STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 25th FEBRUARY 2026

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

PUBLIC BUSINESS - resumption

1. Draft Assisted Dying (Jersey) Law 202- (P.65/2025): second amendment (P.65/2025 Amd.(2)) - Section J

The Deputy Bailiff:

We resume the debate on the Articles in Second Reading of the Assisted Dying (Jersey) Law. In accordance with the running order, we had reached point 4 of the running order, which is section J of the second amendment, lodged by the Minister for Health and Social Services. I invite the Greffier to read section J of the second amendment.

The Deputy Greffier of the States:

Page 139, Article 5 – In Article 5(6), for "paragraph (2)(f)" substitute "paragraph (2)(g)". Page 194, Schedule 3 – (2) In Schedule 3, existing paragraph 5(3), renumber new Article 21A as Article 21AA. (3) In Schedule 3, after existing paragraph 6(2) insert – (3) In Regulation 80(1A), in the table, row 7, third column, for "Paragraphs 1 to 5" there is substituted "Paragraphs 1 to 5A". (4) In Schedule 3, renumber existing paragraphs 1 to 6 and cross-references accordingly.

The Deputy Bailiff:

Minister, I invite you to propose section J of your second amendment.

1.1 Deputy T.J.A. Binet of St. Saviour (The Minister for Health and Social Services):

This part of my amendment makes a small number of referencing corrections, one to this draft law and others to the Regulation of Care, but those are corrections required in response to the Assembly's recent decision to introduce independent regulation of hospital services under P.57/2025. These are simple amendments and I hope Members will agree to them.

The Deputy Bailiff:

Is section J of the second amendment seconded? **[Seconded]** Does any Member wish to speak? If no Member wishes to speak, would Members in favour of the second amendment kindly show? Section J of the second amendment is adopted.

1.2 Draft Assisted Dying (Jersey) Law 202- (P.65/2025): amendment (P.65/2025 Amd.)

The Deputy Bailiff:

Then we move on to point 5 of the running order, and I invite the Greffier to read the first amendment.

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

Sir, may I raise the défaut on Deputy Stephenson?

The Deputy Bailiff:

Do Members agree the défaut can be raised? The défaut is raised.

The Deputy Greffier of the States:

Page 143, Article 8 – (1) Delete Article 8(2)(g)(ii). (2) Delete Article 8(5) to (7). (3) Renumber Article 8(2)(g)(iii), (8) and (9) and cross-references accordingly. Page 144, Article 9 – (1) Delete Article 9(1)(k). (2) For Article 9(2)(c)(i) substitute – (i) it is appropriate to carry out the assisted death if the practitioner is satisfied that the individual has that capacity and reasonably believes that the final request is voluntary; or. Page 146, Article 10 – Delete Article 10(2)(c). Page 149, Article 17 – (1) Delete Article 17(4). (2) Renumber Article 17(5) to (8) and cross-references accordingly.

Page 153, Article 23 – In Article 23(1)(c), delete "6 or". Page 155, Article 26 – In Article 26(1)(c), delete "6 or" and "8(2)(a) or". Page 155, Article 27 – In Article 27(6), delete "6 or" and "8(2)(a) or". Page 165, Article 42 – In Article 42(2)(d), delete "8(6)(a) or" and "6 or".

The Deputy Bailiff:

I invite Deputy Barbara Ward to propose the first amendment.

1.2.1 Deputy B. Ward of St. Clement:

May I start by thanking the Minister for Health and Social Services for his understanding in me bringing this amendment for debate. As politicians, we are the lawmakers, and it is our duty to raise issues if one feels more debate, clarification and scrutiny needs to happen to ensure that we are satisfied that all is safe, fit for purpose and legally in order. This amendment that I am bringing is not about re-debating the main principles of the Assisted Dying Law, which has been agreed by the Assembly. But specifically, I am challenging the Articles that are set out in my proposition pertaining to the waiver of requirement for future capacity, we call "the waiver", with further explanation, if you desire, on page 22, item 95 of the draft law report and its associated Articles. To recap, the draft law introduces a waiver of requirement for future capacity at stage 6 of a 7-stage process with the person's administering practitioner to confirm procedures with an assisted death, ensuring that the person at that point has full capacity, who then signs the waiver. We have been advised at numerous briefings that stage 6 is approximately around 2 to 3 days before the person's natural passing. The signed waiver purports to give the administering practitioner the go-ahead to administer the terminal solution if the person loses capacity or has drifted into a sleep or coma. The reasoning behind purports to protect autonomy, which in my view raises significant ethical and practical concerns. Stakeholders have identified the risk of fluctuating capacity, ambiguous expressions of refusal and lack of contemporaneous consent. The panel noted that practitioners' willingness to act under a waiver remains untested and must be established before any agreement to implementation. I have taken some of the key findings from the panel's report, if I may. Capacity assessments in assisted dying require enhanced safeguards and specialised training. The waiver poses significant risks including potential coercion, misinterpretation of refusal and lack of contemporaneous decision-making. Practitioner willingness and feasibility remain unknown. The key recommendations from the panel include a further practitioner survey and public consultation specifically on the waiver. Guidance on the practical application of the waiver, including fluctuating capacity and withdrawal. Training for administering practitioners on the ethical and clinical complexities involved. The panel's findings very much echo my serious concerns as to the safety of this waiver inclusion. The whole Assisted Dying Law is about consent and having full capacity with all the checks and balances throughout the process and up to the point of self-administration of this terminal solution. It also emphasised repeatedly in the draft law that the person can state at any time during the process to change their mind, to proceed with an assisted death, which is their human right, and must be respected. The process will then be stopped. If a person has lost capacity or is asleep, they are unable to exercise that human right. It is interesting, as stated in the draft, that in Western Australia some 28 per cent who wish to have an assisted death changed their minds at the final stage and stopped the process. In my view that is a high percentage, which we must not ignore. I have made searches throughout different jurisdictions and countries, but it is difficult to ascertain what percentages there are in other countries, as the data is very woolly. Unconfirmed stats from Canada is approximately 38 per cent decline an assisted death at the final point.

[9:45]

Maybe the high percentage of people changing their minds is the reason why people want to have an injection rather than self-medicate. The waiver is about proceeding with the administration of a terminal solution when the person has lost capacity or is unconscious and therefore unable to state their right to continue or not with the process at the point of administration. I believe it is our human

right to say yes or no at the point of that self-administration. This waiver denies the persons their right to stop the process. If the administering practitioner proceeds to give a terminal solution to a person who is unable to express yes or no, then in my view they are exercising non-voluntary euthanasia. This draft law is not clear or open about . It is interesting in the draft law that the administering practitioner can withhold and stop the final termination if they feel the person appears to be resisting, even though the person has signed a waiver. This is dependent on the practitioner's expert and experienced skills, which in my view is most uncertain. It is open to a subjective assessment. How can the administering practitioner tell whether the twitch, the flinching, the shuddering, a desperate look in the person's eyes is an invitation to stop the process? This waiver is unhelpful. It contradicts, in my view, the whole assisted dying process and its philosophy that one must have full capacity at all stages, especially at the point of self-administration of the terminal solution. The waiver, in my view, is fraught with subjectivity and I believe needs higher legal scrutiny of its inclusion. Presently, many jurisdictions do not have the waiver element contained in their assisted dying laws. However, it must be noted for balance and clarity in the U.K. (United Kingdom) that the Terminally Ill Adults (End-of-Life) Bill is actually being considered in the House of Lords at this time. One main country to have a waiver is Canada and they use a thing called M.A.I.D. (Medical Assistance in Dying), which when you compare the waiver, when you actually read what is in Canada and what is in Jersey, Jersey appears to have based many elements on in this draft law. The Canadian law has a number of published elements shrouded in controversy. I am asking that the Assisted Dying Law proceeds without the waiver element at this time to ensure no more delays as the waiver needs much more due diligence by, as I have said, higher legal authority. Let us keep the process, and forgive me by using these words, as simple and as safeguarded as possible, with persons fully cognisant to self-administer their terminal solution. The waiver element, which I believe purports to an act of non-voluntary euthanasia or killing a person by terminating an unconscious person or a person who has lost capacity with a lethal cocktail. I am also worried how this waiver-type process would progress going forward. Will the principle be extended in time to people who have got dementia, a stroke or maybe a serious head injury? Where would it end? We are going to see some drift. If this draft law continues with the waiver in place I must question whether it would actually realise Royal Assent by the Privy Council. We need to be clear that at present euthanasia and assisted suicide are deemed as either manslaughter or murder. Illegal under the English law and punishable with a heavy jail sentence. In Guernsey it is illegal under the Homicide and Suicide (Bailiwick of Guernsey) Law 2006 and punishable by up to 14 years in prison. In Jersey, assisted suicide is illegal according to customary laws and recognised in the Homicide (Jersey) Law 1986. Therefore we must, as legislators, respect and abide by the law that is in place. Just for clarification, assisted suicide is illegal under the terms of the Suicide Act 1961 and it is punishable to 14 years' imprisonment. Trying to kill yourself is not a criminal act. Euthanasia can be classified as voluntary euthanasia where a person makes a conscious decision to die and asks for help to do so. Non-voluntary euthanasia is where a person is unable to give their consent, for example because they are in a coma or they have lost capacity, and another person takes the decision on their behalf, perhaps because the ill person previously expressed a wish for their life to be ended in such circumstances. This is where the waiver crosses over and becomes euthanasia, in my view. Therefore, this waiver is clearly an act of non-voluntary euthanasia, which would be contrary to the U.K. law. Jersey would be very much out of step. While I respect and value opinions and views on ethical aspects of why this waiver should be in place, but I will stand corrected if I am wrong, ethics does not trump the law. Recently the Assembly agreed to an end-of-life proposition which will bring investment and action for all facing their final journeys. Positive, palliative, pain and anxiety management and good end-of-life care across all areas of healthcare. In my view, with this, I think, landmark introduction, will melt away the need for a pathway of assisted dying, especially if it includes the most unsafe waiver. We need to focus on investing in the living and try to improve our existing health service for many, and there is much to do. We also need to know how much money will be needed to have this assisted dying service. We have not actually got any costs, or maybe I have missed something in what I have

read. If Jersey wishes to extend an Assisted Dying Law to encompass voluntary and non-voluntary euthanasia then this can be revisited in the future, but it is not for now. If this waiver remains then this Assembly needs to be open and transparent by changing the title of this draft law to an Assisted Dying and Euthanasia Law, which will cause more delays, controversy as the people of Jersey have not been consulted or voted on this very serious element, which is fraught with risks and costs involved. Thank you, Sir and Members, for listening and I look forward to the debate of a most sensitive issue.

The Deputy Bailiff:

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

1.2.2 Deputy R.J. Ward of St. Helier Central:

We cannot let this debate go without anyone speaking. It is too important. This amendment removes from the Draft Assisted Dying Law one of its most important safeguards, the waiver of future capacity. I oppose this amendment because the arguments presented for removing the waiver are not only flawed, but in several places directly contradict the evidence, the purpose of the law and lived reality of those facing rapid cognitive decline. The amendment claims the waiver changes the draft law from an assisted dying law to an administering practice of non-voluntary euthanasia. This is a serious allegation, but it is not supported by the text of the law, nor the international evidence, nor the safeguards already built into the Jersey legislation. Let us be clear, the waiver does not allow anyone to give an assisted death unless they have already been fully assessed, approved and made a final request while they have capacity. It simply prevents a cruel outcome where a person who has been approved, who has made their final request, who has planned their death with their family, suddenly loses capacity days or hours before the agreed date and is denied the very choice that they fought for. The amendment itself acknowledges this when it quotes the draft law. The waiver only applies if they lose decision-making capacity after their request has been approved but before they are due to confirm their consent during the final review. This is not euthanasia. This is respecting a competent person's clearly expressed legal, verified decision. The amendment misrepresents the purpose of the waiver. The amendment argues that if a person becomes unconscious, they are no longer distressed and therefore do not need an assisted death. But unconsciousness is not peace, it is not dignity, it is not the death the person chose. The waiver exists precisely because some conditions, in particular neurological disease, can cause sudden unpredictable loss of capacity. Without the waiver, those individuals are effectively excluded from the law. Their autonomy becomes a lottery. The amendment claims the waiver is illogical because distress can be easily managed with medication, but the entire purpose of assisted dying is that suffering cannot be adequately relieved, even with the best palliative care. The amendment simply asserts the opposite without evidence. The amendment states that administering drugs to a person who has lost capacity is a form of manslaughter. That I believe is inflammatory and legally incorrect. The waiver applies only - only - after a full eligibility assessment, a mandatory capacity assessment, a mandatory voluntariness assessment and a final request made with capacity. The person has already said yes, clearly, repeatedly, and with full legal safeguards. To claim that honouring that decision is manslaughter is to deny the validity of the person's own autonomy. The amendment warns of a coercion from family members and bias from practitioners, but provides no evidence that waivers increase because of these risks. It simply asserts that they do. In fact, the draft law already contains, and I remind Members of this, multiple independent assessments, mandatory checks for coercion and mandatory reporting. The amendment does actually acknowledge that the practitioner can decline the process if the patient appears to resist, even while unconscious. That is a safeguard, not a risk. The amendment argues that because U.K. courts do not allow advanced decisions demanding treatment, a waiver should not be allowed. I must address that. I question whether assisted dying is a treatment in the medical sense. It is a legal right exercised for a statutory process. The amendment quotes the citizen's jury but omits

the key point. The jury supported advanced decision-making in certain circumstances for those who lose capacity. The waiver is precisely that, an advanced decision-making with capacity for a very narrow and specific circumstance. This is one of the key points of the consequences of this amendment. Without the waiver, and I have mentioned this previously and this is the same theme coming through, 2 people with the same diagnosis, the same suffering, the same eligibility could face entirely different outcomes because one loses capacity a day earlier than the other. That is not safeguarding. That is discrimination based on the speed of decline. The amendment says there should be no intervention where a patient becomes unconscious or has lost capacity and is unable to say yes or no. But the patient has already said yes. They said it with capacity. They said it through a legally regulated process, and they said it knowing exactly what the waiver meant. To deny them at the final moment is not protection. I would go as far to say it is abandonment. In conclusion, this amendment does not strengthen safeguards. It removes choice. It removes fairness, and it removes compassion, a central pillar to the right to an assisted death. The waiver is not a loophole. It is not a danger. It is a humane, tightly controlled provision designed for a small number of people whose conditions may rob them of capacity right at the very end. Removing it would undermine the very principle of autonomy that this law is built upon. I urge Members to reject this amendment and uphold a framework that respects decisions of competent adults, protects the vulnerable, and ensures that no one is denied the peaceful death they have lawfully chosen. I urge Members to reject this amendment.

[10:00]

1.2.3 Deputy M.R. Scott of St. Brelade:

I think my colleague, Deputy Rob Ward, has made an excellent speech there and I have not got much to add to it. Essentially, this amendment requires a patient to have retained capacity at the time of administration of the drugs that will end their life. Firstly, it deprives that patient of choice. Deputy Rob Ward mentioned discrimination and he has summarised something that struck me about this whole proposal. It produces a preferred state of affairs. Many of us have, unfortunately, friends, I am sure, as have I, who have been diagnosed with cancer. I had a beautifully handwritten letter from one a few weeks ago and she told me about her experiences as a cancer patient and what can seem like an overwhelming number of choices she has to make regarding her treatment. She is given all those choices. She is not a medical professional but nevertheless she is told: "Well, you can have this, you can have that" and these sort of things. She may not particularly want to be treated with drugs but her choice is respected all this time. I believe that this proposition is based on a professional conviction that the patient will be well looked after at the end of their life. They may not be aware of their standard of care, they may not be in a state to care about it, and at that stage everything that happens to them in a state of unconsciousness will be someone else's choice - professional choice - and that is OK. I struggle with this somehow: "Oh well, when you are conscious you can have all these choices available to you but once you are unconscious, too bad, now that is for somebody else to decide." Is that what the patient wants? Well, clearly in the public consultation people thought about this and thought no, and here is the thing, I can create a will advising others how I wish my body to be dealt with once it has lost its life, and my life is a gift, it is an asset. For most of my assets, to anticipate my mental incapacitation, I can create an enduring power of attorney. I can actually say: "I trust people to deal with my assets in a certain way." Deputy Barbara Ward has provided statistics on how people with mental capacity can change their mind. But nothing changes in terms of if you reject this amendment. People with mental capacity can change their minds. But then we are talking about a point where they are no longer capable of doing this. So I second the actual statements here that I believe that is inhumane. I have, in a previous speech, mentioned the Dutch and Spanish jurisdictions that, in my mind, are humane enough, allow patients to live the longest conscious life possible by requesting or requiring that their lives be terminated once they have lost mental capacity. Indeed I believe that was explored but again there are ethical considerations with that. What we have to do is think about the balance there. The use of the term "euthanasia" is highly

inflammatory. The term "voluntary euthanasia" has been used but here is the distinction, there is consent and there are safeguards in this law - amazing safeguards, incredible safeguards - to ensure that that consent really is voluntarily given in terms of that person in saying what they want as they have this final say over their end-of-life care and how they want it to be done. Let us move on to the subject of money, since it has been provided ... money needed to provide this service. This actually reminds me to some extent of my ombudsman work, how much is the social benefit of something worth the cost. But in this case I have to say, well, if you are going to go down the subject of money why not think about the money that has been used to keep people alive without their consent. What is the cost of distress caused to families who see their relatives kept in the borderland of pain and consciousness because of a rule that they must be kept alive, come what may, even if that is not what they want. This is not a comfortable subject and a cost analysis would not be easy, but there is a setoff, which the Deputy might consider if she chooses to do so. In conclusion, I likewise will be rejecting this amendment and for the reasons I have given.

1.2.4 Connétable K.C. Lewis of St. Saviour:

People change their minds, that is why we are here; to change minds, to encourage colleagues to vote one way and not another. I have been asked by my constituents which way I am going to vote on the assisted dying legislation. I said I could only consider voting for it if all the checks and balances were in place. In my opinion, this amendment, amendment 2 by Deputy Barbara Ward of St. Clement, is one such check and balance. I will be supporting this. It does give me greater peace of mind that another check and balance would be in place if this is accepted. If it is not accepted, then it throws in doubt my willingness to support the whole assisted dying legislation. I will leave it there.

1.2.5 Deputy Sir P.M. Bailhache of St. Clement:

It seems to me that one's response to this amendment is really instinctive. It is true that from a theoretical and rationalistic perspective, if a person has made a voluntary and informed choice, there is no reason why the administering practitioner should not administer the *coup de grâce.* Yet, when one thinks about it, there is something rather clinical and soulless about a doctor or nurse injecting a comatose or unconscious patient with a fatal cocktail that is going to bring life to an end. The patient is lying there unresponsive but the relevant box has been ticked, the request has been made, the appointed hour has come, and the deed must be done. What a melancholy way to draw one's life to a close and how depressing, degrading almost, for the doctor or nurse who performs the task. I would not be in the least surprised if it proved difficult to find medics, trained to preserve life, who were willing to do it. As Deputy Barbara Ward says, it is euthanasia. It may lay the ground, who knows, for involuntary euthanasia for people whose lives have become, in the view of the objective observer, worthless and pointless as we slide down this slippery slope. The argument for it is based on patient choice. Deputy Rob Ward spoke quite eloquently of a choice legally made but choice includes inevitably the right, as the Constable of St. Saviour has said, to change one's mind. Who will know whether the patient slipping into unconsciousness, or worse, some alert state where communication is impossible, has decided not to do it and to allow nature to take its course? There is a risk that someone will be put to death who does not wish it. The Minister, very frankly and honestly, acknowledges that. When in a public hearing of the Scrutiny Panel I put it to him that on balance you are prepared to take the risk that somebody might die who does not wish to die, the Minister said he was comfortable with that and that he was not going to please everybody. The Minister was right to make that concession because it is the case that that might happen. The Minister's position is in the vernacular: "Tough luck, you have made your choice, it is too late to change it" and I think that is a bridge too far. One must allow people at the last moment, if they wish to do so, to change their minds. If people want to end their lives, so be it, but they must be consciously able to make that choice.

1.2.6 Deputy C.D. Curtis of St. Helier Central:

I do support assisted dying. I do not think someone should be expected to live with unbearable pain if they want to end their life. The review panel has spent much time considering matters such as the waiver, listening to the experts, and discussing at length this matter. I consider this is a suitable matter to come before the Assembly before debate. Assisted dying is a matter that must be approached with extreme caution, and I understand there is a lot of public support for a waiver. But having listened to Deputy Barbara Ward's speech and her statement that the process of assessing a person's wish to go ahead or not when they have lost capacity is fraught with subjectivity. I am persuaded that at this point I cannot support the waiver. It may be that when assisted dying has been in place in Jersey for a few years, that would be a good time to consider whether the possibility of a waiver should be brought in. So due to approaching this matter of assisted dying with caution, I will vote for this amendment.

1.2.7 Deputy J. Renouf of St. Brelade:

I am sorry to say I am not in favour of this amendment, I am speaking against it. The argument, as I understand it, is that assisted dying could happen when it might not be the choice of the individual. I think this amendment would achieve the exact opposite. The actual effect of this amendment would be to ensure that the outcome would be that the patient's decision could be overruled. We must recall that by the time this amendment kicks in, the patient would have already established a long history of unambiguous commitment to an assisted death. They would further be choosing a waiver, which would also be an unambiguous commitment. They are so certain that they want an assisted death that they are prepared to waive their final stage and in effect make the decision in advance. In these circumstances, the waiver is the final decision. At the point where a waiver becomes an option, there are 2 options available; there is a fork in the road. Each of them involves a decision; one further decision. In one situation, the patient can wait until the anticipated date of death and confirm their decision on that date. That is one of the decisions that could happen at that fork. Or they can make a decision to waive that final step. This simply shifts the time of the decision, not its nature. A final step is being asked, the waiver is that final step. The effect of the waiver is to say: "Yes, I am sure, and so sure that I want to go ahead, even if I lose the capacity to re-state my view." The effect of Deputy Barbara Ward's amendment is to reverse the final view expressed by someone who has chosen an assisted death.

[10:15]

Deputy Barbara Ward's report says: "It is my belief that to administer terminal drugs to an unconscious patient is not an assisted death, it is an act of euthanasia or a form of manslaughter. My view is that the patient has not been afforded their right to change their mind." But they have been afforded the right to change their mind. It was at the time they chose a waiver. If this amendment passes, then something very different is happening. The patient's mind is being changed for them. Their stated view is being overruled simply because they have lost consciousness. If the questions raised by this amendment are about ensuring that the patient's final view should be respected, then I think we are commanded to reject this amendment. It was a nice ride into work this morning and I used the time to reflect on the issues at stake here from a personal point of view. I reflected that when I first considered what we now call assisted dying, it was at a much greater distance than today, distance in terms of my own experience and distance in terms of close proximity to decision making. I am closer to confronting the issues myself now, I am in a position to contribute to the decisions in Jersey, and I have more lived experience. We are talking about the final days of life. I have seen that process. I have seen the point at which capacity is lost and it is not the flicking of a switch, sometimes only apparent after the event. The waiver means that the patient's wishes are respected whatever those circumstances. If I try and imagine myself into this situation, I know what can happen if I am a cancer patient facing my last days. I have seen it. Capacity has been lost but suffering has not. I know that palliative care experts argue that what appears to those watching as suffering is not experienced as suffering by the person who is dying. Maybe. But if I imagine myself into that awful

situation, I want the right to choose not to put that theory to the test. I may not exercise that right but I know for sure that I want the option to avoid it, and that is only possible with the waiver. Deputy Bailhache may think that this is a clinical end, with the act itself seen as degrading. I have to say that as I contemplate those awful circumstances, were I to find myself in them, the most degrading thing would be to have my settled view overturned at the very last moment. I do not accept it is an act of non-voluntary euthanasia; it is non-voluntary. The waiver guarantees that the patient's wishes are respected whether or not they lose consciousness, it is as simple as that. Thank you. **[Approbation]**

1.2.8 Deputy M. Tadier of St. Brelade:

I think we need to bring this back again to what the whole purpose of the law is. It is about compassion and it is about autonomy and self-determination for those who support it. Of course, there are counterarguments, most of which we have heard, apart from the exception of Deputy Curtis, which I think come from Members who did not vote for this in the First Reading anyway, so they do not support the principle of assisted dying. When we are hearing most of the time of people saying: "This is a final safeguard which might mean that if all of these barriers were in place, then I could possibly support the last ones." I will be looking at the votes, by the way, of how people do vote if any of these amendments go through. Because what I see is not us putting safeguards in place - we had this debate yesterday - there are safeguards, lots of safeguards in place to the point where lots of people who might wish to avail themselves of an assisted death will be prevented from doing so, especially even in this case, because they have not yet got to the final stage of giving that consent. So let us not forget those people. As Deputy Ward said, there will be people with a long and settled wish that if ever they get into whatever degenerative state where there is no recovery and that they fall unconscious, they wish to have an assisted death. Some of those people would be prevented from doing so simply by the way we have worded the law already, and that is done on the basis of a safeguard. This would put in place a further barrier. I will give an example, I do not know if it is a perfect analogy, but I think it is an example that came into my head. There are certain religious groups that, for example, have medical preferences. I think of the Jehovah's Witnesses who I have some knowledge of their beliefs. I know one of the things that Jehovah's Witnesses do not accept is a blood transfusion. If a Jehovah's Witness was involved in a car accident, for example, and they found themselves being rushed to A. and E. (Accident and Emergency), taken to the emergency ward, they were unconscious and they were haemorrhaging a lot of blood but their medical notes specifically said that they had a long and settled view and position that they would not want to take anybody else's blood, even if it meant that they died in that situation, would it be ethically correct for the doctor to override their wish and give them blood to save their lives, even though they have stated that they would prefer to die than to be in that situation? Now of course there are lots of interventions that the medical staff can make to save that life. Of course, that person would also want their life to be saved wherever possible, but if it fundamentally came down to that one proposition that they had to have blood in order to survive, I think it would be a very difficult decision for a doctor to make. One would understand fully if that person was allowed to die in that situation because they would die in a way that they were comfortable with that was not contradictory to their belief system. I hope nobody asks for a legal backup on that, it is simply an illustrative point, and I do not think that is the point that we are debating today, but I think it is a point that hopefully is well made. We are talking about people with long and settled views. Of course, all of these debates that we are having today, as well as the main debate, is a matter of conscience for Members. But it is also highly personal because this is a situation that we could indeed find ourselves in. What I would ask is if we were not Members of this Assembly but we were outside the Assembly perhaps listening in, I would perhaps be asking myself the question: "Why should a decision that is made today in this Assembly, this amendment from the Back-Benches", absolutely her right to bring this and I have said as much to her yesterday, I think it is a valuable debate to have, "by somebody who does not know me, remove a statutory right that I would be entitled to under the law after I had made a settled decision? I deliberately signed that waiver because I have envisaged this scenario where I would lose capacity."

When Deputy Bailhache talked about removing people's choice … no, what he said is a "degrading death", there is something degrading about being put to sleep, if you like, by a medical professional. It is not an ideal phrase to use, but being given an assisted death when it is something you already want, I do not see why that is degrading. I think it is certainly no more degrading than perhaps being left to a slow, drawn out and potentially painful death. Just because one is unconscious does not mean that one cannot suffer. I think it is entirely possible. Who knows what happens in the unconscious or subconscious mind when one is in those final moments? Would I prefer to potentially drown in my own lungs rather than have an assisted death with somebody whom I have asked to be there to help me have that? I know which I think is more full of dignity. I think it is definitely the latter, but again it is choice. The last part - and I would also ask Deputy Curtis this question - is that where is the evidence that somebody has changed their mind? There is no evidence to suggest that somebody who signed a waiver and who all throughout that last process has reaffirmed on several occasions: "Look, I do wish to have an assisted death", in this particular scenario there is no evidence that they have changed their mind at the last moment. In fact, we do not talk about the opposite scenario, do we? There will be people who change their mind at the last moment saying: "I do want an assisted death" but it is too late for them. There will be lots of people in Jersey in the future suffering at the end of life who do not avail themselves of this service, of this right that we are giving people, out of fear, simply because they may have been coerced out of an assisted death. We do not talk about coercion the other way, do we, but that is very much a possibility? There is a whole narrative in our society around coercion, around the taboo that there is about taking the final decision for yourself. That is because we have got centuries of religion, I think, where we are told that: "It is not your life. You are lucky to be here, this is a gift." I do very much see life as a gift but I do not see it as a gift that has been given by a conscious male deity. I think it is a miracle of the universe that we are all here against the odds. It is absolutely correct that we do value our lives, and part of that value is that we have all got a unique consciousness, a unique genetic and psychological makeup that makes us individuals. For a piece of legislation, a small amendment today to remove that ability for us to think for ourselves with absolutely no evidential basis to suggest that somebody has changed their mind while they are unconscious, I am afraid is just grasping at straws. It is a desperate last attempt, I think, for many who simply do not believe in the principle of assisted dying. That is fine to not believe in it but I think let us at least be consistent with the amendments that we are passing today.

1.2.9 Deputy M.E. Millar of St. John, St. Lawrence and Trinity:

First of all, I would like to object in the strongest terms to what Deputy Tadier just said, in particular his rather, I found, threatening remark that he will be looking at the votes on this. This is a democratic process, we are all entitled, we are all here, whatever he thinks, to express our views on this. We are all entitled to do that and I strongly suggest if he thinks he is going to go out online and name and shame those of us who have voted contrary to his demands and his beliefs, then that is an entirely undemocratic thing to do. **[Approbation]** I really hope that does not happen.

Deputy M. Tadier:

Would the Member give way?

Deputy M.E. Millar:

No. What I would like to say, this is a matter of conscience. We all have our own thoughts, it is all based on our own experiences, our own beliefs. Those beliefs may not be religious, they may be all manner of beliefs, whether you have got medical experience or your own experiences. We are all entitled to our view. The thing that has always probably concerned me most about this legislation is the question of capacity, and I will talk about that at a later date. I was not intending to speak on this - those famous words - but listening to the debate I have decided I will, and I am going to support the Deputy's amendment. Capacity can take very many forms. Somebody could make a decision and

then lose capacity and that loss of capacity may mean that they have completely lost mental capacity. They can no longer speak, they can no longer make reasonable, rational decisions that anybody would accept as being fully informed. But they may be completely physically fit and the doctor could come round to deliver the drugs that will end their lives and find their patient sitting up tucking into a full English, full of the joys of life. What does the doctor do in that situation? That person may then have weeks left to live, if not months. Capacity can mean that somebody has lost mental capacity, that their body is entirely self-sustaining. They could still eat but they have a huge amount of pain relief. They may have lost consciousness but their body may be still self-sustaining. I say that, their body is functioning but they have lost consciousness possibly because of extreme amounts of pain relief. Laterally, there are possibly the people who have lost consciousness, who have lost capacity because of loss of consciousness, but they are - words I have used before - being kept alive by a machine. We know that in those situations that death probably will follow in very close order because the medical team will be discussing with the family to say: "Is this person dying?" "Yes, they are dying."

[10:30]

"Are they being kept alive by the machine?" "Yes, they are being kept alive." The family and medical team will make a decision as to whether to continue that care. So capacity takes very many forms, both mental and physical, and I do think this is a sensible amendment to introduce at this stage that we can always reconsider at a future date when we see how the system plays out.

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

I am pleased to follow the previous speakers. I have listened with interest to the speeches, and particularly the speech of the proposer who I know has some strong convictions about this. I really respect the depth of her feeling on this, and I feel a lot of that is probably stemming from her former trade as a nurse. Again, I can really empathise with that as a former teacher. I think we do not stop embodying our professions, do we, and we carry those with us? That is something that I do as well; it is part of who we are. I suspect perhaps were the Deputy still in that profession, she would be among the numbers who might choose to not participate in such a service due to her conscience. That is absolutely a right that is embedded. Just like the previous speaker said, it is absolutely a matter of conscience. My vice-chair spoke briefly and eloquently about this as well being a matter, I think for me, similar to the self-administration debate that we had, that this is very much a narrowing-down of the principles and a matter of conscience and an ethical decision that must be made by each Member on their own values and their own ethics today. I am going to speak about what the panel say in our report about the waiver and then I will give some of my own conclusions. In our report, we have not drawn a final conclusion for or against the waiver. Members must make this decision themselves. However, there is a lot of evidence in there, both against and for having a waiver, so I will outline what that evidence is to assist Members with their decision-making. I think one of the previous speakers mentioned more debates and clarification in Scrutiny; I am not sure who it was that said that. I am absolutely confident that we have scrutinised this extremely thoroughly, as we have with the rest of the legislation. It is one of the areas that we gave most thought and consideration to, being one of those points that we can narrow down, those ethical points and safeguarding points. We spent a lot of time considering this. As Members will see, there are differing views on the panel which, again, is always really valuable to me as a panel chair to have those differing views and to be able to weigh up the evidence in that context. The panel's report does raise some concerns about the waiver, being the issue of contemporaneous consent, and the fact that it would not be contemporaneous consent. There are some ethical concerns around this: that capacity can be fluctuating, that there could be a potential increased risk of coercion. Another concern raised in the report was the willingness of practitioners to use the waiver and to operate in the service and use waivers. We have addressed many of these with our recommendations. Indeed, we have recommended that further targeted consultation be carried out. We are asking the Minister to conduct a new survey, a fresh

survey, specifically focusing on this to understand how many of the practitioners who are willing to be involved in the service are willing to operate with a waiver. I think that this can reasonably be done by the Minister as the service is being set up to establish the practicalities of it. We have also recommended that detailed and clear guidance is developed on how the waiver would operate in practice. We are asking that this guidance is detailed. I think some of the previous speeches have given examples of specific scenarios and raising questions about: what happens if this happens, what happens when … and that is why we are asking that the guidance be very detailed, so that medical practitioners can think through all of those scenarios as well. We are also asking for specialised training in this area so that administering practitioners can also consider the ethical and clinical complexities. That is the evidence that we have found against the waiver and the recommendations we have made that would go a long way, I feel, to countering some of those downsize or ethical concerns that were raised in the report. Obviously the Minister is not compelled to respond formally to our report just yet, but I would really welcome if he were able to say of those recommendations that relate to the waiver, if he would be accepting those. Because my feeling is if he is able to accept all of those recommendations, that gives a strong argument in favour of keeping the waiver in the law. That would give me more confidence in being able to support the use of the waiver. The panel also found evidence that was in favour of having a waiver facility. The main point that we found was the autonomy principle which, of course, is one of the foundational principles of this legislation. Again, many speeches focused on that with the self-administration but this would protect the autonomy of the individual. We also discussed at the public hearing the fact of the individual taking that responsibility as well for that decision that they make when they have full capacity, that at that point they are taking autonomous personal responsibility for that decision that they make. One of the previous speakers mentioned that they felt it was clinical and soulless imagining somebody who was unbearably suffering but had lost capacity and they had a waiver in place, imagining a doctor administering the drugs to them. That struck a chord with me because when I imagine that scenario, that to me feels like an act of deep compassion and not an easy thing to do. It is not easy to be a doctor generally, I think. It is probably quite an emotional job because you are dealing with life and death and people in great pain a lot of the time. Most of us do not have to deal with death in our day-to-day lives but the practitioners who serve in our health service, they do deal with that most days. I think that they do so and are motivated by compassion. For me, and I want to reflect on my humanist beliefs, compassion is a central element of humanism. It is my own compassion and empathy for my fellow humans that drives much of my decision-making. Certainly, in the area of assisted dying, my beliefs as a humanist give me a deep conviction that assisted dying is the right thing to do. Turning to the point of the waiver, in my heart I feel it is the right thing to do because it is the compassionate thing to do. I do feel it is ethical. Having considered all of the evidence and considering our recommendations, I do think that it is the right thing to do. I wanted to reflect on Deputy Renouf's speech because he made a point that I was going to speak about, which I will not repeat, but I just wanted to endorse, that ultimately not having the facility to sign a waiver will lead to people dying before they want to. That was one of the ethical turning points that tipped the scales for me when I was considering this because there was a time when I was weighing up all the evidence, that I was still considering it. That was one of the points that has helped me to decide. Because if we do not have the facility for a waiver, it will lead to people either suffering extreme pain and not accessing pain relief because they want to keep demonstrating their capacity or they will end up dying sooner than they would otherwise want to, and I cannot accept that. I wanted to finally, for any Members who are still perhaps on the fence, another turning point in my consideration of this issue was at our public hearing. We gave a very rigorous treatment to this area, I think it is fair to say. There was an officer there who was the chair of the End of Life Partnership Group and he gave a really compelling point. He said … I wonder if I maybe need to read the question. We were asking about if somebody was at the point where they had lost capacity and they were making a gesture that could be ambiguous and could be interpreted either way, we were trying to get to the bottom of what would happen and is it still the right thing to do to enact the waiver. This individual said: "If I may just pick up your

point about the risk that you are identifying that somebody could be put to death, unable to communicate the decision that their choice had changed in that period. From my perspective there would be a very fair assumption that if somebody had continued to clinically deteriorate to the point in which they could not speak and they lose capacity and that capacity does not return, that associated with that deteriorating function would be a deteriorating mental function. It would be very unlikely that they would maintain cognitive ability to be making a different decision in the context of their body failing and fading to the degree in which they could not verbalise or recognise around them what was happening. Our assumption here is saying that somebody would maintain the cognitive ability to change their mind despite losing capacity and the ability to communicate. From my perspective, if somebody was deteriorating to the point in which they could not talk to me, then there is a very strong assumption that they would not have the cognitive ability to be thinking about such a complicated topic and making a different decision by the default of how poorly they were in losing the capacity that they lacked." That moment in the public hearing that was explained so clearly to us by somebody who obviously has the expertise and the clinical understanding of this area, I found that very compelling, and that was the evidence that helped me to make my final decision. I hope that has assisted Members in making their decision today. I will not be supporting this amendment.

Connétable D.W. Mezbourian of St. Lawrence:

I would like to ask a question, please, of the Attorney General, if I may?

The Deputy Bailiff:

Yes.

The Connétable of St. Lawrence:

A little bit of preamble before the question. I understand that the Isle of Man has already approved an assisted dying law and it went to Privy Council many months ago. However, as I understand it, it has not yet been sanctioned and I believe the reason for that is that the Ministry of Justice has asked a number of questions about it. I may be wrong, I heard this on the radio this morning, so I am repeating something from the Today programme. Now in her speech, Deputy Ward referred to a "higher legal authority". I think she referred to that twice. She said: "This should be considered by a higher legal authority." It was not clear to me whether she was referring specifically to her amendment, and maybe she can respond when she sums up, or to the law as whole.

[10:45]

But what I would like to know from the Attorney General is whether or not the Ministry of Justice could be that higher legal authority. What I would like to know from him also is what jurisdiction, if any, does the Ministry of Justice have over our role as legislators? If they have jurisdiction, why do they have it, and how could that jurisdiction impact on the entirety of this law? I think really why can our law, when sent to Privy Council, be questioned by the Ministry of Justice and what impact could that have on it? Thank you.

The Deputy Bailiff:

Thank you, Connétable. Those questions were quite clear, I think, Mr. Acting Attorney. Would you like some minutes to reflect on your answers?

Mr. M. Jowitt K.C., Acting Attorney General:

No, I am happy to answer them now. The M.O.J. (Ministry of Justice) does not represent a higher legal authority. Jersey is autonomous in its domestic legislation. It is right that laws that are adopted in this Assembly must receive the Royal Assent. It would be constitutionally entirely unusual for a democratically-adopted law in this Assembly to be declined assent by His Majesty in Council. I can only think of a circumstance where, for example, laws adopted in this legislation had a significant effect on the constitutional relationship between Jersey and the Crown but that would not arise in the

context of this draft law. So the higher legal authority may more likely be an ethical issue for Members to grapple with but it is not a legal issue and it does not engage the Ministry of Justice. I hope that is helpful.

The Connétable of St. Lawrence:

I have never heard before about a law being held up because of questions by the Ministry of Justice. I would just like to press the A.G. (Attorney General) on it. Could they potentially question our law if approved when it is sent to Privy Council and what could be the outcome?

The Acting Attorney General:

I think I have answered the question. I do not think it remotely likely that the Ministry of Justice would have any ability and would not constitutionally seek to interfere in a democratically-adopted law in this Assembly. I do not think I could take it any further.

The Deputy Bailiff:

I am not sure who was first but I think, Deputy Tadier, you had your light on first.

Deputy M. Tadier:

I am happy to give way. It is a question for the Attorney General but it is a different question, so if there were questions relating to this area. Indeed, if the Constable of St. Lawrence wanted to finish her speech, because that was her question, then I am happy to wait.

Deputy K.F. Morel of St. John, St. Lawrence and Trinity:

Yes, it was to continue questions to the Attorney General on this subject but I do not know if the Constable of St. Lawrence would prefer to speak. I think there is more to be asked of the Attorney General in this area.

The Deputy Bailiff:

Very well. Connétable, are you happy to speak?

The Connétable of St. Lawrence:

I think that my questions have been answered, although I am puzzled as to why the Ministry of Justice can question a law that has been approved by the Parliament in the Isle of Man and yet they cannot do that if a law is approved by this legislature. I will wait to hear what the other Members have to ask.

The Deputy Bailiff:

Are you happy to resume your speech or …

1.2.11 The Connétable of St. Lawrence:

I was not intending to make a speech other than just to address a comment earlier by Deputy Tadier. In principle, I do not support assisted dying. I recall when the Minister who brought the original proposition to the Assembly told me that he was going to do it, it was because really he felt that no other Minister at that time wanted to bring it forward. He referred to it to me as "States-sanctioned murder" and that is something that I cannot forget hearing him tell me. On ethical and moral grounds I do not support it. Just to advise Deputy Tadier, when he does look at the voting record of all Members, mine will be that I have not supported this at all.

The Deputy Bailiff:

Thank you, Connétable. The next Member to speak was the Constable of St. Lawrence unless there were further questions to the Attorney.

Deputy M. Tadier:

I do have a question for the Attorney if that is OK at this juncture to take advantage of the natural break in proceedings. Earlier in her speech when she was moving this amendment, Deputy Barbara Ward I think suggested, or even said quite strongly, she feared that without this amendment doctors, medical practitioners could be liable to find themselves committing manslaughter. I think she also said "assisting unlawful suicide", something to that effect. Could the Attorney General clarify whether it is legally the case that what the Minister is proposing is likely to give rise to any liability or charges of those medical practitioners for either of those charges or related charges?

The Deputy Bailiff:

Mr. Acting Attorney, would you like some minutes?

The Acting Attorney General:

Yes, the fact is, the actions that the draft law enshrines are all as matters presently stand, unlawful, and would, if carried out, be likely to engage the criminal law. But that is the whole point of the draft legislation which is to remove those activities from the realms of unlawfulness under criminal law and to make them lawful. It follows from that if medical professionals engage in the processes that the law enshrines and they do so in accordance with that law, they will not commit any offences. That includes the provision for advanced waiver of capacity. These, it seems to me, are ethical and practical issues for the Assembly to grapple with, but they do not seem to me to be legal ones.

Deputy K.F. Morel:

A question for the Attorney General but taking the Attorney General back to the questions asked by the Constable of St. Lawrence, if that is OK.

The Deputy Bailiff:

Very well, do you want to ask your question?

Deputy K.F. Morel:

Yes, it is to ask the Attorney General, with this law or any draft law sent to the Privy Council for Royal Assent, would the Attorney General expect any department of the United Kingdom Government to be able to ask questions about a draft law sent to the Privy Council for Royal Assent and in asking such questions potentially delaying the adoption of such a law? Would the Attorney General expect any department of the United Kingdom Government to be able to do such a thing? If so, under what authority are they doing such an act?

The Acting Attorney General:

I am just looking at the position in the Isle of Man because I have just received an email. Yes, the Ministry of Justice can ask questions about legislation and they have asked questions about the Isle of Man. I understand that there has been dialogue with Jersey and we already have the answers to many of the questions which the Isle of Man have been asked. The U.K. still does retain an overall responsibility for good governance in this Island. I am happy to say that we demonstrate repeatedly that we are perfectly capable of governing ourselves. I would be astonished if this law being adopted, and I having signed a Royal Assent memorandum to the effect that it was deserving of Royal Assent, did not receive Royal Assent. If it did not, we would be facing a constitutional difficulty of some magnitude.

Deputy K.F. Morel:

I thank the Attorney General for his answer. The piece of information I am really trying to get at is under what authority can the United Kingdom Government ask such questions? Is it the United Kingdom Government acting as the United Kingdom Government or is it a Secretary of State acting for the King, for the monarch?

The Acting Attorney General:

It is the Privy Council advising the Crown and the Crown has a responsibility. Because the Crown, the King, as our head of state and our Duke, has a responsibility ultimately for the continuance of good governance in the Island.

Deputy K.F. Morel:

I thank the Attorney General for his answer. So if my understanding is correct, they are tools that the monarch has at their disposal which happen to be within the United Kingdom Government but it is not the United Kingdom Government acting as the Government of the United Kingdom.

The Acting General:

That is correct. We enjoy a constitutional relationship with the Crown which, like many British constitutional relationships, is unwritten. It is something of a ballet and it requires all of us to avoid stepping on each other's toes.

The Deputy Bailiff:

Deputy Scott, a question for the Acting Attorney?

Deputy M.R. Scott:

Yes, just one question from me to the Attorney General. If I understand this, that there is a strong constitutional convention that the U.K. will not interfere but it could if there is a clear breach of international law, if there is a constitutional impropriety or if there is a serious rights incompatibility, I am just wondering whether these discussions revolve around the interpretation of human rights law where you have got 2 potentially conflicting human rights about the right to life and also the right to liberty and whether that is the issue here. But also to just confirm that this has been considered by law officers of course in the bringing of the law, as is usual.

The Acting Attorney General:

Yes, the law has been considered in my department with great care. As for the convention on human rights, I remember 2 years ago, when the principle was first being debated, giving clear advice to the Assembly that the conflicting rights, the Article 1 right to life and the Article 8 right to a private life do not conflict. The European Court of Human Rights recognises what a difficult area this is. First of all, it does not say that any jurisdiction must have an assisted dying jurisdiction, it simply says if you do, it must contain sufficient safeguards that the Article 1 right to life is not impacted. I have advised previously, and I advise again today, that this law entirely fits the bill in that regard because it contains numerous safeguards and I certainly have no concerns about that.

The Deputy Bailiff:

Very well, unless there are any further questions for the Acting Attorney then I would ask the Connétable of St. John to speak.

1.2.12 Connétable A.N. Jehan of St. John:

This continues to be a quality debate with good argument from both sides. I also recognise that this debate is probably the one that we have to use our own individual values more than any other, and I fully respect those with different views. I do not have the level of experience of the Dean, probably not even 10 per cent. I did though recognise some of the things he spoke about yesterday, including people seemingly waiting for loved ones to arrive. What I can say is that I have seen and experienced enough to make what I believe to be informed decisions. I will not be supporting the amendment and hopefully I will explain why. The waiver does not deny the right of a person to stop the process. The person must have capacity to make a waiver. They make their final request for an assisted death at the same time when they do have capacity. The person must have a settled and enduring wish. If

the person has capacity they can stop the process despite the waiver. If the person has a waiver, the administrating practitioner will not proceed if there are any concerns about refusal. Waiver is not non-voluntary euthanasia, it is a voluntary decision made by people with capacity. It is wrong to say that we have not consulted people. There was a specific question on the waiver in the phase 2 consultation. It is worth reminding ourselves that healthcare professionals have been involved throughout the development of the proposals and draft law and, like States Members, they will have different opinions. In addition, U.K. professional regulatory bodies have continued to be engaged in developing the proposals and the draft law.

[11:00]

We have been told by more than one person that another survey is required. I would remind Members that surveys have already been carried out. It is worth reminding ourselves that in one of the surveys 19 doctors indicated that they would be prepared to act as an assessing doctor, 51 professionals, doctors and nurses, indicated they would be prepared to act as administrating practitioners, 92 professionals, nurses, social workers, allied health professionals indicated that they would be prepared to be part of an extended team, 22 professionals indicated they would be prepared to act as pharmacy professionals. The panel chair reminded us about the report and the multiple recommendations but importantly it did not recommend removal. I would agree with the chair that clear guidance and specialised training needs to be introduced, and I am sure that this will be done. Finally, the proposer spoke about suicide, and indeed I return to the Dean because in his contribution yesterday he asked about the difference between suicide and assisted dying. I would like to clarify to Members what I believe to be the difference. Suicide is a lonely act outside of a legal framework, accompanied by mental and physical pain and fear. Suicide invariably leaves behind a legacy of stigma and irresolvable grief for loved ones. Assisted dying can be the exact opposite **[Approbation]** a safe, calm and considered environment in which a person can end their life, most often with the support of their loved ones. **[Approbation]**

1.2.13 Deputy L.J. Farnham of St. Mary, St. Ouen and St. Peter:

This is not a procedural detail, it goes to the heart of how we balance autonomy with protection. The waiver as drafted would allow a person who has met all of the eligibility criteria and clearly expressed their wish to proceed to continue with assisted dying, even if they subsequently lose capacity before the final act. The amendment proposes that we remove that provision requiring that person retain full decision-making capacity at every stage, including the point of administration, and there are strong arguments on both sides. On the one hand, removing the waiver strengthens safeguards, it ensures that consent is contemporaneous and beyond doubt, it reinforces public confidence that no assisted death could proceed without a person being fully aware and actively consenting at that moment. In legislation the sensitivity, clarity and protection carries great weight. On the other hand, we must acknowledge the practical consequences. Some individuals with terminal conditions experience rapid cognitive decline. Without a waiver, a person who qualified every respect may lose access simply because their illness progresses. That raises a question about fairness, about dignity and about whether we are unintentionally narrowing a compassionate choice. The debate is therefore not between care and indifference, it is between 2 legitimate principles: safeguarding the vulnerable and respecting previously expressed competent wishes. As legislators, our responsibility is to ensure that whatever framework we adopt is safe and legally robust and commands the public confidence, while remaining faithful to the fundamental aim of this law: to provide a carefully controlled option at the end of life to those who meet strict criteria. I urge Members to consider not only the ethical principle they feel most strongly about but also the practical operation of the law in real clinical settings. This is legislation that must work, not only in theory, but in the lived experience of patients, families and clinicians. In my balanced judgment, if Jersey is - and it is - early in implementing assisted dying, we tend to be politically cautious. I think public confidence is important as we progress with this legislation. The advantages of this amendment slightly outweigh the disadvantages

as a first-phase safeguard. However, in a more mature assisted dying system with strong oversight again, which this law is proposing, a tightly-controlled waiver can be ethically defensible and more autonomy respecting. Those are the choices we have to consider. I am undecided. I think I am leaning towards not supporting the amendment, but I am still undecided.

1.2.14 Deputy T.J.A. Binet:

Having listened to a lot of very good speeches, I was tempted not to speak, but I think I will, and particularly I think I need to to answer something that was mentioned by Deputy Bailhache this morning. He referred to a question that I answered at a Scrutiny hearing and did not provide any context, which I think is very unfortunate. So what I would like to do is refer to my printed speech, which covers a number of issues that have been raised by people, but does cover off a number of other issues that I think are quite important. I will just mention the context about Deputy Bailhache's comments towards the end of that, if that is all right. Anyway, in this instance, I am speaking not to support the amendment but to support retaining the waiver. This provision is not an add-on nor loophole and nor is it a dilution of any safeguards. It is an ethically grounded, carefully designed mechanism that protects autonomy, upholds the very principles this Assembly endorsed when it agreed the principles of the draft law and it prevents people feeling forced to die earlier than they would without the waiver. It is designed to support terminally ill people who are suffering and approaching the end of life to have a greater control over the manner and timing of their death should they so choose. The waiver directly supports that principle. Without it, people who fear they may lose capacity in the final days of their illness face an agonising dilemma. Either they proceed with an assisted death earlier than they want to while they still have capacity or they risk losing the option altogether if their condition deteriorates or they need more pain relief and, as a result, they lose capacity. We know from jurisdictions without a waiver that this is not hypothetical. People with rapid neurological decline and those receiving high levels of pain medication can lose capacity within days or even hours. Practitioners in jurisdictions that do not permit the waiver have described situations where individuals who have fought to live as long as possible who are eligible for assisted dying and have a voluntary enduring wish could not proceed because of the very recent loss of capacity. The distress that this causes to the individual, their loved ones and the professionals involved can be profound. The panel's own expert advisers recognise this ethical reality when they wrote: "There is arguably a strong ethical justification for having a waiver of future capacity. The waiver encourages people to live longer without losing the right to have their approved assisted death that they have chosen to arrange. This also promotes autonomy." That is the key point. The waiver allows people to live longer. The report accompanying the amendment claims that a waiver could lead to non-voluntary euthanasia and I think we need to be very clear about this. That claim is simply incorrect. The waiver does not allow anyone to make an assisted dying decision on behalf of another person. It does not allow a practitioner to override a person's individual wishes and it does not bypass capacity requirements. A waiver can only be made by an individual who has capacity at step 6 after going through all of the eligibility assessments at steps 1 to 5 and assessments undertaken independently by 2 doctors, each confirming the person's capacity, the voluntariness of their wish and their understanding. At step 6, the individual is again required to demonstrate capacity and to receive and understand detailed information from the administering practitioner on the implications of making a waiver. Only if that practitioner is satisfied that the individual has capacity and that their decision is the same can the waiver be made. Then at step 7 on the agreed date, the safeguards continue. If the individual still has capacity, the waiver is disregarded and they must make a new voluntary request for an assisted death. If they do not have capacity, the waiver may come into effect if, and only if, the person shows no signs of refusal or resistance. Furthermore, the administering practitioner may refuse to proceed for any reason, including any concerns about external pressure and all of this in the presence of a witness who must be a doctor, nurse or assisted dying practitioner. To characterise this as non-voluntary euthanasia is both inaccurate and misleading. It remains a voluntary choice made with capacity and protected by legal, clinical and procedural safeguards at

every stage. Furthermore, I have lodged a clarifying amendment making it explicit that the decision at step 6 is a single decision, a final request including the waiver, so that there can be no misunderstanding. Every safeguard that could reasonably be put in place has been put in place. Sadly, Deputy Ward's amendment report makes a number of statements that are inaccurate and create confusion. To be clear, nobody can make a best interest decision on behalf of an individual under the Assisted Dying Law and, as per my clarifying amendment, this includes a person with lasting power of attorney. Nobody may make an advance decision to have an assisted death, and an advance decision is a decision to refuse treatment and assisted dying is not a treatment. A waiver does not bind a clinician to administer the approved drugs or support self-administration. They must refuse to administer if the person shows any sign of refusal. The draft law includes a specific capacity test which operates differently to the presumption of capacity as set out in Jersey's Capacity and Self-Determination Law. This is designed to reflect the magnitude of the assisted dying decision. As noted by the panel's expert advisers, an assumption of capacity under the Assisted Dying Law can only be made if the doctor finds no evidence of lack of capacity while making their assessment. Any assumption of capacity is post-assessment and not pre-assessment. The waiver is not a late addition or an untested idea and nor is there any failure to openly discuss it during the policy development process. Indeed, the concept of the waiver emerged from detailed consultation with assisted dying practitioners, public feedback and engagement with U.K. professional regulatory bodies. It is also worth noting that, in the phase 2 consultation, 83 per cent of the respondents who supported assisted dying also supported the waiver and, importantly, U.K. regulators the G.M.C. (General Medical Council) and N.M.C. (Nursing and Midwifery Council) raised no concerns. They have confirmed that the waiver, as drafted, is not inconsistent with professional guidance. The question before us is not about weakening safeguards or changing the principles of the law. It is about whether we allow individuals who are eligible, who are suffering and who have made a clear, voluntary and informed choice to have that choice respected, even if their illness takes away their capacity at the very end. So retaining the waiver promotes autonomy by enabling people to live longer without losing their chosen option, prevents avoidable suffering for individuals, families and practitioners, is safeguarded at every stage, reflects feedback from extensive engagement and consultation and it reflects the Assembly's own previous decisions. The waiver does not undermine the draft law. It completes it. It is against that background that I believe … I have not got a transcript of the discussion to which Deputy Bailhache refers, but I can only imagine that the comment that I made saying that I was comfortable was in relation to assisted dying being applied under these circumstances and in relation to the waiver. I think that is a very different situation than that which Deputy Bailhache sought to infer in his comments. On that basis, I urge Members to reject this amendment.

1.2.15 Deputy I.J. Gorst of St. Mary, St. Ouen and St. Peter:

It is tempting to start by going down the constitutional rabbit hole that one or 2 Members set hares running down. It is not of course unusual, nor to be unexpected, that those who have to provide files for Privy Council ask questions so that those questions can rightly be answered in my department.

[11:15]

Together with the Law Officers' Department, it sits at the forefront of ensuring that any questions that might arise before submissions are made to the Privy Council are appropriately answered and we do. I think that Jersey can be proud of its record on good governance and government and we often, I think in this place, do not recognise that and, for my part, it would be highly ironic for the United Kingdom Government to suggest anything other than we did have good governance and good government. But let us not, as I say, go down that particular rabbit hole. We are reminded that this is a piece of legislation about life and death and, while Deputy Tadier might believe that we are here by accident, or I think in his term against all the odds, I do not see any evidence for that belief at all. I believe that life is … and I think he did say it was a gift and that life is precious and we should consider it as so. At the same time of course there are many good arguments on both sides of this

argument around the introduction of assisted dying more broadly but also around the waiver. I have been sat here this morning for the last 2½ hours of course listening very carefully to what colleagues have been saying, as is the job of a legislature. But in the back of my mind has been those 990 Islanders who die every year to whom access to this law rightly is not available. If we look at the department's figures, they suggest that anywhere between 7 and 10, I think it is - if we are being generous, it might get up to 20 Islanders - may be able to avail themselves of this form of assisted death in any given calendar year. We know from the statistics unit that roughly 1,000 Islanders die every year, and although we are rightly scrutinising this legislation, I think the most important decision that this Assembly made in regard to life and death was one that it made in January of this year where the commitment was given by the Minister for Health and Social Services to ensure that there was appropriate end-of-life care for all Islanders. That work, I think, is the most important piece of work that the department will be undertaking, and it will be tough work because if we, in this Assembly, on either side of the argument truly believe in every Islander having the best possible death, it is that work which will deliver the best possible death for every Islander. Because we all know, in all of our conversations with Islanders, there are far too many Islanders now who do not have that - what some describe as a right - afforded to them, and that is an issue which I know and I hope the department is prioritising. So the question then comes down to this is a life and death issue. Are there sufficient safeguards in place? It is safeguards which go hand in hand in regard to this amendment with capacity. For some, we have heard throughout the debate on the amendments that they believe that there are sufficient safeguards. Unless we are 100 per cent certain that there are sufficient safeguards, then the safeguards cannot be sufficient. It stands to reason a 1 per cent potential for error means that someone may lose their life. If the safeguards are not 100 per cent foolproof, then their unintended consequence of that may mean that a life is lost and that, for me, is a cost too far. But then we come to capacity and the waiver. What we are saying by maintaining the waiver is that an Islander can have capacity to make the decision to avail themselves of assisted dying and they can then have a waiver, which of course they will have to have capacity for to say that, when they lose capacity, they wish to be treated as if they had capacity. But if capacity is so critically important to the overall functioning of this piece of legislation - and I believe it is - if one believes that the freedom of choice is so fundamentally important that we are going to change the nature of life and death in our community, then capacity and capacity at all times to make that decision or to change one's mind must be fundamental. Because the waiver removes ultimately, if capacity is lost, the ability to change one's mind, and it is important to have the ability to change one's mind. We all have brought to this debate personal stories, but we all know throughout life and throughout illnesses one's mind can be changed and, for me, that is the fundamental point about the waiver. You are in advance - and for some Members, as the Chief Minister said, that might be appropriate - signing a waiver to say that you will no longer have the ability to change your mind if you lose capacity, but you will have lost capacity. The foundations of this legislation are that you have capacity to be able to make an autonomous choice and, therefore, for my part, I think that Deputy Barbara Ward is absolutely right to raise this issue because it is an issue about safeguarding and it is an issue about capacity. When I consider those 2 fundamental parts of the legislation, I can only arrive at the conclusion that the waiver does not remove a safeguard, as some Members have said, but what it does is remove capacity and therefore ultimately the ability to change one's mind and, therefore, I support the amendment.

1.2.16 Deputy A. Howell of St. John, St. Lawrence and Trinity:

My speech is very much along the lines of Deputy Gorst. In the news on Radio 4 this morning at 5.30 a.m. and then half-hourly, it stated: "Jersey is set to become the second Crown Dependency to agree an assisted dying service. It confirmed that the proposed law is to be based on an individual having capacity to make a decision." That is capacity at all times. That is the basis of which we agreed, as an Assembly, for this Assisted Dying Law. I do not think, even if an individual has expressed a wish to end their life and if they have slipped into unconsciousness, they do not, at that

time, have the opportunity to change their minds and say "No" at the final moment. This would not be the withholding of life-sustaining treatment or giving medicine to alleviate pain or suffering. This would be the administration of a drug and somebody would then die. It would, I think, place an administering doctor or practitioner in a very difficult position, and I say that we cannot allow this to be part of the proposed law because the proposed law says you have to have capacity at all times. I urge you to please vote for Deputy Barbara Ward's amendment and oppose this waiver.

1.2.17 Connétable R.D.J. Johnson of St. Mary:

I was not originally going to speak but the last 2 speeches have made me concentrate on this whole question of capacity, and I think we need to look at it in a more general sense. I fairly recently witnessed 2 friends of mine signing an enduring power of attorney to cover the situation when they would have dementia and would no longer have the capacity. They recognise that is coming down the line. They wish to make that decision now while they had capacity. I also, in my legal career, had situations where someone could not sign a Will which I had prepared because they had had an accident and, through time, they do not have the capacity, and I know other instances too. Surely the basic position is if you make a decision when you have capacity, when you lose capacity, your last decision stands. You are no longer capable of making a different decision. As I see it in the simplest of terms, this is what the original proposition - and not Deputy Ward's proposition - says and I think in a way, we will be denying patients their established wish if the right of waiver was removed. I am therefore firmly of the view that, in a more general sense, it would be very much a backward step if the right of waiver was removed, and I therefore shall not be supporting the amendment.

The Deputy Bailiff:

Thank you, Connétable. Does any other Member wish to speak on the first … Minister.

Deputy T.J.A. Binet:

As much as I have spoken, I failed to address a question from the chair of Scrutiny with regards …

The Deputy Bailiff:

Well, I think you have had your speech, Minister.

Deputy T.J.A. Binet:

Sorry, I just wanted to say that I would happily go along with what was requested.

The Deputy Bailiff:

You have had your speech.

1.2.18 Deputy S.G. Luce of Grouville and St. Martin:

Whether you are a Member who has been in the House only for this session or for one who has been much longer, this will be an important debate, and that does not get anywhere near the importance of it. This amendment in particular I feel always was going to be a significant point in this debate. Members will know I have always been a supporter of assisted dying but, nevertheless, I have spoken to Deputy Barbara Ward about this amendment and I promised her I would listen to everything she said, and I have done that. But I have also listened to other Members during the course of this debate, particularly Deputy Ward, Deputy Renouf and most particularly Deputy Doublet who finished up by making some very significant points on capacity and people's ability to have the capacity to change a decision as their mental and physical health deteriorates. I do not want to demean the debate by speaking about something which is less significant or less important, but I do want to mention 3 letters to Members, and that is D.N.R. (Do Not Resuscitate). I think we have here a certain amount of precedent which we can look at for some reference. It is a voluntary decision usually made by the patient in consultation with the family, the doctor or a legal proxy, but it is a legally binding order, a medical document, signed by a doctor instructing healthcare providers not to perform C.P.R.

(cardiopulmonary resuscitation) and ensures that someone who is terminally ill will not be subject to invasive and often unsuccessful revival attempts. The reason I make the point is many of us will know that sometimes we make decisions to do something, but sometimes we make decisions not to do something.

[11:30]

What I say to Members is not doing something is just as much of a decision as doing it as in D.N.R. does, do not resuscitate. We are making a conscious decision to not do something because of the will of the patient or the person, a decision they have made previously, and they would be, in that situation, not capable of communicating. We follow their instructions through, and for me in this debate, this amendment is exactly the same. People have made a decision of ahead capacity and when they no longer have capacity, we follow through with their instructions. I have listened to everybody, but I will not be supporting this amendment.

The Deputy Bailiff:

Thank you, Minister. Does any other Member wish to speak on the first amendment? If no other Member wishes to speak, then I call upon Deputy Barbara Ward to reply.

1.2.19 Deputy B. Ward:

Thank you, Members. I think the fact that we have gone on for over 2 hours debating this shows that it had been very important to, in some ways, clear the air and for people to express their feelings. I have been making notes of what people have said and if I read out all the comments, we are going to be here until way after lunchtime, so I will not do that, Members. I am very pleased and thankful to the Attorney General for his views and that, in some ways, is about the higher legal authority which was asked about and what I alluded to. I think at the end of the day, Deputy Gorst raised the issue that it is about capacity and the ability to change one's mind. Please never ever forget that, and that is across the board. It is not just about assisted dying or anything else. We have the right as human beings to change our mind, but if you are asleep or you have lost capacity, you do not have that ability to change your mind. I do not have all the answers. I am pleased that I raised this issue and I still feel that the Assisted Dying Law should not have the inclusion of the waiver. My feelings remain that it is unsafe. It opens up mixed messages. There is a possibility of coercion especially in its subtle relation forms. It will require multi-disciplinary expertise that cannot be delivered through a medical assessment alone. Decision-making capacity requires enhanced safeguards and clear guidance, which we need, particularly in relation to this waiver, but also Islanders have not been consulted or voted on or have something to know exactly what this assisted dying is about. I am very pleased, as I alluded to the Deputy, about the Assisted Dying Review Panel report commissioned by the Health Scrutiny Panel and it states on pages 34 to 38 in relation to the waiver about future capacity, which very much echoes my concerns around the waiver, and I am very pleased for that information. They have set out key findings in numbers 10 to 15, but if we look at number 11, there are the serious concerns that exist about the risks and ethical complexities of the waiver for future capacity. We might be mindful of that, everyone. If Jersey wishes to vote against my amendment and the draft law continues as is and includes this waiver, I am very worried as to where this waiver clause will be further developed going forward for patients that do not have a terminal illness or, for example, people who are suffering from dementia, stroke patients or a severe head injury. People sometimes do come round. They do come round but who knows? That is the future. To support the basic principles of the Assisted Dying Law to go forward and be in-keeping with many jurisdictions, especially the U.K. and our Crown Dependencies then any reference to the waiver really does need to be removed. Just to be clear about the Isle of Man, it has been waiting 11 months for Royal Assent. It is still being considered. It has not received Royal Assent. It is still under consideration, to my best belief. We need to be focusing on the living and try and improve our existing health services. I want to thank everyone, again, for the debate and for listening. I hope my presentation may have

persuaded some of you to support my amendment and have the waiver and related Article elements removed from the draft law so we can move on and get this Assisted Dying Law, as amended, voted in and going forward so that it is clear and more transparent where people can make a fully cognisant decision to self-administer the terminal solution and fulfil their final wish to die. Thank you very much, Sir and Members, and may I ask for the appel.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. If all Members have had the opportunity of returning to their seats, I ask the Greffier to open the voting. If all Members have now cast their votes, then I ask the Greffier to close the voting. I can announce that the proposition for the first amendment has been defeated:

POUR: 19		**CONTRE: 29**		**ABSTAINED: 0**
Connétable of St. Helier		Connétable of St. Lawrence		
Connétable of St. Brelade		Connétable of St. Martin		
Connétable of Trinity		Connétable of St. John		
Connétable of St. Peter		Connétable of St. Clement		
Connétable of St. Ouen		Connétable of Grouville		
Connétable of St. Saviour		Connétable of St. Mary		
Deputy K.F. Morel		Deputy G.P. Southern		
Deputy M.R. Le Hegarat		Deputy C.F. Labey		
Deputy I.J. Gorst		Deputy M. Tadier		
Deputy K.L. Moore		Deputy S.G. Luce		
Deputy Sir P.M. Bailhache		Deputy L.M.C. Doublet		
Deputy D.J. Warr		Deputy S.M. Ahier		
Deputy C.D. Curtis		Deputy R.J. Ward		
Deputy M.E. Millar		Deputy C.S. Alves		
Deputy A. Howell		Deputy I. Gardiner		
Deputy M.R. Ferey		Deputy L.J. Farnham		
Deputy R.S. Kovacs		Deputy S.Y. Mézec		
Deputy B. Ward		Deputy T.A. Coles		
Deputy K.M. Wilson		Deputy B.B. de S.V.M. Porée		
		Deputy H.M. Miles		
		Deputy M.R. Scott		
		Deputy J. Renouf		
		Deputy L.V. Feltham		
		Deputy R.E. Binet		
		Deputy H.L. Jeune		
		Deputy T.J.A. Binet		
		Deputy A.F. Curtis		

		Deputy L.K.F. Stephenson		
		Deputy M.B. Andrews		

1.3 Draft Assisted Dying (Jersey) Law 202- (P.65/2025): second amendment (P.65/2025 Amd.(2)) - Section E

The Deputy Bailiff:

We move on to vote 6, according to the running order and this relates to the section E of the second amendment lodged by the Minister. I remind Members that the third amendment was defeated so therefore the highlighted text in the running order relating to Article 8 is now included in this amendment. I would invite the Greffier to read section E of the second amendment.

The Deputy Greffier of the States:

Page 143, Article 8 – For Article 8(4) substitute – The individual's care plan must record their preferences for their assisted death, including – (a) when, and in which place, it will be done; (b) who will administer approved drugs to them, whether the individual themselves or a practitioner; and (c) how the approved drugs will be administered, such as swallowing or injection. Page 144, Article 9 – (1) Delete Article 9(1)(f)(ii); and (2) Renumber Article 9(1)(f)(iii) accordingly. Page 161, Article 36 – (1) In Article 36(1), delete "unless an exception applies"; and (2) In Article 36(1), in the table, delete the third column.

The Deputy Bailiff:

I call upon the Minister to propose section E of the second amendment.

1.3.1 Deputy T.J.A. Binet of St. Saviour: (The Minister for Health and Social Services):

The draft law provides all health and care professionals very clear rights to refuse to participate in assisted dying. This includes professionals who have chosen to work as an assisted dying practitioner but wish to practice in specific circumstances only. For example, the draft law provides an administrating practitioner can choose to support self-administration, i.e. they can refuse to administer the approved drugs to the individual. However, the draft law goes on to state that if an administrating practitioner previously agreed to administer the approved drugs as part of an individual's care plan, they cannot then change their mind. Following feedback received, I seek to amend this provision to allow an administrating practitioner to refuse to administer the approved drugs in any circumstances, even if they have previously agreed to do so. An administration witness may also refuse to witness the practitioner administering the drugs. This part of my amendment aligns with the proposals agreed in P.18/2024 and upholds the right of the professional to choose if and how they participate. Clearly, if an administrating practitioner was to refuse to administer the drugs and the person was not able to self-administer, arrangements would have to be made for an alternative administrating practitioner to act, and this would be done as part of the standard operational practice. I would just add that that operational practice would have to have something ready to go in very, very short order and that would be the intention. I commend this amendment to the Assembly and hope that Members will back it.

The Deputy Bailiff:

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

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

Very briefly, the panel are in support of this amendment and thank the Minister for making it.

The Deputy Bailiff:

Does any other Member wish to speak on section E of the second amendment. Minister, do you wish to reply?

Deputy T.J.A. Binet:

No, Sir.

The Deputy Bailiff:

Would those Members in favour of … the appel is called for. If all Members have had the opportunity of returning to their seats, I would ask the Greffier to open the voting. If all Members have had the opportunity of casting their votes, I would ask the Greffier to close the voting. I can announce that section E of the second amendment has been adopted:

POUR: 43		**CONTRE: 1**		**ABSTAINED: 0**
Connétable of St. Helier		Connétable of St. Lawrence		
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Connétable of Grouville				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy G.P. Southern				
Deputy C.F. Labey				
Deputy M. Tadier				
Deputy S.G. Luce				
Deputy L.M.C. Doublet				
Deputy K.F. Morel				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I. Gardiner				
Deputy I.J. Gorst				
Deputy L.J. Farnham				
Deputy K.L. Moore				
Deputy S.Y. Mézec				
Deputy T.A. Coles				
Deputy B.B. de S.V.M. Porée				

Deputy H.M. Miles				
Deputy M.R. Scott				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy A. Howell				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy K.M. Wilson				
Deputy L.K.F. Stephenson				
Deputy M.B. Andrews				

1.4 Draft Assisted Dying (Jersey) Law 202- (P.65/2025): second amendment (P.65/2025 Amd.(2)) - Section D

The Deputy Bailiff:

We move on to section D of the second amendment, which is proposed by the Minister for Health and Social Services. I would ask the Greffier to read section D of the second amendment.

The Deputy Greffier of the States:

Page 143, Article 8 – In Article 8(5), for "make their final request for assisted dying and propose to waive" there is substituted "propose to make their final request for assisted dying and waive". In Article 8(6)(a)(i), after "final request for assisted dying" there is inserted ", including to waive the requirement for future capacity". In Article 8(6)(a)(ii), after "final request" there is inserted ", including to waive the requirement for future capacity,". Page 153, Article 23 – For Article 23(1)(c) there is substituted – (c) an administering practitioner at step 6 in deciding whether they are satisfied that an individual has capacity to make the final request for assisted dying, including to waive the requirement for future capacity; or (d) an administering practitioner at step 7 in deciding whether they are satisfied that an individual has capacity to make the final request for assisted dying. Page 155, Article 26 – For Article 26(1)(c) there is substituted – (c) at step 6 to decide that they are satisfied (under Article 8(6)(a)) that an individual has capacity to make a final request for assisted dying, including to waive the requirement for future capacity; or (d) at step 7 to decide that they are satisfied (under Article 9(2)(a)) that an individual has capacity to make a final request for assisted dying.

[11:45]

Page 155, Article 27 – (1) In Article 27(1)(b), after "final request for assisted dying" there is inserted "(including to waive the requirement for future capacity, if at step 6)". (2) For Article 27(6) there is substituted – (6) An administering practitioner must comply with paragraph (7) – (a) at step 6 to form a reasonable belief (under Article 8(6)(a)) that the individual's final request, including to waive the requirement for future capacity, is voluntary; or (b) at step 7 to form a reasonable belief (under Article

9(2)(b)) that the individual's final request is voluntary. Page 165, Article 42 – (1) For Article 42(2)(d) there is substituted – (d) whether the individual's final request for assisted dying, including to waive the requirement for future capacity, meets the requirements in Article 8(6)(a) (at step 6, relating to the individual's capacity and whether the request is voluntary); and (e) whether the individual's final request for assisted dying meets the requirements in Article 9(2)(a) and (b) (at step 7, relating to the individual's capacity and whether the request is voluntary); (2) Renumber existing Article 42(2)(e) and cross-references accordingly.

The Deputy Bailiff:

I would ask the Minister for Health and Social Services to propose section D of the second amendment.

1.4.1 Deputy T.J.A. Binet of St. Saviour (The Minister for Health and Social Services):

We have just debated Deputy Ward's amendment and determined that the draft law should be provide for a person to make their final request for an assisted death at step 6, including waiving the requirement for future capacity. We now turn to the part of my amendment that touches on this issue. In reviewing the draft law, the panel's expert advisers made a number of comments which indicate that it is not sufficiently clear on the face of the draft law that if an individual chooses to make their final request for assisted dying and chooses to waive the requirement for future capacity at step 6, they are making a single, composite decision, i.e. they are deciding to make their final request for assisted dying including waiving the requirement for future capacity. This is logical and accords with the policy intent because a final request that is made at step 6 has no practical function without a waiver and vice versa. Clarifying the fact that a single decision is made puts beyond doubt the requirement for the administrating practitioner to be satisfied that the individual has capacity to make their final request for an assisted death at step 6, including waiving future capacity. Once again, this part of my amendment does not alter policy or interfere with the principles of the draft law; it only amends the drafting, ensuring that in relation to this very specific matter, the law is clearer and better understood. On that basis, I ask Members to support the proposal.

The Deputy Bailiff:

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

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

I wish to thank the Minister and also our advisers because this was a quite fine point of detail that they picked up on. Again, we are very grateful for the advisers' input and for the Minister and his officers taking that on board and making the amendment. The panel supports this.

The Deputy Bailiff:

Does any other Member wish to speak? If no other Member wishes to speak, would Members in favour of adopting … the appel is called for. If all Members have had the opportunity to return to their seats, I ask the Greffier to open the voting. If all Members have had the opportunity of voting, I ask the Greffier to close the voting. This part of the second amendment has been adopted:

POUR: 41		CONTRE: 2		ABSTAINED: 1
Connétable of St. Helier		Connétable of St. Lawrence		Deputy K.F. Morel
Connétable of St. Brelade		Connétable of St. Saviour		
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Martin				

Connétable of St. John				
Connétable of St. Clement				
Connétable of Grouville				
Connétable of St. Mary				
Deputy G.P. Southern				
Deputy C.F. Labey				
Deputy M. Tadier				
Deputy S.G. Luce				
Deputy L.M.C. Doublet				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I. Gardiner				
Deputy I.J. Gorst				
Deputy L.J. Farnham				
Deputy K.L. Moore				
Deputy S.Y. Mézec				
Deputy T.A. Coles				
Deputy B.B. de S.V.M. Porée				
Deputy H.M. Miles				
Deputy M.R. Scott				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy A. Howell				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy K.M. Wilson				
Deputy L.K.F. Stephenson				
Deputy M.B. Andrews				

1.5 Draft Assisted Dying (Jersey) Law 202- (P.65/2025): fourth amendment (P.65/2025 Amd.(4)).

The Deputy Bailiff:

We now move on to point 8 of the running order and I would ask the Greffier to read the fourth amendment.

The Deputy Greffier of the States:

Page 143, Article 8 – Delete Article 8(8) and renumber Article 8(9) and cross-references accordingly. Page 144, Article 9 – Delete Article 9(1)(i) and renumber Article 9(1)(j) and (k) and cross-references accordingly. Page 165, Article 42 – For Article 42(1)(a) substitute – (a) if they are an individual appealing against a decision specified in paragraph (2); Delete Article 42(3) and (7) and renumber Article 42(4) to (6) and cross-references accordingly. Page 190, Article 98 – Delete Article 98(c).

The Deputy Bailiff:

I would ask the Chair of the review panel to propose the fourth amendment.

1.5.1 Deputy L.M.C. Doublet of St. SAviour (Chair, Assisted Dying Review Panel):

This is the second of our, I think, 7 amendments and the second that the Minister is not accepting. I do understand some of the reasons why, but I will outline the reasons that the panel have brought this amendment to the Assembly today. The effect of this amendment would be to remove provisions which would allow third-party appeals by those with a special interest against a positive eligibility decision. In plain terms, that means if somebody who is perhaps a close relative or partner of somebody who has had an approval to access the assisted dying service, if that person who is close to the patient disagrees with that positive decision that they can access it, they can access the court system to appeal that decision and try to stop that person accessing the assisted dying service. Again, the panel gave this great consideration and one of the things that we did was we looked for international comparisons, and we did find an example. The only examples we could find were in Australasia, and Queensland was one of the places that does have this. Even there, it has not been used so one of the arguments against having this mechanism is that it is not necessary and not something that would be used. The U.K.'s Terminally Ill Adults Bill contains no third-party appeal rights. If we were to introduce this, we would be somewhat of an outlier, and the panel feels that it would be best to not include such a provision. Another point against having a third-party appeal mechanism is around autonomy and human rights. We examined the potential for conflict with people's right to autonomy and private life under Article 8 of the E.C.H.R. (European Convention on Human Rights). The human rights analysis to the draft law does not address this but our advisers did warn us that it could potentially be incompatible with this Article. The panel felt on balance that decisions about end of life should remain with the individual themselves and not with others. We also had some concerns around confidentiality of medical information and the fact that a third-party appeal process could force disclosure of sensitive medical information to people outside of any clinical pathways, which could potentially be embarrassing or distressing to the patient who has requested to use the assisted dying service. The definition of "special interests" we also felt was potentially quite broad and the risks associated with allowing this third-party appeal mechanism would mean potential delays to the assisted dying process. Where a person with capacity has been approved to access the service, they could be subjected to delays. There could be adversarial disputes. It could interrupt clinical care plans and result in much conflict, and it just does not seem to be in the interests of patients and creates a lot of uncertainty. We also felt that it could potentially be used to coerce somebody into not even requesting assisted dying. If a patient was in a position where they were a victim of emotional abuse and they were being subjected to coercion, the potential threat of a third-party appeal by this person, who is their abuser, and the worry that that might be a used as a tool, that could be very concerning for that individual and could cause them not to request the use of

the assisted dying service in the first place. When we looked at this as a potential safeguard, we found that across the board the panel felt that the existing safeguards were already robust and that this would be an unnecessary step. With the existing independent medical assessments, capacity assessments, the coercion checks and the training, especially with our amendments and our recommendations, we felt that there was enough tightening up of the safeguards that this was not necessary when balanced with all of the downsides that we have identified to it. The panel asks that Members consider this, consider the evidence presented in the report to the amendment and in our review report and make a decision about whether third-party appeals should be included in our legislation or not.

The Deputy Bailiff:

Thank you, Deputy Doublet. Is the fourth amendment seconded? **[Seconded]** Does any Member wish to speak on the fourth amendment? I think the Minister for Health and Social Services was marginally first.

Deputy M.R. Scott of St. Brelade:

The Minister for Health and Social Services has allowed me to go first. In fact, I just wanted to ask a question of the Attorney General, Sir, if I may?

The Deputy Bailiff:

Very well.

Deputy M.R. Scott:

When I have looked at this amendment and, indeed, the comments, it is saying that an appeal may be made on the grounds that the decision was not made in accordance with the law or if the decision was unreasonable or irrational. So, basically it was incorrect and says that a person with special interest cannot appeal on the basis that they disagree with the individual's decision to seek an assisted death. In my mind, this seems to be formalising or doing something along the lines of a judicial review and my question to the Attorney General is … because this is basically challenging an administrative decision saying: "No, no, no, you have agreed to an assisted death." I see this as a safeguard - potential safeguard - that somebody basically … an assisted death is going to take place and it is not in accordance with the law at all. Typically, you could have judicial review for this, and it could be a slower procedure. My question to the Attorney General is: how does this differ from that? Why would this create something that might be preferable? Just so that we can have some clarity here, please.

Mr. M. Jowitt K.C., Acting Attorney General:

Yes, I think the question around judicial review is whether this is a public law matter and I, for my part, am very doubtful that it could properly be called that. The decision to have an assisted death is an intensely personal matter and that is why I am doubtful that judicial review would be available in this instance. Judicial review might be available in terms of wider public law matters about the provision of the service generally and those sorts of issues, but this strikes me as probably being not susceptible to J.R. (judicial review), which is why this third-party right may be there.

Deputy M. Tadier of St. Brelade:

The question I have got, and I think may be helpful for all of us to understand, is that what the Minister is proposing in terms of a third-party appeal effectively here is whether that could be used in any way vexatiously by a third party to try and prevent somebody who has made a settled decision to have an assisted death and effectively to time out that person's decision. Could he answer either of those 2 questions?

The Acting Attorney General:

One can never rule out the possible existence of vexatious litigants, but the court process is designed in this instance to be robust. It is robust as to timing. There is a very tight timetable for bringing and dealing with a third-party appeal and the tests that the law sets for a successful appeal are high. In respect of the health criteria, it would have to be established that the decision that a person did meet the health criteria was irrational, that is to say not based on reason, logic or judgment. That is a very high hurdle indeed for any appellant to surmount.

[12:00]

In respect of anything else, that the decision was unreasonable, that is to say a decision that no reasonable person could have made, which I know is circular but that is the way the law speaks about it, or is not made in accordance with this law. It may be helpful just to point out that the third-party right of appeal only arises at one stage of the process, which is where a positive decision has been taken by a medical practitioner to allow an individual to proceed from step 5, which is the second and final request for assisted death, into what one might call the terminal stages 6 and 7, where the arrangements for the death and the carrying out of it take place. It is only at that stage that the third-party right of appeal arises and so it is limited in its temporal application as well.

The Deputy Bailiff:

The appeals provision is set out in Article 42 of the draft law.

Deputy L.V. Feltham of St. Helier Central:

Could I also ask a question of the S.G. (Solicitor General) while he is …

The Deputy Bailiff:

Yes, Minister.

Deputy L.V. Feltham:

I understand from what the S.G. has just said is that the bar for making such an appeal is a high bar. If we were to accept this amendment and a third party became aware of an unlawful use of … or somebody in a situation where there was coercion or the processes and practices were not being followed correctly, would the third party have any other form of raising an appeal if we accept this amendment?

The Acting Attorney General:

Yes, not in the formal legal sense of bringing a legal appeal to a court or a tribunal. I am just looking at Article 61, paragraph 2 which provides this and it is talking about the assisted dying committee that is going to be established by law: "The Committee must arrange for the service [that is the assisted dying service] or another supplier to develop or amend the following information …" and "(2) standards for services in relation to assisted dying and procedures for investigating and resolving complaints about the services that they or others have received." Then looking at the report to the proposition at page 114, paragraph 53, where this is said: "In the event of safety concerns, the Assisted Dying Complaints Policy will set out the procedures for responding to concerns, both in terms of H.C.S. (Health and Community Services) processes and any escalation to the J.C.C. (Jersey Care Commission) or the relevant U.K. professional regulatory body, in the instance of fitness to practise concerns." That and paragraph 72: "The Assisted Dying Assurance and Delivery Committee will publish an Assisted Dying Complaints Policy setting out a clear process for complaints and concerns by service users, or their family and other professionals. They will also monitor compliance against that policy." Now, complaints made under those sorts of arrangements may be pre-emptive. They may be made *ex post facto*. The point about the third-party appeal mechanism is it allows for a pre-emptive challenge. The only other avenue that might be available and very much the - if I can call it that - nuclear option, if there were suspicions that a practitioner was acting out with the law, then the option of reporting that suspicion to the police would be there because there might be

suspicions that a crime was either going to be committed, was in the course of commission or had been committed.

Deputy R.J. Ward of St. Helier Central:

May I ask a question of the A.G. (Attorney General)?

The Deputy Bailiff:

Yes.

Deputy R.J. Ward:

I do not know if this is something you can answer but I will give it a go. Is there a legal definition of "special interests"? Because it says: "A family member and professional." I just wonder if that professional has to be directly linked with the medical profession and what about circumstances … I just wonder if there is a legal definition of special interest that we can talk about.

The Acting Attorney General:

No, not yet there is not, although if enough cases did come to court through a third-party appeal mechanism, one could see a body of case law building up, but I am looking at Article 42, paragraph (7) of the draft law and it says this: "In this Article, 'person with a special interest' means a person who the court is satisfied has a special interest in a particular individual's care and treatment (such as [so permissive, not prescriptive] certain connected people or professionals involved in the individual's assisted dying process)." At this stage, it is going to be a matter for the court ultimately and it remains to be seen what shape that deliberation would take.

Deputy R.J. Ward:

If I may follow up on that just quickly?

The Deputy Bailiff:

Yes.

Deputy R.J. Ward:

Therefore, if we do have a third-party appeal system, could there be appeals around who has a special interest, i.e. would that have to be defined? If I was somebody who was a friend of somebody and I said: "Well, I have a special interest for significant reasons, would I be able to appeal the special interest before the process of appealing the assisted dying happens, i.e. could we get ourselves into lengthy court proceedings over what a special interest is without a definition available. I hope that makes sense.

The Acting Attorney General:

It does make perfect sense and it is a very good question. The answer is no. Article 42, which is the third party, it is appeals but includes the third-party appeal provision says this at paragraph 4: "The Royal Court must determine the appeal as quickly as reasonably practicable and in doing so may affirm the decision, cancel the decision, decide the matter itself, require the decision-maker or another person to reconsider the matter and make a new decision." Then at paragraph 5: "There is no further right of appeal." If you sought to argue you were an interested person, a person with a special interest and the court decided you were not, that would be the end of it.

The Deputy Bailiff:

Unless there are any further questions for the Attorney. No. Minister, you wish to speak in relation to this amendment.

1.5.2 Deputy T.J.A. Binet:

Yet again, much of what needs to be said has been said and I thank the Attorney General for being so comprehensive. But, nonetheless, there are a number of different points that I think I should just cover, just for the sake of completeness. Firstly, I think we need to be mindful of exactly what third-party appeals do and, more importantly, what they do not do. A person with a special interest may appeal only on very limited grounds. That the decision to approve was not made in accordance with the law, for example, that the steps in the process were not carried out or carried out incorrectly or that the decision was unreasonable or irrational. By way of example, it would be irrational for a doctor to estimate life expectancy of less than 6 months, when in reality it is a lot longer than that. Crucially, and this seems to be a point of confusion, they cannot appeal on the basis that they disagree with or are distressed by the individual's choice. This is not a veto and describing it as such would be completely inaccurate. Instead it is a narrow legal mechanism allowing a challenge only when something appears to have gone wrong with the decision-making process, and I think that is the crucial point. Second and third-party appeals are part of a much wider framework of safeguards that have been shaped through extensive consultation and ethical scrutiny. Public feedback during phase 2 of the consultation was very clear; 63 per cent of all respondents supported third-party appeals and increasing to 80 per cent among those who were strongly in support of the principles of assisted dying. This tells us something quite important, even those most committed to assisted dying see the value of the safeguard. They want a system that is careful, credible and safe and even if that were to result in the court overturning an assisted dying approval. As we have already heard, this is something that is likely to be used very, very seldom. The 2023 ethical review authors also recognise that value. They examined the question of appeals in depth, including the right to have a third-party appeal and concluded that they would strengthen public confidence. They said that while appeals would prolong the assisted dying process, the delay is proportionate to the safeguards gained. The Assembly itself in adopting P.18/2024 has already endorsed the model of assisted dying, which includes third-party appeals. Third, and as mentioned by the chair of the Scrutiny Panel, we must consider human rights, particularly Article 8, the right to a private life. While the inclusion of third-party appeals may interfere with that right and the associated autonomy to make decisions, the interference is very limited. I am certainly satisfied that based on the evidence received that the interference is both proportionate and justified. The draft law contains provisions that work to ensure third-party appeals cannot be misused to undermine a person's dignity, choice or privacy. These protections include appeals cannot be made by campaigning organisations or others who do not have a legitimate interest in the care or treatment of the individual and a third party may only appeal on very limited grounds. They cannot appeal simply because they disagree with the individual's choice. The law requires that the court to determine the appeal as quickly and reasonably as they possibly can. Concerns about confidentiality being raised by the panel's expert advisers and these are understandable but they are addressed within the draft law. Article 41 permits disclosure only where necessary for an appeal. Article 98 provides the rules of court that will govern how such information is handled, and the Royal Court's inherent jurisdiction already allows it to manage sensitive information with care and discretion. This is not unchartered territory. Finally, while it is true that third-party appeals are not common internationally, that is no reason in itself to exclude them. Jersey has chosen a model with strong layered safeguards. We should not allow those principles simply to mirror other jurisdictions. Our responsibility is to design the right system for Jersey on the balances, autonomy, protection, compassion and certainty and individual choice with public assurance. In my view, removing third-party appeals would weaken the balance and retaining them would strengthen it. The inclusion of third-party appeals is proportionate and carefully targeted as part of a package of safeguards that ensures assisted dying can operate ethically, safely and with public trust. It protects individuals, supports lawful decision-making and reassures the community that the system is robust. For these reasons I urge Members to support it.

The Deputy Bailiff:

Deputy Catherine Curtis, did you wish to speak? Yes.

1.5.3 Deputy C.D. Curtis of St. Helier Central:

Just a few words. Concerns around third-party appeals occurring while a person has chosen to go forward with an assisted death outweigh any safeguarding points. Extra safeguarding could have been established with some of the amendments already debated and voted against yesterday and this morning. Third-party appeals work against autonomy. It allows someone to put a stop to a process which a person has chosen to do in sound mind and knowing what is best for themselves. Third-party appeals are unnecessary and may be used in a coercive way, despite any conditions applied and, therefore, the review panel brought the amendment to remove the third-party appeal.

1.5.4 Deputy M.R. Scott of St. Brelade:

I have considered this amendment very carefully. When I told constituents that I supported an assisted dying law I said that I would look very carefully at the safeguards and this is a safeguard, an important safeguard. Yesterday, somewhat unfortunately, I believe, in the context of what I believe has been a respectful debate, the name of a doctor who was known as doctor of death was mentioned in the context of this law. That there could be that possibility that you have somebody who somehow has got in the system, who makes a decision that is inappropriate, that somebody who perhaps does not have 6 months left to live or is not suffering or gets the sanction, the sign-off, yes, go ahead. I believe that this is what this safeguard is about and that I believe that the scrutiny process has looked at certain things, and I note the grounds for which they brought this proposed amendment. But I believe on this occasion that the fear is misplaced. It is not about having relatives just say: "I do not like that decision, so let us stop." They cannot do that, not under this provision. It is about somebody exercising a clinical judgment that should not have been made. On that basis, I urge Members to reject this amendment.

1.5.5 Deputy R.J. Ward:

This is an important debate and we need to voice our concerns in every area. This is about whether we allow people to challenge a positive eligibility decision made for a capacitated adult who met every safeguard, every assessment and every requirement set in the law. The panel's amendment, I think, is clear and targeted. It deletes the statutory rights for persons with a special interest and it does so for good reason.

[12:15]

The panel's report makes the point plainly: "Most jurisdictions permitting assisted dying do not allow appeals by anyone other than the applicant." That is the norm internationally. One comparator that Queensland does anything similar and even their legal advisers found no reported cases of relatives or other appealing a positive decision. No evidence of misuse, no evidence of a problem that Jersey needs to solve. We have a number of safeguards in place. There is a very staged process to an assisted dying eligibility. The U.K.'s Terminally Ill Adults Bill, which has been scrutinised intensely - very intensely - also contains no right of appeal by an interested person. The only right to challenge a decision is with the applicant themselves. I question why Jersey would choose to be an outlier, why we would create a mechanism that no other jurisdiction has found necessary or appropriate. I do not believe this is just a policy question; it is a human rights question. I have to say the phrase that it would have limited interference in human rights seems slightly odd to me. Human rights are human rights. We cannot pick particular little parts of it or sections of our community that we consider will not have the same human rights as everyone else. I would be firmly against that. The interference in a person's private life, autonomy and medical confidentiality I think are very serious issues. I think myself, as an autonomous individual making decisions about my medical situations, wherever they may be, I want to have that autonomy; it is my right, it is about me. The panel also notes crucially that human rights analysis accompanying the draft law does not specifically address the additional interference, and that is a really important thing that is missing. I remind Members we are dealing with competent adults who have been assessed as having mental capacity. That

assessment is a key part in the beginning of the process. Adults who have made a deeply, deeply personal decision about their own end-of-life care, allowing others to challenge that decision potentially against their wishes creates a real risk of violating that autonomy. It is incompatible with Article 8 of the E.C.H.R., as mentioned by the chair of the panel, and that is not a risk that we should take lightly. I question the issues around who has a special interest. I am not entirely certain that that is clear enough because it is for the court to decide who qualifies and, therefore, the category could be wide and uncertain as we build up case law. I think there is a slippery slope; it is there. But the uncertainty, therefore, invites conflict, delay and litigation, and I think that goes exactly against the type of assisted dying law that I want to see enabled over this week. It risks turning a clinical pathway, one already governed by multiple safeguards, into an adversarial legal process. It risks putting family members against each other in a most emotionally-charged moment imaginable. As the panel warns, it could lead to delays in the applicant's pathway, adversarial proceedings at a sensitive time, undermining of co-ordinated clinical assessments. Those assessments for assisted dying are co-ordinated; they have to be to get through the process and increase litigation and conflict. None of this helps the person at the centre of the process. None of this strengthens safeguards, it only adds frictions, uncertainty and distress, in my view. That brings me to the point I am about to make; there is no safeguarding gap that third-party appeals would fill. The Jersey model already includes 2 independent medical assessments, capacity assessments, examination for coercion, multiple procedural steps and an oversight by the Assisted Dying Delivery and Assurance Committee. The panel does say they found no safeguarding gap that would be filled by third-party appeals, and I do agree with that. In other words, the system was already strong; adding third-party appeals does not make it safe. It makes it slower, more adversarial and intrusive. I would just say that on this occasion I do agree with the panel. I know I have not previously on a couple of others. But I would urge Members to accept this amendment because this is as much about autonomy and rights of the individual to make decisions about their own end of life as anything else, and we need to keep sight of that when we make our decisions in this Assembly. I urge Members to accept this amendment.

Deputy I.J. Gorst of St. Mary, St. Ouen and St, Peter:

I just have a question for the Attorney General designate. He earlier in a previous amendment suggested that it was his view and the view of his department that the legislation, as stands, was complying with human rights. We have just heard from the last speaker casting doubt upon this element of the legislation being compliant with human rights. I wonder if he could just clarify for us, please.

The Acting Attorney General:

Yes, of course. I think the phrase used was by one of the experts, potentially incompatible. Many things can be potentially this, that or the other. Human rights considerations usually involve a balancing exercise between competing rights. The 2 that are in competition with each other here are the Article 1 right to life, which is absolute and unqualified, and the Article 8 right to a private life, which is a qualified right. The approach that the European Court of Human Rights have taken on this whole topic is that an assisted death may be part of the Article 8 right to a private life. It leaves it open to jurisdictions to decide whether they wish to have an assisted dying service or not. It says if you are going to have one, however, you must ensure that it contains sufficient safeguards, that it does not amount to or is not incompatible with the Article 1 right to life. The way I think of it is this, as I have said, the assisted dying may be part of the Article 8 right to privacy but it is not mandatory; it is for jurisdictions to decide for themselves. Assisted death services must provide sufficient safeguards to protect the right to life. The tests under this third-party appeal are these; that the health criteria decision was irrational and that in other respects, in respect of other decisions, the decision-maker did not comply with the procedural requirements that the law placed upon him or her. I suppose the question for Members to consider is this, is it a safeguard to ensure that there is a

challenge to decisions that are or may be irrational or a challenge to decisions that fly in the face of the procedural requirements of the law? Does that safeguard, if that is what it is, serve to underpin the efficacy of the law? Because if decisions can be made irrationally and are not subject to challenge, if the procedure can be honoured in the breach but not followed, then those are things which serve or may serve to undermine the legitimacy of an assisted dying process. These are big issues and I do not think it is as simple as saying that the third-party right is in breach of Article 8. It is arguable that it might be. It is equally very arguable that it is not. I hope that is helpful.

The Deputy Bailiff:

Deputy Scott, you indicated that you had a question for the Attorney.

Deputy M.R. Scott:

Yes, and it was along the lines of the question that was asked by Deputy Gorst. Because in fact in the comments produced by the panel, they were saying that the advice cautioned that what we currently have with the third-party appeal may be incompatible with Article 8 of the Human Rights Law. But the question I have, having heard the Attorney General's response, is that he has basically been talking about the balance of the 2 human rights that are involved in considering the Assisted Dying Law and this right of privacy and the right of life. I understand this is the only time when a decision that is irrational or legal can be challenged under the law, I believe. I think some of the concerns is that, bearing in mind that relatives cannot just say: "I do not agree with that decision about life generally", insofar as there were concerns that this could be used in some way to interfere to make that decision, what happens at the court process? Before even it could be considered, is there an initial decision? What is the kind of evidence that has to be produced by somebody challenging this to perhaps give some comfort that it cannot just be used as a delaying technique or to interfere with somebody's decision to exercise their right to have assisted death?

The Deputy Bailiff:

Mr. Acting Attorney, are you able to assist with what happens practically in terms of the court process?

The Acting Attorney General:

To this extent, it remains for the court to make rules of court which will set out how it will deal with third-party appeals in practice. As with any forensic process, if the challenge to a decision is that it was irrational, one would expect that the court would wish to have some evidential foundation upon which to conclude that it was or it was not. If the assertion made is that other decisions, other than health criteria decisions, did not follow the procedural requirements, again, a court would want to have some evidential basis upon which to consider whether that was or was not the case. I remind Members that the deadline that this law would propose to set for the determination of such appeals is very short; I think it is 28 days. I will double-check if I am wrong about that. But the whole impetus is that there should not be extensive and time-consuming litigation. Decisions should be made very swiftly.

Deputy M.R. Scott:

Just to follow up on that then because 28 days still sounds like a long time. Just practically, bearing in mind the context, and I understand the court rules have not been drafted, but bearing in mind the context and the importance, I am just trying to understand practically within what time period might you expect that court to look at this initial evidence and just say, well … because otherwise there is that danger of staying a decision while the court considers this decision. What we are learning is it could be up to 28 days. Practically in the kind of context of what 28 days could mean in all this, what is likely to be the turnarounds of the decision or just looking at a decision to decide whether it is vexatious or not?

The Acting Attorney General:

I should just correct what I said earlier. The 28 days is a reference to the time within which the third-party appeal must be lodged with the court. Paragraph 4 of Article 42 then provides that: "The Royal Court must determine the appeal as quickly as reasonably practicable." It would be entirely, ultimately, in the court's hands as to what that means in practice. I could not offer any sort of authoritative view on that today. But it is clear that the law anticipates that the court must act as quickly as practicable. One would expect that the Island's judiciary will have that very much to the forefront of their minds if they deal with such appeals.

The Deputy Bailiff:

The Minister for Treasury and Resources, did you have a question for the Acting Attorney? No. Deputy Tadier, you were looking at me, did you …

1.5.6 Deputy M. Tadier of St. Brelade:

Yes, it was to speak, Sir, but I do not know if all the questions are finished. This is a difficult one and I am not suggesting the other ones have not been. But I think this is one debate where I come into looking for answers, and I am not sure that I have found them yet. When I initially saw the amendment from the Scrutiny Panel my reaction was: why do we even have third-party appeals in the first place? It sounds instinctively wrong. Then I spoke to the Minister and he gave some assurance that this is a very limited area and it is to do with, as he has explained and as the law explains, about if there has been an irrational decision from an individual. The concern I have still remains, and there are a number of concerns in fact. That the first reason is it is fair enough to say that somebody cannot put an appeal in simply because they do not like assisted dying, they do not agree with the assisted dying per se or that they do not agree with the person's decision to have an assisted death. But of course they are not going to say that, are they? No one is going to put an appeal in to the court saying: "I do not agree with assisted dying." They are going to put an appeal in perhaps entirely for legitimate reasons. It may even be someone who does support assisted dying but has a concern. I am really going to just refer to the notes that I have got here, just so I do not divert too much from the path because this is quite a complicated area.

[12:30]

That is the first point, is that of course then that is what I asked in my question to the Attorney General designate earlier was that how do we know that this cannot be used vexatiously. Not only would I want to think that there is a threshold that needs to be proven in court but I would have thought that there should really be a requirement to get the leave of the court to even submit this to make sure that there is a prima facie case against the medical practitioner that the decision has been unreasonable. There should be reasonable grounds to even have to lodge the proceedings with the court. I have written here that if a medical professional is making a decision that no reasonable person would be making in her or his position, then we have a problem. If we have to rely on a third-party appeal to pick up that problem, that medicinal practitioners are making unreasonable and irrational decisions, even though there are other safeguards and it is not just one practitioner that is making that, I understand that there is always a safeguard there that it has got to be signed off by 2 of them, then that is an issue for even to get to that stage. If on top of that a third party has to then use a judicial legal route to the court in order to get a resolution on that, then I think we have a bigger problem. The question I ask instinctively is: what is the difference between this mechanism and just a more general whistleblowing policy? If somebody becomes aware that there is some misuse or that somehow after a number of years the system has gone off in a different direction and the suggestion here is that doctors are somehow signing off people for an assisted death that they should not be, that they are thinking or saying somebody has got 3 months to live when in fact they have got an illness which is entirely curable and that they are not dying, then of course that is a very hypothetical and extreme example. It should not rely on a third-party appeal process to do that. There should really

be a whistleblowing policy that you might want to be able to refer that to the assisted dying regulator, for example, or to the Care Commission or to the professional body for which those G.P.s (general practitioners), those medicinal medical practitioners are registered with. I remain to be convinced that a third-party appeal mechanism, especially given the fact that not only does it take time for the court to convene itself, as fast as reasonably practicable does not give me any comfort as to how quickly that would be, given the fact that ... no disrespect to the court system but it can work quite slowly, as we know. It is not an equivalence at all but I am mindful that it takes 3 months for the licensing bench to sit, and I hope that that would not be the case. But I do not know if an emergency button could be pressed and that the court could be convened within the space of a few days to decide on an assisted dying third-party appeal. If it could not, would there be almost an administrative process to do that through an expedited system? I think there are lots of questions. Notwithstanding that point, it can take up to 28 days for that third-party appeal to be put in place anyway. Somebody could wait until the 28th day, a third party, and then put the appeal in, and then of course it will take the court a reasonable amount of time to get themselves together at all. What if the third party is doing it for all the right reasons, as we hope they would be, but they simply do not necessarily have the wherewithal to cope with the procedures of the court process to do that? What indeed if the individual who is waiting for their assisted death does not agree with the third-party appeal? How do they contest it? From their death bed literally, are they supposed to start convening legal representation to fight a third-party appeal? I think in this area there are lots of questions which are still outstanding in my mind which do not speak one way or the other to the desirability of a third-party appeal process but to the mechanics and logistics of how that will work. Unless the Minister, or perhaps even he has spoken already, but when the Chair sums up I think it is a case of maybe erring to the side of caution; I am not sure which side that will be. But bearing in mind that there is still time before this legislation comes into effect in, I am sure - at least 2 years' time and maybe longer than that - for greater consideration to be given to this. I am mindful of the fact that it is useful, I think, to have a safeguarding measure which is equivalent to a whistleblowing policy but I would have thought that whistleblowing policy should be there to flag up any unsuitable individuals but any very suspect decisions that get made. I just wonder whether the appeals process to the Royal Court is the best way for putting that safeguard in place.

The Deputy Bailiff:

Deputy Renouf, I think you had a question for the Acting Attorney.

Deputy J. Renouf of St. Brelade:

I do, yes, and I am very reluctant to add to the debate. But Deputy Tadier raised a point which I think certainly interested me. It concerns this business of vexatious appeals as possibly being used to slow up the process. The Acting Attorney General has already said that nothing can stop vexatious litigants. But what I wanted to know from the Acting Attorney was, how quickly would a decision, potentially, be made, given the requirements that he has already outlined in the law to act as quickly as possible? If a person is morally opposed to assisted dying, for example, but he is using a procedural device to try and thwart an assisted death, how quickly in those sorts of circumstances might a court be able to deal with that question, rather than have to go through, for example, a whole process, a whole sitting?

The Acting Attorney General:

Can I just clarify when I talked about you cannot rule out the possibility of vexatious litigants? You cannot rule out the possibility of people making bad applications. Our courts are very good at weeding them out at an early stage. But it remains to be seen what rules of court are created if this legislation is adopted. The fact is that our courts can and do deal with emergency applications at very short notice very expeditiously. What might they require in the particular circumstances of this case? That will be a matter for them. But at the very least they might want to see immediately

whatever medical report was used to justify proceeding from one stage to another. What our courts can and do in all sorts of areas of law deal with urgent applications and, as I say, deal with them very swiftly.

The Deputy Bailiff:

Deputy Bailhache, you indicated that you wish to speak.

1.5.7 Deputy Sir P.M. Bailhache of St. Clement:

I dissented, as a member of the Scrutiny Panel, from this amendment. I would just like to say that I think that in this case the Minister is absolutely right. It is a safeguard which is important and it is of the essence of all safeguards I think, that they may not arise very often. But when they are needed of course they are important. Deputy Tadier seems to be contemplating that there ought to be some other kind of safeguard but not an appeal to the court by a third party. But there is no amendment to that effect before the Assembly at the moment and we are concerned with this third-party appeal. The reasons given by the panel do not seem to me to be very persuasive. As the Minister says in relation to international practice, we are entitled to set our own safeguards, which are appropriate for Jersey. The Acting Attorney General, I think, has dealt very well with the human rights arguments, which have no substance at all. As to confidentiality and clinical integrity, it seems to me that it may be in a particular case very important, as I think Deputy Tadier hypothesised in relation to decisions by medical practitioners which are wrong, because they contemplate a death within 6 months, whereas the patient may not be suffering from that kind of illness at all. Those are the kind of situations where sensitive medical information must be placed before the court because otherwise the court is not going to be able to do justice to the case before it. I think that it is really important that a close member of the family and such a member of the family would have a special interest, a close member of a family who is concerned that for whatever reason a close relative has been persuaded or induced to seek an assisted death when the justification for that death is not there, should have the right to take the matter before a court. I speak from personal experience - the Acting Attorney General is absolutely right - the court is capable of acting with extreme expedition when the circumstances require. I am sure that rules of court in due course will ensure that any appeal of this kind is one that is dealt with as a matter of urgency.

The Deputy Bailiff:

We have reached the point in time when I am required under Standing Orders to remind Members of the adjournment for lunch. Are Members minded to adjourn at this point?

Deputy M.R. Scott:

Sir, I had one more question of the A.G., which we could just get sorted before the lunch recess.

The Deputy Bailiff:

Perhaps if you could ask your question and then …

Deputy M.R. Scott:

Because it follows up from Deputy Tadier's comment about would a whistleblowing policy do? I am, yes, conscious that in the U.K. at least there is a case about a nurse called Lucy Letby or someone where a whistle policy was used and nobody would accept there was anything wrong. Here is my question, but if a whistleblowing policy was developed and used and it was used to stop a procedure that had been started under the law, would the relevant people who stopped that procedure, given that it is a procedure under the law, have legal protection themselves without anything specific in the law?

The Acting Attorney General:

I am really not sure I understand what I am being asked.

The Deputy Bailiff:

Could you help the Acting Attorney with what you are asking, Deputy Scott?

Deputy M.R. Scott:

I am saying, in the absence of a specific provision in the law enabling somebody under a whistleblowing policy to interfere with a process that is set by law, would there be legal protection for a person who did that?

The Acting Attorney General:

It rather depends on what they were trying to do and with what motive. If they would try to coerce improperly they might commit an offence. I am not sure it is a question I can answer. If that is a sufficient answer there is clarification I should have given earlier which it might help the Assembly if I give now about rules of court.

The Deputy Bailiff:

Yes.

The Acting Attorney General:

It will not take long. Article 98 of this draft law provides this about rules of court: "The power to make rules of court under Article 13 of the Royal Court (Jersey) Law 1948 includes a power to (a) regulate and specify the procedure for an appeal to the Royal Court under Article 42 against a decision made under this law and (b) provide for those appeals that relate to the age and residency criteria or relate to another matter specified by the rules to be determined on the basis of only filed documents and not an oral hearing." It remains to be seen what rules of court, as I say, are drafted. But that anticipates a truncated process for at least some of the issues that might be taken on a third-party appeal. I hope that is helpful.

The Deputy Bailiff:

Are Members minded to adjourn?

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

Thank you. We stand adjourned until 2.15 p.m.

[12:43]

LUNCHEON ADJOURNMENT

[14:16]

The Deputy Bailiff:

We resume the debate on the fourth amendment to the Articles in Second Reading. I had Deputy Renouf as next speaker.

Deputy J. Renouf of St. Brelade:

Regrettably, I have one more point of clarification to seek from the Acting Attorney General, which is to ask a point that, again, arises out of questions that have been made, which is: who are the people on different sides of the legal argument in a case that might be pursued in relation to this law? In other words, there is a third party - we know that - who would be raising the illegal issue. Who would be on the other side? It has been raised, for example, that it would be putting enormous stress on a person seeking assisted death to be on the other side of the equation, having to argue a case or have representatives argue the case. I wonder if the Acting Attorney General could clarify who the 2 sides are in the argument.

The Acting Attorney General:

I am entirely confident that it not be the person requesting the assisted death because the appeal is not against any decision that they have made. The appeal is against the decision made by a medical practitioner. The medical practitioner will be working for the assisted dying service, if the Minister succeeds in establishing that organisation. Article 77 of the draft law says this: "The provider of the service, the assisted dying service, must be Health and Care Jersey acting for the Minister." My firm view is the respondent to a third-party appeal would be the Minister for Health and Social Services.

Deputy J. Renouf:

Can I make a speech as well, Sir?

Deputy I. Gardiner of St. Helier North:

Can I ask a further point of clarification following the answer from the Attorney General? There is a requirement for 2 medical professionals to make a decision. Would both of them be answerable to appeal?

The Acting Attorney General:

No, it is not them personally who would be attending the appeal. It is their decisions or their decision-making that is the subject of the appeal. Those decisions are made, effectively, on behalf of the Minister for Health and Social Services. The respondent would be the Minister for Health and Social Services.

Deputy I. Gardiner:

Thank you, it is helpful. A follow-up question, because there are 2 medical professionals submitted their opinion and the decision was based on the 2 medical professionals' opinion, what would the court require and where is the further evidence a court will receive to make a decision?

The Acting Attorney General:

That is not an easy question to answer because it would turn on a case-by-case basis. But if there are 2 decisions, for example, that a person meets the health criteria and it is suggested that both of those decisions are irrational, then the court in the first instance would no doubt wish to see those opinions and understand why those practitioners had reached the conclusions they had.

The Deputy Bailiff:

Unless there are any other questions, I call upon Deputy Renouf to speak.

1.5.8 Deputy J. Renouf:

Yes, and I will try and be as brief as I can. I must say I have changed my view in the course of this debate. I had been minded to support this amendment because I feared the consequences of the issues of family rivalries and so on being opened up through the courts and that felt difficult to justify. However, the reassurances that I have gained are that, first of all, the grounds for appeal are so very limited and are limited to procedural and legal matters, not to questions of opinion. I felt further reassured that the courts would be able to establish frivolous claims very quickly. I feel that in those situations that the added safeguard that is put in, the reassurance, if you like, that there is an appeal process, essentially what we are really talking about is either a rogue or criminally incompetent actor in this process, that it is worth having a safeguard against that kind of situation, given that the risks that accompany it seem to me on the reflections that have been gathered from various clarifications and speeches, feels to me that those risks are very, very small indeed. I do feel we are perhaps slightly dancing on a pinhead here. It is a situation where we are very unlikely to see this enacted, certainly according to what has been said. But since we are being called upon to make a choice, I think I will err on the side of rejecting the amendment.

1.5.9 Deputy M.E. Millar of St. John, St. Lawrence and Trinity:

Again, I had not intended to speak a great deal in this part of the debate but I feel this morning we have gone down quite a number of rabbit holes on this. I do intend to reject this amendment and there are a number of reasons. Firstly, if I can go down the rabbit holes, we have talked about all sorts of things. Firstly, the court handling this. I have complete faith that our courts will be able to handle any appeal in a timely way and they will sit whenever they have to sit to deal with these, that they are dealt with as quickly as the parties and the lawyers can get the papers together. I do not believe court process is something we should be concerning ourselves with. The subject of vexatious litigants; vexatious litigants are normally people who bring repeated cases to court which are capricious or outright unreasonable, which are just meant to be annoying at times. In this context a vexatious litigant would have to be a family member who is so despising either of the person who is seeking the assisted death or their own family that they want that person to continue suffering, the suffering that that person continues to be unbearable, if you will. You are saying: "No, I want my mum to continue and die in pain." That is a very difficult argument; the court will see through that very quickly, I think. I think we would all recognise where someone is just being really unpleasant. Again, I have confidence in the court to deal with that. We have to remember as well that we already have a proposition lodged to amend this law, to extend it and we have to be careful that everything we do has to be accommodating of future changes to the law. It will change very quickly, possibly not as quickly as Deputy Southern might like but it will change. We have the processes that will accommodate those changes. Lastly - well not quite lastly - we are, again, using human rights law to address a problem in a proposition that it was never designed to address. The European Convention on Human Rights was not written to enable people to seek assisted death. Assisted death was in nobody's mind when they wrote that law and I doubt it was in anybody's mind when this Assembly introduced our own human rights law. We also have to remember we have talked a great deal this morning about the human right to privacy. Because most of us I think, to be fair, are coming at this from the perspective of, what do I want? What do I want for me? We are coming with our own baggage, most of which I have heard has been about parents and older relatives dying. We are coming at it from a very, very personal view of our own experience. But most of the things that I have read or seen about how assisted dying works in other jurisdictions is families being cut out of the equation, where families are called to say: "Your mother has opted for assisted dying and she passed this morning." Everybody who is promoting that right to privacy today, a great number of people in this Assembly have children who are or are approaching adulthood, how do you feel when you have a call from the hospital saying your child died this morning, having taken an assisted death and you knew nothing about it? How does that feel? We have got to remember all of these things. We have got to remember because there is also - eating my own words - a human right to respect for family life. The right to family life and the right to privacy, those are 2 balancing and possibly in this context completely opposing rights. I will not be supporting the amendment because I do think we should retain an appeal from it.

The Deputy Bailiff:

Thank you, Deputy. Does any other Member wish to speak on the fourth amendment? If no other Member wishes to speak, then I call upon Deputy Doublet as chair of the review panel to reply.

1.5.10 Deputy L.M.C. Doublet:

I am trying to organise my notes from before lunch, which makes slightly less sense to me than when I wrote them before the lunch break. This has been a really interesting debate and, again, another one of those ethical points that I think Deputy Renouf called it dancing on a pinhead. It is a little bit like that. This is a further refinement, is it not, of the safeguards? Some of the arguments have focused on the actual court processes and how the courts' processes might not result in any kind of successful appeals. This brings to mind the actual harm that might be caused that we would not know about. I mentioned this in my opening speech, is that, yes, you might not get actual vexatious litigants

bringing a case forward in this respect. But what you are more likely to get and the evidence around coercion is very clear, you are more likely to get people quietly using this as a tool to coerce somebody out of having an assisted death. The fact that this facility could be hanging over that person who wants to make a conscious decision for themselves could be used as a tool. We will never know in those cases if that happens because those people are inherently people who, if they are victims of coercion, cannot speak up about that. If they are people who would be using the assisted service they would no longer be allowed to tell anybody about it. That is my main worry with this, is that people who are suffering unbearably and wish to access the assisted dying service, that they would be coerced out of doing so. This was a point that was raised by our advisers that this could be used as a tool for coercion. I thank all Members that have spoken, and it has been really interesting to hear people's reasonings and to hear why people may have changed their mind during the course of the debate. It is clear that all Members are thinking really carefully about this, and that is very much appreciated. Some of the questions to the Acting Attorney General were also really helpful, and I think he mentioned that there are other avenues for people to make complaints or to raise concerns, one of those being the police. There is also the Assisted Dying Assurance and Delivery Committee.

[14:30]

There are also numerous points, for example, if you look at some of our recommendations and indeed our amendments, and much of them focus on coercion and on the detection of coercion and would necessitate the practitioners involved in delivering this service, having that contact with family members and being there to ask and answer questions. There would be lots and lots of stages where concerns could be raised. There would not be a need to go to the courts to raise those questions and concerns. They could be very adequately covered by the mechanisms that are in place and by the professionals operating the service. Deputy Tadier put it really well, and he said we have got a problem if it is not picked up already. I think that is a really fundamental point, is it not? I have confidence in the draft legislation, particularly as amended by the panel's other amendments, that all of the steps and the processes and safeguards are there, that we are not going to need these third-party appeals. I think even some Members who have said that they are going to vote to keep the third-party appeals have made the point that it probably will not be used, will it? Again, that takes me back to my point about if this facility is not going to be used in the court, why leave it there as a tool to be used by abusers to coerce family members? Is there a problem?

The Deputy Bailiff:

Deputy Scott …

Deputy M.R. Scott:

Sorry, I am going to ask a question at the end of the speech.

Deputy L.M.C. Doublet:

Right. My vice-chair also spoke and when we were talking about this in our panel meetings I found Deputy Catherine Curtis, her reasoning quite persuasive about the person who is accessing the assisted dying service has to be of sound mind and has to have capacity and that taking a third-party appeal process; for me that is impacting on the dignity of that person. When we were reviewing this legislation as a panel, we had 2 core values that we agreed at the very beginning: that we would be very strong on the safeguards and scrutinising the legislation around the safeguards and that we would also have patient dignity in mind. For me, this part of the legislation, it does not add any safeguards; in fact it creates risks around safeguarding for me. It also impacts on patient dignity. I think it might have been Deputy Tadier or another speaker that highlighted to us that, OK, even if it is only a couple of days, even if the court does act really quickly, if you are somebody who is unbearably suffering and, ultimately, going to die soon, I am sorry but a day or 2, I think that is too long to have your

agency taken away from you in this aspect. I also have some problems with the actual wording of the grounds. I looked at the legal definition of the word "irrational" and it is defined as: "A decision that is so illogical, perverse or absurd that no reasonable person or authority could have made it. It signifies a lack of reason, sound judgment or justification in fact or evidence." Again, we have got a big problem if there are any decisions being made in this assisted dying service. All of the evidence that my panel have reviewed and that we have put in the reports that I know very well at this point, leaves me to feel very certain that we just do not need this process, that there are not going to be absurd, illogical or perverse decisions being made. I think Members who are generally in favour of an assisted dying service that has very clear and protective safeguards, this is a potential safeguard that is ambiguous and unclear and carries risk to the patient. If you are in favour of an assisted dying service that has autonomy and dignity of the individual of that patient at its heart, then I strongly urge Members to support this amendment.

The Deputy Bailiff:

Deputy Doublet, do you agree to take a clarification question from Deputy Scott?

Deputy L.M.C. Doublet:

If I listen to the question, Sir, am I compelled to answer it? **[Laughter]**

The Deputy Bailiff:

I think you can decline once you have heard the question.

Deputy L.M.C. Doublet:

Yes, I will then.

Deputy M.R. Scott:

I just wondered if the Deputy could just go through this point about precisely what has been put in as a safeguarding measure, how this can be used to coerce somebody who has agreed to an assisted death to withdraw from that process? I just could not quite join that up. If she could perhaps explain that reasoning.

Deputy L.M.C. Doublet:

Sure, I am happy to answer that. I think what the panel has learned about coercive control in the course of this review has been really interesting. I urge Members to look at those parts of our review because we have got amendments, and we are very grateful, that have been accepted by the Minister and we hope will be approved by the Assembly. But we learned an awful amount about coercive control and how it could operate in the assisted dying service. It is perhaps not likely but it could be used as a threat to somebody. Coercive control in abusive situations, and this is not just necessarily a romantic partner but any kind of domestic abuse situations, which we know can be quite common in Jersey, for any reason if somebody is being coerced out of their decision this could be used as a tool to dissuade them from making that autonomous decision. I do not really have anything else to add. It is in Members' hands to decide on how they want to vote now.

The Deputy Bailiff:

I think I heard the appel was called for. If all Members have had the chance to return to their seats, I ask the Greffier to open the voting. If all Members have now cast their votes, I ask the Greffier to close the voting. I can announce that the amendment has been rejected:

POUR: 13		CONTRE: 33		ABSTAINED: 0
Connétable of St. Brelade		Connétable of St. Lawrence		
Connétable of St. Mary		Connétable of Trinity		

Deputy G.P. Southern		Connétable of St. Peter		
Deputy C.F. Labey		Connétable of St. Martin		
Deputy L.M.C. Doublet		Connétable of St. John		
Deputy R.J. Ward		Connétable of Grouville		
Deputy C.S. Alves		Connétable of St. Ouen		
Deputy S.Y. Mézec		Connétable of St. Saviour		
Deputy T.A. Coles		Deputy M. Tadier		
Deputy C.D. Curtis		Deputy S.G. Luce		
Deputy L.V. Feltham		Deputy K.F. Morel		
Deputy B. Ward		Deputy M.R. Le Hegarat		
Deputy L.K.F. Stephenson		Deputy S.M. Ahier		
		Deputy I. Gardiner		
		Deputy I.J. Gorst		
		Deputy L.J. Farnham		
		Deputy K.L. Moore		
		Deputy Sir P.M. Bailhache		
		Deputy B.B. de S.V.M. Porée		
		Deputy D.J. Warr		
		Deputy H.M. Miles		
		Deputy M.R. Scott		
		Deputy J. Renouf		
		Deputy R.E. Binet		
		Deputy H.L. Jeune		
		Deputy M.E. Millar		
		Deputy A. Howell		
		Deputy T.J.A. Binet		
		Deputy M.R. Ferey		
		Deputy R.S. Kovacs		
		Deputy A.F. Curtis		
		Deputy K.M. Wilson		
		Deputy M.B. Andrews		

1.6 Draft Assisted Dying (Jersey) Law 202- (P.65/2025): fifth amendment (P.65/2025 Amd.(5))

The Deputy Bailiff:

We move on to debate 9 in the running order, which relates to the fifth amendment, which has been lodged by the chair of the Assisted Dying Review Panel. and I ask the Greffier to read the fifth amendment.

The Greffier of the States:

Article 45 – (1) In Article 45, for the heading substitute – 45 Offence to coerce or maliciously induce decision to have assisted death. (2) In Article 45(1), for "dishonestly" substitute "maliciously". (3) In Article 45(1)(c), for "withdraw" substitute "not withdraw". New Article 46 – (1) After Article 45 insert – 46 Offence to coerce decision to not have assisted death (1) A person commits an offence if they coerce another person – (a) not to request assisted dying; (b) to decide – (i) not to end their life by assisted dying; or (ii) not to request assisted dying, including not to request to proceed to the next step of the assisted dying process; or (c) to withdraw their request for assisted dying. (2) The person is liable to a fine. (2) Renumber the subsequent Articles and cross-references accordingly.

The Deputy Bailiff:

Deputy Doublet, would you like to propose the fifth amendment?

1.6.1 Deputy L.M.C. Doublet of St. Saviour (Chair, Assisted Dying Review Panel):

Yes, thank you, Sir. This is 2 amendments in one really. When we were reviewing the legislation we noticed that an offence has been created - 2 offences - either coercing somebody into having an assisted death and another offence of coercing somebody out of accessing the assisted dying service. As the panel were reviewing the draft legislation, we noticed that the penalties were the same for both of those offences. The maximum penalty for coercing somebody into having an assisted death, which obviously would be quite an extreme thing to do, the penalty of up to 14 years in prison. The panel felt that that was reasonable and proportionate but then when we looked at the offence of coercing somebody out of an assisted death, the penalty was also maximum of 14 years in prison, and we felt that there should be a more minor penalty for reasons relating to coercion and to allowing doctors and family members to have those measured conversations with the patient about whether they want to access it. What we did not want was a doctor or a family member to be scared of saying to that person: "Are you sure that you want to access the assisted dying, and maybe we could do it X, Y, Z or you could access this medication." Having those really thorough and in-depth conversations. We did not want people to be worried about being imprisoned for 14 years and we want to allow for that space and ability for people to question and test their thinking on it, and for their family members to do the same. So we separated those out and we have asked for the penalty to be limited to a fine if there is found to be coercing somebody out of accessing assisted dying. We also changed some of the wording, so the word "dishonestly induce" was used and, again, it was one that we had quite lengthy discussions about, and Deputy Bailhache and I had some really interesting discussions about legal wordings and the legal definitions of words versus the actual definitions of them. We settled on replacing the word "dishonestly" with "maliciously" because we felt that was clearer than using the word "dishonestly" and it implied that malice and that malicious intent behind the act that would make it clearer for the courts to make a decision. That is the rationale behind the amendment and I am happy to hear Members' thoughts on it.

The Deputy Bailiff:

Thank you, Deputy. Is the fifth amendment seconded? **[Seconded]** Does any Member wish to speak on the fifth amendment?

Deputy K.F. Morel of St. John, St. Lawrence and Trinity:

Sir, rather than speak I was wondering if I could ask the Attorney General a question please?

The Deputy Bailiff:

Yes.

Deputy K.F. Morel:

I was wondering if the Attorney General would be able to explain to us the difference between "dishonestly" and "maliciously" in this context.

Mr. M. Jowitt K.C., Acting Attorney General:

Well, "malice" has a meaning in law, "dishonesty" is said by lawyers to be a common English word with a common meaning. Malice in law means the doing of a wrongful act wilfully and intentionally, without just cause or excuse. Dishonesty is a word we all know; it means acting in a way that is not honest. That is the difference.

1.6.2 Deputy T.J.A Binet of St. Saviour:

I would just like to say that the panel's amendment draws a helpful distinction between pressurising a person to have an assisted death and pressurising them not to. It is an important distinction that was not mapped out in the original drafted law, so I hope Members will see fit to support it.

1.6.3 Deputy M. Tadier of St. Brelade:

I think on balance I will be supporting this but I do so slightly reluctantly in the sense that I think there is still quite a high bar that will have to be met for anybody on either side if they are found to coerce one way or the other. Of course the penalty for coercing somebody who ultimately may not wish to end their own life quite rightly has to be high and has to potentially engage a custodial sentence, because it is not necessarily exactly the same as but it is getting into the area of effectively encouraging someone to end their life lawfully. In fact, that is exactly what it is.

[14:45]

But I do not think we should be sending the message out as an Assembly that it is a small thing to coerce somebody the other way either. As we have said in all of this, there is coercion possible on 2 sides. In an ideal world I would not be removing the option of a custodial sentence from the court. I think that should have been left on the table, albeit for a much shorter sentence. As I have said, the inclusion of malice in this, rather than the ordinary English word of "dishonesty", I think does set a high bar for that. That in itself should have been sufficient to reassure family members and friends who want to have an open discussion one way or the other, that unless they are doing something intentionally and with nefarious motives, that they can do so without coercing and falling foul of this law. So I just wanted to put that on record, that I will be supporting the amendment today because it is better than what the law would be unamended, but I would have preferred a bit more latitude for the court, especially in a serious case where there has been coercion to keep somebody alive against their will, who of course is suffering. I think we need to start thinking about the fact that somebody's coercion could also cause serious bodily harm, in effect, in terms of the continued suffering from that harm. That is no small thing. If it were done in a different context a person may well be facing a custodial sentence if all the circumstances allowed for it.

1.6.4 Deputy Sir P.M. Bailhache of St. Clement:

I take a different view from that of Deputy Tadier. I, at one stage, was minded to oppose this new Article 46 altogether because it seems to me that it is the natural thing to do for a family member to seek to discourage a close relative from having an assisted death. I did not want family members to be deterred from expressing their views firmly to a patient by the notion that they might be subject to criminal investigation for having sought to coerce the patient into not taking a decision for an assisted death. I am still a little ambivalent about it. It is true that "coerce" is a strong word but, nonetheless, the risk of a family member being put in fear of a criminal investigation for doing frankly what comes naturally seems to me to be quite a strong argument against having this Article at all. I do not think that the law would lose very much if it were not to be an offence to coerce somebody into not having an assisted death. Perhaps I could request the chair of the panel to seek a separate vote on Articles 45 and 46 so that Members who share my views might have the opportunity of voting against Article 46.

Deputy K.F. Morel:

Sir, another question for the Attorney General, following directly from Deputy Bailhache's speech. It is just to understand, in the Attorney General's reading of the proposed amendment. In that part which is about coercion out of assisted dying rather into assisted dying, does the Attorney General see a route by which family members who are expressing their reservations and perhaps are trying to talk somebody out of it, would he see there being a route to prosecution in those situations with the draft before him.

The Acting Attorney General:

Well, I take the word "coerce" to imply or include an attempt to suborn the free will of another person. There is, in my view, a qualitative difference between having an honest discussion, even voicing one's concerns or disapprovals about a position on one hand, and on the other seeking improperly to put pressure on someone to act in a way they would not otherwise have acted. That word I take to be significant in the context of that draft offence.

1.6.5 Connétable K.C. Lewis of St. Saviour:

I think Deputy Morel has asked part of my question. I have a problem with this particular item regarding coerce. If it was obviously parents trying to look after their adult child, I think they would be more trying to plead not to do this as opposed to coerce. That is a problem I have with this particular item and I cannot support it.

1.6.6 Deputy M.R. Scott of St. Brelade:

Just to say, I feel more comfortable than the Constable on this because for me I believe that coercion really is a form of bullying. I do not like the thought of anybody who is close to death being bullied into any decision. For that exact reason I will be supporting the panel's amendment.

1.6.7 Deputy J. Renouf of St. Brelade:

In a similar vein I would say that the Constable of St. Saviour should be reassured by the clarification offered by the Attorney General, which was that there is a huge difference between somebody pleading, having a discussion around those sorts of issues compared to coercion. For that reason, like Deputy Scott, I feel fine.

Deputy A. Howell of St. John, St. Lawrence and Trinity:

Please may I ask a point of clarification from the Acting Attorney General?

The Deputy Bailiff:

Yes.

Deputy A. Howell:

I was just wondering, if we do not vote for this then is it correct that the 14-year jail sentence remains?

The Acting Attorney General:

If I have understood the question, what has been suggested in the debate so far is that it is the proposed Article 46 offence that some Members would prefer to have the chance to vote against. That offence is of coercing someone not to have an assisted death. That is punishable under the draft with a fine only. The other offence, the existing draft 45 offence, is of maliciously coercing someone to have an assisted death, for which - if it is adopted by the Assembly - the punishment will be a maximum of 14 years imprisonment.

Deputy K.F. Morel:

Just to reiterate Deputy Bailhache's request of the chair to hold the vote in 2 parts when it comes.

Deputy K.M. Wilson of St. Clement:

I just wanted to ask the Attorney General for some clarification on where coercion is not coercion in the context of this statement, which is, if you are sitting around the bedside having a conversation with your relative and you see the distress and you see that there may well be some uncertainty in them about the decision that they have made, and somebody says to them: "Do you want to change your mind about the decision?" Is that coercion or is that what he referred to earlier as normal discussion? Does he believe that the way in which the law is drafted at the moment safeguards and protects for that as it is written, or does it need something additional to qualify that?

The Acting Attorney General:

The illustration which the Deputy just gave does not sound to me like coercion; it sounds to me like a family discussion. Does the law as drafted provide enough safeguard? Well, it does I think in terms of the proposed text. The second safeguard of course is that a prosecutor has to decide first whether there is sufficient evidence to afford a realistic prospect of conviction, and if there is, whether a prosecution is in the public interest. It seems to me Members must trust the prosecution authority to do justice in each case appropriately according to the evidence and the public interest.

Deputy M. Tadier:

A follow up question: is it correct to say that an additional safeguard is that presumably all these offences we are discussing have to be proven beyond reasonable doubt by the court?

The Acting Attorney General:

Of course, yes.

The Deputy Bailiff:

Does any other Member wish to speak on the fifth amendment? If no other Member wishes to speak then I call upon Deputy Doublet to reply.

1.6.8 Deputy L.M.C. Doublet:

I am grateful that the Minister has accepted this amendment and I acknowledge some varying views among Members. I am not certain myself, and he has just left the Chamber, but I would quite like to ask the Acting Attorney General if Members were to vote against one of the Articles it would leave the draft law as it is written. Perhaps you could answer that yourself, Sir. My feeling is that if Members vote against any part of this it leaves what the Minister has proposed. It does not remove the offence entirely. Are you able to answer that, Sir?

The Deputy Bailiff:

I am not supposed to give legal advice to the Assembly. I think the Attorney is on his way back. Mr. Attorney, you thought you had escaped but there is a further question from Deputy Doublet, the chair of the review panel. Deputy Doublet, could you put your question again?

Deputy L.M.C. Doublet:

Yes. It is hopefully a simple one because I think I understand this, but I wanted to confirm. If Members vote against any part of this amendment it will not remove the offences, will it, it will leave the offences as they are written in the Minister's draft?

Deputy M. Tadier:

Sir, can I raise a point of order? That seems to be a matter that the President of the Assembly can deal with, it is about a procedural matter rather than a legal one. It is axiomatic I think, Sir.

The Deputy Bailiff:

Well, in that case **[Laughter]** as a procedural matter then the answer is yes, the offences remain but if the Assembly does not approve them then the word "dishonesty" will remain and the proposed new offence of 46 would no longer appear in the text.

Deputy M. Tadier:

Sir, may I have a follow up point of procedure/order? I would have raised it earlier in the previous one. There is nothing within this which stops us asking the Minister to take these separately when it comes to the vote, and some of us may well do that on this or other amendments. I think that is the right of the Assembly to have them voted on ...

The Deputy Bailiff:

Well, I think the first step is whether Deputy Doublet is prepared to have separate votes on these 2 points. We will deal with that one first.

Deputy L.M.C. Doublet:

Shall I continue, Sir?

The Deputy Bailiff:

Yes, thank you.

Deputy L.M.C. Doublet:

Yes, I see no problem with allowing separate votes on these. I would suggest that the Minister also takes on board some of the points raised around the penalties for these offences because it seems to me that this is something that could form part of the Minister's planned review as well if Members have some fairly minor questions that remain. I think that could be very well addressed by the Minister's review. But I wanted to just remind Members that coercion is generally understood as the use of intimidation to compel a person to act against their will, and requires a legitimate pressure that overcomes their free choice. That is what would be at play here. I ask that Members support this amendment. It has been carefully considered by the panel. It does differentiate between those 2 different acts; one which would have a very final and severe implication, and one which is slightly less so; still impactful, but less so than coercing somebody into ending their life. We ask that the distinction between those 2 offences is made in this respect. The use of the word "maliciously" we feel is much clearer than "dishonestly" and, as the Attorney General has clarified, it gives that very clear legal definition for somebody who has committed that offence. I ask for the appel please.

[15:00]

The Deputy Bailiff:

The appel has been called for and we will take it in 2 parts. The first vote is in relation to the amendment to Article 45, and if Members have had the opportunity of returning to their seats I ask the Greffier to open the voting. If all Members have had the opportunity of voting then I ask the Greffier to close the voting. I can announce that the fifth amendment has been adopted:

POUR: 46		CONTRE: 0		ABSTAINED: 0
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				

Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy G.P. Southern				
Deputy C.F. Labey				
Deputy M. Tadier				
Deputy S.G. Luce				
Deputy L.M.C. Doublet				
Deputy K.F. Morel				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I. Gardiner				
Deputy I.J. Gorst				
Deputy L.J. Farnham				
Deputy K.L. Moore				
Deputy S.Y. Mézec				
Deputy Sir P.M. Bailhache				
Deputy T.A. Coles				
Deputy B.B. de S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy M.R. Scott				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy A. Howell				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				

Deputy K.M. Wilson				
Deputy L.K.F. Stephenson				
Deputy M.B. Andrews				

The Deputy Bailiff:

In that case we move on to debate 10 in the running order ... I beg your pardon, I am so sorry. I have missed the second part of the vote, which is in relation to the new Article 46. So assuming all Members have had the opportunity of returning to their seats, I ask the Greffier to open the voting in relation to new Article 46. If all Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. I can announce that the vote in relation to new Article 46 has been adopted:

POUR: 37		**CONTRE: 7**		**ABSTAINED: 2**
Connétable of St. Martin		Connétable of St. Brelade		Deputy Sir P.M. Bailhache
Connétable of St. John		Connétable of Trinity		Deputy K.M. Wilson
Connétable of St. Clement		Connétable of St. Peter		
Connétable of Grouville		Connétable of St. Saviour		
Connétable of St. Ouen		Deputy I.J. Gorst		
Connétable of St. Mary		Deputy M.E. Millar		
Deputy G.P. Southern		Deputy M.B. Andrews		
Deputy C.F. Labey				
Deputy M. Tadier				
Deputy S.G. Luce				
Deputy L.M.C. Doublet				
Deputy K.F. Morel				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I. Gardiner				
Deputy L.J. Farnham				
Deputy K.L. Moore				
Deputy S.Y. Mézec				
Deputy T.A. Coles				
Deputy B.B. de S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy M.R. Scott				
Deputy J. Renouf				

Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy A. Howell				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				
Deputy L.K.F. Stephenson				

1.7 Draft Assisted Dying (Jersey) Law (P.65/2025): sixth amendment (P.65/2025 Amd.(6))

The Deputy Bailiff:

We can now move on to the sixth amendment, which is the 10th debate in the running order. It is lodged by the chair of the Assisted Dying Review Panel. I ask the Greffier to read the sixth amendment.

The Greffier of the States:

Article 50 - In Article 50(1)(a), for "that breaches Article 78(3)(a)" substitute "in breach of Article 78(3)(a) or (4)". Article 78 - (1) After Article 78(3) insert - (4) But a person must not give the information described in paragraph (3)(a) in writing at the place at which a doctor carries out general practice unless the recipient is together in person with a health professional. (2) Renumber existing Article 78(4) and cross-references accordingly.

1.7.1 Deputy L.M.C. Doublet of St. Saviour (Chair, Assisted Dying Review Panel):

This amendment arose from discussions around the section of the law that talks about where materials can be provided that give information about the assisted dying service, and the prohibition on promoting the service. We again had some very interesting discussions because what was not immediately clear was how can the assisted dying service be communicated to people, how can information be put to people so that they understand (a) that the service exists, (b) how it works, and (c) how they might access it if they need it, without advertising the service or doing anything that could be seen to be persuading somebody to use the service. I am grateful to the Minister and his officers because we had some good discussions and feedback and answers to our questions on this. It was my vice-chair, Deputy Catherine Curtis, who is a very thoughtful person and came up with the idea for this amendment after much deliberation. What this amendment does is asks that materials that are explaining the assisted dying service would only be available to members of the public where there is a doctor present in a G.P. surgery. This amendment is very narrow in scope and we just address G.P. surgeries, and the reason for that is that is the primary healthcare setting that the most Islanders will more frequently be attending. Also what we did not want to do was leave people kind of sitting in waiting rooms, perhaps going to the doctor for the first time about a condition, or feeling distressed about a condition that they have, and sitting there alone in the company of materials about the assisted dying service. We wanted to make sure that where people see that information, leaflets or posters, that they do so in a context where they have a medical practitioner present with them so that they can immediately ask questions about it, and that that clinical support would be present. Because obviously doctors are very used to discussing healthcare with patients and if a doctor is

present in person then they are very able to talk to the person and explain the palliative care options as well, and it would not be taken as promotion. Now, this amendment is limited just to G.P. surgeries, partly because we are not able to address every single location and we are also not sure exactly where the location of the service would be. But we also have a matching recommendation to this that asks the Minister to look at any other healthcare settings where information might be available and consider whether similar measures might be wise. So that is the effect of the amendment. We are very grateful to the Minister for supporting it and for the discussions that we have had around it, and I hope that Members will also support it.

The Deputy Bailiff:

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

1.7.2 Deputy R.J. Ward of St. Helier Central:

This is a seemingly narrow amendment, one that restricts the provision of written assisted dying information within G.P. practices unless a health professional is physically present with the recipient. On the surface it appears modest but I ask Members when we look closely it raises a series of practical, ethical, and legal issues that must be considered. The panel's report explains that the intention is to avoid unintended distress and prevent the perception or promotion of normalisation of assisted dying in G.P. surgeries. Those are perhaps legitimate concerns. G.P. practices are indeed sensitive environments but the amendment risks creating more problems than it solves. First, it introduces operational ambiguity into primary care. The amendment does not define who qualifies as a health professional, nor does it define what it means to be together in person. Does a nurse count? A healthcare assistant? A social prescriber? Must a leaflet be handed directly or is being in the same room enough. These uncertainties will leave G.P. practices guessing, and when the stakes involve potential criminal liability under Article 50, guessing is not good enough. Second, despite the panel's assertions there will be no administrative burden, the reality will be different. Practices will need new protocol, staff training and redesigned waiting rooms to ensure no written material is left accessible. Third, we must consider the impact on patient access. Citizen's Advice Jersey warned that some people - particularly those with disabilities, sensory impairments, or limited internet access - may otherwise be in the dark about the new law. For many of these individuals the G.P. surgery is the most familiar and accessible point of contact. By restricting information in this one setting we risk making it harder for precisely those people to rely on written materials to understand their options. Fourth, there is a risk of a chilling effect. Even though verbal discussions remain permitted, clinicians may be overly cautious. The fear of being perceived as promoting assisted dying may lead to G.P.s avoiding the topic entirely when the patient raises it. That would undermine the very principle of informed decision-making that this legislation is meant to support. The fifth point to make is the amendment applies only to G.P. practices, not to hospitals, hospices, pharmacies, or community organisations. This creates an inconsistency that is difficult to justify. If the concern is unsolicited exposure why is a hospital corridor acceptable but a G.P. waiting room not? If the concern is vulnerability why is a hospice exempt? The amendment singles out G.P. practices without a clear rationale for doing so. We must also consider equality and accessibility. The panel rightly emphasises the need for inclusive public information, and I completely agree, yet this amendment may disproportionately affect older adults, disabled people, those with communication difficulties, and those who prefer written information before discussing sensitive topics. That is a key point: before discussing sensitive topics. Personally, if there is something that is sensitive I like to be informed beforehand, because these are my decisions that will be important here. A safeguard intended to protect vulnerable people may in practice reduce their autonomy. Finally, the amendment introduces a legal uncertainty, and this is the real concern. By linking breaches of this rule to Article 50 we create the possibility of sanctions for what may be accidental or trivial infractions, such as a leaflet left on a desk, or a printout handed over by a receptionist. That is not a proportionate or clear regulatory framework. The panel describes this amendment as the least restrictive, but when

we examine its effect it risks restricting access, creating confusion, and undermining the clarity of the law. We all share the goal of ensuring information about assisted dying is provided safely, sensitively and responsibly. But safeguards must be precise, workable, and proportionate. This amendment, despite its good intentions, does not meet that test, in my view. I urge Members to reflect very carefully on the unintended consequences and consider whether this measure as drafted truly supports the informed, compassionate, and accessible system we are trying to build. At this moment I cannot support this amendment.

1.7.3 Deputy M.R. Scott of St. Brelade:

I share Deputy Rob Ward's discomfort on this. It is useful to know the circumstances in which this amendment was brought up by Scrutiny, because it was not proposed, I understand, by one of the special advisers that they engaged for this process. What we basically have is a problem and a valid concern, which is that the subject of assisted dying needs to be introduced sensitively and appropriately. I do not think anybody can deny that should be the case. But then we have a solution that has been proposed, and I think it is one of a number of solutions, and it has been considered that generally when you are doing these things you do need to look through all the options. Now, I am thinking in my mind about the ideal way in which this topic could be introduced to somebody who has a terminal illness. I am very much aware of the extra work that has been done by the panel in terms of end-of-life care. For me, I think it would appropriate and sensitive in saying: "Look, if you have a terminal illness, here are your options" and end-of-life care would be part of that. We are talking about a kind of package where we are having people think about this and that if it really gets too bad you have this option of assisted dying, bearing in mind that many people do not go down that route in the end because they are satisfied with the end-of-life care or whatever, and they will not choose it. I do think, well, are we being over prescriptive here in terms of what I do generally trust is a subject that will be brought up sensitively. I imagine in my mind posters up in doctor's surgeries saying: "If you want to talk about assisted dying do it here and now" and take it out of context. I will listen to the debate but I have that shared discomfort for these reasons.

[15:15]

1.7.4 Deputy K.F. Morel of St. John, St. Lawrence and Trinity:

One of the things I find really interesting about all of the debates around assisted dying is thankfully we are all sitting here in the main as States Members, not under end-of-life stresses in the main. It is not 100 per cent of the case but we are here, in the main, in good health, in good mental health and thinking through these situations. Yet for a lot of people who are faced with end-of-life choices, that is not the case. The stresses upon them are enormous and they are hard to understand for us not in those situations. I have seen this through the eyes of my own family and obviously other families as well. The closest I have been - and I can only speak for myself here, other Members will have their own experience - to end-of-life choices are when my closest relatives have been faced with those choices. So I am learning, as we do, from the experience of others, but thankfully to date I have not been in that situation. I cannot help but feel that the Scrutiny Panel's amendment, which I do wholeheartedly support is thinking about that. When you read the report I think they are quite right to point to the fact that people in a doctor's surgery, a G.P.'s surgery, sat in the waiting room, are in a very different range of mindsets at that time. Some of them will be there quite likely just dealing with small matters which are not worrying. Other people will be there about to receive some life changing news. It is a particular moment in time when you are sat in the doctor's surgery waiting room, and I have often thought this myself, I do not know what the person next to me in the waiting room is suffering from. I have been lucky to date that every time I have gone in the main to the doctor's surgery it has not been anything particularly serious, but the person next to me could be suffering from horrendous cancers and other things. You just do not know that. You are just sat there in the doctor's waiting room together, and understandably - well, I do not - do not share what you are there for. So I do understand why the Scrutiny Panel has said if you are sat in a doctor's

surgery room - and most of them do have posters, we know this, and leaflets - and you are faced with leaflets about assisted dying, I do think that could be quite perturbing for people in particular mindsets at that time. I have just lost my mother to dementia and I have just had my father diagnosed with dementia, and I know that having watched my mother go through that process, and sadly going to watch my dad go through a similar process, there is immense confusion caused at those times. Should he be sat there in a doctor's surgery for a regular appointment, faced with a poster or a leaflet talking about assisted dying, I think that he could end up creating quite damaging interpretations of the reasons for those posters being there. I was particular disturbed in the Scrutiny Panel's report about Citizen's Advice Jersey's suggestion that a mailshot should be sent out. I fundamentally disagree with Deputy Rob Ward on this issue. The idea that a mailshot would be sent out to people, obviously it is impossible to know what mindset 100,000 unexpectedly receiving such a matter through the post, some people - particularly those with dementia or other neurological diseases - could absolutely interpret that as a promotion for something that they should be doing. That is incredibly dangerous. I am quite concerned that Citizen's Advice have suggested that would be an appropriate way forward. I also compare that - and I think it is worth comparing - with other options that are available. Deputy Rob Ward made a really good speech, and I congratulate him on that; I thought it was a very good speech and I am not criticising him in any way. I think he holds a particularly reasonable perspective, it is just one I disagree with. I do not see the call for other end-of-life options being promoted. I do not hear a call before the passing of this law for me to be sent information about palliative care, about the other end-of-life options, about my rights that I have today. Nobody in the 8 years that I have stood in this Assembly has suggested at any point that I should be sent information about my rights as they stand today about my end-of-life options in order to increase my personal autonomy in choosing those options. I cannot help but feel there is again a 2-level debate going on whereby assisted dying is almost - and there are times in this Assembly as I have listened to the various debates - a desire to promote it when for existing options it is quite the opposite. They are not being promoted. They are very rarely looked at. I want to make sure that is not a criticism of the current system or the current way things are working; it is just a statement of fact. In 8 years - in fact in my lifetime - I do not think I have ever received a mailshot suggesting anything about my end-of-life choices as they stand today. So I am concerned about the vigour with which some people are suggesting the importance of getting this information out to different people. I think it is right that the information around assisted dying - if the law is passed, and I have no doubt that it will be passed - should be conveyed to those people to whom it matters the most in a very careful way, in an appropriate setting, and I think in this case clinical settings or settings with other support, whether it is through groups such as Macmillan or Dementia Jersey or the many other charities and organisations that help people at that point in their life. Those are the ways that these bits of information should go through because at the end of the day when it is just random posting of posters on boards or leaflets in waiting rooms, or mailshots through letterboxes, it is absolutely to know the mindset of the person receiving that information and, therefore, the way in which they will receive that information. The only way it is possible to know that is to be in a carefully managed clinical setting or similar. For those reasons I absolutely support this. I think it is definitely the right thing to do, and should I be re-elected in the elections later this year this will be something I look at in the main and think about and discuss with the Minister for Health and Social Services, whether there should be wider limitations on the promotion - for want of a better word - of assisted dying. It is something we do need to think about. I shall be supporting this amendment.

1.7.5 Deputy C.D. Curtis of St. Helier Central:

I am pleased to follow Deputy Morel, who made a very thoughtful speech. Deputy Rob Ward and others raised concerns about legal uncertainties around information sharing, and that is not a valid argument. This will all be clarified in the guidance. There is plenty of guidance to follow from this legislation. Deputy Ward also raised the matter of just G.P. surgeries being part of this, but I do not know if he heard and understood the chair's speech, which fully addressed this matter. Of course we

discussed this with the experts, and their response is that they consider this could be a guiding principle for other jurisdictions. I am pleased to see that the Minister has accepted this amendment. During the many meetings held by the review panel and during our discussions I tried to imagine myself in the place of a person who has a terminal illness, and of course no one knows what that is like until you are actually there, but we have to try and empathise. I pictured myself going to the doctor's for an appointment and being confronted in the waiting room with leaflets about assisted dying. Something like this could prey on a person's mind, even if they have never considered an assisted death. We have to remember that people can be diagnosed with a terminal illness but then go on to live much longer than expected. A member of my own family was given a terminal diagnosis and then went on to live fairly well with cancer for another 10 years. Perhaps towards the end of that time he may have considered an assisted death if it had been available, but before that he would not have wished to give it any thought. So I would not want assisted dying presented as an option when someone would otherwise never have considered this, especially when they are in a vulnerable state through illness and perhaps visiting the doctor. At the very least, assisted dying should be considered while there is expert professional advice available. The review panel has recommended this amendment on information about assisted dying, and that it is used as a guiding principle for all places where people may seek support and guidance on health matters.

1.7.6 Deputy M. Tadier of St. Brelade:

While I do not necessarily agree with the conclusion that Deputy Morel came to, I think he did give us pause for thought and I think it is true that any literature or information that is being sent around can have an impact and can be a trigger for some people as well. I will just give one example. Recently I have had to start going to Springfield Gym, I used to go to Fort Regent but that is no longer there. That is not a broadcast against Fort Regent by the way. There is a big poster when I come out of the gym that says: "Are you thinking about suicide?" Part of my reaction is, "No, I was not, but I am now." Although that is a poster there which is supposed to be to call out for people who might be thinking of it, say: "There are other options, come and talk to us, and there is a help line", immediately my thoughts go to that could be interpreted in different ways. I will just leave that thought there, because even a poster like that, which is well-intentioned, and I think no one would necessarily disagree that that poster has got the right to be there, can have an impact on somebody who is relatively well-adjusted coming out of a gym: "I may not be coming out of here later today." The question that then comes to me is the other side of the coin where I do have some sympathy for the comments that Deputy Ward made earlier, is that are we just perpetuating the already inherent taboo that we have certainly in Western society nowadays towards death? Because by saying that you cannot have basic information about something that we are quite happy to discuss in a public forum, that will be publicised on the front page of the *J.E.P. (Jersey Evening Post)* tomorrow, presumably. I mean, if we pass this law it is big news; it is quite right that will be on the front page of the paper. It will be on the news broadcasts, but we are saying: "But we should not publicise it." A leaflet cannot go out to tell people that now, when this becomes a thing, that there is an assisted dying service. There is an extreme example of this in fiction, of course. I remember in my teenage years, I read the dystopian novel by Aldous Huxley, which was *Brave New World*, and on the surface, it seems like a utopian world that is presented to people, but it very quickly becomes apparent that it is a dystopian world and it is a world in which youngsters are conditioned from a very young age, indeed from the first few weeks, and in some cases from before birth, to either fear certain things or to be very comfortable with certain things. For example, the lower castes, I think, are discouraged from an early age from ever associating with books and flowers, because they do not want them to become accidental intellectuals. On the other hand, youngsters are also conditioned quite quickly to not fear death and to just treat death very indifferently to the point that then they are not even allowed to mourn the passing of a loved one. That is an extreme example. I fear that in some ways we are the other extreme where we perpetuate a taboo around death to the point which we are having a debate now, an amendment saying you are not allowed to put a leaflet in a public surgery, or probably

at the hospital, saying that assisted death is an option. I am just not sure if that ultimately in the future will be seen as overly cautious. Again, I am not making direct comparisons here because we can never do that. But there may well have been a time, for example, in a different context, where before divorce was widely socially acceptable and while it might have been legal, that it might have been seen as a taboo to have a leaflet encouraging women to come forward if they are being abused domestically and encouraging them to leave their husbands and leave their partners, because that might have been seen as encouraging separation and divorce. Nowadays we would find that very strange and very antiquated.

[15:30]

I will leave that example there. I do not want to start to get into other areas. But I also am mindful of the fact that when you go to a doctor's surgery, or indeed the hospital, you might be going there with someone else. You might be going there as a young person who is years away from death and is not contemplating death in any way, and you might be able to pick up a leaflet when you are in your 20s, and you are accompanying an elderly relative there, and you might be able to read a leaflet about the assisted dying programme when you are much younger, even though you are not going to be considering it for yourself before hopefully maybe 50, 60 years, or never. That is the counterfactual which we have to balance up here. The long and the short of it is that I am happy to support this recommendation from the panel, and I think it is supported by the Minister as a step, but I think we do have to be very careful of the message we are sending out, that there is a balance to be struck about providing information in a clear way. I do not accept the fact that simply providing information is the same as encouraging, and encouraging is not the same as coercing. I think we need some sense in this. It will be something that is monitored. Similarly, I would not want to see any doctor's surgery get prosecuted if somehow some leaflets accidentally found their way into a doctor's surgery and somebody picked it up and felt scandalised by it. There needs to be some common sense applied in all of this.

The Deputy Bailiff:

You have a question for the Attorney?

Deputy M.R. Scott:

I have a question for the A.G. Perhaps the Attorney General might confirm that if this law comes into force, if it is with this proposed amendment, and if it is reported by the press, that that in itself will not be in breach of this on the basis that promotional advertising is not the same as reporting? Similarly, if there is information on a Government website, for example, for anybody who wants to just find out about the service, if that could be confirmed, please?

Mr. M. Jowitt K.C., Acting Attorney General:

What is permissible in terms of publication is found in Article 78 of the draft law. The Article 50 offence arises where matters are published otherwise than in accordance with paragraph (3) of Article 78. Paragraph (3) provides that: "A person, who in any way (including in writing or by broadcast), promotes or advertises", and journalistic reporting seems to me is neither of those things. But anyone who: "Promotes or advertises assisted dying or the Service (a) may do so only by giving information (i) about the availability of assisted dying and related services; (ii) about where more information on assisted dying can be found; (iii) about their role in assisted dying; or (iv) that supports awareness and understanding of assisted dying; and (b) must not do so with the intention of persuading or encouraging anyone to have an assisted death." Those are the permissible boundaries of what can be said publicly about assisted dying. I do not take journalistic endeavours to be either promotion or advertisement of the service, they are news reportage.

Deputy R.J. Ward:

Just to confirm, it says: "Writing at a place in which a doctor carries out general practice, unless the recipient is with a health professional." Can I ask the Attorney General, if this information is elsewhere, in the corridor of a hospital, in a community centre, would those people be breaking the law under this article, or is it just doctor's surgeries?

The Acting Attorney General:

This amendment refers only to a place at which a doctor carries out general practice. Whether that is a doctor's surgery or whether it is in some other health provision facility where the doctor is carrying out general practice is not really for me to say. The extent of the policy consideration is for others, but that is the effect of this Article. It is only about within the context of a doctor carrying out general practice. Perhaps, while I am on my feet, I should just correct one other matter, which I hope is of assistance to Members. The definition of health professional does in fact appear in Article 1 of the draft law, where it means: "(a) a doctor; (b) a nurse; (c) a pharmacist or pharmacy technician; (d) a dentist, optometrist or dispensing optician, meaning a person who is professionally registered as that; or (e) an occupational therapist, physiotherapist, social worker or speech and language therapist, or a person in another registrable occupation under the Health Care (Registration) (Jersey) Law 1995, in each case meaning a person who is professionally registered as that." Although the definition of health professional does not appear in the new draft Article, it does appear in Article 1 of the law.

Deputy T.A. Coles of St. Helier South:

Can I ask an additional question of the Attorney General?

The Deputy Bailiff:

The Constable of St Mary had his light on first. Did you have a question for the Attorney General, or did you wish to speak? Right. In that case, Deputy Coles first.

Deputy T.A. Coles:

The A.G. just clarified then, because obviously we have a debate on P.15/2026 coming up in the coming weeks about registered professionals. Would this law apply to all members of that professional register, should that be adopted?

The Acting Attorney General:

Without having that law open in front of me, and I do not, I cannot answer the question. All I can say with confidence is that for the purposes of this Article 78(3), what the meaning of health professional is for the purposes of this law, because the meaning of health professional is set out in Article 1 of this law. I cannot assess further than that.

Deputy M.R. Scott:

I just wish to ask about the position if you had a consultant like an oncologist, so if they are with somebody who has a terminal illness and wants to discuss options in terms of care, does my interpretation of this mean that they need to go to where a doctor carries out general practice to give out that information?

The Acting Attorney General:

No, I do not take it to mean that. What I take this to mean very narrowly is that if you are in a G.P. surgery, you cannot have in writing at that place information about the service unless it is provided to a person, in person, who is there together with a health professional. That is all I take it to mean.

1.7.7 Connétable R.D. Johnson of St. Mary:

It follows along from the questions raised with the Attorney General. I have some sympathy with Deputy Ward's original contribution in saying that it is a very limited area which is protected, and

my main concern is simply that it is not only doctors' waiting rooms that people are waiting for treatment, it can be in the pharmacy next door. It might even be the pharmacy, which is owned by the doctor's surgery, and I think there is as great a danger waiting for your prescription in a pharmacy, and elderly people may go to a pharmacy more often than they go to a doctor. I take note to the point that a health professional includes a pharmacist, but I take it also that a pharmacist cannot be deemed to be there in person if they are simply on the counter and someone who is sitting in a chair 10 yards away. I shall be supporting it, but I simply ask the Minister to bear that in mind as to whether some dialogue needs to take place with the pharmacist to make sure that they are observing the same rules, effectively.

1.7.8 Deputy L.K.F. Stephenson of St. Mary, St. Ouen and St. Peter:

I just wanted to respond to something that Deputy Tadier had raised in his speech, and I think we probably ended up at a similar place at the end of it, but by then it had already triggered me, and I had decided I was going to say something, so apologies to Deputy Tadier. But it was just to really put on record, because I think it is important when we are talking about these things in the Assembly and there is a public record of it, that there is an awful lot of evidence out there that says that talking about suicide does not increase the risks of people taking their own lives, and that it is very much a myth that is the case, and an ongoing damaging myth, and it might have the opposite effect on people. I just wanted to make that absolutely clear, that in modern times, recent times, as studies and the research all points that if we talk about suicide and ask that question and put those posters up, it has a positive effect rather than a negative effect.

Deputy M. Tadier:

Would the Member give way at all?

Deputy L.K.F. Stephenson:

Yes, absolutely.

Deputy M. Tadier:

In my clumsy way, I think that is what I was trying to say, is that the net benefit is there, and I was trying to make a similar point for this.

Deputy L.K.F. Stephenson:

I appreciate that, and I think that is what I took by the time we got to the end of the speech. So, yes, I am glad we agree on that, absolutely. But then thinking this through, just some of the questions we have then had since that have raised in my head the question about, and perhaps it is something that the proposer could respond to in her closing, why we need this to go into the actual law, and could it not form some guidance. I presume there is going to be a need for a significant amount of guidance around a law like this, and that would allow it perhaps to apply to broader places. It would allow it to be a bit more movable as well when we have got a new law like this coming into play. It is something that we are going to need to reflect on regularly, and I think I am left with that question about does this very specific bit need to be in the law itself or are we tying ourselves in more knots than we need to by putting it in the law? Could we do it in another way that makes it a bit more pragmatic going forward?

Deputy R.J. Ward:

Can I ask the Attorney General just for one clarification? I spoke in my speech about this being limited to G.P. surgeries and I still believe that to be right, and I understand the idea of anywhere a G.P. performs their duties. For example, they may use a community centre as a G.P. surgery at certain times or somewhere. But can I ask, if information is displayed in somewhere that is not a G.P. surgery, the corridor of a hospital, the pharmacy waiting room, a myriad of other places, maybe community centres, Citizen's Advice Centre, would that be in breach of this law because there is not

a healthcare professional available, or is it just specifically ... because I read this as G.P. surgeries because that is what it says in the comments paper, and I just need to be very precise. I think it is important that we are.

The Acting Attorney General:

The purpose of this Article 78(3) is to provide a carve-out from the provisions of Article 78, which I quoted earlier paragraph (3) of that Article, about giving information about assisted dying. I will read it again. That provides: "A person who, in any way (including in writing or by broadcast), promotes or advertises assisted dying or the Service (a) may do so only by giving information (i) about the availability of assisted dying and related services; (ii) about where more information on assisted dying can be found; (iii) about their role in assisted dying; or (iv) that supports awareness and understanding of assisted dying; and (b) must not do so with the intention of persuading or encouraging anyone to have an assisted death." This provision is designed to carve G.P.'s surgeries out of Article 78. In other words, you can do all those things that Article 78(3) permits you to do, but you must not do them in a G.P.'s surgery.

1.7.9 Deputy T.A. Coles:

I rise after the Constable of St Mary made the point about the pharmacist and the questions around the register of health professionals, because obviously we have got this proposition coming for us in a couple of weeks which will clarify and tidy up the register to make it clear what a healthcare professional in Jersey is. The Attorney General there has clarified this point up quite clearly. For me, I think it is right that we do not have this material publicly available within a doctor's surgery because it is part of the whole treatment; there are ways and things to which it can influence people's decisions. One of the key parts that I found with the assisted dying debate that we have gone through in this term was about the fact that it was all opt-in, that doctors are not going to be made to take part in this. If we are starting to advertise in their surgeries which doctors are taking part in this it might prejudice some people from feeling safe within their G.P. that they do not want to carry out this service, and I do not want anybody in this Island to feel that they are feeling that they cannot trust their G.P., because this is the first point of contact we have in primary healthcare, and I think we need to strengthen that support. This carve-out is an important thing to do because I think people should feel that they can trust their G.P., whether they choose to have an assisted death or they do not. I will be supporting the amendment.

[15:45]

1.7.10 Deputy Sir P.M. Bailhache of St. Clement:

I think that this amendment is quite a moderate amendment, because Deputy Rob Ward is quite right to point out the inconsistency between a hospital corridor, for example, and a doctor's waiting room. But it does seem to me that this amendment points a cautionary finger. It achieves what it purports to achieve on the surface, but it also points a cautionary finger at the hospital authorities, because I think it would be very undesirable even for hospital corridors to be plastered with posters advertising assisted dying. I am sure the Minister agrees. I am sure that, as a matter of discretion, that will not happen because discussing this subject is really a sensitive issue, which really ought to be done in the context of a discussion between a medical professional and the patient. I am sure that in practice that will be the way in which things are dealt with. But I did want to make the point that this is a moderate amendment, it could have gone much further, and I hope that Members will support it.

1.7.11 Deputy T.J.A. Binet of St. SAviour:

I am glad to see that this afternoon I am aligned again with Deputy Bailhache. This is really the start of a process; it establishes a guiding principle. If this all goes through today, there will be an 18-month implementation period. I am sure we are going to give this more focus. The critical question is: do we want to be sensitive about this, or do we not? Deputy Curtis and Deputy Morel spoke very

meaningfully on the subject. I think some of the speeches perhaps lost their way a bit. This is not really the same as divorce or domestic violence, because I like to think there is always a way back from those 2 situations, and sadly, in the main, a terminal diagnosis is something very different indeed. I think we do have to put ourselves in the shoes of people confronting that. I am sure that at some point in time it will affect a number of us. I am sure that if you have just received that sort of news, you do not really want to be sitting waiting to see your doctor the next time, staring at a poster in the doctor's surgery putting that right in your face. I just do not think that is appropriate. I think this is about taking a sensitive approach to the whole subject, and we have been aligned with Scrutiny on this, and I hope Members see fit to support it.

The Deputy Bailiff:

Does any other Member wish to speak on the sixth Amendment? If no other Member wishes to speak, then I close the debate, and I call upon Deputy Doublet to reply.

1.7.12 Deputy L.M.C. Doublet:

I wanted to clarify that this amendment is solely focused on G.P. surgeries. Some of the speeches I think perhaps missed maybe my opening speech where I clarified this. I wanted Members to be absolutely clear that this would only impact on waiting rooms for G.P. surgeries. Furthermore, providing materials would not be banned completely from G.P. surgeries, but it would be permitted in the doctor's office where the doctor is present. As Deputy Bailhache mentioned, it is a balanced and proportionate amendment, which has been discussed with our advisers, as my vice-chair pointed out, and developed in conjunction with them. Again, my vice-chair, she addressed many of the points raised by Deputy Ward and some others, and I thank her for that. Deputy Morel, I thought, gave a very powerful speech, and he used the phrase: "A particular moment in time" to describe people's experience of G.P. surgeries, and that is exactly the reason why I think Deputy Curtis raised this in the first place and why the panel agreed to take it on after consideration. I hope that Members will have looked at the report as well as the amendments, because every single point that was raised is addressed in significant detail in the 12 pages of evidence and analysis on public awareness that we have provided in our report, and a full suite of recommendations that applies to public awareness as well. I am not going to read all of them out there because they are available to Members in the report which everybody has, but recommendations 23 to 28 cover the public awareness recommendations and include things such as an accessibility annex attached to the guidance, which would cover audio, large print, easy to read, plain language and non-digital distribution for inclusion and accessibility purposes. As I mentioned in my opening speech, one of our recommendations asks that the Minister generalise this principle to other healthcare settings. The Members can read for themselves the other amendment recommendations, which again I hope that the Minister will action those because there is a clear action plan there in terms of what is reasonable in the panel's view in terms of public awareness. One further point around the definition of healthcare professional, this is defined within the Minister's draft law itself in Article 4, so the panel is satisfied that that is clear. I propose the amendment, and ask for the appel.

The Deputy Bailiff:

The appel is called for, so I ask all Members to return to their seats. If all Members have had the opportunity of returning to their seats, I ask the Greffier to open the voting. If all Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. I can report that the sixth amendment has been adopted:

POUR: 42		CONTRE: 3		ABSTAINED: 0
Connétable of St. Brelade		Connétable of St. Lawrence		
Connétable of Trinity		Deputy M. Tadier		

Connétable of St. Peter		Deputy R.J. Ward		
Connétable of St. Martin				
Connétable of St. John				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy G.P. Southern				
Deputy C.F. Labey				
Deputy S.G. Luce				
Deputy L.M.C. Doublet				
Deputy K.F. Morel				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy C.S. Alves				
Deputy I. Gardiner				
Deputy I.J. Gorst				
Deputy L.J. Farnham				
Deputy K.L. Moore				
Deputy S.Y. Mézec				
Deputy Sir P.M. Bailhache				
Deputy T.A. Coles				
Deputy B.B. de S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy A. Howell				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				

Deputy K.M. Wilson				
Deputy L.K.F. Stephenson				
Deputy M.B. Andrews				

1.8 Draft Assisted Dying (Jersey) Law 202- (P.65/2025): seventh amendment (P.65/2025 Amd. (7))

The Deputy Bailiff:

We move on now to the seventh amendment, which has been lodged by the Assisted Dying Review Panel, and I ask the Greffier to read the seventh amendment.

The Greffier of the States:

Article 62 – (1) After Article 62(2)(g) insert – (h) how to identify – (i) risk factors that increase the likelihood of someone's exposure to coercive control or domestic, emotional, financial or other types of abuse, such as their sex, sexual orientation, gender identity, age, disability or socio-economic disadvantage; and (ii) whether someone has been coerced or pressured to do something; (2) Renumber existing Article 62(2)(h) to (m) and cross-references accordingly. Article 63 – For Article 63(2) substitute – (2) There must be general guidance – (a) about how to identify – (i) risk factors that increase the likelihood of someone's exposure to coercive control or domestic, emotional, financial or other types of abuse, such as their sex, sexual orientation, gender identity, age, disability or socio-economic disadvantage; and (ii) whether someone has been coerced or pressured to do something; and (b) for families and carers of an individual. Article 65 – For Article 65(2)(c) substitute – (c) how to identify – (i) risk factors that increase the likelihood of someone's exposure to coercive control or domestic, emotional, financial or other types of abuse, such as their sex, sexual orientation, gender identity, age, disability or socio-economic disadvantage; and (ii) whether someone has been coerced or pressured to do something. Article 66 – (1) For Article 66(1)(a) substitute – (a) must arrange for the Service or another supplier to develop or change training on – (i) how to identify – (A) risk factors that increase the likelihood of someone's exposure to coercive control or domestic, emotional, financial or other types of abuse, such as their sex, sexual orientation, gender identity, age, disability or socioeconomic disadvantage; and (B) whether someone has been coerced or pressured to do something; and (ii) having appropriate conversations with patients about assisted dying; (2) After Article 66(1) insert – (2) The training described in paragraph (1)(a)(i) is to be provided, on an ongoing basis, to agencies and services for which the training is relevant (such as Jersey Domestic Abuse Support). (3) In existing Article 66(2), for "The training" substitute "The other training under this Article". (4) Renumber existing Article 66(2) and cross-references accordingly

The Deputy Bailiff:

Deputy Doublet, I invite you to propose the seventh amendment.

1.8.1 Deputy L.M.C. Doublet of St. Saviour (Chair, Assisted Dying Review Panel):

I am getting a bit of *déjà vu* at this point. I shall do my best to be brief. Before I go into the content of the amendment, I wanted to make references to 2 things. One being the V.A.W.G. (Violence Against Women and Girls) report, which the Minister seated in front of me I know is very familiar with now, and indeed the Assembly has taken ownership of it. I wanted just to acknowledge and make a nod to the Violence Against Women and Girls report and the taskforce and the awareness that they have raised around the instances of coercion and how that relates to domestic abuse and how common it is. Because were it not for the work of that taskforce, which of course was initiated by one of my panel members, Constable Shenton-Stone, we would not have had the knowledge and understanding to even be able to start asking questions to the extent that we could. We are very

grateful for that work and the continuing work there. Another thing I wanted to mention is that the Minister, I believe, very early in the process, I think this was before we formally launched our review, where the Minister gave us some additional confidential information about the draft legislation that was still being worked on, and at that point, I believe, the panel gave some feedback around the collection of data around personal characteristics of people who are accessing the assisted dying service, and I believe that has already been written into the legislation. That is important because understanding people's personal characteristics is important for this amendment, and I will explain why, and I thank the Minister for making that addition. I also thank the Minister for accepting this amendment; I think one of 5 amendments of our 7 that we have lodged that the Minister is accepting. This is very much a safeguarding amendment and strengthens the safeguarding elements of the legislation. It would ensure, if adopted, that mandatory training and guidance would explicitly cover coercive control, domestic and emotional abuse, financial abuse, undue influence, and risk factors linked to characteristics such as sex, sexual orientation, gender identity, age, disability and socio-economic disadvantage, but not limited to those characteristics, because there are other characteristics that people can have which perhaps make them more vulnerable to abuse. It requires that the Minister would ensure that this training is not just provided to the clinicians that are directly involved in providing the assisted dying service, but to all relevant agencies, because it is an all-eyes-on approach and that any health professional - any professional - that might be coming into contact with somebody who may be accessing the assisted dying service has an opportunity, and indeed we feel a responsibility, to be on the lookout for domestic abuse and coercive control and where it may be occurring. The ultimate purpose of the amendment is to reinforce that any assisted dying requests should be free and voluntary, and free from any kind of pressure. The V.A.W.G. report has shown us how widespread domestic abuse is. I have tried with some recent written questions to try and compare the frequency of domestic abuse in Jersey compared to places such as the U.K. and it is very difficult to find this. I did find some initial evidence that shows Jersey has a higher rate, but certainly there are high rates in Jersey. The V.A.W.G. report found that more than 85 per cent of victim survivors in Jersey experience emotional or psychological abuse as a component of their abuse. It is very common and it is often hidden, and it is often so hidden that sometimes nobody knows that it has happened.

[16:00]

It is never reported. Coercion can be so subtle that it can be really hard to detect. It is relational, so it involves an understanding of the relationships between people. It is often not physical at all. Sometimes when we think of abuse, we think we will see marks or we will see some kind of signs, but there might not be any physical indications whatsoever. It is really important that front line professionals are equipped to recognise this in any kind of clinical and care interactions. The reason why we have included the personal characteristics in here is that there is an unequal risk across the population, and as a queer woman myself, this is research that I have found really interesting, but quite upsetting at times to read and to learn about the different rates of domestic abuse that are experienced in different types of characteristics. Women, we know, are at much higher risk, but also in the L.G.B.T.Q.+ (Lesbian, Gay, Bisexual, Transgender and Queer) community, over one in 10 will experience domestic abuse, and bisexual women are at a far elevated risk for that. Understanding these risk factors is really important because if a doctor does not know these characteristics that their patient has, then they cannot be aware of it to be on the lookout for domestic abuse and potential coercion. I could go on and I could talk about age, disability, socio-economic disadvantage is another one that is often really hidden and puts somebody at greater risk for abuse and coercion. Individuals may be masking or minimising this abuse and coercion, so the training needs to be really targeted and designed to help professionals unpick and uncover anything that is happening there. The training would be mandatory if this amendment is accepted, it would not be optional. It would go into detail and examine the demographic risk factors that I have explained on how to spot subtle and relational coercion, and it would enable practitioners to apply a trauma informed and inclusive safeguarding

approach. Again, I am very pleased that the Minister has accepted this. Of all our amendments, for me personally, this is the most important because this is the one that has the most chance of protecting those in our society who are most vulnerable. I wholeheartedly recommend this amendment to the Assembly and I hope that it is strongly supported.

The Deputy Bailiff:

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

1.8.2 Deputy R.J. Ward of St. Helier Central:

I am very pleased to follow the chair of the panel, and in this occasion support this amendment because I think it does strengthen safeguards in the assisted dying. I think it is very important in this Assembly that we do have discussions about those groups in our society that are most vulnerable, and we need to be very careful in our actions that we do not make those groups more vulnerable from the decisions that we make in this Assembly. This is a decision to ensure that those groups are less vulnerable. I am very happy to support it. I am not going to say much else, but I was very pleased to hear the phrase "mandatory training." I think sometimes we do not do that enough. If it is important, let us get people to do it that support it and let us ensure that it works. I am very, very pleased to support this amendment.

1.8.3 Deputy T.J.A. Binet of St. Saviour:

The chair of the Scrutiny Panel has articulated this amendment very clearly, it does not leave anything else for me to say other than that I fully support it.

The Deputy Bailiff:

Does any other Member wish to speak on the seventh amendment? If no other Member wishes to speak, then all those Members in favour of the amendment kindly show.

Deputy M. Tadier of St. Brelade:

The appel has been asked for, I think.

Deputy L.M.C. Doublet:

Do I not need to sum up first?

The Deputy Bailiff:

Sorry. Deputy Doublet, please would you reply.

1.8.4 Deputy L.M.C. Doublet:

I think we can all be patient with each other and understand that this is a very complex process with the legislation that we are debating today. I thank Members who have spoken, particularly the Minister, and I wanted just to point Members' attention to recommendation 7, which makes a further recommendation that would apply to States Members as a group, that we could get some of the disaggregated data around the characteristics of people who are accessing the service, in confidence if necessary, so that there is that oversight of those characteristics, and to clinicians as well, so there is further strengthening within our recommendations as well as this amendment. I recommend the amendment to the Assembly, and I hope Members will support it.

The Deputy Bailiff:

I thought I heard the appel being called for. Is the appel called for? Yes. I invite all Members to return to their seats. If all Members have had the opportunity of returning to their seats, then I ask the Greffier to open the voting. If all Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. I can announce that the seventh amendment has been adopted:

POUR: 44		CONTRE: 1		ABSTAINED: 0
Connétable of St. Brelade		Connétable of St. Lawrence		
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Martin				
Connétable of St. John				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy G.P. Southern				
Deputy C.F. Labey				
Deputy M. Tadier				
Deputy S.G. Luce				
Deputy L.M.C. Doublet				
Deputy K.F. Morel				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I. Gardiner				
Deputy I.J. Gorst				
Deputy L.J. Farnham				
Deputy K.L. Moore				
Deputy S.Y. Mézec				
Deputy Sir P.M. Bailhache				
Deputy T.A. Coles				
Deputy B.B. de S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy A. Howell				

Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				
Deputy K.M. Wilson				
Deputy L.K.F. Stephenson				
Deputy M.B. Andrews				

1.9 Draft Assisted Dying (Jersey) Law 202- (P.65/2025): second amendment (P.65/2025 Amd.(2) - Section G

The Deputy Bailiff:

We move on to debate 12 on the running order, and that relates to section G of the second amendment, which is proposed by the Minister for Health and Social Services. I ask the Graffier to read section G of the second amendment.

The Greffier of the States:

Article 72 – In Article 72(2), for "as allowed by" substitute "in any of the circumstances described in". Article 87 – In Article 87(2)(b), for "as allowed by" substitute "in any of the circumstances described in".

The Deputy Bailiff:

Minister, I invite you to propose section G of the second amendment.

1.9.1 Deputy T.J.A. Binet of St. Saviour (The Minister for Health and Social Services):

As part of the panel's review process, the General Medical Council questioned whether the disclosure provisions that allow for the sharing of information could be interpreted too narrowly. Reflecting on that feedback, this part of my amendment clarifies when the Assisted Dying Service and the Assurance and Delivery Committee may share information, including with the consent of the individual, to protect an individual's safety for regulatory, disciplinary, investigative, or enforcement purposes, or where required by law or court order. It puts beyond doubt the fact that professional regulators, whether in Jersey or elsewhere, can access the information they need to fulfil their statutory duties. On that basis, I commend that to the Assembly and hope that they vote for it.

The Deputy Bailiff:

Is section G of the second amendment seconded? **[Seconded]** Does any Member wish to speak on section G of the second amendment? If no Member wishes to speak, then I would ask ... the appel has been called for. I invite all Members to return to their seats, and I ask the Greffier to open the voting. If all Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. I can report that section G of the second amendment has been adopted:

POUR: 42		CONTRE: 2		ABSTAINED: 0
Connétable of St. Brelade		Connétable of St. Lawrence		
Connétable of Trinity		Deputy Sir P.M. Bailhache		
Connétable of St. Peter				
Connétable of St. Martin				

Connétable of St. John				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy C.F. Labey				
Deputy M. Tadier				
Deputy S.G. Luce				
Deputy L.M.C. Doublet				
Deputy K.F. Morel				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I. Gardiner				
Deputy I.J. Gorst				
Deputy L.J. Farnham				
Deputy K.L. Moore				
Deputy S.Y. Mézec				
Deputy T.A. Coles				
Deputy B.B. de S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy A. Howell				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				
Deputy K.M. Wilson				
Deputy L.K.F. Stephenson				

Deputy M.B. Andrews				

1.10 Draft Assisted Dying (Jersey) Law 202- (P.65/2025): second amendment (P.65/2025 Amd.(2) - Section F

The Deputy Bailiff:

We move on to debate 13 in the running order, and that relates to section F of the second amendment, again lodged by the Minister for Health and Social Services. I ask the Greffier to read section F of the second amendment.

The Greffier of the States:

Article 74 – (1) After Article 74(1)(b) insert – (c) the number of individuals who (at step 6) made their final request for assisted dying and waived the requirement for future capacity; (2) After existing Article 74(1)(f)(ii) insert – (iii) whether (at step 7) the practitioner was not satisfied that the individual had capacity to make a final request for assisted dying but the individual had (at step 6) made their final request for assisted dying and waived the requirement for future capacity; and (iv) if clause (iii) applies, whether the individual showed any refusal of, or resistance to, the approved drugs' administration (meaning that their assisted death was not carried out); (3) Renumber existing Article 74(1)(c) to (i) and cross-references accordingly.

The Deputy Bailiff:

Minister, I invite you to propose section F of the second amendment.

1.10.1 Deputy T.J.A. Binet of St. Saviour (The Minister for Health and Social Services):

In order to strengthen transparency, this part of my amendment makes it explicit on the face of the law that the annual report, which is a legal requirement, must include information related to the number of individuals waiving the requirement for future capacity, including how many proceed to an assisted death and how many show signs of refusal or resistance, so do not have an assisted death. Reporting on matters related to the waiver is already allowed for under Article 74. This amendment brings forward an explicit requirement to support monitoring and assurance, and I ask Members to support this.

The Deputy Bailiff:

Is section F of the second amendment seconded? **[Seconded]** Does any Member wish to speak on section F of the second amendment? If no Member wishes to speak, then I ask Members in favour of section F ... the appel is called for. I ask Members to return to their seats. If all Members have had the opportunity of returning ...

Deputy L.J. Farnham of St. Mary, St. Ouen and St. Peter:

I am ahead of the game. I was pushing my button prematurely.

The Deputy Bailiff:

I am taking this slowly, Chief Minister. Perhaps too slowly for you, but ... I ask the Greffier to open the voting. If all Members have had the opportunity of casting their votes, then I ask the Greffier to close the voting. I can report that part F of the second amendment has been adopted:

POUR: 44		CONTRE: 1		ABSTAINED: 0
Connétable of St. Brelade		Connétable of St. Lawrence		
Connétable of Trinity				
Connétable of St. Peter				

Connétable of St. Martin				
Connétable of St. John				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy C.F. Labey				
Deputy M. Tadier				
Deputy S.G. Luce				
Deputy L.M.C. Doublet				
Deputy K.F. Morel				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I. Gardiner				
Deputy I.J. Gorst				
Deputy L.J. Farnham				
Deputy K.L. Moore				
Deputy S.Y. Mézec				
Deputy Sir P.M. Bailhache				
Deputy T.A. Coles				
Deputy B.B. de S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy M.R. Scott				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy A. Howell				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				

Deputy B. Ward				
Deputy K.M. Wilson				
Deputy L.K.F. Stephenson				
Deputy M.B. Andrews				

1.11 Draft Assisted Dying (Jersey) Law 202- (P.65/2025): ninth amendment (P.65/2025 Amd.(9))

The Deputy Bailiff:

We move on to the ninth amendment, which is debate 14 in the running order. The ninth amendment has been lodged by the chair of the Review Panel. I ask the Greffier to read the ninth amendment.

The Greffier of the States:

Article 74 – For Article 74(4) substitute – (4) The Minister must, as soon as reasonably practicable after receiving a report – (a) consult the Medical Officer of Health about which information should be excluded under sub-paragraph (b); (b) prepare a version of the report (the "public report") that excludes – (i) any information described in Article 41(1)(a) or (c) (allowing identification of people or approved drugs); and (ii) any information described in Article 41(1)(b) (about the carrying out of an individual's assisted death) that is of a private nature, such as information about any medical complications during or after the administration of the drugs; (c) present the public report to the States Assembly; and (d) publish the public report – (i) electronically, including on a website maintained by or for the Minister; and (ii) in a style and format that is accessible, meaning that the individual or group for which it is intended is able to read or receive it and understand it (and which may include alternative formats, such as large print or braille).

[16:15]

The Deputy Bailiff:

Deputy Doublet, I invite you to propose the ninth amendment.

1.11.1 Deputy L.M.C. Doublet of St. Saviour (Chair, Assisted Dying Review Panel):

This is a fairly simple amendment which requires the Minister to publish his report every year and present it to the States Assembly. It just gives that improved oversight for States Members for the Assembly to receive that report. It would require that anything that needs to be redacted, such as personal information or the actual detail of which particular drugs are used, that that would be redacted. It also requires that the report be made as accessible as possible. I hope that Members will support this amendment. I thank the Minister for accepting it as well.

The Deputy Bailiff:

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

1.11.2 Deputy R.J. Ward of St. Helier Central:

I can support this. There were just 3 things that I would like to mention, and I would like them on record now I have mentioned them, because they might come back to. First of all, any redaction process is inherently subjective, and what counts as private could vary year to year, risk any over-redaction that weakens scrutiny, or under-redaction that compromises confidentiality. That is a really important point to make, just for the record. Second, annual presentations to the Assembly may unintentionally politicise what should remain a calm, evidence-based oversight process. I think we need to be aware of that, and I want to voice that. Finally, early reports will be based on very small

numbers, which increases the chance of misinterpretation or overreaction to isolated cases. These are not arguments against transparency, but they are risks we should keep in view as we consider the amendment. So, just to make those few points when we do yearly reports.

1.11.3 Deputy T.J.A. Binet Binet:

I would just like to declare my support.

1.11.4 Deputy Sir P.M. Bailhache of St. Clement:

I obviously support this amendment as a member of the Scrutiny Panel, but there is one matter, which I would like to draw to the attention of Members, which was discussed by the panel briefly, and that is the provision in Article 74(4)(b), which requires the public report to exclude any information relating to the approved drugs. It seems to me possible that difficulties might arise in relation to the drugs which are used to administer to patients seeking an assisted death. It would be undesirable, it seems to me, if this provision of the law were to prohibit any notion that there were difficulties in relation to the approved drugs getting into the public domain. There could be matters which require discussion, and my request is simply that the Minister should take this on board, should consider it and see whether, in due course, some means can be found to ensure that anything which ought to get into the public domain, and I accept that not everything ought to, but things which ought to get into the public domain have some means of doing so and are not prohibited by this provision of the law.

1.11.5 Deputy M.R. Scott of St. Brelade:

Just considering Deputy Bailhache's point, I think this is very sensitive information and we do not expect many people, given that the population that we are, to be using the assisted dying service. I do not know how sensitive it is to be saying from the family's point of view what drug was used. But I think the point that the Deputy has been trying to make has been that if there turns out to be some sort of problem of a particular drug that is being administered, that something should be done about that. I guess he has asked the Minister a question, and I would expect that any responsible Minister for Health and Social Services, if there is a drug that had some sort of problem, was not working or something, and I am sure if that were the case and there was family, there would be fuss about that, but he has got that responsibility to ensure that is put right.

1.11.6 Deputy K.F. Morel of St. John, St. Lawrence and Trinity:

I think I speak with the same concerns as Deputy Bailhache, and I think Deputy Scott was saying, and it is specifically around the bit about drugs being used, being excluded. For me, that makes it very difficult to support this amendment because we know in the very different cases across the Atlantic, drugs that are used to end people's lives, in this case in a non-voluntary fashion, are regularly discussed because of their efficacy, the impacts of symptoms, *et cetera*. While the panel's report, quite rightly and understandably, talked about their amendment enhancing accountability and transparency, I would be really keen to understand why they have excluded the particular drugs being used from that accountability and transparency, because to me that is fundamentally important. I do not think, and I appreciate Deputy Bailhache was, I think, trying to reach out and find a common ground whereby the Minister for Health and Social Services could give assurances, but because we are talking long into the future, I do not think the Minister for Health and Social Services is in a place to give assurances because he does not know how his successors would treat the provisions of this amendment. In my view, successors would likely treat it as written, which is to not provide information about the drugs being used. I think it is really important to have those discussions as time goes on and technologies change and improve, and as much as that is a discussion many people might shy away from, across the Atlantic, under very different circumstances, we can see why these discussions are important. So, yes, for me, I am not really in a position where I can support this right now because I think the panel has made a mistake in excluding the possibility of the drugs being used being included in those reports.

1.11.7 Deputy A. Howell of St. John, St. Lawrence and Trinity:

I am replying on behalf of the current Minister for Health and Social Services who said he would definitely be mindful to take into consideration what the last few speakers have said. But it will be different, I guess, after the elections when there is a new Minister for Health and Social Services.

1.11.8 Deputy K.M. Wilson of St. Clement:

I just wanted to echo some of the concerns that Deputy Ward has around subjectivity, and I wondered if the panel chair could perhaps give some clarity as to, or the rationale behind why the Medical Officer for Health is the person who will give that particular information, recognising that there is a governance and oversight and Scrutiny board that is also available to give an opinion on what information could and should be shared. It also raises, in terms of the way it is written at the moment, that when we are asking particular professionals to do things under this law, that we need to be mindful of their opportunity or their preference to express their conscientious objections. I suppose what I am looking for is to see whether this Article, in the way it is written, provides for that safeguard as well, because somebody somewhere has got to be able to produce this information and I do think we need to make provision as to how and in what way we can get that information other than through an individual. It also provides an opportunity as really to improve the transparency because even when we are talking about serious incident reports that come through some of the health system at the moment, we know that those redactions are carefully considered and there are reasons for that - medical legal reasons - reasons that might be difficult in terms of identifying particular practitioners or particular treatments. But I think if we were to have confidence in this proposition that it was an appropriate safeguard, I think it raises more issues for us about whether we have got an objective safeguard in place here and that it will not prevent the public from having access to some of the not so nice details around what the experience of an assisted death involves.

The Deputy Bailiff:

Does any other Member wish to speak on the ninth amendment? If no other Member wishes to speak, then I call upon Deputy Doublet to reply.

1.11.9 Deputy L.M.C. Doublet:

I will try to answer some of the queries that have been raised, and just to remind Members that this amendment would require that the annual report be presented to the States Assembly and that information would be redacted from that. Some of the speeches have focused on the drugs and the details of those substances being redacted from the report. I wonder if it is possible to take any part of this separately, and I do not know how finely we can do because, from my understanding, if we voted separately on 4(b)(i), that would allow people who wanted the information about the substances to be included to vote against that small part but I do not know if that is possible. I will wait to hear your advice on that. In terms of why we specify that the Medical Officer of Health should be consulted, this was so that there was clinical expertise involved in the decision and in the report. Obviously, when a Minister presents a report to the States Assembly, that is a political act essentially. But this, having the Medical Officer of Health in there ensures that there is the clinic input into that report. In terms of oversight, I think somebody asked a question about the oversight. In terms of clinical governance, service safety and quality, this would not be the only oversight. If Members refer back to the draft legislation, there is an Assisted Dying Delivery and Assurance Committee that would be having that ongoing monitoring and oversight. It would not be just the annual report. This is a kind of gold standard, as it were, and giving the Assembly the extra oversight there. I think that I have covered everything, and I apologise if I have missed anything. It has been a long day. I hope I have covered everything and if you could just advise, Sir, on whether that part could be taken separately. If Members desire that, I am happy for parts to be taken separately and I maintain the amendment.

The Deputy Bailiff:

I think it is difficult to take (i) separately, so my ruling is we cannot.

Deputy L.M.C. Doublet:

Could I ask for the appel, please?

The Deputy Bailiff:

The appel has been called for. I invite Members to return to their seats. If all Members have had the opportunity of returning to their seats, I ask the Greffier to open the voting on the ninth amendment. If all Members have had the opportunity of casting their votes on the ninth amendment I ask the Greffier to close the voting, and I can report that the ninth amendment has been adopted:

POUR: 41		CONTRE: 3		ABSTAINED: 0
Connétable of Trinity		Connétable of St. Lawrence		
Connétable of St. Peter		Connétable of St. Brelade		
Connétable of St. Martin		Deputy K.M. Wilson		
Connétable of St. John				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy G.P. Southern				
Deputy C.F. Labey				
Deputy M. Tadier				
Deputy S.G. Luce				
Deputy L.M.C. Doublet				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I. Gardiner				
Deputy L.J. Farnham				
Deputy K.L. Moore				
Deputy S.Y. Mézec				
Deputy Sir P.M. Bailhache				
Deputy T.A. Coles				
Deputy B.B. de S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy M.R. Scott				

Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy A. Howell				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				
Deputy L.K.F. Stephenson				
Deputy M.B. Andrews				

1.12 Draft Assisted Dying (Jersey) Law 202- (P.65/2025): eighth amendment (P.65/2025 Amd.(8))

The Deputy Bailiff:

We move on to the eighth amendment, which again has been lodged by the Assisted Dying Review Panel. I ask the Greffier to read the eighth amendment.

[16:30]

The Greffier of the States:

Article 76 – (1) After Article 76 insert – 77 Review of Law's implementation. The Committee must, within 3 years after the rest of this Law comes into force under Article 102(3), carry out and publish a review of how this Law is operating. 78 Involvement of people with disabilities in Law's implementation. (1) The Committee must consult appropriate representatives – (a) in carrying out its main function under Article 57(1); and (b) in carrying out and publishing the review under Article 77. (2) In this Article, "appropriate representatives" means persons that the Committee considers to be representative of people with disabilities who are resident in Jersey. (2) Renumber the subsequent Articles and cross-references accordingly.

The Deputy Bailiff:

I invite the chair of the review panel, Deputy Doublet, to propose the eighth amendment.

1.12.1 Deputy L.M.C. Doublet of St. Saviour (Chair, Assisted Dying Review Panel):

I believe this is the final amendment from the panel. Once again, I thank the Minister for accepting this amendment. There are 2 parts to the amendment. It is a further oversight and safeguarding strengthening amendment because we are asking that the Minister review how the law is operating and publish his or her findings within the first 3 years of operation. The second part of the law is something that our advisers raised with us, and they gave us options with this one. They felt that disabled Islanders needed to have a voice and to be listened to when any kind of review or anyone looking at how the processes of the assisted dying service was working. That it was really important that those disabled Islanders were listened to and actively reached out to in a way that was accessible

to them and across the diversity of people with disabilities in Jersey. They gave us 2 options, and they gave us some examples from different jurisdictions of how there are standing committees where representatives of people with disabilities could be part of a standing committee that would be consulted on an ongoing basis. The other option was to embed it in some way in the review process. We did consider this and discuss it. We decided on balance that it was better to have a requirement to consult with people with disabilities as a part of this review process. So it is a slightly lighter touch and we think a reasonable and balanced approach. We are grateful to the Minister for accepting this amendment also and hope that Members can support it.

The Deputy Bailiff:

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

1.12.2 Deputy R.J. Ward of St. Helier Central:

Obviously, I have got a pattern developing here. I have to say, it has been a really interesting debate. It has been an interesting thing too, such an important debate to look at. This is one of the amendments where I was … I will start with my conclusion, which is at the moment I am supportive but there are some points I would like to raise. So many times around this debate, this has been the situation I think for so many of us. I think there are clear potential advantages to the approach suggested by the panel. A time-bound review - and time bound is quite important - may help identify emerging risks, barriers or unintended consequences at the early stage, allowing systems to adapt, and that is before problems become entrenched in any system. So I think that is a very good thing to do. Consultation with disability groups may improve accessibility, strengthen safeguards and ensure that operational guidance reflects the real diversity of Islanders with physical, sensory or cognitive or mental health conditions. They support public confidence with the expression of openness and responsiveness. They are very good things for us to do. At the same time, I considered some practical questions that perhaps the chair can address in summing up in regards to the amendment. A 3-year review period may not provide sufficient data for meaningful conclusions. I hate to be all sciency here but you need a certain amount of data to come to meaningful conclusions. That depends on how quickly this service becomes established, particularly at the beginning, and numbers involved. Without the small sets of data you can extrapolate in the wrong way if you are not careful. There is a requirement to consult appropriate representatives, which is intentionally flexible. But it does raise questions to me on how those representatives are identified, how inclusive the process will be and whether smaller organisations - and this is the key - have the capacity to participate fully. This cannot be a token gesture towards … I am not suggesting it is and that is the wrong wording. I am being very careful with my wording. I have written down everything I was going to say on purpose. As soon as I go off of that, I say the wrong word, so let us stick to the speech. Stick to the speech, Ward. There may also be administrative and resource implications for the committee, even if the panel is described as modest. The amendment does not prescribe the scope or methodology of the review, nor does it require Government to actually act on the findings, I believe. Now, I may be wrong there. I am happy to be corrected because I would like to see that in this situation. If not, that is fine. I will just point that point out. Therefore, it must be considered how the review will be used and whether further mechanisms will be needed to ensure that any recommendations lead to improvement in practice. This is, if you like, the ultimate practice that has to be got right. We all know why. In summary, this amendment introduces structured review in disability inclusive consultation in the assisted dying framework. It is great. It offers potential benefits in terms of transparency and safeguarding. Excellent. While also raising questions about timing, implementation and the practicalities of engagement. Those are the issues I think we really need to think about carefully. But as I say, at the moment I am supportive of this but I think the points I have raised need to be considered. I am pleased to have put them on the record just so that they are there perhaps for future reference, who knows.

1.12.3 Deputy S.Y. Mézec of St. Helier South:

I also completely support this amendment and thank the chair and the panel for bringing it. I wanted to highlight one potential outcome that could come as a result of this. That is why the amendment is important because if we agree to set it in stone that 3 years after the law comes into force that there will be a review on how it is operating, we are opening ourselves up to the possibility that there may well be a review of it that concludes we are not doing so well at it. That being a possibility has to be something that drives us forward to make sure that this law and the service that will arise as a result of it is a success and does everything that we want it to, while genuinely meeting all of those safeguards that we consider so important in all of this. The reason I thought it was worth standing up to make that point, is because we have from time to time seen the stories that get published about things that are happening in the Health Service. There is one today about people waiting very, very long times to get operations. Those are things that affect people's quality of life and can lead people to make decisions and evaluate how it is they want to live their lives from that point. It highlights how vital it is that everything outside of the assisted dying service must be delivered as well as possible for our population, and that there is still huge amount of work that has got to be done to make sure that our health service meets the needs of all islanders. If we are not able to improve it or things slip backwards, that can have unintended consequences. Setting this requirement that we will be reviewing this law after 3 years I think acts as one extra incentive to make sure that we are not just focusing on the assisted dying service and making that a success but it is our Health Service as a whole that has to be a big part of that. How embarrassing it would be for us if we were to be one of those jurisdictions that takes the brave step in introducing an assisted dying service and, in that moment, feeling really proud of ourselves for being so progressive, if a few years down the line we end up being the first to be told actually you have not done it so well. That is always a risk if we do not keep our eye on the ball and make sure that we do make it a success. That is why I wanted to speak, to say I think this amendment is particularly important. I hope the Assembly accepts it.

1.12.4 Deputy T.J.A. Binet of St. Saviour:

I fully support this amendment. In doing so, I would like to assure members of the public that if the Assisted Dying Review Panel or Committee were to identify any issues before the end of the 3-year period, the matter would be brought before this Assembly immediately. We certainly would not wait if further action was required. I would also like to endorse the requirement for the committee to consult people with disabilities as part of the 3-year review process. I urge Members to support this.

The Deputy Bailiff:

Does any other Member wish to speak on the eighth amendment? No other Member wishes to speak, then I call upon Deputy Doublet to reply.

1.12.5 Deputy L.M.C. Doublet:

I wholeheartedly agree with Deputy Mézec's assertion that this is one of the more important amendments. I feel that as well. We did consult with many organisations, and I am really grateful for the range of charities, first of all, that we have in Jersey that advocate for people with disabilities: Enable Jersey, Autism Jersey, A.D.H.D. Jersey, Liberate Jersey, EYECAN, All Matters. There are more, but we are very lucky that we have many very effective charities. Several of these organisations submitted evidence to the review panel, so our review overall has very much been informed by views of Islanders with disabilities. We actively sought to do that by requesting those submissions. The question was raised about is 3 years long enough. I mean, how long is a piece of string? We initially were proposing one year and then we had that thought about that is not long enough. I think it was the Minister's officers that raised that with us. We did consider that and we extended it to 3 years, but it should not stop there. There can be a further review beyond that, and there probably should be perhaps every 2 or 3 years, and I am that future Assemblies will consider that. In terms of making sure that this consultation and the interaction with Islanders with disabilities

is meaningful, again, I wholeheartedly agree. This is one of the reasons why throughout the review ... so it is not just this amendment, although this amendment might be one of the only places where you might see the word "disabilities", on reflection, when I looked back through the review, it is something that is embedded throughout our entire review - awareness of Islanders with disabilities. It is embedded in our request for data collection on personal characteristics for training on coercion and vulnerabilities there, and other areas of training in the public awareness recommendations. So I feel that the panel's recommendations and amendments are very thorough and meaningful in regards to Islanders with disabilities. Essentially when it comes to that review being published and the findings of those conversations with Islanders with disabilities, it lies with the Assembly to provide that political accountability, so that is all of us. It is down to all of us to ask those questions that Deputy Ward has raised about was this consultation meaningful, and to keep a watchful eye on that. We should be doing that a lot more and advocating a lot better for Islanders with disabilities and trying to ask those questions in more contexts. So I agree with those questions. I think we need to keep asking them, and I think that this amendment will go some way towards making sure the views of disabled Islanders are listened to and prioritised. I maintain the amendments and ask for the appel.

The Deputy Bailiff:

The appel has been called for so I ask Members to return to their seats. If all Members have had the opportunity of returning to their seats then I ask the Greffier to open the voting. If all Members have had the opportunity of casting their votes on the eighth amendment I ask the Greffier to close the voting. I can report that the eighth amendment has been adopted:

POUR: 47		**CONTRE: 1**		**ABSTAINED: 0**
Connétable of St. Helier		Connétable of St. Lawrence		
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy G.P. Southern				
Deputy C.F. Labey				
Deputy M. Tadier				
Deputy S.G. Luce				
Deputy L.M.C. Doublet				
Deputy K.F. Morel				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				

Deputy C.S. Alves				
Deputy I. Gardiner				
Deputy I.J. Gorst				
Deputy L.J. Farnham				
Deputy K.L. Moore				
Deputy S.Y. Mézec				
Deputy Sir P.M. Bailhache				
Deputy T.A. Coles				
Deputy B.B. de S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy M.R. Scott				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy A. Howell				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				
Deputy K.M. Wilson				
Deputy L.K.F. Stephenson				
Deputy M.B. Andrews				

[16:45]

1.13 Draft Assisted Dying (Jersey) Law (P.65/2025): second amendment (P.65/2025 Amd.(2)) - Section H

The Deputy Bailiff:

We move on to section H of the second amendment that was lodged by the Minister for Health and Social Services, and I ask the Greffier to read section H of the second amendment.

The Greffier of the States:

Article 85 – In Article 85(1)(a), after "if they are suspended" insert "(even if on an interim basis)".

1.13.1 Deputy T.J.A Binet of St. Saviour (The Minister for Health and Social Services):

The General Medical Council has queried whether the reference to a professional being suspended in Article 85 of the draft law includes interim suspensions in addition to substantive suspensions. An interim suspension may be required where, for example, an investigation is required following a complaint. This part of my amendment clarifies that when a professional is suspended by a professional registration body, whether on an interim or substantive basis, they will be suspended from the Assisted Dying Register accordingly, either on an interim or substantive basis. I think this is reasonably clear and I hope Members see fit to support it.

The Deputy Bailiff:

Is section H of the second amendment seconded? **[Seconded]** Does any Member wish to speak on section H of the second amendment? If no Member wishes to speak on section H then those Members in favour of ... the appel has been called for. I invite all Members to return to their seats. If all Members have had the opportunity of returning to their seats I ask the Greffier to open the voting. If all Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. Section H of the second amendment has been adopted:

POUR: 46		**CONTRE: 1**		**ABSTAINED: 0**
Connétable of St. Helier		Connétable of St. Lawrence		
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy G.P. Southern				
Deputy C.F. Labey				
Deputy S.G. Luce				
Deputy L.M.C. Doublet				
Deputy K.F. Morel				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I. Gardiner				
Deputy I.J. Gorst				
Deputy L.J. Farnham				
Deputy K.L. Moore				

Deputy S.Y. Mézec				
Deputy Sir P.M. Bailhache				
Deputy T.A. Coles				
Deputy B.B. de S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy M.R. Scott				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy A. Howell				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				
Deputy K.M. Wilson				
Deputy L.K.F. Stephenson				
Deputy M.B. Andrews				

1.14 Draft Assisted Dying (Jersey) Law (P.65/2025): second amendment (P.65/2025 Amd.(2)) - Section I

The Deputy Bailiff:

Then we move to section I of the second amendment and I ask the Greffier to read section I of the second amendment.

The Greffier of the States:

Schedule 3 – (1) In Schedule 3, before paragraph 1 insert - 1 Capacity and Self-Determination (Jersey) Law 2016 amended. (1) This paragraph amends the Capacity and Self-Determination (Jersey) Law 2016. (2) After Article 11(4) there is inserted - (4A) An LPA cannot confer authority for any decision or matter that affects an individual's assisted dying process under the Assisted Dying (Jersey) Law 202-. (3) After Article 24(9) there is inserted – (10) The Court cannot exercise a power under this Article to affect an individual's assisted dying process under the Assisted Dying (Jersey) Law 202-.

The Deputy Bailiff:

I invite the Minister for Health and Social Services to propose section I of the second amendment.

1.14.1 Deputy T.J.A. Binet of St. Saviour (The Minister for Health and Social Services) :

It has always been a clear point of principle that decisions made under the Assisted Dying Law can only be made by the individual. The draft law as lodged does not allow for best interest decisions to be made on behalf of an individual who does not have capacity. For example, and quite understandably, no person can decide that it is another person's best interest to have an assisted death. This part of my amendment further clarifies this position by amending the Capacity and Self-Determination Law to state that neither a person with lasting power of attorney, nor a court-appointed delegate, may make an assisted dying decision on behalf of an individual. This aligns with the principles of personal autonomy and choice agreed in P.18/2024. It is a very straightforward amendment and I hope Members see fit to support it.

The Deputy Bailiff:

Is section I seconded? **[Seconded]** Does any Member wish to speak on section I?

1.14.2 Deputy T.A. Coles of St. Helier South:

I just thought I should rise because I misread this to begin with as I was reading the amendment pack about what it did for the lasting power of attorney. As someone who holds a lasting power of attorney for someone, purely for financial matters thankfully, I can express for a lot of people the difficulty it is sometimes of getting elderly parents or relatives to agree that they need some help and support. If this was not included it would leave a very big gap because the principles of having a lasting power of attorney is always supposed to be in that person's best interest, and not the person who holds that power of attorney. This is a very sensible addition and I am glad it got caught before we approved this law.

The Deputy Bailiff:

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

Deputy T.J.A. Binet:

Nothing further to add.

The Deputy Bailiff:

Then I ask all Members in favour of ... the appel has been called for. I ask all Members to return to their seats. If all Members have had the opportunity of returning to their seats then I ask the Greffier to open the voting on section I of the second amendment. If all Members have had the opportunity of casting their votes then I ask the Greffier to close the voting. I can report that section I of the second amendment has been adopted:

POUR: 45		CONTRE: 1		ABSTAINED: 0
Connétable of St. Helier		Connétable of St. Lawrence		
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Mary				

Connétable of St. Saviour				
Deputy G.P. Southern				
Deputy C.F. Labey				
Deputy S.G. Luce				
Deputy L.M.C. Doublet				
Deputy K.F. Morel				
Deputy M.R. Le Hegarat				
Deputy S.M. Ahier				
Deputy R.J. Ward				
Deputy C.S. Alves				
Deputy I.J. Gorst				
Deputy L.J. Farnham				
Deputy K.L. Moore				
Deputy S.Y. Mézec				
Deputy Sir P.M. Bailhache				
Deputy T.A. Coles				
Deputy B.B. de S.V.M. Porée				
Deputy D.J. Warr				
Deputy H.M. Miles				
Deputy M.R. Scott				
Deputy J. Renouf				
Deputy C.D. Curtis				
Deputy L.V. Feltham				
Deputy R.E. Binet				
Deputy H.L. Jeune				
Deputy M.E. Millar				
Deputy A. Howell				
Deputy T.J.A. Binet				
Deputy M.R. Ferey				
Deputy R.S. Kovacs				
Deputy A.F. Curtis				
Deputy B. Ward				
Deputy K.M. Wilson				
Deputy L.K.F. Stephenson				
Deputy M.B. Andrews				

1.15 Draft Assisted Dying (Jersey) Law (P.65/2025) - as amended

The Deputy Bailiff:

That concludes the amendments to the Articles so we return to consider the Articles as amended by the 17 amendments. Does any Member wish to speak on the Articles as amended?

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

I am not going to speak for very long, I can see it is nearly the end of the day, and I have covered much of the content of the panel's report when we have been speaking about the amendments, and I have tried to refer to recommendations where I can. But I just wanted to draw out a couple of areas. One of the strong themes running throughout the panel's work has been the requirement that we feel for strong palliative and end-of-life care to be in place in Jersey, and I just wanted to raise that again at this moment as an enduring principle that should be continued in the implementation phase if this legislation is approved today. It is critically important. There should always, always be a real, actual, meaningful choice for Islanders, and no one should ever choose assisted dying because of a lack of appropriate care. I believe that the Minister agrees with me on that and with the panel on that. We have talked quite a lot about administration routes, the waiver, and coercion. I am not going to repeat any of that but what I did want to draw Members' attention to was some of the sections of our report that talk about the funding and the implementation. We did have just one submission on this, for which we were very grateful because it was a very well-informed and detailed submission. But we do have some small concerns about the fact that there is an indicative kind of envelope of funding for this but not really enough detail at this point. I do have some confidence in the Minister that this will be forthcoming in the implementation phase, and I think it is really important that clear costings, information about contingencies, and regular review of the finances associated with the assisted dying service and indeed the governance arrangements for those finances are deeply embedded in the service as it is stood up, if this is required today. Training and guidance - and this is understandable because you would not produce training and guidance in a huge amount of detail for a law that has not been approved yet - the panel does understand this but we were not able to see the detail of training and guidance at this time, which is why we made some amendments. But we would like to reiterate that as that content still needs to be built we want to see that the training is rigorous, multidisciplinary, and that it is ready well before the implementation of the service so that guidance can be read and understood and the training can be digested and put into practice immediately as the service is stood up. Again, I wanted to briefly touch on public awareness. We have many recommendations about that, and just to reiterate the fact that it must be accessible and inclusive, and there must be clarity about what is allowed and what is not allowed. I am sure that the Minister will put his mind to that as well in this next phase if the law is adopted. Taking my Scrutiny hat off, Members are very well aware at this point of my humanist beliefs, and aside from the work that I have done on Scrutiny, for which I took my humanist hat off to do the Scrutiny work, but I put it back on now to express my own personal views about this legislation, which I hope is approved today. I think it is one of the most meaningful and important things that we can do for our Island. Death is never an easy thing but it is something that everybody will face at one point. As I said in my previous speech on the principles, if we can approve this legislation today I believe has extremely rigorous and robust safeguards and principles underpinning it, for which I think that we can be really proud of as an Assembly. If we can approve that today after all of the work and the consideration and the speeches and the thought that has gone into this from across the Assembly I think we can be really proud of this, and I think that it is a gift that we are giving our population that will … it is a compassionate gift and, as a humanist, I am guided by principles of compassion and I feel it is really important that we can approve this assisted dying legislation as a gift to our population that will make some really difficult moments in people's lives a little bit less painful, and I hope that we have the courage and the confidence in our own work to do that today. I thank the Minister for the work that he has put into this and his officers. There is a huge level of expertise behind the scenes for which the panel have been really grateful to be able to interact with. Also, our own officers I think. I am not sure people realise the amount of work that goes in behind the scenes with Scrutiny Reports and

I was talking to one of the other panel chairs recently and we were reflecting upon the fact that the academic nature of this work is almost like writing a dissertation is it not, when you write the Scrutiny Report? I have seen over the years the standards of Scrutiny Reports just going up and up and up and up and I am just so grateful to the Greffe and the Scrutiny officers for that foundation that they can give us. It really enhances the work that we do in this Assembly and it helps us to create really excellent quality legislation like this, and the Scrutiny process continues to grow I think and to be evermore meaningful and constructive. My panel members, again, we have managed to be respectful and compassionate with each other because there are some really difficult conversations around the subject matter at times, and I am so grateful and feel quite honoured to have been part of such a panel with, again, the level of intelligence and thought that was given to this. I am very honoured to have led that panel. Also, our advisers; just to give one final thanks to the advisers and to everyone who submitted evidence to the review. I am proud of this review and I hope that Members feel it has been constructive and it has added to the considerations of this legislation. I will be supporting the legislation today and I feel proud if we can support this across the Assembly. **[Approbation]**

1.15.2 Deputy K.L. Moore of St. Mary, St. Ouen and St. Peter:

A clear message has been sent to Members of the Assembly who voted against the principles in 2024. That message was those principles have been adopted, time to get out of the way and let us just get on with this.

[17:00]

But in 2024 I spoke about my pragmatic rather than moral concern about this proposal. My concerns are greater today than they were in 2024. To put it very simply, we have had 2 Budget debates since that debate in 2024 and sadly the current Minister for Health and Social Services has demonstrated no ability whatsoever to get his finances under control and to assure us that the Health Service is being well run and the budget is well-managed. Yet, this proposal proposes a new service to be added to those that are already offered to the members of our community at a greater cost. That is a cost that we do not afford currently, and particularly as a small jurisdiction this is highly technical, new legislation. A new area for us to step into and I certainly do not think that we are well enough prepared to be at that forefront of such legislation. So, for those pragmatic reasons I will once again be voting contre today.

1.15.3 Deputy H.M. Miles of St. Brelade:

I chose not to speak during the debate on the principles although I did speak earlier and I indeed have not spoken on any of the amendments today. What I want to do at this point is to reflect at this final stage on the journey that we have taken to reach this point, and I think I am more tended to align my views with Deputy Doublet and her panel. For me the right to an assisted death has never been merely a legal construct or a clinical mechanism. It has always been a profoundly human question and one that reaches into the core of our values as a community our compassion, our understanding of autonomy and our respect for the dignity at the end of life, and this was always going to be a difficult debate. We have heard from every single Member of the Assembly about personal experiences, experiences of terminal illness, of sitting at bedsides, of watching gradual decline or witnessing what might be described as a peaceful death, or in other cases, a deeply distressing and prolonged one. Those experiences inevitably shape our responses and they shape our doubts and they shape our convictions, and it is for that reason that I really wanted to speak and put on record what my own views are about this area. In early 2020 the then Minister for Health and Social Services committed to commissioning a citizen's jury following sustained community interest in assisted dying at local level and I was privileged to serve on the independent advisory panel with the responsibility to advise, to check and to challenge throughout the process. Having overseen the design of the jury and observed the delivery of its sessions, I remain confident that it was appropriate, balanced and robust. For me, at the heart of my position, lies a single principle. That of autonomy.

We heard from both the Dean and Deputy Bailhache yesterday about autonomy. Autonomy is not an abstract philosophy. It is the recognition that competent adults have the capacity and the moral agency to make informed decisions about their own lives. In the context of terminal illness, autonomy includes decisions about the manner and the timing of that death. For me, respecting autonomy means acknowledging that an adult with capacity who is intolerably suffering from an incurable physical condition and who has a clear voluntary and settled wish to die should have the option, within a tightly-regulated framework, of an assisted death. The ability to die with dignity in a manner of one's own choosing is, in my view, a fundamental human right, and I take the view of Deputy Millar that the Human Rights Law was never intended to adjudicate upon assisted death. But that position has been reflected in European jurisprudence, including the case of Deborah Purdy which clarified the importance of legal certainty and personal autonomy in end-of-life decisions. Until this draft law, in Jersey that autonomy was never evenly distributed. Those with sufficient financial means could travel to Switzerland and they often did so alone, fearing potential criminal consequences for loved ones who accompanied them. Many felt compelled to travel earlier than they would have wished while still physically capable of making this journey and self-administering medication. For those unable to travel because of cost, health or circumstance, there was no equivalent lawful option in Jersey, and that was inequality based on wealth and physical capacity. I did not believe that to be just. Today this Assembly has addressed that disparity, or I hope will address that disparity, by adopting the draft law. The principles of justice demand that we treat individuals fairly and consistently and we have all long recognised that competent patience may refuse life-sustaining treatment. An issue that Deputy Luce mentioned yesterday. We accept that individuals may decline interventions that would prolong life, yet we have denied a small group of terminally-ill individuals the option of bringing unbearable suffering to a peaceful end under medical supervision. Palliative care in Jersey is compassionate and of a high quality, and I continue to support strengthening it further and embedding gold standard provision within our wider safeguarding framework. But we must acknowledge an uncomfortable truth. Palliative care has limits. While advances in medicine have alleviated much suffering they cannot alleviate all of it. Distress, whether physical, psychological or existential may become intolerable. Compassion is the cornerstone of medical ethics, and that is something that has been pointed out by the review panel. Compassion does not require us to prolong suffering at all costs. It requires us to respond to suffering with humanity and this draft law does not replace palliative care. It does not eliminate it. It does not diminish it. It operates alongside it as a final, safeguarded option for a very small and clearly defined group of people. Concerns about safeguarding have been central through the main debate and quite rightly so. The risk of coercion, of vulnerability, of incremental expansion. These are not trivial concerns. They have required rigorous examination. We have debated eligibility criteria in detail and we have considered residency requirements, waiting periods, mental capacity assessments, independent medical evaluations, documentation, reporting and oversight mechanisms. In jurisdictions where assisted dying is legal, strict procedures are in place. Evidence from those jurisdictions does not demonstrate the widespread abuse that some feared. In my assessment, the law we are likely to adopt reflects these lessons. It is thorough, it is measured and it is responsibly drafted. Importantly, it also preserves the freedom of conscience for healthcare professionals who choose not to participate. One of the most sincerely held objections to assisted dying rests on the sanctity of life. The belief that life is inherently valuable and must be preserved regardless of circumstance. And I agree. Life indeed is so very precious. But reverence for life must also include respect for lived experience. Forcing an individual to endure prolonged and intolerable suffering against their settled and competent wishes may itself undermine dignity. As Members know, I do not share the theological view that the timing and manner of death must be determined by divine authority. Others in this Assembly do hold that belief and I totally respect their sincerity and the integrity with which they have argued their case. But we legislate for a plural society. Within that plural society competent adults must be permitted to make deeply personal decisions about their own lives provided that robust safeguards protect others. I have been thinking today and yesterday of the Jerseyman,

Alain Du Chemin, who came and addressed the citizen's jury in April 2021. He was terminally ill and he asked: "What makes anybody think that they have the right to force me to die in a particular way that I don't want?" That question has echoed throughout this process, and today the Assembly is going to answer it. I, too, have personal stories about loved ones who have died in distressing circumstances. Sometimes it was a good death. Others it was not at all what the person would have wanted for themselves. I hold very clear views about how I would wish my own death to be managed, and those views are well-known to my family. Not all my family agree with them. That is precisely why autonomy matters. So this draft law does not compel anyone to choose assisted dying. It does not diminish the rights of those whose beliefs prohibit it. It creates an option, carefully regulated, clinically overseen and ethically scrutinised for those who meet the strictest criteria and who make a voluntary and settled decision. This debate has spanned years. It has involved public consultation, a citizen's jury, Ministerial working groups, detailed Scrutiny amendment and sustained ethical reflection. Above all, it has required courage from those who shared their stories publicly, from colleagues who spoke about deeply held beliefs and from this Assembly in grappling with complexity rather than simply avoiding it. The measure of today's decision will not lie in the vote count. It will lie in the implementation, in the rigour of training, in the vigilance of safeguarding, in the transparency of oversight and in the continued strengthening of palliative care. My support for this proposition has always rested on 3 foundations: compassion, respect for autonomy and recognition of the limits of medicine. I have said in the previous debates that I will only support this law if I am satisfied that robust safeguard is in place. I am satisfied. I am satisfied that freedom of conscience is protected and I believe this Assembly has acted thoughtfully and responsibly. Today we have the opportunity to enhance dignity at the end of life for the small number of people who will face the most difficult circumstances. That decision was not taken lightly but it is one that I am content to stand by and I shall be supporting the draft law as amended. **[Approbation]**

1.15.4 Deputy A. Howell of St. John, St. Lawrence and Trinity:

I thank the Minister for Health and Social Services and the officers, and the Scrutiny Panel and everyone who has worked incredibly hard and for the many, many hours debate we have had on this subject. But I would like to ask that before any implementation takes part that the Minister for Health and Social Services comes back and lets us all know how this will actually work in practice. I am not a supporter, for religious reasons, of assisted dying in this Island, and I just would like to have that on record. I respect that I am in the minority but I just would like to say that.

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

I have not spoken during this debate but I have spoken in a previous assisted dying debate and I just wanted to put on record to thank Deputy Doublet and the Assisted Dying Panel for their excellent scrutiny. **[Approbation]** Thank the Minister for Health and Social Services and his Assistant Ministers and all who have contributed to this draft law in any way, shape or form. I am extremely proud of our Assembly today. This has been an outstanding respectful and intelligent debate. I will be voting pour. I believe that this draft law has appropriate robust safeguarding and oversight and is respectful and compassionate.

1.15.6 Connétable K.C. Lewis of St. Saviour:

This draft law has troubled me immensely. I do not believe that we should sentence someone to death, and I also conversely do not believe we should sentence somebody to life if that is not their will. I was going to support this but I was very disappointed we did not get the first amendment through by Deputy B. Ward of St. Clement, which was the waiver. I would like that just to be completely reinforced, the ability to change one's mind. I would just like that reinforcement. Also, I did not want relatives and family members criminalised or penalised if they tried to persuade their loved one or offspring not to take the medicine. Which I understand is not pain free.

[17:15]

It burns and is not a pleasant end. But I stand to be corrected on that one. I regret that for those reasons I cannot support the assisted dying law.

1.15.7 Deputy K.F. Morel of St. John, St. Lawrence and Trinity:

I know this States Assembly is very aware of my lack of support for the law in front of us but I stand to, first of all, thank the Scrutiny Panel for their work. Not just this Scrutiny Panel but previous Scrutiny Panel's as well and the citizen's jury, and all those who have taken part in this. My initial reaction when this came up in 2018 as an election issue - so this issue of assisted dying has been running in the entire time that I have been a States Member - was the importance of Scrutiny because, again, my rejection of the law stands upon the practical implementation, and the fact that I still just do not believe that Jersey should be leading the way in this in terms of the British Isles. But I also deeply respect the views of the States Assembly, and the States Assembly are wanting to take this forward. But my reaction back in 2018, and then that consolidated with an amendment in 2021 to ensure greater scrutiny of this than would ordinarily be the case for other legislation that passes through this Assembly, and I am very assured by this Scrutiny Panel and previous Scrutiny Panels, the work of the citizen's jury and others that that scrutiny has taken place. I am really pleased and I am grateful to them for doing that work on the Island's behalf and that is the principal reason why I stand. But similarly, I also want to stand to … is congratulate the right word - I think it may be - the Minister for Health and Social Services in the same way that I did with Deputy Mézec with his Rental Tenancy Law. I know that this particular legislation is one of the burning reasons that the Deputy stood for election in the first place. Even if I disagree with the law, when I see one of us working really hard to get something through the Assembly that they truly believe in, getting that support and doing the work to get that support, it is an impressive thing to see. I am really pleased on his behalf that, regardless of what happens in the election, he will have achieved one of the main reasons that he entered the Assembly. I take my hat off to him for that and I am pleased that other Members will be able to support this law because, as I said, I will not be able to. Finishing up, it would be wrong of me and remiss of me to not make a cheap political point somewhere, and that is on our behalf we are, as the States, often attacked for not changing things, and I know in all the work that we do that that is an unfair attack. But this law, more than any other that I have seen in my 8 years in the Assembly, really does prove to those naysayers that we do change things in this Assembly. I may not agree with this change but that is irrelevant. This Assembly does change things and it frustrates me time and time again to hear those people outside telling us that nothing ever changes, nothing ever changes. I have seen so much change in the 8 years that I have been in this Assembly, and this is probably the largest of all the changes, because this obviously goes down to the belief that life is sacred and that, as Deputy Miles said, only a divine being has the right to take our life. That has been the accepted view for millennia. We are very likely to change that very shortly. This is probably the biggest change I have seen in my 8 years but it is one of many, many, many changes that this Assembly has done during those 8 years. On all our behalf, I would just like to point that out to those people out there who say nothing changes. So I will not be supporting this in the final 2 readings but I do understanding why it is very likely to go through.

Deputy J. Renouf of St. Brelade:

Are we in Third Reading now?

The Deputy Bailiff:

No, second.

Deputy J. Renouf:

In that case I will sit down

1.15.8 Deputy M.R. Scott of St. Brelade:

I was not going to speak but I have witnessed an assisted death and maybe others too. Maybe some people saw the death that was broadcast in a documentary, a couple shared a very private moment where an individual with motor neurone disease chose to go to Dignitas to take his life and his wife was present. I have heard - and I believe - that this States Assembly has had a very involved discussion, and much of the outcomes during the course of debate have confirmed what has been some incredible considered work on the part of policy officers and the Scrutiny Panel. The reason why I mention this death at Dignitas was that the individual who died was a very … he actually seemed quite a robust man. A character of a man, his wife was there, he was talking but he had to choose that moment to die because the actual rules in that jurisdiction was that he had to have capacity at that time and his fear was that he would deteriorate to a point where he could not do this, make that decision anymore. So in front of his wife and in front of the viewers this man who looked relatively able to talk, converse, all these things, took a substance and died in front of us, the viewer, his wife. She was there … I suppose in a sense it was assurance, a safeguard that nothing was untoward; this was indeed his choice. I believe that what we have resulted in is something a little bit more humane. Deputy Bailhache said that we needed a law that was appropriate for Jersey, and there has been reference to public consultations where people have expressed views on what they thought was right. I believe that what I saw on that documentary actually was assisted suicide, whereas by virtue of having the waiver, of actually enabling people to say: "Right, I really am getting so close to this point of no return, so I am deciding this date and that is it, I will go then." Actually we have got towards the step where perhaps it can be better for the family where people can go closer to that point of no return anyway. I very much appreciate the views of some people who, for religious reason, feel that life is a gift and why interfere with what God intended you to be. But then you might well say, I suppose, we have interfered with that with the development of drugs and all these things. That has been given to us too. Finally, I was happy that that final safeguard, the one that apparently no other jurisdiction has adopted, this one where there is that right of appeal if there is some concern that a legal procedure has not been followed or it has been irrational has been put in there. We actually have a law with more safeguards than many and I therefore will be supporting this law with that confidence.

1.15.9 Deputy H.L. Jeune of St. John, St. Lawrence and Trinity:

I would like to first thank the Minister and his officers, and of course the Scrutiny Panel, for guiding us through this draft law, its contents, the Articles and what they mean, and the amendments that were put forward today, whether they were passed or not, so that we could have a very good debate over the last few days and have come to where we are now in looking at this law as a whole. I have supported the move to see assisted dying be introduced in Jersey since I first entered this Assembly. Not as long as Deputy Morel but still it has dominated, even when we were doing our hustings in 2022. I have always supported it because I believe in self-determination and we should have autonomy over our bodies, our own lives and ultimately the manner of our death. We already recognise this principle in other laws. The central question always for me has been whether we trust competent adults to make the family personal decisions, and I think consistency matters here. Autonomy cannot be something you defend only when it is politically comfortable but autonomy must sit alongside safeguarding, that balance to shape this legislation from the beginning. That is something that I have constantly also been asking for in the different discussions that we had on this law. But I think the passing of this Assisted Dying Law - and I believe it will - will show that Jersey is capable of dealing with complex ethical issues in a measured and mature way. I think it is important that we have taken time to consult, to scrutinise, to amend and debate properly. This has not been rushed, it follows years of public engagement, citizen panels and detailed Scrutiny work and that matters. I think I want to echo what Deputy Morel says, that this is important that we have taken our time to listen, to understand, to really get to grips with the detail so that we all are confident when we go to the final vote having what we know in front of us. I think that is really important for the wider public to understand that sometimes we may be moving slowly but we are moving slowly

because it is really big, important issues, and ethical issues, that we are dealing with, and there is the need for this engagement, for the scrutiny, for there to be amendments of this detail that we have had in the last few days. Because at the heart of this is a law that is compassionate and having dignity at the end of life. It provides that choice under strict safeguards for mentally competent terminally-ill adults who are facing unbearable suffering to make a choice. For many people the reassurance is not that they will use but that they will not be forced to endure suffering against their wishes. However, passing the law is not the end of our responsibility and I want to highlight this - we had this point raised earlier around one of the amendments we had earlier - because I think it is really important that we raise this again in the final discussions that implementation will require vigilance and, as legislators, we must continue to monitor how this law operates in practice. We must scrutinise the data, to ask the difficult questions and to have those difficult questions accepted that they are difficult questions on purpose to be asked, not for any political gain but also to understand about what the implementation really means and have that open dialogue with clinicians, families, advocacy groups and those directly involved in the delivery. We must listen, especially if concerns arise. I think that is our ongoing duty and the duty of the next States Assemblies to come, that we listen. Safeguarding is absolutely critical. The eligibility criteria, independent medical assessments, waiting periods, review mechanics are there for a reason and it is not unrestricted measure, it is carefully constructed and designed to minimise risk while respecting autonomy. But safeguarding also means ensuring that assisted dying is never a substitute for proper care, and a genuine choice only exists if high quality palliative care is available to all who need it. That is why placing a statutory duty on the Minister for Health and Social Services to provide palliative care was so important and something that I thought was very important to have in parallel, when we brought forward this law, to have that statutory duty. Because it requires funding, workforce planning and long-term commitment to provide important palliative care. This has not been an easy set of debates and nor should it have been. The seriousness of the subject demands seriousness from all of us. Members have spoken from personal experience, from faith, from professional expertise and from deeply-held values, but today's decision reflects something important, that this Assembly can approach difficult issues with care, evidence and courage. For me, supporting this law has always been about trust. Trust in individuals, trust in safeguards and trust in this Assembly to legislate responsibly and now we need to implement this with the same seriousness and humanity that brought us here. So I will be supporting this law and, again, I would like to thank the Minister, his officers and Scrutiny and their officers for all the work they have done to help us get to his point with such an important matter. Thank you.

[17:30]

The Deputy Bailiff:

We have reached the point in Standing Orders where I am required to remind Members of the possibility of adjourning for the evening adjournment.

Deputy L.J. Farnham of St. Mary, St. Ouen and St. Peter:

May I ask if there are any Members waiting to speak?

The Deputy Bailiff:

No other Members have indicated that they wish to speak. Obviously there is the Minister's reply. Deputy Gorst has indicated he wishes to speak. Perhaps it would be helpful if any other … we will have the adjournment, very well. We will adjourn. The States stand adjourned until 9:30 tomorrow morning.

ADJOURNMENT

[17:31]