailiff:

Thank you very much. Does any other Member wish to speak on the proposition? If no other Member wishes to speak, then I close the debate and all upon Deputy Gardiner to respond.

2.1.12 Deputy I. Gardiner of St. Helier:

I am grateful to all Members for contributing to this debate. I will follow the last speaker, Deputy Alves, Chair of P.P.C., because as the Deputy mentioned, this proposition is a request, it is enforcement. It is asking to look into this and not to push it back for another 2, 3 or 4 years. It is something that will be there to look at. We are not making a decision, as Deputy Pamplin mentioned. We are not saying, as Deputy Ward and others mentioned, this is the decision. If you look at the comments of P.P.C., it is something that will need to be looked at and possibly to work out. Next, I agree 100 per cent with Deputy Le Hegarat, with the Constable of St. John, with Deputy Pamplin, with Deputy Ward, with the Deputy of St. Martin, but with all speakers we all agree our place to work is in the Assembly. This is our workplace, no discussion. Now, priorities were mentioned by the Chief Minister and by Deputy Perchard. I think our first and the most important priority is to represent our constituencies, represent the people who elected us. As the Chief Minister mentioned, the best place is in the Assembly, but if it is impossible ... and it was not a proposition about me, as I know that everybody mentioned, but it was several other occasions that happened to people. If we are not able to do it because of the circumstances out of our control and when remote participation is allowed generally, we need to look into this. Deputy Le Hegarat said let us look into if somebody would be able to ask urgent questions. I asked if somebody would ask already submitted questions and we are not allowed to ask ... nobody could ask submitted questions, but I had urgent questions and I reached out to several Members before this States because the urgent question anybody can ask, but everyone has their own urgent question. But that was my urgent question and I needed to represent my constituency, which I was not able to do. Somebody who was on Écréhous, they can represent constituents, and me in London could not represent constituents. There was no difference. So, it is a priority. The first priority is to represent constituents in the States online, and if not proxy. This proposition is asking to introduce these priorities. I am going back. I am not sure if Members remember the debate from 21st September 2021. I am sorry that I am going into the history, but I

decided to look into the Hansard of this debate this morning. Interestingly, we decided to continue remotely with hybrid attendance and I personally in this Assembly warned that this is dangerous. Deputy Morel said: "I do think we need another proposition to essentially put a sunset clause in there to say this needs to be revisited in 3 months or so-and-so because otherwise the danger is that this does drift and this does become the norm. I think we do need to be aware that there is a major weakness and a structural weakness, so to speak, in this proposition." I followed Deputy Morel and I said: "What does it mean, wish? Who wish? How wish?" "Everybody needs to have some structure in place" were my words. "We need to understand procedurally how it will work and what does it mean 'do not wish'." I also stated at that time that I would prefer to bring an amendment but we did not have time. All of us are responsible that it has drifted to the place, and yes, it looks like there might be some abuse, it becomes a luxury, it was some wish, but for me, because somebody did not follow the expected norm and wished to stay at home, now we try to say nobody stays at home. It is illogical that might some abuse the benefit of the system we are going to get anyone from this benefit.

[10:45]

During the pandemic we moved from very clear, one rigid rule to be here to completely no boundaries, wish rule. What this proposition is saying is let us get ... the Constable of St. Brelade said let us learn from the experience. Let us learn what has worked, let us learn what has not worked and the P.P.C. can make a decision. I absolutely agree, interestingly enough, with Senator Gorst and the Chief Minister. We have to embrace this technology. We have the technology. We do not need to throw it away now. We just need to find clear rules. Deputy Pamplin mentioned the robust system. It is right, this robust system was completely missing with our decision and it is all our responsibility that we did not go back, we did not bring an amendment, we did not revisit, and we let this drift. This proposition is saying let us embrace what we have. Let us have clarity and go forward. By the way, with special circumstances, Deputy Tadier yesterday raised a very important topic because I put unforeseen circumstances. But, for example, he mentioned Members or family members on treatment in the U.K. and the ability of the people ... they are not ill. If you are saying you are ill, or not, no, there are people with health complications that they might not be able physically to come to the Assembly but if there is remote participation that is allowed they are able to participate. If I break my leg, my head would work, but I am not sure that I will be able to go to the Assembly. By rejecting this proposition to consider flexibility we are saying a very clear message before the election to the public: people with disabilities and health complications will struggle here. Maybe I am taking it too far but this is what I feel. Proxy vote, I understand that is ... by the way, I am going to take the 2 parts separately, (a) and (b), so everyone will feel ... but about the proxy vote, yesterday ... I will justify kind of what Deputy Perchard said because yesterday Deputy Perchard said: "I would like to go and to put my child into bed. I do not want to stay until 8.00. It is not right for me, for my family and for the balance." But if we would have proxy voting and Deputy Perchard, for example, would be able to present her proposition at 4.00 p.m. and go for an hour to put her child to sleep and to say goodnight, Deputy Perchard would, according to the rules, robust rules, hand her proxy vote with the Greffier, with the Bailiff. We could continue to work and we have this flexibility and she does not need to be remote. There are lots of things to look at. Equality is not equal provision of the same thing. Different people have different access needs. We adopted, we learned from the experience. We must take the benefits. We must eliminate misuse and create rules that enable this new technology to bring us forward and enhance - I am echoing Senator Gorst - participation, enhance the contribution. I also in that particular debate thought that Deputy Tadier said that it was in 2008 when laptops were not allowed to be used in the States Chamber, only iPads, so we are moving. We will continue to go and evolve. What I am asking as I am closing my speech, and apologies if I have not mentioned everyone, comments of P.P.C. are very clear. The Privileges and Procedures Committee may wish to come back to the Assembly with another in-principle proposition to flesh out some of these details before amendments to the Standing Orders are lodged. It is possible. What

we are voting for is to put this consideration in the centre of the debate and to raise the next Public Accounts Committee to agree. So I move my proposition and ask for the appel and part (a) and part (b) separate.

The Bailiff:

You would like to take them separately?

Deputy I. Gardiner:

Yes, please.

The Bailiff:

It seems to me that if either part (a) or part (b) are adopted, part (c) must be adopted as well, but we will have to take them separately just as a matter of structure, I think. So the vote is on part (a) of the proposition. The appel is called for. I ask the Greffier to open the voting and Members to vote and those participating remotely to indicate their vote in a normal way. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. Part (a) has been adopted.

POUR: 24		CONTRE: 16		ABSTAIN: 0
Senator I.J. Gorst		Senator S.Y. Mézec		
Senator L.J. Farnham		Connétable of St. Brelade		
Senator S.C. Ferguson		Connétable of Trinity		
Senator J.A.N. Le Fondré		Connétable of St. Ouen		
Senator T.A. Vallois		Connétable of St. John		
Senator K.L. Moore		Deputy G.P. Southern (H)		
Senator S.W. Pallett		Deputy S.J. Pinel (C)		
Connétable of St. Helier		Deputy of St. Martin		
Connétable of Grouville		Deputy of St. Ouen		
Connétable of St. Peter		Deputy of St. Mary		
Connétable of St. Mary		Deputy L.B. Ash (C)		
Connétable of St. Martin		Deputy M.R. Le Hegarat (H)		
Connétable of St. Clement		Deputy S.M. Ahier (H)		
Deputy J.A. Martin (H)		Deputy R.J. Ward (H)		
Deputy K.C. Lewis (S)		Deputy C.S. Alves (H)		
Deputy J.M. Maçon (S)		Deputy K.G. Pamplin (S)		
Deputy R. Labey (H)				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of St. John				
Deputy J.H. Perchard (S)				
Deputy I. Gardiner (H)				

We now come on to part (b) and I ask the Greffier to open the voting and Members to vote. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. Part (b) has been defeated.

POUR: 5		CONTRE: 32		ABSTAIN: 0
Deputy J.M. Maçon (S)		Senator I.J. Gorst		
Deputy G.C.U. Guida (L)		Senator L.J. Farnham		
Deputy of St. John		Senator J.A.N. Le Fondré		
Deputy J.H. Perchard (S)		Senator T.A. Vallois		
Deputy I. Gardiner (H)		Senator K.L. Moore		
		Senator S.W. Pallett		
		Senator S.Y. Mézec		
		Connétable of St. Helier		
		Connétable of St. Brelade		
		Connétable of Trinity		
		Connétable of St. Peter		
		Connétable of St. Ouen		
		Connétable of St. Martin		
		Connétable of St. John		
		Connétable of St. Clement		
		Deputy J.A. Martin (H)		
		Deputy G.P. Southern (H)		
		Deputy K.C. Lewis (S)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy of St. Ouen		
		Deputy R. Labey (H)		
		Deputy of St. Mary		
		Deputy G.J. Truscott (B)		
		Deputy J.H. Young (B)		
		Deputy L.B. Ash (C)		
		Deputy of St. Peter		
		Deputy M.R. Le Hegarat (H)		
		Deputy S.M. Ahier (H)		
		Deputy R.J. Ward (H)		
		Deputy C.S. Alves (H)		
		Deputy K.G. Pamplin (S)		

The Bailiff:

Very well, I would be prepared to take (c) on a standing vote, it seems to me, because it must be ...
[Aside] You call for the *appel*? Very well, the *appel* is called for and I ask the Greffier to open the voting and Members to vote.

Deputy I. Gardiner:

(c) is ratifying (a), just ...

The Bailiff:

I beg your pardon? Yes, (c) obviously is confined to (a) because (b) has fallen away because the Assembly has not adopted it. If Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. Part (c) has been adopted.

POUR: 26		CONTRE: 14		ABSTAIN: 0
Senator I.J. Gorst		Senator S.Y. Mézec		
Senator L.J. Farnham		Connétable of St. Mary		
Senator J.A.N. Le Fondré		Connétable of St. Clement		
Senator T.A. Vallois		Deputy G.P. Southern (H)		
Senator K.L. Moore		Deputy M.R. Higgins (H)		
Senator S.W. Pallett		Deputy S.J. Pinel (C)		
Connétable of St. Helier		Deputy of St. Martin		
Connétable of St. Brelade		Deputy of St. Mary		
Connétable of Grouville		Deputy L.B. Ash (C)		
Connétable of Trinity		Deputy M.R. Le Hegarat (H)		
Connétable of St. Peter		Deputy S.M. Ahier (H)		
Connétable of St. Ouen		Deputy R.J. Ward (H)		
Connétable of St. Martin		Deputy C.S. Alves (H)		
Connétable of St. John		Deputy K.G. Pamplin (S)		
Deputy J.A. Martin (H)				
Deputy K.C. Lewis (S)				
Deputy J.M. Maçon (S)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of St. John				
Deputy J.H. Perchard (S)				
Deputy I. Gardiner (H)				

The Bailiff:

Very well, before we move on, during the course of the debate on this last proposition we had entirely inappropriate if dulcet tones from the bell of HMS Jersey, which I understand was rung by a Member of the Assembly not in the Chamber. It was certainly heard by me and I believe it was heard in this area. I will not name the Member but I would expect a contribution to the Greffier's fund. It is clearly inappropriate to sound the bell when the sound might reach into the Chamber. It is within the precincts of the Assembly and order of decorum should apply.

Senator L.J. Farnham:

I am happy, Sir. I was having a lively conversation with the Deputy of St. Peter and the bell was inadvertently rung, for which I take full responsibility. It was certainly not an intentional loud sound but it has a habit of reverberating through the building, for which I apologise.

The Bailiff:

Thank you very much for confirming that. It is the nature of a bell that it is meant to be heard. **[Laughter]** If it could not be heard, it would not be much of a bell.

Senator L.J. Farnham:

I have learnt that, Sir, thank you.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

3. The Chief Minister regarding the response to the COVID-19 pandemic

The Bailiff:

We now come on to a statement to be made by the Chief Minister. Members will, I hope, have received and had the opportunity to study at length the text and I call on you, Chief Minister.

3.1 Senator J.A.N. Le Fondré (The Chief Minister):

Sorry, Sir, your last comment has unfortunately stuck in my mind. Can I thank you, Sir, for the permission to do the statement today? We had hoped to do it at the end of yesterday afternoon but obviously time did not permit. So, from Friday the legal requirement for mandatory self-isolation for positive cases will end. However, we will continue to advise anyone who is positive to stay at home for a minimum of 5 days and test regularly, but the legal requirement will end. Last week, we also announced further relaxations to the COVID-19 schools policy, which has seen the removal of masks and bubbles in education settings and a reduction to the frequency of L.F.T. (lateral flow test) testing for students and staff. The Scientific and Technical Advisory Cell, S.T.A.C., met for the last time last week as part of our de-escalation. While the cell will no longer be meeting weekly, they are remaining on standby and a subgroup has been set up to continue to co-ordinate matters. S.T.A.C. members have been fundamental to providing scientific and technical advice to Government throughout the pandemic response and I would like to thank each and every one of them. Their advice has been integral to the decisions we have taken as Competent Authority Ministers and the response we have marshalled as an Island. In line with the rest of our de-escalation activity, we will also be changing the frequency of the COVID-19 data reporting from daily to once a week. The last daily update will be published tomorrow, Friday, and from next week we will move to weekly reporting, which will be published online every Thursday. It has been a little over 2 years since the W.H.O. (World Health Organization) declared COVID-19 a pandemic on 11th March 2020. Members may recall those crucial months in March and April when Island life changed so rapidly. Within 24 hours of the W.H.O.'s announcement, the Emergencies Council had met and agreed a support package for businesses. Within days we had introduced social distancing for over-65s and opened an on-Island testing facility. In the weeks that followed we outlined a £180 million support package for Islanders, established a community taskforce, introduced a border testing regime and constructed the Nightingale hospital. Shortly before the end of 2020, we began our successful vaccine programme, delivering the first doses ahead of schedule. Since those early days, almost every aspect of Island life has been affected to some degree and every Islander has had a part to play in our response. I am proud of how Jersey has acted as a community during the pandemic and I want to thank all Islanders for their diligence, their care and for their patience over the last 2 years. It has been a difficult period for us all. It is in large part thanks to the efforts of Islanders in following the guidance and especially the majority who have gone out and got vaccinated that we are now in the position to make one final relaxation in our measures. As we learn to live with COVID-19 we will need to remain vigilant to any significant developments in the global response to the virus. It is remarkable to think of just how far we have come as an Assembly, as a Government and as an Island during the course of the pandemic.

[11:00]

We have worked at speed to bring together experts from across the Government and beyond in the face of this virus. We have worked across Government to establish our excellent Track and Trace programme. We have worked with Microsoft to develop an internationally recognised border testing regime, among other things. We have worked with Mastercard to develop the very successful Spend Local card. This was the first of its kind and was later replicated in Northern Ireland. This Assembly during the pandemic has worked at pace as we have tabled urgent COVID-19 related legislation and became the first Parliament in the Commonwealth to meet entirely online. I would like to thank Members for their support and their challenge respectively, and I also want to thank you, Sir, His Excellency and the States Greffe for all of your support and advice as we have adjusted to new ways of working. Today, we remain in a strong place following the emergency phase of the pandemic. Throughout, we have protected lives and livelihoods and we remain in a good financial position. COVID-19 has cost our Island over £300 million in both lost income and our wide range of measures to support lives and livelihoods over 2020 and 2021. However, the latest projections are that COVID-19 borrowing will be vastly improved and we will completely repay the debt by the end of 2025. Yesterday I published a much fuller report, providing an update on our response to the conflict in Ukraine and which also reflects on the Government's work over the last 4 years and where I extend my thanks to a number of Members, including Scrutiny. In concluding, however, I would like to pay tribute to the Council of Ministers and to our Assistant Ministers who have ably supported our portfolios. I have been told on a number of occasions that I was unlucky to be Chief Minister during this time and I do not regard it that way. It has been an absolute privilege to lead the Government during this time with the team that I have had. That is what the role of Chief Minister means and we have definitely stepped up to the mark. I have been very fortunate to have the love and support of my family, in particular my wife and my children, without whom this role would have been immeasurably harder. It is often easier, as we all know, for the negative voice to sound the loudest but that is when one needs to stand back and look at the bigger picture. I look for solutions to implement change and there is one phrase that I think does sum up what we should be about as States Members: it is better to light a candle than to curse the darkness. It is to make a positive contribution in our role in this Assembly. If there is one lasting impression that I would like to leave behind, it would be that we have worked determinedly to take the long-term generational decisions which will ultimately only be to the significant benefit of Islanders now and those Islanders of the future. We have saved lives, we have protected livelihoods and we leave the Island in a strong financial position after some of the biggest challenges we have seen in our lifetimes. As custodians, we hand over to the next Assembly and the next Council of Ministers to build on what we have done. **[Approbation]**

The Bailiff:

Thank you, Chief Minister. There is now a period of 15 minutes in which Members can ask questions of the Chief Minister on anything in this statement. Does any Member wish to ask questions? For some reason your light does not show up on here, but Deputy Ward.

3.1.1 Deputy R.J. Ward:

I suspected that might be happening. Thank you. First of all, I would just like to say that one of the things I would thank is those staff who have provided vaccines. I have said it before and I will say it again after the Chief Minister: thank you to science for being there for developing these things because without them I think we would be in a very different place. The question I would like to ask the Chief Minister regards there is now not a requirement to isolate legally but there is advice to isolate. I am just concerned on what the Chief Minister's advice can be for members of staff who perhaps may get pressure - because there has been a lot of pressure on workplaces for staff to be there - if they do feel they are COVID positive to go back to work when they feel they should not because there is no mandatory requirement now. Good employers will not do that but let us be realistic about the world, there are some employers out there who might take advantage. I just wonder what the

Chief Minister would say to them and whether he could just urge them to be on the side of their employees when they need to be.

Senator J.A.N. Le Fondré:

I think what we are trying to say is that where we are now is we are basically saying, and I have said this before, that the impact of COVID because of vaccination is now less than if we had a bad flu season and, therefore, one would expect ... that is why we are moving away from a mandatory position to an advisory position. I think what we do need to recognise - and we know there are at least 2 Members that I can think of straightaway who are presently testing positive and are not feeling particularly well or at various points have not felt particularly well with this virus - is it is going to depend very much on the individual circumstances. We have made sure that there will be a modification of I think it is the short-term benefit, that in other words it will apply in terms of sickness, and I think all we can say or my advice is be sensible, to both employees and employers, and it will depend on the circumstances that people are operating in. Somebody can be positive and be feeling absolutely fine. Are they able to work? Are they able to work in a circumstance where they are not going to pass it on to other individuals? There will be others who will be feeling absolutely terrible and obviously my advice would very much be that they should be isolating while they recover. I think that is all I can say. It is very much in the hands of the individual relationships between employers and employees and people should be sensible.

3.1.2 Deputy K.G. Pamplin:

My question is related to a statement that Dr. Muscat is releasing that was brought up yesterday in response to a website that is claiming the reported side effects from COVID-19. Can the Chief Minister echo those words and draw light to them in reaction? I know it was not in his speech but I think I would be grateful.

Senator J.A.N. Le Fondré:

Yes, I am very happy to. Obviously, Members will have had a copy of the press release and very much what it is saying is that if there are side effects that they should be reported through the standard channel, which is what is known as the yellow card scheme. Frankly, I have not looked at the website in question, but on the basis that there has been a note issued I would treat any of those ad hoc informal websites with a fair degree of caution and stick to the official channels reporting these type of things.

3.1.3 Deputy K.G. Pamplin:

On the subject of Dr. Muscat, it gives us, the Assembly, another opportunity to thank his service specifically and his team. Given in the light that S.T.A.C. is standing down and his role as deputy medical officer of health, can the Chief Minister allude to his role going forward in terms of the new public health directive that is in place? Because the Island have grown with a very grateful heart to Dr. Muscat and will look forward to seeing him in the coming periods and months.

The Bailiff:

Only insofar as it relates to COVID you could answer that, Chief Minister.

Senator J.A.N. Le Fondré:

Yes, Sir. Obviously, I am always very leery about commenting on individual members of staff so I cannot go into that territory, but what I will do in joining the Deputy, and I hope the entire Assembly will agree, is a massive vote of thanks not only to Dr. Muscat but all the members of staff [**Approbation**] and I will say to Ministers as well and to this Assembly for how we have come through in dealing with COVID, but as I say particularly to all of the teams and all the medical professionals and all the others who have helped Islanders as a whole.

3.1.4 Deputy G.P. Southern:

Yesterday we learnt that in the U.K. the courts had ruled that the transfer of people from hospital beds into care homes was not a lawful act. To what extent does the Minister believe we are in a similar position to the U.K. in that we have acted unlawfully, perhaps?

Senator J.A.N. Le Fondré:

I obviously will be taking some further advice, as will the Minister for Health and Social Services, but my understanding is that the issue centred fundamentally around the lack of testing, but I would want to get further details before commenting any further.

The Bailiff:

Deputy Young, you are asking for a question and you are a Minister. It is not customary for Ministers to ask questions of Ministers.

Deputy J.H. Young of St. Brelade:

No, Sir, but it is about COVID.

The Bailiff:

I am sorry, what I am saying is I am not going to allow you to ask a question because you are a Minister.

Deputy J.H. Young:

Yes, but, Sir, I was not a Competent Minister and this is about a civil matter.

The Bailiff:

But you are still a Minister and, therefore, you can get whatever information from the Chief Minister you want, either in the Assembly or out of it.

Deputy J.H. Young:

I accept your ruling, Sir, but it is a matter of public concern that I wanted to raise.

3.1.5 Senator S.Y. Mézec:

The statement referred to a reduction in the frequency of use for lateral flow testing for students and staff. More broadly on the issue of L.F.T.s, could the Minister outline what the plans are for their supply for our community as they do, of course, remain an important way where members of the community can take responsibility and take whatever precautions they feel necessary? Could he just let us know what the future for that provision is?

Senator J.A.N. Le Fondré:

In the present circumstance my understanding is they continue free until June at the earliest and essentially we will continue to monitor as circumstances continue to evolve. Without making any commitments at this stage. I am absolutely sympathetic to the comments that Senator Mézec has made. There will come a point obviously when we need to make that transition across but we have not yet decided, I do not think, is will that be the end of the journey or will it carry on longer? It will depend on what the state of the virus is, I think, at that time.

3.1.6 Deputy K.G. Pamplin:

Also in the United Kingdom they have been planning to reveal to reduce the public health teams that were put in place to manage the pandemic, has the Chief Minister in discussions ... because I have been trying to read it in the statement, are there any plans of changing any of the things that have been put in place to support the Government in easing through the handling of the pandemic in these transitional periods, any reductions of staff or loss of service specifically around the pandemic?

Senator J.A.N. Le Fondré:

Again, I am always very cautious about announcing things involving staff before the relevant discussions take place. But it is a matter, I think, if not common sense rather than public knowledge that as, for example, the pressures on contact tracing and the requirement to do much more testing has seen increases of staff at various times. As that requirement reduced, it is likely that that particular role will diminish. The question will be is at what level we keep a core and also then we have got some fantastic people in the contact-tracing side and the question will then be - and there have been instructions around that - whether we can take those skills and apply them elsewhere within the organisation, effectively backfilling some of the vacancies that we already carry. I think that is about as far as I can go in the public domain.

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

I would just ask the Chief Minister whether he thinks it is right that doctors, when people have been reporting to them COVID effects of, say, vaccination ... in fact I might just add in particular, and I have raised this before, one person contacted the helpline and was told: "You do not report to us, you have to go through your doctor." They did, the doctor phoned them back and they got a bill for £36 just for simply reporting that they had had some side effects. Does the Chief Minister think this is acceptable?

Senator J.A.N. Le Fondré:

I hate to say this, I think before I commented on that, I would like to know the specifics behind the circumstances before I comment publicly but I am happy to discuss with the Deputy.

Deputy M.R. Higgins:

Sorry, it was something I reported to the Minister for Health and Social Services but no action has been taken by him or his officers.

The Bailiff:

That is not a supplemental question, that is a statement by way of a speech, so you must refrain from that.

3.1.8 Deputy G.P. Southern:

What progress, if any, has been made in identifying the impact of long-term COVID on our community? When does the Minister intend to report back to this Chamber in order to better analyse the impact of long-term COVID?

Senator J.A.N. Le Fondré:

The data-gathering in terms of long-term COVID, I cannot remember the date it started but there was an effort to obviously identify people who are defined as having long-term COVID and those have fed into some of the statistics, I think, that have been given to Members in the past. In terms of dealing with the impact on individuals of long-term COVID, part of the health and social recovery funding that the Assembly agreed at the end of last year, as well as dealing with things like improvements in mental health, things like countryside access, which the Connétable of St. Peter is chairing, which is all about community engagement.

[11:15]

Again, hopefully volunteers and, again, getting out into the open and nature, one of the programmes is about assisting people who have been identified as having long-term COVID. In terms of an assessment, I will have to come back to the Deputy on that in terms of when that is due to be reported. But my expectation it will be during the summer months.

3.1.9 Deputy K.G. Pamplin:

My question is in relation to the commitment to addressing the effects of the mental health of the effects of the pandemic on Islanders, which I believe the Minister was alluding to earlier. Has he read our review of mental health services, which we do touch on this subject and we commit to the findings of and working together the impacts and addressing those concerns that we have raised?

Senator J.A.N. Le Fondré:

Since it has been released I have not yet had a chance to fully go all the way through it. It is in my reading pile, I do promise that and I will at the earliest be obviously reading the summary and the findings and recommendations. However, as I hope the Deputy will recall and as I have just said, we have specifically put money aside and funding aside through programmes, some of which are starting and some of which are due to start over the next few weeks, which is about what we call the COVID recovery affecting health and social recovery, and that is very much particularly with mental health in mind. Some of the programmes are designed to be things like encouraging people to go into sort of arts territory or, as I said, engaging with nature and really just trying to do something different but in terms of dealing with, fundamentally, the recovery of our community from what has been a really, really tough 2 years.

3.1.10 Deputy K.G. Pamplin:

Following on that, is the communication of the statistics available, especially when it comes to the very difficult subject of suicide? The numbers recently released by the Office for National Statistics, United Kingdom and *The Lancet* journal and how that is appropriately used in the terms around the effects of serious things like lockdown and the effects, that the statistics and the actual evidence is put out there as effective communication.

Senator J.A.N. Le Fondré:

Sorry, I am not entirely sure what the actual question was. Is it: are we going to be making sure we handle those sorts of statistics carefully? All right. Obviously, yes. I will make the point, although I think what the Deputy is also referring to is longer-term consequences. But obviously it is worth remembering - and it is a horrible subject - that in terms of deaths, and in 2020 we had no excess deaths and in 2021 it was either within the boundaries of normality, if that is, again, the right expression or, again, it was not excess. For 2022 the feedback we have had so far is very much similar. That is why we are very, very confident - is the wrong expression - that in stating that we have protected lives and saved lives during the last 2¼ years and that obviously has been the focus. But obviously we all recognise that there will be longer-term consequences and that is why we put the programmes in place. My expectation is that data would be gathered, would be considered very carefully by public health, for example, by the Minister for Health and Social Services and his successors, and then if further programmes are required obviously we need to understand those circumstances. I think the big thing is we have things like the Listening Lounge, we do have other measures. If people are feeling in difficult circumstances speak to friends, if they are really stuck speak to their political representative, to get those contact details as to who they need to go to. But the Listening Lounge, I would suggest, would be a very good first port of call.

The Bailiff:

It brings the time allocated for questions to the Chief Minister on this has come to an end. Very well, the next of Public Business is ...

Senator S.Y. Mézec:

Sir, sorry to interrupt you, could I ask when in the Order Paper you were thinking of allowing me to ask the urgent oral question which you have approved?

The Bailiff:

I thought first thing tomorrow morning would be the appropriate time, Senator. It gives the recipient of the question the opportunity to consider an answer, rather than having it sprung on them, as it were.

Senator S.Y. Mézec:

Thank you, I appreciate that.

PUBLIC BUSINESS - resumption

4. Greffier of the States: Consent to Appointment (P.72/2022)

The Bailiff:

Very well, we now come on to P.72, which is an in-camera debate and I must ask anyone who is not a Member of the Assembly to leave the Assembly now. I do not know if anyone is in the press box who needs to leave.

[Debate proceeded in camera]

The Bailiff:

That is the end of the in-camera debate, therefore, I open the Assembly again to attendance by members of the public and permit people to return in their droves to the public gallery. **[Laughter]** I ask the Greffier to open the voting and Members participating remotely to vote in the usual way. I am afraid we cannot register the votes electronically for some reason, so we will have the *appel* nominal, which the Greffier will now call. Deputy Gardiner, you have not voted because electronically we cannot do it. I have just explained, we need the *appel* nominal, so everyone's name will be called in order and they will have to indicate *pour*, *contre* or abstain. Very well, *appel* nominal. The proposition has been adopted.

POUR: 39		CONTRE: 0		ABSTAIN: 0
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				

Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

[Approval] I do not know if Mrs. Hart is in the precinct of the Assembly but if she is she can be told it is safe to return.

5. Amendment to Standing Orders - Machinery of Government Sub-Committee (P.64/2022) - as amended (P.64/2022 Amd.)

The Bailiff:

The next item of Public Business is Amendments to Standing Orders - Machinery of Government Sub-Committee, P.64, lodged by Senator Vallois. Before I ask the Greffier to read the proposition, Senator, there is one amendment lodged by the Council of Ministers, are you accepting that? Yes. In which case do Members agree that the proposition to be taken as read as amended by the amendment of the Council of Ministers? No vote of dissent on that, in which case I ask the Greffier to read the proposition as amended.

The Assistant Greffier of the States:

The States are asked to decide whether they are of opinion to make the following amendment to the Standing Orders of the States of Jersey, with effect from 22nd June 2022.

5.1 Senator T.A. Vallois:

I am proposing this amendment to Standing Orders following the work of the P.P.C. Democratic Accountability and Government Sub-Committee. Members may remember during the debate that Deputy Young initiated in September 2020. I did suggest that there should be a subcommittee at that point established by P.P.C. in order to keep under review the machinery of Government and to carry out the work that had been completed by any such subcommittee. As we all know, there have been a number of changes to our system of Government since 1998. The system itself and how it works has been a recurring topic of conversation among Members, particularly since the Ministerial system was introduced. In fact propositions have been lodged by a number of Members to change, amend

or overhaul the system since 2005. During the subcommittee's review views were varied as to whether the system is right for Jersey or whether improvements to its structure could be made. There was insufficient time to lodge the necessary legislation to bring forward some of the recommendations of R.23/2022, published by the subcommittee. As much of the work has been carried out, creating such a committee will enable the next Assembly to assess and bring forward the necessary legislation, rather than just carry out another review. The committee could quite neatly work in conjunction with the work that was agreed on Tuesday by Deputy Young's proposition on Ministerial responsibilities, as this will not just be for officers or the Government to do but a good cross-section of the Assembly to ensure there is an appropriate check and balance. A standing subcommittee of P.P.C. would ensure a direct avenue is available to Members to raise concerns and suggest areas for improvement in each term. I have no issue with regards to the Council of Minister's amendment; I think it is only appropriate. I would expect Executive Members to be party to that committee anyway, as we have seen with this subcommittee this term. On that note I look forward to any questions or comments Members may wish to make and I make the proposition.

The Bailiff:

Thank you very much. Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition?

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

I would just like to say that this proposition and the next one, P.65, both of them have my support. They are straightforward, as far as I am concerned and make good sense, not least of which I expect from Senator Vallois anyway and always to the point, something I can support. I would just like to thank her for the work that she has undertaken on this because it is absolutely paramount that we do things correctly. I think the monitoring of the arm's length organisations is essential. Sorry, I beg your pardon, Sir, I have got P.65 open in front of me.

The Bailiff:

Yes.

The Connétable of St. Lawrence:

Yes, I am supporting that one as well.

The Bailiff:

You are not going to start your speech again, are you?

The Connétable of St. Lawrence:

I am ahead of myself, Sir. This is to keep under review the machinery of Government and that is why I mentioned the work that she has carried out on this. Because it took me back when I read it that it is 17 years since this has been in operation and during that time we have attempted to make changes that are beneficial and I see this as being another one of those. Sorry, for jumping ahead there. Maybe I will not speak on P.65 but I will be supporting it.

The Bailiff:

Thank you very much indeed. Does any other Member wish to speak on the proposition? If no other Member wishes to speak on the proposition, I close the debate and call upon Senator Vallois to respond.

5.1.2 Senator T.A. Vallois:

Very briefly, I would just like to say thank you to the Constable of St. Lawrence for her comments and her kind comments towards the work that we have done as a subcommittee this term. I would just like to express my thanks to the subcommittee who was made up of Senator Gorst, Senator

Mézec, the Constable of St. Mary, Deputy Morel and myself. It was an interesting group of members, interesting discussions and, hopefully, with this committee in the next Assembly they can bring forward the action that is necessary to create the improvements that we request. I make the proposition and ask for the *appel*.

The Bailiff:

The appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting and Members participating remotely to vote in the chat in the normal way. I am sorry, we are in exactly the same position as we were on the last occasion. We are going to have to do an *appel nominal* and, therefore, Members remotely when they listen for their names and participate over the microphone when your name is called and I call for the *appel nominal*.

[11:45]

The proposition has been adopted.

POUR: 39		CONTRE: 0		ABSTAIN: 0
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy G.C.U. Guida (L)				

Deputy of St. Peter			
Deputy of St. John			
Deputy M.R. Le Hegarat (H)			
Deputy S.M. Ahier (H)			
Deputy J.H. Perchard (S)			
Deputy R.J. Ward (H)			
Deputy C.S. Alves (H)			
Deputy K.G. Pamplin (S)			
Deputy I. Gardiner (H)			

6. Monitoring of Arm's Length Organisations and Green and White Papers (P.65/2022)

The Bailiff:

The next item of Public Business is the Amendment to Standing Orders - Machinery of Government ... one moment, I am on the wrong page, Monitoring of Arm's Length Organisations and Green and White Papers. It can happen to anyone.

The Connétable of St. Lawrence:

To the best of us, Sir.

The Bailiff:

P.65, lodged by the same Senator. There is one amendment by the Council of Ministers, are you accepting that amendment?

Senator T.A. Vallois:

I am, Sir.

The Bailiff:

Do Members agree to take the proposition read as amended? I ask the Greffier to read the proposition.

The Assistant Greffier of the States:

The States are asked to decide whether they are of opinion (a) that a committee comprising Executive and non-Executive States Members should be established in order to monitor the performance of arm's length organisations and to support responsible Ministers in the Assembly in discharging their responsibilities and to request the Council of Ministers to commission officers to draw up options for this, so that a projet can be considered by the next States Assembly by no later than 31st October 2022; (b) that clear, agreed criteria for the preparation of initial consultations on policy or legislative proposals and detailed proposals for legislation should be established and to request the Chief Minister to commission officers to draw up proposals for this with a view to a report being presented to the States on the outcome of the work by no later than 30th September 2022.

6.1 Senator T.A. Vallois:

Hopefully this one is as swift as the last. I thank Members for supporting me on the last proposition. There are 2 parts to this proposition. The first proposes that a committee comprising States Members should be established in order to monitor the performance of arm's length organisations and the second relates to consultation. I will take the first, what was referred to as a supervisory committee is now amended to Executive and non-Executive Members' Committee. This committee will be required to monitor the performance of arm's length organisations. I propose this in line with recommendation 7 of P.P.C.'s Democratic Accountability and Government Sub-Committee. During the subcommittee's review a number of views were expressed on the governance arrangements

around arm's length organisations and specified organisations. Many Members commented that there is a lack of oversight and a lack of governance and accountability of how they operate. As shareholder at Treasury, for example - and I thank the Minister for Treasury and Resources for finally publishing the report of the final memorandum of understanding through our States-owned companies under R.56/2022 - it has historically been the case that oversight of M.O.U.s (memorandums of understanding) was purely a Treasury function. It is good to see some changes to recognise the need to take account of States policies and decisions, rather than just what the shareholder return is now. Some Members called for better governance arrangements to be put in place where the States of Jersey is a shareholder. If this is accepted by the Assembly, the Minister for Treasury and Resources would commission officers to draw up options for the establishment of this committee so that action can be taken by the next Assembly. The second part to the proposition is with regards to consultation. I did refer to it in the original proposition as Green and White Papers. I am not going to argue over words, what we call them or what we do not call them but this sits fairly well with a previous proposition we debated on the engagement code with Scrutiny. Because if there is better organisation around how consultation and how policy development is done, then the way that Scrutiny works with the Government can speed some of the requirements up around certain propositions, whether that is legislation or whether that is policy. The second part of the proposition calls for the creation of a clear, agreed criteria for the preparation of what I refer to as Green and White Papers, which is in line with the recommendation 24 of the subcommittee. It is acknowledged that legislative scrutiny has improved in recent years to become a routine part of Scrutiny work. But there was a collective view from Members during the subcommittee's review that it is still held back by a lack of time and resources. At the time the subcommittee recalled that the former Comptroller and Auditor General had suggested that clear principles for the preparation of Green and White Papers should be established in order to trigger the timely review of Scrutiny Panels in advance of preparation of draft legislation. This, I hope, would assist with the code of engagement that was only agreed by this Assembly on Tuesday with regards to the policy pipeline and legislation around priorities and timelines. If this is accepted the Chief Minister would commission officers to draw up proposals for criteria on how consultation, hopefully taking into account Scrutiny, will work with a view to presenting a report to the States on the outcome of the work. I am happy to answer any questions about these proposals at the end of the debate and I am prepared, if necessary, to take votes separately on each paragraph. I make the proposition.

The Bailiff:

Thank you very much. Is the proposition seconded? **[Seconded]** Before we proceed to the debate we are going to have a brief pause because the Greffier designate will need to switch off the machine and turn it on again so we can record and go back to our voting system. During that period no one will be able to be heard over the microphone. For a period of uncharacteristic silence if we could sit here while that exercise takes place.

Deputy M.R. Higgins:

Sir, does that also require those who are operating remotely to come out and then come back in again?

The Bailiff:

No, it is not necessary if you are participating remotely to come out, it is purely the internal system, Deputy Higgins. Right. What we are going to do is would everyone press their voting buttons as if voting and we are just going to work out if it is working all right. Yes. It is quite funny because a number of people have voted against that. **[Laughter]** In which case if we cancel that vote and then we will proceed as normal. Senator Moore, you wish to speak.

6.1.1 Senator K.L. Moore:

I do not want to prolong the debate, I simply want to speak in favour of Senator Vallois' very pragmatic follow-up on her excellent report on the work of the Democratic Accountability Sub-Committee. The Minister will be greatly missed by myself. She has brought to her role a great eye for detail and what should absolutely be required from each and every one of us but she has in spades an ability to provide excellent oversight and a commitment to governance, which is exemplary and good governance of course at that. These are, in my view, very simple, straightforward but also much needed measures. Perhaps we could even go further and to consider in the future extending the oversight committee to consider the oversight of all bodies that are subject to service-level agreements because in my work it has become apparent at times that not all of those bodies and their service level agreements are monitored sufficiently as time progresses. I think the public would benefit greatly if there was greater and more diligent oversight of them. This of course is a very inclusive suggestion and I hope that it will bring Members of a future Assembly together and focus, encourage greater focus on the delivery of and performance for the public. The matter of consultation has been one that has raised many times by the Corporate Service Scrutiny Panel during this Assembly and its life. We have struggled many times and included on many occasions a recommendation that there should be greater process and thought given to consultation of certain items. I think that Senator Vallois' proposition will certainly help guide Members of the Government to ensure that they do not conduct consultations on major changes in too quick a timeframe and also that they do not conduct them over the summer period, which although they are in their own guidelines sadly this Government have had a tendency to avoid them. So I applaud Senator Vallois for her efforts and am very happy to support the proposition.

6.1.2 Deputy S.J. Pinel of St. Clement:

I will be supporting this amended proposition and I thank the Senator for accepting the Council of Ministers' amendment. However, I just want to address some of the points the Senator has asserted in the report accompanying her position. The Senator uses the terms "arm's length organisations" and "specified organisations" liberally in her report but then states that Members expressed the view that better governance arrangements should be put in place for the relevant A.L.O.s (arm's length organisations) and S.O.s (specified organisations) where the States of Jersey is a shareholder. That phrase narrows the focus of this proposition down to the 5 States wholly-owned entities and 2 majority-owned entities but dozens of other arm's length organisations and specified organisations do not have the States of Jersey as shareholder. I am certain that was not the intention of the Senator but, again, when using the Guernsey Trading Supervisory Board as an example, references that this board carries out the States role as shareholder. Perhaps in the Senator's summing up she could confirm that her intention is to include all the A.L.O.s, not just those that have the States as a shareholder, which would limit the effect to just 7 entities. I also want to come back to the reference in the report to an alleged lack of oversight, governance and accountability as to how the A.L.O.s operate. Specifically I want to address the mischaracterisation that the 7 States-owned entities operate with a lack of oversight. Pursuant to the Public Finances (Jersey) Law, responsibilities for these States-owned entities is delegated to me to represent the States of Jersey as shareholder. My relationship with the wholly owned S.O.E. (States-owned entities) is governed by detailed memoranda of understanding. Returning to the umbrella terms of A.L.O.s and specified organisations, I would note that there are already groups, committees, in place that have been formed to provide oversight to the wider A.L.O. family, including the grant-funded bodies. In many instances these groups were formed in response to recommendations of the Comptroller and Auditor General. A prime example of this is A.L.B.O.B. (Arm's Length Bodies Oversight Board). A.L.B.O.B was specifically formed to do what its named suggests, to provide oversight to the A.L.O.s. While admittedly membership of A.L.B.O.B. is the C.E.O., director generals and other civil servants it does report on its work and makes recommendations to the Council of Ministers. There are other policy groups, such as the digital policy unit and the Minister for Housing and Communities'

new housing groups. Further, the Regeneration Steering Group provides additional oversight to S.o.J.D.C. (States of Jersey Development Board) on its regeneration and development activities.

[12:00]

So while I urge Members to vote in favour of the amended proposition I would stress that much of the group work has already been done.

6.1.3 The Connétable of St. Lawrence:

I found the words of the Minister for Treasury and Resources very helpful there. The only comment I have on this is that in accepting the amendment the proposition has now lost the word “supervisory” so it is no longer a supervisory committee but gained the words “to support responsible Ministers”. In my view, while the new committee would presumably be supporting the responsible Ministers, my understanding of the way I read the original proposition was that this new committee would be there to - it certainly says - monitor. So if they are monitoring for good governance they must be asking questions, they must be questioning the way things are done, looking closely at whether things are being done not only correctly but whether they can be improved. When I read the word “support” I believe that that is probably what will happen but I would certainly hope that when the Senator sums up she will give her view of what that amendment actually would mean in relation to the new committee, because you cannot support unconditionally; you can support conditionally when you are able to make recommendations for change for improvement. Indeed, having said that, you could be supporting the responsible Ministers by say: “Hold on, you are totally wrong” or: “This is being done completely incorrectly, stop”. That is really the way I would view this committee. Not as a support by means of agreeing all the time with the responsible Minister. I am sure that is probably how the Senator views this. Of course, when the options have been drawn up and the next States Assembly looks at them, which will be no later than 31st October, they will need to look at them closely to ensure that it is not just an unconditional “We agree with the Minister” situation.

6.1.4 Deputy J.H. Young:

I think this is very far-thinking and an excellent proposal to, I think, help future Governments to do what I would call joining up the dots. I think we have rather, in recent years, adopted a very much devolved style of Government where we create bodies and we hand over new powers and responsibilities to them. Understandably those bodies, when that has happened, they are generally full of enthusiasm and going in the direction they wish to go ... sorry, I will start again. A very pragmatic proposal which will help Government join up the dots because we have, in recent years set in place a lot of arm’s length structures to, if you like, devolve all sorts of important functions that we want done. Of course those bodies, when they are organised, obviously present major challenges in how we co-ordinate that work together, linked into overall government policies. I think the work of the subcommittee has identified that there does need to be improvements in this area. I think they have adopted the model here based on what Guernsey does, that sister island, that is not perfect, and I accept the debate over the use of supervision. I think the Connétable of St. Lawrence is right to raise this issue about how this new committee is going to be. I am relying on the words that it says to monitor the performance and I do not think that should imply a passive role that just says: “Here is body X that says they are going to do this.” I am hoping this body will not only say: “How well or poorly did you do this?” but was it the right thing. There are lots of examples where things are done very well but they are the wrong thing. I think this is done ... and the other element of this, which I think is extremely important, the proposal, because it includes both non-Executive and Executive members now with the amendment will help I think improve this link about Scrutiny or Back-Bench Members, which I think is about greater inclusion to give those Members access through. Because although I accept what the Minister for Treasury and Resources is saying that there is accountability in the current arrangements, I personally do not think - and this is not a criticism, it is an observation - it is easily accessible to all Members and I think one of the questions that I would

like to hear from the Senator on this is whether or not it is proposed that this body will, in its proceedings, be open. Open to a wider audience to be able to see what sort of dialogue goes on that interaction. Because I think it is probably inevitable that it will not be down to the fine detail of these operations, my expectation is it will be at the very top level of what is this organisation trying to do and what are its priorities and what are its goals. I think there will need to be interactions with the Ministers involved. I think there is another question I would like to hear from the Senator. The paper makes reference to M.O.U.s, which up until now I think each of these bodies, I am not sure if they all have them but obviously these set the rules for, if you like, the way the body operates. If we take an example, it is only an example and I am not raising any issue with this particular body but using it as an example, S.o.J.D.C. has an example of a memorandum of an agreement and in that case that memorandum of agreement was embodied in the States proposition. I would like to hear what the mechanics being proposed for this subcommittee are to be able to ensure that they can input and they are not faced with situation: “Well, sorry we cannot alter this, there is no effect, we cannot do any change because it is already stuck in the States decision.” I think the formulation of amendments and changes to the M.O.U.s of those bodies that are necessary, what are the mechanics of doing that? It is a very important thing going forward. I think it is going to be a major task and I would like to hope that, if it is not an open body, that we get regular - when I say “we” the public because it will not be me I will not be in the Assembly - the public get regular reports on the work of this subcommittee. I think it really is important. It is a big step forward. I congratulate the subcommittee and the Senator in bringing it. I hope I am not scaring off too many Ministers who may fear this. The other thing, on the Green and White Papers, I think yesterday I used the phrase about ... and I think this is something that should be thought about on the second part of the proposition, about how we develop policy proposals. I would like to see some rules on spreadsheets, rules by spreadsheets ... sorry, not spreadsheets, PowerPoints. I wish I had a penny for every PowerPoint presentation I have seen in the last 4 years. I wonder what happens to these because what happens is we get, you know, a 100-page paper, maybe even more, 1,000-page paper at times and you get really such succinct PowerPoint presentations that gives you the guts of it. What it is about. We made a lot of use of that and it has been pretty hard during remote participation because it is easier, just bung up the spreadsheet, have a meeting, talk about it. So I would like to think that this group will start to have a think about how accessible some of this work is to the public because the whole point of Green Papers, in my memory based on Governments elsewhere, it is a public process. You publish a policy document, you put it out there and you take the views and wait and see what reaction you get. Then, if you get a bad reaction it does not go anywhere, that is the end of the day and you come back with another one. But if it generally finds good ground then you work up the proposal into a detailed proposal, the mechanics of it, into a White Paper. There are a lot of advantages about that because it means you do not waste a lot of money doing detailed proposals that are just going to fall flat. It is a really efficient way of doing it. I am hoping that ... perhaps I am going too far here because I am kind of almost getting into the role of thinking how this committee might work. I would like Senator Vallois to just comment a bit about any thoughts that the Senator has on that. I think it is a good move and hope Members on both sides will not only see its importance where they surely do but embrace the intention, which is to really try and join up ... I certainly interpret an arm’s length organisation is what it says. Where we have effectively devolved is a function where we need that body to be able to co-ordinate or link in to what the political priorities are after the election set by Members of this Assembly. Thank you, I am very supportive of this.

The Bailiff:

Mr. Attorney, did you wish to proffer advice to the Assembly?

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

Yes, just briefly before the Senator responds and sums up. It is on this question of the removal of the word “supervisory”, which was raised by the Constable of St. Lawrence and also has been touched

on by Deputy Young just a moment ago. I just wish to offer the advice that the removal of the word “supervisory” is an important one because the word “supervisory” is close to direction and it is important in my advice that there is a distinction between monitoring and direction in the case of arm’s length organisations. I hope that advice is of assistance to Members generally and to Senator Vallois in her summing up.

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

I will try and be brief. I have to speak and I will support ... because I know I did not support yesterday but I cannot let this go. I absolutely applaud Senator Vallois and Deputy Young for the work they have done and they have said they are not standing again, they will not be here next time. In the last sitting of the Assembly, I think this is the third new committee that we are setting up for the next time, I do not remember any more States Members being around next time. Who is supporting all these committees? This being while we are all moving the department to align up in direct parallel with the Minister because that is what we agreed to, it is all going to be happening in the first 6 months. I go back also to the diversity report from the forum, which was chaired by Deputy Doublet. It may be 18 months old, I think, but my memory is still good enough to know it says on every panel, every Scrutiny Panel, every other panel, there must be ... and also Ministers and Assistant Ministers, there must X amount of women. In fact there are too many women that there is even in the Assembly. I say well done, but it should not be now. This should not be being done the last debate practically, the last day this Assembly sits, to making sure that people who are elected, who want to be re-elected, are going to be absolutely just finding out ... how many panels they are going to sit on, going for Ministries hopefully, you know, we have more experienced people now who can go for Ministries, will go for Ministries but we are just saying another, another, another committee, oversight, it will be Ministers and it will non-Ministers, it will be half and half. Again it needs support. I am hoping behind the scenes someone is thinking about this. Who is supporting this new committee? Just even supplying the papers, taking the minutes, they are practical things that have to be done. Yes, I was the only one who voted against Deputy Young and I cannot be childish and vote against Senator Vallois because it is her last debate and we have had an amendment so it must all be right. I still have absolute grave concerns that we do not know what we are doing in the last days of the Assembly for the new people coming in. But there is my warning and I will support it grudgingly.

[12:15]

6.1.6 Deputy C.F. Labey of Grouville:

I would like to applaud Senator Vallois for bringing this forward because I have long held the view that we need to play more of a part than just banking the annual dividend cheque. I know it might not be like that in practice but sometimes that is the impression that we can have. Based on what the Attorney General was saying, this difference between monitoring and supervisory, we set up these A.L.O.s, these quangos, whatever you like to call them, we set them up to have focus, to get on with a specific job to employ people in their field on a full-time basis, focused on a particular area on that A.L.O. Now, there is a bit of a disconnect and never more so than it came to my attention when I was challenging the Jersey Electricity standby charge. I brought a proposition to this Assembly to have quite a few things looked at and it came to my attention that we were operating with 1933 electricity laws. Our laws, our electricity laws, had not been updated since 1933. So you can imagine how out of date they were. This has to be a 2-way process. Surely we have to listen to the A.L.O.s about how we can improve our laws but also we have priorities and I would like to know how our priorities have to align with the A.L.O.s that we are setting up. Maybe it is through a memorandum of understanding but there has to be some alignment. We want to do renewable energy so clearly the Jersey Electricity Laws 1933 are not going to deliver that. We need to make changes in that respect but I want to know that if the States of Jersey decide something and want to pursue something like renewable energy, tidal, wind, solar, whatever, how our strategic aims are going to align with - and I know I am picking on Jersey Electricity here because I have more knowledge of them than the other

utilities - how our priorities are going to align with theirs and vice versa because at the moment, as far as I am concerned, there is a disconnect and we need to get that connection right. Do we get accused of interfering in the business of the A.L.O.? I just want to know where the boundaries are between the monitoring and the supervisory and how much we can influence them to go in a certain direction and then let them get on and do it and then monitor it. I would just like Senator Vallois to clarify that when she sums up.

6.1.7 Deputy R.J. Ward:

I would like to say to the Senator - I have worked with her on the panel - thank you for her work on the panel because there have been so many times when it is has been essential to have her there to make the panel work really and for the thoroughness of her work. I think it needs to be recognised and I would like to do that publicly. In terms of this proposition, there are a couple of things I need to ask. Whenever I see anything established by Government, a committee or panel - I have a particular issue with political oversight groups - when the ... and I have thought this, when the options are drawn up there needs to be real clarity on how Members are going to be chosen. The constituencies in terms 2 Ministers and 2 non-Ministerial people is fine but we have to get away from the same people all the time or those people who are friends of being on these panels. They need to be truly reflective across the Assembly. I think that is very important if you are going to have these types of things going on. Second, in terms of the papers, I think that is a good idea. I think the initial consultations ... and that is the part of Scrutiny that we have been missing at times, that timespan and we need to write in timeframes that already exist. So there is not actually a huge amount of work to be done there. A lot of that does exist. It is just so that legislative scrutiny always happens, so that is very important. I think the membership of any board needs to be clear as to why it is there if people are going to have faith in its actions. I just want to say that briefly before we vote on this.

6.1.8 Deputy D. Johnson of St. Mary:

I too congratulate Senator Vallois for bringing this proposition. Dealing first with the M.O.U.s, that has long been a source of my concern that the original versions were not as full as they might be in various directions. In that connection I can advise that in relation to that concerning the Ports of Jersey, which comes within the domain of the Economic and International Affairs Panel, we did meet with the Ports of Jersey representatives and indeed with the Minister and her advisers and we had the discussion on the M.O.U. there. Without wishing to go off-piste, as it were, I still am concerned that the original M.O.U. which requires any replacement comes before the Assembly, whether that has yet been fulfilled. But that is not for now. We were duly satisfied that the M.O.U. in relation to financial matters was an improvement on the original, but it is to be noted that the M.O.U. is between the Minister for Treasury and Resources and the body concerned and of necessity concentrates on matters financial. With various bodies there are other aspects to be considered, what we might call the softer side. Ports of Jersey, for instance, they have responsibilities in relation to sporting clubs that might use their facilities and I am not convinced that they are as well set out as they might be and that might well extend to other M.O.U.s as well. In a previous Assembly I commented on the fact that in the M.O.U. with Andium Homes, the word "environment" did not appear once and there are considerations that need to be considered in addition to the pure financial ones. I do see this proposal as perhaps filling a gap which may not exist at the moment. In relation to the one on Ports of Jersey, I do note that in the original version, and I thank the Minister for changing this, did refer to ... let me start again. In the original M.O.U., the present M.O.U., there was reference to a policy group of Ministers. That was replaced by the term "policy leads" and in the draft version put to us, policy leads was able to include officers. I am pleased to say the Minister acceded to our request that we should confine that to Ministers. I was concerned that Ministerial responsibility should be just that. I am pleased that has been recognised. Also in relation to various companies, I do have concerns that there are overlapping considerations that cannot be met by the M.O.U. itself. I am thinking particularly in relation to property. Each of Andium Homes, States of Jersey Development Company

and Ports of Jersey have interest in that direction and they need to liaise. There needs to be oversight and it may already be fulfilled by other protocols or documentation. That is certainly an aspect that I believe needs to be fully addressed. I see this new committee as being able to fulfil that. As to the committee itself, it does need to be approved ... its constitution needs to be approved by the Assembly itself. At the moment we have various supervisory boards or advisory boards and frequently the board members are those nominated by the Minister. That means that the Assembly as a whole does not necessarily know who is on that but I suggest that that board would have much more teeth if it was the Assembly itself who approved Members, much as they do with Scrutiny Panels. I hope that will be borne in mind when the times comes. Finally on the second section of the Deputy's proposition, yes, it is the case that in efficient running of a Scrutiny Panel the panel receives the draft proposition well in advance of actual lodging and in those cases the exercise by Scrutiny is often more successful. It cannot be right that on the last day for lodging that is the first occasion that a Scrutiny Panel receives notice of it. I do welcome the suggestion that the idea of White and Green Papers will ensure that panels have advance notice and we can perhaps thrash out, in other than a conflicting way, some of the aspects that need to be changed. That will be putting Scrutiny to its proper use. Again, I congratulate the Senator for bringing this proposition and I shall be supporting it.

6.1.9 Connétable A. Jehan of St. John:

I would like to start by supporting the Deputy of St. Mary's view in terms of the selection of this body should be done here through this Assembly. If I could just pick up on what the Minister for Treasury and Resources said. There are several lists of arm's length organisations, including a number of them that are not based in Jersey. For example, I am surprised to read that Super League Triathlon is an arm's length organisation with offices in Singapore and London. I think the proposal will, I believe, help P.75 because that idea is to pull things together and set the policy and direction. I would ask the proposer if she knows whether the organisation's articles of association will allow for this. I am not sure if at least one of the arm's length organisations might be a private members' club. The Minister for Treasury and Resources also spoke about existing bodies and I am sure we do not want to duplicate things, we want to make things more efficient so I look forward to hearing about that. Deputy Young spoke about his hopes for openness. Clearly there is going to be a lot of commercial sensitivity around some of the subjects that are discussed so that may not be possible. He also said he hoped it would not be passive, but as the A.G. (Attorney General) says the body may not have the ability to direct but they will have the ability to monitor. I am aware recently of one States-owned body who has divested their interest in a technology company. I was very surprised at that and I am not talking about the Internet of Things from J.T. (Jersey Telecom). If we read P.75 it is about utilising our arm's length organisations to get involved in technology, to use them as incubators and here we had an investment that could and was doing that. In a previous life I was chair of Jersey Business and I can tell you that we tried, without success, to get the arm's length organisations to work more closely together. There is so much duplication, H.R. (human resources), I.T., finance, buildings and we could get the Island's money working much harder for us if we worked more closely together. I am happy to support the Senator's proposal but I wonder if she could just answer those questions.

The Bailiff:

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

Male Speaker:

Sir, could I just ask, are we quorate at the moment?

The Bailiff:

If we count the ones who are participating remotely, I will do a call if you wish me to but it seems to me that we probably are all right at this point.

6.1.10 Senator T.A. Vallois:

I am very grateful for everybody who contributed to the debate. Lots of questions, lots of comments as would have been expected, I believe, following the work that we did as a subcommittee. I will start, if I may, with Deputy Martin. If Deputy Martin does not want to set up any more committees or boards or oversight groups or anything like that, do not support the proposition. It is as simple as that.

[12:30]

What I am trying to do here is ... there is an issue whereby, and the Minister for Treasury and Resources referred to - I hate using acronyms but I am going to do it - A.L.B.O.B., and it is made of officers. That is all well and good. We have some very capable, very diligent, very trustworthy officers who can lead us and support us, and particularly advise us in technical areas as well, even more so. But that is officers and what I am trying to say here is there is a political need to have that oversight. These are bodies that have been created that used to come under the power of this States Assembly and they have been moved out, some for very good reasons, some I would argue not but we all have our own opinions of that. We are where we are with arm's length organisations and States-owned bodies but I think it is fair to say, as a Minister, as one Minister with the types of portfolios that Ministers have to have the time to read through every detail of M.O.U.s or articles of association or every strategic business plan that those A.L.O.s submit or every financial report and accounts, I know that officers are more likely to go through those finer details but our responsibility, if we look at the M.O.U.s, which I am grateful for the recent publication of the new M.O.U.s because there are things in there, like for example the States decision for F.O.I.s. That has been recognised in the M.O.U. finally. I would argue that there is this ... so I am grateful for the Attorney General mentioning the supervisory being a direction and this being about monitoring. So this is a first step, I think, for the next Assembly to make sure there is some formal political oversight. I know the direction will be at the behest of the Minister but if you look at the M.O.U. for Andium, the Minister has referred to the guarantor and it is the States Assembly that is recognised under their M.O.U. I have just recently read it this week as it was published. I got particularly interested in the M.O.U. of Andium and the way it has functioned over the years because of previous debates. So ultimately the States Assembly are the ones that created these bodies. We are the ones that create the legislation, we are the ones that are elected by the public who expect our taxpaying money and the dividends from those companies to ensure value for money. I am sure everyone has a different version of what value for money is, but that does not just mean doing things on the cheap. The intention of this was ... and if we look at over this term in particular, we have had policy development boards, political oversight groups, a number of other different varying people being pulled into different directions and the policy development boards were heavily criticised in our work that we did when we were interacting with current States Members. It was mentioned during the workshops that we had last July, around their concerns about how they function and what it means for the Chief Minister to ensure that it adheres to terms of reference. I know Deputy Maçon, who was my Assistant Minister when I was Minister, we worked on trying to create a better terms of reference but we are where we are, like I said. But this will require officers to draw up options so that a proposition can be brought back to this Assembly. Questions like from Deputy Ward about that membership, well, if there is a requirement that there is an appointment of membership, make sure it is in the proposition, make sure that is in that proposition. It is good to have this discussion because officers are able to take into account what we are discussing in this Assembly and draw up those options, listening to what people expect of what this committee will do and how it will function. I will specifically answer the questions that were asked of me. Sorry, if I miss anybody out, flag me if I do. The Minister for

Treasury and Resources referred to the fact that I was referencing just the M.O.U.s and just the States-owned companies. I would refer the Minister for Treasury and Resources to page 29 of R.23/2022, which actually provides the list and the information that sits around the purpose for me bringing forward this proposition and shows what we mean by arm's length organisations and specified organisations. I hope that clarifies for the Minister but I was just trying to use it as an example. The Constable of St. Lawrence asked about hoping it was not, I suppose, like the Constable of St. John referred to, a boys' club, old boys' club, because it is important to have that challenge. When you have different points of view sitting around a table you are more likely to create better policy and better legislation and you are not always going to agree on everything but that is why sometimes compromise has to be made. Like I have mentioned, Ministers have a great deal on their table. These portfolios are pretty huge and the amount of paperwork that is being put in front of them on a daily basis, expecting them to have oversight, particularly of these types of companies, and the expectation that the A.L.O.s that we have are carrying out the expectation, it is not just this Assembly but the Ministers that have been elected by this Assembly to ensure we fulfil our strategic priorities, which was mentioned, I believe, by the Deputy of Grouville. So, yes, the Constable of St. Lawrence, I would expect there to be challenge. That moves neatly on to Deputy Young around whether there could be openness and transparency. There could, if they want it. I am not against it but the point here is that it is that memorandum of understanding and the service level agreements. Any of those that have been written have been agreed and signed off between the Minister and the relevant body. What I would expect to see happening in this kind ... this is just what I would expect to see happening, I do not know whether it will happen, but there would be that challenge and how that M.O.U. would work or how that S.L.A. (service level agreement) would work and what the inclusion of those types of policies would be. So if you have an M.O.U. or an S.L.A. with regards to ... I will refer to Jersey Electricity as an example because the Deputy of Grouville mentioned it. We have a huge piece of work on carbon neutral and all of those green initiatives that so many Members want to make sure are carried out. Is it not better to be able to sit around the table and make sure the expectations when the strategic business plan is published, or their policies about what they are going to do as an electricity company, that there is a challenge to that that says: "Well, hang on, Jersey Electricity, we have an expectation of carrying out this, this and this" instead of having to have a big to and fro in the Assembly about who is right and who is wrong? Having that challenging conversation about what the M.O.U. means and making sure things like key performance indicators or measuring the performance is having that challenge - it is ultimately down to the Minister to make that decision - there is nothing stopping a Member bringing a proposition to this Assembly and directing the Minister. That is what this Assembly is for and that is why it is useful to have that mix of Executive and non-Executive Members on that committee, because sometimes things do fall through the cracks and sometimes there cannot be agreement on something. But if you feel it is absolutely in the public interest to do so, this Assembly ultimately holds that power. I totally agree with Deputy Young on the death by PowerPoint. The Constable of St. John referred to whether they would meet the requirements of the articles of association. I have to admit to him I have not read every single article of association. I have had a great deal of work on my plate but, like I have mentioned before, I believe the States of Jersey Development Company, which I thoroughly scrutinised back in 2010 when it was W.E.B. (Waterfront Enterprise Board) and became the States of Jersey Development Company, and we had M.O.U.s and articles of association and all the amount of work for it. It was agreed by this Assembly. If there is an issue in the articles of association then maybe that is something that has to be discussed at the very first meeting of the committee when it is created. How do we go about this? How do we move forward and improve that situation? That is what I would suggest this could do and hopefully people would be listened to and that would be brought forward to amend. I am just trying to make sure I am covering everybody's questions. I will go back to Deputy Martin. I know it should not be the last sitting but I was trying to be as kind as I possibly can because it has frustrated me doing this work. This is the third review I have done of machinery of government and we worked so hard and tried to include so many people's points of view about how

we can improve our system. Time and time again the wall was put up to us meeting with the Council of Ministers or the Chief Minister to make sure that what we were recommending was practical, that we could do the job properly, that we could improve it the way that was expected of those people who took part in the conversations with us. I only managed to get into meet the Council of Ministers when I threatened to lodge the report and that was on 15th February. I am really sorry, Deputy Martin, that it came at the last sitting. I would have liked to bring all the amendments to the legislation, particularly with regards to the States Employment Board, but the law drafters have been working tirelessly to support this Assembly, again at the end of a States term whereby everything gets rushed through and not proper consideration, especially on what is concerning, of legislation and that really does concern me. I understand the Deputy of Grouville is standing again and I have mentioned her, the electricity in regards to her speech and the need for alignment. I totally agree that the need for alignment should not just be about the financial return, it has to be recognising what we can do together as the arm's-length companies and as the States to meet the needs of the public. I think this for me it is a stepping stone. I have mentioned there is a need for a proposition to come back to I think encompass and recognise the comments that Members have made today. So, I would argue that initially we would have been monitoring performance through the M.O.U., through the S.L.A.s looking at the strategic business plans, making sure they align with the States Assembly and the Ministers' strategic aims in the Common Strategic Policy or the Government Plans that are in place to make sure that we can achieve outcomes; no more reviews, please. If there is a need to go one step further then I would possibly suggest that that might be a step to take but that is for this Assembly. Because when we were looking as a committee at the supervisory committee in Guernsey and the way that does or does not work - of course they do not have the Ministerial Government structure that we do - but the work that we were looking at. The issue with Ministerial Government is not inclusive, I hate to break that to people, but it is not. It does create, unfortunately, a them and us because it is made for political parties and we do not have that structure like other jurisdictions do. So we have to make do with what we have but improve it in the best way we possibly can on behalf of the public, and so I think it is a stepping stone. If the Deputy of Grouville wants to take it a little bit further and she is back within the Chamber next term, I would suggest watch out for the proposition that is brought forward and maybe there is a need for an amendment to that if she does not feel it is strong enough to ensure that alignment but I am hoping that that will be recognised when a proposition is being brought forward. I am just watching the time; very, very quickly. I am really grateful for the Deputy of St. Mary and the reference he made to Ports of Jersey and, yes, property definitely does need better oversight and I would absolutely agree with that. The final thing I will say because there was mention of the consultation, the Green Paper and White Papers, we have tried and tested these methods before. I have referred to it in a previous debate around the property tax review. That was agreed on White Paper presentation but what we mean by having a criteria is ensuring that there is consistency. The issue with consultation at the moment, and we find it when we are discussing in Scrutiny, has this been consulted on? If it has not been consulted with the wider public, who are the stakeholders? What have they said? Having that feedback instead of Scrutiny having to do the second load of consultation; try to be more efficient with our time, try to be a bit more productive with our time. That is the point of having the criteria because it allows us to organise our time better but be more efficient and hopefully more productive; that is why we asked for the second part. I make the proposition, I ask for Members' support, I am really grateful for everyone's contribution, and I ask for the *appel*.

The Bailiff:

The *appel* is called for. I invite Members to return to their seats. I ask the Greffier to open the voting and Members participating remotely to vote in the normal way. If Members have had the opportunity of casting their votes I ask the Greffier to close the voting.

Deputy M.R. Higgins:

I hate to say this, I am having problems with my computer. I am obviously too late for this but I would like it on record - it is Deputy Higgins - I would have been voting *pour*. Thank you.

The Bailiff:

Very well, the proposition has been adopted.

POUR: 39		CONTRE: 1		ABSTAIN: 0
Senator I.J. Gorst		Deputy R. Labey (H)		
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				

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

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is called for. Can I remind Members the adjournment is of a shortened period? We have agreed to come back at 1.45 p.m., I believe, so a very short hour for luncheon. The Assembly stands adjourned until that time.

[12:47]

LUNCHEON ADJOURNMENT

[13:48]

The Bailiff:

I think we will start with a quorum assessment. No, on any analysis we are not quorate. I am afraid I shall have to rise and wait [**Interruption**] ... well in which case we will now be quorate if ... could people indicate whether they are present who are participating remotely? The only one who is indicating that they are present; we only have one remote present. All right, we are quorate.

Deputy R.J. Renouf of St. Ouen:

Could I ask for an *appel* to be taken, please?

The Bailiff:

Well, we are quorate and I appreciate that we would not normally call for an *appel* if we are quorate, Deputy of St. Ouen, so I will not do on this occasion although I fully understand why you might think that would be appropriate. If the Assembly resolves to come back early then it behoves Members who have been part of that resolution to come back early. [**Approbation**]

7. G.S.T. on menstrual sanitary products (P.66/2022)

The Bailiff:

The next item of Public Business is G.S.T. (goods and services tax) on menstrual sanitary products, P.66, lodged by Senator Moore. There is an amendment to the proposition lodged by the Minister for Treasury and Resources, are you accepting that amendment?

Senator K.L. Moore:

No, Sir.

The Bailiff:

You are not? Very well, I will ask the Greffier to read the proposition in its original form.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) that all menstrual sanitary products should be exempt from G.S.T.; and (b) to request the Minister for Treasury and Resources to issue law-drafting instructions in order that the necessary legislative amendments may be brought forward to give effect to paragraph (a).

7.1 Senator K.L. Moore:

Last month the Minister for Social Security announced that she was going to provide funding for free menstrual sanitary products to be made available in the Island schools. Of course that is a demonstration of largesse, is much appreciated, and certainly a move in the right direction. As Members and probably the Council of Ministers thought, I did give some consideration as to whether that was a sufficient step and whether we should carry on with this debate or not. I believe on balance that it is still the right thing to do to continue with this debate and so I hope that Members will indulge me this opportunity. My reason for continuing with this debate is twofold, firstly of course we do not know what the public will make of us all at the elections and therefore nobody can be certain as to whether they will return here, albeit this move could be accepted by the next Minister for Treasury and Resources and they could include it, or choose to include it, in their budget later on this year. I thought it might be helpful for whoever that States Member of the future might be to have an indication from the Assembly on this point just in case it was not one of the foremost priorities on their mind. Now it is, I am told, only a matter of pennies for some people the difference that this will make but of course small actions sometimes have larger meanings. I believe strongly that it is an important acknowledgement of the inherent unfairness that is a gendered fact of life. Therefore, I do think that, albeit a matter of pennies, supporting this move would make a large difference to many women in our community. Of course we are all aware, particularly after the retail price index was published yesterday, of the rising cost of living in the Island. A recent poll that I conducted showed that 25 per cent of those who responded spend over 61 per cent of their household income on housing costs and 42 per cent of those who responded spend between 21 and 40 per cent of their household income on food costs. Therefore, every penny is very much accounted for in the budgets of many households in the Island. Of course, as my parents taught me, and I am sure many parents of the Members of this Assembly gave a similar lesson, pennies make pounds. So, in making this simple amendment to the G.S.T. schedules and adding menstrual sanitary products to that schedule, I believe we could make a small but meaningful difference to the women within our community. I am not minded to accept the amendment of the Minister for Treasury and Resources and I would ask Members to not accept it either. I might just address this momentarily now, if I may, so that I need not rise again and prolong the debate. My reason for doing that is simply that the Government has offered to conduct many reviews and we all know what happens to reviews: they lose their momentum sometimes and I think this is such a clear-cut matter and a relatively easily financed matter that it is not necessary to conduct a review. I commend the proposition to the Assembly.

The Bailiff:

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

7.2 G.S.T. on menstrual sanitary products (P.66/2022): amendment (P.66/2022 Amd.)

The Bailiff:

Now there is an amendment to the proposition and I ask the Greffier to read the amendment.

The Greffier of the States:

1, page 2, paragraph (a): insert at the beginning of the paragraph the words “to agree in principle, subject to a review,” and insert the words “, or zero-rated for the purposes of,” shall be after the word “from”. 2, page 2, paragraph (b): insert at the beginning of the paragraph the words “if that review concludes that those products should be exempt or zero-rated”; replace the words “to issue law-drafting instructions in order that” with the words “bring forward”; and delete the words “may be brought forward”.

7.2.1 Deputy S.J. Pinel (The Minister for Treasury and Resources):

I do not think there is anyone in this Assembly who would not want girls and women to have ready and affordable access to period products. However, I do not believe that there is enough evidence at

present to agree to exempt or zero-rate the sale of all period products from G.S.T. That is why in my amendment to the proposition I recommend that a review, including discussion with Jersey retailers, is undertaken to develop an evidence base on which the introduction of any legislative changes can be founded. This Government is already promoting access to period products through the support to the Red Box Project announced last month and through general G.S.T. relief for charities. Where G.S.T. is concerned this Assembly has long upheld the principles that the rate should be low at 5 per cent, broad with very few exempt zero-rated goods, so keeping the tax simple for businesses and Government to administer. G.S.T. is not a tax on luxuries as is mentioned in the proposition, rather it is a tax on the supply of most goods and services. Where we do zero-rate or exempt it is in line with international good practice such as zero-rating prescription medicines. It is true that a number of jurisdictions have introduced zero-rating for period products but my amendment would seek to understand the outcomes of those decisions and what that might mean for Jersey. For example, let us consider the example of the U.K.'s decision to zero-rate period products after applying a 5 per cent rate of V.A.T. (value added tax), the same rate of V.A.T. that is currently applied in Jersey. Official estimates at the time suggested that this would save the average person in the U.K. just £40 over their lifetime. However, when this policy was implemented the removal of V.A.T. from period products coincided with a small increase in their retail price. Introducing a more generous range of G.S.T. exemptions or zero-ratings comes with a cost to retailers. These extra costs would need to be met by Jersey retailers either accepting a lower profit margin or not passing on what may ultimately be the modest tax savings. Of course the commercial arithmetic might be more nuanced in some cases, we know that some U.K. retailers operating in Jersey use G.B. (Great Britain)-wide pricing policies to save the costs of pricing differently for different jurisdictions. This could mean that the price for period products on certain parts of the Jersey high street might not fully reflect the reality of their taxation in Jersey. Finally, there is another cost that needs to be considered, that of the cost to Jersey public finances. Increasing the complexity of G.S.T. while also reducing the breadth of its application will have implications for public finances. It will perhaps not be significant in this present case but it is nonetheless a departure from a steadfast policy to keep G.S.T. low, broad and simple. It is clear that more needs to be done to understand the potential costs and benefits of Senator Moore's proposition for Jersey consumers, retailers and public finance. I ask Members to adopt this amendment which would allow more time to understand whether the outcome sought in the original proposition will be achieved by removing G.S.T. from menstrual sanitary products.

The Bailiff:

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

[14:00]

The Connétable of St. Lawrence:

May I ask for a point of clarification, please, from the Minister for Treasury and Resources?

The Bailiff:

Yes, are you prepared to give way for a point of clarification?

The Connétable of St. Lawrence:

It is because I did not hear clearly. Perhaps I could ask her to ...

The Bailiff:

Yes, well please ask for that.

The Connétable of St. Lawrence:

I believe I heard the Minister for Treasury and Resources refer to the amount or the sum of £40 and I think she said that is how much it would cost to ... I wonder if the Minister could just repeat that sentence, please, referring to the £40.

Deputy S.J. Pinel:

Yes, happy to do so. When this was applied in the U.K. - and it will be V.A.T. not G.S.T. - it was indicated from their research and their survey that it would save somebody £40 over a lifetime.

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

I am really happy to be able to have this debate and I wanted to thank Senator Moore for bringing the original proposition. I am disappointed in this amendment because I just cannot see what there is to review. I think the Senator mentioned in her opening speech about the fact that Jersey is the only place in the British Isles where period products are taxed. Times are moving on, it is no longer acceptable to the public that we are applying tax of any kind to period products. It disappoints me that the Minister for Treasury and Resources is clinging to these outdated defences of our current situation but I believe that she has suggested some solutions herself. So she mentioned that some things are already exempted from G.S.T. such as medicines, and I see that as one potential solution: why not class sanitary products as medicines? They are related to health needs so that is one solution. I find it difficult to believe that the department would not be able to come up with a way of achieving this given that so many other jurisdictions have done this, and not that they have taken off the tax, but I think it is notable that many jurisdictions never applied a tax, so this tax should never have been on period products in the first place. While we are talking about taxes and gendered items, Members might be interested to know that this is not the only area where women and people who menstruate are disadvantaged by pricing of products because there is in fact something called a “pink tax” which is not a tax at all but it is where items marketed at women have an additional markup when viewed alongside identical items marketed to men. It is quite easy to pick out some of this if you go into somewhere like Boots and you pick up, say, a razor that is marketed at a woman and then a razor that is marketed at a man. They might be completely identical products, apart from the fact that one of them is pink, and the pink one will be considerably more expensive. So I think that we should not be voting for this amendment, I think we should be approving Senator Moore’s main proposition. I think when the work is done around this in the next Assembly, and I hope it will be done quickly, that it should be slightly broader in scope to include looking how we can legislate to stop this additional “pink tax” which, again, I am using kind of quotation marks here, Members cannot see me, but it is not an actual tax. I know that the Senator has been in touch, I think it is with the Red Box Project, and they are doing some amazing work. I think it is great to see such campaigning from the public because it helps us as States Members, does it not, to prioritise even if we are ourselves in favour of these issues and of resolving these issues. It really does help when we have campaigning from the public, it helps us to prioritise. The public are telling us loud and clear that this is not acceptable anymore. Other groups such as the Soroptimists ... and in fact, the Soroptimists International Jersey branch, they have I think for a few years now run an annual campaign. I think it is called the “No More Taboo” period campaign which is about talking about periods and about menstrual issues and just removing the taboo on it because of course slightly more than half the population menstruate in their lifetime and there should not be a taboo about it. I do wonder if the fact that there is that taboo, or there has been a taboo, has meant that G.S.T. on these items have persisted for as long as it has because, like I have said, the G.S.T. should never have been applied on these products. Another group is the Jersey Sustainable Period Products Project, I think it is ladies called Viki Lucas and Louise Carson, and they do some fantastic work on raising awareness of period products that are not disposable period products such as menstrual cups and reusable, washable menstrual pads. They have created kits that I think teachers can borrow to demonstrate, to show the children in their classes that different options are available. Again, I think in terms of tax and

affordability of those items, the next Government needs to go a little bit further than just removing the G.S.T. but in line with our ambitions of being more aware of the environment we should be giving people perhaps vouchers towards these products. There is so much more that we can be doing to make period products more affordable, and particularly the more eco-friendly period products more affordable and accessible, and I think that we should be doing everything we can. So, I am not voting for a review on this; I do not think we need a review. It is absolutely clear to me what should be done, it is just finding a way to do it, and I think that work needs to be done. So I will be voting against the amendment and I will be voting for Senator Moore's proposition.

The Bailiff:

Could I just remind Members that no reference to the names of private individuals should be made within the Assembly? I realise the last 2 references were entirely friendly and benign but if we break with that tradition then it makes it more easy where matters are more contentious for names to be used. So could Members recall not to use private ...

Deputy L.M.C. Doublet:

I apologise for that; I apologise.

The Bailiff:

No, not at all, it just gives me an opportunity to remind Members.

7.2.3 Deputy R.J. Ward:

It was very interesting to hear the Minister for Treasury and Resources speak. Most of the speech from the Minister for Treasury and Resources was explaining why this is a really bad idea and then introduces an amendment to say: "Let us have a review." Let us be frank about this - I can be frank about these things, I used to be a biology teacher, so I have no embarrassment - this is a wrecking amendment. This is simply a wrecking amendment. We do not need a review. Now I have been thinking about words, what type of words, and I am going to say it so that other people do not have to. What type of misogyny is this? Because what we are doing is we are charging people who menstruate because of that. It is not optional, it is not something you can choose to or not to, but we tax it. I come up with a few words, is it institutional misogyny? Is it economic misogyny because that is what it seems to be? Is it endemic misogyny? There are all sorts of words we could put in front of that word but I think we need to call it out in this Assembly. The original amendment is really simple, do not charge G.S.T. on menstrual products and we should not be doing it. They do not do it elsewhere; we should not be doing it here. All of these convoluted, overcomplicated, not even genuine reasons as to why it should not happen, this should be a short debate. Please, just ignore this wrecking amendment, we know what it is, let us go on to the main debate, let us vote for it and let us move on. Then we can say at the end of this 4 years: "We got another thing done that is positive for people on this Island, in particular for women on this Island, those who menstruate on this Island, and we are supporting them." Please ignore this wrecking amendment, vote for the main proposition.

7.2.4 Deputy J.A. Martin:

So nobody wants to review. Again, we are in the last throes of the Assembly and we want to throw out, just looking it up there, they call it the "tampon tax" in the U.K. I think you heard very clearly the Minister for Treasury and Resources say that it is still at 5 per cent; it is not 20 per cent. This is my concern, I am sure, and maybe I am being too - what is the word here? - cynical, is there anyone sitting in Treasury saying: "Let us hope this does go through. We have had 5 per cent on everything that we tax for too long now. If we do away with that, we will have to look at something else." If we do away with it today, throw the baby out with the bathwater, if we do away with this then literally it creeps in at 6 per cent on everything else. Building homes in the U.K., anything you buy, D.I.Y. (do it yourself), I think 20 per cent V.A.T. I know it is not great, I know I am the Minister with inclusion and diversity, and I have worked hard, we did a survey in schools and they are going to be

free for every child from age 11 in every school as from September, free, F-R-E-E, no tax, working with Red Box, working with the survey. Now, funny enough, the survey did not come back conclusively; in fact, a very small amount said they could not afford it. Some parents did not know about the economics, et cetera, but they did not think it was because it was embarrassment. In this day and age I was shocked that youngsters are still embarrassed talking about this, will not speak to their parents, of all people, or their guardians; very, very enlightening to me. I cannot thank the last 2 Ministers for Children and Education, which is Deputy Maçon and now Deputy Wickenden, who have said: “No, this is going to be done. We will find the money and thank you for working with us”, *et cetera, et cetera*, and the officers. But, no, let us say today we agree not to go with the Minister for Treasury and Resources. I do not think it is about a review of “do we need it on sanitary products”? Of course, ideally, no, it is that other bit. Please be very careful what you start taking off and mucking around with G.S.T. Again, today, being the penultimate probably sitting, when if it is lost, about revenue, there will be something it will have to go up on. Now can people afford that better? Then Deputy Doublet talked about the pink products; she is absolutely right but what do we do? Well I know what I do, I buy men’s razors, nobody kids me. They do exactly the same job, I do not need to buy something because it is pink. I never really liked the colour pink much anyway. But what do we do? Having a good look around, seeing how much things are, buy one, get one free. When they are on offer in different places, do you go for the brand or do you go for the chemist make sometimes and just ... if one is on offer just buy them because they will be needed. I know it is easy and is it not going to be very popular to just say: “All right, let us take it off today” and then when we all come back in whenever, or whoever is back, they say: “No. Yes, but we have to put this up a couple of ... this G.S.T. will have to go up a couple of pence and this G.S.T. will go up a couple of pence.” What effect is it going to have on this part of the economy? Again, absolutely hats off, I see what the Senator is trying to do, but please do not ignore that there are probably people sitting there rubbing their hands and going: “Yes, and if this goes let us see what else we can put G.S.T. up on.” I am not saying they would, I am just saying be very, very careful. As I reiterate again, for every school child from year 6, age 11, last primary school class up until they leave school, they will all be free, from working with the Minister for Children and Education from September, in every school. Now, it was a petition I answered because it came to me with the hat on of diversity and inclusion, not as Minister for Social Security, but with that on. The petition was for free products for everybody like Scotland. Now, if you want to do away with that idea, support this today because no one is ever going to look into it any further. Take a few pence off but never make it free. That is my ambition, I have always said it, that is what I am working towards. I always have to cut the cake to what can be achieved. I had a year to do something and I have achieved free for children under 17, or young people under 17 who need them. So please be very careful that this is not just a review into: can we take money off sanitary products, it is (a) what will it cost, who and how will it be made up, and what other goods will be hit with an extra penny or percentage? Be very careful, this is not as simple as it seems, it is definitely not as easy as it seems and it is certainly not the day that we take some form of G.S.T. off of one product to find out it is going to come back on another 10 products to make the money up where people cannot afford it either.

[14:15]

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

I will be supporting this proposition but not the amendment. This is not a luxury item, we do not need to review a biological fact and the cost. This is a necessity and, quite frankly, an unpleasant fact of life. Sanitary products could easily be seen as a medical need and, at the risk of being accused of misandry - a word Deputy Ward was looking for this morning, misandry - I would suggest that if male States Members had periods or menstruated, I am sure this proposition would have passed as soon as G.S.T. was introduced. In fact, sanitary products would have been free for years. This is a pink tax and many women would benefit greatly from the main proposition.

7.2.6 Senator J.A.N. Le Fondré:

I am glad I picked up some of the comments that were made. It is the first time I have ever had to imagine - and I know he did not exactly say this - but effectively Deputy Ward was implying that both the Minister for Treasury and Resources and the Minister for Social Security were misogynistic, which I was trying to work out that kind of juxtaposition and could not quite get my head around it. When we get to tax, and I am going to be told I have got the cold soul of an accountant here, not always the case, but in this case we have got in my view to be rational. The rationality is: what are we trying to do and what are we trying to achieve? That rationality, I think I heard the Connétable of St. Lawrence just seeking clarification from I think the Minister for Treasury and Resources as I was listening, which is, according to the study that the Minister for Treasury and Resources referenced, if you take effectively 5 per cent off the price of the product it is going to save £40 over somebody's lifetime which at the end of the day it is about pence. Now what is one trying to do? Because I do not disagree with making period products less expensive. What the Minister for Treasury and Resources, what Deputy Martin has done is, in my view, by far the better way of doing things. In other words, you get them free and you get them to people. That is not fiddling around with what has now been a stabilised system of G.S.T. for quite some time. Now I do not know the circumstances, it is a while since I have looked at G.S.T., but I heard a comment saying they are not taxed anywhere else in the British Isles. That is quite a careful sentence. Because when I was involved with Treasury many, many years ago, in fact, I was essentially, although a better-looking Deputy Ash in his early years, I was an Assistant Minister in Treasury - that is what I will claim - and G.S.T. had been agreed. We spent 3 to 4 years in Treasury implementing G.S.T. and the number of speeches we had about different exemptions. Yes, I am not going to give a rum baba speech because I think we know, the late Connétable of St. Clement, Len Norman, did a fantastic speech one day. I will recall when Senator Ferguson stood up, and I was sitting over in those benches, and talked about exempting chocolate body paint and the expression on the Minister for Treasury and Resources' face at the time, which was Senator Maclean, had to be seen to be beheld in terms of the context of the juxtaposition of the discussion. But what I did do at the time as my first year of campaigning, when G.S.T. was coming in and the Assembly had agreed "low, broad, simple" and on the door I was asked probably one in 3: "Well why do we not exempt food?" The whole principle was around keeping it simple. You did not want to get into arguments around: is a Jaffa cake a cake or a biscuit? Is takeaway food, whether it is served standing up, sitting down, capable of being sold heated or cold, all have different treatments. All those add costs into the whole system. What we were advised, and it was by our representative from Crown Agents at the time - Crown Agents, a clue in its name "Crown", a consultancy arm of the Inland Revenue, at the end of the day, of the U.K. Government - they said: "You have got 2 choices. You can go down [and they used the word "archaic"] an archaic V.A.T. system like what the U.K. have got which is basically a European system or you can down a far more modern version which is basically what Malaysia and New Zealand and those sort of countries do. If you go down the simple version, you keep the number of exemptions as few as possible." Now there are a variety of issues around this. Number one is: will the price be passed on to the consumer? Okay, number one. Because I can tell you at one point when we had an exemption debate that the head of one of the branches of one of the supermarket providers over here said: "Our prices can change 5 per cent in any one week, that difference will just disappear very rapidly." So, number one, is it going to get to the consumer? Apologies, I have just slightly lost my train of mind then. So, going back to systems which is where I was. So, England, Scotland, Northern Ireland, Wales have a V.A.T. system. It will have exemptions, we have discussed that, and that is why there will not be tax on this product. Guernsey, as far as I am aware, does not yet have G.S.T. and has nothing equivalent, so they will not be taxing the products. Isle of Man has the same system as the U.K. We went down the rational system, I would argue, of a different system for G.S.T. That is why we are the only jurisdiction because we have got a different system of taxation. If we are getting into morality and ethics here, I go back to the point of number one, getting the biggest benefit

to the people who most need it, which is what the Minister for Social Security has started and I would like to see more. So, frankly, I would be far happier if we would turn around and say: "Right, introduce a system that assists everybody who needs access to these products in receiving them free or subsidised." Why not, because that is the biggest benefit? So that is not a misogynistic view, I hope, I am trying to get the best outcome for what we are trying to achieve. Now I can tell you when we did food exemptions that the complications that came through at that point were estimated to be, would have added on our costs alone, between £200,000 and £300,000. Obviously that is food, a big area. I have no idea what would happen on this, and I would not want to overrate that, but there is always a cost. I am just looking down my items that come through. The other point around ethics and morality, okay, what is one of the most basic things - I think I am correct here - that we consume? How about water? Now from memory I do believe we do pay G.S.T. on our water rates. I stand to be corrected; certainly I think we do pay it on electricity and I think we do pay it on our telecom bills. I am assuming we do pay it on water. So on that basis at what point do you want to make these lines of "this is an ethical issue"? We have had to deal with these all the way through, we considered those back in 2005, 2006, 2007, 2008, keep going. The best way was always if one needs to help people you target them in a different way and that makes sure as well that you are not reliant on essentially the retail sector to directly pass on all those prices and those price changes. So for me what the Minister for Treasury and Resources is saying which we did discuss ... and I take the point about reviews, by the way, but again that is also about people holding the Council of Ministers to account and saying: "Well, hang on, there was an Assembly decision, you did this", et cetera. We have had this issue about how we track results and things like that. We certainly started off with a P.A.C. (Public Accounts Committee) tracker, a Scrutiny tracker now of outcomes, in my view, somewhere somebody should be doing a tracker for States decisions and how they have been implemented. There have always been the decisions, is it the Government or is it the Greffe, because that is about independence and keeping changing but that should be something for the future. But the point is that can then legitimately identify what target you are trying to meet, in other words, who you are trying to help, and what is the best way of doing it, and that is why we went down that line. So I absolutely agree from the emotional point of view, absolutely right, it is a quick win. We are, what, 3 weeks, 4 weeks - well I will say 3 weeks - before we go into purdah, this is the last opportunity, et cetera, et cetera. But from my point of view, I am afraid, I am going to be rational about this, I think we should be doing what the Minister for Treasury and Resources has said. My preference would be very much that someone identifies a system they can build on what the Minister for Social Security has done and effectively make these things a lot cheaper or free, not just take off 5 per cent, which frankly a lot of people are either not going to notice or are not going to receive. I have made my position clear, I will be supporting the Minister for Treasury and Resources. I hope that is not a misogynistic outlook, I hope it is a rational outlook, but I believe it achieves the best outcome for the people we are trying to help.

Deputy R.J. Ward:

May I have a point of order, please, under Standing Order 104 on the contents of the speech?

The Bailiff:

Yes.

Deputy R.J. Ward:

Because I believe the Chief Minister may have suggested an improper motive. I did not call anyone misogynistic. I said there is institutional misogyny, economic misogyny or perhaps endemic misogyny. They are all actively not directed at one person but institutions and I think it is very important that that point is made.

The Bailiff:

Well I am not sure it is a point of order, I think it is a point of clarification. You have given a point of clarification of your own speech and I think that is absolutely fine. I am sure the Chief Minister will have given way to enable that to happen.

7.2.7 Deputy G.C. Guida of St. Lawrence:

I will remember this proposition for a long time because it made me look like a fool. Now, within this Assembly it is a normal occupational hazard, and one must accept it, but in the Council of Ministers one tries to avoid it. So what happened there is that we had a look at this proposition and said: "Well, what do we do with it?" Everybody spoke in turn and when it was mine, I made a very, very quick calculation in my head about 30,000 menstruating women in Jersey, 78 tampons cost £11, so many a day, about £2 million market, 5 per cent of that is £100,000. So: "This is going to cost us £100,000. The presenter says medical supplies, for example, are exempt. Well we can call this a medical supply, we are done, that is it." I quite remember everybody around the table agreeing with me and saying: "No, that is fine, we can fight that, why would we bother, it is a good thing. That is okay." Like I usually do when I come up with a random assessment, I tend to grab my phone and start Googling and I went into Jersey Law and had a look. Medical supplies are not exempt from G.S.T. It is not about the product, the way that we exempt things from G.S.T. is not about the product, it is about the way it is dispensed. So, a dentist dispensing filling material during the course of their intervention will not charge to fill them. A doctor dispensing medicine in the course of an intervention will not charge G.S.T. on it. I did not know that, that is quite interesting. An optician will not charge G.S.T. on the goods that they are dispensing during their consultation. If they sell you glasses or frames that is different. Now, for medicines, it is all about prescriptions, and it is worth reading - what I had not done early enough - it is worth reading the Article in the G.S.T. Law: "Zero-rating on medicines. A supply of any goods or services shall be zero-rated if a person who is an insured person within the meaning of the Health Insurance (Jersey) Law 1967 is entitled to claim pharmaceutical benefit under that law for the supply." In other words, if you do not pay for it there is no G.S.T. on it and that is how we defined it. So, I was completely wrong, I was made a fool by thinking that all we needed to do is add a couple of words on the list and that would do it. Not at all. If those products were supplied on prescription they would automatically not pay G.S.T. but any other way they would. There is no easy way of doing this. As I have said, it is fine, it would be really nice to make people save £100,000. It will probably cost us more to make a new law that talks specifically about them. Now I would like to re-join the thinking of the Chief Minister because it sounds easy to say, period products, tampons are probably a period product. There are a few other uses for them. They are very good for treating gunshot wounds and things like that but in general they are period products so you just say: "Well no G.S.T. on tampons." What about pads? So pads are period products but they are used for many other things, so do we start differentiating? So are you buying those because you are having your period or are you buying those because you have a tiny incontinence problem or just in case?

[14:30]

So are we going to make a difference there? If we say: "Okay, all pads are period products and should not pay G.S.T." what about diapers? When does a pad become a diaper? I am thinking in fact of adult's diapers now and, while we are thinking about adult diapers, should people with incontinence have to pay G.S.T. on the product that they use massively and that cost about 100 times more than tampons? That is the problem. The problem is that when we start making exceptions to these parts to a rule it becomes much, much more complicated. My guess again, making the figures very, very quickly as I speak, is that this will increase the cost of period products because then their management is going to be special. Do you know how many products a supermarket manages? About 80,000. The number of references in supermarkets is 80,000 products. If you know that every single one of them is 5 per cent at the till, you do not bother making a difference. If all of a sudden

you are told: “Well, exempt those 3 here but we are not sure about the fourth”, maybe sometimes eventually that will cost way, way more than the £100,000 that we are trying to make people save. Again, who in this Assembly could think that as a Government we said: “Oh, £100,000 is just too much, we are not going to do it because of the money.” We know that the complexity is far greater than the benefit and that this complexity will probably bring with it an increased cost if you have to reprogramme your computers to say: “Well, yes, there is G.S.T. on this but not on that. We need to have the codes. When you enter your stocks you have to decide whether it has a code on it.” G.S.T.-exempt products are massive headaches for suppliers. You need to manage them, you need to prove that you have been supplying G.S.T.-exempt products. It is a massive problem. It is going to cost them much more than 5 per cent and all they will do is put them on the price of the product. So, absolutely agree that we could do something about this. I think it would be a lovely gift to say, yes, we are going to help, we are going to make them cheaper, we are going to make them free if we can. It is not a lot of money but again the whole market is about £2 million, so it is not impossible, it is within our reach. But this particular proposition not amended will make them more expensive. It will have the exact reverse effect and it will be the start of endless discussions on what we should exempt next. We are talking about period products, what if I came back with incontinence products next time? Who in this Assembly would say: “No, no, it is fine to pay a tax on something that drips out of your trousers if you did not wear it”? You cannot. Then somebody would come up with something else which is exactly like that, the list is endless. So, do we want women to pay more for their products and be willing to open the gate to every sitting having somebody say: “Oh, I have got this idea, why do we not take G.S.T. out of that?”

7.2.8 Deputy G.P. Southern:

How appropriate that I should rise to my feet just following that speech which was designed to obfuscate and complicate a very straightforward case. Once again, I find myself on the end of a lame and tired and stale debate about G.S.T., about V.A.T., if you like. It is long and it is stale and it is tortured because I have heard it 10 years ago from the Chief Minister and I hear the Chief Minister and his Minister for Treasury and Resources and his Minister for Social Security all put £40 over a lifetime above a principle. I can believe it because this Chief Minister and this Minister for Social Security and this Minister for Treasury and Resources are quite prepared to do that. It disgusts me.

7.2.9 Deputy K.G. Pamplin:

Wow. As a father of a 13 year-old teenager girl I am learning every day the ever-changing and fast-paced world that my young daughter lives in and grows in now. I have got a lot of respect for Deputy Guida. I have always admired him and we came into the Assembly at the same time and enjoy his passion and his thinking but there were some elements of his speech that alarmed me. You only have to look at some of the female Members of this Assembly, some of the things I think he was trying to make his point with but I believe he got wrong. For example, the use of one single product. There is a choice, there are many choices now in 2022 that women have. If we are making decisions on the whim of just quick calculations, I do not think that is the way forward. He is right of course, and I think the Minister for Treasury and Resources is right, there is a situation. This arose I remember in my previous job when G.S.T. was explored and introduced, a lot of these questions were raised at the time because there will be challenges in the future years to come if there are some needed exemptions and changes to certain aspects. I remember when the consignment relief was dropped completely and the impact that had on the consignment relief of flowers and other things at the time, the consequential knock-on effects. They are complicated and I think we do appreciate that. So I do think there is a time brewing when we do need to look at this and I will explain why, with the research that I have done. I am about to list the examples of countries that have used a tax loss around sanitary products. The affectionately known “tampon tax” in the United Kingdom was abolished in Britain on 1st January 2021 following the U.K.’s departure from the E.U. (European Union) meaning there is now a zero-rate of V.A.T. applying to women’s sanitary products. Rwanda removed their V.A.T.

on all sanitary products on 10th December 2019. This change was made in response to school absence and dropouts caused by the 18 per cent of Rwandan women and girls being unable to attend school or work due to not to be able to afford feminine hygiene products. Australia repealed the 10 per cent tax on tampons and pads on 1st January 2019 after an 18-year campaign, after all states and territories agreed to make their sanitary products explicitly exempt from G.S.T. In Colombia on 14th November 2018, the Constitutional Court unanimously ruled to strike down a 5 per cent tax on sanitary products based on gender inequality grounds. India eliminated its 12 per cent tax on feminine hygiene products in 2018. This was after a year of lobbying by advocacy groups and researchers who determined the best way that their complicated system could make this work. Mauritius eradicated its complicated tax around sanitary products in 2017 following a popular online petition initiated by many members of their country. Canada removed its tampon tax, as it was known, in mid-2015 following an online petition signed by thousands of people. In 2004 Kenya was the first country to abolish sales tax for menstrual products. Most European Union countries are barred from creating zero-rated value added taxes, as we know. Ireland's exemptions are grandfathered, to use that term. The E.U. countries are planning to remove the minimum 5 per cent tax rate by 2022. That is a commitment that has been recently made. Ireland levies no value added tax on all products. There is a full range available now in 2022. In Germany the amount of tax on sanitary items was cut from 19 per cent to 7 per cent, which they said it was not able to do, it was too complicated but now has been done on 1st January 2020. Other European countries, France, Spain, Portugal, the Netherlands, either plan to or have already slashed their taxes or have removed them completely in recent years. I appreciate that we have this system in place, and the Minister for Treasury and Resources is quite right, but I think, as I have just alluded to here, a review will conclude that we, Jersey, sometimes leads the way in many, many ways and I think we can do this and I think I rather would have a review of how we can do this, like I have just demonstrated around the world. I think I just want to leave it at that.

7.2.10 The Connétable of St. Lawrence:

Looking around this Chamber, I think there may be only 3 Members who were involved in the original discussions about whether or not we introduced G.S.T., and I look to Deputy Southern, I look to my right and see Senator Gorst and the Chief Minister was here a moment ago. I am not sure whether the Constable of St. Brelade was here during that time, and he is nodding his head. I have to say at the outset that I voted against G.S.T. on food. I was sitting on the Deputies benches. I was maybe a little bit more radical in those days than I might be perceived as being now, but I was definitely not having G.S.T. on food products. I do recall rum baba and all these other things. What I do not recall, and maybe it is because it is a few years ago and I am older, hopefully wiser - my memory is not as good - whether we had any discussion about what is referred to in this amendment as menstrual sanitary products. I just cannot remember at all whether that was brought up. I do remember the arguments from the then Minister for Treasury and Resources - I think Senator Le Sueur - "keep it simple". That was the argument all the way along, "keep it simple". I think effectively that probably is what we have managed to do. I am looking at this amendment and I am not sure that Deputy Guida was obfuscating. I do like that word; I am not sure if I am very good at pronouncing it. He made a lot of sense to me when he spoke and he referred to ... it is not clear to me what the definition of a menstrual sanitary product is and I think a review would be able to define that for us. Deputy Guida referred to pads, incontinence pads, diapers, all of these products could be potentially used, and we need to know. My question for the Minister for Treasury and Resources is: who would be undertaking this review and would it have a good gender balance? I am not a great one for gender all the time but I do feel that it would be wise, if this review was to go ahead, to have people who use these products to be involved in the review. Would it be presented to the Assembly? We read that - this bothers me a little bit - if that review concludes that those products should be exempt or zero-rated, would the review be presented to the Assembly or would the conclusion just go to the next Minister for Treasury and Resources, presumably, and the Minister for Treasury and

Resources make the decision as to whether or not something be brought forward for debate and consideration by this Assembly? I feel that whatever happens the Assembly should have sight of a report or review, as it is referred to here. I do not think we should be making decisions unless we are well-informed. I have heard Deputy Southern stand up many times over the years in this Chamber and say: “We cannot make a decision because we do not have enough relevant information on which to base our decision.” The Deputy is not shaking his head, so I am sure he remembers the times that he has stood up to demand and to ask for more information in order that our decisions are as well informed as they can be. While I am not always in favour of reviews, whether that be a review undertaken, say in this case, by the Treasury Department or a Scrutiny review. What is the difference? The evidence should be produced as a result of the review being undertaken. That is what Scrutiny does and we should expect that if this review was undertaken by officers in the Treasury Department, that it be evidence-based so that decisions about the consequences of that review are made in an informed manner.

[14:45]

My opinion today is that I will support the amendment because at the moment I do not feel as well-informed on this matter as I should be and indeed as the rest of the Assembly should be.

7.2.11 Senator S.C. Ferguson:

I do recall when we first debated G.S.T. It was recommended that we keep it simple and that this would allow us to keep the rate low but that was at 3 per cent. Now, it is quite possible that the next Council of Ministers may be tempted to increase V.A.T. in the days to come. We have got an £800 million debt for the hospital coming up. If that is the case, among other things I would repeal the Zero/Ten rate, but we are not debating that. We are talking about the 5 per cent on menstrual products and, as other Members have said, we really ought to extend it to look at dressings for old ladies with ulcers on their legs or incontinence products and so on. Now, Deputy Pamplin talked about Governments with zero-rating of menstrual products but the V.A.T. in most cases for those Governments are mainly significantly greater than our 5 per cent rate. However, given the increasing costs being imposed on Islanders, especially with the Bank of England expecting a 10 per cent inflation rate by the end of the year, then it is essential that a review should look at the costs and the implications attached to removing the G.S.T. on these items. I would suggest that perhaps the review should be broader than that and it should also look at such things as fuel duty because these are all things that are hitting ... well, not so much low-income families, because if they are on income support then they will get their refund adjusted at Social Security. It is the people who do not pay tax but do not qualify for income support and these are the people who are going to catch out quite badly. So things like, as I say, the cost of the menstrual products, the G.S.T. on that, and the fuel duty, these should all be part of any review that is undertaken so that, as the Connétable of St. Lawrence said, we are properly informed about the implications of anything that is done.

7.2.12 Deputy M. Tadier of St. Brelade:

This will be one of the briefest speeches I make. I do not want to be accused of mansplaining on what is ultimately a feminist issue, I think, and one that we should all get behind. We are talking to the amendment at the moment. The best line, I think, of the debate has been stolen. It is one that I was going to make and then I asked and it has already been made. I firmly also believe that as a man, if men menstruated then period products would have been free a very long time ago. I would also add that we would not hear the end of how difficult it is [Laughter] and there would be lots of absenteeism, I suspect, from the States Assembly. I leave the point at that. There were 2 other references I wanted to make, first of all on the amendment. It is a crazy amendment, is it not? What it is saying is that this is a simple decision - we are on the amendment now - we can decide whether or not we are capable of wanting to exempt period products from G.S.T. It is probably one of the most straightforward decisions we could make: yes or no. Let us debate that in a moment. I will be

supporting that so I will not need to speak again on it. It just reminds me because I think sometimes this Assembly is like a badly written comedy and there is something Pythonesque about it. So, a good Monty Python quote never goes amiss, does it? It reminds me of the part in the “Life of Brian” ... we have already got some laughs; I think the Dean knows what is coming. Stan is talking and he says: “All right, that is it, no more briefing. From now on we take action” and then in bursts Judith who is friendly with Brian and she says: “Brian has been caught” in her Welsh accent, “they are going to nail him up” and she repeats it and Stan says: “Right, this calls for immediate discussion.” You could substitute the word “discussion” in this Assembly for: “Right, we need an immediate review.” But on another level I find the amendment is insulting to the membership of this Assembly because it is saying that as one of the last actions we are taking, perhaps on the penultimate day of the sitting, we are not capable of making that simple decision as to whether or not we can do that. It has been mentioned: “Yes, keep G.S.T. simple.” Well, first of all, that was a slogan that was not of our making. It was made to try and sell G.S.T. to the Assembly, as was the low rate of G.S.T.: “Keep it low, keep it simple” and there was another element that went with it. Of course it has not been kept low and we do not keep lots of other parts of our tax simple, do we? There are lots of changes, lots of exemptions and lots of different rates for different people. I have made that point before. Finally, perhaps, to quote Einstein, and I am sorry I have not included a woman. No, I did quote Judith from Monty Python, so I think that is all right. She was the most sensible between Brian and Stan. To quote Einstein, he said: “Keep things as simple as possible, make things as simple as possible, but no simpler”, and I think that is the point. Things cannot always be over-simplified and when it comes to matters like these we have to apply common sense, not just some outdated, I think, fiscal rule that does not work.

7.2.13 Senator T.A. Vallois:

Just briefly, I just want to explain to the Assembly why I will not be supporting the Minister’s amendment. The reason for that is because I think I know what will end up happening is we will need to find some money to pay a consultant a considerable amount of money to do yet another review which means that review gets put up on a shelf and gets ignored for the next 20 years. Members have referred to why it is important to have evidence and have these reviews done. Can I suggest maybe going on the States Assembly website and looking back over the last 20 years at all the fiscal strategies? There was a report done on I believe it was zero-rating healthy foods, that report, R.60, 7th May 2014. Reviews can be done. The evidence and the arguments are there, it just requires a decision, and I think Deputy Pamplin listed off a number of countries that have gone ahead and zero-rated menstrual products. I think it is fairly easy to Google or look at what a menstrual product means and I am sure that we could look at other jurisdictions and pick up the meaning that they have identified, see whether it fits our requirements and apply it. This does not have to be rocket science, it really does not. We have got a long-term tax policy, we have got fiscal strategies that have been done. No wonder the public gets so frustrated with us. Let us just make the decision. We do not need another review. I am sorry, but if you want to look at evidence and research, look back over the last 20 years of all the work that has been done by previous States where the reports are all publicly available and if then you cannot do that then maybe speak to our very capable officers in Treasury who work with this on a day-to-day basis and have had to sit through these debates time and time again over the last 20 years. I will not be supporting the amendment. I understand why the Minister has brought it but I do not agree with it.

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

In his otherwise rambling speech, Deputy Tadier made, I think, what was the key point in this debate, which is that men do not menstruate and it is simply about that. If they did, then there would be no greater reason for bringing this proposition than there would, for example, to remove the G.S.T. on incontinence products, but the fact is we are dealing with something here which is only purchased by women, young women, and that is why there is a level of unfairness, which I think means that we

have to remove the G.S.T. from these products. It seems to me as simple as that. I accept Deputy Guida's arguments, the Connétable of St. Lawrence's arguments. There are enormous complications in removing things from the G.S.T. list but that, I am afraid, was always the risk when G.S.T. was introduced. Like the Constable of St. Lawrence, I was around when that happened and I expressed my concerns at the time, but I think this is certainly not an occasion for a review. It is an occasion for a decision by the States and that should be one that gives men and women the same rights when it comes to what they pay G.S.T. on.

7.2.15 The Deputy of St. Ouen:

It would be simple for us today to say: "Yes, this is what we want to do, to remove the G.S.T. from menstrual products." Simple, we could say that but what follows is not at all straightforward. That is why I believe that we should carefully review this and support the amendment, because what will follow is the highlighting of all the other inconsistencies that arise because we do presently charge G.S.T. on healthcare and personal care products and it creates difficulties. It creates harm to some and throughout my last 4 years I have had the emails and the Minister for Treasury and Resources, I am sure, will have had them also: why do we charge G.S.T. on incontinence products, as has been said, and on nappies for children? Senator Ferguson referenced compression stockings and bandages, which people need for very significant healthcare needs for long periods of their lives. We charge G.S.T. on asthma and diabetic products and on big ticket items. I remember I have had quite a reasonable number of people contacting me who want to remain independent at home and they need to buy one of those adjustable beds to put downstairs, a profiling bed that tilts every which way. They are expensive and we charge G.S.T. on that but they need that if they are to remain at home, or they might wish to install a stairlift because they can no longer manage the stairs. We want them to stay independent at home but we charge G.S.T. on that. I have raised this with Treasury and, yes, they understand the personal needs, the regrets at this, but this is a principle that was taken all those years ago, which has stood us in good stead but this tax is simple and broad and were we to start exempting products ... and we could make good cases for so many things, all the things that have been talked about today, the list I have just given as well. You can make a good case to say that why do we tax those things because they are essential to life? They are essential to people who have asthma or diabetes, they are essential to older people who want to live independently at home and they should be supported by us giving them that item tax free. We could make those cases. So we end up with a lower take of G.S.T. but we want to provide so many services. How do we do that if we are now taking in a lower tax, or if we have to make that hard decision, are we going to say that G.S.T. is no longer simple? We are going to increase the rates or graduate the rates. There will be rates of so much on some stuff and lesser rates on other stuff.

[15:00]

We can do all that but it gets much more complicated, not only for the public but also for retailers and, of course, more expensive in our daily lives. So, as I said, we could do this today. We could say: "Yes, this product, we are going into an election period and we are going to be able to say we removed G.S.T." but in a few months we will have to deal with all the consequences of that. We will have to deal with the organisations who represent people in this Island, the charitable, voluntary organisations who, quite rightly, will point out the inconsistency to us and what we will do? So we need to think about this to understand it, to review it. How will we deal with that? How will we have the confidence to know that any reduction or waiver of the G.S.T. will be passed on to the consumer? Time and again we have seen this sort of thing being done or we have dropped duties and not much at all has happened. There might have been something given to the consumer but the whole of it has not been passed on. Why do we try and do this but we are not successful? It is not the best way to try some way of targeting need but we are already doing that to an extent because we provide these products free of charge for those for whom affordability is perhaps the greatest issue, to schoolchildren. We have moved on this. We are providing those products free of charge to them.

So I will not be here next session for those interesting debates on all sorts of healthcare needs, but those who are here I wish them well to understand how to square that circle and explain that inconsistency, or do we just say: “Yes, let us exempt so many things that we feel are essential to people continuing in their lives” but then what do we do about the tax take that we have lost and we want to continue and enhance services? Big questions. We do need a review so I hope Members will support the amendment.

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

We have heard the phrase “this is simple” quite a few times used in this debate. It obviously is not simple because we have heard a lot of people explaining why it is not simple. We have also heard Jersey can lead on this. Well, it obviously cannot lead because, as we heard from Deputy Pamplin with a long and extensive list of the world’s countries, it has already been done in various domains. What we are seeing here, and I am afraid to use it, is something that is an unashamedly populist move. We will knock 5 per cent off. This is not like the U.K. where you take 20 per cent off. You take 20 per cent off, it does become cheaper, that is going to be it. With 5 per cent I very much doubt that anyone will see any change in the price whatsoever. We have no guarantee that these things will be any cheaper at all. What we should be doing, and this might surprise people in this Assembly, we can lead on this, we can make these products free. We are doing it for schoolchildren; we can do it for women throughout the Island. It will not cost us a huge amount of money. We could do that. This is ... I was going to use the phrase “point of entry” but I am not going to do that. Well, I have done, but we should have these products free to everybody. Now, if we back the Minister for Treasury’s amendment here, we can look at a report into doing that. If we do not, all we will do is take 5 per cent off. It will become very complicated. We have already heard from various other people that it will come back with: “Should it be this?” I know there are people going it will not do but we have already heard people saying: “What about this, what about fuel, what about food?” It will open up a whole can of worms that does not need to be done. We could have a look at this report and I would suggest we look at doing this as a free product, the same as we have in the schools.

7.2.17 Senator S.Y. Mézec:

I have learnt a lot listening in this debate and I guess I would like to thank in particular Deputy Guida who said something that had simply never occurred to me, which was that you could theoretically use tampons to treat gunshot wounds. I had never thought of that and I am now tempted to carry some on me at all times as a precaution. **[Laughter]** I am also happy to say to Deputy Guida if he would serve as my Minister for Home Affairs, as I know he is so keen to do, that I would be more than prepared to work with him on this to see if we could have some mass distribution to Islanders on that basis. There is one very, very simple reason for voting against this amendment and it is the basic and simple fact that it is a wrecking amendment and the evidence that it is a wrecking amendment has come from I think almost all of the proponents of this amendment, where in their speeches they have given a whole set of reasons, which I disagree with but which are legitimate opinions to hold, that they just disagree with the principle of what the original proposition is saying. Some of those have suggested alternatives, so rather than make them tax exempt, make them cost exempt and just have them free for everyone, and perhaps that is a more sensible alternative. But if that is a better option or if you simply want no action whatsoever, this amendment is not how you go about doing it. The way you go about doing it is to vote against the proposition. I, for one, am fed up of this happening time and time again where Government Ministers bring forward amendments to propositions that have been properly raised by Members of this Assembly who are not in the Executive to try to pull the rug from beneath their feet and stop the Assembly having a clear yes/no vote on a proposition like this. I say to Members that if you think the idea of exempting period products from G.S.T., or in fact exempting any product from G.S.T., is a bad idea, then just vote against the main proposition. There is no need to go ahead with an amendment, which does something that in actual fact none of us want to happen. Those of us who want G.S.T. exempted

from period products have no interest in a review. I do not care what a review says. It is not going to change my mind. The people who are against exempting it from G.S.T., a review is not going to make a difference for them either. They will still want to uphold the principle of having it broad and simple. It is a complete waste of time; nobody supports doing it. It is just a way of getting round having a straightforward yes or no vote on this. I would urge Members, I guess on principle since it is a wrecking amendment, do not let it go ahead and just have the main debate as it will happen because of the main proposition and may the best argument win. Let us have a fair fight. These kinds of amendments, I really hope somebody at some point in the future will have a good look at them and try to find a better way of using this Assembly's time so that we can make decisions based on our conviction not silly ways of obfuscating like this. I think that is all I have got to say. Please vote against this amendment and let us have a proper straightforward vote on the main proposition and when it gets to that proposition it will have my wholehearted support because I reject this idea that there is anything complicated about having a system of exemptions for G.S.T. In my view, it is immoral that we tax some of these basics. The Chief Minister did a wonderful speech about how terrible it would be if our water was cheaper. That is the mindset of some of these people who really think that our tax system ... we should just not have nice things, basically. Water? No, we should pay through the roof for that. Any other essential products? No, it is right that we pay more than we otherwise could. I do not share that politics. I find that very strange and so I personally would like to chip away at that principle and say that if there is going to be these types of taxes charged at the point of purchase to consumers, then it is perfectly reasonable to say that when it comes to those essentials, of which this is an essential we are talking about, we will not apply that same regime to it. This idea that it is a complicated thing to implement it, I do not buy. If worst comes to worst, just look at another jurisdiction and press "control C, swap document, control P". There you go. It is a copy and paste job for some of these things and we will manage and it will be absolutely fine. These arguments about Jaffa cakes are a complete distraction. We are not talking about Jaffa cakes. We are talking about something that is pretty defined and clear and will be very easy to manage at the tills in the shops throughout Jersey. So reject this wrecking amendment and hopefully support the main proposition.

7.2.18 Deputy J.H. Perchard:

There were some really legitimate concerns and points raised in the debate by opponents of ... or I should say people in favour of the amendment, opponents to my view. What I am hoping to do, I think we have had really powerful speeches against the amendment and Senator Mézec absolutely ... I absolutely agree with every word he just said, but I want to try and perhaps get into the nuance of the middle ground that was raised by the Constable of St. Lawrence, who I think generally seems to be ... based on her disclosure of her previous vote on G.S.T. on food and an interest in this area, I do not think the Constable was strongly against the idea of what Senator Moore is proposing but had some questions or concerns or things that she would like more information on. I just wanted to try and give my input on those things in the hope that the Constable might feel able to turn down the amendment at the end of what I am going to say. I think in terms of definition, I am actually a stickler for words and definitions in these things and I completely agree with the Connétable and Members that the words are really, really important and it is very important we do understand what we mean, particularly when we are talking about exempting products from G.S.T. I do think in this case, however, that we can assume that menstrual sanitary products are indeed sanitary products designed to be used by menstruating women. I think that for me in this particular case that is quite clear. If it had just said "sanitary products" I would have a very similar view to the Connétable because there are different people who use different kinds of sanitary products, but I think the word "menstrual" there really clarifies the intent of that for me and I hope drawing her attention to that helps with that as well. The question of the review and the scope of the review and what about people who use products to deal with incontinence and that kind of question, that was quite a powerful argument for me at the time and I thought maybe that is legitimate. My only concern with that view is that the

wording of the proposition does not allow for that scope, so unfortunately ... the amendment, I mean, the wording of the amendment is: “To agree in principle, subject to a review, that all menstrual sanitary products should be exempt from, or zero-rated for the purposes of, G.S.T.” It does not allow that wider scope and that, for me, is where that argument fell down. There was a moment where I was with the Connétable and I thought that is really legitimate. However, revisiting the language I do not think that scope is included in there. Of course, I suppose the other comment to make about scope is that we are not talking about a review of the whole of G.S.T., which would be probably a lot bigger and lot more costly and require a lot more input. We are talking about this one specific issue and how much does the Assembly want to diverge from that one issue in this debate. That is a legitimate choice but, for me, I think the scope of the review is completely limited by the amendment and I do not think allows for those really legitimate concerns to be dealt with. There were some slightly worrying things expressed in this debate that I do think have to be addressed because they reflect the legacy of the historical context of discrimination against women and I think that is something we cannot ignore. In 1811 Dr. John Burns, who wrote “The principles of midwifery”, wrote about periods, that they should be considered a disease and that the patient must be kept at rest in a horizontal position. If that was today, that is one week in every 4, so, sorry, Sir, I will be absent for quite a few sittings because one in every 4 weeks I will just be horizontal. He also goes on to say that: “In intellectual labours, man has surpassed, does now and always will surpass woman for the obvious reason that nature does not periodically [I am sure there was no pun intended] interrupt their thought and application.”

[15:15]

So this is the historical context against which we are discussing this issue. It is not the same as someone becoming elderly and needing a stairlift. This is decades and decades and centuries of the oppression of women or the misunderstanding of women’s issues and needs. Even if you look back to the great scientists of our time, Darwin does not mention menstrual cycles. One of the most fundamental parts of my personal existence of being a woman is that every 4 weeks that happens to me and that is something that ... that historical context of ignoring the issue and then the Victorian era where it was just an embarrassment and you were shamed, you were ruthlessly shamed for your period. It was associated with magic and sorcery and you could stop hailstorms and strike lightning. These are real examples from books; I am not just making this up. This is stuff people used to believe and the close, close links between your menstrual cycle and madness was documented throughout the whole of time, most significantly in the Victorian era, unsurprisingly. This is about education. This is not about attack or blame or critique. It is about educating, but is it not interesting that in a debate about period products we have heard the word “rational” 4 times with the implication that to vote for this would be irrational. Is that not interesting and is it not interesting that when we are talking about menstrual products that we heard the words if we were to G.S.T. them “it would be a gift to women”? Is that not interesting? Again, this is about self-reflection and education. We cannot keep going: “Men, you are all anti-women and you are all sexist.” That is not what I am saying but what I am saying is that there is a long historical context of abuse and oppression and silencing and ignoring of women’s issues and we have not come out of it fully yet. For me this is just one example of where it is about ... of course we want to know the impact but it is also about principle and it is about demonstrating the understanding of the context that we are coming from. That is just as important to me in this debate as the other arguments that we have heard in favour. For me, I will be voting against the amendment because I feel that for me this is about principle. It is about history, it is about context and it is about demonstrating a greater understanding than has ever been demonstrated before about the issues of women, but even if the amendment is adopted I will, of course, be supporting the proposition as amended.

7.2.19 Deputy M.R. Le Hegarat:

It is very difficult to follow that and so I am only going to probably say a couple of words because Deputy Perchard has said it far more eloquently than I would have and obviously knew far more history than I did. I was not going to speak but I had to when people diverted into other areas. This is a discriminatory taxation of G.S.T. It is a discrimination against women because we and people who use those products are the only ones, and so I think that is what I wanted to make the point of. It is discrimination, so we need to get rid of it and it is quite straightforward. Also, it was the rumblings as well in and around me. If the Treasury thinks that it is a good idea for them to be free, that is what this proposition should have said, or the amendment rather, give them for free, and we would have all voted for it. That is what should have happened, so it is too late now. I am going to vote against this and I will vote for the proposition.

7.2.20 The Deputy of St. Mary:

In fact, the last speaker has more or less stolen my words. I was attracted by the suggestion of the Deputy Minister for Treasury and Resources that the products be made free and I appreciate the reluctance to meddle with the existing system and create exemptions. I simply wonder at this stage whether the Minister for Treasury and Resources herself will feel able to say before departing that she would willingly put that forward on the basis that when Senator Moore raises her proposition I am sure she would be happy to not withdraw it but back down from seeing it come to fruition if these products were free at the time. That is all I have to say.

7.2.21 Deputy C.S. Alves:

A lot of what I was going to say, as the Deputy of St. Mary mentioned there, has been covered by other speakers, and I am glad I have had time to calm down, to be honest, because hearing the Jaffa cake argument and suggesting that period products could be used for other things was just appalling. But there was one argument I do not think has really been addressed much by many Members and that is this whole thing about programming computer systems. Seriously, I mean, we cannot ask a computer to divide by 1.05? That is what we are asking. To take G.S.T. off a product you divide by 1.05. Have you seen what systems are capable of nowadays? We have got 3D printers producing phenomenal things and, quite frankly, I am just so fed up of hearing about computer systems not being able to cope with this and that. I just cannot believe it. I do not believe it. We are meant to be a leading digital hub. We are one of the very few places that has fibre optic connectivity and we cannot get a computer to do different G.S.T. rates. Okay. I could go on about V.A.T. and why we have allowed high street shops to do U.K. pricing as well, but it probably is not the right time. There has also been mention about how adding all these different rates is going to complicate things, so because something is complicated we should not do it? I do not think that is right. Surely we should be doing what is right whether it is complicated or not. It just seems ridiculous to even use that as an argument. I think some Members have short memories and forget what they have proposed themselves, because I believe that Deputy Ash said that 5 per cent will not make much of a difference but yet he was prepared to take a few pence off alcohol. Obviously there have been mentions about the other things that this review may raise and I believe some other Members mentioned that, that there are other things that should be exempt. Yes, absolutely those products should be exempt. I believe the Minister for Health and Social Services mentioned a number of things that I was nodding along with. Like somebody else outlined, I think it was Deputy Perchard said, that is not what this amendment says. At the end of the day, G.S.T. is a regressive tax and it is completely unacceptable. The introduction of G.S.T. itself was a pure example of once again where the public was ignored and where we were not prepared to make decisions to maybe tax those who are a bit more capable of paying tax, should we say. So I am all for reviews in certain scenarios where maybe there is a lack of research or data, et cetera. We had Deputy Pamplin who quoted a number of examples from other jurisdictions and a lot of data and, like Senator Vallois said, would a review even be cost effective if we are going to be paying for all these consultants. I also want to touch on something that the Chief

Minister said. If the Chief Minister thought that period products should be free, then why did he not lodge an amendment to that effect? So I will not be supporting this amendment but I will support the main proposition and I would urge Members to do the same.

The Bailiff:

Does any other Member wish to speak on the amendment? If no other Member wishes to speak on the amendment then I close the debate and call upon the Minister to respond.

7.2.22 Deputy S.J. Pinel:

All Members who have been with me over a long period of time will know that I am not a fan of long speeches, however, there have been quite a lot of questions here and I will try my very best to address all of them. I think Deputy Doublet was the first to speak and expressed disappointment in the amendment, and the only place in the British Isles where we have not reduced. I refer - and I do not want to keep doing it but several Members have brought it up - annex 1, page 7 in the amendment report shows exactly how many countries across Europe have changed their G.S.T. rules because of this. U.K., Ireland, Guernsey it does not apply because they do not have G.S.T., and the Isle of Man are the only ones. So please refer to annex 1 of the cross-country comparison. Several Members have referred to that so I do not want to keep bringing it up. Again Deputy Doublet referred to "there is more we could do" and that was the whole reason for the amendment is because there is more we could do. I very much want to see this go forward but it cannot be done in this particular term of office. That is why we have asked for the review to give us time to work out what the consequences of big retail outlets in Jersey, whether it would apply or not. That is why we wanted the review. I object to the notion of a wrecking amendment. It is not; it is brought forward as a hopeful and helpful amendment to a proposition that cannot be determined in this term of office. The amendment is to allow for a future which I will support - I think as Deputy of St. Mary said - I would absolutely support that. But it cannot be done in this term of office. Deputy Martin said that there will be in September free products provided in schools, so the Minister for Children and Education has responded to that. Again I am not objecting to the idea, it is just the timing, the calculations and how we conduct the G.S.T. and the effect it will have on other commodities. I think the Connétable of St. Martin mentioned the pink tax, well that is even more difficult to accommodate so hence a review again. I do not like the word "review", I never have liked the word "review" but there is no option with this because the knock-on effect of G.S.T., what the loss of G.S.T. would be, who would be affected, would it be gender transmissible, is it affecting - as Deputy Guida said - other sanitary products or not. This is why we need the time to consider what the effects will be. I think I have said that time and time again when it has come to food. I will not go into Jaffa Cakes or chocolate body paint. I will not go into misogyny either. However, I think that we have always said that G.S.T. exemptions have been called for year after year after year. It is just not a simple method to deal with. If you are going to do this across the board and make it fair for people, and I think the Senator's proposition is that hitting for lower income people and girls and ladies, women, it is just not that simple. It cannot be generated overnight and we need to work out how it can be done, whether - as I have said before - retailers can take it off their retail bill, which we have tried with other measures and it just does not work. They cannot do it. It would mean in smaller pharmacies changing their tax system for billing out, so it is just not an easy situation to put into place immediately and it could not happen immediately legislation-wise anyway. The timings are just too difficult. I do not really have an answer to Deputy Southern's because it apparently disgusts him so I am not quite sure I can say much more. Deputy Pamplin came out with a wonderful list of global countries but, as I repeat, go to annex 1 and it will give you the changes in G.S.T. quite comprehensively on page 7 of my report. The Connétable of St. Lawrence said a review would define what exactly the menstrual sanitary product was and we need to have in a review panel - I quite agree with the Connétable - a gender balance obviously, and that refers again back to Deputy Guida's speech. Senator Ferguson, an increase in G.S.T.; she agrees that it would open a gateway for increases across the board. It

would, so you cannot say you would reduce G.S.T. or not even apply it on one thing without looking at everything else involved.

[15:30]

Deputy Tadier, if men menstruated; I am not quite sure I can comment on that one either. Senator Vallois, Revenue Jersey calculation of costs and facts; it would be exactly that, of how we would do this review. Again, I have to stipulate, I do not like the word “review”, we have done too many, but in this case we have to know what the knock-on effect of this is going to be. Deputy of St. Ouen, it could be simple but it is not straightforward; it is absolutely not straightforward. The Deputy mentioned profiling beds, medical beds, I mean, where do you go? Where do you start? Where do you stop? I have had that situation recently personally. We have heard this phrase “it is simple to achieve” too many times. It is not. It is incredibly complicated to achieve and that is why we need to look into it more deeply. I am not in opposition to it; I do not think anybody is, but we just have to work out what the knock-on effects would be. Deputy Perchard, Deputy Le Hegarat; it would not be discrimination against women whatsoever because, as I have said, I am quite in agreement that we should go forward. We just need to know what the knock-on effects are going to be. I just must mention the Chief Minister and the Minister for Social Security. The Minister for Social Security has already bought in free products in schools in September, which I have said already, and also the question of a review, would the price then - that is the product being free - be passed on to the consumer. All of this has to be looked at very carefully before we pass it on as not a low, broad and simple G.S.T. effect. Thank you, I propose the amendment and ask for the *appel*.

The Bailiff:

The *appel* is called for. I invite Members to return to their seats. I ask the Greffier to open the voting and Members participating remotely to participate in the normal way. The vote is on the amendment. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The amendment is defeated. **[Members: Oh!]**

POUR: 20		CONTRE: 20		ABSTAIN: 0
Senator I.J. Gorst		Senator T.A. Vallois		
Senator L.J. Farnham		Senator K.L. Moore		
Senator J.A.N. Le Fondré		Senator S.Y. Mézec		
Connétable of St. Lawrence		Connétable of St. Helier		
Connétable of St. Brelade		Connétable of St. Martin		
Connétable of Grouville		Deputy G.P. Southern (H)		
Connétable of Trinity		Deputy of Grouville		
Connétable of St. Mary		Deputy M. Tadier (B)		
Connétable of St. Ouen		Deputy M.R. Higgins (H)		
Connétable of St. John		Deputy of St. Martin		
Connétable of St. Clement		Deputy L.M.C. Doublet (S)		
Deputy J.A. Martin (H)		Deputy of St. Mary		
Deputy J.M. Maçon (S)		Deputy of St. John		
Deputy S.J. Pinel (C)		Deputy M.R. Le Hegarat (H)		
Deputy of St. Ouen		Deputy S.M. Ahier (H)		
Deputy R. Labey (H)		Deputy J.H. Perchard (S)		
Deputy G.J. Truscott (B)		Deputy R.J. Ward (H)		
Deputy L.B. Ash (C)		Deputy C.S. Alves (H)		
Deputy G.C.U. Guida (L)		Deputy K.G. Pamplin (S)		

Deputy of St. Peter		Deputy I. Gardiner (H)		
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7.3 G.S.T. on menstrual sanitary products (P.66/2022) - resumption

The Bailiff:

We now return to debate on the main proposition, not as amended. Does any Member wish to speak on the main proposition?

7.3.1 Senator J.A.N. Le Fondré:

I will keep it short, I am not going to do chocolate body paint again and I do not want to upset anybody with making references to it. I think the point is I strongly believe that what this does is it does not achieve the benefit that one is trying to go for, that what the Minister for Social Security has done is by far the preferable way of doing it. So from my point of view if this proposition is turned down I would certainly absolutely commit that we would go away and do the work and make sure it is free. That is an absolute guarantee. I have to say fundamentally, having been through so many debates on the issues around exemptions and the difficulties that arise from that, that is why I do not support this method because I do not think it achieves the right amount of benefit; we are talking pence. Whereas what I think the Minister for Social Security has started needs to be carried on further. That is by far for me the better way of achieving the benefit one is trying to take, and that is why I will not be supporting this, for all the consequence that we have talked about and the consequences of amendment. I really do urge Members ideally not to support it. I do need to make one point which was raised. It is not as simple as dividing by 1.05. You have got to reprogram a computer system because you are doing a different thing in a different jurisdiction, and then you have got to consider whether the benefit is actually going to be passed on to the consumer. From my perspective, I think you are far better off leaving it as it is but getting it in a different way and that is the approach we have taken in so many areas in dealing with some of these anomalies that have come up. I would have voted for the proposition if it had been amended; I will not be supporting it.

7.3.2 The Connétable of St. Lawrence:

I would just like to refer to something we have just heard from the Chief Minister because I think I heard him just give a commitment to making these products free to all. I think that changes my view potentially on the way I am going to vote on the main proposition, but my view needs to be clarified by the proposer when she sums up because she has just heard the same commitment that I have and I really do wonder whether that will make her change her mind over this and potentially, I suppose, consider withdrawing the proposition. We shall wait and see. But how she sums up will absolutely decide me on how I am going to vote on this because at the moment my view is that I will not support it unamended.

7.3.3 Deputy J.A. Martin:

I obviously was not clear enough in my speech on the amendment. This work fell to me with my diversity and inclusion hat and the petition was for free for everyone in Jersey following the Scottish method. So in the time I had meeting with, it was Deputy Maçon and then Deputy Wickenden, we realised the time we had was only to be able to do children. It has been the intention of this Minister to then go on and do the other work. I am already looking at Scotland and how they have distributed cost and everything. But if you really want to help it goes back to taking ... we are 5 per cent V.A.T., one of the countries that Deputy Pamplin read out, an African country, said they have lowered their V.A.T. to 7 per cent, still 2 per cent more than us. Free is what we are aiming for. Now, there will be a cost to that but we will have to get around that and that is what I have always said I wanted to do. That is what the petition asked me to do and I have bitten it off in 2 chunks; do the children first because it was easier, smaller project and less money, but the intention is - for all the reasons said by everyone - it is a product that only half of the population uses, it makes sense, I want - and I think I

have got commitment from this Council, and it will be in my legacy report - to carry on what the petition asks: free for all in Jersey. I said again in my speech on the amendment, if you tinker with the pennies it will not give the initiative to get this done ever and that is a worry. The commitment is there. I cannot say it again and I hope it is understood. That is why I said it earlier and I cannot support this because really when you are going through different retailers, et cetera, it might be cheaper there and they will take a bit off there and it is still dearer for that person but they can only shop there because they might not have a car and they have only got a small chemist next to them. What help is that? Not a lot. So my commitment with my diversity head on, and for all the reasons, it affects women and they should not have to pay for something that they need to 4 to 5 weeks; the commitment is to be free.

7.3.4 Deputy M.R. Higgins:

I am going to keep it very brief. I would just like to say again here we are, and this is, I forget, about the fourth States sitting I have sat in at the end of business when we are dealing with lots of issues right before the very end. Then the Chief Minister has just come up at the end of his speech and said: "Okay, we have lost that amendment, I would have gone for the amendment, we will make the product free." Then we have the Constable of St. Lawrence: "Oh, that might change my opinion of this." The truth of the matter is, is this work going to be done before the election? I have my doubts. The point is, we should be basing it on what we have in front of us. The amendment has fallen, we have the main proposition here now, we should either support it as it is at the moment and who knows what the next States sitting will do. So I will leave it at that. I have just noticed that your recognition of my wanting to speak has only just appeared on my computer now, so it shows there is a delay in the system.

7.3.5 Deputy L.M.C. Doublet:

I just have 2 points to make really. Several Members have - and I think it is mostly Ministers who are urging us to vote against this - have mentioned that the group that most need it, which is arguably children and young girls who are at school, are receiving these products for free already. I do not think that is strictly correct. My understanding of it is that there are period products available in schools for children that need them, but children who are menstruating are not being given all of their period products for free. They are still going to need things after school and on the weekends and outside of school, so I do not think that point reassures me, that the group that most need it are getting free products. Also, Sir, this might be something that you can advise on because the wording of the proposition calls for removal of G.S.T. on period products and some Members are arguing that we should not vote for it because we can do better. Now, surely by making period products free that achieves the principle of the proposition because you are not going to be paying G.S.T. on something that is free. So if there are Members here who want to go a step further and make all of these products free then they should not feel that they cannot vote for this proposition. Can I just check my understanding of this, that if the action that was taken by Government was to make all period products free, does that satisfy the wording of the proposition?

The Bailiff:

Well, in a technical sense, no, it does not, because the proposition requires for exemption from G.S.T. The practical effect, the non-technical effect, will of course be that if menstrual sanitary products are free, well, you cannot charge G.S.T.; 5 per cent of nothing is nothing so you cannot charge G.S.T. on it. So it seems to me that although it would not meet the strict terms technically of the proposition it might - but that is not really a matter for interpretation of the proposition - meet the effect of it.

[15:45]

Deputy L.M.C. Doublet:

That is helpful, thank you, Sir. I am indeed a Member who thinks that period products should be free and I look forward to seeing this on people's manifestos, particularly the current Chief Minister, who I think is an Alliance member, and other members of the Alliance Party stated they think that. I really hope that it will be on their manifestos and that they will follow through. But I do not see any reason, even for people who do not think we should exempt the G.S.T., vote for this and then go one step further. I think we should vote for this, approve it, and then it just keeps it on our priority list because we all know how many different priorities are going to be put upon us or priorities that we will have ourselves. This is something that should not be forgotten so I really do urge Members to vote for this and then I hope that we can also go steps further to make things even better and even more affordable.

Deputy J.A. Martin:

Sir, could I have a point of clarification from Deputy Doublet's speech please?

The Bailiff:

Would you give way for a point of clarification, Deputy Doublet?

Deputy L.M.C. Doublet:

Yes.

Deputy J.A. Martin:

I think the Deputy said her understanding that the products would be free in school but that does not end the subject because children leave school. That is exactly what the ongoing conversations are now, how we can make sure children have got enough ...

The Bailiff:

I am sorry, Deputy Martin, no. A point of clarification is when you are asking the speaker to clarify something they have said. It is not a speech in response explaining what the position should be, I am afraid.

Deputy J.A. Martin:

I asked her to clarify because she heard these things that are not true.

The Bailiff:

That is not a point of clarification of the speech; that is your attempt to give a second speech which I am afraid is out of order. Does any other Member wish to speak on the proposition?

7.3.6 Senator I.J. Gorst:

I know it is getting late in the week but I am sure I am not the only Member that is now somewhat confused because we have before us a proposition which cannot be given effect to this side of an election, we have a commitment from the Chief Minister which I am not sure there is a mechanism to give an effect to before the election. None of us know, those of us standing for election, whether we will be here again. We are in what we have referred to proverbially as a pickle, so it seems to me I am not sure whether it makes any difference whether we are for or we are leaving the pickle for the next Assembly to pick up, and I wish them jolly good luck with it.

7.3.7 Deputy G.C. Guida:

I will try to answer some of things that I have heard during the 2 previous discussions. Talking about the potential for a review, somebody said we have got perfectly capable officers and we should just give it to them to do and they will know exactly what to do. If I am allowed I am going to make another joke, if it is, because basically the capable officers who are supposed to do this, when presented with it told us: "We would rather have a hole in our head than try to change a whole system

of G.S.T. to save £100,000. It is that complicated, it is that complex, we do not want to go into it and start having exemptions for a product and have to look at products to see exactly how they are defined and how we define them and how people do not abuse the definitions. We would rather have a hole in our head than even look at this.” Another very good thing was: “If men menstruated this would not be a problem.” Well I do not think we ever suggested that shaving cream should be G.S.T. exempt or any product that is especially used by men. But interestingly, the 3 people in Government - both are in Ministerial Government and both in the civil service - the 3 people who were 100 per cent involved in this were all women. I think we should be able to defer to them to have a fair judgment on this. Sometimes, in fact quite often, it feels that it is the same planet but we are in completely different worlds. I have heard several times - once from somebody who does it all the time so it is fine - but several times: “This is a simple decision.” Just because it is binary, just because it says yes or no, it does not make it a simple decision. I mean, I could bring to this Assembly: “Let us abolish income tax.” I think that is 5 words. The answer to it is *pour* or *contre*, it is one word. This would fit in a very, very tiny paragraph and you could argue it is a massively simple decision, let us abolish income tax. Frankly there would be a crowd outside waiting for us and celebrating us and voting for all of us next time. Let us just abolish income tax; a very simple decision, very easy to make, everybody is going to be for it. It would take us a decade to extricate ourselves from what would happen if we abolished income tax. Where we would find the £900 million budget that we needed for next year? It would take us a decade to try to find the money from other places if we did that. Just because a decision looks simple does not mean that its implementation is simple. Most importantly, it certainly does not mean that the consequences of that decision are going to be straightforward. This is the problem here; this is exactly the problem here: “A very simple decision, let us make a gesture, let us have a token which is important, and it is very easy to do, we just vote it through, we press the P button and it is done.” Do any of the Members of this Assembly have any idea how you do a G.S.T. declaration every quarter and what you put into it? I know that some do; I know a handful do, and it is probably the simplest in Europe because we have one rate of G.S.T. and it applies to everything you do within selling because it is a sales tax. It is about the way you sell, not the product. That is how the Americans do it. A product is 10 dollars in the shop, you get your product, and at the register they add 7 per cent depending on the State. They do not look at the product: “Wait a minute, is this Jaffa cake a cake or a biscuit?” They do not look at it. You have come through the cash register, 7 per cent, that is it. That is the way we have done it here. If it is done through a prescription, if you go through the supermarket and you go through the little pharmacy and give a prescription, no G.S.T.; if you buy the same aspirin off the shelf, G.S.T. When you go through a cash register, 5 per cent, 5 per cent, 5 per cent. So, yes, it is easy to change the programming of one computer but it is not easy to change the programming of 200 computers and the programming of our income tax for computers and the accounting that needs to be done quarterly to account for all this and start separating products when they are not separated. The consequence of this will be way, way more expensive than the benefit. It is a nice token. I was ready, as I told the Assembly, to say: “Fine, yes, of course, it is so easy, look at the report” and then discovered that it was not at all, that we did not have exemptions for specific products, we had exemptions for types of sales and this would not work. Now, I hope the Members noticed that it took less than 10 minutes for this Assembly to find another product that absolutely deserved to be exempt. I predicted it. Less than 10 minutes. I predicted it and I was surprised myself. I thought: “No, they are going to talk on the subject” no, no, no, of course, the next speaker goes on: “What about bandages? Bandages should be exempt.” Ten minutes. Every single sitting of this future Assembly will have somebody coming in with a new exemption. I can make a prediction, I will sign it, I will put £100 on it. I am just making sure I am all done but, yes, I am. The review thing; I think it was poorly worded and it was done quickly, we needed to put something there. We did not think of the review as: “Let us look at how we can take G.S.T. off.” We knew, because we had been told by the guys who do it - who are women - we knew that it would be extremely difficult, so we knew that G.S.T. was not an option. When the Minister put the review as an amendment in her head is: “How can we deal with this better? How can we do

something about period products so that they are cheaper and more available or even free?” That was her intention at the time, it was not: “Let us look at how we can remove G.S.T.” We were completely aware that it is unbelievable difficult and will cost much more than the money it will save.

7.3.8 The Connétable of St. Martin:

I am not feeling at my happiest this afternoon because I have had to listen to absolutely one of the most offensive speeches I have ever heard in this Assembly. If you are looking for funding for sanitary products I would suggest that if more care had been taken by the Council of Ministers for the funding of the new hospital we would have plenty of money to cover the loss of G.S.T. For example, last August the existing Jersey bond was trading at a borrowing cost of 1.58 per cent. Today it is 2.58 per cent meaning costs are 63 per cent higher. No new bonds have been issued which would have locked in the lower interest rate. This means now looking at raising £300 million plus. If the Treasury and Council of Ministers are willing to find this astronomical amount as extra funding for the hospital then you can easily lose the relatively small amount of money to help women and girls with the loss of G.S.T. and put an end to period poverty. It is interesting that the absolutely dreadful management with the bonds has been kept quiet but much has been said to wreck a proposition to help women.

7.3.9 Senator T.A. Vallois:

Just briefly in response to Deputy Guida. I think he has got the power role wrong. I believe if there is political will on behalf of the public we ask officers to get on to do it whether they have a hole in their head or not. They are capable because it was me that said it, and I have worked with some extremely capable, extremely diligent officers in the States and they have always recognised that it is the Minister or the States Assembly that make the decisions for them to go away and implement. I would also like to state that for Members to turn around and say how difficult it is to exempt I would suggest they read the G.S.T. Law and look at schedule 5 and 6 and the fact that we have got a number of exemptions and a number of zero-rated supplies already. Now, where were all the reviews for all those particular areas? I do not know. This is a principle debate. I have never been a fan of G.S.T., I was one of the ones that signed the petition back in 2007 I think it was; 19,000 people not wanting G.S.T. If it is the position of the Chief Minister that menstrual products should be free we have the ability, I believe, under our system for a Minister to make a Ministerial Decision, and there is the ability under our system for the Minister for Treasury and Resources to transfer funds via a heads of expenditure. It states it in the Public Finances Law. So if we are looking to provide free menstrual product maybe that is the way to go.

7.3.10 Deputy J.H. Perchard:

I think I can feel us spiralling a little and so I just wanted to try and bring back a bit of positivity and just to thank the Chief Minister and the Minister for Social Security and the Minister for Treasury and Resources sincerely because making a commitment in the Assembly to making sanitary products for menstruating women free is huge, and I am genuinely really delighted to hear that. I genuinely am and I think that is worth a celebration. The fact that the intent and the will is there at the top of our Government for me is really positive and really meaningful so I am genuinely grateful for those statements. I think that if one is fundamentally against this exemption then obviously one can vote against the proposition, but if some individuals agree that: “Well this would be a good idea but we want to go further” then there is nothing to stop those individuals voting for part (a) and against part (b) as a matter of principle, as a gesture of support of the principle.

[16:00]

I just wanted to point that out because this is a really positive thing and, Senator Moore, a fantastic result either way I think because if this does not pass we have had that verbal commitment to take

this forward and to make products free. So thank you to those Members of Government who have made that pledge, thank you to Senator Moore for pushing it to this point, and I think we can all feel very positive about this.

7.3.11 Deputy G.P. Southern:

Very briefly. A pledge means nothing at this stage because no future Minister can be held to account by any Minister here.

The Bailiff:

Does any other Member wish to speak on the proposition? If no other Member wishes to speak on the proposition then I close the debate and call upon Senator Moore to respond.

7.3.12 Senator K.L. Moore:

I thank all Members for participating in this debate, it has been lively and I am really proud of some of the speeches that we have heard this afternoon. It has been refreshing and, as Deputy Perchard pointed out, really very positive, so thank you all. When I first started to think about this as a proposition it did not feel like a natural place for me to be inhabiting politically because I am very aware of the importance of keeping our tax regime low, broad, simple and fair. In fact I have I think at least once voted against removing G.S.T. from food, which is not an easy thing to do, but I came from that premise of low, broad, simple and fair, and that is why the Corporate Services Scrutiny Panel has taken upon itself at Government Plan times to consider the community cost bonus, which is of course the mechanism that a former Assembly constructed to help support people who are impacted by G.S.T. on such vital products such as food. We brought an amendment successfully, which we were grateful to this Assembly for supporting, which raised the level of community cost bonus to meet the increasing cost of living. Of course we now have reached an agreement with the current Government who have set up a special project team to look at the issue going forward and present the next Council of Ministers with a suite of measures that will be ready to go to help that Council of Ministers and this Assembly - whoever it will be constituted of - to cope with and implement measures that will help the people of Jersey cope with the rising cost of living that we know they will be facing as winter approaches. I am grateful to those who have made commitments in the Assembly today to look at making period products free to all. I look forward to seeing that in their manifestos if they have not already gone to print. I should imagine there will be a nice sticker as an addendum to them all. So well done to them and that should be a debate that will be relished, I am sure, by the next Assembly. But as one of the final speakers pointed out, we have no jurisdiction over that final Assembly beyond this proposition and, as I stated in the opening speech, this proposition was brought to give them an indication that this was an area to look at and something to do in the early days of the next Executive that will make a difference in many respects. We do not need to rehearse the excellent arguments and points that have been put forward by those supportive of this proposition in the body of the debate. We would not be world leading - as Deputy Pamplin pointed out - there have been other jurisdictions and nations that have taken similar measures, and of course Scotland began to provide free menstrual sanitary products in November of 2020. There is plenty of precedent but what we need is will. We have heard today, and on many occasions prior to today, the Minister for Treasury and Resources tell us that it is all very complicated. Well, thankfully this is our final sitting and all I can say is where there is a will there is a way. Also with the rising cost of living the States' coffers will be boosted because rising costs mean that G.S.T. revenue will increase. So this very small amount of money will be more than compensated by those rising costs, and I am sure that the special project team that is looking at community cost bonus and measures that will assist with the cost of living going forward will be certainly working out how better to balance that effect to alleviate the rising costs on the right groups of people within our community so that they can all afford a decent quality of life. So I go back to the main point, where there is a will there

is a way, but I can also offer an assurance that there is also a manner to pay. So I think all Members can feel confident in voting this proposition and I ask for the *appel*.

The Bailiff:

The *appel* is called for. I invite Members to return to their seats. I ask the Greffier to open the voting and invite Members participating remotely to vote in the usual way. If Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. The proposition has been adopted.

POUR: 26	CONTRE: 16	ABSTAIN: 1
Senator L.J. Farnham	Senator I.J. Gorst	Connétable of St. Lawrence
Senator S.C. Ferguson	Senator J.A.N. Le Fondré	
Senator T.A. Vallois	Connétable of Grouville	
Senator K.L. Moore	Connétable of Trinity	
Senator S.Y. Mézec	Connétable of St. Peter	
Connétable of St. Helier	Connétable of St. Mary	
Connétable of St. Brelade	Connétable of St. Ouen	
Connétable of St. Martin	Connétable of St. Clement	
Connétable of St. John	Deputy J.A. Martin (H)	
Deputy G.P. Southern (H)	Deputy S.J. Pinel (C)	
Deputy of Grouville	Deputy of St. Martin	
Deputy K.C. Lewis (S)	Deputy R. Labey (H)	
Deputy M. Tadier (B)	Deputy G.J. Truscott (B)	
Deputy M.R. Higgins (H)	Deputy L.B. Ash (C)	
Deputy J.M. Maçon (S)	Deputy G.C.U. Guida (L)	
Deputy L.M.C. Doublet (S)	Deputy of St. Peter	
Deputy of St. Mary		
Deputy J.H. Young (B)		
Deputy of St. John		
Deputy M.R. Le Hegarat (H)		
Deputy S.M. Ahier (H)		
Deputy J.H. Perchard (S)		
Deputy R.J. Ward (H)		
Deputy C.S. Alves (H)		
Deputy K.G. Pamplin (S)		
Deputy I. Gardiner (H)		

The Bailiff:

The next item of Public Business is the Channel Islands Lottery: Allocation of 2021 Proceeds, P.68, lodged by the Minister for Economic Development, Tourism, Sport and Culture and I ask the Greffier to read the citation.

Senator L.J. Farnham:

If you remember yesterday, the Assistant Minister is taking this item and asked that it be deferred if he was not present, which you agreed to.

The Bailiff:

I cannot remember, was that put to the Assembly? In which case it is deferred and ...

Senator L.J. Farnham:

Sorry, deferred to later on in the debate, not deferred.

The Bailiff:

No, deferred to later on in the sitting. Yes, I understand.

8. Draft Domestic Abuse (Jersey) Law 202- (P.69/2022) - as amended (P.69/2022 Amd.)

The Greffier of the States (in the Chair):

[**Approbation**] All right, that is enough. [**Laughter**] The next item for debate is P.69, the Draft Domestic Abuse (Jersey) Law, lodged by the Minister for Home Affairs. I ask the Greffier to read the citation.

Assistant Deputy Greffier of the States:

Draft Domestic Abuse (Jersey) Law 202-. A law to create an offence of domestic abuse, to provide for domestic abuse protection orders, and to require people who commit domestic abuse offences to provide personal information to the police. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

8.1 Deputy G.C. Guida (The Minister for Home Affairs):

I have a good report on this law which I will read verbatim but first I would like to mention that this has been difficult to bring to the States. Those who were involved, especially the Scrutiny Panel, know that it was not straightforward, it was delayed, it was changed and it was changed again at the very last minute. But I am grateful for all those who managed to make it exist as it is today and I hope that it will please the Assembly. Jersey is a safe and secure place and Islanders enjoy an enviable public environment with low levels of crime and disorder. However, as in any community, there are issues of abuse and coercion behind closed doors in a minority of relationships. Our current framework of criminal law does not effectively address many of those offences or the harm they cause and does not offer sufficient ongoing protection for victims or serve to alert potential victims to the risks they may face in a relationship. My intention in bringing forward this Draft Domestic Abuse (Jersey) Law is to allow the justice system to properly address this harm. We do not know the extent of domestic abuse in Jersey, no jurisdiction truly does, although a proxy measurement can provide an indication of the scale of the issue. I suspect that, like sexual offences, domestic abuse is seriously underreported. It is a crime that will usually take place without independent witnesses, behind closed doors. The victim will often be dependent on the perpetrator to some degree and they may not have the support or confidence to report the matter to the police. What we do know is that our multiagency risk assessment conference, which is made up of various agencies including the police and domestic violence advisors, saw 159 cases involving domestic abuse in 2019, 166 in 2020 and 157 in 2021. Many of these will be the same cases continuing with people or families tied into an ongoing cycle of abuse. In addition the police have advised that on average over the past 10 years 13 per cent of recorded crime has been associated to some degree with domestic abuse. Over 400 domestic incidents were recorded in 2021. Overall the best estimate from the Safeguarding Partnership Board is that domestic abuse affects approximately one in 4 women and one in 6 men in their lifetime. It is of course not only adults who are affected by domestic abuse. Safe Lives, the charity which supports survivors of domestic abuse and trains professionals has estimated that 175 children in Jersey are living in a household where there is a high risk of serious harm, and 225 are living in households where there is a lesser but still real risk of serious harm from domestic abuse in the family. Domestic abuse is a complex and challenging subject which can wreck lives and devastate families. It can take a number of different forms beyond physical violence. Victims of abuse can

face threats of violence, psychological abuse, financial control, harassment, sexual assault and coercive and controlling behaviour. Also domestic abuse can occur not only in romantic relationships but it can also be a feature of family and carer relationships. Domestic abuse can lead to many ill-effects including physical injury, fear and low self-esteem, and it has an adverse and lasting impact upon mental health. In addition, living in an abusive household is a traumatic experience for a child who can experience feelings of blame and responsibility, especially when they are used by the abusive partner as part of the controlling behaviour. Domestic abuse in the home is acknowledged to be a key adverse childhood experience which can have a huge impact on life outcomes. Children who experience domestic abuse continue into adulthood with a greater risk of developing poor outcomes concerning mental health, well-being, substance misuse or criminal behaviour. The justice system can only address issues that are described in law. Currently the law recognises that violence and sexual assault can take place in a relationship and the courts recognise domestic violence as a particularly harmful crime.

[16:15]

Courts impose heavier sentences for domestic violence offences to reflect that these crimes represent the violation of the trust and security that normally exists between people in an intimate or family relationship. What the law cannot currently recognise is the non-physical often lower level abuse that can occur persistently and often for a prolonged period of time, thus there is no way for a court to effectively end the harm caused by such abusive behaviour. Domestic abuse can be a pattern of behaviour consisting of actions that do not meet a criminal threshold when taken in isolation but which taken together can agree devastating harm to a victim. The intention of this domestic abuse law is to better recognise the ongoing and intimate nature of domestic abuse, give enhanced protection both to direct victims and to children, and to lay the groundwork for a consistent, effective response to domestic abuse within all agencies. The 3 key elements of the legislation are the domestic abuse offence itself, the new powers for the courts to impose domestic abuse protection orders, and a requirement for the police to retain the details of a domestic abuser. The new domestic abuse offence will apply to behaviour between 2 people who are aged 16 or over and personally connected. Personally connected here means people in a relationship, previously in a relationship, co-parents of a child or family members. The offence will occur when one person acts in an abusive manner to the other one on more than one occasion. This could be by committing an act of violence, harassment or neglect, or acting in a coercive or controlling manner. Coercive or controlling means any behaviour that is reasonably likely to make a person dependent on another person or isolate or control a person or their activities. This will now be categorised as domestic abuse. The abusive behaviour or failure to act must cause or be reasonably likely to cause either psychological or physical harm. This structure will capture the essence of the problem with domestic abuse-type offences where the cumulative effect of such behaviour is not currently recognised. Undoubtedly there will be some instances whereby a person believes that they are acting on another's best interests, for example, a wife who hides the family money from her husband to prevent him gambling. In this case, as we would expect, there will be a defence where a person is acting reasonably and in another's best interest. Where an individual is convicted of the offence of domestic abuse the sentence will be aggravated or made more significant by several factors that can be applied. Where abuse is directed at a child or pregnant person, where a child is used to facilitate the abuse, for instance in a pattern of psychological abuse, or where a child in the relationship is affected by the abuse, the court may aggravate the sentence it applies. The courts will also be able to issue domestic abuse protection orders to anyone aged 18 or over. These orders will prevent a person who has committed domestic abuse or a similar offence from causing further harm to a victim either by committing further domestic abuse or otherwise interfering with the victim's life. The court will have a wide range of options to attach to the domestic abuse protection order. For example, the order could prevent a person from going to a particular address or require them to attend a Jersey domestic abuse programme. The order would continue until a specified date or event, or until a further order is made,

or unless an appeal against the order succeeds or is varied by the court. This law will allow the Attorney General to apply to a court to impose notification requirements on any person convicted of the domestic abuse offence or another offence committed in the context of domestic abuse. The court would consider whether it was proportionate and necessary to do so. If requirements are applied the offender would be required to notify the police and keep them informed about where they live and what names they are using. This is, broadly speaking, the same arrangement that is in place for convicted sex offenders which underpins the operation of the sex offenders register. Currently the States of Jersey Police do disclose certain information on an ad hoc basis under the established domestic violence disclosure scheme, known in the U.K. as the Clare's Law arrangements. This new legislation will see those arrangements put on a statutory basis and significantly increase the amount of information available to the police about offenders. It will provide a clear framework and recognise processes for the exercise of these and ensure that disclosures are reasonable, proportionate, and based on a credible risk of harm. Ultimately the draft law will fill the gaps in the current legislation to ensure that the police and the courts have the relevant tools to safeguard and support our victims. I maintain the proposition.

The Greffier of the States (in the Chair):

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

8.1.1 Senator T.A. Vallois:

I stand to speak to firstly thank the Minister and all the officers and the law officers in particular. I think it is important that I provide an explanation for my withdrawing of the amendment. I brought it in good faith, and the Domestic Abuse Law is an extremely important step for us in Jersey defining what domestic abuse is and how we take that forward. But I do not think the work on domestic abuse is quite finished yet. I have kindly from the Minister had a commitment whereby there will be further work looking at police bail and how that will work going forward. I would ask that is considered very thoroughly before the commencement of the legislation, and the reason why ... and this is where I explain what happened with regards to the amendment I made to the legislation. We have very limited pre-conviction notices or orders in Jersey for the police. In actual fact I asked a written question on this, Members will be able to see, which came in recently. I was just trying to pull it up so I could give the information to Members but I believe, when I read it, it is only child protection orders we currently have in terms of pre-conviction abilities of the police. Therefore, as I understand it, having spoken to the police themselves and officers within the Home Affairs Department, it is seen as sometimes there is this vicious circle where it is very difficult to try to prevent the victim of any of those types of crimes but in particular if we refer to domestic abuse, it is quite hard to make sure that they feel safe. I think that is even more prominent in a small Island where we live where everyone is very close to each other. There was another written question that I asked about instances of domestic abuse in Jersey and domestic abuse-related crime accounts for approximately 15 per cent of all crime in Jersey, similar to levels reported in the U.K. Large numbers of victims of domestic abuse will not support an investigation or prosecution, and it currently amounts to about 50 per cent of victims. I mention this because that is the reason why I wanted to bring the amendment because in the original ...

The Greffier of the States (in the Chair):

I am sorry to interpret, Senator, it is very impolite, but we are low in terms of numbers both in Chamber and online. I am not confident that the Assembly is quorate. So could I ask Members who are elsewhere outside the Chamber to come back in? We now have enough Members online who have revealed themselves so we can resume, Senator.

Senator T.A. Vallois:

Thank you, Sir, I am just mindful of the clock as well.

The Greffier of the States (in the Chair):

You will get extra time.

Senator T.A. Vallois:

Thank you. So the original draft that we received at Scrutiny included pre-conviction notices and orders. We had that briefing last year and it was not until - and maybe Deputy Ward can correct me if I have got this wrong - I believe we were sent some paperwork before the Island Plan debate, which we did not have a chance to properly read through, but then we had a briefing following the Island Plan debate where we were told a whole chunk of the legislation was taken out. This really concerned us. We did not have sufficient time to do proper scrutiny of the legislation but we recognised the importance of bringing this in because the primary legislation will have to go through the Privy Council and so it will give time for it to go through Privy Council, come back, and I hope whoever is in the States next term will pick this up and start running with the work that I have discussed with the Minister and officers around bail and what that may look like. I think the concern that was expressed to me was around civil liberties around pre-conviction notices and pre-conviction orders. But I think what we have to do is determine the balance of those civil liberties. A victim does not ask to be abused either, and the perpetrator in these circumstances ... this happens predominantly behind closed doors and, therefore, if this happens behind closed doors then it is very hard to prove that such an incident has happened. The police need the time to be able to investigate and be able to support the victim to feel safe to come forward when it is proven that there is a domestic abuse incident that has happened within those premises. There are some really good things in the legislation protection in terms of pregnancy which was included recognising the child, like I say, the definition; coercive behaviour. But the problem I feel will be - and this is always a concern of mine - is when we bring in such legislation we want the trust and confidence in our police and in our court system. It is vital. It is really important. By not having the ability, I feel, to support victims in the right way and ensure an appropriate investigation at the right time, to meet the thresholds that are required. When we are talking about creating domestic abuse a criminal offence we are talking about having to meet the threshold of "beyond reasonable doubt". That is a very high threshold, and it was explained to me the pre-conviction orders and notice were expected to ... I believe it was in terms of a civil case, it would be balance of probabilities. Then we have of course got the arrest ability, like I referred to, that the reasonable grounds that a police officer has to arrest somebody. But then there is no criminal offence for breaking bail. That is where I think the risks happen in that timeframe, is that there is nothing stopping that perpetrator going back and doing the abuse 10 times worse, making it harder for the victim to feel they are able to support an investigation, to take forward and rightly go through the proper justice system in the way that the justice system works. So when you reflect and think about that and look at the numbers of domestic abuse-related crimes and how they account for approximately 15 per cent, there are figures there, I mean, 2021 alone 431 domestic abuse-related crime accounts. That is why it is important that we support this legislation. I have to apologise to Members for withdrawing my amendment. I had made a mistake in my amendment; I had only done pre-conviction notices and not pre-conviction orders, which does not really do much more because the orders would enable the courts then following that notice to take the next step, and that would be a pre-conviction order.

[16:30]

So I did not feel like it was going to add much more so I did not feel it was appropriate to, therefore, debate that. But I have asked the Minister and officers to make a commitment that when bringing forward the commencement of the legislation in the next term serious consideration has been given to pre-conviction notices and pre-conviction orders. They have been piloted in other jurisdictions,

and rightly there are concerns, but like I mentioned before I think we have to look at the balance of those civil liberties, about perpetrators and victims and the fact that this is not just like any other crime. It is very similar, I believe, to the arguments we have had historically, and I scrutinised the Sexual Offence Law last time. They are not easy cases to be able to prove to the thresholds that are required a lot of the time, and the perpetrators are not stupid, they know that. I think it is really important for us to try to make sure that when the legislation - whenever that may be in terms of the commencement of the legislation should this be approved, and I really hope Members do support the legislation today - that there is a discussion or a debate even within this Assembly about whether pre-conviction notices and pre-conviction orders should be established in Jersey. I think we missed a trick. Northern Ireland, when considering their legislation they were not ready to bring in such things as pre-conviction orders or notices, but put within their primary legislation requirement for secondary legislation so that if they do decide in future they could bring forward the necessary protections. So this is about preventative measures and this is about support for victims to try to reach that next threshold that is required in the criminal justice system. With that again, I wholeheartedly thank the Minister and the officers and the law officers; they have been absolutely fantastic. I apologise for having to speak to them so many times to try and get my head around different types of wording and what certain things meant within the legislation, but this is a really important step forward for us I believe, and if the Minister works directly with those in the know, whether that is Women's Refuge, Jersey Action Against Rape and many other very good, capable charities, but also the domestic abuse support team in the Jersey Police who do fantastic work as well, and many of the police officers too. They know and they have experienced and they have seen it first hand, and I think we need to take that on board. With that I just thank the Assembly for understanding hopefully why I withdrew my amendment, but I am hoping that they will support the proposition, thank you.

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

There are several Members who have indicated they wish to speak. Next up I have Senator Ferguson followed by the Constable of St. Lawrence, Deputy Perchard and Deputy Ward.

8.1.2 Senator S.C. Ferguson:

Thank you, Madam Greffier, and congratulations. **[Approbation]** Yes, I understand that it is difficult to identify coercive behaviour or controlling behaviour. You do require really sort of evidence by independent people. However, I would point out that if there is actual physical abuse, which usually leaves bruises or something like that, then the sufferer must report either to accident and emergency or their G.P. (general practitioner) so you do have evidence. Evidence is very important in these cases because if you face a perpetrator with actual evidence: "Well you beat somebody up or you hit them" they find it very difficult to say that it was not them. So if people who are suffering from this, for goodness sake, get to your G.P. or A. and E. (Accident and Emergency) and do not forget you are not the only person who has suffered and just dig your toes in and say: "No, I am not putting up with this any longer."

Deputy K.G. Pamplin:

I have some questions for the A.G. (Attorney General). I know I am later in the order but if I can ask them and he can think about them and answer later, or I can wait your turn. I await your ruling.

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

I think given the number of Members who have indicated they wish to speak it probably would be an idea if you asked your questions now which would give the A.G. sufficient time to consider them, Deputy Pamplin, if you want to do so.

Deputy K.G. Pamplin:

Yes, thank you. My first obvious question is what is the realistic timetable for introducing it. I know it is talked about that there is an Appointed Day Act but it talks about the time to be introduced in the

courts and police system. Could the Attorney General give us an estimation of how long that time period would be and what does that entail, because it is something I have not picked up, if that is possible? Also, with the withdrawal of Senator Vallois' amendment, however the point she raised, in theory in a case that might be brought without that, could that ever be used in a case either to or fro an accusation of domestic abuse - because the things that Senator Vallois has alluded to are not in this - could be used in a trial for or against bringing the case to the court. I hope I have made myself clear, probably not, but I hope he has got my gist.

The Attorney General:

I would be grateful if Deputy Pamplin could just repeat the second question because I am not sure that I did understand the second question.

Deputy K.G. Pamplin:

I could be way out of my area of understanding but say there was a case brought to the Royal Court, an accusation was made against somebody and the defence lawyer said: "Well we should not be going forward with this case because there is a component that was first introduced in a draft law, it has not been brought forward" and somebody could use it as an argument to throw out a case. I know that is outside my area, that is why I am asking the question.

The Attorney General:

The timetable for introducing this law; I am not aware of any specific reason for a delay introducing it if the Assembly were to approve it. It may be the Minister is better placed to comment on any issue with delay. I, for my part, am not aware of a specific reason to delay. In terms of the Deputy's second question, absolutely not, no. It would not be a defence to a case or a basis for saying that the case should be discontinued simply because the States had not chosen to introduce the pre-conviction domestic abuse orders or protection orders in the way that was envisaged by Senator Vallois in her amendment.

8.1.3 The Connétable of St. Lawrence:

This to me is a very important piece of legislation and I am disappointed that we do not have more Members in the Chamber to hear what is being said and discussed, because essentially if we approve this today we are at long last - at long last - creating within Jersey the offence of domestic abuse in all its guises. We have been waiting for it for a very long time. I have personal memories of a member of my family who suffered from continual abuse whereby the behaviour of their partner was abusive towards them and towards their child. Every time she telephoned the States of Jersey Police to say that she was terrified, that he was banging on her front door, kicking the door down, everything that goes with this, the police would come out, they would respond to her call, but how did they respond to that call? It was by saying, "Come along, Jim Bob" they knew his name, they referred to him by his first name, "Come along in the car" they put him in the back of the police car and they would drive him from the property where he was threatening people and they would take him into town and drop him. He would get out of the police car grateful for the lift into town and the first thing he did was go back into the pub from where he had left to go out and act abusively towards his partner and their child. Now, I am speaking about matters that happened 30 years ago and I cannot say whether that is what has continued to happen over the years when victims of domestic abuse have phoned for help from States of Jersey Police. I would be almost certain that that no longer happens and has not happened probably for many years. However, the point is that the offence of domestic abuse does not exist and has not existed to support those people who have suffered this offence. It is traumatic on the person that suffers it, it is traumatic on their family. It has long-lasting effects, and I am referring to a member of my own family who suffered in this way and I see the effects of that abuse. I see them now in the child who is now an adult and who suffered the trauma of his father being abusive towards his mother. So I welcome this legislation, I absolutely applaud the Minister

for bringing it forward. It was on the radar of the former Minister for Home Affairs and myself when we were there some years ago, but we had to prioritise the order of legislation that we brought to the Assembly and the Minister brought a couple of major pieces of legislation, not least of which was the Sexual Offences Law. When you look at it, there is not a lot here for abusive legislation but it covers what it needs to cover. My question to the Minister relates particularly to Article 3 which is domestic abuse offence, and section 3 of that Article reads: “In determining whether behaviour causes or is reasonably likely to cause harm to B, a person must look at the cumulative effect” and it goes on. It is the cumulative effect of the domestic abuse that I am acutely aware of with regard to the members of my own family. My question to the Minister is though, a person must look at the cumulative effect, who is that person? Is it a States of Jersey Police officer who is deciding whether or not a prosecution should take place? Is it the law officers? Maybe I should ask the Attorney General, if I may. I am directing my question maybe to the ... not to the wrong person, but let us get it from the A.G. if we can, thank you.

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

Are you able to assist?

The Attorney General:

Yes, I am happy to assist with that question. The particular subparagraph of the Article, Article 3 that the Constable is referring to, in relation to cumulative effect that is relevant to harm for the purposes of the offence. The inclusion of language “or is reasonably likely to cause” means that the harm is to be assessed objectively. It is not sufficient for either the person who is accused of abuse or the person who is alleged to have been abused to say: “It did not really hurt me” or: “It was not that bad.” It is objective. The person who assesses that ultimately is the court, and flowing from that, all those involved in law enforcement which includes the police officers and the Law Officers’ Department, will assess the conduct when they are called to consider a particular policing incident or particular cases with that criteria in mind.

[16:45]

The Connétable of St. Lawrence:

Thank you. So in effect it is an accumulation of people really who are involved with it, as I understand. Thank you to the Attorney. So that was my only question regarding the Articles of the legislation. I do not have much else to say other than I do welcome this, and what it does do of course is give the States of Jersey Police absolute certainty as to what will constitute domestic violence and they will, I am sure, act accordingly and appropriately with regard to this law and any accusations or complaints that may be made against potential perpetrators. As far as I am concerned, the sooner we get it on the statute book the better.

8.1.4 Deputy J.H. Perchard:

This is one of the most important laws we will pass and have ever passed in the Assembly. Coercive and controlling behaviour has been well-understood by very small pockets of society for a very long time, mostly victims and those supporting them. But many other people find it very hard to understand what that means. Organisations such as the Women’s Refuge have protected and supported women and children for many years. However, developing a wider understanding of coercion in society is an ongoing struggle, therefore, this is a very welcome step in the right direction. For me this is just the beginning of a journey. In addition to this law we also have to ensure that we have appropriate support for victims, we have better education, and ultimately prevention. Coercive control is incredibly difficult to understand if you have not experienced it and if you do not know someone who has experienced it. When you speak to victims of coercive control they may say things to you like: “It does not sound bad but it was the way it was said.” Or: “It does not sound bad but it was the way it happened” or they may not even themselves be able to articulate the behaviour

successfully to you. That is something that will always be a struggle from a legal point of view in terms of proving coercive control and evidencing it and prosecuting people who exhibit that kind of behaviour over others. Because ultimately it will be a psychological crime; it is akin to a form of brainwashing if you will. I think people are often surprised by the kinds of people who are victims of coercive control, but actually anyone can be a victim of coercion. It is not about how intelligent you are or how well educated you are. It is not about your background, it is not about your age or experience or wisdom. It is about a particular relationship with another person who has actively decided to try to control your thoughts and your behaviour. Abusers who exercise coercion over others are highly skilled manipulators. That is something that is very difficult to understand if you are not manipulative yourself, nor have been a victim of such manipulation. That is very hard to hard to understand. I use an example on the T.V. (television) because it is much easier than talking about other people's personal experiences, but if anyone has seen the documentary "Bad Vegan" it is a very powerful documentary demonstrating an extreme effect of a woman who is in a relationship that is coercive. This woman was an economics student, was a very successful business owner in New York, she opened up her own restaurant. It was her absolutely priority, she was there all day and all night. It was her love. Over a relatively short period of time she had met someone on a dating app, they seemed super charming, very charismatic, very normal, and over a very long period of time they slowly dated and then eventually had a relationship. Then over another relatively short period of time she very slowly became isolated from her friends and family, she withdrew slowly from the business, she had less financial control, and when you look at the whole arc of her journey in summary it is very difficult to understand how this bright, young thing with this huge ambition and business acumen ended up in financial ruin with no sense of self, completely malnourished, out of contact with her family, no control over her passport, credit cards or email accounts or phone. When you say that to somebody who is not aware of this as an issue they say: "Well why did she not just leave? Why did she not just take her phone back and say no?" It is not as simple as that because what happens is it is a slow, gradual decline in self-confidence and self-worth. It is a chipping away of your own confidence in your own autonomy and your ability to make decisions. It is powerful and it should be criminal, but it is very, very hard to prove. So what I would like to see following this, and I hope we unanimously back it today, is the understanding that we also need to proactively educate and proactively prevent because until we proactively and successfully prevent, coercion will always exist and I suspect sadly it will always be very difficult to evidence. So what does that look like? Well it looks like providing adequate emotional support obviously. The victims of coercion are broken in a way that is, again, very hard to imagine yourself being in a state of that brokenness. It is very difficult to imagine not being able to choose basic things that you choose to do all the time every day. You think: "That would never happen to me. I am way too fierce." But it could, and the kind of emotional support required is, therefore, specialist and long term. You cannot just go: "I will have 6 sessions with a therapist and that will sort me out". That is not going to do it. So there has to be an acknowledgement that that support is required, and there will be a cost to that support. We also need to acknowledge that emotional support is absolutely not enough. Physical safety support is essential. Having a safe space to go and know that there is no time pressure on having to leave that safe space. The reason I say that is because almost all of the time in extreme cases of coercive control there is no financial autonomy of the victim and they walk away often with just the clothes on their back. Firstly, very few people get out of coercive relationship successfully. The return rate is very high. People leave and they go back and they leave and they go back. That is because the manipulator, the abuser, has developed a dependency. The person somehow has mustered the courage to go, which in itself is a huge feat, and they realise, when they have gone, they do not know who they are anymore: "Oh, and I do not have any money and I do not have a safe space to go and I need that person." It is almost like an addiction, push, pull, push, pull. So we have to acknowledge the complexity of the issue we are talking about. It is not the same as a physical fight and arresting someone for punching somebody else. It is nowhere near the same scale. Obviously I am talking about just an isolated incident of one person hitting another. Obviously sustained domestic violence

is traumatising and in equal need of attention and support. But I wanted to draw attention to this coercion, because this psychological issue is hard to understand, it is incredibly complex. It needs different things to other kinds of crime and other kinds of abuse. That is fundamental to the success of any initiative directed towards it. We cannot just expect, and it would not be fair to expect, that this law will solve all that. It will not. What I would love to see in Jersey is something like the Freedom Programme. A lady called Pat was a probation officer in the U.K. for many, many years. This is all public information. She worked with male perpetrators of coercion and abuse and she spent a lot of time working with them. She realised that the cycle of this behaviour is not going to stop unless we intervene and educate. Because children who grow up in these relationships mimic that behaviour because that is what they learn. It is a pattern of behaviour and our children mimic what we do and how we treat each other. We also know that children who are children of abusers, studies have shown us that even from the age of less than one year-old, children who are in that environment already the chemical balance of their brain, their chemical building blocks, are different from other children. Their ability to regulate their own emotions is impacted from infancy by just being around that kind of behaviour. So of course those children are more at risk of copying that behaviour and not being able to regulate themselves. There is a whole cycle and pattern here that we need to break and fix. The Freedom Programme was designed and built by this lady, who was a probation officer, after spending many years working with perpetrators of this kind of crime. She works with women, girls, men and boys, to educate individuals on what they are doing, their own patterns of behaviour, to have insight about themselves. To self-reflect but also then to pull it apart and hopefully put them back together in a way that means they do not repeat that behaviour. Her success rate is so high, it is impressively high, which tells me that, without that, we do not have much hope of changing those statistics. So I know the Assembly will be behind this obviously and I hope that the Minister for Home Affairs is able to take some of what I have said and maybe feed it back into his department and we can see what we can do to fill the gaps. We have the law now, fantastic. This is the most important piece of legislation we will be passing, particularly for women and children, but also male sufferers of domestic abuse, in Jersey's history. It is a monumental moment and I am really proud to be here while it is happening. But I really hope we can plug the gaps with other things that are needed to make it successful.

8.1.5 Deputy R.J. Ward:

Senator Vallois covered most of the things. Perhaps I can reassure the Constable of St. Lawrence, obviously the reason there were not many people in the Assembly at the time is because they are all reading the comments paper from the Children, Education, and Home Affairs Scrutiny Panel, which is the 24th paper that we have produced, and I would like to say thank you to the officers for their phenomenal work they have done over the last few years. Thank you to the officers from Home Affairs; we worked very well on this. The points about the changes and the lateness of it, we accept, but we are not going to stand in the way of this piece of vitally important legislation so we will not be calling this in, in any way. However, in the comments paper at the end it does suggest, and I would suggest very strongly, that a new panel or a Minister themselves, whoever that may be, have a period of review of the effectiveness without the domestic abuse protection notices and domestic abuse protection orders pre-conviction. Because when that was brought to us it was seen as a very positive thing in terms of protection. It is interesting what the Constable of St. Lawrence said about the way that police dealt with particular issues. It is a really difficult situation, but the key should be protection. I thought that the notices gave a break - there is a phrase but I cannot remember it now - a bit of headspace or breathing space of a certain time in order that these things can be addressed.

[17:00]

So I hope they are looked at again and they can be more considered in the future. Having said that, I would just urge Members to accept this piece of work. It is an important thing to do. It does offer more protection. It does offer a particular law, so it is not just the assault law now, the Domestic

Abuse Law. It does identify particular areas that are really important and it moves us forward. So please support this, and I thank the Minister for bringing this forward.

8.1.6 Deputy K.G. Pamplin:

I apologise to Members, I am going to try very hard to keep my emotions in check when referring to this important piece of law and again echo the comments said earlier, and I reiterate the ones I said earlier, about the Deputy whose tenacity in bringing this forward as we also remember his former boss, the late Connétable. For me, as Deputy Perchard has highlighted, the one thing that really stands out for me is Article 1 about, as she always does so well, highlighting coercive and controlling behaviour. I can speak from personal experience as one of my best friends is not here today. Had we known what she was going through until after the occasion when she is no longer with us and saw the amount of emails and text messages and heard voice messages that were kept hidden because she simply loved the man, after he had lied to us that he had ever done those things, will haunt me for the rest of my life. We have a platform here, and to anybody listening, wherever you are, if you are experiencing anything that you do not feel is right, keep a copy of everything, every text message that does not feel right, every voice message that does not sound right, be it on a dating app, be it on a telephone, or on a birthday card, please keep it. Share it. Put it in a safe place. Because now with this law we will get justice. The other important point to stress is when we are talking about the statistics of the crime rates they are only the ones we know about. I can honestly tell you, when it comes to mental health stats, the figure of one in 4 is used quite commonly. That was brought up many years ago. It is probably way fewer and I can probably say that there were many cases of criminal offences when it comes to coercive and abusive behaviour that we do not know. Because they have not been able to come forward. But now there is a law that will empower people, we hope, that we can also play a part in helping them to come forward. We must remember that. During the pandemic that is one of the areas we all feared with not seeing the sight of people and they disappeared and the pressures of lockdowns and the other things. But again now we have this law coming through. My final point is obviously that laws are there because that is the world we live in. Thankfully we live in a free and democratic place that laws are there to serve and to protect people. But realistically when you take a step back from these sort of things we should not need laws like this in place. We need to change culture. We need to change the culture that people think it is appropriate and right to behave in this way. I am proud of my 2 children, my son especially, he is 20 and we talk quite openly and frankly about this. He sees it himself. He has a system in place where he is at college where they have a system in helping their female friends. But we have to change the culture. It is just not an acceptable way for society to live that we think that we can control other people. So we should all thankfully, in the name of many people who are not here today, pass this law and seek to continue to improving it, so we continue to save lives to say in one voice, offences like this, domestic abuse, to a person you love is not acceptable, and be there for supporters and those who are brave enough to break away. I thank the Minister and I thank Members for listening.

8.1.7 The Deputy of St. Mary:

I thank the Minister for bringing this legislation. It has been long overdue through no fault of his. The Legislation Advisory Panel was at one time interested in pursuing this but with lack of resources we ...

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

Sorry to interrupt you, Deputy, we are not going to be quorate, we are 2 Members joining us who have indicated on the chat and I think we are down to 22 in the Chamber. I have asked the Usher to call Members in from the tearoom but I am afraid while we are inquorate I am going to have to stop you thinking. That is fine, we have an extra one here, that is fine, thank you, you can carry on.

The Deputy of St. Mary:

I will start again. Yes, again I thank the Minister for bringing this legislation, which has been a long time coming. As I indicated previously to an inquorate Assembly, the Legislation Advisory Panel was at one time interested in being engaged in this but through lack of our own resources we were unable to do so. I am pleased it has been brought forward. The important aspect of this law, there are many aspects that are important, but the one item missing from previous legislation was the controlling and coercive behaviour aspect, which the police in particular, and I say that from my knowledge of what I glean while being on the Police Authority, that was causing them problems in taking prosecutions and I am sure they will welcome it. The one area I do ask if the Minister can elaborate on is the relationship aspect or the meaning of “personally connected”, which is quite limited to relatives and carers. I can envisage situations where someone like - dare I say it - a solicitor and a client or a member of the clergy and a parishioner could be personally connected but not within the meaning of the law. I just wonder if that aspect has been fully considered and whether there is any potential for extending its scope. Perhaps the Minister could comment on that. Perhaps the Scrutiny Panel could add that to their legacy report as well as something worth pursuing.

8.1.8 The Connétable of St. Martin:

I welcome this long-awaited Domestic Abuse Law and many others have spoken very eloquently this afternoon and said much of what I was going to say, so I will keep this very short. I would really like to thank the Minister and all who have worked on this vital law. I hope the law has a far-reaching effect and is instrumental in preventing domestic abuse. This legislation is such an important step forward. I will be voting for it and I am just hoping that it is a unanimous vote in favour.

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

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles, I call upon the Minister to reply.

8.1.9 Deputy G.C. Guida:

This has been indeed long in coming. We started initially with Constable Norman working on this and the simplicity of the text belies the complexity of its content and its reach. I was working with 2 versions, which looked exactly the same, but were different. They kept changing as we tried to refine this and doing this in the very, very little time that was left. This law is also an extremely good example of how we should work with Scrutiny. This is much more than one person can lead. It is exactly the sort of thing, which is a cultural issue, and where one person cannot on their own lead policy. You need consultation, you need to talk to everybody, you need to understand the problem and you need to have as many brains as possible working on it. I am very grateful for Scrutiny work. I am very grateful that they accepted the extremely last-minute change that our consultation brought and I am very grateful for Senator Vallois to having accepted those changes as late as they were. I will have to dip into different comments to try to explain a few things. Deputy Perchard called it a monumental moment. This is a little bit overwhelming. What I think we have is a monumental problem. That is what we need to deal with. This is one of the tools that we have for it. We have others. We have an excellent Sexual Offences Law and they match each other in the fact that they are deceptively simple. The Sexual Offences Law is a law that is easy to read, reasonably easy to apply. This, I hope, will be the same here. The complexity is hidden. I probably need to talk about the 2 Articles that disappeared from the law. What happened is that when it was designed we inspired ourselves from both the way the English had tackled the problem and the way the Scottish had. So the Scottish basically created a domestic abuse offence. So, in law, you could be charged for domestic abuse. The police could arrest you on the suspicion of domestic abuse and release you on bail based upon the risk of releasing you with a suspicion domestic offence. There are not many safeguards about breaking bail except that you can be rearrested. However, if there is an offence, you can be rearrested and immediately charged, which expands the possibilities, in particular the fact

that you are going to go to a court immediately after having been charged. Or that you can be kept in custody. So that is the way that the Scottish deal with it. The English, having a very, very large number of offences that altogether could constitute domestic abuse decided to do just that, they had an Act that said this long series of offences all constitute domestic abuse. They gave different tools to their judiciary and to their police to deal with that and in particular the pre-conviction orders, which are extremely strong. So basically we went for the belt and braces, we applied the best of both laws. Jersey is much clearer in the fact that it does not rely very much on instant disposal. The police are not allowed to get rid of an offence by just saying you will pay £50 and that is done. There is very, very little in our law history to back that. In fact, as the Senator found, the one case of instant disposal that we have is children protection orders, and that is a fairly recent change. The way the orders were specified, they allowed pretty strong control of people who had not yet gone to court and who could even have gone to court and be found not guilty, been acquitted. It was very difficult in the days that we had before lodging to say this is fine, we will look at this, and this is something that we can accept in Jersey, despite the fact that we have never done it in history. Therefore, it was easier to take it out of the law and it should stand on its own, as it does in Scotland, and we hope that it will be useful.

[17:15]

We still have the opportunity of looking at those orders for an appropriate amount of time, at those notices, and see whether we can implement them in Jersey, whether we want them in Jersey, whether they will be useful in Jersey. So that is the history and that is why this law came out with a couple of important Articles taken out at the very, very last minute. We thought that it was much more important to have the offence created as soon as possible, rather than try to make it perfect. Another thing about this is that in parallel to this law being finalised the Constable of St. Martin has made an amendment to the Government Plan to put some money aside to look at violence against women and girls. We defined 2 things together, the creation of a taskforce to specifically look at violence against women and girls and a call for evidence that would try to get as much information as we could on domestic violence, sexual violence, violence against women and girls in Jersey. I am sorry to say that the call for evidence is late. We thought that it was something that we could deal with in Jersey but we very, very quickly found that the complexity is pretty much mind-boggling. There are ethics issues. There are privacy issues. There are all sorts of issues. Also, this would only be useful, you would not believe how public it is, the U.K. just did this, the U.K. have finished one. They got 120,000 responses. So there are groups and companies in the U.K. that have done it and we are in touch with them and they are probably the people that we will use here because they know exactly how to run this. The other part is that, to be useful, we do not want to make it a questionnaire. We want to listen to victims. We want testimonies. We hope that we can open up to testimonies, but also it means that the analysis is going to be unbelievably complex. So we have a plan, I have given the only copy I have to the Constable. She has approved of it. She thinks it is as much as we could do now. There are a number of good things about it, but one of them is that this is running away from us. This is taking hold in S.P.3 (Strategic Policy, Performance and Population) in the Government and I believe that they want to make it continue much beyond the budget that we allocated for it in the Government Plan. They want to make it a permanent fixture of our next Government. So that is the first good thing, is that it is going to be bigger than we started with. The second good thing is that we will have one last meeting of the current task group and this will be to make a to-do list for the legislative pipeline. We already have a few ideas. I recently had a meeting with a victim and she made obvious the fact that harassment notices in Jersey have very little effect. So, if we talk about instant disposal, giving teeth to harassment notices would probably be first on my list. It re-joins a lot of stuff that we list in this law. So this is going to be on the list. Looking at pre-conviction orders, pre-charge orders, is going to also be on the list. So with the people who work the legislative pipeline we can put a few things in the list to say this is what we want the next Ministers to be presented with, as we were when Norman took office, we were presented with: "These are the list of things that we do." All those things take more than one term and we will present that pipeline

with a little bit filled up for the next term, for the next Minister. I need to mention the Victims Charter. I am very sorry, I thought I had a copy with me but I do not, it is a very important document. Because it is not just a document; we have implemented all that is in it. It is about dealing with victims first. It is very, very important. It allows, for example, testimonies to be recorded and presented to court as recordings rather than have a victim stand in the same room as the perpetrator. Of course we have the Sexual Assault Referral Centre, which works extremely well, which is extremely confidential, which is there purely for support and allows you to have a witness to whatever may have happened with absolutely no requirement to proceed to court or to declare an offence. But they will keep these details so that if later you do want to prosecute you have the material to do it. We have all sorts of charities, including the Women's Refuge, which are extraordinary in Jersey and which will absolutely help. All these work together. It is part of the charter. In fact, I understand that we stole Piquet House from Scrutiny who intended to use it as an office because victim support personnel will be lodged there, so that is several people in an office, they exist, they are hard, and they are there just to support victims. We are talking about the cumulative effect. That is the essence of this law. Before that, we had a number of other offences, for example assault, and to have been assaulted it is domestic violence because it happens every Sunday and the perpetrator will be prosecuted for an assault. We are not trying to replicate that here. What we are trying to say is there are 2 assaults, now it is domestic abuse, and that is a different law. Even if the assault would not have warranted a sentence on their own, now that it is a pattern of behaviour they might, and that is a very, very important change. That is the essence and that is why this law exists. I thank the Constable of St. Lawrence for having directed her question to the Attorney General and not having me answer it. But I did know the answer in that case; yes, everybody involved uses that. It is how you arrest; it is how you charge; it is how you convict. To Deputy Pamplin, it is difficult to keep your emotions in check if you have been anywhere near something like this. Of course your particular case was as bad as it could become. We try not to duplicate definitions in law because the chance is too strong to have different definitions of the same thing. So there are many offences that are listed in this law, which exist in other laws, so we did not have to look at the definition. The new one is "coercive and controlling behaviour". There is another use for this, it means that now other laws can pick from this one and use coercive and controlling behaviour for themselves, so it is now a separate offence that we can use in other laws and that is very important. Deputy Johnson mentioned the relationship aspect. You have to stop somewhere and it is something that we looked at very carefully extremely early on in the design of this law. Basically, the logic that we followed is the question of whether there is an element of choice. Is this relationship something that you have to bear or something that is entirely your choice? We have tried to avoid cases where there was too much a choice. If your personal trainer has abusive behaviour towards you, I would say it is possible to change. If your partner or the father of your child does, it is not something that you have any influence on. If your carer is abusive to you, I would say it is probably very difficult ... if you need care, it is probably very difficult for you to change. So we looked at these and of course this is the first use of this law. I hope that we will adapt it as it goes. We also had the question of how long it would take to be in effect. So of course we need Royal Assent first and foremost. But because it is a brand new law that we are giving to the courts I think there are court rules to be drafted for it, so that may take a little while. I hope that they will be pre-drafted before we have the Royal Assent and that we will be ready to go with it as soon as we get that. That is almost all of it. One thing of course, evidence was mentioned. It is paramount, it is very important, and, yes, I would recommend that evidence is recorded or kept. Again, the Sexual Assaults Referral Centre is a very good place to go if you want it done discreetly and have a full choice of what happens to it afterwards. With all this, I recommend the principles to the Assembly.

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

Do you ask for the *appel*, Minister?

Deputy G.C. Guida:

Yes, please, the *appel*.

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

I invite Members to return to their seats. In a moment the Greffier will open the voting. Of course those joining on Teams should vote in the usual way. Members have now cast their votes. I ask the Greffier to close the voting. The principles have been adopted, there were. **[Approbation]**

POUR: 44		CONTRE: 0		ABSTAIN: 0
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				

Deputy of St. Peter				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Chair of the Children, Education, and Home Affairs Scrutiny Panel, you have already indicated that you do not wish to call this matter in; is that correct?

Deputy R.J. Ward (Chair, Children, Education and Home Affairs Scrutiny Panel):

Yes, that is correct.

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

I am conscious of the time.

Senator K.L. Moore:

Can I propose the adjournment please?

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

The adjournment has been proposed.

Deputy K.G. Pamplin:

Can I propose that we finish this important legislation of the Domestic Abuse Law before retiring? The Minister has just indicated he thinks it will be 5 minutes unless anybody has any speeches. Can I propose that before we adjourn?

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

The adjournment has been proposed before that.

Senator J.A.N. Le Fondré

Can we have the *appel* on that then?

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

Yes, the *appel* has been called for. The vote is on whether to adjourn. If I could ask the Greffier to open the voting and Members to cast their votes accordingly. If all Members have cast their votes, I ask the Greffier to close the voting. The proposition to adjourn has been lost: there were 16 votes in favour and 25 votes contre.

[17:30]

Deputy Pamplin, did you wish to make the proposal?

Deputy K.G. Pamplin:

Yes, I would still like to make the proposition that we finish this important Domestic Abuse Law, as the indication from the Minister is 5 minutes, let us say half an hour, and if it feels like more Members want to speak.

Deputy M. Tadier:

I am presuming we do not need a proposition. We have just voted not to adjourn, so business continues.

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

Just continue, very well. There is an amendment lodged by you, Minister. Do you wish to take the Articles as amended?

Deputy G.C. Guida:

Yes please, if the Assembly accepts.

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

Is that acceptable to the Assembly? Does anybody wish to speak on the Articles? Minister, do you wish to propose them?

8.2 Deputy G.C. Guida:

Yes, I would like to propose the Articles *en bloc*. I have a few things to say about them but I will try to be quick. The amendment was a grammatical change, so very, very minor. I will run through these very quickly because I have already mentioned most of this. So it seems quite important, the definition provides us with the relevant offence, which includes any domestic abuse offence on more than one occasion, I have mentioned that, and any offences where the offender is abusive towards a person aged 16 or over with whom they are personally connected. We talked about this. Importantly, it also includes a failure to do something, including neglect. The age limit is designed to ensure that there is compatibility with the Children (Jersey) Law 2002. Importantly, this will also include acts committed outside of Jersey if the offender is usually resident in Jersey. It is something that we also have in the Sexual Offences Law. That is in Article 4 that the presence of a child, presence or involvement of a child or pregnant person, is an aggravating factor. Article 5 allows a court to issue a domestic abuse protection order against a person aged 18 or over who has been convicted of a relevant offence. We have specifically kept the age to 18 to reduce the risk of anyone under the age of 18 being made homeless as a specific result of these orders. It is not immediately obvious in the Articles, but the fact that we have a register and that we have defined the disclosure possibilities means that basically the police could disclose to a person that the person that they have just entered into a relationship with is a known domestic abuser. That was extremely important. So again it is not obvious in reading it but it is something that is covered with this law. Importantly, and this Assembly may use this in the future, Article 16 provides a regulation-making power to allow the States to amend some specific aspects of the law if needed. These regulations can amend the definition of “relevant offence”, amend the matters that are covered by a notification requirement, and the time allowed for a person to notify the police. They will also allow the court to make some changes to the notification requirements. Of course, like any law, it is open to amendment if the Assembly decides. Article 18, which is another one that I would want to bring forward, amends Article 103 of the Criminal Procedure (Jersey) Law 2018 so that anyone charged with domestic abuse or failing to comply with a domestic abuse protection order is unable to cross-examine the person that has complained about them. I talked about the Victims Charter and that is a very important part of it. With this, I propose the Articles.

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

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

8.2.1 Senator T.A. Vallois:

Yes, just very briefly. This is an extremely important piece of legislation so I am not going to rush. I do apologise. But the interpretation of the domestic abuse is different to that of England and Wales

and Scotland. We have harassment within the definition of abusive and I do not know whether this is probably directed at the Attorney General or whether the Minister will be able to answer. As I understand, we do not have stalking laws in Jersey. I believe I have asked this question in private briefings, but it is important to state this on record, of how that harassment would be identified under domestic abuse, because it is not defined, like I say, in other legislation elsewhere. So in England and Wales it certainly is not. In the Domestic Abuse Act 2021 there is the harassment in there. Also, on the issue of neglect, there were questions, and Deputy Ward will remember in our briefings there was a discussion around how that could be interpreted or determined with regard to somebody who has particular disabilities and how that might be constituted and what that may or may not look like. The argument about that point the Minister made in the principles debate about choice. So I just make those 2 points on Article 1. Article 4, the aggravating factors, I just want to say this is a huge commitment to putting children first because this recognises, in committing the offence, the person directed abuse at a child or a pregnant person, that was not in the previous drafts and I believe it was added due to discussions with Scrutiny and recognised as probably an important characteristic. In committing the offence the person made use of a child in directing abuse at another person or a child saw or heard the behaviour, these are extremely important aggravating factors when considering whether somebody has committed abuse. I am trying to be as swift as possible. I do apologise to Members. Article 5, the issuing domestic abuse protection order, it is important to have this on record and very clear on record because this was raised to me by people in the know around the court must consider, and this is Article 5(3), any statements made by (a) or (b), so the persons involved, consider the welfare of any person under the age of 18 and, if the order will limit or prevent (a) from entering the premises, it goes on if anyone wishes to read it. But one of the questions asked by the person in the know was the involvement of the multiagency group that worked very closely with these types of abuses and the victims and the perpetrators involved within this. They will have sufficient information, especially if it has been going on, Deputy Perchard referred to the issue of coercive control and how to evidence that. So these multiagency groups are really important and to make sure that the court take into account a statement hopefully from them. We did not think it is sufficient to put it in legislation because that may change at any point, that multiagency might look differently. But you would expect it to be the relevant authorities involved from the public sector and the people in the know to make sure that the information that they have, and probably showing the repeat occasions where interventions had to be made, that is probably something really important for the court. So hopefully they will take that on board. Members will be pleased to know that is the last point I have to make. So I will keep quiet, thank Members for their attention, and I look forward to hearing the responses.

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

Thank you, Senator. Does any other Member wish to speak? If no other Member wishes to speak, I call upon the Minister to reply.

8.2.2 Deputy G.C. Guida:

Thank you. Some of these were not questions so I will just note that they were well-spotted and important features of the law. We do have a Crime (Disorderly Conduct and Harassment) (Jersey) Law 2008, so that is where the definition of harassment exists. That is where we designed the harassment notices, which should have been a very useful tool and have been found to not be terribly efficient, so something that we must work on. Again, I recognise everything else. The discussion with Scrutiny did bring an aggravating factor of having a child involved or a pregnant person. Of course, if anybody goes to court, Probation is necessarily involved, and if Probation is involved and it is a case of sexual violence or domestic abuse, all the agencies linked to that will be involved as well. That is something that already works extremely well, so we do not need to put it in law here. With that, I present the Articles to the Assembly.

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

Do you ask for the *appel*, Minister? Do you wish to have the *appel*?

Deputy G.C. Guida:

Yes, the *appel* please.

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

The *appel* has been called for. I invite Members to return to their seats. In a moment the Greffier will open the voting. Members in Teams can vote in the usual way. All Members have had an opportunity to cast their votes. I ask the Greffier to close the voting. I can announce the Articles have been adopted as amended. **[Approbation]**

POUR: 41		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Deputy G.P. Southern (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				

Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Do you wish to propose the matter in Third Reading, Minister?

8.3 Deputy G.C. Guida:

Yes, I would like to propose them in Third Reading. I would also like to take advantage of this to thank the team who have been working on this, I would not say relentlessly because they had to stop for several years while they were dealing with COVID, but as soon as that relented they came back on it. Especially with the last changes, I know a few of them have spent nights trying to finish this and get it lodged in time. So I really want to thank them for their hard work and for not giving up when it looked like it was going to be impossible. **[Approbation]** I maintain the proposition in Third Reading.

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

Does any Member wish to speak in Third Reading?

[17:45]

Deputy I. Gardiner:

I would like to make one point and I would like to ask if I can propose the adjournment and I assume that it will be rejected but it is important for me to raise in this Assembly before this adjournment will be rejected. Yesterday we decided to sit until 5.30 p.m. and there are 2 Members of the Assembly that did not make arrangements to be able to vote to this important law. Because we decided to continue now it is 5.45 p.m., basically we did not give the opportunity for the Members to arrange in advance and they would be not able to vote to this law, which is very important for them. So it is in the power of the Assembly to vote now, but I would propose, as a matter of principle, and after we decided to vote against other things today, would be to propose the adjournment and vote on the Third Reading tomorrow. I make a proposition.

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

Members are able at any time to propose the adjournment so the Deputy ... **[Seconded]** I was about to ask if that was seconded. Does anybody wish to speak on the proposal for the adjournment?

The Connétable of St. Lawrence:

I take a completely different view on this. Members who have spoken during the debate, a number of us, made the point that this is absolutely vital legislation. It has been delayed, for reasons that we understand, for far too long. My view is that it would be disrespectful in fact to those who have worked on it, but also to those who suffer from domestic abuse and domestic violence, if we were, at 5.50 p.m., to decide to delay voting on the Third Reading. I was very disappointed and indeed upset to see Deputy Perchard have to stand up and leave the Assembly, particularly as she was one of those Members who spoke in favour of this legislation and spoke very well and very strongly for it. She, if I remember correctly, said that she was pleased to be in the Assembly when this almost life-

changing legislation, life-changing for some people, was being debated. I did feel for her when she had to leave because of her domestic child-caring matters. However, we need to get on with it. I really do suggest that we make a decision. We voted so far to support it. Let us do it. Let us back it. Let us show that we believe that all victims of domestic violence must be supported by us and I urge Members to not vote for the adjournment. Let us do it and show our solidarity with domestic abuse survivors and victims.

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

Constable of St. Ouen, you had your light on, was that to speak in Third Reading?

Connétable R.A. Buchanan of St. Ouen:

It was to make a point of order how Deputy Gardiner's speech was relevant to the Third Reading, but then she proposed the adjournment, so the point is probably not material.

Senator K.L. Moore:

Earlier this afternoon I thought we had come a long way as an Assembly in recognising gender and equality. I have applauded the Assembly on social media as well as in a speech as to the great steps forward that we have made. There are many reasons why Members may have planned to adjourn today at 5.30 p.m., which is what we had all agreed. Personally, I have a meeting that started at 5.30 p.m. and I have another one that starts at 7.30 p.m., so there are many reasons for us all to leave at the time that was agreed yesterday. I absolutely agree with the Domestic Abuse Law because I set this in train almost 5 years, well longer than 5 years ago as it is 2022, and looking back this began in at least 2015. So I really cannot see how delaying and adjourning now and returning at 9.30 a.m., which is what I think we all agreed, is going to make any difference. Perhaps, if everybody wishes, we could begin at 9.00 a.m. in the morning. But let us debate this proposal and then we can perhaps move on to any other business, which is I think what the chair of P.P.C. suggested earlier in the week.

Deputy J.H. Young:

I take a simple view, last night I voted against carrying on, but I changed my mind, here we are, we are at it, it is an important law. I take the view we have started, so we should finish. In fact it gives us a better chance tomorrow. I absolutely have sympathy with Deputy Perchard. That is why I spoke as I did last night. The contribution has been made, we should carry on and clear some work.

Deputy M. Tadier:

I am exasperated. I do not know where to draw the line here. Clearly we seem to be given Hobbs' choice here, do we want to support women's rights in society, which is what we have been debating today? We know that domestic violence does not just affect women, but it does overwhelmingly affect women. With the Constable of St. Lawrence, what kind of message does it say, we are on the Third Reading for goodness sake, there is probably going to be very little debate on this and it is going to take a matter I suspect of 10 minutes if that. I know that we have 2 young women in this Assembly who need to leave bang on 5.30 p.m. for some reason. But in this case there is a balance and a message that we send to all of the other women in Jersey about the importance of this. It is not the time to have an ideological principle about when we finish, if we finish at 5.30 p.m. or 6.00 p.m., let us just get this finished and then have a talk about how family friendly we want to be. But let us be family friendly for the whole Island and not just for some individuals in this Assembly. We send out some very strange messages about working practices and it is not an easy subject, but for this to come back time and time again we are not doing ourselves any credit here.

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

Deputy Tadier, if I could just say from the Chair that my understanding of what the Constable of St. Lawrence was suggesting was that we did indeed continue with this debate this evening.

Deputy M. Tadier:

I am in agreement.

Deputy M.R. Higgins:

I would just like to say that I do believe that we should finish the vote on this particular item tonight. I also believe that we should adjourn for the evening. Mine is the next item. I have been sat at a computer all day listening intently to the debate. I have a pounding headache and I personally do not want to be carrying on too much longer this evening. So I would hope that we can vote on this item, which is very important to the Island, and then we can adjourn until tomorrow morning and start afresh.

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

Does any other Member wish to speak on the proposition to adjourn? If not, then I call upon Deputy Gardiner to reply.

Deputy I. Gardiner:

I am just calling for the vote.

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

Do you wish to have an *appel*?

Deputy I. Gardiner:

Yes please, *appel*.

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

In a moment the Greffier will open the voting. If Members on Teams could vote in the usual way. The vote is now open and I ask Members to cast their votes.

Deputy M.R. Higgins:

Can you confirm what the vote is on: adjournment or carry on for this item?

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

The vote is to adjourn now and to continue the discussion in Third Reading when we start again tomorrow morning. If all Members have had an opportunity to cast their vote, I ask the Greffier to close the voting. The proposition to adjourn has been lost: there were 10 votes in favour and 31 votes against. So we continue the debate in Third Reading. Does any other Member wish to speak? If not, then I call upon the Minister to reply.

Deputy G.C. Guida:

I just maintain the proposition in Third Reading and ask for the *appel*.

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

The *appel* has been called for. In a moment the Greffier will open the voting. Voting is now open and I ask Members to cast their votes. If all Members have now had an opportunity to cast their votes, I ask the Greffier to close the voting. The law has been adopted in Third Reading.

[Approbation]

POUR: 42		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				

Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
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Deputy R. Labey (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The adjournment has been called for and the States stands adjourned until tomorrow at 9.30 a.m.

ADJOURNMENT

[17:56]