

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 3rd NOVEMBER 2020

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[9:31]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

The Bailiff:

1.1 Welcome to His Excellency the Lieutenant Governor

May I start by welcoming, on Members' behalf, His Excellency to the Chamber this morning?
[**Approbation**]

1.2 Welcome Senator S.C. Ferguson

May I also, I am sure also on behalf of all Members, welcome back Senator Ferguson who has been absent. [**Approbation**]

PUBLIC BUSINESS

The Bailiff:

We now turn to Public Business. If I may remind Members that we are operating the new system where there is a time limit for speeches, which the Assembly approved on 7th October. The Greffier will ring a bell, we hope, when you have been speaking for 14 minutes and then again signal when time is up. I am just informed that, notwithstanding what my note here says, we do not have a bell.

The Deputy Greffier of the States:

I shall "ting".

2. Reduction of minimum lodging period

The Bailiff:

I think the Greffier will make some suitable remark when the time comes. Before we start Public Business proper there are a number of decisions, which need to be taken by the Assembly about reducing the minimum lodging period. The first item has been lodged by the Children, Education and Home Affairs Scrutiny Panel and it is the Deployment and use of Energy Conductive Devices ('Tasers') by the States of Jersey Police (P.97/2020): second amendment. Chair, do you wish to make the proposition under Standing Order 26(7), the lodging period be reduced to allow this.

2.1 Deputy R.J. Ward of St. Helier (Chair, Children, Education, Home Affairs Scrutiny Panel):

Yes, I do. Do you want me to speak about that now?

The Bailiff:

Yes, if we take them all in order because they are not necessarily linked.

Deputy R.J. Ward:

This is an amendment to our amendment of the proposition. It came about late because it was linked to the publishing of our full panel review on the use of conductive devices or Taser. It is simply we did not have the time to lodge this final amendment before the report was published. The decision was made to do a thorough job with the report and subsequently from that a small amendment, which is this amendment of our original amendment, which was lodged in time, was made. So the only reason it is late is because it is directly linked to the Scrutiny report that all Members should have seen. I will say no more than to say I hope the reduced lodging period for this small amendment can be accepted.

The Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on this? The Connétable of St. Mary is just making a contribution to the Greffier's charitable fund and we are very grateful for that. Nobody wishes to speak. We will put up a vote in the box in the normal way. It is there. I ask Members to vote in the normal way and open the voting and a vote *pour* enables this to be taken at this sitting. If Members have had the opportunity of casting their votes I ask the Greffier to close the voting and post the result: *pour* 32, no *contre*, no abstention. I have a further 6 *pour* in the chat, therefore that will be dealt with during the course of this sitting and debate.

POUR: 43		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. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
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 S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy 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)				

Deputy R.J. Ward:

Can I just thank Members on behalf of the Scrutiny Panel? Thank you.

The Bailiff:

There is also an amendment from the Minister for Home Affairs to that amendment and it will also be necessary for the Assembly to suspend Standing Order 32 and make the reduced lodging period. Minister, do you wish to ask for that?

2.2 Connétable L. Norman of St. Clement (The Minister for Home Affairs):

Yes, please.

The Bailiff:

Is that proposition seconded? **[Seconded]** Does any Member wish to speak? Could I ask for an indication in the chat if anyone is proposing to vote *contre*? I will allow a few more seconds, if anyone is going to vote *contre* would they please put in and then we will do a proper vote otherwise we can probably deal with this informally. No one is voting *contre*, therefore that will be taken also. The next item has been lodged by the Deputy of St. Martin, which is also I think to be debated at this session. It is the Draft Wildlife (Jersey) Law, P.110 amendment. Deputy, do you wish to make the proposition?

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

I do, thank you, Sir.

The Bailiff:

Is it seconded? **[Seconded]** Does any Member wish to speak on the proposition? Again, if anyone wishes to vote *contre* could they indicate so I know whether or not to put up a formal vote? No, no one has indicated a desire to vote *contre* so we take that as being a standing vote in favour. Finally, there is also an item lodged by the Chief Minister, the Immigration and Social Security Co-ordination (E.U. Withdrawal) Act 2020: Extension to Jersey by Order in Council, do you wish to make the proposition that it is dealt with, Chief Minister?

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

Yes, Sir.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on the proposition? If no Member wishes to speak then I would ask any Member who wishes a vote to be taken to indicate a *contre* vote in the chat at this point. No one is indicating a desire to vote *contre* so that we will take as a standing vote as having been adopted by the Assembly.

3. Deployment and use of Energy Conductive Devices ('Tasers') by The States of Jersey Police (P.97/2020) - as amended (P.97/2020 Amd.)

The Bailiff:

The first item of Public Business is the Deployment and use of Energy Conductive Devices ('Tasers') by the States of Jersey Police, P.97/2020, lodged by the Minister for Home Affairs. For the purpose of this debate, the main respondent is the chair of the Children, Education and Home Affairs Scrutiny Panel and for the panel's amendments the main respondent will be the Minister for Home Affairs. There are 2 amendments lodged to the proposition from the Children, Education and Home Affairs Scrutiny Panel and an amendment with the Minister to the panel's second amendment. Chair, could I ask, is your intention to accept the amendment from the Minister to the panel's second amendment?

Deputy R.J. Ward:

It is not our intention to. It is a very small amendment but I think it is important that we discuss it.

The Bailiff:

In which case we should not take anything as amended and should proceed to deal with all the matters in due form. I therefore ask the Greffier to read the proposition.

The Connétable of St. Clement:

Before we do that, Sir, the first amendment of the Scrutiny Panel I am accepting.

The Bailiff:

So we could take that as amended but then we will come on to deal with the Scrutiny Panel's second amendment.

The Connétable of St. Clement:

That would be my suggestion but clearly that is a matter for Deputy Ward.

Deputy R.J. Ward:

The panel would be very happy to do that. I think it is the amendment to the second amendment that is the only difference really. Yes, I think that would be a very acceptable course of action.

The Bailiff:

Very well, we will not deal with the first amendment. Do Members agree that we can take this as amended by the first amendment? No *contre* indication, therefore, Greffier can you read that as amended by the first amendment?

[9:45]

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion – (1) to refer to their Act dated 1st April 2014 and to endorse the intention of the Minister for Home Affairs to authorise the deployment and use of Energy Conductive Devices (“Tasers”) by the States of Jersey Police Force for a trial period of one year in accordance with the following principles – (a) A Taser will only be issued to a uniformed police officer who has completed a Taser course (to the national standard). (b) The use of a Taser will be at the discretion of the police officer who is carrying the Taser and will not be subject to a specific firearms authority. (c) Usual supervision of the use of Taser will apply and the individual officer's usage must be justified and compliant with all existing legislation and associated College of Policing Guidelines. (2) To request the Minister for Home Affairs to review the impact of the changes to the use of Tasers on policing in Jersey after the one-year trial period has been completed, and to report to the States on the success, or otherwise, of the trial, with the report to include data in respect of – (a) the number of times a Taser has been used on a person under the age of 18; (b) the number of times a Taser has been used to resolve a situation involving a person undergoing a mental health crisis or episode; (c) a breakdown of the gender, age, and cultural and ethnic groups of the people on whom a Taser has been used; and (d) the number of times a Taser has been deployed by a police officer who is on their own. (3) To agree that the deployment and use of Tasers in accordance with the principles outlined in the proposition should not continue beyond the trial period of one year without the prior approval of the States Assembly.

3.1 The Connétable of St. Clement (The Minister for Home Affairs):

This is a very simple matter but nevertheless a very important matter and seeks to put the States of Jersey Police on exactly the same footing as every other force in the British Isles, including Guernsey and the Isle of Man. It will give the police greater ability to keep us safe by decoupling the lethal firearms, pistols, rifles and the like, for the non-lethal Taser. Currently a Taser can only be used when a firearms authority has been granted. This means that trained Taser officers are unable to use

or consider using the equipment when dealing with incidents that fall outside of a firearms authority. We are therefore currently managing our use of Taser outside of national guidance and unlike any other force in the British Isles. Currently, an authorised firearms officer has to wait for an authority to be granted. This time delay in obtaining the authority to deploy and restrictions placed on officers puts the public, the individual concerned, and the officer at risk of assault; perhaps serious assault. This is because the police do not have the ability to use a piece of equipment that is regarded by other police forces as a piece of personal protection equipment that trained officers can consider using, depending on the situation that they are dealing with, much like P.A.V.A. (pelargonic acid vanillylamide) spray or a baton or handcuffs. Throughout the British Isles, police forces recognise Taser as an important tactical response option for officers who are not authorised firearms officers but who have successfully passed the 5-day national standard Taser course. Taser is a piece of equipment that is recognised in compliance with the Human Rights Act as a less lethal option to aid the management and resolution of conflict. Taser will always revolve around the need to minimise any risk and maximise the safety of those involved with the overarching principle being to save and preserve life. Taser is used by police as a tactical option when responding to violent incidents or when there is a need to protect those who are at risk to themselves through mental health concerns, which can, on occasion, present a risk to life or serious injury. It enables the police to minimise risk and maximise the safety of those involved with the overarching principle, as I said, of being to save and preserve life. Jersey is a safe place but the force deal with an increasing number of violent incidents and violent individuals, weapons and people wanting to harm themselves. The police have unfortunately seen a rise in the number of intelligence reports relating to bladed weapons being used or considered by offenders. There has been a 22 per cent rise in the number of spontaneous firearms incident deployments in the last 3 years, which is a cause for concern. Coupled with the fact that over the last 5 years there have been over 180 assaults on police officers, without question officers now face a greater risk from weapons and a significant increase in the number of mental health instances whereby an individual takes possession of a weapon for self-harm that can put both officers and members of the public at risk. In our experiences, that in most cases the mere introduction of Taser into a specific situation is enough to diffuse the situation and reach a peaceful resolution. As evidence of that, since 2014 the States of Jersey Police have used Taser 341 times. When I say “use”, on 181 occasions the officer opted to draw the Taser from his holster but did not use it, on a further 152 occasions the red dot laser was placed on a person and only 8 instances where Taser was discharged, bringing a dangerous incident to a safe resolution. The majority of these discharges were for instances involving individuals in possession of bladed weapons. However, they have also been successfully deployed to save life, preventing the person from significant self-harm or suicide. Taser has therefore only been discharged on just over 2 per cent of the time that it has been used, which demonstrates a high level of professionalism and proportionality by the force in the use and deployment of the equipment. As I said, currently the use of Taser is deployed under a firearms authority whereby a senior authorising officer has reason to suppose that officers may have to protect themselves or others from a person who is in possession or has immediate access to a firearm or other potentially lethal weapon, someone who is otherwise so dangerous that the deployment of armed officers is considered applicable and our contingency or for the destruction of animals. This process can lead to delay and place officers and the public at an unacceptable risk. Very often officers will find themselves dealing with a violent individual or a specific volatile situation that would not warrant a firearms deployment, therefore on these occasions the officer should have a Taser as a tactical option to consider. The proposition seeks to align the States of Jersey Police with all other British police forces whereby Taser is regarded as a piece of equipment that officers can carry and consider using, depending on what they are dealing with. The responsibility to justify Taser usage falls to the officer who must be able to evidence their actions, showing that they were proportionate, lawful and necessary. For example, when officers use a baton, P.A.V.A. spray or handcuffs they do not need authorisation as their training and professional judgment allows them to make decisions based on the incident that they are dealing with. So should it be with Taser. All and any use of

personal protection equipment by an officer must be justified and officers will always be required to justify their actions as being proportionate and necessary and, as I said, lawful. Any officer will always document why they felt the need to handcuff an individual, use P.A.V.A. spray or use their baton. Police officers are now very used to wearing and using body-worn cameras to good effect. All the times that Taser has been discharged have been captured on body-worn cameras and it would be a matter of police policy that where possible officers will activate body-worn cameras before using Taser. A very high percentage of uniform arrests, particularly with handcuffs, P.A.V.A. or indeed a baton are used, are all captured on body-worn cameras. The police inform me that they have confidence that 99 per cent of arrest incidents are covered by the cameras. The States of Jersey Police are not seeking to issue Taser to every officer. Only those officers who pass the national standards 5-day course, undertake annual refresher training and undergo psychological screening will be able to carry a Taser. Any such use would be in line with the conflict resolution model and the national decision model, which is used by police forces throughout the British Isles to assist operational officers and commanders to manage their response to situations in a reasonable and proportionate way. The States of Jersey Police, if this proposition is adopted, are looking to train an additional 20 officers which would allow for 2 officers to carry a Taser on each of the 5 operational 24/7 shifts. It is important that we are able to provide our police officers with the protective equipment they need but also that they are able to deploy that equipment tactically and quickly in the interests of public safety, our safety. As part of our engagement for the proposition, the police have spoken with the Children's Commissioner and it is agreed that there should be a presumption that Taser will not be used on those under 18. But we can never say never and the commissioner understands that. We can all imagine scenarios where this might be appropriate. I make the proposition and once again thank Deputy Ward and his panel for the robust and strong manner in which they scrutinised this proposition and for their balanced and supportive review report. As I say, I make the proposition.

The Bailiff:

Is the proposition seconded? [**Seconded**] Two points of clarification have been asked of you, Minister. The first is from Deputy Tadier.

Deputy M. Tadier of St. Brelade:

The Minister said that he was informed by the police that in 99 per cent of cases a body-worn camera was used at the same time as a Taser was deployed. Was he being figurative or is that an actual statistic?

The Connétable of St. Clement:

Sorry, if I was not clear. With the use of Tasers it is 100 per cent of the time but it is on normal uniformed arrests where the police consider 99 per cent of arrests are covered by the camera. So if I did not make that clear.

Deputy M. Tadier:

That is still not clear. Can the Minister confirm that whenever a Taser has been deployed in Jersey in the past in 100 per cent of cases a body-worn camera has been automatically on?

The Connétable of St. Clement:

That is correct.

The Bailiff:

Deputy Higgins, also has a point of clarification.

Deputy M.R. Higgins of St. Helier:

The Minister mentioned psychological tests of police officers. I have spoken to some police officers recently and I have been told that they do not have psychological testing or if it was it was done when

they were first trained and it is not done repeatedly, so can the Minister please clarify the police policy on psychological testing of officers, especially those who will be using Tasers and firearms?

The Connétable of St. Clement:

It is my understanding that all officers who apply to be authorised firearms officers do have to undergo psychological testing and also, of course, have to refresh their skills every year, but that applies to Taser as well because currently the Tasers can only be used by authorised firearms officers.

Deputy M.R. Higgins:

Can the Minister confirm that they are tested annually or is it just once in their career or what?

The Connétable of St. Clement:

I know for a fact that all firearms officers, who currently are the only ones who can use Tasers, have to do a refresher test every year and of course psychological testing goes on all of the time to make sure that officers are well and are able to make the necessary risk assessment.

The Bailiff:

There is a further point of clarification from the Connétable of St. Lawrence.

Connétable D.W. Mezbourian of St. Lawrence:

The Minister said that there was a 22 per cent rise in the number of spontaneous firearms incidents and it was not clear to me what a spontaneous firearm incident is or was, so I would like him to clarify that for me. Also to put the 22 per cent into an easily understood figure, so how many spontaneous firearms incidents were there and how are they defined?

The Connétable of St. Clement:

“Spontaneous firearms incidents” is where authorisation is requested by the police for the attendance of authorised firearms officers. This could be when a weapon is suspected or firearms suspected as being used in a particular incident; 9 times out of 10, probably higher than that, when there is a bladed instrument being utilised or suspected of being utilised, that would be a situation. If my memory serves me right, I believe there have been 86 deployments of firearms in the last 12 months.

The Bailiff:

Deputy Higgins, you are asking for a further point of clarification. It is a point of clarification, yes, but I would remind Members we are not yet moving into the debate on this. The next thing to be considered is the amendment.

[10:00]

But a further point of clarification, yes, Deputy Higgins.

Deputy M.R. Higgins:

It is just following from the Constable of St. Lawrence’s question. When permission has been given or permission is being sought for firearm deployment, do you have accurate figures of how many times a firearm ...

The Bailiff:

Sorry, Deputy, that is not a point of clarification of the Minister’s speech. That is a question, which the Minister can answer when he sums up, but that is not a point of clarification.

The Connétable of St. Clement:

I would point out that Deputy Higgins is a member of the Scrutiny Panel and these questions were answered at the Scrutiny hearing we had on this issue.

The Bailiff:

Thank you, but it is not a point of clarification, Deputy.

3.2 Deployment and Use of Energy Conductive Devices ('Tasers') by The States of Jersey Police (P.97/2020): Second Amendment (P.97/2020 Amd.(2))

The Bailiff:

There is now to be dealt with the second amendment lodged by the Children, Education and Home Affairs Scrutiny Panel. I ask the Greffier to read that amendment.

The Deputy Greffier of the States:

Page 2, paragraph (a) – For paragraph (a) substitute the following paragraph – “(a) A Taser will only be issued to a uniformed police officer who has completed a Taser course (to the national standard) and who has also completed their probationary period.” Page 2, paragraph (c) – After paragraph (c) insert the following new paragraph – “(d) Any use of a Taser must be recorded on body-worn cameras by all officers attending the situation in which use occurs, with the footage to be submitted, retained and logged alongside the use form from the incident.”

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

First of all, I would like to thank the Minister for accepting the original amendment, a great deal of work, and I would like to say thank you to the Scrutiny Panel and, in particular, the officers who work on that yet again, who put so much work into producing quality reports. This small amendment came from the work that happened with the Scrutiny review and all Members should have seen the documents, glorious 61 pages of quality, I hope they would believe. But we looked very thoroughly at the use of Tasers. One of the issues that came up was the use of body-worn cameras and key finding 14 on page 9 of the report points to that and leads to recommendation 5. Body-worn cameras are used by the police and we accept that and we think it is a very positive reassurance for the public. We also believe that it is a reassurance for officers themselves because they are acting in situations that require a response. They cannot go and consider repeatedly whether it is the right thing to do; sometimes they have to work in an emergency. Having body-worn cameras and the footage accordingly helps them analyse the work that they have undertaken, the circumstances themselves and to show that they made the right decision. If the decision was not perfect it can lead to training and improvement. I think that is one of the real issues here. The other area is simple, the reassurance of the public. Tasers in Jersey were not a particularly accepted idea when they were first introduced and we understand that Tasers already exist in Jersey for the police. Any extension of the use of Taser needs to be handled very carefully in order to keep the public on the side of the police in their policing, which is still, in the vast majority of cases, policing through compliance and people respecting our community. We do not want that to be lost in the nature of our policing because of the use of Tasers. The other areas regards body-worn cameras, and I do not want to shift into the debate on the amendment of this amendment, sorry, but it is very difficult, Sir, so please stop me if I do and I understand that, is that we understand that at times there could be mistakes made. However, I think the explicit expression that body-worn cameras will be switched on in any use of Tasers, of firearms, by all of those involved, gives very clear guidance for the police and means that if there are issues with body-worn cameras as we move forward, they can be addressed. The technology needs to fit the use of the technology. It gives a reassurance to the public. It gives a reassurance to the police and it takes away the questioning of situations if there is clear footage as to what happened at that very conflicting time, in particular if there are issues with the use of Tasers around children. One of the recommendations that we made is that any use of a Taser by a child should have a full review by the Children's Commissioner. In order to do that we would need all of the evidence available to give clarity for the use and clarity of the outcomes of that. I will not say anymore at the moment but

I hope that this small amendment can be accepted. I do not know if I have to move the amendment but that is what I have got to say at the moment.

The Bailiff:

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

3.3 Deployment and Use of Energy Conductive Devices ('Tasers') by The States of Jersey Police (P.97/2020): Second Amendment (P.97/2020 Amd. (2)) – Amendment (P.97/2020 Amd.(2)Amd.)

The Bailiff:

There is an amendment to the second amendment proposed by the Minister for Home Affairs and I ask the Greffier to read that amendment.

The Deputy Greffier of the States:

Page 2, paragraph 2. After the word "must" insert the words ", wherever practicable,".

3.3.1 The Connétable of St. Clement (The Minister for Home Affairs):

I think I have made it clear from the report attached to my amendment to the amendment is that I am and the police are in complete agreement with the panel. Body-worn footage is a crucial aspect of governance around the use of Taser. Indeed, as I have mentioned in my opening speech, is used consistently by the States of Jersey Police and the police welcome it, the officers on the beat welcome it and because of it we have seen the number of complaints against police officers reduced because they have the evidence required. But the only reason I brought this amendment is that I am uncomfortable, as I say in the report, because the Assembly is being asked to require something of the police which is possibly operationally unfeasible in every circumstance. The reason I say that, all pieces of technology, including body-worn cameras, are not infallible. Technology can fail, the battery could run out, the camera itself could fall to the ground. An officer could walk around a corner and find a dangerous incident and does not have time to put the camera on and, therefore, he would be in breach of the requirement of the States if the amendment is passed unamended. We are totally supportive of the principles. As I say, in 100 per cent of cases where a Taser has been used the body-worn camera has been operational and that will always be the policy. In 99 per cent of normal uniformed arrests the camera has been operational and the evidence is available. It is just that we should not require the police to do something which might be impractical in all circumstances, so I move the amendment.

The Bailiff:

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

3.3.2 Deputy M.R. Higgins:

I am pleased that the Minister agrees that body-worn cameras are exceptionally useful for both the police and for the public. However, because we are dealing with a weapon, it is the conducted energy device or Taser is described as a non-lethal alternative to police officers being equipped with firearms. However, that phrase is no longer even used by the manufacturers, who now refer to them as less lethal weapons. This reflects the reality that Tasers can and have resulted in the death of some of the people they have been used on. There is great concern among the public about officers having Tasers and whether they would be used appropriately. Can I state right from the start, and I do not think there is a single Member of States that does not believe that police officers should have a means to protect themselves and members of the public against those carrying weapons, such as firearms, swords, machetes, clubs and knives? However, it is the use of these weapons in other circumstances which gives the public and some Members concern. The Minister is saying the requirement that they must use them cannot always be done. We accept that. It could be that, yes, an officer comes round

a corner and is suddenly confronted by something and he has only got time to use his Taser but he has not got time to put his camera on, we can accept that as an exception. However, what we would like to see is that the body-worn camera, we say, must be used. If it is not then the circumstances have to be explained. But we do not expect, let us say over the next year, they are used 8 times, then in 6 of the 8 times it was not considered appropriate or was not possible to use; I find that hard to believe. An exception we would all accept but I would rather if the law be clear that they should be used and then we can look at the exceptions but the exceptions should not become the norm, and that is my fear if we put this sort of phraseology in place. I accept, again, what the Minister said about a sudden surprise and he has had to use them; I do not accept that the batteries could fail. Surely before any police officer goes out he should make sure he has got a charged battery on his camera and on his Taser. I think this is an important matter for the public. The public have got to be reassured that they are going to be used appropriately. By having the video evidence that can be demonstrated. If it is not appropriate to use in a particular case, I agree with Deputy Ward, then that can be used as an excuse for further training or for lessons to be learned. I think that cameras have to give reassurance to the public that they are being used appropriately. In fact I think I will leave it at that. This is a very important matter, it is about giving the public confidence that the police are using them correctly. If we allow them wiggle room in the sense of saying whatever, I have forgotten the actual wording that the Minister has used, then I think that we would be allowing more and more of these things not to be recorded. Because I have had many complaints over the years of police officers not recording things on body-worn cameras or, where they have recorded instances, when it comes to trial that information has not been available because the tapes are not available. I will just make one final point. In the proposition it was saying that the body-worn cameras are not only the officer who is using the Taser must be recorded and kept, it is also all officers who are attending the particular incident. The reason for that is, as we have seen from footage from North America of various police actions, evidence from different angles and picking up different sound and perspectives is instrumental in determining whether the appropriate weapons were used proportionately and correctly. I will leave it at that.

3.3.3 Deputy S.M. Wickenden of St. Helier:

I think this is entirely practical for this to be worded the way it is. Of course, the wording of this part of the proposition, as the previous speaker said, is that all officers attending the situation in which use occurs with the footage be submitted. There could be many reasons why somebody has not put their camera on while there is a Taser deployed. There could be a large group situation and the officers might be dealing with multiple people at a very noisy time and they are not aware that one of their colleagues has deployed a Taser. But in the way that this is being put, that means that that officer would be called up to say: "I am terribly sorry but the rules are you must." There could be a situation where there is a lot going on and they have to quickly just get involved in stopping somebody from harming another member of the public. They are not deploying a Taser, they are just part of what is happening in that area. I think it is absolutely sensible that the Minister has brought this amendment too because of the fact that this particular Article that is being changed by the Scrutiny Panel is saying that all officers attending, and it is using the word "must". When it says "must" that really is saying that there is no other option, you need to do this first and then carry on with your policing; there has to be some leeway. I have been on the Jersey Police Authority for 6 years now, we know about every single time the Taser gets pulled out of somebody's pocket in a large situation. We get informed, we get an update on what is going on. I am more than happy that the police to date handled themselves absolutely appropriately in the way that they have been using Tasers and it has not had to be used.

[10:15]

In most cases the threat of a Taser will calm down a situation before anything else. I have got more points to make when we get to the other side but, of course, I just do not understand why this is not

being accepted by the panel. This is absolutely a practical way of putting the wording and to say “must” for all officers attending the situation cannot always be practical. Therefore, I think that this amendment to the amendment should be supported.

3.3.4 Deputy M. Tadier:

I cannot agree with the last speaker. I have some experience of looking at Tasers from my time on the Scrutiny Panel, I think it was in 2012, and I remember that one of the key things that not just the panel but the States Assembly was concerned about was mission creep. We were told at the time that only a very few officers would have it, those who were trained with firearms and that was given as a safeguard. Effectively what we are seeing - for right or for wrong - today is that mission creep coming about. But I am going to speak to the actual amendment of the Minister to the amendment of Scrutiny. I think it is absolutely critical that the burden of proof and the onus is on the police in this matter. We are talking about rollout of more powers and more proliferation of Tasers and we will have that debate properly in a moment. But if we are going to do that, we need to set the bar, I think, high rather than medium or low and to say that there is any area of doubt. Now, the whole point of body-worn cameras, as has been said by the Minister and the Scrutiny chair, is the fact that it provides insurance, if you like, for both the public, those with whom the police might be having the interaction at the time, who are innocent until proven guilty, remember, who might be under all sorts of influence or whatever, and it is an insurance for the police themselves so that they can protect themselves against vexatious or indeed legitimate criticism. That is why we have surveillance. We also did a review into C.C.T.V. (closed-circuit television) cameras. The great frustration of course is that when people agree to be surveilled either by body-worn cameras or more generally by the state, they do it in the knowledge that they are giving up some of their human rights and their freedoms in order for protection. If we get a situation where we are giving more police Tasers to deploy potentially more often, but we are saying: “But we do not really always expect you to have your body-worn camera on” then that is not a fair deal, I do not think. This amendment that the Scrutiny Panel have brought forward makes me much more comfortable, but I cannot vote for this proliferation unless that kind of safeguard is in place. I am not necessarily sure I will vote for it anyway. I will have to see and be convinced by the debate because I think there are compelling arguments on both sides. We must start off from the position that the law is clear and the policy and the directions are clear, that police must wear their body-worn cameras in these situations. Now, I would go one step further and say why are the cameras not on all the time when they are on duty? Of course we do not expect them to have them on during their lunchbreaks and their own personal time and there will be times when they need to switch them off and switch them back on again, but it is normal nowadays for taxi drivers and bus drivers to have cameras on so we know exactly what is going on on the buses. Of course it will always be that one case, will it not, where a Taser ends up getting deployed and the police officer does not have the camera on, for whatever reason, and that is when you get your human rights issue. That is when you get the disabled person or the person with the hidden disability or whatever it is, that the person that they maybe legitimately think is drunk, but they are not really drunk, they have just got a rare condition that makes them appear in a certain way, they get tasered, something happens: “Oh, I am sorry, the camera was not on because I did not have time. I was just coming around the corner.” The onus is no longer on the officer to make sure that they are putting it on. Those officers, I am sure most of them function to a very high standard, but there will always be people who may be having a bad day and think: “I have just forgotten to put my camera on, but it does not matter, because the law gives me that out. It says ‘if practicable.’ I will just say: ‘Well, it was not practicable’ and there you go, job done” whereas if it is in the law, even if you compel people to do stuff in the law, there are always going to be reasonable grounds for why you did not do something, but the point is the onus is there to do that. I think it is the other way around. I think it is bizarre that the Minister is not accepting this very reasonable and evidenced recommendation from the Scrutiny Panel and I would be very concerned if we cannot have that expectation that police officers, when they wear body cameras ... and I would say again in general

you should have those cameras on. That is what they are there for, otherwise why are they being worn at all?

3.3.5 Senator S.W. Pallett:

Good morning. I just want to speak on the amendment to the amendment, just really some clarity around the meaning of police officers. Clearly (a), (b) and (c) clearly define that it will be States of Jersey Police Force officers in terms of using a Taser and the authorisation for it, but in terms of (d), it does say that body-worn cameras ... “wherever practicable, be recorded on body-worn cameras by all officers.” The States of Jersey Police are not the only police officers in Jersey. We have 12 Honorary forces and I think the rollout to more uniformed officers, more States of Jersey Police officers with a Taser, is likely to see more incidents where Honorary officers will be on scene. I think it probably happens now to a small degree, but I think they may to a larger degree include Honorary Police officers more often moving forward. I just really want some clarity around where it says “be recorded by body-worn cameras by all officers attending the situation.” Now, I know body-worn cameras are available to some Honorary officers. Would it be expected that Honorary officers would be expected to have their body-worn cameras on at that specific time? Because I think we need to be clear here about what we are specifically asking for. In terms of the “wherever practicable” bit, I tend to agree that I prefer that wording, only from some of the situations that I was involved with as an Honorary officer myself. I am sure it happens with the States police all the time is that a lot of the incidents, a lot of the things that happen are extremely fast-moving and when you are dealing with people that are in distress or people that are becoming aggressive, sometimes the last thing you think of is putting your camera on. When you get situations where multiple officers are being sent to a scene it is highly likely that more than one will have their body-worn camera on. As long as the incident is being recorded by the majority of officers, I think it is reasonable to expect officers to work under “wherever practicable” rather than having to think in the back of their minds: “Oh, I must have my body-worn camera on before dealing with the incident.” So I am comfortable with the amendment to the amendment from the Minister for Home Affairs, but I just believe there should be some clarity about how Honorary officers would fit, because they do have body-worn cameras, they will be attending scenes - they probably already do now, but there certainly may be more in future - where a Taser has been issued to a uniformed officer. I would like the Minister just to clarify whether the Honorary Police are covered under (d) and how that might work in any future incident. Thank you.

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

I have a question as well. I think this question is for the Attorney General, because obviously I agree with the panel’s amendment, but as Deputy Ward said, he felt that we should have the debate on this small alteration that the Minister is trying to make. I am just wondering what the actual effect in law will be if we have just have the word “must” or if we have the extra words “must wherever practicable.” I have looked at I think it is the Police Procedures Law and the word “must” is in there already for other things. I am just wondering if the Attorney General could clarify. What would happen if a police officer ... so if we voted against this amendment and it said an officer must have their camera on when they are deploying a Taser, if something happened which a reasonable person would judge to be a fair situation where an officer could not turn their camera on, for whatever reason, what would happen then to that officer if just the word “must” was there in the law? I hope that makes sense and I hope the Attorney General could assist with that.

The Bailiff:

Mr. Attorney, are you able to assist the Assembly at this point?

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

Could I have a few minutes to consider the question?

The Bailiff:

Yes, indeed. There is at least one other person who wishes to speak, so we will call upon you before the Minister sums up.

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

My concern is not dissimilar to that of Senator Pallett. There is a presumption anyone that attends at the scene of a serious incident will be that of a uniformed police officer with the States of Jersey Police. Of course there will be on many occasions the Honorary Police, but also officers from the States of Jersey Police who may be not in uniform and therefore may not have body-worn cameras on them. Therefore my concern is if the law is explicit, as in that all officers who attend have to have a body-worn camera on, then I am concerned from the perspective of do all of our officers that are in plain clothes all have body-worn camera? Will they have to have them with them at all times? It may very well be that that is the case, but I think we are making it very explicit as to what we are requiring. From that point of view, I am concerned about the presumption that body-worn cameras would also always have to be worn and turned on. The previous speaker mentioned the point of what happens next and, from my perspective, if a police officer forgot to turn on their camera, does that then proceed with them being disciplined under the Discipline Code? I think there are some real issues here in relation to making the legislation quite so tight. I do have another point which I know the Minister has accepted, which is that of anyone who is going to be issued with a Taser has to have completed the 2-year probationary period. My concern is this: we issue police officers with ASPs in relation to protection of both themselves and others, we issue them with P.A.V.A. spray and we issue them with handcuffs and they are trained on a regular basis in relation to those pieces of equipment. In relation to the rolling out further of a Taser, that is based on the fact that it is another option to be used. I am a little bit concerned that we are again saying that an officer cannot have a Taser with less than 2 years and this is for why? A high percentage of operational police officers are probationers and therefore on any one day you may have potentially half your deployment staff being probationers. Therefore if you are only allowing non-probationers, there may be an issue here in relation to how you deploy staff in relation to various incidents. You will say that on a normal deployment, you will look at the resources across the board and utilise those that you think are your best deployment. Quite often you will have limited resources and of course there will be limited resources in relation to the use of a Taser. I know they are only saying at this stage that it would be 2 extras. There may be police officers on uniformed operational policing who do not want to be issued with Tasers because of course you will find that not all police officers wish to apply for a firearms course and be issued with firearms, so there may be police officers who do not wish to be given a Taser.

[10:30]

I am just a little bit concerned that we are saying that a police officer with 6 months who has completed their training, they have been fully tutored and they have been sent out on their own and then we are saying that we can send them to anything, because that is what happens. All police officers potentially can be sent to anything, so my concern is that if we feel that there is a need to broaden the distribution of Tasers - this might be the Minister that will be able to answer this for me - but I want to know why we are saying that somebody is able to be deployed to anything but we will not deploy them with a Taser because they have not completed that probationary period. That for me is a little bit ... I do not really understand why that is in there, if I am perfectly honest. From the point of view of firearms, it is general that for specialist courses that people have completed their probationary period and that is, as much as anything, about the cost and the continual upgrading of those particular skills. That is usually why you would not consider a probationary constable. But bearing in mind, what does a probationary constable mean? It only means that it is somebody who has just joined the States of Jersey Police. They could have whatever background you can imagine. They might be a doctor; they could be somebody that has just come out the armed forces; they could be somebody who has just come out of university or just come out of school. You have a vast amount

of individuals that will be probationers, so I think you are excluding people who could be potentially better candidates for the use of that equipment than others. I will just sow that seed and wait for the response from either the panel or from the Minister.

3.3.7 Deputy D. Johnson of St. Mary:

I have to say, I was not quite expecting this amount of discussion on this particular amendment to the amendment. My concern is that without it, we are imposing on officers an obligation which they may not be able to fulfil, and that cannot be right. As has been mentioned by Deputy Tadier, there are protocols and procedures in place to make sure that police officers are accountable for their actions on a number of matters, including the use of Tasers, and I cannot conceive that if for some reason a body camera did not record the situation that the officer would not be held to account for that. The other aspect is that for those that attended the demonstration a couple of weeks ago, there was footage of an incident where about 12 officers I think attended a situation. I do question whether it is necessary and obligatory for all 12 to record that. The amendment submitted by the Scrutiny Panel as to recording is well-accepted, we all accept that, but I think I would have difficulty in approving that amendment were the words “wherever practicable” were not included because, as I say, it would mean officers were being obliged to carry out a function or be made subject to a law in the knowledge that there may be circumstances, legitimate circumstances, where they could not carry that out. The words, to my mind, “wherever practicable” are quite sufficient, given the enforcement procedures and the disciplinary procedures that the police already have in place. I shall very much be supporting this amendment and I am concerned that without it the main amendment should perhaps not go through.

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

I am extremely glad to speak after Deputy Hegarat. It is remarkable when we have a speaker who walked the walk and can talk from experience about the subject that we discuss here. So much of it is purely theoretical and I do feel that there is quite a lack of understanding of the procedures. Body-worn cameras protect the officer. They are not for the public, they protect the officer and the officers are very keen to use them. However, they have limitations. One of them - and this is quite important to understand - is that they are not on all the time. There are some extremely good reasons for that. First of all, they produce massive files which then need to be archived, sorted and sometimes looked at. If you did it all day you would have about 150 hours of video to look at at the end of the month. If you use them only when there is an incident, that comes down to about 7 hours of video to examine. That is the first thing. The second thing is that many of the older cameras will have a full day of battery life, so again, you would only use them when absolutely necessary. The last but probably the most important point is that you are not exactly allowed to go out in public and film everything you want. If anything, it is impolite. You do not go out and just film. Officers will switch on cameras when they interview the public when there is an incident. It seems a simple enough gesture and it is indeed applied 99 per cent of the time because cameras protect officers. They will switch them on every time they can, but they sometimes forget. We could add an amendment here saying: “What about making sure that your shoelaces are tied before you go to an incident?” It is pretty important, you do not want to trip over them and then hurt somebody or yourself, so it is pretty important, and 99.9 per cent of the time it would be done because it protects the officers and everybody else. Then sometimes one of your shoelaces has come undone, so what is good in setting up a law that forces somebody to do something that is ancillary to saving a life, but that cannot be guaranteed? Again, I think there is this misunderstanding that officials do not really want the video because that is evidence of misdeeds. Officers are very, very clear that cameras protect them.

3.3.9 Connétable J. Le Bailly of St. Mary:

I do not believe that body-worn cameras have anything to do with this legislation. Having to have one piece of a kit working to use another is nonsense. Having served in the Honorary Police with 8

years as a Centenier, I can easily understand the request for States police officers to carry Tasers. The thing that concerns me is why do they not have them at the moment, vital pieces of kit? They have extending batons, they have P.A.V.A. spray and it makes sense to include a Taser. This piece of kit could save a life, either the life of the officer or one of his colleagues or maybe a member of the public in a situation in which a split second could save a life. The Honorary Police are not keen to carry a Taser, as they feel that their honorary role does not warrant it. Unfortunately, evil minds do not discriminate between Honorary officers or States police officers. I can recall, as a Centenier, conducting a pre-Christmas road check in which a driver was stopped and was totally unco-operative. It was necessary to transfer him to the Parish Hall while awaiting the States police to chauffeur him to his night-time accommodation. At the Parish Hall, the offender became very violent and it required 4 Honorary officers to hold him on the floor in order to handcuff him. I was lucky to have 4 fit officers in order to contain the situation. The States police do not have immediate backup in a dangerous situation. Any piece of kit which allows them to carry out their duty quickly and safely using a minimum of restraint has to be of benefit to the officer or member of the public who requires protection. The Taser will probably not be used any more than it is used at present as part of the equipment issued to firearms officers. It is the fact that it is there in an emergency that should bring added reassurance to the officer and the public. In short, the Taser is a deterrent to stop a situation escalating without even needing to be deployed. European police officers carry guns. That does not mean to say that they use them. In fact, having spoken to some retired French police officers, they have stated that they have never needed to draw their gun during their careers. I have no doubt that the same would apply here, but the added confidence in order to contain a situation and also gain the respect shown to the police officer by the offender would mean the deterrent would be justified without the use or presence of a camera.

3.3.10 Deputy R.J. Ward:

I feel that perhaps we need to draw this debate back a little to the actual amendment of the amendment, perhaps press a little reset button. There are a few key points that need to be made before we go further into this. First of all, this is not a debate about whether we have Tasers or not. It already exists in the States of Jersey Police. It is not a debate about giving every police officer a Taser or indeed Honorary officers Tasers. That is not the consideration here. This will be a few officers on the beat with Tasers under strict recording circumstances now that the other amendment has been accepted. This amendment of the amendment is about 2 words. The Assembly needs to make a decision as to whether it wants to have the phrase “where practicable.” I think it is important to raise that again. There are a number of things that come from that. First of all, there were some contributions that were really interesting for the debate and I think enriched this debate. I thank Deputy Le Hagarat for her consideration about probationary officers and I get what she says. I will say that one of the concerns of the panel was having lone officers with Tasers. That is in the report. We would encourage that to not happen and so I think that does, to some extent, address that area. What we are not looking to do is catch officers out. I think as soon as we start to talk about the use of body-worn camera and the footage, there seems to be a regression back to a sort of defensive mode by some to say: “Oh, you are just trying to catch officers out.” That is exactly the opposite of what the panel was trying to say. What we are trying to say is that by having the default position explicit that cameras will be switched on, we have an opportunity to reassure both the officers and the public that there is a record of the incident that they can go back to, that it increases accountability and transparency of the use of Tasers, which is minimal at the moment, thankfully, and we do not want to see an increase in that. It does provide an opportunity for training for officers in order to address the issues that they faced in those circumstances, which is a development issue. It looks at the situation itself. I would be interested to see what the Attorney General says about reasonable grounds and I am sure that within any situation where a “must” or a requirement is made there will be reasonable grounds where that cannot happen. This debate I believe is about where we put the onus.

Do we put it on before an incident - it is taken as read that body-worn cameras, to give that assurance, are switched on - or do we leave it to a much less broad situation?

[10:45]

In either circumstance I think the recognition of the importance of the body-worn camera is important for us all. I think that is really important. The second thing I would say regards the point from Senator Pallett regards the use of cameras, in the report that accompanies this amendment it is referred to, that this is about officers attending with Tasers an incident, so it will be the officers carrying Tasers that will be required to put their body-worn cameras on and other officers that may be attending with Tasers, if they have a body-worn camera, I would say that that is probably a good thing because it gives more evidence. I think we need to look very carefully about what this part of the debate is like. It keeps getting extended out. Deputy Guida, when you talked about the analogies, I think you are talking about the use of Tasers in general, and I think the analogy of shoe laces is somewhat misguided. That has not neutralised the work that has been undergone here to try to look into this in depth. Deputy Tadier, I think you make a very good point and there is an issue here of the balance of power and there are genuine concerns that exist in our society. We need a balance to take account of those concerns and of the concerns of the police officers who we are asking to use Taser and putting them into those circumstances for their safety as well. I do not see the use of body-worn camera as the default position should get in the way of doing that and therefore I would urge people to not support the amended amendment, but the original amendment go through so we have another check and balance in place. I think that is all I have to say now. There was another point but I seem to have lost it in my notes.

Deputy J.H. Perchard of St. Saviour:

I would like to ask the A.G. (Attorney General) a follow-up question to Deputy Doublet's question about consequences to an officer who has not been able to turn on their camera, has used a Taser ...

The Bailiff:

Is this a question to the Attorney General?

Deputy J.H. Perchard:

Yes, Sir. I am just outlining the circumstances I would like him to address, which is a situation where an officer has not been able to turn on their camera and where this amendment to the amendment has failed because I want to know whether I am right in assuming that if the wording of the law is "must" it does not mean that if someone fails to do it they will be instantly criminalised but rather that they are likely to go through some sort of internal process. Is that correct?

The Bailiff:

Does any other Member wish to speak on the amendment to the second amendment? Mr. Attorney, are you in a position to advise the Assembly on the matters that were raised?

The Attorney General:

I can take both Deputy Doublet's and Deputy Perchard's questions together. The proposition is not to amend legislation. The proposition is to set out principles concerning the deployment of Tasers so there is not an amendment to any police procedures law that is entailed in the proposition. In reply to Deputy Perchard's question, there is no formal criminalisation of the police if they fail to turn on a body-worn camera as required by the panel's amendment to the amendment. A possible consequence if the Minister's amendment to the amendment is not carried is, as Deputy Le Hegarat suggested in her speech, there are possible disciplinary consequences to the officer because the use of a Taser is all around the use of reasonable force at the point of dealing with an incident or the point of an arrest. The Police (Complaints Discipline Procedures) Order 2000 has scheduled to it the Police Discipline Code and point 5 of that code is the use of force and abuse of authority, and provides that

officers must not use more force than is reasonable, nor should they abuse their authority. It is a clear statement that there has to be reasonable force used by an officer when carrying out their duties. The requirement to turn on a body-worn camera when using a Taser does not, I accept, immediately mean that it follows naturally that there has not been a reasonable use of force. Nevertheless if a camera is not turned on, as required by the panel's amendment to the amendment, there will necessarily be a suggestion that the officer has not acted properly in accordance with the principles the Assembly is currently debating and will no doubt approve. That may well give rise to a disciplinary complaint in circumstances where an officer has not turned on their body-worn camera where they are required to do so. I hope that answers both questions.

The Bailiff:

Thank you very much. Senator Pallett, do you have a further question for the Attorney General?

Senator S.W. Pallett:

I know it is an issue I brought up when I was speaking but could I ask the Attorney General in the amendment to the amendment, part (d), what his view is where it says: "wherever practical we are recording on body-worn cameras by all officers" what he considers "all officers" to mean within this piece of legislation?

The Bailiff:

As the Attorney has explained, Senator, it is not a piece of legislation as such but if you wish to offer a view as to the legal effect of a guidance that contains the words "all officers".

The Attorney General:

If it were a piece of legislation then my view would be that it would include the Honorary Police because "officers" under the interpretation law is construed as including Honorary Police. As it is not a piece of legislation I think it is quite clearly from the start of the proposition a reference to the States of Jersey Police Force and I think "officers" has to be construed in that context so it has to be limited to the States of Jersey Police Force.

The Bailiff:

Deputy Perchard, do you wish to continue with the speech? I am sorry: first the Minister for Home Affairs has a question.

The Connétable of St. Clement:

Yes, just for clarity because this was raised by Deputy Le Hagarat, would the proposition include plain clothes officers who might be at an incident? Would they also be required to wear body-worn cameras?

The Attorney General:

Was that a question for me?

The Bailiff:

I think it was, Mr. Attorney, yes. It is a question of whether plain clothes officers would be required to wear a body-worn camera if they would not otherwise do so and therefore turn it on.

The Attorney General:

I think yes, in accordance with the reason I just set out in response to Senator Pallett's question. My interpretation would be that it would include, provided the officer was a Jersey Police Force officer, then they would be required to wear a camera.

The Bailiff:

I am sorry I did not hear the beginning part. You said “provided” and I could not hear what you said after that.

The Attorney General:

I am sorry; I will turn up the volume on my machine.

The Bailiff:

You said it would include a States of Jersey Police officer who was in plain clothes, a detective, and then you said “provided” and I was not sure what you said after “provided”.

The Attorney General:

I think I said “provided they were a States of Jersey Police officer.” I think it is very likely that an officer would be a States of Jersey officer.

The Bailiff:

Just for clarification purposes, that would mean that an officer would be required to wear a body-worn camera even if he would not normally have done one attending an incident.

The Attorney General:

Yes.

The Bailiff:

There is a follow-up question from Deputy Perchard.

Deputy J.H. Perchard:

If the Assembly was to reject the Minister’s amendment to the amendment is there anything to prevent the Minister from adding an exemption in the guidelines after this has been adopted? Would the situation the Attorney General just outlined, if an officer who would not normally be wearing a camera is in attendance and witnesses the use of a Taser is the Minister in a position to add an exemption to officers in that particular situation if we adopt the language “must”?

The Bailiff:

There are also other Members who wish follow-up questions for the Attorney General so we will ask the questions and then the Attorney can see if he can give an omnibus answer. That was your question, Deputy Perchard, then Deputy Ward.

Deputy R.J. Ward:

I was a bit unclear. We seem to have gone down a bit of a rabbit hole here and I wanted to be clear. The report makes clear that any use of a Taser by a States of Jersey Police officer must be recorded - and it is a question coming - by body-worn cameras by all officers attending a particular situation and the footage submitted. The interpretation of that means that all officers attending would have to wear a body-worn camera but I want some clarification on that. Plain clothes officers would not wear a body-worn camera and it was those officers with Tasers that would have the body-worn cameras that should therefore be switched on and those attending. I want some clarity on whether the A.G. is saying the interpretation is that all officers attending will now have to strap on a body-worn camera. I am a bit confused, if I may ask.

The Bailiff:

Yes, that is fair enough, Deputy, and the Connétable of St. Mary, you have a question for clarification for the Attorney General.

The Connétable of St. Mary:

If a police officer was in a violent situation with his body-worn camera damaged does that mean he could not deploy his Taser in order to save his life or that of his colleague or member of the public?

The Bailiff:

Mr. Attorney, are you able to give answers to those questions?

The Attorney General:

Yes, Sir. In relation to Deputy Perchard's follow-up question about whether it would be open for the Minister to issue some sort of exception as regards plain clothes officers, that would be difficult because this is a proposition that is expressing the will of the Assembly, and I think it would be difficult for the Minister to do that absent the Assembly's approval. As regards the clarification requested by Deputy Ward in relation to my previous answer, yes, I am sorry if I did not make it clear. The requirement to wear a body-worn camera by a plain clothes officer would of course be by a plain clothes officer who is using a Taser.

[11:00]

If the plain clothes officer was not using a Taser then I accept they would not have to switch on and record their body-worn cameras. As regards the last question from the Connétable of St. Mary, again that is governed by use of reasonable force and any officer in that situation would be entitled to use reasonable force and if that officer was equipped with Taser and obviously appropriately trained then the officer, if the Taser was out of battery or was out of service, and the officer was in a situation where they did reasonably perceive there was a threat to their life, yes they would be able to, in my view, use Taser to defend themselves.

The Bailiff:

There is a further call for clarification from the Connétable of St. Clement.

The Connétable of St. Clement:

It was in response to the Attorney General's answer to Deputy Ward that implied that if the plain clothes police officer was not carrying a Taser then he would not have to use a body-worn camera. I presume the same would apply to a uniformed officer in the same position. As I read it, and perhaps the Attorney General can tell me if I have it wrong, the amendment (d) does not require an officer to be carrying a Taser to use a body-worn camera. All it requires him to do is to be attending the situation at which a Taser is also present. I wanted clarification for that.

The Attorney General:

I am almost tempted to advise that perhaps the wording of propositions is a matter for a ruling by the Presiding Officer.

The Bailiff:

I am perfectly content to take that if you wish, Mr. Attorney, because I think it is. I was thinking that myself. The wording of a proposition is probably a matter for the Presiding Officer. It seems to me that unamended the matter is entirely clear that any use of a Taser must be recorded on body-worn cameras by all officers attending the situation in which use occurs. Given your advice to the effect that officers relating must apply to uniformed and non-uniformed officers of the States of Jersey Police then that must be that if they are wearing body-worn cameras they must obviously all use them, whether they are deploying the Taser personally or not. I am not sure it is clear on the surface of the proposition whether that applies to officers who would not normally be wearing a body-worn camera but that is something that is not to do with the interpretation of the proposition at all. But the interpretation of the proposition to my mind is that all officers attending must be recording, whether they are using the Tasers or not. Deputy Perchard, did you wish to have a speech? You asked for one following your question.

3.3.11 Deputy J.H. Perchard:

Given the reminder from the Attorney General that this is not legislation passing but a principle I am quite comfortable supporting the principle that officers must turn their cameras on when using a Taser. I am also content with the response of the Attorney General that this is clearly a reference to States of Jersey Police officers and the reason for that is because I think in any profession where you have a responsibility for the lives of others it is important that we agree to higher principles with the understanding that on a case-by-case basis there may be instances where the principle is not upheld. For me it is important that in those cases there is some sort of process to identify why it was not upheld and to ensure for the safety and safeguarding of the officers themselves that those situations are avoided as much as possible. There is a reasonable analogy to be made with teaching and I know for many members this may seem a very different context, but it is the case that teachers are held to a higher principle when it comes to safeguarding children, for example. You have to take a register at the beginning of every single class and if you do not you are breaking a code of conduct that is written down and is of a national standard, and there is a disciplinary process that follows. That is because there have been situations, and I have experienced a situation where I have forgotten to take a register in a class and a child who was absent was at risk, had a very serious high risk. At the time I had to go through a process and I was held to account for forgetting. It was just a forgetful moment. The technology was not working. I could not do it. Registers are all electronic now, and instead of doing the right thing that was to stop, take a breath, write it down by hand and send it to the register's office, I just did not do it. I thought I will do it at the end of the lesson once I can get my computer turned on. The problem in that situation was not just for the child who was obviously the priority but also for me professionally it was a safeguarding issue for my own professionalism, and these kinds of standards you have to be held to because if you are not it becomes far too easy to not do them. I am not saying anyone would deliberately not take a register or, in this case, turn on their camera but I certainly did not forget again, having gone through that process. For me, of course, I could almost hear Members thinking it is not the same if you are in an emergency in a life-threatening situation on the street and you are rushing. I completely accept there are clear differences but the similarity is that child was at great personal risk and it was my fault for not upholding that standard. I accepted that at the time and I think that is the kind of culture we want to nurture. I think also it is important to remember that when a principle is not upheld it does not mean you will get fired or put in jail. It means you will go through a process, and I think it is right for the police or any job where people's lives are the responsibility of others. I think it is important that we have standards, we have processes and procedures and I would rather have a higher principle underpinning what we do followed by a process rather than a clause that allows the process not to happen. If you include "wherever practicable" what happens, there is ... if a principle is not upheld, there is not a review of why it was not upheld and there is not a learning experience from that. That is the problem for me with this. I would have preferred an amendment from the Minister that adds possible exceptions because I think some fair points have been made about situations in which it is very difficult, if not impossible, for officers. If you are a plain clothes officer and you are carrying a Taser and you do not have a camera, I understand that could happen. But given what the Attorney General said about the fact that the Assembly would have to support that I would say the Minister can bring that back shortly instead of just accepting "wherever practicable". Today I would rather accept the higher principle, with a view to the Minister bringing back for us to be approved and I would happily support him in approving exceptions where it is obviously really impractical. But I do not want to just agree to "wherever practicable" without knowing what that means, without knowing what that includes and without knowing what it does not include because that lack of clarity is not good for the public but it also is not fair on officers who need safety themselves. With that in mind, I will be supporting the panel on this vote by voting against the Minister's amendment but I do urge him to bring forward any necessary exemptions so we can address them specifically and clearly as an Assembly.

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

I will be brief. I want to address the amendment to the amendment and in his summing up if the Minister could just answer my questions. In the report attached to his amendment to the amendment he explains why he does not agree with the amendment to the amendment but I am reading, and I quote: “concern about the feasibility of requiring all use of Tasers to be captured on body-worn cameras by all officers present at the situation.” I think that has been covered but it is the next section: “Unfortunately with all pieces of technology body-worn camera equipment is not infallible. Cameras can fail for a variety of reasons including problems with technology.” This could be also the same. It could be argued about the Tasers themselves and police officers when using this equipment or any equipment that they are going out to protect themselves, and all of us and members of the public need the assurance that the equipment they are taking, whatever that is, is going to work and is fully tested. I would imagine a rigorous part of that process is testing that equipment regularly before it is issued and deployed. That would have to be the same for the camera technology, I would accept. For me and in the modern world we live in with how cameras can function now and how many hours they can record that can be simply checked and assured that it is all working before a police officer leaves with those pieces of equipment. Secondly, the bit where he mentions: “It is possible that in a fast-moving and potentially dangerous situation not all officers will be able to utilise their body-worn cameras in sufficient time.” Then it was explained in the briefing, and also in the main proposition, the process that is employed when deploying a Taser. It seems a very calm procedural method why those trained officers would then initiate the process and with distance between them. It seems to me that one of those processes should be to ensure the officer’s safety and check his equipment is working. I would like him to touch on those reasons why the use of a camera cannot be included in the processes that were outlined to us and how the Tasers are deployed. I hope that has made sense.

3.3.13 Deputy L.M.C. Doublet:

I wanted to thank Deputy Perchard for building on the questions I was asking the Attorney General and the point I was going to make she did touch on at the end of her speech. I want to reflect on the debate we have had today and for me the important thing here is clarity. On an operational level, for a police officer having something that they must do and they have been trained they must do is a lot more practical and more precise to apply to this kind of work. I think an officer who is thinking on their feet in an emergency situation should not have to assess whether or not it is practicable to turn their camera on. I think the clearer way forward is they must turn their camera on and that is a lot more practical in terms of the way these devices will be used and fairer to the officer. I think we should reflect on the way we ourselves have had to think about this and we do not want to pass that uncertainty on to officers. We want to give them clear direction, so I think we should go with the word “must” and I do not think we should approve the amendment to the amendment.

The Bailiff:

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

3.3.14 The Connétable of St. Clement:

I am grateful to all those who have spoken but it is interesting, is it not, that those who have been involved in law enforcement take a different view from some others who have not. We are all as one. We want, we need and we expect the police to use their body-worn cameras at every incident whether it involves the Taser, another piece of personal protection equipment, or it is just a straightforward, ordinary arrest, and the police want to do the same. The problem with this proposition if unamended is we are asking the police to do something they might not be able to do and that would be totally wrong of us.

[11:15]

Deputy Perchard mentioned fairness. It is not fair to put a police officer in a position of a potential disciplinary hearing because for whatever reason his equipment failed, and Deputy Pamplin must know we have seen technology being used in our State sittings and sometimes it does not work very well. A piece of equipment can fall off a police officer. It does not happen very often but it can happen and it can put the police in a ridiculously difficult position. We have heard a plain clothes police officer who is at an incident under the terms of this proposition unamended will have to wear a body-worn camera. That is going to ruin any undercover operations the police want to carry out, is it not? We are at one. It is simply making it practical for all the police to do the work. As I say, they want to use the body-worn cameras but I do not want to tell them that they cannot use the equipment unless everything is totally operational. Of course it is checked but things can go wrong and batteries can suddenly discharge, we have all seen that probably in our own lives. It is just a safeguard to protect the police and we are asking the police to do something that perhaps they should not do. I think it was Deputy Tadier, the burden of proof that a piece of personal protection equipment has been used properly is always with the police officer. Always with the police officer whether it be the baton, whether it be the handcuffs, whether it be P.A.V.A. spray, or be it a firearm, a rifle or a Glock pistol which they can use, or be it a Taser. They have got to document why it was used, how it was used, they have got to justify it, show that it was a reasonable and proper thing to do and, of course, lawful. I think it is worth mentioning, the Attorney General and the Bailiff mentioned, that we are not talking about legislation here, we are talking about policy, enforcing the policy on the police. Deputy Le Hagarat, well she spoke about probationary officers not using this piece of equipment, and I do tend to agree with her, but I have bent over backwards to help and support the Scrutiny Panel in this issue and obviously I have discussed these amendments with the chief officer of the States of Jersey Police. While we are uncomfortable about this, we do recognise - we do recognise - there are some people and there are some Members who are still uncomfortable and cautious about the use of this piece of personal protection equipment. Bearing in mind, if this proposition is adopted, the Minister for Home Affairs will be required to come back in 12 months' time with a report on the effectiveness and how the whole thing has panned out. We would be able to bring appropriate amendments to the policy that we are agreeing today at that time but what I wanted to do was to give all Members as much reassurance about the deployment of Tasers as absolutely possible. As I said, we are at one, really, and what is really good, what I am really pleased about, is being at one with Deputy Higgins as well because he is absolutely right when he says that the Taser is a less lethal weapon. So is P.A.V.A. spray, so is the baton, the ASP, a heavy metal bar. That is more lethal than the Taser when you stop and think about it because if you bash someone over the head with one of those you could kill them or you could certainly break bones. You cannot do that with a Taser. Deputy Higgins did get a little bit dramatic talking about deaths by Taser. I can tell the Deputy, in the United Kingdom there have been no deaths caused by Taser. There have been 2 incidents where a Taser has been involved in a death but the inquest always found that there were other reasons for the demise of the individual, so it is by far much less lethal than a Glock pistol or a sniper rifle or whatever. Where I totally agree with Deputy Higgins in his speech, he said body-worn cameras should be used. I totally agree with him and that is what my proposition, or my amendment, does. The amendment unfortunately does 2 things: it says "must" which can be impractical and, in some cases, impossible or very, very rarely, but it can happen and, of course, undercover detectives and plain clothes officers would also be required to wear cameras, which is not right. I cannot make exceptions. If the States approve this amendment unamended, I cannot change that, that is the States decision and I have to respect the States decision, so I move the amendment and I ask for the *appel*.

The Bailiff:

The *appel* is called for and I ask the Greffier to place a vote in the voting chat. I open the voting and ask Members to vote in the normal way. [Aside] Yes, did someone have something they needed to raise? No?

Deputy G.P. Southern of St. Helier:

Can you just remind the Assembly of what they are voting for?

The Bailiff:

Yes, the vote is on the adoption of the amendment of the Minister for Home Affairs to the second amendment from the Scrutiny Panel. It is the inclusion of the words “wherever practicable” regarding the use of body-worn cameras to record Taser deployment. So a vote *pour* would be to adopt the Minister’s amendment. Would people now stop voting and treat that vote as null? We are going to put the link up again and then we will count the vote from the moment the link goes up. The link is up, I open the voting again and I ask Members to vote in the normal way.

Deputy J.M. Maçon of St. Saviour:

Could we just have some patience, please, the system is running very slowly today?

The Bailiff:

I am sorry, I did not hear what you said.

Deputy R.J. Ward:

Two things: Deputy Maçon said it is running slowly today. Also, I just voted again and it says I have already voted in the vote ... **[Interruption]** Can we just confirm whether you have got the votes?

The Bailiff:

I think what we will do is we will start again. We will ignore once again any votes that are currently being cast, so we will start again with a new link and that will be put up in due course.

Connétable R.A. Buchanan of St. Ouen:

Does this mean you will be discounting all votes in the chat until the new link is up?

The Bailiff:

Yes, completely because we are going to try and ... obviously if people cannot vote on the link, we will count the votes in the chat but only those that appear under the link when it is now posted, nothing that appears above. There we are: third time lucky. I open the voting and ask Members to vote in the normal way and if anyone cannot vote, then I will keep a running total of votes in the chat as well. Very well, we have 38 votes registered through the link and the number that I have noted in the chat. Therefore, if Members have had the opportunity of voting, I will ask the Greffier to close the voting. Very well, the vote is on the link: 31 votes *pour* for the amendment, 8 votes *contre*. I count another 7 votes *pour* in the chat and 3 votes *contre*; therefore, the amendment is adopted.

POUR: 37		CONTRE: 7		ABSTAIN: 0
Senator I.J. Gorst		Senator S.Y. Mézec		
Senator L.J. Farnham		Connétable of St. John		
Senator S.C. Ferguson		Deputy G.P. Southern (H)		
Senator J.A.N. Le Fondré		Deputy M. Tadier (B)		
Senator T.A. Vallois		Deputy M.R. Higgins (H)		
Senator K.L. Moore		Deputy L.M.C. Doublet (S)		
Senator S.W. Pallett		Deputy of St. John		
Connétable of St. Helier		Deputy J.H. Perchard (S)		
Connétable of St. Clement		Deputy R.J. Ward (H)		
Connétable of St. Lawrence		Deputy C.S. Alves (H)		
Connétable of St. Saviour		Deputy I. Gardiner (H)		
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of Trinity				

Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy K.G. Pamplin (S)				

The Deputy Greffier of the States:

Those voting within the link voting *contre*: Deputy Gardiner, Deputy Perchard, Deputy Ward, Deputy Alves, Deputy Higgins, Deputy Tadier, Deputy Doublet and Senator Mézec.

3.4 Deployment and Use of Energy Conductive Devices (‘Tasers’) by The States of Jersey Police (P.97/2020): Second Amendment (P.97/2020 Amd.(2)) - as amended

The Bailiff:

We now return to the debate upon the second amendment now as amended. Does any Member wish to speak on the second amendment? If no Member wishes to speak on the second amendment ...

Deputy M.R. Higgins:

I put it up in the chat.

The Bailiff:

Yes, thank you very much, Deputy, it has just appeared.

3.4.1 Deputy M.R. Higgins:

Although I think probably most aspects have been discussed in the previous amendment, I would just like to make it quite clear to States Members, the Taser is a less lethal weapon. I know the Minister for Home Affairs said ... I cannot remember how many deaths he said there had been in the U.K. I know that just reading at the moment there were 2 the coroners have directly attributed to the Taser and there have been a total of 18 people who have died after a Taser was discharged against them by the police. Now, it may not have been the direct cause of the death, such as, for example, the electrical discharge causing a heart attack, but people have fallen, banged their heads and died as a result that way, so there is indirect effect of the use of a Taser. So, the whole purpose of having camera evidence, and I believe we have made a mountain out of a molehill earlier, was to get data to enable us to see how the trial goes. No one is saying the police officers should not have a right to defend

themselves if they are attacked. If the camera was not on at that particular moment in time, I personally am not fussed by it. If an officer is being rushed at with a knife or a sword and is in danger of serious injury, or a member of the public was, I say Taser them, take them down. But what I do want is to have evidence that we can look at in a year's time and we can see whether they are used appropriately. It is not the case of the violent offender in that sense in a life-threatening situation which concerns me, it is the fact that they may be being used against children, they may be used against people who have got a mental illness where they are not particularly a threat and also where, for example, they may be of various ethnic communities. In the U.K. that has been a major problem, so I think it is important we see the context. For example, if there is a large number of youths and they are vociferous but they are not making threats of physical violence, is the Taser appropriate? There are circumstances; we need to look at the circumstances where they are used. Again, going back to this idea of the officers present, I am not talking about plain clothes officers having to have a camera so they are no longer visible, we are not talking about other officers who are not part of the scene having to have a camera, we are talking about policemen on the beat. When they are out there and dealing with situations, it is a record of what goes on, so I think we have made a real mountain out of a molehill here. Let us have the study for the year, let us see what has gone on and let us have a look at the video evidence to see how they are being used. The important thing is to give the public reassurance on the use of the Taser.

[11:30]

Unfortunately, policing in recent years, maybe it is a sign of modern-day society, but policemen no longer wander around town in their white shirts and the old Bobby's hat during the summer months, they are now walking around, men and women, looking like Michelin men and women because they are all bulked up. They have probably got an anti-stab vest, they have got handcuffs, they have got the P.A.V.A. spray, they have got their baton and they are coming across to many people in our society, just in appearance, aggressive. I am not criticising the police for this, society have brought it, but by having officers with Tasers and if they are used inappropriately, then I am fearful that the public's trust in the police force may be ruined. So, as I say, I hope the States will approve the amendment so that we will be able to look in a year's time and see how they are used and if they are being used appropriately, great. Thank you very much.

The Connétable of St. Clement:

If it helps, I am accepting the amendment.

The Bailiff:

That is a very helpful indication, thank you very much indeed.

3.4.2 Deputy S.M. Wickenden:

I am pleased to follow the other speaker on some of the lines of what he said. Tasers are a lot less deadly than other options that are available to the police at the moment. I just wanted to talk on the bit about the probationary period. I know the chief of police and the police have discussed it and they are happy to accept it to try and assist along the way. But we do have to remember this, probationary is 2 years' long, police do go through rigorous training, they do have to record what is going on. The other option we are now giving to any new police officer rather than a less-deadly force, is the use of equipment such as a baton. Now, a Taser will put somebody down, they will feel uncomfortable and they will be stopped for a minute or 2 and then they will be up and talking, and that is how it really goes. But if you have to have somebody coming at you with a knife or is extremely aggressive, or any type of weapon, and you are a probationary officer, now the only option you may have in your tools is a baton. Hitting someone with a baton causes a lot more damage than a Taser does and it comes across as more of a brawl. It does not have the same effect as we have seen with Tasers. When a Taser is deployed and a red dot is put on somebody, they think a lot harder

than they do about getting into a ruckus or: “Can I get the baton?” or the likes. So what we are doing with this probationary area is really kind of changing the toolset to probationary officers to use a more damaging piece of equipment. That can have months of fiscal therapy afterwards to deal with that and it could be somebody that is drunk and lack of judgment or the likes. So I am a little bit uncomfortable with the probationary period area because of what it does but the police have said they accept it. There was a presentation, a demonstration given for the panel, the Scrutiny Panel, before they lodged their amendment and they chose not to attend to go and see how Tasers are deployed and what the process is and how the warnings happen and the different situations that could be there. So it was a shame that they did not attend before lodging an amendment because I think the extra information for Scrutiny would have been helpful. Of course, body-worn cameras are used whenever a Taser is deployed, that is part of the process, but any police officer that chose or did not put on a body-worn camera would go through the disciplinary process, of course. But the disciplinary process for the police can also be about administrative leave and we have got to be careful we do not start reducing our police force by setting up rules that are too prescriptive in some way that causes a problem there. So I will support the amendment, I am not overly comfortable with it, but, yes, I will happily deploy it. I am just uncomfortable about allowing police officers to have less-deadly options to be able to stop and save a life.

The Bailiff:

Thank you very much, Deputy Wickenden. There is a point of clarification sought from you by Deputy Ward, I had better take that point of clarification.

Deputy R.J. Ward:

If it is a point of clarification. If it is, yes, fine.

The Bailiff:

Well, that will be for me to determine. A point of clarification, Deputy Ward.

Deputy R.J. Ward:

There were 2. One is: is the Assistant Chief Minister aware that I, as Chair of the panel, did attend the briefing? Second, is the Assistant Chief Minister aware that this is not extending the use of Taser to all police, only a select few?

The Bailiff:

I do not think either of those are points of clarification of the Deputy’s speech. They are points of information that we are giving to him.

Deputy R.J. Ward:

A point was made that the panel did not attend. Perhaps it is a point of order and I think that is just simply not the case and could be seen to be misleading the Assembly, as I did attend. I think it is really important, given the work that we put into the report as a panel.

The Bailiff:

Deputy, you of course are going to sum up at the end of this part of the debate, so you will be able to make all of the points that you need to on that occasion.

Deputy M. Tadier:

I just wanted to clarify, we are only debating on this part, the requirement for a probationary period, is that correct?

The Bailiff:

This is the debate relating to the second amendment as amended. so it is both the amendment to page 2, paragraph (a) and page 2, paragraph (c). The first part of that is only issued to a police officer who has completed a Taser course to the national standard and who has also completed their probationary period. Then the other part relates to the use of body-worn cameras, at this point now, wherever practicable.

3.4.3 Deputy M. Tadier:

That is what I understood. There is not a lot to add, we have had the debate on body-worn cameras and what the level of compulsion should be for them. I do not think it is unreasonable for an officer who is going to deploy a Taser to have completed their probationary period first. That seems reasonable, it has been accepted by the Minister and I will leave it there because I think some comments have been going into a wider debate.

3.4.4 The Connétable of St. Mary:

This legislation is to issue Tasers to our police, not to be conditional on a body camera. It appears that there is a design fault here. If the camera was incorporated into the Taser we would not have this problem. This could be done quite easily and maybe it already has somewhere else. If not, surely in the not-too-distant future it will be or should be.

The Bailiff:

Does any other Member wish to speak on the second amendment as amended? If no other Member wishes to speak then I close the debate and call upon Deputy Ward to respond.

3.4.5 Deputy R.J. Ward:

Forgive the jumper, it is very cold in my house. I thank everybody for the debate. It is always difficult when you have amendments of amendments of amendments to stick to the topic and I will not talk for very long on this as it has been accepted by the Minister. There are just a couple of things to make a point. I think it is very important that I can make the point that I did attend the briefing and, as the Minister has said, the panel is engaged fully at all times with the Minister, the police and many other stakeholders in producing this review. I am concerned that these questions about Scrutiny keep arising when we have an incredibly dedicated team and dedicated Members, who are all part of the Scrutiny Panel, from across the Assembly, so I think it is important to say that. I will just say 2 quick things on this. This part of the amendment is not about how many police receive a Taser and whether we have Tasers, they are there. The 2 key points as amended now are body-worn cameras, which is now as appropriate, and that has been accepted by the Assembly. I think there is a very important point about probationary officers and I think the panel see this really as a protection for those officers, and I point again to our concern about officers being sent out on lone patrols with a Taser changing the nature of that. I think that has been shared with the Minister and our concerns there. This is about ensuring the safety of the police and the public and to get that support from the public for a change, which is a delicate change. Part of that is to protect our probationary officers as well and so that is where this amendment comes from and I will remind the Assembly that it has been accepted by the Minister. On that, I would like to ask for the *appel*. Thank you.

The Bailiff:

Deputy Wickenden, you have a point of clarification?

Deputy S.M. Wickenden:

Just from the previous speaker, I am aware that there was a presentation demonstration given ...

The Bailiff:

No, no, sorry, Deputy, that is ...

Deputy S.M. Wickenden:

There were 2 demonstrations, one earlier before the amendment was lodged and one afterwards.

The Bailiff:

Deputy, please stop. A point of clarification, I am assuming you are asking a point of clarification of what the *rapporteur*, Deputy Ward, has said in his speech. If he has made other points in response on more points of your own, that is not a proper use of ...

Deputy S.M. Wickenden:

The Deputy disputed that I may have been misleading the House and I wanted to make sure it was clear that I said that there was a presentation before the amendment was lodged that was not attended. Could the Deputy please clarify?

Deputy R.J. Ward:

Sorry, I do not know what I am clarifying. They were both the same presentation and I went to the presentation. We have also engaged fully with the police, we have had briefings from the police as part of the panel, we have had briefings from many people as part of the panel. It was a thorough piece of Scrutiny work produced in a 61-page report in short order. I am very proud of the report, I am proud of the panel's work on the report and I am very proud to be associated with the officers who ...

The Bailiff:

Very well, I think that is sufficient clarification. I ask the Greffier to put the link into the voting and Members will see the link is there. I open the voting and I ask Members to vote in the normal way. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The second amendment as amended has been adopted: 35 votes *pour*; one vote *contre* and I count another, at least, 9 votes *pour* in the chat and therefore that has been adopted.

POUR: 45		CONTRE: 2		ABSTAIN: 0
Senator I.J. Gorst		Connétable of St. Mary		
Senator L.J. Farnham		Deputy M.R. Le Hegarat (H)		
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. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
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 S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of St. John				
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:

We now return to the debate on the main proposition ...

The Deputy Greffier of the States:

Within the link it was Deputy Le Hegarat who voted *contre* and the Connétable of St. Mary voted *contre* in the chat.

3.5 Deployment and Use of Energy Conductive Devices ('Tasers') by The States of Jersey Police (P.97/2020) - as amended

The Bailiff:

Yes, we now return to the debate on the main proposition as amended. Does any Member wish to speak on the main proposition?

3.5.1 Deputy K.F. Morel of St. Lawrence:

I just wanted to say if any Members are still concerned about this proposition as a whole, I thought it may be useful to understand how I came to the point where I will be voting in support of this proposition.

[11:45]

It all started with a visit for a briefing up at the T.A. (Territorial Army) Centre at La Collette and where I made the classic political schoolboy error of informing the Minister and the Assistant Minister that there was no way on earth that I would possibly vote for this proposition. Fast forward an hour and a half and I came out thinking: "I am going to vote for this proposition." The reason for that was, number one, I stand humble, and the reason for that was a set of presentations given by 2 very informative and very approachable police officers who did answer all of my questions directly. It is a refreshing change and I was very pleased with that. Ultimately in my head, the aspect that convinced me that it is right to allow the wider use of Tasers within the police force came down to this idea that as employers, or the police, through the States Employment Board, I had to ask myself, what right, if as a legislator, I deny the police officers the use of Tasers or broadly the use of Tasers,

what right do I have to deny them that when the alternative is basically asking police officers to engage with people, potentially violent people, upfront, very close, hand-to-hand wrestling, punching, biting and scratching? That sort of thing is what I am asking them to do if I deny them the use of Tasers which, while not perfect, are less than lethal. They do, it appears, although I have not experienced it myself, but from what the police officers were saying the pain is temporary and does only last a length of time, 5 seconds precisely apparently that the Taser is discharged. In one of the videos they showed us, and I have to trust the police on this, they did say that the person who the Taser was used upon who was self-harming at the time, did say that they saved his life by doing that. That was an interesting video because it was someone who could have become violent, who had an offensive weapon but was using it on themselves but obviously could have taken their own life or changed and used it on the police officers. So, yes, it came down to that idea: what right do I as a legislator have to say: “No, I am not going to allow you to use this defensive weapon”? It is a defensive weapon, it is not an offensive weapon, when the alternative to allowing a police officer to use that defensive weapon is to force them to engage in essentially hand-to-hand combat, although “combat” is probably the wrong word, but hand-to-hand fight in some way, shape or form with members of the public. I realised I could not ask them to do that knowing there was an alternative available to the Island and I do believe the Minister has gone about this in the right way. It is a measured use, it is not deployment to all police officers. I also am incredibly grateful to the Children, Education and Home Affairs Scrutiny Panel, I think they have done an excellent review and their amendments are really spot-on in my view. Had they not brought the amendment, particularly on the monitoring side and the reporting in a year’s time, *et cetera*, I would have brought that myself but I am much happier they did that for me. So that is how I ended up going from someone who would never vote for this proposition to someone who will be voting for this proposition, and I thought it might be helpful to let the Assembly know about that. I would just like to thank those police officers who gave us that briefing, not just because they won me around but because they were very informative, they were very open to questioning and we could all take a leaf out of their book when it comes to giving direct answers to the questions. They did that and I am very grateful for them doing so. Thank you.

3.5.2 The Connétable of St. Ouen:

I think I am pleased to follow the previous speaker, not least because he probably pinched most of my lines. I think firstly I would just like to congratulate the Minister on the demonstrations that he laid on up at Mount Bingham. I think for those Members who were not aware how the Taser would be used and when it would be used, it gave a very clear illustration of, not only the safeguards involved, but the situations where an officer may have to use a Taser and the protection it would give that officer, as Deputy Morel has pointed out, where they may otherwise have to engage hand-to-hand with somebody who could have a bladed weapon and could inflict serious damage on that officer. So I would endorse the comments Deputy Morel has made about safety of officers and how this will protect those officers. I think for those Members who may think: “Well it does not happen very often in Jersey” I think if you were to go out on patrol on a Friday evening when the pubs are turning out, you would probably change your mind quite quickly. We are generally a peaceful Island and we do not have a great deal of violent crime but there are instances where violent crime does take place, and we have incidents of domestic abuse where bladed weapons are produced, and we have instances in town late at night where some members of the public can become very violent and can endanger officers’ lives. So I think I would endorse what Deputy Morel says, this is an essential move to provide trained police officers with a method of protecting themselves and I think I would urge the Assembly very strongly to support it. Once again, I would like to thank Scrutiny for their report, it was very clear and comprehensive and highlighted a number of areas that I had not thought of. I spent 11 years as an Honorary Police officer and have had to ask the States police to come and assist me with a number of violent incidents so I can claim some first-hand experience in this matter. So, in summary, I would ask Members to support this proposition. It is well-constructed, it has a

large number of safeguards in terms of the use of the Taser and we will be receiving a report back in a year's time, which we will be able to scrutinise and understand how the Taser is used and on which groups of people it is going to be used. So I think it is a good well-rounded proposition and should be supported by all Members. Thank you.

3.5.3 The Connétable of St. Lawrence:

At risk of repetition, I would like to also thank the Scrutiny Panel for their excellent report and for the subsequent amendments that they have brought to the Minister's proposition. As a Constable, I am responsible for the effective and efficient policing within my Parish. Put simply, that means I am required to provide my officers with the tools that they need to do their job effectively and efficiently. So, in my view, that is simply what the Minister for Home Affairs has done by bringing this proposition to the Assembly, it is to request us to allow his States of Jersey Police officers to have the right tools that they need to do their job. I have a question for the Minister which is, in connection with those people who experience the use of P.A.V.A. spray or the use of Tasers upon them, I am not sure whether they are advised by the States of Jersey Police following the use of those tools whether or not they are able to, if they feel that they had been used inappropriately, whether they are referred to the Police Complaints Authority as a matter of course. I would like the Minister to answer that because clearly, although we are likely to approve the proposition as amended, there is the possibility of the use of Tasers when a member of the public feels that they have been used incorrectly upon them and they would want to make a complaint to that effect. So I do feel that it is almost incumbent upon the States of Jersey Police to advise members of the public about the Police Complaints Authority as a body and what they are able to do on behalf of members of the public who have a complaint against the police. So I would like to know from the Minister, is it the norm that they are advised about this or are they not advised? I think we need to hear from the Minister on that.

3.5.4 Deputy M. Tadier:

It is probably worth mentioning, I know we have heard from a police officer today, a former police officer in the States, and like one of the Deputies of St. Lawrence, Deputy Guida, said, that it is always important to listen to people with operational experience. I was pleased to be able to see a former States Member this week, former Deputy Bob Hill who used to be the Deputy of St. Martin for many, many years who was a police officer in London. Bob was somebody who was always really instrumental in my younger years as a States Member in forming some of the ideas and looking at these kind of things in a balanced way. Incidentally, it was his 80th birthday over the weekend and I am sure we would like to wish him a happy birthday. He showed us the photos, *et cetera*, of the time when he was in the Met, he received the Queen's Medal, the B.E.M. (British Empire Medal) and something he used to talk about, because he was really interested in human rights, was the idea and the notion of policing by consent. I think that is a really important one because I remember back in the day when we had the first debate around the initial introduction of Tasers, this is something that came up quite a lot and there was some resistance. Certainly, a lot of Members realised that it was a grey area because while the idea of needing Tasers theoretically and also for training purposes, because of course we know that the police officers will not necessarily always stay in Jersey and they might need to apply for jobs elsewhere and progress, that it is important that they get training in all of the tools that are available to them, but there was also the counter-idea that in Jersey, which still remains a small and relatively peaceful community, that the need for this had not really been justified. So, when Deputy Morel asks: "Who am I to legislate against a police officer being able to use a Taser?" so we are parliamentarians, we are the legislators and it is absolutely right, and we do have an absolute right to make these kind of decisions because they always are balanced ones. For me, the concern is not simply that the police have the tools that they feel they need but also the relationship between the police and the wider public and the psychological aspect that might come into question when we see, let us face it, it is an increased militarisation, I think, of the police force. Deputy Higgins, who I know has got some experience in these matters, he is interested in them and speaks

on them often and has done in the past. I think he was quite right when he slightly comically perhaps talked about the police officers becoming like Michelin men and women. It does seem sometimes that they do seem over-encumbered and that is understandable, that is the way things have moved. My concern with the Taser is that, first of all, the Minister himself started off by mixing the language. He first of all called it a “non-lethal option” and then later on quoted the term, which is correct, it is “less lethal” and it is not less than lethal, it is less lethal because Tasers can and have and do kill on occasions. Personally, I would much prefer to be met by a policeman or woman in the street with a gun than with a Taser because I know that they are less likely to use the gun and they would only use it in extreme circumstances. It has been put across as some kind of positive that it is a threat, so as soon as you get the red dot on you, *et cetera*, people are more likely to comply. But the thing is, I do not necessarily want to comply in public, I want a public who are well-behaved, who have a respect for the police and for whom the police have a mutual respect, knowing full well that we do not live in a perfect society and that police officers have a very difficult job. I do not want the public to generally become more fearful than they need to be about a police force who should continue to police by consent. So this is my concern that, even though it is not necessary to the proliferation that some might think, we need to be able to speak about these things openly. It should not be in any way implied that this is an impugment of the integrity of the police. I thought Deputy Perchard hit the nail on the head really when she talked about the, some would call it, red tape that teachers have to live with under safeguarding issues and it is done primarily for their benefit but also because they are there primarily to look after the safety of children as well as teach them. I think exactly the same thing needs to apply to all of our public institutions.

[12:00]

So, it is absolutely right that we do legislate and we do proffer opinions, sometimes opinions that may be counter to the mainstream or counter to the majority of other politicians, but I am very concerned that there needs to be that ability for the public to interact. There will be cases, I presume, it has certainly happened elsewhere, whereby police officers always need to act within the realms of the law. It is conceivable that a police officer might request a member of the public to do something that they do not necessarily have the right to do and a member of the public might wish to challenge a police officer on their right to ask them to do something which they do not think the police officer has the right to do. If a Taser is put into the equation, how quickly could it become a police state, and I am not saying this would happen just because of what we are introducing today, but police states do not happen overnight. I think it is something that can happen gradually, so I for one am not comfortable with this increased proliferation. I do not think the case for Tasers has been fully made in Jersey and it is interesting that the Constable of St. Mary said: “Look, the Honorary Police officers do not want Tasers” according to him. I am not saying that operationally they are exactly the same, but increasingly they are of course. If the Honorary Police, who do tend to police by consent, do not feel the need for this, I am wondering why we are introducing it for all other officers. I caveat that by saying, of course, I know these are not absolute areas, there are compelling arguments which have been made and which I am still swayed by for the use of Tasers but, for me, I still come down on the side of voting against this legislation because I do not agree with the way this is taking us in terms of the relationship between the public and the relationship between the police. I think that is very important, not just practical or theoretical deployment issues.

3.5.5 Senator S.W. Pallett:

I am going to be brief. I have got absolute respect for, I think, the intentions of the States of Jersey Police within this proposition and I am going to support the further use or further authority of the use of the deployment of Tasers. But when I first read the proposition, I suppose as the Minister at the time responsible for mental health, I had worries about what the effect would be on vulnerable people and especially those with mental health needs. I have got to say the Scrutiny report covers this, I think, in a really excellent way in terms of what the risks are and how those risks can be mitigated. I

think the amendment does mitigate those risks by at least providing a reporting system that at least in a year's time will give us some idea of how often it has been used and who it has been used on and also included in that is those that may have mental health problems. I think with everything, any force has to be proportional and I think when it comes to dealing with incidents regarding mental health I cannot stress enough that the States of Jersey Police really need to consider what level of force they use with somebody that is clearly showing a mental health crisis or mental health issues. I think we would all expect people experiencing a mental health crisis to be listened to and heard. I think they are, more often than not, crying out for help and before force is used on anybody with a mental health issue, you would expect the States police to assess the situation and use the appropriate force. I have got confidence in the officers on the Island that they will do that but there have been occasions, and we have seen, I think, footage nationwide of situations where unfortunately that has not happened. I really do hope that the reporting system that is put in place will assist the States of Jersey Police in making the correct decision when they consider what levels of force should be used. One of the things I think that also does concern me a little bit is that we do want and we do need people that have got mental health issues to come forward and address their issues and we also need to remove the stigma around mental health. Again, I have got some concerns about whether the police being able to use Taser more widely might affect or might stop some people potentially coming forward and seeking help. I do not think that is the case. If I did really think that was the case then I would not vote for this but I think there is a risk that there may be some that may feel that they could not come forward, but that is only going to be borne out I think as we move forward. What also comforts me I think, and something that States Members are probably already aware of, is we have got much closer working relationships between Adult Mental Health and Children's Mental Health as well and States of Jersey Police. Our street triage I think is working extremely well and it does provide the support that people who are suffering do need and, yes, Adult Mental Health do provide that necessary support and close support to the States of Jersey Police. The police are better informed than they were and I think they are better trained in terms of identifying mental health issues and, again, that comforts me. But I think all I would ask is that training is ... and I would ask the Minister to ensure that officers carry on understanding even better some of the issues involved around mental health so that we can reduce the risk of anybody unnecessarily being tasered. We do have better intervention services and I think we all realise that we are working much better with some of our third-sector partners and the police do as well. So, I am comforted by the amendment, I thank the Scrutiny Panel for bringing that amendment and I am going to support the proposition because there are wider issues at stake here. There is the wider issue around making sure that our States police officers have the ability to defend themselves at all times and it will be another important tool in the box. But as much as having another tool in the box is important, we do need to understand whether it is being used appropriately, and I think the amendment does do that. So a big thanks to the Scrutiny Panel and I will be supporting this proposition. Thank you.

3.5.6 Deputy R.J. Ward:

I will just speak very briefly because we have said enough really. I wanted to just add one element to the report that we put out and I think it is something that Senator Pallett has touched upon. That is that we hope that by recording the data as we have, what it does is it opens the dialogue among the professional police that will be using the Taser to think about their use and the situations and how they can manage them even better than they do already, and so we are hoping it is a very constructive amendment. It will come back in a year's time with data for us to reconsider and I think those checks and balances are very important and it is for one simple reason: we do not have to follow just blindly other jurisdictions. We can absolutely create a system here that is right for Jersey and right for our police and for our population to maintain the community support for our police but at the same time maintain people's safety. So I would urge people to support the proposition as amended because I think it gives a good way forward.

3.5.7 Deputy L.M.C. Doublet:

Just briefly I wanted to touch on something that, I think it was Deputy Tadier mentioned, and he mentioned the concept of policing by consent. Now I happen to live with a police officer, which is something that I have declared many times in the past and do so again today, and I had some misgivings about the extension of Tasers such as we are debating today, I think similarly to Deputy Morel. I have changed my mind as well for some of the same reasons that Deputy Morel outlined but also because I do have the privilege of knowing personally, not just one police officer but many. Over the years I have come to understand the passion and the dedication that police officers show when they are carrying out their roles. This concept of policing by consent, as I understand it, is something that is at the heart of policing in Jersey and, while I can understand some concerns that might be felt by those who do not want us to have a police state, I do not think that is anything we have to fear in Jersey. It might be something that is a problem around the world, and we have seen some of these issues with some of the Black Lives Matter protests; that is not the situation here in Jersey. Looking at the 9 principles of policing which I think it was Robert Peel, although that is disputed in the research I have done on this, this is a very, very old principle from the 1800s where every police officer recognises that their power to fulfil their functions and their duties, their power is dependent on public approval. I do think that is the situation that we have got in Jersey, that the police do police by consent and I think the fact that the police already have - again, this was mentioned by other speakers - weapons which are potentially lethal and harmful, I think that Tasers are reinforcing the notion of policing by consent. Because personally I would much rather be ... I think anybody who is in the situation where they are contending with the police would not like to be hit by a great big metal bar which of course could be lethal. So the fact that the technology involved with Tasers has come later than the weapons that the police have today does not mean that the Taser is more severe. So, yes, just to return to the policing by consent, I have great respect for police officers and I think that the principles of policing by consent are quite deeply held among our police force. I think the respect that is shown by our police force to the public, I want to mirror that respect and give them that trust to use this equipment in an appropriate manner. Of course, the amendments from the Scrutiny Panel which is being led by Deputy Ward, which I think Deputy Ward has done some fantastic work on this and he has really looked in-depth to this, with those amendments I think that every Member should vote for this with confidence and put the trust in our police force and in the integrity of our police force, which I believe they do demonstrate on a daily basis and I thank them for that integrity.

The Bailiff:

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 Minister to respond.

3.5.8 The Connétable of St. Clement:

Can I thank all Members who have spoken but, if you do not mind, in particular the last 2 speakers, Senator Pallett and Deputy Doublet, for the kind but absolutely right words that they said about the States of Jersey Police? Like Deputy Doublet, I have got the greatest admiration for the work that they do. I was speaking to the police chief not so long ago, I do obviously on a regular basis, and he has had a career of working for various forces in the United Kingdom. As Members will know, this year in fact, we have had 30 new recruits joining the States of Jersey Police and he was telling me how delighted he was with the high quality of people who have applied to join the police and have been successful. So I hope that reassures Senator Pallett as well because he is absolutely right about the mental health issues. I think the police, probably more than any other organisation, understand the issues around mental health because for so long - for so long - they have been the service of first resort and of last resort for dealing with people with mental health problems.

[12:15]

So the more support, if Senator Pallett comes back to the Health Department with regard to mental health, I hope he will work with the police because they are not really the ideal people to do that although they are very much there. Deputy Tadier, it amazes me, he seems to think that we live in Utopia. We think that everything out there is sweetness and light and we do not need to protect ourselves, we do not need the protection of the States of Jersey Police. Well I wish he would come out, like I have done a few times on a Friday night, to see what goes on. I do not think he came to the presentation that we did for the Tasers, and he would have seen some of the body-worn camera videos to show sometimes what our States of Jersey Police have to face. I think if he saw that and understood that, he would not have made the speech that he made today. Even with that speech, I do not think that he will be shot or tasered in the very near future. He spoke about the Honorary Police. I tell you what, as a Constable, I have great involvement with the Honorary Police and they all do a terrific job but I would not expect my Honorary Police - and I am sure it will be true of all Constables - to go and face someone with mental health problems who is swinging a samurai sword around. We have professionally trained police officers who would deal with that sort of issue but I do not expect the Honorary Police to deal with swords, knives and guns. They are community officers. They will assist of course wherever possible but they will not be on the front line. I thank Deputy Morel for his words. I do not always agree with Deputy Morel but I do give him credit for what he said because it is not always easy to change your mind when you have made such a commitment as to where you stand. It is not always easy to do that and I value and appreciate what he had to say. To the Constable of St. Lawrence, I can say: "Yes." Anyone who is subject to P.P.E. - it might be handcuffs, it might be P.A.V.A. spray, it might be the baton and it might be the Taser - they are always firstly checked on site for medical situations. They are checked by a medical examiner when they go back to the police headquarters and they are advised of their rights and advised if they wish to make a complaint, and that is done as a matter of course. Finally, once again - and I hope this does not sound like the mutual admiration society- but I thank Deputy Ward and his Scrutiny Panel because there is no doubt, and he would confirm this if necessary, that we had robust, challenging and forceful exchanges during the lead up to this debate. I am so grateful for the way that they conducted their investigations and for the review, which was fair and balanced. I also thank them for the amendments which I was able to support and I am grateful to the States for what I think will be their support too. I maintain the proposition.

The Bailiff:

Thank you very much. Very well, I ask the Greffier to put a voting link in the chat. It is there and I open the voting and ask Members to vote in the normal way. Very well, if Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. Those voting *pour* 34, *contre* one.

POUR: 47		CONTRE: 1		ABSTAIN: 0
Senator I.J. Gorst		Deputy M. Tadier (B)		
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. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				

Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
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 S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy 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 proposition is accordingly passed and Deputy Tadier asks for the one *contre* vote.

The Deputy Greffier of the States:

In the link, that is Deputy Tadier.

4. Draft Wildlife (Jersey) Law 202- (P.110/2020)

The Bailiff:

We now come to the next item of Public Business, which is the Draft Wildlife (Jersey) Law, P.110, lodged by the Minister for the Environment. For the purpose of this debate, the main respondent is the Chair of the Environment, Housing and Infrastructure Scrutiny Panel and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Wildlife (Jersey) Law 202-. A law to make provision relating to the conservation and protection of wild animals, birds and plants and a promotion of biodiversity in Jersey and for connected purposes, the States, subject to the sanction of Her Most Excellent Majesty in Council have adopted the following law.

The Bailiff:

I understand, Deputy Guida, you are to be *rapporteur* in this case.

4.1 Deputy G.C. Guida (Assistant Minister for the Environment - *rapporteur*):

Yes, Sir. It is barely a year ago that the world finally sees the realisation that climate change was a serious problem. Of course, this has to be put aside while we have dealt with a much more pressing international crisis like what our C.E.O. (chief executive officer) does in his free time, but the climate emergency has not gone away and will require massive effort from all of us if we want to minimise its effect. I would like to remind the Assembly of what some of these effects are. The disappearance of 1 million species, the destruction of most of the world's coral reefs and the loss of most of its rainforests. In short, the biggest damage to the planet's biodiversity since the Cretaceous-Tertiary extinction. The Assembly may have noticed that I did not mention human beings. This is because we are the most resilient species on the planet and one which will adapt easily to the change. If there is any loss to us, it will be the loss of our natural environment. Given that the fossil fuels which propelled us for going ahead in society, the spacefaring civilisation in less than a century, will mean nothing if we do not properly protect our natural environment mostly from ourselves. The proposed Wildlife Law updates the Conservation of Wildlife (Jersey) Law 2000. It is more complex, it is more detailed and stronger than its predecessor. It endeavours to fix some of its mistakes and, crucially, it is much more malleable and viable than the 2000 law. I am proud to present this today as a more modern and up-to-date version but we have to be aware that we are barely catching up. The U.K. adopted its first Natural Protection Law in 1869, the Seabirds Preservation Act. The Congrès International pour la Protection de la Nature in 1923 first suggested protecting endangered species and creating natural reservations. The I.U.C.N. (International Union for Conservation of Nature), famous for its red list, was created in 1948. By the early 1970s, almost all of the countries in Western Europe protected their most vulnerable animals and their environment. Our first Nature Protection Law was in 2000. We are catching up but we are still late. Either directly or through the U.K., Jersey is a signatory of a large number of international conservation agreements. My understanding is that we are participating in a little bit less than 50 of them. For example, the Convention on Biological Diversity 1993, the Convention on the Conservation of European Wildlife and Natural Habits 1979, the Convention on the Migratory Species of Wild Animals 1983, the African-Eurasian Waterbird Agreement 1995 and the Agreement on the Conservation of Population of European Bats 1994. I will not go through all of them but each of these agreements carries with it a very strong requirement from its signatories. For example, Article 6 of the Convention on Biological Diversity says that: "Each contracting party shall, in accordance with its particular conditions and capabilities, integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies". Basically, integrate conservation in your Government Plans. Article 3 of the Bern Convention says: "In particular, the parties should promote, co-operate in and support research relating to migratory species and shall endeavour to provide immediate protection for migratory species included in Appendix 1." It goes on and on. We do not sign up to these conventions for fun. We promise to do things. We started with the 2000 law, which was a very good start for protecting species in Jersey but we have to evolve it. The way that we evolved it in this draft is in many different notions. First, we will elaborate to the notion of deliberate action. This is important as it is key to committing an offence throughout the law. For example, a person acts deliberately if he or she was aware that unless reasonable precautions were taken, his or her act presented a serious risk of a result prohibited by this law. It is tempered by reasonable protections, which means steps that were reasonable in the circumstances known to the person for the person to take to reduce the risk of his or her actions giving a rise to a result prohibited by law. Deliberately does not excuse being careless but it is considered within the understanding of the person in the case. Another important change is that we are using easily amended schedules throughout. For example, we have a schedule 1, which is the list of protected wild animals. We have a schedule 5, part 2, which are that wild birds with breeding sites and resting sites are protected when

in use. This will allow us to adapt the law to rapidly changing circumstances where, for example, a species is appearing in Jersey for the first time or finds itself suddenly locally endangered. It is also useful, and this has happened in the past, where the name of the species is changed. Our local snake was found without protection for several years because basically its scientific name was altered and our law did not protect it anymore. Habitats are now protected in a more complex way. We make a difference between habitat, nesting, dens and resting areas whether they are in use or not and depending on the species using them. A large and very important new part of the draft law is the Regulation of Invasive Non-Native Species. The related Articles links the list of invasive alien species of European Union concern as well as a shortlist of species of special concern to Jersey such as Asian hornets and Japanese knotweed. Importantly, it will also give new powers to the Environment Department to investigate, find and help destroy invasive species, which it is forbidden to bring into the Island, own or release. These may seem very extensive but the risk is both very high and very likely. One needs reminding that there are many other species like the Asian hornet which might be brought into the Island. Some species that would be considered innocuous can cause massive damage. If somebody brought a single pair of breeding grey squirrels, it would doom our local population of red squirrels. All penalties will be enhanced to a maximum of 2 years imprisonment and a fine. This is pretty standard worldwide but in case it is found harsh, imagine if someone went and deliberately killed our last puffins. Of course, the penalties will be proportional to the crime and I am pushing for most of them to be dealt with at Parish level, famously known as the best place to find justice in the Island. The new law also makes provision for licensing specific activities that might otherwise be considered an offence. The Minister, or those to whom he delegates his power, can grant a licence for defined purposes such as scientific research, development or preventing the spread of disease.

[12:30]

This purpose can be extended, if needed, as that has been found to be one of the limitations of the current law. Another very important addition is the power for the Minister to quickly designate an area as protected. This is done with the acceptance of the landowners and it will be very useful, for example, if transient birds choose to temporarily nest in Jersey, something which will happen more often as temperatures rise. We are hoping to use this power very soon to protect the birds nesting on the coast. Finally, if anybody else tried to read this law, I will say that there is no easy way to write a Wildlife Conservation Law. We can either make it concise but convoluted or simple but long and repetitive with the risk of contradiction. We chose the concise path, which means that it does take careful reading to understand some of the Articles. To alleviate the problem, the department will issue guidance for most common activities and the guidance value is defined in the law. I would like to add as well that most of this guidance already exists. I would like to thank all those who participated in the consultations that helped design this law, as well as our Scrutiny Panel who were invited early on in 2018 to help shape its development. With that, I maintain the principles.

The Bailiff:

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

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

I am grateful to the Minister for bringing in this modern approach to wildlife conservation. It is suggested that its adoption will enable Jersey to fulfil its multilateral environmental agreements within an Island context. Regrettably, I do not believe the Island context concept as referred to on page 6 of the report has taken into account our agricultural community who have obligations under the branchage laws to be custodians of our environment and countryside. The draft law, it seems to me, anticipates that agriculturalists and their operational staff will risk receiving heavy fines or being incarcerated in an establishment in my Parish in the event that they fail to identify any of the 79 protected wild plants in schedule 8 of the proposed law. I cannot see reference to farmers having

been consulted on page 9 of the report. We are fortunate at the moment to have a sensible and pragmatic Minister and Assistant Minister but there is no certainty that this will always be the case and we cannot put farmers and growers in the normal course of their work to be put unwittingly in the position of guilt at the outset. I believe there is a little further work to be done on this law to make it acceptable here in Jersey and I look forward to contributing to achieving this. Thank you.

4.1.2 The Deputy of St. Martin:

The Assistant Minister started talking at the outset about climate change and this proposed law is not about climate change but it does, like any climate change legislation that might come before us, force humans - and that includes ourselves obviously - to behave better towards our planet, towards wild animals, towards biodiversity on land and on the sea. That is vital because, as a species, we humans do not really care much about others. We wipe out animals and plants at our pleasure to make ourselves happier and look after ourselves better and we do that on an annual basis, a monthly basis, a weekly basis and a daily basis. The Minister talks about reasonable protection and I am clear in my mind that this proposed law gives a huge amount of reasonable protection to wild animals and plants but I am a little bit concerned that it may go, in certain places, too far. While I accept that, as a species, we need to do better protecting our wildlife and our wild flora and fauna, we do need to be careful that we see both sides of the argument. So we will get to the detail later and that is where I will come in but, in principle, I hope every Member of the Assembly will feel that they will want to support this law. It is vital that we do move forward in protecting those animals and plants that cannot protect themselves. As I said, as a species, we wipe out everything before us for our own benefit. We need to be protected from ourselves and I would urge Members to support the principles at this stage.

4.1.3 Senator L.J. Farnham:

I am pleased to follow the Deputy of St. Martin because we are very closely aligned on our views on this subject and the *rapporteur*, when presenting this, reminded us that, as humans, we are a resilient species but we are also the most destructive and damaging species on the planet, and we only have to look around us to see the growing evidence of the impact of that. Nevertheless, in our own small way over here, we are at last catching up with how we should treat and manage the animals, especially the wild animals that share the Island with us. I refer to an incident which I found very disturbing, and I think it was earlier this year, where a number of crows were killed and placed on poles or spikes in a field. I am not sure if that cruelty was ever dealt with or was it prosecuted. I am not sure that it even could have been prosecuted. I think it was in the Connétable of St. Martin's Parish that it happened. Perhaps she could elaborate on that at some stage but perhaps not during the debate if she does not plan to speak. That is an example of how humans should not treat animals. Crows are one of the most intelligent species on the planet, yet they are not considered in schedule 6 of this as a protected species. I am sure there are very good reasons for that but I cannot condone that we treat wild animals differently to other wild animals so I think we have still got some way to go. I am pleased also this extends to our seas and oceans. Members will also have noticed that some dolphins were washed up dead on our beaches at the weekend, clearly as a result of destructive fishing methods. We still allow destructive methods to continue in our waters, trawling and dredging, and I think we have to deal with that and I very much hope that as we move towards increasing our marine protected areas, we will deal with that. I know fishing is a very, very delicate subject at the moment but I am sure many Members will share a vision of a much more environmentally friendly and more commercially viable approach to that into the future. I welcome this. It is very, very good progress but we need to go further. I hope we will continue to go further and make it an offence at some stage to harm any animals that shares the Island with us.

4.1.4 Deputy K.G. Pamplin:

I will also be supporting the principles but the Deputy of St. Lawrence was not kidding when he said how complex this was, as this is the most challenging piece of legislation I had to sit in bed and read over the weekend. I have some questions for him regarding regulations but I will wait until the next reading. It was in response to the human rights section in the report where it is noted: "Whether the proportionality requirement is satisfied by a particular exercise of powers under Articles 30, 35 and 36 will need to be evaluated on a case-by-case basis despite the in-principle compatibility of the powers with E.C.H.R. (European Convention on Human Rights) rights where the Minister intends to exercise the powers provided by the draft law and such could amount to a deprivation of an individual's property rights, it is advised that the advice is sought from the Law Officers' Department." I would just like to hear from Deputy Guida in response to how that will be managed and what more he can touch upon on the complexities around the human rights. The issues I have with the regulation I will save for later.

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

In supporting my Assistant Minister, I want to particularly thank him for the extraordinary effort that has been made in doing this law. As Members say, this is a very, very complicated task to upgrade what was done in the 2000 law when the previous law was brought in. I just wanted to highlight the importance to Members, the bigger picture, if you like, of the points that the Assistant Minister Deputy Guida made at the start of his speech about international commitments. We do live in a wider world and all of us in the world realise the importance of and our dependence on the natural world. We are one species within a world of natural ecosystems and our activities do have damaging effects in many cases and they need to be managed. I think there is an increasing recognition of that. In particular, with the reports on the wildlife state of biodiversity, and indeed we have all seen obviously the leading environmentalist work. Of course this has not been new. That has been known for decades and I am reminded of this situation in listening to the chairman of the Scrutiny Panel who I greatly respect. Of course we have had meetings and briefings and complex meetings with the Scrutiny Panel but of course the chairman has the right to be able to take the position he says. That is disappointing because I do not personally feel that what we are going to have here is a device which will make life impossible for the agricultural industry. No. It is about working with them and finding ways in which we can do better in terms of managing and looking after the wildlife that we share our Island with and we are so fortunate for that. I think returning to the international relationship issues, when I was a civil servant many years ago, I can remember being summoned to a former Bailiff's office with the politician I was supporting, to have attention drawn to the fact that Jersey had signed up to intentional conventions to pass this Wildlife Law and to fulfil the obligations that had been signed up to. There was a clear reminder and a directive that we cannot have a situation as an Island where we sign up to things and we make promises and then we do not translate them into action. I am hopeful that the States Members will support the need to be able to adopt this new law today because I think it is really important that Members do so. We do sign up to conventions. Deputy Guida I am sure, in his reply, will be able to deal with the potential issues that Members might raise about the way the law will be put into effect but he did mention the issue of guidelines. I am grateful to the chairman of the Scrutiny Panel that recognises that both Deputy Guida and myself are reasonable persons in the way we go about things but obviously I am very keen to see the States support the principles in the law. Thank you.

The Bailiff:

Thank you very much, Deputy. That brings us to just a little bit past 12.45 p.m. Is the adjournment proposed?

LUNCHEON ADJOURNMENT PROPOSED

The adjournment is proposed. Very well, the Assembly stands adjourned until 2.15 p.m.

[12:45]

LUNCHEON ADJOURNMENT

[14:15]

The Bailiff:

Before continuing with the debate on P.110, Members will be entirely aware of course that a vote of no confidence in the Chief Minister has been lodged and a requisition has been received by me in due form seeking an extraordinary meeting of the Assembly next week for the purposes of dealing with that. After consultation with the chairman of P.P.C. (Privileges and Procedures Committee) and others I have fixed Tuesday next for the entire day to deal with the vote of no confidence. That will be the only item of States business. Inevitably fixing any date in an extraordinary meeting is going to cause inconvenience in some respects for some people but after consultation with what might be termed the prime players within the debate that seems to be the best and earliest date. What I should explain also is as that is sooner than the lodging period requires the Assembly will still at some point, no later than the beginning of the debate, need to determine whether it waives and truncates the lodging period to enable the debate to continue on Tuesday of next week.

Male speaker:

Sir, can we make that decision today because it would seem rather silly to come here next Tuesday and then not accept that we reduce the lodging period.

The Bailiff:

It is not without precedent, that has happened in the past, Connétable, but I entirely take the point. I think the correct time to propose it, if I may say so, and when people have had the opportunity of reflecting a little bit, is when public business is arranged at the end of this sitting. Very well, we now return to the debate on P.110. Next to speak is Deputy Tadier.

4.1.6 Deputy M. Tadier:

First of all I also welcome this law and I welcome that in a private Members' capacity as well as in a ministerial capacity. Most of this work would have been done a long time before my time and perhaps even by members of the department who have now retired. I think it is right to acknowledge that it has been a long piece of work and it is necessary. For my part this is not simply something that we do because it allows us to comply with our international obligations, but we do it because it is the right thing to do. I recall in her very successful Senatorial election campaign that Senator Moore had 3 key pillars of her manifesto, which I think chimed with the community which put her second in the poll. Those were, if I recall correctly, community, economy and environment. I think that while economy can come in many different forms, and the community obviously is paramount in our jobs and looking after locals who live here and the whole community, that we are nothing without the environment. It affects our quality of life and it is something that we enjoy. Particularly many have enjoyed a new way of enjoying the environment in Jersey, the beautiful surroundings we have, including the flora and fauna during lockdown, and I think that is something that most people are aware of, that we are custodians of the natural environment and that many of these animals were here a long time before humans evolved and they will hopefully still be here many, many millennia after humans have become extinct from the planet. So I think we must tread lightly on the planet and it is right that we have corresponding modern up-to-date laws. I would be disappointed if any Member is looking for excuses to try and vote against this law, which I hope is not the case. That notwithstanding, it is understandable that relevant concerns will be raised and I think they have been adequately dealt with, so I am just going to make a few comments, starting on some of the issues that Deputy Higgins raised about the impact on farmers. I would just say the following: the first is that to constitute a potential offence any act must be deliberate and reckless, and this wording complies with the Bonn and Berne Conventions in respect of species of European concern. Number 2 is that provided that a person in carrying out their routine operations takes reasonable precautions to avoid

causing harm to protected species and does not take reckless action in the knowledge of their presence, any incidental harm caused to wildlife through going about their daily operations will not be considered a potential offence. Number 3 is that these reasonable measures will be contained in guidance notes that will be consulted upon. The present guidance for branchage, hedgerow and tree management, for example, is in fact largely already in place and it already covers an element of taking precautionary measures to avoid impacting on wildlife under the current legislation. The fourth point is that reasonable actions will vary according to the activity and, in most cases, simple, practical steps to minimise the likelihood of harm. So they will take into account the need to maintain commercial businesses and to comply with other legislation, such as the branchage. There are lots of other things I could say but I think the proportionality of this is probably one that I think Members might normally have concerns about and I think it is dealt with adequately. So, for example, when we look at the scale of fines these are the maximums that are listed in the law. There is a graduated scale from a general advice letter through to a warning letter, formal warning letter, and then prosecutions by the court for extreme circumstances. So this is not simply a case of heavy-handed implementation of the law; there is a graduated step which is in keeping with the normal law enforcement tradition that this Assembly is used to. All prosecutions do need to go through the Attorney General to pass the public interest test and the law perhaps more fundamentally is about working with people, and I think we want to gain compliance through goodwill in most cases rather than through heavy-handed legislation. But, nonetheless, the backstop does need to be there. It might be also helpful because I know that the Constable of St. Brelade raised some concerns saying farmers might unwittingly uproot things. I think that has been dealt with in what I read out earlier but there is also a point to be made that there is a very useful protected plant book that is already in publication and that is going to be circulated more widely, I have been assured by officers at the department. So I would encourage all Members to support this and I do not think we should be looking for carve outs. which do not necessarily achieve anything. Clearly there might be further comments to be made in the Articles as we are going through them but I do commend this law to the Assembly as well as perhaps thanking the members of the department, the officers who have worked on this I know for a very long period, especially those who may no longer be there because they have retired.

4.1.7 Deputy R.J. Ward:

Just very briefly some questions. Given the impact we all see from climate change and global warming and probably a change in speciation both in our seas and on the Island itself, I just want to ask about the definition of invasive non-native species and whether there is flexibility to look at how we define what invasive is. Then how species control orders and species control agreements are made, which may deal with urgent issues that arise due to changing climate and changing species that will occur. Could that be contradictory with the idea of promoting biodiversity because effectively our biodiversity may change over time simply because habitats are changing? All I want to know really is: is this law flexible enough to deal with what we face with climate change? We have known for years that this is going to happen and there are projections. Are we ready for that and will this law be able to deal with that appropriately given that there will be threats to some species from new species coming in, but it is a form of biodiversity? It is a general question, thank you.

The Bailiff:

Does any other Member wish to speak on the principles? If no other Member wishes to speak then I call on Deputy Guida to respond.

4.1.8 Deputy G.C. Guida:

First I would like to thank Deputy Tadier for his explanation of some of the details of this law which he did in much more eloquent fashion than I could have. While doing this I will also apologise for some fumbling with my own notes. They were much, much more extensive than what you have heard and I was skipping paragraph after paragraph to try to not take the whole afternoon. As I have

said, it is a very complex law and there is a lot that can be said about it. I would like to thank Constable Jackson as one of the people who have had to read the law completely and try to understand and make sense of it. I agree that we are trying to fulfil international agreements that we have signed but more importantly we do have our own goals. One very important thing to understand about this law is that it is our second one and it is an evolution of the first one. So that is something that I like a lot about bringing in legislation, trying not to revolutionise but to look at what did not work the first time and try to fix it. If we look at what did not work in the first law, even though it was a proper wildlife protection law, I would like to put forward a figure which is quite interesting. In the last 10 years there has been exactly zero prosecution for wildlife crime. So we have a law, we have Articles, we have protection of animals, and basically we have used it pretty much never. We have sent a few letters to complain about people doing things they should not have but that is about it. So on one hand we have a law that is not quite doing its purpose and on the other hand I do not think we can argue that we have a department that is all out in trying to send as many people as possible to the Parish Hall or, even worse, to prison. So we are trying to improve here but we certainly do not start with the notion of trying to prosecute as many people as possible. Part of the evolution of this law is a very, very big change in how you define when somebody is guilty. The previous law had a defence which was when an act was the incidental result of a lawful operation. Now, this used to be in many different wildlife laws around the world but it was very soon found to be inadequate. We have experienced it here; I remember one case myself when a whole family of ducks and ducklings was run over on the road. They were extremely visible, there was plenty of space before and after them, but basically because somebody was obeying the rules of the road and the traffic law and driving from their place of work to their home that would have been fine. They could have said: "Well I was doing something completely legal; the ducks just happened to be there." Of course if that happened again after this law is voted, if it is, we could prosecute for that. So that is why in the new law we talk about deliberate, which is extensively defined, and reckless. That is quite important. We go into the concept of *mens rea*: was there a will to damage? I would like to anticipate a little bit here because we have mentioned the fact that the farmers were worried that we would impinge on their normal life. I am a little bit disappointed because I sort of hoped that as an ex-farmer myself, whose backside still resembles the seat of a Massey Ferguson 152, they would have a little bit more trust in my willingness to try to help them. I have been extremely impressed by the way the farming community has looked at branchage in the last year.

[14:30]

It was an issue that the Tree and Hedgerow Forum started to develop after many hedgehogs were hurt in 2018. I was extremely pleased to see the Farmers Union, and the farmers themselves, proactively trying to adapt and do branchage in a better way, and where branchage has improved is where the farmers do it and have done it better. I hope that we can talk and make sure that this law does not damage the way they work and that they can trust me to make sure that it will be proportional. I would like to thank Deputy Luce for his support. Yes, we all need to behave better and just in case it does not happen today I would like to anticipate his amendment. Unfortunately I will not be able to support it. There is a very, very important notion here. Jersey is not natural. There is not a single square centimetre in Jersey that has not been developed, treaded on, used, ploughed, and farmed. Nature in Jersey is not natural; it is not what the Island would have looked like 10,000 or 100,000 years ago. So we cannot avoid living with nature; we must allow it to live with us and we must tolerate it and even help it where we live. So just declaring anything built a no-go zone for nature unfortunately would not work here. That would be 75 per cent of the Island and probably 90 per cent of the actual habitat. In fact it is something that we are going to strongly develop, the notion of net biodiversity gain. Something that already exists in the Island Plan; it is called improvement of the natural environment, and when we grant a planning permission nowadays we look at that. We say: "Is this new development resulting in a net improvement in the natural environment?" In the future we will look at it and say: "Does that bring a net biodiversity gain? Can more animals live in

this new environment that we have created?" It is simpler than what one might think. Hirundines, like swallows, nest under roof eaves. We can help them; we can build roof eaves that have prepared holes for them, we can build with bricks or tiles that allow bats to use the roof as a habitat. We can build in a way that improves the environment rather than always being negative. Eventually - and that is also something important - if we do it systematically we are improving the environment but we are also making it easier to develop because instead of having to mitigate or compensate in specific cases we will be doing it systematically; it will be built in the development cost. In fact I will come back in front of this Assembly with the notion that the 1 per cent for art should be repurposed as a 1 per cent for biodiversity, as of course development is the worst enemy of biodiversity and should help it. I have a note here about the questions from Deputy Ward. It is quite easy; in invasive and non-native species the key word is "invasive". Many species are non-native already, but what you do not want is a species that displaces others. So an excellent example right here is the Asian hornet. If we just had Asian hornet we could probably tolerate them, but if we have Asian hornet that displaces our bees then we cannot. They are invasive; they are just not coming here. This is something that of course evolves and one of the most extraordinary examples is in the U.K.; ringed parakeets which are from Australia are now a recognised British species. I understand that Muntjac deers are and wallabies, of all animals, and basically they are not protected in the U.K. If a species decided to settle in Jersey we would look at the potential damage it causes and otherwise it is welcome here and we will protect it. The new law makes it very, very easy to change the list and make sure that the species is, as needed, either fought or welcomed. To Senator Farnham, yes, crows are very, very smart birds and I would rather see them protected now but again that is something that would be easy to change with the new law. I am very happy to see that he noticed something I did not mention, the fact that now marine life is included and that we can list a number of species and protect them in this law, and we have done it with the bluefin tuna, which is the best way to protect it. Again, I hope this law is passed so that bluefin tunas are protected. There was an untold note of the possibility of a marine park, which of course the Environment Department would be absolutely delighted to talk about. Marine protection is definitely something we can try to develop in the Island. To Deputy Pamplin, thank you for making me notice those Articles. We have to remember that almost everything in this law is about the worst-case scenario. For example, again a very, very easy example, Asian hornets. So far we can only dispose of a nest if the owner of the nest agrees, so even though they are invasive it is very, very difficult to force access. Most people are not terribly happy to have them and it has not been a problem but it might be. There might be somebody with an extremely dangerous species in ecological terms on their grounds and they might not agree for the officers to enter the grounds or dispose of the animals, or they would not agree to do it themselves if, for example, they are a large quantity of plants. So we need last resort regulations that allow us to do what is absolutely necessary, so Article 30 is about access to premises. Article 35 is about areas of special protection and this is also, very, very important. It is difficult nowadays to do a quick protection of an area. In fact we have had a debate here about how to protect the Écréhous, and we spent several weeks in the department trying to figure out how to best protect them. The question was very, very simple. We have pretty important birds nesting on the Island and we want to make sure people do not disturb them. In particular, we wanted to prevent the use of drones and prevent the landing of dogs. It does not sound terribly complicated but at this stage we would probably need to make a law specifically for that purpose. We would have to probably spend a year trying to do it and it might be very inflexible. This new law will allow us to specify small areas and within one month to 6 weeks protect them, so we can be extremely reactive, we can do something that is completely applicable to the Écréhous, as they are now, and we can change it. For example, if the Roseate terns decide to come back in numbers, so it is very, very flexible. The law insists that we must act in agreement with the owners of the land but again in desperate cases it also allows us to go past that. I am not sure about Article 36. This is about licences and it is also quite important because there may be quite a number of cases where we would want people to not be prosecuted if they break the law. A very simple one is photography; if somebody wants to photograph the nest

that would be considered as a disturbance but we can allow a licence under certain conditions to make sure that is possible. If somebody wants to develop an old property, and there are several species nested here that the department does not consider them absolutely critical, we might allow their disposal through a licence. So licences are extremely important. It is one of the defects of the present law because, for example, there is no possibility for the Minister to give a licence to destroy a bat roost, and we have had to use the very awkward system of writing a letter saying: “You are doing something illegal but we promise not to prosecute you”, which is only marginally legal. All this has a general right of appeal under Article 40, so even though within Article 36 it only mentions being able to go back to the Minister, Article 40 gives a wider range for appeal. I think I have gone through everything, and I maintain the principles.

The Bailiff:

Very well, I ask the Greffier to place a vote into the voting link. The vote is on the principles of the Draft Wildlife (Jersey) Law. The link is now there; I open the voting and ask Members to vote in the normal way. If Members have had the opportunity of casting their votes I ask the Greffier to close the voting. The principles have been adopted: 38 votes *pour*, one vote *contre* and I have at least 6 votes *pour*, possibly 7 in the chat.

POUR: 46		CONTRE: 1		ABSTAIN: 0
Senator I.J. Gorst		Connétable of St. Saviour		
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
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 S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				

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

The Greffier of the States:

The one vote *contre* was the Constable of St. Saviour.

The Bailiff:

Does the Environment, Housing and Infrastructure Panel wish to scrutinise the matter, Connétable of St. Brelade?

The Connétable of St. Brelade (Chair, Environment, Housing and Infrastructure Panel):

Yes, we do please, thank you.

The Bailiff:

You are calling the matter in for Scrutiny, very well. Then the matter is deferred and a date must be set at which the Second Reading will take place, in no more than 4 meetings' time. Which date would you like us to set for that, Connétable?

The Connétable of St. Brelade:

We would like 9th February please.

The Bailiff:

9th February, did you say?

The Connétable of St. Brelade:

I am advised that is the 4 sitting dates.

The Bailiff:

Yes, 9th February.

Deputy J.H. Young:

May I question, did you say the 16th December sitting does not count for the purposes of this?

The Bailiff:

It is a requisition sitting so it is not an ordinary sitting of the Assembly. So, yes.

[14:45]

Deputy J.H. Young:

Thank you, Sir.

5. Jersey Care Model (P.114/2020) - as amended

The Bailiff:

The next item of Public Business is the Jersey Care Model at P.114, lodged by the Minister for Health and Social Services. For the purposes of the debate the main respondent will be the chair of the Health and Social Security Scrutiny Panel. The panel has lodged an amendment to the proposition and there is an amendment to the amendment. Chair, is it your intention to accept the amendment to your amendment from the Minister?

Deputy M.R. Le Hegarat:

Yes, Sir.

The Bailiff:

Minister, is it your intention to accept the amendment from the panel?

Deputy R.J. Renouf of St. Ouen:

Yes, Sir.

The Bailiff:

Very well, so are Members happy that we take the proposition then as amended? There appears to be no comments in the chat so we will take the proposition as amended. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (1) To receive the Jersey Care Model (J.C.M.) (as set out in Appendix 1 to the report accompanying this proposition), the Jersey Care Model Review (as set out in Appendix 2 to the report accompanying this proposition) and J.C.M. Strategic Outline Business Case (as set out in Appendix 3 to the report accompanying this proposition), and to approve the strategic objectives of the Jersey Care Model set out on page 4 of the report accompanying this proposition. (2) To note that Ministers intend to bring forward proposals for investment in the Jersey Care Model in the Government Plan 2021-24, and subject to that investment being approved, to, (a) approve the proposals to move to the next stage of the programme, to progress to the detailed design and phased implementation of the Jersey Care Model, as defined in the Strategic Outline Business Case and summarised on page 28 of the report accompanying this proposition, with the implementation to include the establishment of an independent, non-executive board, that will keep under continuous review the delivery of the Jersey Care Model and report to the Minister and the Health and Social Security Panel and that will be responsible for agreeing monthly progress reports and the publication at the end of *tranche* 1 of a detailed analysis of progress against set targets and a detailed look ahead to the delivery of *tranche* 2; and (b) to request the Council of Ministers to co-ordinate the necessary steps by all relevant Ministers to bring forward for approval proposals for a sustainable funding model for health and social care, to be operational by the end of 2025.

5.1 The Deputy of St. Ouen (The Minister for Health and Social Services):

Today I am asking Members to set us along a path that will transform health and social care in order to improve the physical and mental health and well-being of all Islanders. The heart of the Jersey Care Model is building a healthcare system around the needs of each Islander. This is the principle that everyone deserves the right care in the right setting at the right time. To do this we need to break down the existing barriers between providers so that staff and patients are enabled to work together across organisations so that we have an integrated health and social care system that addresses physical, mental and social care needs together, not as separate problems to deal with in isolation. If we want to deliver care which meets patient need and if we want care that is centred on the individual, and if we want to make lasting improvements to our health and care services then we need to change. I would like to say some words about why we need that change. It is because the current Care Model is hospital-focused and based on an institutionalised model with a high level of referrals to specialists,

leading to dependency on secondary hospital care for the provision of services. This is evidenced by approximately 30,000 visits to the Emergency Department in 2018 that were not classified as emergencies requiring hospital care. It is also evidenced by over 200,000 outpatient appointments in the hospital per annum when instead much of that care could be better delivered in community settings. Many patients and families have described the existing system of care as fragmented with little continuity in care leading to multiple reviews by many professionals. A lack of co-ordination between primary and secondary care services and external partners leads to transactional care for patients resulting in multiple referrals and repetitive consultations. I recently listened to a patient's story about her attempts to navigate a system, trying to get charitable sector support as a carer for her husband as well as healthcare for her own needs. There was no co-ordination. She was left to flounder, and it should not be like that. There is absence of 24/7 help and care in the community, in particular overnight community nursing and carers who can provide a night sitting service. This means Islanders who could receive the care they need in their home are brought into hospital at night or over the longer term have to be admitted into residential care. Many health services are not fully integrated with physical health and social care services. Too often people in Jersey experience failures of care; not because health and care professionals lack skill or compassion or that services are of low quality, far from it, but because health and care services are often unco-ordinated, sometimes uncommunicative and centred around what suits organisations and structures rather than what helps people lead their lives in optimal health. The result is many people have experienced the revolving door of the Emergency Department, other hospital departments and clinics, or endless groundhog days explaining their health history to G.P.s (general practitioners), consultants, physiotherapists, care support workers and nurses. A fragmented, unco-ordinated health system is inefficient. Address this and care will be more effective and less expensive. The Jersey Care Model, and I will call it the J.C.M. from now on if I may, offers an opportunity to address these gaps and co-ordinated services across all parts of the system for an improved care experience and to invest in preventative services, which will support Islanders in staying healthier for longer. It is a holistic approach to be applied across the whole of Government and all of our systems including schools, sport, housing, workplaces and the environment. That focus will be delivered by an enhanced public health function in line with the recommendation from the Scrutiny Panel, which I am accepting. We have rapidly expanded our public health capability in this pandemic. It will not be stood down when we come to the end of the pandemic; it will be strengthened further by the J.C.M. Well-being and prevention of ill health will be an important aspect of the J.C.M. The Government issued a health and well-being framework just before the pandemic struck. I note the Scrutiny Panel's advisers have commended it. We have not been able to promote that as we would have wished because of COVID but supported by that framework that J.C.M. offers a real opportunity to address the root cause of preventable illnesses, to improve Islander's well-being and to tackle health inequalities. So the J.C.M. will give us a robust system that equips us to cope with the increased demand and the huge challenges that we face. There are challenges because more people are living longer. Better ways of diagnosing and treating illness, improved technology, new medicines and other advances are absolutely all causes for celebration, however, they lead to many Islanders requiring health and care services for longer with many of them living with one or more long term conditions. With an ageing population the cost associated with treating these diseases in Jersey is due to rise to unsustainable levels. The Disease Projections report of Statistics Jersey predicts that the ageing demographic and increasing population by 2036 will lead to an increase in diabetes by 42 per cent, an increase in strokes by 64 per cent, dementia to double, chronic kidney disease to increase by 74 per cent, C.O.P.D. (chronic obstructive pulmonary disease) to increase by 50 per cent and mental health conditions to increase by 29 per cent. We have also seen the emergence of new issues over the last decade like growing childhood obesity, the growing cost of caring for the elderly and the impact that modern living is having on our mental health. Of course these challenges arise in many other healthcare systems in the western world but in Jersey we also face some additional challenges around workforce pressures, clinical capacity and cost pressures due to the smaller scale of our health service

compared with elsewhere. Put together these are huge challenges to the health and care system and the dedicated staff that work within it. With demands rising we must establish a structure, a framework that all stakeholders across the public, private and community sectors can use to plan to make health and care - by which I mean the whole health and care system - sustainable for the longer term. The J.C.M. is that framework. It will set the direction of travel for future care. Importantly, it does not and it is not intended to prescribe the final designs for the myriad of services in the health and care sector. Those need working through as part of the programme with the stakeholders involved in those services. As the Scrutiny report recognises in its key finding 9, the detail of how services will be configured in the community, working across primary care, community providers, social care, intermediate services, carers or outreach services has not yet been developed. That is correct; all that needs to be worked through with stakeholders. A key finding goes on to say this has caused confusion about how the J.C.M. will operate in practice, and I am afraid it would cause confusion for those who seek that final service design because that is not the function of a Care Model. Under a Care Model any confusion will be resolved when stakeholders come together and work out how specific services will be delivered. As the Scrutiny report has also recognised, this is not a simple project, it is a continuous improvement and development of many interconnected services. The panel's key finding 30 describes it as a series of interrelated projects which combine to form the J.C.M. but individually all require their own delivery champions, implementation framework and an easily described and understood public narrative. Therefore, to ensure co-ordination and cohesion in delivering these improvements the J.C.M. has 3 overarching strategic objectives, which I ask Members to approve in part 1 of the proposition. These are (1) to ensure care is person centred with the focus on prevention and self-care for both physical and mental health; (2) reduced dependency on secondary care services by expanding primary and community services, working closely with all partners in order to deliver more care in the community and at home; and (3) redesign health and community services so they are structured to meet the current and future needs of Islanders. So what might services begin to look like under the J.C.M.? I would like to give some examples of small schemes established in current practice.

[15:00]

We have begun a reablement service which gets people back on their feet and independent again after a period of hospital treatment. We have the community respiratory team; they provide an outreach service attached to the inpatient teams to proactively work in the community with patients to manage their condition at home where they want to be, in an environment that is safe for them. We have the home treatment team in mental health services that was put in place during this pandemic. The team works as the community arm of the inpatient mental health service. It supports people coming out of acute care to go home for an afternoon, an evening or a few days to eventually getting back home permanently. Members may have attended one of the closer to home events; opportunities for anyone to pop down to a local community centre to get advice, a health check and simple treatments from services attending there that day. Credit to Jersey Sport who go beyond the traditional concept of sport to offer Move More, a physical exercise programme in the community, because we know that even the mildest exercise will keep us in better health. These are examples of embryo services fully aligned with the objectives of the J.C.M. but they need to be embedded in our structures and expanded to address the need in the community. But how do we know that the model is right for Jersey? The J.C.M. has been based on local knowledge and experience of delivering health and social care across the Island. It drew on local data including population forecasts, demographic profiles and capacities in current health and care provision. It took account of the valued role of G.P.s as primary care providers and the unique role of the voluntary and community sector in delivering health and care in Jersey; 160 professionals attended engagement events, over 500 members of the public attended public meetings. I also attended most. Appendix 7 of the strategic outline business case, which is in the proposition, lists all the engagement events including group sessions with primary care practitioners and meetings with G.P.s in their surgeries. Overwhelmingly there was a consensus on

a need for change; a need for the diverse parts of our system to integrate and put individuals at the centre of their own care. I have to accept the Scrutiny report finding that as soon as COVID struck engagement came to, in a sense, a standstill. A Scrutiny survey of G.P.s and all healthcare workers were feeling seared by the strain of pivoting a whole health service to meet the unprecedented challenges of a virulent, unpredictable virus. Engagement with G.P.s has picked up since that time and the primary care board has welcomed a commitment to closer working and the involvement of G.P.s. G.P.s want to see their unique professional roles supported and further developed, and like all other stakeholders they are keen to see the system change in the interests of their patients. According to the Scrutiny survey 67 per cent of G.P.s agreed that primary care is not optimised to achieve integrated care in the current model; 98 per cent of them agreed that community care could be further optimised and 85 per cent of them agreed that social care and external partners could be further utilised. G.P.s are vital to the delivery of the J.C.M. strategic objectives. They clearly share those objectives. They will be heavily involved in the detailed design and implementation of services and the J.C.M. envisages enhanced roles for G.P.s, building upon that close personal relationship that we all appreciate in G.P. services. It is not just G.P.s, our community partners such as Family Nursing and Home Care, Jersey Hospice and many others wish to get going with this. The Scrutiny report at page 60 records: "Many organisations or individuals that the panel heard from during the undertaking of its review recognised the benefits of a new Care Model and its appropriateness for the Island." Community partners are vital too and they also will be involved in the detailed design and implementation of services. From the start of engagement in October last year we made a key commitment that the J.C.M. would be stress-tested to provide an objective assessment of its validity, feasibility and deliverability, drawing on experience from other jurisdictions. That stress test was conducted by PwC who said that overall the model was in line with international best practice and was financially sound. In summary, PwC found the J.C.M. would support people to live independently at home by offering integrated community services, that it would streamline current pathways and processes, particularly in relation to the management of long-term conditions. It would develop and strengthen partnerships between primary, secondary care and community care. It would reduce and delay people's need for care through investment in preventative services. It would lower avoidable inpatient admissions through expanding existing crisis response services. It would improve children's health through several initiatives delivered by an expanded public health service within Government. Importantly, PwC also made clear that the feasibility of the J.C.M. depends on having enough people to staff services with appropriate levels of training. We absolutely recognise that and we have worked to strengthen our existing offer. We are training greater numbers locally with our popular nurse training courses shortly to include mental health training. We are also able to offer far better living conditions for the critical workforce we need to accommodate, and my Assistant Minister Deputy Maçon, who has worked so hard on workforce, will I think speak further on issues around the workforce and training. Then of course we have the Scrutiny Panel report, which I welcome. It is a good example of the work of a critical friend. It seems to me that the report underlines the need to improve services, to integrate all providers and to address the financial challenges. While the report criticises aspects of the process that got us here, the message is we need to get on with delivering the service the Island wants. I welcome the panel's concentration on governance and am pleased we were able to agree to strengthen my original proposition by adding an independent non-executive board to keep implementation of the model under continuous review, and provide reports monthly to the panel and to me. I have given Members an early indication of a formal response to the Scrutiny report, and I will be accepting 18 of the 21 recommendations, partially accepting another, and yet another has been resolved by agreeing the amendment to this proposition. Members will see there is a robust financial model underpinning the J.C.M. that was prepared by PwC with H.C.S. (Health and Community Services) and Treasury colleagues. I refer Members to the strategic outline business case, which is appendix 3 of the proposition, and particularly section 4 of that document because in that there is the real granular detail. PwC has confirmed that the model is financially sustainable and will not cost more to service users provided

we make the changes outlined by the model. The financial model used 2 scenarios; do nothing and do something. Do nothing assumed the healthcare model remains the same and, therefore, takes current costs and adds inflation, activity growth related to population increase, and activity impact on the ageing population with increasingly complex needs. The do something option assessed the financial benefits arising from reduced activity in the hospital, added in the costs of providing services in different ways or by different providers and added the investment required to enable the change to be delivered. Over the 16-year period of the modelling in a do nothing scenario expenditure growth would reach £874 million. In the do something scenario the implementation of the J.C.M. is estimated to cost £679 million over the same period. The efficiencies achieved by the J.C.M. therefore mean we avoid having to spend an additional £195 million in the next 16 years. From that time, 2036, the net annual financial saving from the J.C.M. is expected to be £23 million per annum. But in order to deliver the J.C.M. and realise its benefits we have to prime the pump. The Government Plan proposes that £28 million over the period of the plan is required before the model could deliver a net financial benefit from 2025. That is made up of non-recurrent investments, for example in programme planning, in digital records, in establishing a strengthened public health function and allowing an element of double running for some services before they are fully on board. There is a fuller summary of the financial impacts in the proposition report and, as I have said, really granular detail and analysis in the strategic outline business case. But it is clear that the J.C.M. significantly improves the sustainability of our health and Care Model with savings exceeding investment in the model from 2025. The Government Plan proposes that the initial investment is funded from the Health Insurance Fund. The J.C.M. keeps costs lower than they might otherwise be were we to continue with a do nothing scenario, but costs still increase year by year due principally to the needs of an increasingly elderly and longer living population. We all know, as States Members, we need to address the long-term funding of health and care, and part 2(b) of the proposition if approved will direct the Council of Ministers to bring forward those proposals to be operational by 2025. Work on that is ready to go. There have been initial meetings at senior officer levels; I have been discussing how to do that with officers. The Government Plan we will be debating in a few weeks recognises the need for quick action. It brings forward the need to deliver a solution to make sure that health costs are funded sustainably and it commits to undertaking a full review, which will include taking proposals to this Assembly ahead of the 2022 Government Plan to determine an appropriate model for future health and care funding. If I could say a few words about implementation of the J.C.M. Part 2(a) of the proposition seeks Members' approval to move to the next stage, its detailed design and phased implementation. Again the strategic outline business case gives a lot of detail and Members will see the implementation of the J.C.M. will be completed in 3 *tranches*. The emphasis of the first *tranche* to be carried out this year will be on detailed planning, particularly around the workforce and change management, to be able to support our health and care professionals to deliver in the new model, to establish the necessary foundations for delivery and driving delivery through enhancing intermediate care. It will include implementing a full engagement and communications plan and establishing stakeholder groups to inform the design and delivery of specific services. This will mean close working with G.P.s, pharmacists, dentists, ophthalmologists, community providers, H.C.S. clinicians and staff, patients and members of the public.

[15:15]

We intend to engage with members of the public once again. We will work with the Scrutiny Panel on all aspects of implementation, including establishing the independent non-executive board. The funding in the current Government Plan includes specific resources for planning, project management and delivery and a team dedicated to this work is ready to start. I, therefore, come to Members and I ask for your support of this proposition to give the whole health and care sector in Jersey the green light to begin the integration and transformation of services. I am pleased to make this proposition and I look forward to the debate.

The Bailiff:

Thank you very much, Minister. Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition? If no Member wishes to speak on the proposition ...

Deputy G.P. Southern:

Sir, if I may?

The Bailiff:

I beg your pardon, yes.

Deputy G.P. Southern:

It is Deputy Southern here.

The Bailiff:

Yes. The Connétable of St. John has indicated a wish to speak. Deputy Southern, do you have something that you wish to ... are you going to indicate a desire to speak in the chat?

Deputy G.P. Southern:

Yes, Sir. I believe I gave notice earlier today that I ...

The Bailiff:

I have not seen anything in the chat indicating a wish to speak, Deputy Southern. Where was that?

Deputy G.P. Southern:

Sir, if I may then I will wait for a while, if I may.

The Bailiff:

Very well. The next person to speak is the Connétable of St. John.

5.1.1 Connétable C.H. Taylor of St. John:

The Jersey Care Model has been a very long time in coming. It is my belief that this should have been developed as the first stage after P.92/2011, I think it was, and it now develops a Care Model from which everything else depends. We can now have, hopefully, with this proposition approved, the green light for the hospital and the green light for all the other services that are so needed here in Jersey. I have to congratulate the Scrutiny Panel. I think they have done a truly excellent job and I am pleased to see that there will be an independent board overseeing the Jersey Care Model. It is this that has given me the confidence to support the Jersey Care Model. I have to say there has been a little disappointment with communications with G.P.s and this has caused concern with me. We have all received a number of emails but I think what is important is that we need to keep moving forward and I, therefore, urge Members to support this. It is not perfect. It will need to be worked on but with the oversight of an independent panel I believe we are going in the right direction and I urge Members to support it.

5.1.2 Deputy T. Pointon of St. John:

It is always a pleasure to follow my Connétable on a subject that we first joined forces on back in 2018, when Connétable Chris Taylor invited me to join the Hospital Policy Review Board. I think it was because of a rumour that I knew something about the provision of healthcare and the development of, admittedly, smaller residential and nursing care homes, both here and in a previous life in the U.K. As P.82/2012 began to open its pages I began to become increasingly staggered at the political interpretation of the proposition. Most of the content was about developing viable community care services, with just one paragraph referring to the need for a new hospital. This limited reference seemed to galvanise politicians of the day who ignored the main body of the report, that providing a comprehensive community support service with a restructure of medical primary

care to enable a move away from hospital inpatient care. Notwithstanding that the bulk of the report's priorities were concentrated in the community, politicians of today decided to plump for the easier recommendation contained in that paragraph. Build a new hospital, which would limit expenditure to a defined capital cost, rather than address the revenue implications of a fundamental change in the way that this society cares for its elderly, infirm and vulnerable people if they are not to languish in a hospital bed. Between 2012 and 2018 the community care aspects of P.82 were, effectively, shelved, in spite of the laudable rhetoric that had been presented to the States. I will give you some quotations here, from section 4.2 of the P.82 report headed "The new way forward", we had a paragraph which described: "The proposed model of health and social care services will support and enhance the elements of the current system that are positive and will transform the system so that it continues to meet the needs of Islanders." Secondly: "Care will be integrated as seamlessly as possible with the individual patient or service user at the centre. Teams of social care, medical, nursing, occupational therapy, psychology and other staff will work together with the third sector and private sector providers to achieve this. Where appropriate, service provision should move away from residential care and institutionalisation toward an increase in community provision to allow service users to integrate and lead independent and productive lives as much as possible, this will relieve pressure on hospital beds and will help the hospital to manage with its current facility until the new hospital is available. It will also support children to be cared for in the family setting." In addition to these paragraphs in section 4.2, we come to section 8 in the report, which refers to the next steps: "There are some fundamentals required to achieve success. There will need to be detailed planning to continue for the remainder of 2012. This will be achieved through working groups and workshops to ensure wider stakeholder engagement and involvement, including third sector clinical and professional staff, general practitioners, human resources and finance experts. A primary care strategy will be produced. It will consider the sustainability of primary care within the new health and social care system. It will be produced jointly with primary care practitioners in order to ensure the impacts and unintended consequences are fully considered." This we have to remember was 8 years ago and we have moved to where? We have a new plan, it is called the Jersey Care Model. However, these aspirations were, at best, reassuring for the Assembly at the time and P.82 was approved. As I say, we are now 8 years on and once again the Assembly is being asked to approve a model of care in the community, the Jersey Care Model, that all but mirrors the previous model. But there is a fundamental difference between the 2; the current Minister for Health and Social Services has agreed to accept a raft of recommendations from the Scrutiny Panel and their advisers. He has agreed to an amendment from the panel to introduce a continuous review of the implementation of the model by forming a non-executive board that will produce monthly reports on the progress of the development, reporting to the Minister and to the Scrutiny Panel. He has also agreed to finalise a working relationship with primary care medical practices in the first year because without general practitioners on board the Jersey Care Model will not succeed. As a matter of interest to the Assembly, it is a fact that the Minister not only agreed to accept the recommendations and changes to the proposition, if he had not accepted those changes and recommendations, as a panel we were minded to vote against the proposition. The panel's intention is to stay close to the developing Care Model with a view to ensuring it does not go the way of P.82. However, sadly, the panel still have deep concerns about not only the relationship with general practitioners but also the ability to find qualified staff and social care staff in a highly competitive labour market. Already existing care providers struggle to recruit staff.

5.1.3 Deputy M.R. Le Hegarat:

It is always a pleasure to follow Deputy Pointon in relation to health matters. It was quite clear to the panel when we were first presented with the Jersey Care Model that there lacked some detail. It was our view that, as a team, although we had a vast amount of experience across the piece, it was also necessary for us to seek the advice from people who know far more about this than we do. The first thing that the advisers noted was the lack of financial detail and of course that was a concern for

ourselves also. It was also a concern that there was not at this stage full participation in relation to G.P.s and other care providers, as has already been discussed, pharmacies, opticians and dental, *et cetera*. It was quite important for us that we worked very closely with both the advisers and anyone else who was able to or willing to provide us with detail and information of their perspective of the Jersey Care Model. We will have all received many emails both for and against the Jersey Care Model and I think it is about change. This is significant change that sometimes people may not want to see. P.82/2012, as it says, is 8 years gone already and we do need to move forward if we are going to have a care system, which is going to be the right system for all of Jersey residents. In the executive summary Attain, the advisers' report, basically says: "The Jersey Care Model being proposed is in line with international Care Models and the approach being developed appears to be logical and should impact positively on the population of Jersey." That is a fact but there were, as has already been said, a number of matters which we had concerns about; the recruitment and retention of staff, the financial impacts, what was a care hub exactly going to be and how were they going to be managed and run? There was a large number of elements which we had concerns about. We had put together with the advisers and our Scrutiny team the 60 findings and out of that came 21 recommendations, which no doubt you will have all read. It was important for us as a panel that those recommendations would all be accepted, or at least most of them were. We also made an amendment to the proposition in order that we could make sure we had good oversight of what was going on during the course of the process. That amendment we did negotiate and we came up with something that we could all agree, this includes the non-executive board, which we thought was an exceptionally useful board to have and also, in fairness to the Minister, it was them that brought forward the updating monthly of both the board and ourselves within Scrutiny. Therefore, I feel, as a member of the panel, that I will support this move going forward because I think it is better than to reject it today from the perspective that I can see improvement and I can see what is going forward.

[15:30]

Rejecting this today, what do I have instead? I am not sure what I have instead. P.82 still sits there but at least this way I will have some idea of what Health is going to be providing and what the proposals are moving forward. If I reject it today, I will not have that knowledge and understanding to the same depth and level. For me, I feel that is quite imperative. It is important, as we all said, that we get on board all of those groups and the necessary changes that will make to them. But, overall, if all of those things can be sorted out, and what we did say within those recommendations, we did move and it was agreed that those things would be resourced or sorted within the first *tranche* of this project. Because, initially, the G.P.s and all of those matters were way back into *tranche* 3. So, for us to say that in 12 months' time hopefully we will be in a place that we all want to be.

5.2 Jersey Care Model (P.114/2020) - as amended - reference back

Deputy G.P. Southern:

Rather sooner than I anticipated because the debate appears to be rather slow. But I wish to propose a reference back as a middle way of acting between total acceptance of this proposition and rejection of this proposition. Would that be in order?

The Bailiff:

Yes, Standing Order 83 provides that any Member of the States can propose without notice during the debate on a proposition that the proposition be referred back in order, either that further information in relation to the proposition can be provided, or an ambiguity or inconsistency in information can be clarified. It is an absolute right. The debate is open so you can make that proposition. What are you seeking to achieve with a reference back, Deputy?

Deputy G.P. Southern:

The reference back, seeking information on 3 elements of what is proposed. The first is to have a sustainable mechanism for paying for this model and to have the G.P.s fully on board and committed to delivering this. Because, without them, this is undeliverable. Secondly, to address the situation of staffing, already mentioned twice. Unless we can get a proper plan, by which we can recruit sufficient workers to deliver this particular project, again it is going to go nowhere. Then thirdly, to address the issue of commissioning, involvement with voluntary bodies. Because the last time we tried to change the relationship between the Health Department and voluntary bodies it all collapsed because it was a bureaucratic nightmare. I am convinced that we are at risk of doing the same here because we do not have any of those proposals developed fully yet. So that is 3 factors that I think we need further information on.

The Bailiff:

Just to make sure I have this right; the 3 factors are that you are wishing further information relating to a sustainable mechanism for paying for the J.C.M. and information in relation to the commitment of G.P.s. On the second you are looking for more information relating to recruitment of staffing. Then thirdly you are looking for more information relating to the arrangements to be made with the voluntary sector. Is that correct, Deputy?

Deputy G.P. Southern:

Yes.

The Bailiff:

Those seem to me to be in order. Do you wish to speak further on the question of the reference back?

5.2.1 Deputy G.P. Southern:

Yes. To start with, let us have a look at what we decided to do as a Scrutiny Panel. We had a very comprehensive survey to assess the G.P.s, which, and I use the words of our advisers throughout this, the results were extreme in their negativity and need to be taken seriously as they attracted responses from more than half of the G.P.s. So it was very successful and very accurate and, I believe, overwhelming evidence that there was a lot of negativity among G.P.s. They did not believe it was going to deliver what it said. We have to pay attention to that because, without the G.P.s, the G.P.s are crucial to the delivery of the Jersey Care Model. Without their support it simply cannot happen. The body arguably has by far the greatest practical experience of the current health and well-being of the Island population, as we know well. Their knowledge as well as their support is vital to the J.C.M. success. It is also concerning the plans to address in detail the changes to the primary and community care offer feature at the end of the planning process in *tranche* 3 rather than at the beginning. So, if we look at the proposition as it is worded, we are asked to receive the Jersey Care Model and that entails, on page 4, those 3 elements. Those 3 elements are very static: “Ensure care is person-centred with a focus on prevention and self-care of both physical and mental health. Reduce dependency on secondary care services by expanding primary and community services working closely with all partners in order to deliver more care in the community and at home. Redesign health in the community services so that they are structured to meet the current and future needs of Islanders.” Each one of those statements could have been taken directly from P.82/2012. They do not require any extra than what has been in existence for the past 8 years. When we look at what this delivery means, what the proposition means, we have gone from delivering in 2021 to delivering some time between 2021 and 2024. We have basically said: “Let us not deliver in one year, let us deliver in 3 years.” What does that do? That effectively saves money. If we look at the information on page 28 of the report accompanying the proposition we see: “Delivery plans will be presented as part of the G.P. 2022 and beyond to access funding required for *tranches* 2 and 3.” So, effectively, we are saying we do not have to have the G.P.s on board until 2022/2023. I cannot understand why we allow that to happen. The fact is, if we wait to get agreement with the G.P.s until then, the Jersey

Care Model will not be delivered. It cannot be delivered without the enthusiastic support of G.P.s, which, at the moment, is not present. Just to prove that, I turn to page 117 of the report in front of us where it says: “The second step of our analysis estimates the total costs associated with running a G.P. practice. The Government of Jersey estimates of the average running costs of a G.P. practice have been used to develop assumptions. The estimates were adjusted for different practice size. It should be noted, however, that these may underestimate the true cost of the business in G.P. practices in Jersey. Further consultation with these practices would be required to estimate more accurate costs of businesses for G.P. practices in Jersey.” There you have it. We have yet to agree how much it costs to run a G.P. practice and to negotiate based on accurate figures with the G.P.s as to what a sustainable model might look like. If we look for further evidence that this is just postponing decisions that we should make, if we look at some of the actions, which we are concerned with. So reducing the 30,000 A. and E. (Accident and Emergency) attendances, which should not happen, and look at that. Hello, no action on that, 2020, 0 per cent down the column. 2021, 0 per cent. 2022, 25 per cent activity in reducing A. and E. attendances. Fundamental to one of the ways in which we are delivering better than we have and that is not starting until 2022. Let us take a look at reduction in care home placements. Uniquely, we lead the world in use of care homes and the emphasis is to get people in their own homes rather than in a home. We look along the line and reduction in care home placements, 0 per cent, 2020, 2021, 2022, 0 per cent. Not initiated and not up and running until 2023. So that is more evidence. Also the same arguments apply to reduction in hospital admissions and bed occupancy. The vital issues there put off until 2022/2023. So, effectively, analysing what is happening, we can see that negotiations, consultations, with the G.P.s have not been finalised. There is no model to pay for them yet. If we look further: “To request the Council of Ministers to co-ordinate the necessary steps by all relevant Ministers to bring forward for approval proposals for a sustainable funding model for health and social care to be operational by the end of 2025.” Again, 2025 before we do anything. We are waiting 3 years to do what we should be doing. That has not happened yet either. Turning to the other issue, which is very concerning, is the workforce issues. I can just illustrate that with a table in a big book from 2029, which looks at the vacancies among all staff in the service. If we look at allied health professionals in 2029, funded posts were 240, staffing post 218, 22 short, almost 10 per cent of allied health professionals not in post. Civil servants in the medical area, 239, number in post 190, 50 staff missing, not in post. Manual workers, those who do the routine work, cleaning, looking after people, 307 posts out of 347, a shortage of 40. Nursing and midwifery, 680 funded posts, staff 606, 74, over 13 per cent, 14 per cent, of the staffing not in existence. Where is the plan, the initiatives, that say we are going to solve this problem? 194 out of 1,600 places, overall 11.5 per cent staffing vacancies. Yet nowhere in the documentation do we see means to address that. Without that, again, if we cannot get the staff, we cannot train them locally, if we do not because the conditions are not good and we cannot recruit into the Island, then we cannot compete, then again we are not going to be able to deliver. All the fine words, and we are full of fine words today, all the fine words will not deliver anything. Again, I return to our advisers’ recommendations and survey and research of what they did and their words: “It is well known that the worldwide market for health and care professionals is very challenging. The N.H.S. (National Health Service) alone currently has many thousands of vacancies at the moment. Most comparable systems elsewhere are similarly dependent on expensive short-term locum cover in several different professional disciplines.”

[15:45]

Listen to the words: “Unless the J.C.M. offer is significantly more attractive than can be found elsewhere, therefore including lifestyle, cost of living, associated supportive policies such as access to affordable housing, *et cetera*, quite simply Jersey will struggle to be able to import the number and type of practitioners of all clinical disciplines that it requires to fulfil the needs of the J.C.M.” Their words. Unless we have a package on offer that can attract people into the Island and is tempting for people to locally train, then we are not going to meet the demands that we are putting on the system.

In terms of staffing the posts, no plan, no initiatives, nothing there to do something about the chronic lack of experienced and skilled help at all levels, from the very top to the very bottom. We simply will not make the system work. Then we have the third element that I want to have more information on and to see action on, so what is the plan, is commissioning. Again, this was not given a great deal of emphasis, either in the Minister's talk or in the report. But co-operation with voluntary agencies to deliver in people's homes, because they are the people who can do that, is lacking. While the intent to professionalise commissioning arrangements is positive, there has been significant recognition of the role of relationships in the provision of care across the Island. There is a danger that this could be adversely impacted by a commissioning approach that is not appropriately developed. I would argue it has not been developed properly. It has been barely touched. We have yet to do this work and we risk putting the whole thing in danger if we go ahead now. If mishandled, the commissioning approach could disrupt the existing largescale volunteer workforce, not just through organisations, but also for individual carers. Again we note that the carers element has been dropped from Social Security's attention in the latest version of the Government Plan. Potential costs of replicating this capacity and capability could outstrip any envisaged care improvement or financial savings. Unless we take care of the carers, we are not going to be able to deliver what we want to do. The commissioning cycle provided, our advisers say, includes procuring services. The definition of this needs to be articulated for the Jersey system as it could lead to unintended consequences to the construct of the care provision in Jersey, such as creating concern that significant red tape will be introduced for providers and for the H.C.S. to manage the market. Certainly, there is evidence that is what happened last time we tried to do joined-up delivery of care in people's homes, is that it was a bureaucratic nightmare. The voluntary bodies walked away from it. Competition will mean many third-sector providers will not be prepared, either administratively or ethically, to compete. There will be a training or funding need to support the development of local volunteers to prepare for bidding. Then, is there an appetite for a set of new providers to enter the Jersey care market, possibly to the detriment of local provision? We are already seeing that happening. If you want day and night care in your home, then the likelihood is that you will have to choose a U.K.-based company to deliver that, because that is all that do, and you will not be able to get a local company. So what I am saying then is that we have a model, which requires very little in the way of action, but just accepting this is where we are, which has a 3-year instead of a one-year delivery cycle, for want of a better word. The issues, the critical, crucial, vital issues of proper backing by the G.P.s, a sustainable funding plan, attracting sufficient workforce to enable the service to be delivered, and commissioning so that we have warm and harmonious and effective relationships between the departments and voluntary agencies. Those issues need to be addressed, need to be urgently addressed, so that I would expect the department to come back with solutions to these or schemes to address these issues in short order. That is why I believe a reference back to ensure that the Minister does address these issues and comes back. That is the stage at which we can say: "Now we are content to vote through the money in the Government Plan". Because that is the other point, money in the Government Plan will be supplied, we have not seen it, and it will be one line in a 200-page document. It will be a very minor issue by the time it comes back to us. I believe the middle way between rejecting and accepting this proposition is to ask for the reference back.

The Bailiff:

Is the request for a reference back seconded? **[Seconded]** There is now the potential for a debate on the reference back and obviously Members should speak only about the merits or otherwise of a reference back at this stage. Does any Member wish to speak on the question of a reference back?

5.2.2 Senator S.C. Ferguson:

I agree entirely with Deputy Southern. We started at the beginning of September not knowing what was comprised in the care plan and how much it was going to cost and a Minister who said he did not know what it was going to cost. We end up now with a scheme that looks as if it is intended to

screw the G.P.s into the floor and convert them all into the National Health Service. We need more information and more costings. Not just costings written in smoke, I want to see costings that have some validity. So I thoroughly recommend a reference back and a proper presentation of the scheme to the States explaining what is involved and what we are going to get and how much it is going to cost. We do not really know what it is going to cost and if you are ignoring the main people providing the primary care, the G.P.s, what on earth are you playing at? We do not want the N.H.S. here. We will lose our doctors. We want a proper plan that makes sense to the public and to the doctors and a proper talk to them, not just treat them like chessboard men or draughts or something, or LEGO toys. No, a reference back please. I do not often agree with Deputy Southern but I agree thoroughly with him now and he made a very good presentation, which I appreciated, having spent half the year out. Let us get on with it and have a reference back.

5.2.3 The Deputy of St. Ouen:

It is important for Members to remember that this is a model that is about the delivery of care. The precise financial implications of it will come forward in the next Government Plan and in succeeding Government Plans. What we have at the moment, and I make no apologies for the vast amount of paperwork that accompanied this proposition, because it shows transparency. It shows the stress-testing that has been undertaken of the model. Projections and assumptions have been made based on good data and information. But, because it is a model, it is not a budget, it is not saying that this is the amount that we need to deliver a certain model, particularly as it is a model for 16 years. In this sense, it is not unlike the Government Plan. The Government Plan is putting forward figures that we estimate we will spend, we will need to spend, next year. They are not precise. There will be variations. Circumstances will dictate different figures as it turns out. Deputy Southern is seeking far too much precision and he is not leaving it to the stakeholders in health and care to work out the services that they want to provide. We cannot come back with detailed costings when we have not yet designed the services with the G.P.s, as critical to the implementation of this model, and our voluntary sector. It does disappoint me that Deputy Southern is proposing this because he and I worked together on the previous Scrutiny Panel and we want to achieve this transformation in health and care. We can get started. This is a model, which can begin to answer all the questions that we used to ask in Scrutiny, including about engagement with G.P.s. So Deputy Southern is first of all asking us to come back with a sustainable funding mechanism. But the Government Plan has committed to that work in the next 9 months to be brought forward in the 2022 Government Plan. So there is already a plan to do that work. We have to engage with the sector on that. We have to know about the design of the services we want to provide for the benefit of Islanders. It is unnecessary and it is not for the H.C.S. Department to come up with a sustainable funding mechanism alone. This is something that involves the Treasury Department, it involves the whole of Government, and that is why that commitment is in the Government Plan. For some reason in that first request of Deputy Southern he has put the G.P.s into that. We have had engagement with the G.P.s, we are currently engaging with the G.P.s, there is a standing monthly meeting with the Primary Care Governance Board. There are other meetings that arise throughout each month. Officers from H.C.S. have most recently been involved with the Primary Care Board precisely on the question of governance over the Jersey Care Model. We absolutely recognise they are crucial to the development of the model and we will need them and they will be involved in the governance of it, including their position on the non-executive board. Deputy Southern questioned why delivery was over 3 years. It is over 3 years because there is so much to do. The G.P.s are not only going to be brought on board in the third *tranche*.

[16:00]

The G.P.s are to be involved from the get-go. That has been recommended by the panel, on which Deputy Southern sits, and I have accepted those recommendations and it always was going to be the case. Deputy Southern questions the data around the actions concerning E.D. (Emergency

Department) attendances and care home placements. But, as I said, this is only a model at this stage. When we get together with stakeholders to design services, then the cost reductions can be planned and can be validated on the basis of knowing exactly how we want to deliver a service. Secondly, Deputy Southern wants us to come forward with a full workforce plan, including a comprehensive local offer. We already have a local offer, a good local offer, which has excellent training and our Government Plan is enhancing that offer too, if supported by the Assembly. So we are training local people to support G.P.s and other primary and community services. We do local training already and we do have staff. Let us consider the Jersey Care Model is about moving services out of the hospital that do not need to be provided there. So we have staff there and they are in the wrong place. Our staff, in many cases, can be better deployed in the community, working directly with the patients that they care for. Not all of them, but many of them. So we do not need lots of extra people quite possibly, but that remains to be worked out with our stakeholders. Would a modern integrated system not attract better recruitment? What comes first? Do we plan in the current model how we might recruit or do we move with our stakeholders to a better integrated model and know that we will be a more attractive employer in that respect? So I want to work together with our community and voluntary sector, our G.P.s, everyone involved in health and care, to work out how we provide services. I cannot call on them all to devote hours and weeks of time to working up a workforce plan, which H.C.S. would be directed by the Deputy's proposition to develop, when they do not know which way this Assembly wants to go. They do not know if we want to go down this line of more care in the community or if you want to stick with the current model. Why would I ask them to do all that work without this commitment from the States Assembly? They will do all that work. They want to do that work when they know the direction of travel that this Assembly has set. I make the same point in relation to commissioning. I am not sure on the commissioning point exactly what the Deputy is asking H.C.S. or my department or me to do. Because commissioning is all about partnership, it seems to me. It is about mutual benefit and putting the patient at the centre. It should not be a hand me down from H.C.S.: "You will do this, voluntary sector". That, it seems to me, is what the Deputy is asking for. He is asking us in H.C.S. to go away and say how we are going to commission services and hand it down. Because our partners would be reluctant to commit when they do not know the direction of travel and H.C.S. cannot tell them because the States has not yet endorsed that direction of travel. When we know that we want to deliver better care in the community, patient-centred care, then we can design and commission services. So I would ask Members to reject this wholly unnecessary reference back.

5.2.4 Deputy M.R. Higgins:

Firstly, I am going to say that I fully agree with the reference back. Deputy Southern has made the case clearly and admirably. States Members are once again being asked to trust officers and to make decisions with little or no vital information. Financially, it is very much like my wife saying to me: "Open your wallet and repeat after me: 'Help yourself'". I would have no idea how much she wanted or what she was going to use it for. As States Members we have no idea of the costings and we are essentially giving the Minister for Health and Social Services and the department a blank cheque. I also happen to agree that G.P.s, pharmacists and other medical professionals are important to the success of this scheme. They should be involved from the beginning and not down the line. So I definitely agree with that part of the reference back. Equally, staffing is a very valid point. He made the case that the market for medical workers is international and highly competitive and we need to be able to recruit and to train locals if we are going to be able to provide the services that we all want to deliver. Also, the third sector is crucial to these plans, and I want to see them involved early on. As has been said, in the past, a very bureaucratic system was offered. I have seen this time and time again with the States that, yes, it is a great idea involving them all until you get into the detail. Let us talk to the people who are going to be delivering these services to help Island residents. So all I can say is that essentially I see that the States at the moment is being asked to make very, very important decisions on this and no one is trying to delay it unduly or anything like that. But we are

being asked to make decisions on very little data and detailed information. It is almost like the Overdale hospital, I hate to say it, we are faced with a similar situation of let us agree it in principle and then we will figure out what it is going to cost and how we are going to do it afterwards. I am sorry; this is not the way to do it. I shall be supporting the reference back.

5.2.5 Deputy G.C. Guida:

I have just finished the document that I have been provided and I find extraordinary that we have an issue of principle detailed in hundreds of pages. However, this is probably one of the most complex things that we have ever done in the Island. When you deal with something like that it is good to look at the principle because that is all that we are asked to answer now. If you have a problem with the principle, especially with something that looks into the future, that is all you have to do, look into the future. So close your eyes and think about Jersey in 20 years, what are we certain of? We know that the population will be older. There is absolutely no doubt about that. We know that, because they are older, they will have more ailments, some benign, some serious. We also know that they will want to live a more independent and better life. The old system of when you cannot stand you are just put into a bed in the hospital is not going to cut it. This unavoidably leads to a decentralisation of the health system. So it does not matter how you do it, if you think about what Jersey, and to be fair the rest of the world, is going to look like in 20 years, it is with a decentralised health system where people take care of themselves as much as possible, are taken care of at their home as much as possible, and visit the hospital as little as possible. So that principle is completely unavoidable. I do not understand why we are even having this discussion. That basically is what we are asking to do here. Do we agree that this is the direction of travel? If we do, well, there are 200 pages of all the thinking that has been done now, but then the important stuff, the details that the devil is in, need to be done. That is all the negotiations because of course there is no even thinking about the fact that we will be able to do this without getting absolutely everybody on board. We are talking here about: "I am going to have a shop and wait, wait, I need to make sure that I buy the products for the right price". If you do not pay the right price you are not getting them. If we do not pay G.P.s the right price, we are not getting them. If we go lower than the market we are not getting them. If pharmacies are not allowed to prosper, we are not having them. This is absolutely obvious. If we do not pay and do not care for carers, we are not having them. So these are the obvious discussions but, before that, we must give the Minister a clear direction of travel. Frankly, in this particular case, I think this one is unavoidable. This is what health will look like in the future whether we want it or not. I am so happy to welcome back Senator Ferguson to the Assembly and she said it: "Let us get on with it and reference back". But, sorry, it is one or the other. Either we reference back and think about this lots more or we get on with it. Please, let us get on with it.

5.2.6 The Connétable of St. John:

This proposition is the Jersey Care Model. We need to understand just what a model is. A model is a number of bits and pieces, which, when you put together, will deliver a health service. But you have to agree the model first before you can put the bits and pieces together to create the Care Model. I am sat here looking on my desk at an Airfix model of a Spitfire. When I opened the box it was full of lots of pieces. The skill is to put all those pieces together in the right order and finish up with a finished model of an aircraft called a Spitfire. But I have to buy in first and that is the essence of a model. You have to get it first. We have to agree that this is the model, which we can then work on to create the health system for Jersey. Referencing it back to say: "We need to check that it will build a Spitfire before we can agree that" is unfortunately putting the cart before the horse. I am sorry to say it, but Deputy Southern has missed the meaning of a Care Model. This is the model. We need to put the bits and pieces together but we cannot do that until we have agreed the initial model. So I urge Members to reject the reference back.

5.2.7 Deputy J.M. Maçon:

I speak with both my Education hat on and as Assistant Minister for Health and Social Services with responsibility for training. Deputy Southern is absolutely right to raise the issue around training and skill and workforce development. It will come as no surprise to Members that the issues around training for nurses, for doctors, and other allied health professionals, is a big issue, not only for Jersey and Europe, but across the world. Deputy Southern is quite right to raise that issue. In some areas, we are doing what we can to already address these types of matters. For example, in the Government Plan, we have put through a business case that has sought approval for accelerated enhanced mental health nurse training as well as the most important parts to develop the senior nurse training under the S.C.P.H.N. (Specialist Community Public Health Nursing) qualification, which I would just like to take a moment to thank the Education Officer within Health, Julie Mesny, for the amount of work that she has been doing, as well as the great amount of training that she has done throughout the pandemic and COVID crisis in training more healthcare assistant staff up as well. As well as her team, which we are all very grateful for I am sure. But, as other Members have said, reading through the document, if we want to provide services close to home, that means we have to invest in training and having multidisciplinary staff. But, unless we know what the model is, as other Members have said, we do not know what the structure should look like. That is not only within Health and Community Services, but also how we work with outside agencies such as Family Nursing and Healthcare, which we are hoping the S.C.P.H.N. qualification will also support.

[16:15]

So it is moving towards a more integrated system, which we have been calling out for years. Members will remember, and it was even before my time, there was the health document called *New Directions*, which slowly became old directions, and then became no directions. Then we had the P.82 discussion. So a lot of this in some ways is not such a huge revelation or evolution, it is a continuum of all of that thinking. But, as other Members have said, unless we have the model, we do not know what we are training to. Therefore, while Deputy Southern is quite right to raise this as an issue, we need to know what the model is first. But, in addition to this, it is not just what Health does, it is also about what Central H.R. (Human Resources) does, issues around accommodation, issues around support packages, issues around pay. The other issue of course is pay within the social care sector, which is outside of Health's direct control. So while all these issues are absolutely right for Deputy Southern to raise, I do not feel that a reference back helps us progress any further. Because we need to know where we are going in order then to do that review. It is in the document. It is part of the Jersey Care Model. We recognised this as an issue and we are quite upfront about saying that we need to do this work. That is why I am unable to support this reference back but I thank Deputy Southern for raising it.

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

There is one quote in the consultancy report that resonates with me and if this reference back does not go through please indulge me because I will bring it back in the main proposition because it is relevant. I quote: "However, there is a real risk that not supporting the J.C.M. will lead to further years of inactivity and political standoff. Whereas what is needed is the start of action to deliver the required changes to the whole system." So my question to myself is, would this reference back slow progress or would it focus the minds on the payment model of the G.P. engagement, the staff recruitment, *et cetera*, that Deputy Southern has highlighted? Or, alternatively, can we be assured or will be assured that the role of the non-executive board will do just this? I am inclined to say that these measures and controls that we require in order to maintain momentum in this model will be met by that board. If I am wrong, somebody please advise me accordingly, but that is the way I am reading it.

The Bailiff:

Does any other Member wish to speak on the reference back? If no other Member wishes to speak, then I close the debate and call upon Deputy Southern to respond.

5.2.9 Deputy G.P. Southern:

What a welcome back. Thank you, Senator Ferguson. That is not just a rare event for us to agree, I believe it is a unique event. But I welcome that support. The Senator was obviously right when she said we do not want the N.H.S.; we want our own system. But the thing is we want it to work. At the moment there is no evidence that it is going to work. I did love as well her phrase: “Written in smoke”, especially the costings. It is smoke and mirrors. You have a lot of nice words, care, health, system, delivery, you have all the nice words in the world. We have had them on the agenda since 2012. The Minister for Health and Social Services also replied saying that this system has been stress-tested. You and I might think stress-testing is a pretty heavyweight sort of mechanism. But not at all. It estimates a figure for how deliverable a proposition is and you squeeze it, is basically what they are saying, and you produce a set of numbers that are not based on real things but based on estimates. What do we estimate? How deliverable is this? The answer was X and, look, we have stress-tested it. The fact is what we need, not the overall figure that says: “And in 16 years’ time we will be delivering a reduction in cost of £23 million”. Just think about that, 16 years’ time, and we can only deliver £23 million. How is that going to be made to work and where is the analysis that says that saving is made by these actions here and for them to be listed? How will we deliver £23 million apart from overall? The only serious figure we have in there is £23 million better off in 2035 than we are now. So they have not shown us how they worked that out at all, despite the reams and reams of figures we have now been delivered. The fact is there is no agreement with G.P.s at the moment. Increasingly and certainly recently they have been completely unenthusiastic about what is being proposed for delivery. I demonstrated clearly that the Minister himself says we must carry on talking. Must carry on talking to do what? To try to deliver. Let us look at the affordable services for the vulnerable. The Minister is committed to doing that next year. How is he going to do that when he does not have a model to present to say: “This is how we are going to pay for primary care”? Yet the reality is here we are being asked to vote, sounding like almost in principle, about the direction we are going in. Nonsense, we have had the direction since 2012 in P.82. There has been clear direction as to how we should be going. We have had 8 years of that direction. Anybody sitting around here and saying: “I do not know what direction we are going in” has got his eyes closed. So of course we have a clear direction. It has been around for the last 8 years. So that is not a problem. Delivering for the vulnerable maybe is a problem because the Minister is committed by this House to deliver in early 2021. Yet, according to the plans here, putting off everything for 3 years, and that is all it is, putting off everything for 3 years, one of those is how are we going to remunerate the G.P.s as part of the primary care. It has not been decided. The Minister for Health and Social Services in particular may say everything is going swimmingly and we are in discussion. Where is the progress? Because we have been discussing this for the last 6 to 8 weeks, we have been discussing it since the end of the pandemic in July. Where is the progress? Have we got agreement yet? No, we have not. Let us get some agreement. Let us have a model in front of us. Then we can, in the usual manner, with the finances, with the model, with the payment model there in front of us, we can safely vote on anything we like. The usual way is to get the money in the proposition and to vote for it. Without the money, as Deputy Higgins said, it is just equivalent to opening your wallet and saying: “Help yourself”. Again, he has criticised the figures around emergency attendances. Yet that is one of the prime motivators. Bed occupancy, one of the prime motivators. Not scheduled to be tackled, even attempted, not to be looked at until 2025. That cannot be right. What is that about? That is not delivering on an 8 year-old plan. Again, if the vacancies are there, what concrete proposals is this Minister promising to do in order to make sure that the 10 per cent vacancy rate plus that we have in all skills across his workforce, how is he proposing to fill those in? What the proposition to refer back is intended to do is to get it right. The most complex thing that we are deciding on, according to Deputy Guida, very complex, the most complex thing we have ever decided on, and we are going

to just plough ahead, are we, with a plan that goes through to 2025 before it delivers any return whatsoever, and risk getting it wrong and having to bodge it as we go along? The fact is that, despite what everybody is saying, we are talking about this is only a model and the model is in development between now and 2025, is again completely wrong. This model was agreed way back in 2012 in P.82. The fact is that we need to get on with it but in a targeted and professional way and not leave it until 2025. With that, apologies to any I have not mentioned, I ask for the *appel*.

The Bailiff:

The *appel* is called for. I ask the Greffier to post a vote into the chat. It has been posted. I open the voting and ask Members to vote in the normal way. If Members have had the opportunity for casting their votes, I ask the Greffier to close the voting. The proposition has been defeated: 18 votes *pour*, 23 votes *contre*. I note one vote *pour* and 4 votes *contre* by my calculation in the chat.

POUR: 19		CONTRE: 27		ABSTAIN: 0
Senator S.C. Ferguson		Senator I.J. Gorst		
Senator K.L. Moore		Senator L.J. Farnham		
Senator S.Y. Mézec		Senator J.A.N. Le Fondré		
Connétable of St. Helier		Senator T.A. Vallois		
Connétable of St. Saviour		Senator S.W. Pallett		
Connétable of St. Brelade		Connétable of St. Clement		
Connétable of Grouville		Connétable of St. Lawrence		
Connétable of Trinity		Connétable of St. John		
Connétable of St. Peter		Connétable of St. Ouen		
Deputy G.P. Southern (H)		Deputy J.A. Martin (H)		
Deputy M. Tadier (B)		Deputy of Grouville		
Deputy M.R. Higgins (H)		Deputy K.C. Lewis (S)		
Deputy of St. Martin		Deputy J.M. Maçon (S)		
Deputy L.M.C. Doublet (S)		Deputy S.J. Pinel (C)		
Deputy G.J. Truscott (B)		Deputy of St. Ouen		
Deputy S.M. Ahier (H)		Deputy R. Labey (H)		
Deputy R.J. Ward (H)		Deputy S.M. Wickenden (H)		
Deputy C.S. Alves (H)		Deputy J.H. Young (B)		
Deputy I. Gardiner (H)		Deputy L.B.E. Ash (C)		
		Deputy K.F. Morel (L)		
		Deputy G.C.U. Guida (L)		
		Deputy of St. Peter		
		Deputy of Trinity		
		Deputy of St. John		
		Deputy M.R. Le Hegarat (H)		
		Deputy J.H. Perchard (S)		
		Deputy K.G. Pamplin (S)		

The Greffier of the States:

Those voting *pour* were: the Constable of Grouville, Deputy of St. Martin, Deputy Alves, Deputy Higgins, Deputy Ward, Deputy Truscott, the Constable of St. Helier, the Constable of St. Saviour, Senator Mézec, Deputy Ahier, Constable of St. Peter, Constable of St. Brelade, Constable of Trinity, Senator Ferguson, Senator Moore, Deputy Tadier, Deputy Doublet, Deputy Gardiner, and in the chat there was a vote from Deputy Southern.

[16:30]

Those voting *contre* were Deputy Guida, Deputy Pamplin, Constable of St. Clement, Senator Gorst, Deputy Martin, Senator Pallett, Deputy of St. Peter, Senator Farnham, Deputy Le Hegarat, Senator

Vallois, Deputy Wickenden, Deputy of St. Ouen, Deputy Young, Deputy Morel, Deputy Pinel, Deputy Labey, Deputy Lewis, Deputy Maçon, Constable of St. John, Constable of St. Lawrence, Deputy of Trinity, Deputy Perchard, the Deputy of St. John, and in the chat, the Constable of St. Ouen, Senator Le Fondré, Deputy Ash and the Deputy of Grouville.

5.3 Jersey Care Model (P.114/2020) - as amended - resumption

The Bailiff:

We then return to the debate on the proposition. Deputy Southern, do you wish to continue with your speech?

Deputy G.P. Southern:

No, thank you. I do have one or 2 points that I could make but, no, I have had enough of it today.

5.3.1 Deputy I. Gardiner of St. Helier:

My speech will not be too long but it is mainly to ask the Minister a question. My question will be based on, as mentioned previously, it has been promised £23 million saving in 2036 but we do not know what is the cost. We do not have details of how it will be implemented and what the contracts with G.P.s will look like. I understand that this is a model and we need to go forward and I have not been around in 2012 when it has been agreed a framework where we will go forward. I am happy to say it was good to see that the Minister has accepted most of the recommendations from the Scrutiny Panel. The Scrutiny Panel did amazing work bringing forward a great review, a very detailed one, with great recommendations. One point that I would like to understand from the Minister, and this is my main consideration, and according to that I will decide how I will vote on this. I understand, if I understood correct, that the Minister does not need to bring to the States decision after *tranche* one when all details will be finalised. So it is not that it will come back to the States and we can see all the details: “Yes, let us go for *tranche* 2.” How can the Minister reassure me that once the agreements will be reached and all details and numbers will be in place and it will be a genuine board in conversation with me and we will have an ability, if needed, to stop going forward? Maybe it will not be needed, maybe everything will go smooth. But if the contract agreements with G.P.s will come back and the G.P.s will not be happy and we cannot continue without them with this model, what can we do as the States? It is about I, as a States Member, to make sure that the whole model and calculation and cost will be brought together and will be acceptable and not as an open cheque that was mentioned before.

5.3.2 The Deputy of St. Martin:

I will be extremely brief. The Constable of St. John has used the analogy of looking in his box of toys and pulling out the box of little pieces to build his Spitfire. The Constable may well have looked in his box and seen every piece on the instruction manual that he needed and thought he was home and dry. But of course the one thing that does not find itself included in the box is the glue with which to stick your toy Spitfire together. In this instance, while it might be very simple and straightforward, the thing we are missing, the glue that sticks this together, is the money. It is the cash. It is how it is spread around, which bits it is put into to stick other bits together. I am sorry, but I do not see enough financial detail in this model to understand how the money is being moved around, transferred about, and how it is going to work. So I am afraid at this stage I cannot support this proposition.

5.3.3 Deputy R.J. Ward:

I was going to go back to that analogy myself, so thank you, Deputy Luce, you have used the analogy of “where is the glue”. I was going to say that the problem with the fact of an Airfix kit, and I am sure other kits are available on the market, is there are clear sets of instructions with an endpoint and a timescale for how it is going to look at the end. A lot has been said, and I compliment Deputy

Southern on his very comprehensive speech and he was so well prepared. I am really concerned about the staffing. But it is not just about numbers, about bodies in posts. It is about staff who are able, willing and capable, of working in the community in an effective way. Otherwise we have community services that do not meet real need. Because what we meet is “a” need, but not necessarily the need that is there. We have to be very careful to ensure that the staffing in the community-based model is there and the staff are happy and skilled enough to do that work, to perform the roles that they have. I am also very concerned about costings. It is so essential that G.P.s have a role in this. As we are seeing with the figures of those going to A. and E., it is essential that people can afford to go to the doctor, can afford to go to their G.P. and access these primary care services. Because, without that, the entire process falls apart. This community-based model is the right way to go. We cannot have people that are constantly going to the hospital when they could be treated at home or they could be cared for locally where they live. But it has to be correctly done. At the moment, the detail is scarce, there is a lovely principle. But in 16 years’ time that we get the money, the savings, in 3 years’ time, in 4 years’ time, there will be another States Assembly by then. We have seen how much can change in one States Assembly and possibly within even an Assembly itself. I do not think we have the consistency to have something with such little detail and that worries me enormously. So therefore I am yet to be convinced that this is the right thing at the right time, without the detail that we have.

5.3.4 Senator S.C. Ferguson:

The one thing that struck me about this wonderful Jersey Care Model, why has it not been discussed properly with the primary health suppliers? I have seen a lot of these over the last year and they are complaining that they are not being consulted. They were not consulted about how they were going to staff. These are the top consultants and nobody discussed with them staffing of the Nightingale. They are just being treated like errand boys. Absolutely ridiculous. There is talk of not needing to send people away for treatment. I would much prefer a surgeon who operates on a similar operation a number of times a week, or I think 200 times a year is the minimum, rather than one who does it maybe once a month. He would not be in practice. There is glib talk about the Health Insurance Fund. It was not set up for financing a failed project. A project, which was thrown apparently on Somerset, rejected by either Devon or South Devon. It was rejected by the next authority as being too expensive. I applaud the doctors for refusing to be turned into the N.H.S. My sisters are under the N.H.S. and when you have to book 2 weeks ahead for an appointment with the doctor it is absolutely stupid. I like being able to ring up and say: “Can I come and see the doctor?” and they say: “Can you come this afternoon or tomorrow morning?” Interestingly, we also have the arrangements to cope with people who cannot afford the services. They have changed the arrangements for people who use the A. and E. as a drop-in centre. So we are coming to grips with it but all this ...

The Bailiff:

Senator, we appear to have lost sound with you. The last thing we heard was using A. and E. as a drop-in centre and then you went silent.

Senator S.C. Ferguson:

Sorry. They are coming to terms with the drop-in centre approach by setting up a separate system. I would have much preferred to bring back the Jersey Care Model when it was ready to be discussed. If you are bringing a project in business, you do not just bring the project and then tell people: “We do not know what it is going to cost, it might cost so-and-so, but we will sort it out along the way”. No. That is not how you do these things. It is like this stupid business of a 500-page proposition. Has nobody been to business school? No, they have not. My professors would have thrown me out if I had come up with something like that. As I say, it is full of promises written in smoke. Unfortunately, some of you have known better. I have had a lot of experience with hospitals and

medical people over the last year. So I feel rather strongly about it. It would have been better to come back with a costed proposition. I am informed by the doctors that I have been talking to that the hospital authorities were really quite surprised. When they did the original thing at the beginning of the lockdown and the doctors signed up to a temporary N.H.S. thing, the doctors apparently had to start talking accounts with the civil servants in the Health Department. They tell me that the Health Department was surprised at how much it cost to run a practice and that they were not all driving Rolls-Royces and so on. So they have not been talking properly to the doctors. We are sort of saying: "Yes, we are going to go ahead with it. That is all right, folks." We need to treat this in a business-like manner. We are not building a hospital to fit the services and we are not building services to fill a hospital. Yes, it is jolly good to treat people in their own homes, yes. I am fine about that. But if we do not have the primary care people on board we unparliamentarily could be described as absolutely stuffed.

The Bailiff:

As you rightly anticipated, Senator, you said you were going to say something unparliamentary and you did. So I wonder if you could just avoid those kind of expressions please.

Senator S.C. Ferguson:

Yes, I will, Sir. As I say, I have had quite a few people talking to me about it.

[16:45]

I am not in favour of the whole of this proposition and I will not be supporting any of it.

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

It is an absolute pleasure to follow Senator Ferguson and welcome her back. That is where I literally part company with her, I am sorry. This Minister for Health and Social Services, like myself, Senator Ferguson and Deputy Southern, have been here through P.82. Even Deputy Maçon reminded me of *New Directions*, even that far back. We have a finite amount of money. We have a finite amount of staff. We have to get a vision. Nobody has ever claimed that X amount of hundred pages is the finished article. I say to Senator Ferguson, we are not building a big building. We are absolutely designing a healthcare service for Jersey, which can be delivered where people want it. In a 9 by 5 Island, in community hubs, people wanting to stay in their own home longer, making sure the care is wrapped around with, again, the staff, which would be much more intense if they were in hospital. It is all about going right back to listening to the very new people at Health. It is about the patient experience. Anyone who knows or who has an elderly relative, little bit older than me, the minute they go in hospital, after a few days they are even tested whether they can walk and if they cannot walk unaided or with an aid, they are not allowed home. They then start looking for care in a nursing home or a residential home, which is not ideal. I get upset when people say the primary care sector is not being consulted. It is not just about G.P.s, but they have been consulted. Every G.P. I have spoken to knows exactly what is mooted. Some agree, some might not agree. The majority want to be delivering more specialist care and a lot of them can do more. They can do more. They can have specialised nurses. This is also about having in their surgeries, physios and pharmacies, absolutely where somebody feels comfortable to manage their condition. Somebody now, and I cannot emphasise enough, I have watched a couple of the Scrutiny Panel hearings with the Minister for Health and Social Services, and what has been said time and time again is: if it is free now at the hospital, the money will transfer to the person or surgery or where the care is delivered, where it will be much better for the person. They cannot emphasise that enough. Health is a lot of money. We know the budget for Health. I chose to speak at this time, because somebody brought up the H.I.F. (Health Insurance Fund). I absolutely agree, the H.I.F., when it was invented, did not foresee the great advancement in health that keeps us all alive longer. It was done for this. I, as Minister for Social Security, am mooted to take some money to kickstart this, because I think it is a good thing

to do. However, be under no illusions, that cannot carry on going forwards. We are going to have to make some decisions. I then agree with a lot of what Deputies Ward and Southern said; people want free doctors. They want it free at the point of when they go and pay. At the other end, someone is going to be putting in more of something. It could be Social Security. It could be tax. It could be a health charge. Do not think that anyone is going to get away with this. The Minister for Health and Social Services has not said that. What he is saying is we need this in place, we need to discuss it over the next couple of years and somebody, whoever can pay, needs to start paying in about 2024 or 2025. To me that is quite simple. Deputy Gardiner, and I just step in here, is concerned that certain things, as we go forward, might not need to come back to this Assembly. Deputy Gardiner knows this is the most open Assembly we have. If Scrutiny or if a Back-Bencher feels there are enough complaints from the community going forward, there is an opposition lodged. It probably would come from the Minister for Health and Social Services, but if not we have that facility. There are probably questions that people want the Minister for Health and Social Services to answer. There is time for another debate, because I have to lodge the money, if agreed, to come out of here to help start this. At the end of the day, this is not rocket science. We know everybody is living longer. We know people want to be delivered their healthcare where it suits them and also where it also suits the staff. I listen, as I say, to all the people who are coming in. One thing I do agree with Senator Ferguson on: we are not going down the N.H.S. style. Nobody is ringing up, waiting 2 weeks for an appointment; absolutely not. Why would we? We have a really great community. We have our G.P.s. I know all of them by name. They were there in my pregnancies, they have brought my children up and my children still want to go to the same G.P.s. Some of the G.P.s are probably coming up to retirement. I do not know where my children will go after that, but they have to trust them; absolutely, agree with that. However, we need to make it fair. I want to help the Minister for Health and Social Services. I go back to Deputy Southern's reference back, we did agree this in P.82. It has all been agreed. This Minister for Health and Social Services wanted to come back again and say this is the direction of travel, yes, I do not have every "i" dotted and every "t" crossed. How can I? If I did that, you would all say: "How dare the Minister for Health and Social Services do it like that? I want input. I want to know that we can vote of this when and where." I really do urge States Members who do not really quite think that the programme has everything ready, because it has not, but I have listened and looked back right from the new director general, the new Minister for Health and Social Services and the vision, if we do not do this, we literally will be putting more elderly people in a very unsuitable place, and that is a hospital setting, when they do not need to be there. Please have a bit more faith that all of our people who delivery their primary care are mainly on board. They do want more information and going forward the team at Health, my team, across P.P.P. (Policy, Planning and Performance) are speaking to Health. I reiterate the vulnerable, yes, there is work going on and because it has swapped from the Minister for Health and Social Services to me, we are where we are. However, something will be delivered and then Deputy Southern can decide whether he likes where we are. That is not the healthcare model. That is where we got confused yesterday. Is it P.125, which was a very small amount of discussion or is it the whole of the healthcare going forward for the next 20 to 30 years? I really do urge people to get behind this, get behind the Minister for Health and Social Services, get behind the team and, most of all, get behind the people of Jersey who need good care delivered where and when they want it and the staff that need to deliver it.

5.3.6 Deputy M. Tadier:

I was very pleased to hear in the opening speeches of the Minister for Health and Social Services about preventative healthcare, because this needs to be done holistically. For example, little steps can make a big difference. We have seen cultural changes. For example, it was quite common place in the past, in the private sector, and I suspect also in the States Assembly, for lunchtime drinking to occur and some Members would come back from lunch, then be making speeches which were perhaps slurred or incoherent. That was the same in the private sector; Friday afternoons were pretty

much a write-off, I understand. Even in the 2000s. Luckily lessons have been learned. There is an element of personal responsibility, of course, but Government has responsibility too in promoting the right types of messages and positive propaganda to the wider community. I do take slight exceptions when pot-shots are taken at the N.H.S., talking about long waiting lists, for example, to see a G.P., because it does not tell the whole story. Of course, we know that the U.K. has something which is prized. All parties in the U.K., and a wide cross-section of the public value the N.H.S. because they understand that after World War 2 it was fundamental, and there was a rethink in the model of healthcare, which says healthcare should be accessible to everybody and, more fundamentally, you should not have to pay to see a G.P. We might think it is great that you can just pick up a phone and get an appointment with the G.P. in a couple of days over here, but that presumes, of course, that you can afford to see a G.P. in the first place. If people put off visiting their primary carer for perhaps weeks or months at a time then that is not doing anybody any good. Some, of course, just do not go to see doctors at all and we end up with people ultimately dying from illnesses or being severely affected by illnesses which could have been fairly benign or certainly treatable, if they have been picked up earlier. These are not new comments. I have said these kinds of things before. We have to be generally circumspect when we are trying to be too valedictory about the Jersey system, because it is a very divisive system that we have of haves and have-nots when it comes to healthcare in Jersey. We have been on a learning curve and a journey through this period of COVID-19, because what we have seen is that if we want to we can provide, for example, mass testing of people for free. We can provide that to people who are rich, poor or in the middle. We can provide that to people who are coming to the Island for whatever reason, whether they are not from Jersey, visiting the Island, business people or locals returning. That is very intensive in terms of the personnel it requires to do, but we recognise that you cannot put a price on individual or collective healthcare in the community. I do have concerns about what the ultimate model is going to look like, because, of course, there are always universal things that we can all agree with when we are told about care in the community is a good thing and we know that it can be sold to people as being cared for in their own homes. However, if it is done primarily to save costs and not to put people in the kind of scenario where they can be best looked after then that is not something I want to be a part of. I know that there are people who need to be cared for in care homes and to suggest that that is not care in the community is wrong. Many of these care homes, when they are well done and they have buy-in from the wider community, are themselves their own community. So we do have care in the community. There have been some very good care homes in Jersey in terms of the community feel and there still are some in the Island. This is the issue that we are grappling with today, where we are being presented with something which needs more meat on the bones. I completely accept Deputy Martin's point that sometimes you can never win if you present the *fait accompli*, as a Minister, then people are going to cry foul and say: "Where is our input into this?"

[17:00]

There is a risk here that we are just putting this forward. At best it is a meaningless vote today and at worst we could be setting ourselves on a trajectory which does not deal with the fundamental problems. It is right that we need to get people into primary care. We need to get people diagnosed earlier if we can. Similarly, we need to stop people getting those preventable illnesses in the first place, through a wider programme. I think of the good work that my erstwhile colleague, Senator Pallett, at Economic Development, working with his other hat on in his time in healthcare. He very much saw the link between all aspects of health: physical, mental and the need to lead an active lifestyle. The joined-up approach from Government is absolutely right, but we cannot be cutting corners here. My concern is that there will be elements in the Assembly, in Government, and in wider society who want to do healthcare on the cheap. There is a section of society who has private healthcare. That is fine for them if they can afford it. Often it comes with workplace packages. Many, of course, do not have that. I was quite mortified this week to hear of somebody who went to see the doctor with a particular illness which sounded like it might be serious and the G.P. in Jersey

wanted to refer that person to a consultant. That would be necessary eventually, but instead of doing that straight away, they said: “Why do you not go away and get some private healthcare and come back to me and then I can refer you privately and you will get seen quicker?” I have that on good authority. That kind of advice is really problematic, for obvious reasons. It is problematic because, first of all, we should not have to have a system whereby you can see the G.P. quickly but you might have to wait ages to see the consultant, especially at the moment, if it is a very serious issue which could be life-threatening. To be told by a G.P. to go away and get private healthcare insurance, effectively, when you are already ill, I do not know how that fits. You certainly could not necessarily do that with house insurance, for example; that might be bordering on the fraudulent. There are many problems in our current system, which are not necessarily easily addressed. They do need to be talked about honestly, because we do not have a one-size-fits-all Care Model at the moment. I will leave my comments to that. Today’s debate cannot be the be-all and end-all anyway. I will wait to hear what other Members say and what the Minister says in summing up.

5.3.7 The Connétable of St. Mary:

A very quick observation: the back page of the proposition report, all 137 pages of it, states all of those involved with the report - the technical group membership, stakeholders, 143 of them - can they have spent so many hours putting this together and can they have all got it wrong?

5.3.8 Deputy K.F. Morel:

I apologise, I will be slightly longer than the Connétable of St. Mary; but a very salient point, I must admit. I will try to be brief though. A lot of people have said correct things and many people sound like they are still quite undecided. It is quite an important debate, in that it feels like people are still making their minds up. I understand why. Since I was elected 2 years ago, this is one project which has consistently been there in conversation. States Members have been wanting it and States Members have been fearful of it. They have been wanting to know more about it. They have been wanting it to be sped up and they have been wanting it to be slowed down. It is a very difficult project for the Minister for Health and Social Services to deliver in a format that is acceptable to the majority of States Members. For that, I do not envy the Minister for Health and Social Services in having to bring it. That said, it does feel like there is perhaps too much lacking in the Jersey Care Model as presented at the moment. There are questions around things like the use of the H.I.F. I am still very unsure. It does not sit well with me in that respect. We also have seen, through the Scrutiny report, I will come to that in a minute, that there has not been enough consultation with some of the stakeholder groups that are important here. We saw that only 1 or 2 per cent of G.P.s have been spoken with, which is just not good enough. However, this is a multi-year plan and Jersey does need to think long and hard about its health system. The current system we have is not really open to innovation. That is one of the problems. It is not about whether we buy a new M.R.I. (magnetic resonance imaging) scan or not, that sort of innovation, but innovation in the way we deal with people’s illnesses, the way we prevent people becoming ill in the first place, the way we move forward into a 21st century system. The current system seems rather riddled with inertia, if you can be riddled with inertia. That is one of my key concerns here: how do we move pass this impasse? At the end of the day, it was 2012 that the previous version of the Jersey Care Model was mooted and was passed by this Assembly and nothing has really happened. So there is no question that something needs to be kicked-off, something needs to be started. With that in mind, I understand why the Minister for Health and Social Services has brought something to this Assembly. It is a document that can be worked with. We do have issues of funding. It goes against every part of me to defer my understanding of funding until 2025. That cannot be. We have to do that sooner. We have to understand that sooner. Healthcare is already the biggest component of our spending every year. With the ageing population that will only get bigger, but we need to understand how much bigger that is going to get, how we are going to deal with funding. Deputy Martin was absolutely right, it could be income tax, it could be social security, or it could be health charges. However it is

going to happen, I do urge the Minister to bring forward that element of the Jersey Care Model sooner, because 5 years of uncertainty on that matter is just not right. I know people have worked hard on this model and I know the Minister quite rightly praises his team. A lot of hard work has gone into this and, obviously we have had the COVID-19 pandemic, but it is an incomplete and unfinished piece of work. Which brings me to the Scrutiny side. I have no doubt that this debate will continue tomorrow morning, so if anybody has not read the Scrutiny report, please do use this evening to read the Scrutiny report. To be honest, it is scrutiny *par excellence*. It is an outstanding piece of work. In my opinion, it saves this proposition to date. The Minister for Health and Social Services, in my view, should be thanking the Health and Social Services Scrutiny Panel for the work they have done. He was right to accept 18 of their recommendations and partially accept another couple. I believe they understand why the final one was rejected. He is obviously accepting of the amendments, which is hugely important, because that monitoring system, I will let others who understand it better explain how that all works, but that does give me enormous confidence that if this Care Model, as presented to us today, is going off the rails, if it is falling back behind time, if it is not delivering in the ways that it is meant to be delivering, in the *tranches* that are meant to be delivered and at certain times, that there is a system in place, with people who are not involved, who are independent, who are Scrutineers, who are members of the public, that they will say: “No, hold on, things are going wrong. We need to stop and relook at this.” I could not vote for this without that assurance. I really do thank the Scrutiny Panel for doing that. I do not even like the phrase “political friends”, not because it is wrong, but it almost feels oxymoronic in a strange way. It is a negative and a positive next to each other. It is not oxymoronic, but it feels like it. However, this is a superb example of Scrutiny working in the way it can. Yes, I believe the Minister, Chief Minister, and the Council of Ministers should be grateful to the Scrutiny Panel for what, I believe, is saving this piece of work and making it acceptable to this Assembly. I feel that we are able to pass this now, keeping a very close eye on it and on its developments, and by no means is this a finished piece of work. I appreciate people’s concerns. I have so many of those same concerns, but there is a system in place to reassure us. We need to put our faith in that.

5.3.9 The Deputy of St. Peter:

When I first saw the Jersey Care Model in mid-late 2019 it made sense, it made absolute common sense. The concept of preventative medicine and encouraging better lifestyles, enabling patients to recover at home and for them to enjoy these services in the community. It is all logic. At the St. Peter’s roadshow it was described as aspirational. A lot has happened since then and our H.C.S. professionals have been stretched in minimising the damage to the Island’s health during this awful pandemic. It is a harsh critic who will not admit that they have done a fantastic job. We must applaud them. However, I am concerned the pandemic has interfered with the progress made on the Care Model. This fear is totally supported in the excellent work of the Scrutiny, who must be congratulated ... Deputy Morel did a fantastic job with that, so I will not continue, just support that, based in part of the work and the report from Attain. Again, if you have not read this, and we do continue into the morning, I encourage you to read every word of it. It is a fantastic piece of work. Given we have 497 pages of the J.C.M. and 144 pages of Scrutiny to fight through, I am not going to review all of it, I will just keep to 3 headline points. It is clear the team have been stretched these last months fighting COVID-19, so due attention has not been given to the J.C.M. It is clear that as a result of COVID-19 engagement with key stakeholders and the general public has been limited. The survey with the G.P.s contains acknowledgement of how fundamental their support is to the success shows a poor level of engagement and support. Given COVID-19 restrictions, it is hardly surprising. However, that does not mean that the lack of consultation can be ignored or excused. This is a fundamental part of the process and its ultimate success. Without the engagement of the G.P.s and other stakeholders this will stop and fail. Given this is a framework and, in the words of our Minister for Health and Social Services, it is concerning that such financial forecasts and required investment can be accurately made. After 16 years the health costs will be about £200 million less than the do

nothing option, then £23 million per year thereafter that. That is if I have understood it correctly. That is a wonderful goal, if achieved, no doubt, but I would rather hear a major emphasis and evidence on how care for our Islanders, especially our ageing population, will be significantly improved, rather than long-term financial forecasting, which can be no more than, in the words of the parishioner a year ago, aspirational. Absolutely, a lot more work is required until we get to the point of nailing down this model and understanding what it is really going to mean for our Island. However, I am going to repeat the sentence from Attain, because it really is, in my opinion, the core relevance of this, especially as we have heard about how P.82 was agreed 8 years ago and not progressed in this relevant area of care. However, there is a real risk that not supporting the J.C.M. will lead to further years of inactivity and political standoff, whereas what is needed is the start of action to deliver the required changes to the whole system. I agree, we must start, but we have a situation where some elements have progressed faster than others. Quite simply, the financial aspirations have got far ahead of the engagements. Without the Island buy-in this will fail.

[17:15]

I am delighted the Minister has supported the Scrutiny's amendments and most recommendations. Without it, like Deputy Morel, I would have struggled to support this proposition. I hope this will steady the ship in uncertain times and ensure the model progresses and evolves in a balanced, measured way. However, may I please ask the Minister in his summing up to fully emphasise to the Assembly and the Island that this is a journey starting today that will evolve as the Island's needs and medical science develops. Also, may I ask the Minister to give us an indication of what he thinks the terms of reference for the independent non-executive body will be? I do not know if this is acceptable practice, but potentially bring it back to the Assembly. The guidance that this non-executive body will give and the assurity it will give to the Assembly as we go through what will be a very long journey, I believe, is paramount in the focus of this particular debate.

5.3.10 Deputy K.G. Pamplin:

For me, I will break my speech down into me as an independent States Member and as my role as vice-chairman of the Scrutiny Panel that has been referred to. I will start personally with the reason why I decided to put myself forward for this great honour that we all individually have representing this Island. It was when I was a business manager of the Jersey Brain Tumour charity and I could not understand why (a) the charity was needed and (b) why our patients, when dealing with one of the most horrific diagnosis that anybody could ever have, be it a benign or cancerous brain tumour, was getting caught in a system that had no patient pathway to support them and their family. I could not understand it. I knew from my previous job that there was the infamous P.82, so I could not understand when the groundwork was done why things were not working. It was for that and also, which touched upon the area of mental health, when I thought: "Time to put your money where your mouth is, Pamplin, and make a stand." I spoke about that during the election. It was obvious after not becoming a Member of the Government for me to aspire to help in the way I came to the Assembly was to join the Scrutiny Panel and together, collectively, help move things forward. That, I believe, is what others have referred to with our work here today in our report, which I will now refer to. Following the publication of the Jersey Care Model briefing paper in October 2019, it was clear that our panel needed to review what was being proposed, as others have mentioned, as a critical friend. I remind everybody that was October 2019. It is now November 2020. We have produced a 149-page review to this Assembly in the backdrop, as others have mentioned, of one of the most challenging eras of our lifetimes, which was ironically a health pandemic. During that time, we have managed to produce this body of work alongside all the other work that we were doing in the scrutiny of emergency legislation during the pandemic and all other areas of work. I therefore pay immense tribute to my panel members, Deputy Alves, the Deputy of St. John, Deputy Southern and our chair, Deputy Le Hagarat. Unbelievably also, again, we have to draw notice to the under-resourced area of Scrutiny, which is improving, which is changing, our Scrutiny officer has performed heroics with her

delivery and perseverance of this report, alongside the amount of work that our panel was doing during the pandemic. I pay tribute to her, the support as well that she had and, as others have mentioned, our advisers. While the panel are fully supportive of the main objectives of the Care Model, without the greater detail of how care could be delivered under the model the impact of the proposals on patient outcomes and implications of its ambitions on our current workforce, it was impossible to say how supportive we were when we saw the first draft of this Care Model and all of its ambitions. The recommendations contained, that we provided with the report, gave the panel greater confidence in approving the move to the next stage that will allow for further clarity on details of the model for further financial reassurances and greater accountability in ensuring the delivery of the Care Model. We were pleased, as others have mentioned, that the Minister accepted the majority of our recommendations. Equally, what was also very important to us as a panel, that we were able to take that next step and to support the next stage of this framework was the acceptance of our amendments, because that put in the reassurance that Deputy Morel and others have mentioned, that we are holding to account the most critical moment of the next steps of this Care Model. The detailed planning due to take place is absolutely fundamental to design of this Care Model and is crucial to the understanding of how it will be delivered. Without this detail, such as what the community offer will be, what will be delivered in the community settings, we proposed it would be suitable to give support for this direction of travel, as the Minister mentioned, by holding every step to account with transparency and rigour that only an independent board can provide. Therefore, we thank the Minister for accepting our recommendation and our amendment. The Jersey Care Model being proposed is in line with international Care Models and the approach being developed areas to be logical and it should impact positively on the population of Jersey. The concern that we had is that the Care Model was a work in progress. That is why I called it a framework, as it such at present, without our recommendations fully accepted, did not have the level of detail about the specifics of how the services would change over time. This is now in place. It provides an ambitious transformation of the care delivery in Jersey. The Jersey Care Model was broadly consistent in its direction with other modern health and social care systems developed or proposed in the United Kingdom and internationally. It was a clear determination that transformation is necessary to meet the needs of the Jersey population now and even more critically in the future. It is a natural successor to the P.82 project and the current Jersey Care Model, with our recommendations accepted and the amendment also, provides an overview of the areas of health and social care in Jersey with, the most important part for me, the accountability factor, the transparency, and us working together to deliver it. Finally, on a personal note, this pandemic has proven one thing. I quote again Dr. Michael Ryan, the executive director of W.H.O. (World Health Organization), who I still believe has given the speech that in many years to come will help define the changing landscape that we all find ourselves in. He said: "You have to be fast, have no regrets. You have to be the first mover. If you need to be right before you move, you will never win. Perfection is the enemy of the good, when it comes to any emergency medical management. Speed trumps perfection." Now, he was talking, of course, about the delivery of the response to the pandemic, but it is so true. P.82 when it was delivered was what we needed. It has not happened. This makes it happen. I came into this Assembly, albeit not in Government, to help constructively move things forward. That is the purpose of this Assembly. We will do that next year, holding the Minister to account, working critically together to deliver. We cannot do this anymore. The frustration that is growing in the public when things are agreed upon and do not happen and we go backwards and forwards and backwards and forwards. This takes us forward. But be under no illusions, if by the first month or the second month or the third month of the independent board that we are putting in place comes back that this is not working, we will not wait. We will act speedily. We will hold the Minister to account and we will pull things in. I thank Members for their attention and reading our report. Again, I thank everyone involved in the delivery of our proposition. We have to move forward. Be under no illusions; speed trumps perfection. Also, transparency, and is that not so ironic where are right now, is absolutely critical. I commend everybody involved in working on this so far.

The Bailiff:

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

The Deputy of St. Ouen:

I am happy to continue, but I am well aware that it is almost 5.30 p.m. I will not be able to conclude in just 3 minutes.

Senator L.J. Farnham:

Sir, I just wondered if it was worth proposing the adjournment. Perhaps the Minister could sum up first thing in the morning.

The Bailiff:

We are not quite at the time when I am required by Standing Order, but now the matter has been raised. You said Senator: "Is it worth proposing the adjournment?" You have not proposed the adjournment.

Senator L.J. Farnham:

I propose the adjournment, Sir.

The Bailiff:

You are proposing the adjournment.

Deputy K.F. Morel:

Point of order, Sir.

The Bailiff:

What is your point of order, Deputy?

Deputy K.F. Morel:

It is just that the Deputy had started speaking. I would take that as he had begun speaking. To put a proposition in the middle of speaking seems strange.

The Bailiff:

In fact, what I heard the Deputy saying was that it is very late in the evening, he is prepared to speak if we want him to and then Senator Farnham stood up and proposed the adjournment. I do not think he had started his speech. Otherwise that would be a point well made, Deputy. Very well, the adjournment is proposed. I note that it has been seconded. **[Seconded]** Does any Member wish to speak on the adjournment?

Deputy K.F. Morel:

It is just to say there is no reason to leave this hanging over night. Better to start on a fresh subject in the morning. It is never a good idea to leave a debate unfinished. While I appreciate the Minister is going to take more than 4 minutes to give his speech, I still doubt it is going to be a half hour long speech. The Minister may wish to correct me. So I think for the sake of taking another 10 to 15 minutes or so in finishing the debate, we can do that now.

The Bailiff:

Deputy Martin, did you wish to speak?

Deputy J.A. Martin:

It was just literally to say exactly what Deputy Morel has said. We have had a good afternoon's debate and it is not fair on the Minister. He is nodding at us saying he would like to speak. For anyone listening in Teams, the Minister would like to do his summing up and go to the vote.

The Bailiff:

The Minister is perfectly entitled to speak on the question of adjournment if he wishes to do so. He can obviously speak now. I would urge Members not to spend too much time on the question of whether we adjourn or not or it will end up being self-defeating. Deputy of St. Peter, do you wish to speak?

The Deputy of St. Peter:

I have nothing to add. Let us just move on while it is fresh in our minds.

The Deputy of St. Ouen:

I am very happy to conclude, Sir. I certainly will not be half an hour, maybe 10 or 12 minutes.

Deputy M. Tadier:

I just wanted to comment on Deputy Morel's point. He said that it is never a good idea to leave a debate overnight. I do not think that is categorically true. There are times when it is ... certainly my alarm is about to go off.

The Bailiff:

In theory that is right, Deputy. I do not wish to cut across you, but this is very much a narrow point as to whether we should adjourn this debate at this time. Do you wish to make any point on that, rather than a point in general?

Deputy M. Tadier:

Yes, I do, Sir. I thought it was germane, because I am saying it cannot be categorical. So if it categorically true then it would necessarily be true in this instance. I do think that there are good grounds, where we only have a summing up and the person who wants to sum up is ready to sum up and I think that is reasonable, even if we are coming back tomorrow. I leave it like that.

The Bailiff:

Senator Farnham, did you wish to respond before we put it to the vote?

Senator L.J. Farnham:

Just very briefly, Sir. I did think that the Minister for Health and Social Services had said that his speech was going to take some time and we would not have time to finish it, but I may be corrected. With hindsight it might be best to let him finish as there is only 10 or 15 minutes to go. The Assembly can vote on that.

The Bailiff:

Let us leave it to the Assembly to vote now that I think we have reached a point where everyone has spoken who is entitled to.

[17:30]

I ask the Greffier to place a link in the chat. The vote is if it is a vote *pour* we adjourn until tomorrow morning, if it is a vote *contre* then we continue until the Minister has concluded and the vote has been taken. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The proposition to adjourn has been defeated: 7 *pour*, 28 votes *contre* in the voting box. I count another 2 votes *pour* and 4 votes *contre* in the chat.

POUR: 9		CONTRE: 32		ABSTAIN: 0
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Senator I.J. Gorst		Senator L.J. Farnham		
Connétable of St. Saviour		Senator K.L. Moore		
Connétable of St. Mary		Senator S.W. Pallett		
Deputy M.R. Higgins (H)		Connétable of St. Helier		
Deputy L.M.C. Doublet (S)		Connétable of St. Clement		
Deputy J.H. Young (B)		Connétable of St. Lawrence		
Deputy S.M. Ahier (H)		Connétable of St. Brelade		
Deputy J.H. Perchard (S)		Connétable of Grouville		
Deputy C.S. Alves (H)		Connétable of St. John		
		Connétable of Trinity		
		Connétable of St. Peter		
		Connétable of St. Ouen		
		Deputy J.A. Martin (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 S.M. Wickenden (H)		
		Deputy of St. Mary		
		Deputy G.J. Truscott (B)		
		Deputy L.B.E. Ash (C)		
		Deputy K.F. Morel (L)		
		Deputy G.C.U. Guida (L)		
		Deputy of St. Peter		
		Deputy of Trinity		
		Deputy of St. John		
		Deputy M.R. Le Hegarat (H)		
		Deputy R.J. Ward (H)		
		Deputy K.G. Pamplin (S)		

The Bailiff:

Very well, we continue.

5.3.11 The Deputy of St. Ouen:

I hope Members will forgive me if I do not deal with each individual speech but I will try and take the broad themes that have been discussed during the debate, which I am grateful to Members for because it provides challenge. If this proposition is adopted it will challenge executives and it will set a direction. That is the point really that I have wanted to bring this to the Assembly, I think it was Deputy Martin who made the point, and others, that I need not have come back here because we could have said: "Yes, it is P.82 and we are continuing with that." But I have chosen to come back here because I believe this is important and everyone involved in health and care needs to know, even if it is a reinforcement of P.82, where States Members wish to take the Island and where the Island wish to go. We are the representatives of the Island. That is going to help my executives and management in H.C.S., I want them to know and be held to account for what we have to do. They are going to be held to account by the rigour we have around this. It is going to help the G.P.s, all those in the voluntary sector, it is going to help patients and Islanders to understand exactly where the model will take us. It will be an evolutionary system and, of course, we have much more explaining to do and I have committed to the comprehensive communications plan that Scrutiny have recommended. I do agree with Deputy Le Hegarat that if we did not pass then we would be quite

unsure where we are going. Yes, there is P.82, it is not as comprehensive as this, it is much more general in terms of its high ambition, this has some detail, this has commitment and particularly now the Scrutiny additions have helped that along very significantly. Deputy Gardiner asked some detailed questions about the finances. Others have said it is not about the finances, it is about the delivery of care. Yes, it is but we need it to be financially cost effective, and that is confirmed by PwC working with all those in Treasury and H.C.S. £23 million is the net saving after allowing for all costs and the £23 million is a figure that from 2036 that is what the J.C.M. is expected to deliver, but before that time it will start delivering net financial benefits. Up to 2025 there will be costs put in that will exceed the benefits but from the very beginning there will be financial benefits that arise. By 2025 those financial benefits will exceed the costings and they will gradually grow and that figure of £195 million is the figure that we will achieve in savings by 2036 and then going forward it is anticipated that £23 million is the net saving annually. That is a huge figure. I think Deputy Southern was quite dismissive of it. When you think that the efficiencies targets across the whole of government, all departments of government at this time is £20 million per annum and here we are, we have our health and care sector saying that we can deliver £23 million ... we can be more efficient to that tune by 2036. There are costs for each year in the strategic outline business case, it is there to be read. The immediate costs are also included in the present Government Plan. There is a very great detail of financial costs in that strategic outline business case, which is appendix 3 to the proposition. For example, table 4.3 of that appendix shows the net financial impact by each health intervention. Table 4.5a shows the non-recurrent estimates and table 4.5b shows the total financial impacts. There is a lot of granular detail for Members to assimilate, for us to work through in the future, to measure against that financial assessment with the Scrutiny Panel, the independent board, myself and H.C.S. executives to measure as we develop the plan against those estimates. Deputy Gardiner was also talking about will it come back to the States? Can it be changed? Can it be stopped? Yes, the States can do anything within its competency, which will include putting in any sort of proposition that might halt the Care Model, that might send it in a different direction if it receives the support of States Members. We are a sovereign body and we are the Government of the Island so that can happen. Before any of that dramatic intervention I will establish with the Scrutiny Panel a reporting to the States because the independent board will report to the panel and myself. I feel sure that we will want to report periodically to this Assembly. The Scrutiny Panel will continue with its usual function. It is not just going to say the independent board is scrutinising, it is going to remain a Scrutiny Panel and holding me and executives to account. Each year we will have a Government Plan. Each year there will need to be money put into the Government Plan for up to 2025 for the costs of this. Each year up to 2025 Members will be able to debate the vote proposed. There are plenty of opportunities for reviewing this and I have no doubt Members will continually ask me questions and, of course, I have the opportunity or any future Minister has the opportunity to bring a debate to this Assembly. I do not think we debate health and care enough really because it is complex. I want Islanders to understand our system because it faces huge challenges. I do want transparency. That is why I have established the Health and Community Services Board which does meet in public, although during COVID we are screened. That is still evolving but it is an example of the transparency that is needed and that should exist so that Islanders can understand how their health system works, what it costs, the limitations upon it and the challenges it faces. Senator Ferguson in both her speeches spoke about the N.H.S. and assumed that we were delivering the N.H.S. The paperwork says nothing about the N.H.S. except when comparing with N.H.S. We are not delivering a N.H.S. model. If the fear is that what happened during COVID was to be replicated, no, that contract with the G.P.s was an emergency response set up very quickly. It was mutually beneficial. We needed G.P. services for healthcare, they needed to imagine trying to run a practice during COVID and nobody wanting to turn up because of their fear of COVID. Mutually, it was agreed that H.C.S. or the Government would take over their practices for a limited period, but it is an emergency response, it is not that we would move and agree exactly the same thing again. They are an independent profession and I want them to remain so because they are the essential deliverers of

primary care in this Island. They have engaged with us. There were group sessions with G.P.s in 2019. My group managing director visited each surgery to talk to G.P.s there and there was good engagement with the former primary care board. It is the case that during COVID there were re-elections to the primary care board and there was substantial change in that primary care board. We will continue and we will ramp up the engagement with G.P.s they are going to be heavily involved, they have to be heavily involved, there is no doubt about that, and I would not want it otherwise. I would ask Members to remember G.P.s told the Scrutiny Panel by the survey that their care would be optimised by delivering in the community. Everyone is aligned to take this model forward. Just checking that I have answered everybody. Yes, there is concern about we will not be in a position to debate sustainable funding but we are going to be working on a sustainable funding measure over the next 9 months and the commitment is to bring it forward in the 2022 Government Plan. That is what the proposition asks for, that is in the present Government Plan that commitment to do so. Many speakers have said how grateful they are to the Scrutiny Panel; I likewise am grateful to them and if it is their interventions that have meant that this proposition carries then I am doubly grateful. I acknowledge their very significant contribution and I am grateful for it. Deputy Huelin was asking me to emphasise that the journey starting today will evolve. Absolutely, I confirm that, it is not a system that is fully packaged and planned, it is an evolutionary system in which all stakeholders are to be involved. He asked me about the terms of reference for the independent board. It is to review, keep under review and it is report; no doubt we will go into more detail. I cannot say immediately because I need to consult with Scrutiny and I will need to take advice but, of course, those terms of reference will be published and in some way laid before the Assembly. Deputy Pamplin said this makes P.82 happen. I can only agree. We are in a position to take forward and deliver better care to Islanders, care they have been clamouring for since P.82 and probably long before, and we know through the stress test this is the right way to deliver care in modern economies and modern healthcare systems and we need to make this change. All stakeholders are ready and I believe willing, very ready, to embark on this journey. I ask for the endorsement and backing of States Members and undertake to always regularly report back to you and invite you to regularly question me as you do. This is going to be an exciting time, I hope all Members will fully engage with it and I thank Members. I am grateful.

[17:45]

The Bailiff:

Thank you very much, Minister. I therefore ask the Greffier to post the link into the chat. I open the voting and ask Members to vote in the usual way. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The proposition has been adopted: 33 votes *pour*, 7 votes *contre* in the link and I count another 6 votes *pour* in the chat.

POUR: 39		CONTRE: 7		ABSTAIN: 0
Senator I.J. Gorst		Connétable of St. Saviour		
Senator L.J. Farnham		Connétable of Grouville		
Senator J.A.N. Le Fondré		Connétable of Trinity		
Senator T.A. Vallois		Deputy M. Tadier (B)		
Senator K.L. Moore		Deputy M.R. Higgins (H)		
Senator S.W. Pallett		Deputy of St. Martin		
Senator S.Y. Mézec		Deputy G.J. Truscott (B)		
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Peter				
Connétable of St. Mary				

Connétable of St. Ouen				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy 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:

We had a call for the *pour* and the *contre* so let us take it in that order.

The Deputy Greffier of the States:

Those voting *pour* in the link: Deputies Pamplin, Labey, Wickenden, Morel, Guida, Senator Le Fondré, the Constable of St. Clement, Senator Farnham, Deputy Alves, Deputy Ward, the Deputy of St. Peter, Deputy Pinel, Deputy Lewis, Senator Pallett, Senator Vallois, Senator Moore, Senator Gorst, Deputy Le Hegarat, the Deputy of St. Ouen, the Constable of St. Lawrence, the Deputy of Trinity, Senator Mézec, Deputy Ash, Deputy Martin, the Constable to St. Brelade, Deputy Young, the Constable of St. Helier, Deputy Maçon, the Constable of St. John, Deputy Ahier, the Constable of St. Peter, Deputy Gardiner and the Deputy of St. John. Those voting *contre* in the chat: the Constable of Grouville, the Deputy of St. Martin, Deputy Truscott, Deputy Tadier, Deputy Higgins, the Constable of St. Saviour and the Constable of Trinity.

The Bailiff:

Senator Ferguson indicates her vote does not appear to have been shared but there we are. Before we stand adjourned, the following have been lodged: the Draft Amendment (No. 51) of the Standing Orders of the States of Jersey, P.153, lodged by P.P.C.; Draft Amendment (No. 52) of the Standing Orders of the States of Jersey lodged by Deputy Doublet, P.154; and Income Support Medical Appeal Tribunal: appointment of Chair is lodged by the Minister for Social Security, P.155. The Assembly stands adjourned until 9.30 tomorrow morning.

ADJOURNMENT

[17:48]