



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Royal Court House, Guernsey, Wednesday, 21st September 2016

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M. P. Leadbeater, J. I. Mooney

St Sampson

Deputies L. S. Trott, P. R. Le Pelley, J. S. Merrett, G. A. St Pier,
T. J. Stephens, C. P. Meerveld

The Vale

Deputies M. J. Fallaize, M. M. Lowe, L. B. Queripel,
S. T. Hansmann Rouxel

The Castel

Deputies R. H. Graham, L.V.O, M. B. E, C. J. Green, B. J. E. Paint,
M. H. Dorey, J. P. Le Tocq

The West

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D. de G. De Lisle, S. L. Langlois

The South-East

Deputies H. J. R. Soulsby, H. L. de Sausmarez, P. J. Roffey,
R. G. Prow, V. S. Oliver

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Alderney Representatives L. E. Jean and S. D. G. McKinley, O. B. E.

The Clerk to the States of Deliberation

A. J. Nicolle, Esq. (H.M. Deputy Greffier)

Absent at the Evocation

Miss M. M. E. Pullum, Q.C. (H.M. Comptroller)
Deputy J. C. S. F. Smithies (*absent de l'île*)

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States of Deliberation

*The States met at 9.30 a.m. in the presence of
His Excellency Vice-Admiral Sir Ian Corder, K.B.E., C.B.
Lieutenant-Governor and Commander-in-Chief of the Bailiwick of Guernsey*

[THE DEPUTY BAILIFF *in the Chair*]

PRAYERS

The Deputy Greffier

EVOCATION

The Deputy Greffier: To the Members of the States of the Island of Guernsey, I hereby give notice that a meeting of the States of Deliberation will be held at the Royal Court House on
5 Wednesday 21st September, 2016 at 9.30 a.m. to consider the items listed in this Billet d'État, which have been submitted for debate.

STATEMENT

Pre-school entitlement and the future structure of secondary and post-16 education – Statement by the President of the Committee for Education, Sport & Culture

The Deputy Bailiff: Well, Members of the States, the first matter this morning is a Statement from the President of the Committee for Education, Sport & Culture about the introduction of a
10 pre-school entitlement and proposals for the future structure of secondary and post-16 education.

Deputy Le Pelley.

Deputy Le Pelley: Thank you, sir.

15 Mr Deputy Bailiff, Members, I welcome the opportunity to update you and the wider community on progress made by the Committee for Education, Sport & Culture on two key policy developments – the introduction of a pre-school entitlement and proposals for the future structure of secondary and post-16 education.

As you will see from our quarterly update, which we will be publishing later today, our first four months in office have been incredibly busy ones.

20 It has been a steep learning curve; it must be remembered that the mandate of the Committee for Education, Sport & Culture has been significantly increased to take on many of the functions of the former Departments of Culture and Leisure and Education.

Today I am going to restrict this Statement to matters about education, as Members of the States and the public have been requesting a situation report.

25 The Committee has taken the opportunity to review the previous States' Resolution with regard to the introduction of an entitlement to 15 hours of pre-school education for children in

the year before they start school. This review has involved various discussions with representatives from the Guernsey Pre-School Learning Association representing the private pre-school providers.

30 Under the scheme, private providers will receive £5.90 per hour for each child, placed at their day nursery or pre-school for 15 hours a week term-time only in the year before they start school. This will operate for a two-term trial period from January 2017. Parents earning a joint income of more than £150,000 per annum will not be eligible to receive this entitlement. All private providers may choose to offer places as part of this scheme or not – it is entirely optional.

35 A new Quality Standards Framework will be introduced from January 2017 which has been developed jointly with colleagues at Health & Social Care and replaces the previous regulatory minimum standards for day nurseries and pre-schools. All providers will be supported to work towards producing a self-evaluation report against these new standards from September 2017.

40 Following ongoing discussions with representatives from private providers, the Committee has agreed that any continuation of this scheme for the school year beginning in September 2017 will be funded at a flat hourly rate of £5 per hour for the 15 hours but providers may, at their discretion, charge parents a top-up fee. We have been advised that because this is at variance with the extant States' Resolutions, the Committee for Education, Sport & Culture will need to bring amended proposals back to this Assembly for approval. This revised scheme may also involve reducing the threshold to qualify to a joint income in line with other benefits.

45 Sir, Members, we will aim to bring this revised scheme back before you as soon as we are able to and will also use our best endeavours to work in partnership with the providers over the implementation of the new Quality Standards Framework and self-evaluation report process.

50 Now, with regard to the future structure of secondary and post-16 education, the Committee is aware that Members are keen to understand what progress we have made towards implementing the States' Resolutions from March 2016, or how far we have got in seeking to overturn them – whichever side of the argument each Member happens to be on!

Members of the Committee for Education, Sport and Culture believe that they were elected into office on the clear understanding that they were looking to review the previous States' decisions of March 2016 relating to Education and that is exactly what the Committee is doing.

55 It is no secret that the Committee has not been able to reach full agreement in all areas, although there are some where we do concur. We are working hard to bring these differing views together into a coherent policy letter to bring before the Assembly in the near future. Indeed, the Committee met with all head teachers only last week and continued its deliberations at a workshop yesterday. This engagement with the profession and others will continue.

60 I would ask that the Assembly affords us the time to continue speaking to key stakeholders and to research alternatives. We must follow due States' process in publishing our thoughts in the established way through a policy letter which Members will have the opportunity to debate at the appropriate time.

I ask Members to please be patient as this is too important a decision to be rushed.

65 Sir, Members, I am aware that this has been a fast moving situation and that I may not have addressed all Members' questions within this Statement, so therefore I am open to questions.

The Deputy Bailiff: Thank you, Deputy Le Pelley.

Questions in the context of that Statement.

70 Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

75 Does the President of the Committee not understand that by ending universal access to pre-school education, and having a top up rather than a flat fee scheme, his Committee is going to create a two-tier system, (**A Member:** Hear, hear.) in which access will be limited, if it exists at all, for poorer parents, and that the sacrificial lambs of his Committee's decision to cave in to vested interest will be the very children who would stand to benefit most from the scheme agreed by the previous States? (**Several Members:** Hear, hear.)

80 **The Deputy Bailiff:** Deputy Le Pelley.

Deputy Le Pelley: Thank you, sir.

The Committee has actually met with quite a number of the independent providers. In fact, the representatives represent over 20 of the 28 or so that are actually in business. We have told you that we will be reviewing it and that, whatever we decide to come up with, we will be coming back to this Assembly for ratification. The decision will be yours.

85

The Deputy Bailiff: Deputy Lester Queripel.

Deputy Lester Queripel: Thank you, sir.

90 Sir, comments made by Deputy Meerveld on the *Sunday Phone-In* have caused concern out in our community, so in an attempt to allay those concerns, can the President tell me please who runs the show at Education regarding setting policy; is it the civil servants or the politicians?

95

The Deputy Bailiff: Deputy Le Pelley.

Deputy Le Pelley: Sir, I do not think that comes into what I said in my Statement.

The Deputy Bailiff: Deputy Brehaut.

100 **Deputy Brehaut:** Thank you, sir.

The present scheme has dropped the word 'universal' from the Statement he has given – Deputy Fallaize has already asked questions relating to that; but, to be clear, has the process to date been so far that the Committee was sent away with a clear direction from this Assembly and extant States' Resolutions? They have met with the providers, lobbyists, and decided, having met with those lobbyists, to remove the universal principle from pre-school.

105

The Deputy Bailiff: Deputy Le Pelley.

110 **Deputy Le Pelley:** Sir, the word 'universal' is something of misnomer, because it actually had a cap, so the £150,000 joint income automatically meant that a universal system did not actually exist. It is something which happened in the drawing up of the amendment and has left two sort of statements which are actually in opposition to each other, but I am happy to take that back to the board.

115 **The Deputy Bailiff:** Deputy Roffey

Deputy Fallaize: Sir.

The Deputy Bailiff: No, I am calling Deputy Roffey now.

120

Deputy Fallaize: No, but Deputy Le Pelley is misleading the States, sir. May I point out that there is no cap; there is no cap in the States' Resolution that introduced the pre-school scheme. That is just a falsehood.

125 **The Deputy Bailiff:** Deputy Fallaize, that is not a question. This is question time where supplementary questions can be asked.

Deputy Roffey.

Deputy Roffey: Thank you, sir.

130 In outlining the absolutely glacial progress that his Committee is making in relation to secondary education, the President said it would be improper somehow to reveal any of their thinking before issuing a billet, and yet in his selection address he was very happy to set out that his *raison d'être* for standing was to move to a system of continual assessment for selection at 11.

135 Can he confirm that the basis on which we elected him has now been ruled out by his Committee? Can he tell us whether he still intends to report back on secondary education by December, as has been stated a number of times by his Committee publicly, and can he give us any clue about how he now intends to do selection by 11, if at all?

The Deputy Bailiff: Deputy Le Pelley.

140

Deputy Le Pelley: Three or four questions, I think, sir.

145 First of all, things have moved on. I did actually intimate at the end of my Statement that things had moved on. The Committee has actually gone one little step further, if that may help you. The Committee for Education, Sport & Culture met yesterday, and proposed to evolve the education system under the extant Resolution of the March 8th 2016 Billet D'État to become non-selective. The timeframe will therefore be extended due to the delays rebuilding La Mare de Carteret Schools and a detailed proposal will be submitted by June 2017. That is the current position of the Committee for Education, Sport & Culture.

150 You asked my own personal position; my own personal position stays the time. I stood on an election platform and I have not changed my position.

The Deputy Bailiff: Deputy Gollop.

155 **Deputy Gollop:** Turning to the question of the pre-school education, I understood the President to be saying that the interim scheme would exist for two terms, and that the situation was that the various nurseries and facilities at the moment could opt in to the scheme or not.

160 Does the President consider there may be a significant number of nurseries who choose not to opt in, and pre-schools, and that in turn might lead to a shortage of places for precisely the catchment group we are particularly targeting?

The Deputy Bailiff: Deputy Le Pelley.

165 **Deputy Le Pelley:** Sir, the Education Sport & Culture Committee are quite of the opinion that should there be any providers not prepared to take up the agreement that we can actually provide for the needs of the children in the Island.

The Deputy Bailiff: Deputy Ferbrache.

170 **Deputy Ferbrache:** Sir, just a clarification by Deputy Le Pelley of a comment he made just before about a Committee meeting they had yesterday. Am I now understanding, and are the Assembly and members of the public to understand, that your Committee will not be coming back with a policy letter before June of next year, and it will be on the basis of non-selection? Just for clarification.

175 **The Deputy Bailiff:** Deputy Le Pelley.

180 **Deputy Le Pelley:** Yes, sir, that is the position of the Committee. However, I anticipate that there may be other moves afoot to actually bring the debate back to the Chamber, but the current position is as you stated it, sir, with regard to the current position.

The Deputy Bailiff: Deputy St Pier.

185 **Deputy St Pier:** Sir, again, just for the avoidance of doubt, to make sure that I and others have clearly understood, the President is expressing the Committee's current opinion to be that they are working with the extant Resolutions of adopting a non-selective system with a three-school model and a rebuild of La Mare, and they propose to bring those proposals to the States by June next year?

The Deputy Bailiff: Deputy Le Pelley.

190 **Deputy Le Pelley:** That, sir, is the current position. I made it very, very clear that the Committee is in favour of the rebuild of La Mare de Carteret High and Primary School.

The Deputy Bailiff: Deputy Trott.

195 **Deputy Trott:** Thank you, sir.

Sir, many in our community thought it odd that a family earning £500,000 per year, or above even, should receive free pre-school education, and I welcome the removal or the prospective removal of the universal element to it. However, at £150,000 joint income, that is still tanking on towards five times average earnings, and on reflection seems high.

200 Is the President able to give us any insight as to his Committee's thinking as to why the ceiling should be at that, as I say, high level?

The Deputy Bailiff: Deputy Le Pelley.

205 **Deputy Le Pelley:** Sir, that high level is something which came to the Committee at the beginning of its term in office – a figure which had come through from the previous Department for Education, and in fact – I cannot remember who it was that said it now, I think perhaps Deputy Fallaize – £150,000 cap was reported to us as being an extant Resolution, which in fact it was not.

210 So we have actually gone out with that figure, and because we actually published it we now are going to have to be held to it. But the Committee feel that figure is very high – *far* too high – and it needs to be brought down in line with other benefits. We will be proposing that in due course, sir.

The Deputy Bailiff: Deputy Tooley.

215 **Deputy Tooley:** Sir, may I ask in relation to pre-school education: I understand that your proposal is that nurseries be allowed to charge top ups over and above; can you guarantee that places will be held and made available for pupils whose parents cannot afford to add any top-up – the very children that this seeks to help? Can you guarantee that there will be places in pre-schools for those children?

The Deputy Bailiff: Deputy Le Pelley.

225 **Deputy Le Pelley:** Sir, if the top-ups are going to be added they have to be fair and reasonable, and we will be putting in place rules that will actually prevent any abuse of that. Should that not be the case then we will actually come out and do our own provision.

The Deputy Bailiff: Deputy Roffey.

230 **Deputy Roffey:** Again for clarification, sir, did I understand the President correctly in saying that his own personal position was still to have selection at 11 by continuous assessment, but his Committee's position is now to go for non-selection; and if that is the case and, given that

selection at 11 was so central to his election address in this Assembly, does that make him feel at all uncomfortable in his position?

235

The Deputy Bailiff: Deputy Le Pelley.

Deputy Le Pelley: Well, I was sitting very comfortably, sir.

240 My position is that I stand by my word. I made a commitment at the election that I would represent the view that there would need to be selection at 11. I did not say necessarily by continuous assessment, but by some less stressful method. I stand by that. I believe the Grammar School should be retained. (**A Member:** Hear, hear.) I stand by that. My board, or my Committee, have, as of yesterday, a slightly different view. I can live with that. I will argue my case and no doubt it may very well be debated yet again in this Chamber, and I will argue my case again.

245

The Deputy Bailiff: Deputy Gollop.

250 **Deputy Gollop:** Sir, I am aware that there are many different ways of selecting candidates for schools in many different ways and maybe the Assembly would benefit from that knowledge. But does the President consider that at this stage, given the delay before the June report that you should go back out to the community to consult again with some of your Committee's ideas and your personal ideas as to how we can move forward?

255 **The Deputy Bailiff:** Deputy Le Pelley.

260 **Deputy Le Pelley:** That view, I will take back to my Committee; it will be obviously considered in some considerable detail in due course. This situation has only arisen in the last 24 hours and I am not in a position to give any promises about exactly what kind of consultation will or will not take place. What I can say is that we have been meeting with all sorts of interested parties – head teachers, teachers, parents as well – but we are wanting to move this on as quickly as we can, but it is a very busy Committee. We have only been in post since the end of May; our elections took place allowing us to really get down to business at the beginning of June. Most of either our Members or our staff members have not been in the Island in August. So we are only talking about three months. We will get there and we will do it as carefully as we can. This is something that is far too important to be rushed, and at the heart of all this is the wellbeing of our children. We need to bear that in mind: it is the wellbeing of our children.

270 **The Deputy Bailiff:** Deputy Parkinson.

275 **Deputy Parkinson:** Sir, does the President anticipate that his Committee's report in June next year will contain recommendations on which of the four secondary schools the Committee proposes to close, or does he think that will follow in a subsequent report with the June report simply confined to the general principle that one will close?

The Deputy Bailiff: Deputy Le Pelley.

Deputy Le Pelley: I anticipate, sir, that the school that will no longer be offering comprehensive education will be identified.

280 **The Deputy Bailiff:** Deputy Brehaut.

Deputy Brehaut: Thank you, sir.

285 With regard to the delay, the President explained the delay down to the fact that they were a busy Committee, but isn't the reality that they have been all consumed in operational matters to the expense of policy?

The Deputy Bailiff: Deputy Le Pelley.

290 **Deputy Le Pelley:** No.

The Deputy Bailiff: Deputy Dorey.

Deputy Dorey: Thank you, sir.

295 About pre-school education: one of the objectives of the scheme in May 2014 was to maximise the number of children attending pre-school education, and we were told only 500 of the 600 children were attending for 15 hours. Will he assure us that his proposed scheme will achieve that objective of maximising, and has that been something that you have considered in reaching your conclusions on the proposed scheme?

300 **The Deputy Bailiff:** Deputy Le Pelley.

Deputy Le Pelley: Sir, we have been engaging with the industry to make sure that we have something which works for everybody. If we find that there are people that are going to be missing out, then the Education board itself will make arrangements for pre-schools to be run where they can be educated or looked after in the way that is appropriate, and the way that we said we would have them being done.

The Deputy Bailiff: Deputy Fallaize.

310 **Deputy Fallaize:** Thank you, sir.

Is the President of the Committee still confident that a non-selective system can be introduced with effect from September 2019, as per the States' Resolution; and, on pre-school, is he not aware that the greater part of the funding –?

315 **The Deputy Bailiff:** Deputy Fallaize, can we just have the two topics separately, please.

Deputy Fallaize: Oh, certainly.

320 **The Deputy Bailiff:** One at a time. The question was about selection at September 2019.
Deputy Le Pelley.

Deputy Le Pelley: Thank you, sir,

325 We are, in fact, asked to report back to the States by December 2017, so we have a reasonable amount of time to actually get everything sorted. However, from my earlier Statement, it is going to be obvious that if we go to the rebuild of La Mare de Carteret Schools we are probably going to be talking about 2020 or 2021. I cannot guarantee that 2019 will actually be a date we can hit.

The Deputy Bailiff: Deputy Fallaize.

330 **Deputy Fallaize:** Thank you, sir.

On pre-school, the President of the Committee will be aware that the greater part of the funding is being provided by reducing Family Allowance across the board. Now, that decision was made essentially that there was a compact with the community that family allowance would be reduced, and in return a universal pre-school system would be introduced, where there was

335 universal access. If his Committee ceases the principle of universal access, does he not think that
the States would also have to re-examine whether it can be funded by reduction in a universal
benefit of Family Allowance?

The Deputy Bailiff: Deputy Le Pelley.

340

Deputy Le Pelley: Sir, Deputy Fallaize is identifying that the money that is going to pay for this
particular scheme has come from the Family Allowance. That is not quite true. The money is
coming from central funds, it just happens to be there is something similar in those funds which
actually has come from the reduction of Family Allowance. That is the first point.

345

The second point is that we need to make sure that in going forward everything works
properly, so we will be coming back to the States to discuss, or to ask for your ratification, our
further movements forward. The decision will be the States'. I cannot give any better, clear
message than that.

350

The Deputy Bailiff: Deputy Le Clerc.

355

Deputy Le Clerc: Sir, it was my understanding that the reduction in Family Allowance was
specifically for the universal entitlement of the pre-school. My understanding would be that if you
wanted to offer a different scheme that you would have to come back to the Assembly with full
details of how that scheme would work, and I would hope that the President and his Committee
would also liaise with myself and my Committee, Employment & Social Security.

I was concerned also, sir, about the reduction in the £5.90 to £5, because again I think this
would be significant on the impact on our grant that we are giving up on Family Allowance.

360

The Deputy Bailiff: And the question? (*Laughter*)

365

Deputy Le Clerc: Just, sir, that the President will come back to the Committee for Employment
& Social Security to discuss his plans for the Family Allowance, and also that he does come back
to this Assembly with confirmation of the plans and how those funds will be used.

370

The Deputy Bailiff: Deputy Le Pelley.

Deputy Le Pelley: Still not sure that was a question either, sir. But anyway, yes, I will – we will
come back to the States.

375

The Deputy Bailiff: Deputy St Pier.

380

Deputy St Pier: Sir, again, just to seek clarification on something that the President has said,
which was in relation to suggesting that perhaps the Committee would not be able to deliver the
extant Resolution of a non-selective system by September 2019 if La Mare has not been rebuilt. Is
that indeed what he is saying, because, sir, I for one am very confused by what I have heard in the
Assembly today?

Several Members: Hear, hear.

385

The Deputy Bailiff: Deputy Le Pelley.

Deputy Le Pelley: I will try to ease your confusion.

The Committee for Education, Sport & Culture favours – is unanimous in its support – a
rebuilding of La Mare de Carteret Schools. We believe that that is an area which has special needs
for a school in that area. We will do everything we can to actually have that school rebuilt. We

would also hope that the model going forward – we have said in the earlier Statement – will be a three-school model, but that will need to have one of the current schools being used for something else, and that has not been decided yet.

390

The Deputy Bailiff: Members should perhaps be aware that I am exercising the discretion available to me in Rule 10.3 to extend this period of questioning beyond the 15 minutes prescribed.

Deputy De Lisle.

395

Deputy De Lisle: Sir, would the President agree with me that the current school system, envied by many in England, works extremely well and strives to give every child the opportunity to succeed?

400

The Deputy Bailiff: Deputy Le Pelley.

Deputy Le Pelley: Personally, sir, I would.

The Deputy Bailiff: Deputy Gollop.

405

Deputy Gollop: I know, sir, that this might have gone slightly beyond both the Resolutions and the Statement that the Education President has made, but will the review take on board issues pertaining to sixth forms and colleges of further education/tertiary colleges as part of the way forward for the future of secondary education?

410

The Deputy Bailiff: Deputy Le Pelley.

Deputy Le Pelley: Yes.

415

The Deputy Bailiff: Deputy Oliver.

Deputy Oliver: Regarding the pre-school, have you gone out to the parents and asked whether they prefer one year of nursery or actually the Family Allowance? Because I think most people would probably prefer the Family Allowance.

420

The Deputy Bailiff: Deputy Le Pelley.

Deputy Le Pelley: I do not know, sir, that offer was ever made to anybody by anybody, so I cannot say what parents would or would not prefer, and we have not actually asked parents that question.

425

The Deputy Bailiff: Deputy Yerby.

Deputy Yerby: Sir, this Assembly will know from the development of the Children & Young People's Plan that the early years of a child's life are where the most profound difference can be made in terms of their life chances. It appears that a scheme as designed by this Assembly is now being challenged by an industry that stands to be enriched by it. Is the President confident that industry is fit to deliver this most important service?

430

The Deputy Bailiff: Deputy Le Pelley.

Deputy Le Pelley: We intend to ensure that they provide the levels of provision that they have signed up to. There are regulations that they have to conform to, and the team with me at the

440 Education Offices will be inspecting on a regular basis and making sure that what is being delivered is in accordance with what has been agreed.

The Deputy Bailiff: Deputy De Sausmarez.

445 **Deputy De Sausmarez:** Thank you, sir.

Can the President please clarify a couple of things? I welcome the news that you have been in discussion with the private providers on pre-school education, but I am concerned that the equivalent consultation has not taken place with who can be considered the key stake holders – in other words the parents who currently do not send their children to pre-school for economic reasons.

450 So can the President please assure the Assembly and the public that this consultation will take place and measures will be taken to understand the impacts upon them, and if I can ask for a further clarification please on the Committee's intention for the State provision of pre-school education in the event that it cannot be provided by private providers?

455 **The Deputy Bailiff:** Deputy Le Pelley.

Deputy Le Pelley: The second part first, we are absolutely certain that there will be a good system in place. If that system cannot take all of the children, for whatever reason, then we will do the provision ourselves. And for the first part, would you mind repeating it?

460

Deputy De Sausmarez: I was asking for ... well, actually in respect of the answer you have just given me, I was hoping for clarification on that provision.

The first part of the question was an assurance that adequate consultation and consideration of the impacts for the key stakeholders, the parents who do not, or would not, currently send their children to pre-school education on economic grounds, will be considered by the Committee.

465

The Deputy Bailiff: Deputy Le Pelley.

470 **Deputy Le Pelley:** That will certainly be considered by the Committee. I would not want to tell you what the outcome would be because I do not know how far reaching that might be. We will do our best endeavours to engage with everybody.

The Deputy Bailiff: Deputy Lester Queripel.

475 **Deputy Lester Queripel:** *[Inaudible]* ... Sorry, sir, my mic was off. I think I am right in saying that the President has said that the report will be presented to the States that contains detailed propositions relating to pre-school for our children. Can the President tell me who will be setting those propositions and who will be putting that detail in the report; will it be the civil servants or the politicians?

480

The Deputy Bailiff: Deputy Le Pelley.

Deputy Le Pelley: Sir, I hope that it will be a far reaching report, which actually will have the engagement of many, many people. As Deputy Queripel will surely know, the actual policy letter that comes before this Chamber will be supported and approved and presented by the politicians.

485

The Deputy Bailiff: Deputy Green.

Deputy Green: Sir, thank you.

490 Sir, I thank the President for the Statement he has given this morning. Can I ask him: I understand his point that he does not want to rush the policy letter on secondary education, and he is saying he is going to aim for June of 2017, but can I ask him that there is a perception amongst some that that is probably a bit too leisurely in terms of a timeframe if the Resolution for implementation of a non-selection system is actually going to be hit?

495 Can I ask him and can I encourage him to perhaps consider the matter afresh with his Committee, and come to a view as to whether it is possible or realistic to actually aim for an earlier date – not necessarily this year, but an earlier date than June 2017 – so that some of the uncertainty in our community can be alleviated?

500 **The Deputy Bailiff:** Deputy Le Pelley.

Deputy Le Pelley: Well, can we agree to 'by no later than', because we will do our very best endeavours to be as quick as we can but it is, as I said before, a very important issue, and we do not wish to be rushed into decisions that we may regret later. It has got to be right first time.

505

The Deputy Bailiff: As no-one else is rising, we will conclude the questions asked within the context of that Statement, and move on to Question Time proper.

**Procedural –
Order of business –
To take P. 2016/32 before P. 2016/33 and 34 – Approved**

The Deputy Bailiff: Deputy Laurie Queripel.

510 **Deputy Laurie Queripel:** Thank you, sir.

May I ask you a question, please? It is on a matter of – (*Laughter*) it is on a matter of procedure.

The Procureur: And you do not have to answer if you think you may be misleading.

515

The Deputy Bailiff: Yes, Deputy Queripel.

Deputy Queripel: Sir, I am struggling to understand why we are next going to the elections of the States' Trading Supervisory Board, but then considering the policy letter later on the constitution of the States' Trading Supervisory Board. It seems the wrong way round to me. I wonder if somebody could explain why that is the case – why we are having the elections first, because these people might be elected to these positions perhaps for an hour or so and then if we reject the constitution of the States Trading Supervisory Board they will be unelected, as it were? So I cannot understand why that is the way that the procedure is laid out.

525

The Deputy Bailiff: I will tell you what I think, and then the Procureur might tell you what he thinks as well. (*Laughter*) But the order of business is prescribed by the Rules of Procedure, so that is why it appears in the order that it is in Rule 9.

530 The constitution of the States' Trading Supervisory Board requires a minimum below which it cannot go, at the moment, and there is no Proposition to change that. Therefore by electing people to the offices that are the bare minimum, it is permissible to do that before the Policy & Resources Committee come with its Propositions to do that. But if somebody wants to move a motion to take them in a different order then that can be done, but nobody ever approached me in advance to suggest that that might be the case.

535 Mr Procureur.

The Procureur: Although it would feel right to do them in a different order, are we not going to deal with some Questions first?

540 **The Deputy Bailiff:** Well, I was just about moving in to Question Time but Deputy Queripel wanted to put me on the spot! *(Laughter)*

Deputy Laurie Queripel: I will be happy to lay an amendment to that end, sir, and Deputy Fallaize will be happy to second it ... or suggest that motion.

545 **The Deputy Bailiff:** Well, I am given an indication from the President of the Policy & Resources Committee that that is fine by him, as he put it. Therefore, before we go to Question Time, I was just about to go to ... Let's take a procedural motion, and that is that the Propositions numbered P. 2016/32 from the Policy & Resources Committee on the constitution and membership of the States' Trading Supervisory Board might be taken before the two elections, Propositions 2016/33 and 34. That is proposed by Deputy Laurie Queripel and seconded by Deputy Fallaize. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare that proposition duly carried, and we will take the business in that order.

555 Any other comments before we go to Question Time? *(Laughter)*

Questions for Oral Answer

COMMITTEE FOR EDUCATION SPORT & CULTURE

Introduction of all ability schools – Question withdrawn

The Deputy Bailiff: Deputy Fallaize, you have a question for the President of the Committee for Education, Sport & Culture. Do you wish to ask that question?

560 **Deputy Fallaize:** Well, sir, in his Statement, the President very clearly said that his Committee was now committed to the introduction of all ability schools, and would not be seeking to revoke that Resolution, and therefore there is no need for me to ask my question, and we can move on.

The Deputy Bailiff: In that case, I will give you permission to withdraw that question.

COMMITTEE FOR EDUCATION SPORT & CULTURE

**Education department staff –
Public attack by Members of the Education board**

565 **The Deputy Bailiff:** I have also had notice from Deputy Roffey of his wish to ask a Question pursuant to Rule 12. I have given permission. It is a Question to the President of the Committee for Education, Sport & Culture. Deputy Roffey.

570 **Deputy Roffey:** I apologise to Deputy Le Pelley that he is a bit in the spotlight this morning. The Question is as follows: would the Education President agree that the recent public attacks on his Department staff by Members of his own political board have been unedifying, unprofessional, fall short of the behaviour we should expect from States' Members, and that any such issues should be resolved through the proper disciplinary channels, where those being accused have the right of reply and of representation, and not in public where their contracts of employment specifically deny them any right of reply.

The Deputy Bailiff: Deputy Le Pelley to reply.

580 **Deputy Le Pelley:** Thank you, sir. That is not exactly the wording that I had in the Question given to me. However, I can confirm that I was unaware that one of my Members was going to be speaking to the media, nor was I aware of the content and tone of the comments. If any member of the public, the Civil Service or the States' Assembly feels that there has been a breach of the Code of Conduct, then the correct procedure would be to lodge a complaint with the Panel of Members. *(Interjection)* I believe making any comment now on whether this is or is not a breach of the Code would be, in my view, prejudice to any inquiry –

The Procureur: That Question has not been asked.

590 **Deputy Le Pelley:** Sir, can I have ...? Is this the new one? May I have time to read it please, sir?

The Deputy Bailiff: Do you want to revise anything you have said, Deputy Le Pelley?

595 **Deputy Le Pelley:** Well, I stand by what I said just now, sir. That is what I believe. But I need to read this Question again, because I was answering the Question that had been given to me in my hand this morning?

Deputy Gollop: But ...

600 **The Deputy Bailiff:** Deputy Gollop, just wait a moment please.

Deputy Gollop: Would the President –?

The Deputy Bailiff: Just wait a moment please, Deputy Gollop.

605

Deputy Gollop: Sorry.

The Deputy Bailiff: Yes, Deputy Le Pelley, do you wish to revise anything you have said on the ...?

610

Deputy Le Pelley: Yes, I think my reply covered it all. I think that saying anything at this particular point in time may actually prejudice something that may happen later.

The Deputy Bailiff: Deputy Roffey, supplementary question.

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Deputy Roffey: Just as a supplementary, will the President for Education, Sport & Culture confirm that if he personally has any issue, whatsoever, with his own officers and their behaviour that he would take it up through the official channels for agreed procedures where, as I said, they will have the opportunity of response and representation?

620

The Deputy Bailiff: Deputy Le Pelley, can you answer that question?

Deputy Le Pelley: Yes, sir, I can answer it and, yes, I would.

625

The Deputy Bailiff: Deputy Gollop.

Deputy Gollop: Would the President not agree that some of the issues that Deputy Roffey has raised may have been somewhat misreported in the media, as one could certainly say that the remarks that were made were not over secondary policy, for example.

630

The Deputy Bailiff: Deputy Gollop, I am going to rule that question out of order, because it does not arise out of the Answer that was given.
Deputy Brehaut.

635

Deputy Brehaut: Thank you, sir.

Rather than the Code of Conduct that has been referred to – and this did come up in response to the Question – is it not the broader issue of a duty of care that we have as politicians to civil servants?

640

The President at different times is on record as saying that he is at war with his staff. He has gone on to pose the question that there are 74 staff in Grange House and he is not entirely sure what they do; and we understand that the Vice-President of the Department has spoken to certain individuals raising issues regarding reductions in the number of staff within Grange House. That presumably is entirely inappropriate and not policy related at all.

645

The Deputy Bailiff: Deputy Le Pelley, are you able to answer that particular question?

Deputy le Pelley: I would need to have the examples that have just been quoted given to me so I can see exactly in which context they were made, sir.

650

The Deputy Bailiff: I suggest therefore, Deputy Brehaut, if that is something that you wish to progress, that you do it by way of a Written Question.

Deputy Brehaut: Thank you.

655

I have been present when those statements have been made, sir, so it was up to Deputy Le Pelley to give an answer he considered appropriate under the circumstances.

The Deputy Bailiff: Deputy Lester Queripel.

660

Deputy Lester Queripel: Thank you, sir.

Sir, in the interests of openness, honesty and transparency, that the majority of us seem to advocate, does the President not agree that the public have a right to know what goes on behind the scenes?

The Deputy Bailiff: Deputy Le Pelley, again I am not entirely sure that that arises out of the Answer that was given, but if you wish to answer it, do.

665

Deputy Le Pelley: I would rather not, thank you, sir.

The Deputy Bailiff: Deputy Fallaize.

670

Deputy Fallaize: Thank you, sir.

In his initial reply, Deputy Le Pelley referred to comments which his Vice-President had recently made, in which he said that there had been an arbitration process carried out between officers and members of the Committee; can he tell us whether that is true and, if so, who oversaw this arbitration process?

675

The Deputy Bailiff: Deputy Le Pelley, once again.

Deputy Le Pelley: Sir, I have not seen the interviews that Deputy Fallaize is referring to, and I do not know ... I have not heard that word 'arbitration' in the discussions that I have been having or listening to at all. So I am not in a position to comment.

680

The Deputy Bailiff: Well, that concludes Question Time.
We now move on to the scheduled business of this meeting.

Billet d'État XXIII

POLICY & RESOURCES COMMITTEE

VII. Constitution and Membership of the States' Trading Supervisory Board – Proposition carried

Article VII.

The States are asked to decide:

Whether, after consideration of the Policy Letter under the above title dated 16th August, 2016, that:

The membership of the States' Trading Supervisory Board shall be a President and one member who shall be members of the States and two members who shall not be members of the States; provided that neither the President nor any member of the States' Trading Supervisory Board shall be the President or a member of the Transport Licensing Authority.

685

The Deputy Greffier: Policy & Resources Committee – Constitution and Membership of the States' Trading Supervisory Board.

The Deputy Bailiff: I invite the President of the Policy & Resources Committee, Deputy St Pier, to open debate on this item of business.

690

Deputy St Pier: Thank you, sir.

This policy letter is relatively short and self-explanatory, and is seeking merely to reconfirm, as you said earlier, sir, your comments ... the position for the constitution of this board should

695 remain for the time being at its minimum of two States' Members and two non-States' members,
as was agreed through the States' Review Committee debates in the last term.

This is a matter that Policy & Resources did give considerable thought to. We recognise that both during the States' Review Committee debates on this matter and the various amendments that were laid against this proposal, and indeed the comments that have been made by a number of Members directly to myself and the Committee and elsewhere, that this proposal is not without controversy, or this constitution is not without controversy, in the sense that there are some who believe that the board should be entirely constituted by politicians. There are some who believe that elected Members should be in the majority. However, as I think most Members do acknowledge, that debate was had in the last term and resulted in the Rules that we have before us, containing the minimum of each.

705 However, I think the conclusion that we finally came to in recommending this particular Proposition to the Assembly, is that this is an entirely new body that has an entirely new role, and we believe that the new President – should Deputy Parkinson be elected when we move to that part of our agenda, sir – should have the opportunity to see how the board works, in terms of the composition and its skill set, both with the existing States' Member, Deputy Smithies, and the non-States' members who are recommended. It should have an opportunity to undertake its work and then consider, in due course, whether the composition should be changed; indeed, with additional Members of this Assembly and whether the numbers should be changed.

710 So we believe rather than seeking to adopt a particular dogma that there should be a particular number of members, our view is that we should remain with the minimum, allow the board to operate for a while, enter into dialogue with Deputy Parkinson and the board, and then bring back revised proposals to this Assembly, if appropriate, at that time, once we have the benefit of the experience of the board having operated for a while.

715 So that underpins the recommendation which Members have before them, sir. Of course, I will be very happy to respond to debate no doubt on those points at the end, sir.

720 **The Deputy Bailiff:** Deputy Laurie Queripel, then Deputy Gollop.

Deputy Laurie Queripel: Thank you, sir.

725 Most of my colleagues, I think, will be aware of my views regarding the constitution or the proposed constitution of the States' Trading Supervisory Board. I did have a late night exchange with HM Procureur last night because – (*Laughter*)

The Procureur: The Member needs to be careful of his language! (*Laughter*)

730 **The Deputy Bailiff:** A point of correction.

Deputy Laurie Queripel: A late night *email* exchange, sir, with HM Procureur last night, (*Laughter*) and I was considering laying an amendment to try and amend the Proposition so it would read, 'three States' Members and two non-States' members'. But HM Procureur advises me that that is not possible, I think, because of the Rules or for a technical reason.

735 I do not know if he would be willing to explain to the States why it is not possible for me to place an amendment of that type.

740 **The Deputy Bailiff:** Mr Procureur.

The Procureur: Well, yes, the point is there is an extant States' Resolution which provides for the constitution of the Board, to be set by the States on the recommendation of the Policy & Resources Committee. So such an amendment would be inconsistent with that Resolution. Now, of course the States could decide to go further and to scrap that Resolution and to have a free-for-all in elections to membership of the Board, but that would involve all manner of other issues,

which I know were of concern to the States' Review Committee, and it just goes such a very long way. So my advice to Deputy Laurie Queripel was that really the only option which this Assembly sensibly has is either to accept the recommendation or reject it, which will act as an instruction to Policy & Resources to go away and rethink.

750

The Deputy Bailiff: Thank you.
Deputy Laure Queripel to continue.

755

Deputy Laurie Queripel: Thank you, sir, yes, as I say I would have placed an amendment. I still would if I was allowed to, but it seems that I am not. So the only choice that I have then is to either approve or accept or reject the Proposition. I will be choosing to reject it, sir.

760

My reasons are this, sir. Nearly all States' Committees, as far as I am aware, historically and up until this present day, have been constituted in such a way that the majority of seats are occupied by States' Members. I think the most common combination is probably 3:2, but there is a 5:2 combination as well.

765

I think that is absolutely the right approach to the right model. States' Members have been democratically chosen by the electorate to take ultimate responsibility; to be decision makers; to show leadership; and to be ultimately accountable. It is fundamental, therefore, in my view, that States' Members are not outnumbered by non-States' members on Committees of the States – especially when those non-States' members have voting powers.

770

Now, sir, we have a classic example today. If this Proposition is accepted, and if the STSB were going to meet today the States' Members would already be outnumbered, because there will be two non-States' members and one States' Member and Deputy Parkinson who is going to be ... who is the President elect as it were, but Deputy Smithies is missing. So already if they met today, if this Proposition was accepted, that imbalance would already exist. That concerns me, sir.

So, as I said, it is my strongly held view that States' Members who have been democratically chosen by the electorate of this Island should be in a majority when it comes to the constitution of States' Committees, especially one as important as the States' Trading Supervisory Board.

775

The States' Trading Supervisory Board will be a pivotal Committee. Its deliberations could, and most likely will, have a profound effect on the Island's strategic and economic present and future, and also in an environmental and social sense to some extent.

780

With the proposed make-up of the States' Trading Supervisory Board, there is a greater possibility that far reaching, perhaps radical decisions and actions could be agreed upon at a meeting where non-States' members outnumber States' Members; and yet, sir, non-States' members are simply not accountable or held responsible in the same way.

785

Sir, I am not denigrating non-States members. By and large non-States' members want to serve their community. They want to give something back to their Island. They bring with them particular qualities, skill sets, experience and knowledge. They are people of calibre. But there are some things that they are not. They have not been given a mandate by the electorate. They have not stood before the electorate and been tried and tested and accepted by them.

790

Now, sir, traditionally the role of non-States members has been, as I have said, to bring their knowledge and expertise to the table to contribute and to advise. That is radically different to being a voting member on a Committee, let alone a Committee where there are two States' Members and two non-States' members, and a Committee where it is possible that on occasion the States' Members could be outnumbered by the non-States' members.

795

I think there is already a public perception that States' Members do not always have their hands on the lever of power, that Deputies, at times, are somewhat removed from the decision-making process. This Proposition, sir, as it stands, rightly or wrongly, will only add to that perception. States' Members, I repeat, have been chosen by the electorate, and the electorate expects them to take responsibility, show leadership, to be decision-makers and be ultimately accountable.

This Assembly has not been elected to water down its responsibilities or delegate its decision-making. It is absolutely right to maintain democratic balance. So, sir, I call upon Members to think very carefully before they vote in favour of this Proposition in regard to the constitution of the States' Trading Supervisory Board. This is an incredibly important Committee, sir; it has got a massive mandate, some very important issues to consider. I think on a Committee such as that ... as I say, I do not denigrate the value that non-States' members can bring to a Committee such as the States' Trading Supervisory Board, but I think it is really important that States' Members are always in the majority, especially on a Committee on a board such as this, and I ask States' Members to consider that, sir, as we go through this debate, and when they come to the vote.

Thank you, sir.

The Deputy Bailiff: Deputy Gollop, followed by Deputy Ferbrache.

Deputy Gollop: Thank you, sir.

I know it is a case of perhaps changing horses in mid-stream, but I have a lot of sympathy for what Deputy Laurie Queripel has said, because I think we are gradually, as a new Assembly, coming to grips with the new system of Government, with its strengths and its advantages, but also one or two perhaps anomalies, and the States' Trading Supervisory Board is in some respects an anomaly. It is clear that as Deputy St Pier has intimated there was a need for a new approach, maybe a more commercial approach, a more focused approach to board management, which I think was a trend that perhaps Deputy Luxon started back in the day. Certainly, some of us were privileged to hear Chamber of Commerce lecture which showed the advantages in Jersey of an incorporated structure, there may be some disadvantages too.

Now, when we created this body we perhaps did not fully realise that it would, for example, have the situation today where, I believe, the President of Policy & Resources would nominate the candidate but no alternative is possible. Moreover, I believe the President and the candidate has the right to make a speech, but there will probably be no questions as a result of that.

It does smack more of an appointment than an election by this Assembly. This particular body covers a huge range of issues of great interest to the public, from the Strategic Waste Authority, recently the subject of a successful Scrutiny inquisition, to ports, harbours, airports, issues pertaining to Alderney, States' Works, water, public thoroughfares and so on and so forth, even the Dairy. Many of which, of course, have been subject to political comment. It is in effect the Board of Administration reborn, but with a far less democratic constitution, I would argue.

The point I am making too is there is, of course ... as a member of the Transport Board we are very often warned by our President Deputy Paint to be responsible in what we say in relation to potential providers, but this new body contains within it both the stakeholder of Aurigny and paradoxically the running of the harbours and airports, with a view to public.

That is a change from the last Assembly. So I think there are a number of considerations that could be the subject of political comment, in the case of waste already are, as well as the wider issues relating to transport. I believe that a compromise constitution of three politicians and two senior figures from the business and commercial community would be a better mix, or maybe even five and seven, or as the Board of Administration was, six and three.

So I am minded to follow Deputy Queripel's view and vote against this current constitution, with a view to it coming back to us before Christmas.

The Deputy Bailiff: Deputy Ferbrache.

Deputy Ferbrache: Sir, I am going to vote in favour of the Proposition. It would be, in my view, irresponsible not to. But when Deputy Laurie Queripel first raised it I thought there is nothing in this, and then I gave it some thought and there is much in what he says. But where I radically disagree with him and Deputy Gollop is that we vote against it today.

850 The States' Trading Supervisory Board has been stymied and in aspic because of the
unfortunate death of Deputy Jones, and it has really existed with poor Deputy Smithies on his own
for the last three months or so. That is totally unsatisfactory. It is almost the most important body,
Committee – whatever you want to call it – in the States and if, as I expect, shortly we elect the
two non-States' members, they are people of irredeemable integrity and ability; they are both
forward thinkers, so we would be silly not to have people like that on a board of this nature. It has
had the wide-ranging responsibilities that Deputy Gollop has said.

855

But I scratch my head in wonderment, both figuratively and now literally, when I look at the
constitution, because actually looking at what the Resolution says, I always accept the advice of
the learned Procureur, both inside and outside of this Chamber, (*Interjection*) but in relation to the
material decision that we have to make today, it says:

'The membership of the States' Trading Supervisory Board shall be a President and one member who shall be
members of the States and two members who shall not be members of the States''

860

Now, there are two mandatory words in there; well, they are the same word repeated twice – *it*
is mandatory. There can only be four people. Do we remember the 4th May? Do we remember the
fourth ballot? Do we remember? Because all those great brains that have spent a long time
putting forward a constitution did not envisage that there would be a 20:20 vote. What happens if
you get 2:2 in this particular body? That might be one member who is not a States' member and a
States' Member, whatever configuration you want.

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I do not know who thought it through. It is not the brightest of decisions, it is not the clearest
of ways of proceeding, but we have got to get on. So let's vote for this Proposition, let's in due
course have the constitution amended so that you can have one more States' Member, so
therefore you will always have a majority. I do not want 6:3. I do not want five, whatever it is; that
is too many people. Have five people working as a cohesive unit, but they will have disagreements
from time to time because that is the way of the world.

870

So in due course do not vote against this, get on with it, because that is what the people of
Guernsey want us to do, they are too many ifs and buts and claims that we have not really learnt
any lessons from the last Assembly yet. So let's do so, let's move forward today, vote for this
Proposition but realise it needs amendment.

875

The Deputy Bailiff: Deputy Tindall, to be followed by Deputy De Lisle.

Deputy Tindall: Thank you, sir.

880

I just want to ask two questions really. As far as I understand it, Deputy Smithies has been
elected to the Board, but it is his election as Vice-President that is required to be decided again,
due to the sad death of Deputy Jones, under Rule 43(4), but I would like that confirmed.

Also, as far as I understand, if there are four members of the Board that if there is a two-all, as
it were, that a Proposition is not passed and that is the result, unlike the elections Deputy
Ferbrache mentioned.

885

Thank you.

The Deputy Bailiff: Deputy Fallaize then.

890

Deputy Fallaize: Thank you, sir.

I agree with almost everything that Deputy Ferbrache said, but just to correct one small thing.
Actually the constitution of the Trading Supervisory Board, as agreed by the last States, was a
President who is a Member of the States, at least one other Member of the States, and at least
two members who are not members of the States. That is the constitution that was agreed.

895

He is referring to the Proposition which is before the States today, which is being put by the
Policy & Resources Committee, but actually the way the last States left it was sufficiently flexible

that as long as there was that minimum number of members, the Policy & Resources Committee could have proposed any combination of members they wished, and in any number.

900 Notwithstanding that I agree with him that we cannot sensibly vote against this, during the process of the States' Review Committee's work I advocated having more States' Members – not many more, but perhaps one more on this Board than the Committee eventually proposed – but it was a majority decision of the States' Review Committee.

905 I think it would be sensible, particularly given the calibre and record of the people who are being proposed here. I think it would be sensible for the States to allow it to run for some time. If the board itself identifies that there are problems, or if other Members of the States identify that there are problems, the constitution can always be amended at a later date. But this body, this board, is a different creature to all other States' Committees. That was set out very clearly in the reports of the States' Review Committee. It is clearly going to have a much more commercial focus and, to use a phrase that I think Deputy St Pier has used in the past, it is a policy taker and
910 not a policy maker. I think that does make a significant difference.

I will support the Proposition, and that does not preclude the States from altering the constitution, if they wish, in the future.

The Deputy Bailiff: Deputy De Lisle.

915

Deputy De Lisle: Sir, there have been concerns related to me with regard to the political representation on the various trading entities, and I would like the P&R President to provide assurance that the political arm is represented on the various boards working now under the umbrella of the public Trading Supervisory Board.

920

Thank you.

The Deputy Bailiff: Alderney Representative Jean.

925 **Alderney Representative Jean:** As has been pointed out, this Committee has an important role to play in Alderney as well. My feelings are: I go along very much with the views of Deputy Ferbrache, and this Committee should in time be strengthened.

I would not today vote against the Proposition, I think that that is non-productive, but it is a fact that this Committee is weak, it is unable to function properly at the moment and we have got to look at it, we have got to do something about it because it is an extremely important
930 Committee.

Thank you, sir.

The Deputy Bailiff: Deputy St Pier to reply to the debate.

935 **Deputy St Pier:** Thank you, sir.

I think I will begin with Deputy Fallaize's comment which was in response to Deputy Laurie Queripel, in noting that this is indeed a different body. Deputy Queripel frequently referred to it as a Committee, which of course it is; technically it is a Committee of the States, but it was consciously designed by the last States, through the States' Review Committee, as a board, and
940 performing a very different function from the other States' Committees; and hence that consciously giving it a different name to help distinguish that it was there to perform a different role.

Now, to be fair, I do not think that Deputy Laurie Queripel ever accepted that during the debate and his position remains unchanged and he has been entirely consistent, and that is of course commendable, but this is in essence a rehash of that previous debate on that particular
945 point – that this is a different board with a different role, and the members of that board themselves perform a different role to members of a Committee. They are there to either act as the directors of the unincorporated businesses or, wearing different hats, to act as the shareholder

of the incorporated businesses. That is distinctly different from the policy-making roles, as Deputy Fallaize referred to.

950

In relation to the minimum number of members that are required to be present, of course the quota for a valid meeting is that there must be at least one States' Member present, and that is provided for in the Rules.

Deputy Ferbrache, rightly, referred to the previous painful experience, for both of us, of the 4th May of the 20:20 split, and identified that that could happen 2:2. Indeed it could, but of course it could well be that what comes back in due course is a recommendation to move to a board which is 5:4, or 3:2, or 4:3, or 3:4. That is exactly where we may end up moving to, but again let's give those that we wish to charge with responsibility for this a chance to get it up and running to determine and then come back with any further recommendations, working with Policy & Resources to bring any recommendations before this Assembly.

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960

With regard to the Vice-President, the Vice-President of course technically has not been appointed yet because the board was not been properly constituted, but the Vice-President, by default, will be Deputy Smithies, as the only eligible member of the board to be able to take that position.

With regard to political representation on the individual trading assets, which I think is probably underpinning Deputy De Lisle's question, of course, there is no political representation on the boards of the incorporated businesses, they are independent directors, and again the purpose of this board is to act as the board of directors, i.e. providing political representation at that level for the unincorporated assets. The exact *modus operandi* of this, in terms of the individual interactions from members of the board with individual assets, that will be for the President and the board to determine as they get their feet under the desk over coming weeks.

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So I, and I am sure other Members of Policy & Resources, have heard the concerns expressed by Members of this Assembly, across a spectrum of Members of this Assembly, that will be obviously taken into account, but let's give the board a new chance to operate and then we will return to this Assembly as and when is appropriate.

975

I urge Members to support the Proposition, sir.

The Deputy Bailiff: Well, Members of the States, there is a single Proposition here relating to the constitution and membership of the States' Trading Supervisory Board. Those in favour; those against.

980

Members voted Pour.

The Deputy Bailiff: I declare that carried.

POLICY & RESOURCES COMMITTEE

I. Election of a President of the States' Trading Supervisory Board – Deputy Parkinson elected

Article 1.

The States are asked:

To elect a sitting Member of the States as President of the States' Trading Supervisory Board to complete the unexpired term of office of the late Deputy D. B. Jones, that is to the 30th June 2020, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation and their Committees, as set out in Section 1 thereof.

The Deputy Greffier: Election of a President of the States' Trading Supervisory Board.

985 **The Deputy Bailiff:** I turn to the President of the Policy & Resources Committee to propose the candidate.

Deputy St Pier: Sir, I wish to propose Deputy Charles Parkinson.

990 **The Deputy Bailiff:** Is that nomination seconded?

Deputy Trott: It is, sir.

The Deputy Bailiff: Thank you, Deputy Trott.
Well, the Rules, as has just been said, do not provide for any other candidates to be nominated, and therefore I invite Deputy Parkinson, the candidate, to speak for up to five minutes.
995

Deputy Parkinson: Thank you, sir.

The States' Trading Supervisory Board is a Committee with many facets. It has responsibilities. We have already heard for the States-owned trading companies –
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The Deputy Bailiff: Deputy Parkinson, I do apologise – I think I have got that round the wrong way. I turn to the President to speak for up to five minutes, you will get 10 minutes in a minute.
(Laughter)

1005 Deputy St Pier.

Deputy St Pier: Sir, I will effectively forego my right to speak for five minutes. I think Deputy Parkinson is well known to Members of this Assembly. His background and details are in the policy letter that dealt with the previous matter that we have just voted upon. I have nothing further to add other than to strongly commend him to this Assembly, sir.
1010

The Deputy Bailiff: Thank you very much, Deputy St Pier.

I do apologise to you, Deputy Parkinson, you can have up to 10 minutes. You do not get the balance of the five minutes that the President has foregone.

1015 **Deputy Parkinson:** Thank you, sir.

I shall not need a fraction of those five minutes anyway.

This Committee has responsibility for the States' trading companies, Guernsey Electricity, Guernsey Post and Aurigny, but also the commercial activities previously undertaken by various other States' Committees, the Dairy, Water, Ports and Airport etc. It is also responsible for the implementation of the Waste Strategy and even the Lottery. So it has a huge mandate and it is a formidable challenge, but a very interesting Committee.
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What it is not is a consolation prize! (Laughter) I did not put myself forward as a potential nominee for the post of President of this Committee at the start of this term, because I knew that P&R had it in mind to nominate the late Deputy Jones. Sadly, he never got a chance to show how good a job he would have made of it, and the Committee has rather operated in abeyance since the elections.
1025

I am now delighted to have been nominated as Deputy Jones' successor because I believe that this Committee has the opportunity to make a real difference. There are substantial gains to be made in the management of States' assets, both commercial assets and property assets, and I am delighted that P&R have nominated a strong team to make the most of those opportunities.
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The Deputy Bailiff: Deputy Parkinson, I hate to interrupt you but somebody has got a device in the proximity of a microphone which is probably causing interference for all of us and possibly others. Please can you check?
1035

Deputy Parkinson: Could be an iPad –

The Deputy Bailiff: Please continue, Deputy Parkinson.

1040 **Deputy Parkinson:** Hopefully that will cure it.

If the Assembly gives this team its support, I think I can speak for the non-States' members as much as the States' Members in saying that we relish the challenge and look forward to improving the management of States' assets in a fundamental way. As I say, this Committee has an opportunity to make a real difference. We all go into politics to try and make a difference, and I welcome the opportunity to try and do so.

1045 Thank you, sir.

The Deputy Bailiff: Thank you very much.

1050 Well, Members of the States, I will put to you the election as the President of the States' Trading Supervisory Board, Deputy Parkinson, who has been proposed by Deputy St Pier and seconded by Deputy Trott. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare Deputy Parkinson duly elected to that office and congratulate him on his success.

POLICY & RESOURCES COMMITTEE

II. Election of two non-States' members of the States' Trading Supervisory Board – Stuart Falla and John Hollis elected

Article II.

The States are asked:

To elect two voting members of the States' Trading Supervisory Board who shall not be members of the States, to serve until the 30th June 2020, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation and their Committees, as set out in Section 1 thereof.

1055 **The Deputy Greffier:** The election of two non-States' members of the States' Trading Supervisory Board.

The Deputy Bailiff: I turn to the President of the Policy & Resources Committee, Deputy St Pier, to propose his candidates.

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Deputy St Pier: Sir, I, on behalf of Policy & Resources, wish to nominate Mr Stuart Falla and Mr John Hollis.

The Deputy Bailiff: Are those nominations seconded?

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Deputy Trott: They are, sir.

The Deputy Bailiff: Thank you very much, Deputy Trott.

1070 Well, there is no provision for any comments in relation to these two gentlemen and I put their election to you straight away, that is Mr Stuart Falla MBE and Mr John Hollis, both proposed by

Deputy St Pier and seconded by Deputy Trott as members of the States' Trading Supervisory Board non-States' members. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare both gentlemen duly elected and congratulate them on their success as well.

ORDINANCES

The Côte d'Ivoire (Restrictive Measures) (Guernsey) (Repeal) Ordinance, 2016 and the Protection of Investors (Administration and Intervention) (Bailiwick of Guernsey) (Amendment) Ordinance 2016

1075 **The Deputy Greffier:** Ordinances laid before the States: the Côte d'Ivoire (Restrictive Measures) (Guernsey) (Repeal) Ordinance, 2016 and the Protection of Investors (Administration and Intervention) (Bailiwick of Guernsey) (Amendment) Ordinance, 2016.

1080 **The Deputy Bailiff:** We note that those have both duly been laid before this meeting of the States of Deliberation.

STATUTORY INSTRUMENTS

The Salles Publiques (Fees for Renewals of Licences) Regulations, 2016 and the Land Planning and Development (Immunity Certificate Fee) Regulations, 2016

The Deputy Greffier: Statutory Instruments laid before the States: the Salles Publiques (Fees for Renewals of Licences) Regulations, 2016 and the Land Planning and Development (Immunity Certificate Fee) Regulations, 2016.

1085 **The Deputy Bailiff:** Similarly, we note that those two Statutory Instruments have been laid before this meeting.

COMMITTEE FOR HOME AFFAIRS

**III Extradition legislation –
Proposition carried**

Article III.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 6th June, 2016, of the Committee for Home Affairs, they are of the opinion:

i) To approve the drafting of legislation to introduce a domestic extradition regime.

The Deputy Greffier: Committee for Home Affairs – Extradition legislation.

1090 **The Deputy Bailiff:** I invite the President of the Committee, Deputy Lowe, to open debate on this matter.

Deputy Lowe: Thank you, sir.

It gives me great pleasure to put forward this Report that has been produced with HM Procureur to ensure that we have extradition legislation in place.

1095 It is all explained in the Report, sir, and I ask Members to approve the drafting of legislation to introduce a domestic extradition regime.

Thank you, sir.

The Deputy Bailiff: Deputy Yerby.

1100

Deputy Yerby: Sir, in writing to speak on this policy letter I must begin by placing it in a personal and political context. I trust Members will bear with me, especially as I have just lost my speech! (*Laughter and interjections*) There we are.

1105 The personal then: anyone who has visited my flat will know that it is pretty much furnished, insulated and decorated with books. That is hardly a surprise, but a disproportionate number of those come from prisons, prison camps or places under occupation or oppression. The reason for that, I am afraid, does not flatter my character, it is simply this: I do not know how I could be good or brave or kind to others in circumstances where my freedom was taken unfairly from me. I do not know, and yet goodness and bravery and kindness matter more to me than anything. So, I am
1110 always looking to others who have been deprived of their liberty in that way, who often have been subjected relentlessly to the most dehumanising of conditions and who nonetheless have retained their humanity, their compassion and their faith in others. I am constantly searching for clues in the words of Viktor Frankl as to how one keeps one's courage in the certainty that the hopelessness of one's struggle does not detract from its dignity and its meaning.

1115 Sir, in a Guernsey context I am unlikely ever to be arbitrarily deprived of my liberty in that way. If ever I find the courage to work in places that are less safe than here, who knows. Nevertheless, it is a visceral, almost existential, fear which I hold and it will, I think, shine some light on why I care so much about policy letters such as this.

1120 As for the political context, the Committee for Home Affairs have already brought a number of reports to the States which essentially boil down to the question of what powers the Government should have to deprive a citizen, an individual, of their freedom. In June we debated the Annual Report of the Police Complaints Commission – that is the checks and balances necessary to ensure that powers to arrest, investigate and detain are used in the interest of justice and public protection, while ensuring that the freedom and dignity of Islanders are not unjustly
1125 compromised. I mentioned in the Assembly at that time that the misuse of Police power would be a matter of concern under the Convention against Torture.

1130 Earlier this month we approved the appointment of a new Chair of the Parole Review Committee. This, in the words of the former Bailiff, is a public body which has the right to decide between a person's liberty and their incarceration. The people who compose it have to make decisions which go right to the heart of justice, public safety and individual liberty in this Island, and do so at present without formal statutory guidance. At the time, I asked the Committee for Home Affairs for assurance on the recruitment process they had used, and was also grateful to be assured that the new parole legislation, which was approved by the States seven years ago in 2009, is finally likely to be enacted with its supporting secondary legislation in early 2017.

1135 Today we consider a proposal to update our extradition legislation. Once again this is a subject where I have sought considerable further information behind the scenes, and sir, through you, I would wish to thank Deputy Lowe and her Committee for their tolerance, engagement and help.

1140 My initial disappointment with the policy letter was that it served simply as a vehicle to transmit legal advice to the States, without the benefit of the Committee's own considered analysis and policy conclusions alongside. But by engaging with the Committee I learnt that much

of that considered analysis had indeed taken place in the background, and I am grateful to Deputy Graham and Deputy Prow who responded to me individually, and to Deputy Lowe who responded on behalf of her whole Committee, and whose responses all demonstrated much substance and careful consideration which usefully supplemented the policy letter.

1145 The core argument of the policy letter is strong. Extradition from Guernsey is currently governed by the UK's 1989 Extradition Act. It is a piece of law which has been repealed in the UK, but which lingers on in Guernsey until we modernise our own legislation. It is obviously becoming increasingly out of date. In bringing our Law up to date, we will reduce the risk of poor outcomes and possible damage to our international reputation as a result of an ageing regime. We will put
1150 the Island in a stronger position in respect of our own justice system, and in respect of our outward facing responsibilities.

Sir, I am not standing to speak because I do not like the proposal in this policy letter; on the contrary, I welcome it, but I have two concerns. The first is this, if I have not already laboured the point enough, extradition is a question of how and when and why we deprive people of their
1155 liberty in the interest of justice and public safety. It is a weighty matter which deserves careful consideration. It is not deportation, it is not about removing people who have no right to be here. It is about the way in which we permit Island residents, including our own native citizens, to be tried and punished for crimes under the justice system of another country. It is, in other words, a big deal. It therefore deserves air time and the scrutiny of States' Members. I feel we will spend
1160 less time on this than on the Schedule for 2017, which we are to consider next, and what does that say about the maturity of our democracy?

My second concern is this: it is a considerable leap from the six-page policy letter we have before us to a full draft Law, even one closely based on the UK's Extradition Act. As with many such things, there are bound to be complications in the drafting and questions about how it
1165 should be implemented in practice, as it is, I understand, rather harder to amend a draft Law than it is to amend the policy letter providing the drafting instructions. I thought seriously about whether it would be appropriate to bring an amendment to this policy letter requesting a more detailed follow up, setting out precisely what the law is to cover. This would at least allow the Committee and the States to flesh out any areas of complexity where we might otherwise fall into, what my colleague Deputy Graham would call 'the Winnie the Pooh chair'. However, the
1170 Committee for Home Affairs includes experienced politicians and politicians who have knowledge in this area by virtue of their background or professional training. This led me to trust that the Committee will have the collective judgement and wisdom necessary to decide, if appropriate, to bring an interim report back to the States should it consider that there are issues in the drafting
1175 which need to be ironed out by the Assembly.

Sir, even so, there are matters within the extradition policy letter which did give me pause for thought. The first and most fundamental of those was a question of capacity. The policy letter refers to one review of the UK's current Extradition Act which has resulted in some legislative changes. However, since 2003 there have been at least five reviews and reports into various
1180 aspects of the Act, including most recently a House of Lords Select Committee report on extradition UK law and practice. In the words of that report:

'23. The controversy which the 2003 Act has attracted is not unique to [it]. Its predecessors ... also gave rise to difficult cases ...[and] many other countries similarly grapple with the duties of comity between nations in the interests of international justice and the protection of their own citizens.'

In other words, extradition is a fraught area of policy which nations much bigger than us continue to struggle with. We do not have the justice or international relations infrastructure to cope with some of the ethical and practical complexities which can arise from time to time.

1185 Having discussed this with the Committee for Home Affairs, I was pleased to receive assurance this week that any decision relating to human rights, designations or other issues that engage foreign policy or similar matters would be taken after working closely with the UK, following established practice in other areas with an international dimension.

1190 This is also, I understand, a continuation of the arrangements which exist under the current
extradition legislation. It was readily acknowledged that Guernsey does not have the resources
that would enable us to do this alone, such as our own diplomatic or intelligence services. I was a
little disconcerted, however, to be advised that this strays into issues of operational practice which
would not ordinarily be included in a policy letter, when in fact it seems to me that this is highly
1195 pertinent to questions of our international personality and our constitutional relationship with the
UK. While the UK's own extradition regime is not perfect, either in policy or in practice, as the five
reports I have referred to clearly demonstrate, close working with the UK will, without doubt, put
us in a much stronger position than any we could achieve as a tiny jurisdiction working alone.

Sir, the policy letter also gave me pause for thought around the role of HM Procurer. It was
unfortunate perhaps that the recommendation that the Procurer should be given powers equal
1200 to those of the Home Secretary in the UK, should have been made in the Procurer's own words.
Again, it belied the careful consideration which the Committee had clearly given this matter.

Since raising the question with Home Affairs, I have been advised that they sought advice on
the appropriateness of assigning this role to various office holders and that their conclusion in
favour of the Procurer was founded on parallels with existing roles held by that office in respect
1205 of other international functions and on the fact that the Jersey system, which is similar, has already
withstood comprehensive legal challenge. I found the more detailed information I was given
reasonable and persuasive, and think it was helpful to make note of it here.

Finally, sir, the policy letter gave me pause for thought in respect of its closing paragraphs,
suggesting that we take the opportunity to address extradition within the British Isles. What
1210 precisely is intended here is unclear, although I understand that this is likely to be a consolidation
of existing laws rather than the creation of new rules. Again, this is an area where we will need to
see the detail in the draft legislation, and once more give it careful scrutiny.

Sir, I will support the Committee's Proposition, as I am sure most, if not all, of my fellow States'
Members will. I have made these remarks in the spirit of the careful consideration and scrutiny
1215 which I believe any wise and fair Government should apply to matters which concern the potential
deprivation of liberty of its citizens. Especially where this could result in people being judged, not
by our own justice system, but by that of another jurisdiction.

I apologise to the Committee for Home Affairs for what are becoming, in Deputy St Pier's
words, predictable questions from a predictable source. Almost by definition the matters for which
1220 that Committee is responsible go right to the heart of the business of Government. They are
questions of justice and liberty, which speak to what it means to be a citizen and what it means to
be a civilised society. They are therefore equally, by definition, deserving of a high level of scrutiny
by States' Members, and I am sure that the Committee members more than anyone recognise the
importance of the Assembly acting as a check and balance on the powers of Government while
1225 respecting the interest of justice, public safety and individual liberty. I am grateful to them for
their continued and patient engagement on this and other matters, and I look forward to
debating the draft extradition law in due course.

1230 **The Deputy Bailiff:** Deputy Prow.

Deputy Prow: Thank you, sir.

Mr Deputy Bailiff, I rise to give my support to the President of Home Affairs in her asking the
States to approve the drafting of domestic extradition legislation. In doing so, I would like to
1235 assure all States' Members this matter has been given very careful consideration by the
Committee for Home Affairs, and in fact that assurance has already been given to Deputy Yerby as
she has outlined.

Crime – particularly serious crime – is becoming increasingly global in nature, and criminals can
escape justice by fleeing across borders with increasing ease. Internationally, there is a recognition
that improved judicial co-operation between nations is needed to tackle this development. This
1240 jurisdiction enjoys a positive reputation with regard to mutual legal assistance, deportation and

sanctions, which has been fully acknowledged in reports submitted by the International Monetary Fund in relation to money laundering and financial crime.

1245 Following the advice from HM Procureur, the Committee is convinced that the way in which the Bailiwick enables extradition requires reform, and in order to contribute to that process. This needs to be undertaken in a timely manner, not because of a perceived high demand of outstanding or potential extradition requests but because, as advised by HM Procureur, this jurisdiction must have the ability to give appropriate effect to extradition requests. Extradition is an important tool in dealing with international crime. Nobody should be able to escape justice by simply moving to another place.

1250 I will not repeat the information already outlined, which is contained in the States' Report, and the advice of HM Procureur as set out in the policy letter which is now before you.

1255 The need to develop reliance upon the UK 1989 Act, which is now repealed and replaced by the 2003 Act, has been well covered. All I would add is that the 2003 Act, which will provide the framework for domestic legislation, has, as outlined by Deputy Yerby, been the subject of much scrutiny, not least from a Parliamentary Select Committee. I will therefore only concentrate on the need for domestic legislation, which is entirely in keeping with the existing efforts made for our Bailiwick to legislate for itself, in line with developing its international personality.

1260 Reference has also been made of the need for the Bailiwick to work in close partnership with the United Kingdom, which would continue to be the case under the new regime. Decisions relating to human rights, foreign policy, designations or other issues that engage foreign policy would be taken after working closely with the UK. This is a long established practice in many areas, where a competent authority with the Bailiwick has a function with an international element; for example, mutual legal assistance, which reflects the constitutional relationship with the UK, and also the fact that assistance from the UK is necessary to deal with matters of this kind. 1265 Guernsey does not have the resources to be able to do this alone; for example, its own diplomatic services. As well as continuing to work in partnership with the UK, I should also note that the policy letter intends to take into account the approach taken by Jersey in the reforming of their extradition legislation, and the introduction in that Bailiwick of corresponding legislation which has already received Royal Assent and has since successfully withstood a comprehensive legal challenge. 1270

I further support the opportunity to be used to address extradition within the British Isles. HM Procureur mentioned in his advice that currently this is governed for some purposes by various other enactments. He further advises that greater consistency and clarity would be beneficial. Clearly, given the frequency of travel from other parts of the British Isles, it makes perfect sense to develop our provisions taking into account consequential amendments that have taken place in the UK. 1275

1280 Finally, I would give Deputy Yerby the reassurance the Committee did consider whether it was appropriate for HM Procureur to have the power and to make and respond to extradition requests, and concluded that it was appropriate and that those responses rest with the office for those reasons.

Thank you, sir.

The Deputy Bailiff: Deputy Brehaut, to be followed by Deputy Le Tocq.

1285 **Deputy Brehaut:** Thank you, sir.

I thank Deputy Yerby for her speech, and actually both Deputy Yerby and Deputy Prow touched on the observation that I had made, that I have to say I am a little more unsettled perhaps by or may differ in the decision that they reached.

1290 In the UK recently, I think about 18 months ago, the extradition of an autistic man to America was resisted because of the intervention of the then Home Secretary and now Prime Minister, Theresa May. So the appeal the community had was not to a Crown appointee or to Attorney General, but to elective representatives.

1295 Now, I know there is another case in the UK currently where again, coincidentally, a 31-year-old autistic gentleman has been accused of accessing, compromising American security broadly. Now, as yet, there has been intervention by the Home Secretary, there may be. What concerns me is the dynamic where possibly HM Government is looking to extradite somebody from our shores and that process is seen by a Crown appointee, and I personally would be happier – I do not know how it is resolved, (*Interjection*) I would be happier personally – and I have been advised as much as I can be from a seated position, that it does go from the Courts. My point, however, is that I think something as fundamentally important as this, I would be more content to have the ultimate decision made by an elected representative rather than the Attorney General. A personal view.

Thank you.

The Deputy Bailiff: Deputy Le Tocq.

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Deputy Le Tocq: Thank you, sir.

1310 Sir, I am grateful for the assurances from the Committee for Home Affairs that they gave this matter very careful consideration and scrutiny, as indeed the Policy Council formerly did when it was first raised. I think Deputy Yerby is absolutely correct in that today, and particularly when the matter returns to us in legislative form, that we give it proper scrutiny and proper airing today. Because first of all this is a matter – and speaking from Guernsey's influence internationally which is growing, and Guernsey's personal identity internationally – which clearly signifies that maturity in Guernsey's international relations and foreign affairs, and we should welcome it on that basis. But at the same time we should not tread blindly into these matters without proper consideration of what they actually entail for us, and the pitfalls that much larger jurisdictions find when dealing with matters such as extradition.

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I think it was the former President, John F Kennedy, who said:

'The rights of every man are diminished when the rights of one man are threatened.'

1320 I think we have to bear that in mind, particularly in this age, where requests for extradition seem to be far more common than they were in the past. So there are two particular pitfalls at least, that I think we need to be aware of as we walk into this particular direction.

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First of all, requests from countries where there may be real concerns in respect of human rights. For example, those where we may not be certain that an individual could be afforded the same rights and standards as we would expect here in Guernsey. I think you have to put yourself into the position of such an individual to understand exactly how that access to justice that we have here might be threatened if there was a potential for you to be extradited to a country where those were not the standards that were assured. The only way in which we could be able to be apprised of whether such a country or jurisdiction had those rights or were equivalent rights, is actually via the UK authorities. We do not have the capacity ourselves to do this, as has been alluded to already. That is the second point. As a very small jurisdiction we do not possess, nor are we likely ever to acquire, the capacity to even monitor the process of extradition when enacted. We are going to be generally the same as other small jurisdictions around the world, dependent upon the authorities in a larger country to do so. I think it just should be incumbent upon us to stop and bear that in mind, particularly because we are living, certainly in parts of the world, in times of war, and I think it was Cicero who said:

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'In [war times] the law falls silent.'

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That is therefore very dangerous for us when we are seeking to protect the rights of an individual who might be, at that particular time, resident in our shores.

So, sir, I welcome this Report because, for all sorts of reasons, I think it is a good indication of our maturity, but I think with that maturity comes responsibility and therefore we need to keep

1340 regular watch on this, not just blindly follow the UK but take our own responsibility and, where necessary, find alternative ways of doing things that are appropriate.

I am going to support it, certainly, sir, as it currently stands.
Thank you.

The Deputy Bailiff: Deputy Gollop.

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Deputy Gollop: Sir, I am not really as learned as Deputy Le Tocq about Cicero, who I think was a Roman poet, but it is interesting that during the Second World War there was another Cicero who was a bad spy, who was employed by the Germans in Turkey! The point I am making is that he was the World War II equivalent, perhaps, of the internet hackers of today, and Deputy Brehaut has alluded to people on the autistic spectrum who may have suffered the fate of extradition. I think we have to bear in mind that extradition covers a multitude of potential personalities, ranging from people in those very unusual circumstances, right across to what might be money launderers, might be people in difficult domestic disputes, perhaps, even persons who, for the sake of argument, had leaked data on the internet – hopefully not about the States of Guernsey business. So I think we do need to follow strong ethical principles here.

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I thought Deputy Yerby made an excellent speech covering a whole wide range of issues about how we should be, perhaps, more focussed than we are on the parliamentary side of protecting individual liberties. I can understand why HM Procureur has been chosen, at least initially, in the legislation, because the Procureur has a substantial number of roles internationally, but it perhaps is a reflection that maybe if we did have more of a ministerial system it would be more democratically accountable for it to be a Minister or maybe the President of Policy & Resources because perhaps – or External Affairs – it is more an external role than how we generally define Home Affairs in Guernsey. I think that many of these cases could have a strong political dimension, as Deputy Le Tocq has alluded to, and that area of the legislation might create a little bit more additional scrutiny by Deputy Chris Green's Legislative Scrutiny Review Panel.

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The Deputy Bailiff: Deputy Graham, followed by Deputy Lester Queripel.

Deputy Graham: Mr Deputy Bailiff, I had not planned to say anything in this debate, but the way it has been developing, alarm bells are beginning to ring, because we have now got the suggestion of involving politicians in decisions which basically affect the judgement of whether somebody should face the criminal justice system here or in another country.

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The case that Deputy Brehaut alluded to, I think, makes my point for me. In the United Kingdom at the moment we have the case of a vulnerable young man deemed, I think, to be autistic who, having faced the due process, is now likely to be extradited to the United States. The suggested involvement of the Secretary of State, which I think is the next part of the process, I think rings the democratic alarm bells for me, because the moment you involve politicians in making decisions of this nature, with half a mind on their popularity, and on their promotion prospects, you are into deeply troubling waters.

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I think there is an alternative solution to the anxieties that have been expressed, but I think this is probably not the place for me to exercise them. I did actually suggest an alternative to the Committee; that alternative was examined and it was found probably not to be the best way ahead. But I most certainly would advise the Assembly not to contemplate political involvement in decisions of this nature.

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The Deputy Bailiff: Deputy Lester Queripel.

Deputy Lester Queripel: Sir, thank you.

Sir, we have heard speakers refer to human rights; I rise to seek clarification from either your good self or HM Procureur. Can either of you tell me please whether I am right in thinking, in a

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court of law the judge has the right to exercise the discretion and override any of the Human Rights Laws, should they feel that decision is appropriate?

1395 **The Deputy Bailiff:** Mr Procureur, can you assist Deputy Queripel?

The Procureur: No, he is not right. The judge is bound to apply the law as it stands.

The Deputy Bailiff: As a public authority.
Deputy Queripel, do you have anything further to say or was that just a question?

1400 **Deputy Lester Queripel:** Thank you, sir.
That clarifies the situation, thank you.

The Deputy Bailiff: I do not see anyone else rising, so I turn to Deputy Lowe to reply on the debate.

Deputy Lowe: Thank you, sir.

1410 It is an interesting debate, and I thank Deputy Yerby for an excellent speech, because she has researched this so much, and it is important – it is a really important subject matter here – but it is also important that rather than just nodding it through, you have looked at all the angles protecting individuals here. Yes, when we come forward we are obviously going to get on with the draft legislation, and I will be contacting Deputy Yerby before we get as far as the States, because I think her eyes on it will be of great benefit to the Committee as well, so I will be doing that.

1415 Certainly, many other jurisdictions have already got this legislation in place and they have made a few errors, and I think that is where we can gain from that – lessons learned really. So why reinvent the wheel? We can actually tinker with the legislation that has already been produced in other jurisdictions.

1420 So I ask Members to please support this Report and we will bring back the legislation as soon as possible.

The Deputy Bailiff: Members of the States, there is a single Proposition, in respect of extradition legislation. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare the Proposition duly carried.

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

IV. Dates of States' meetings 2017-2018 – Proposition carried

Article IV.

The States are asked to decide:

Whether, after consideration of the attached policy letter, they are of opinion:

1. To agree that the dates on which States' Meetings shall be convened in the period from the 1st September, 2017 to the 31st August, 2018 shall be as follows:

2017

6th September

27th September

18th October
7th November – Budget
8th November
29th November
13th December
2018
17th January
7th February
28th February
21st March
18th April
16th May
5th June – Policy & Resource Plan
6th June
26th June – Accounts
27th June
18th July

1425 **The Deputy Greffier:** States' Assembly & Constitution Committee – Dates of States' meetings 2017-2018.

The Deputy Bailiff: I turn to the President of the States' Assembly & Constitution Committee, Deputy Fallaize, to open debate on this matter.

1430 **Deputy Fallaize:** Thank you, sir.

Well, heeding Deputy Yerby's advice that our maturity as a jurisdiction might be underlined by our spending as little time as possible on this, I think I will just lay it before the States and ask Members to support it.

Thank you, sir.

1435 **The Deputy Bailiff:** Deputy Gollop.

1440 **Deputy Gollop:** I support it, although I think the jury is out as to whether we should be on two weeks, three weeks or four weeks breaks. But I was puzzled to see the return of a mid-July meeting on the proposals for the following year, as I thought there had been an unstated desire to eliminate school holidays for Members who look after children or grandchildren.

The Deputy Bailiff: Deputy Brouard.

1445 **Deputy Brouard:** Thank you, sir.

1450 I am not too sure whether I am going to be accused of being a Luddite, or whatever it is, but I do not quite get the three-week rolling programme. I am going to give it a go for the time being, but I have put a marker down. It just jars with me for some reason. I am used to 'day follows night, there are so many weeks, then you have months,' and it seems a system that seems to have worked reasonably well and has been acquired over the years, and different calendars have come and gone, but I quite like the idea of a monthly meeting. It sort of fits in with the Douzaines and other social functions. *(Laughter)* I think that is the cutting edge myself. *(Laughter and interjection)* I will try this modern three-week obscure way of doing it, but I would much prefer, still, that we had a monthly meeting.

1455 If we need to make the meetings longer, then I would propose that we start on a Tuesday, or a Monday, and we have the last week of the month being the States' meeting. I think it gives Members much more flexibility to do other research and work beforehand, and this rush with a

1460 three-week programme to know what is coming up, does not work for me. It may work for
everybody else, but if anyone wants to come around to my way of thinking in the next few weeks
and months ahead, please feel free to do so and we will see if we can put an amendment forward.
But I will give it a go for now, but I will put a marker down, I would much prefer to keep to the
traditional way of doing it. We have got January, February, March that works for me; the odd three
weeks does not.

Thank you, sir.

1465

The Deputy Bailiff: Deputy Roffey.

1470 **Deputy Roffey:** Sir, I was not in the last Assembly when we changed from monthly meetings,
or decided to change from monthly meetings to three-weekly meetings, but I was observing from
the outside, and to me the reason was quite clear, and Deputy Brouard's colleagues really are at
fault for the necessity to do that, because the monthly meetings only work if people blank out in
the diaries to overspill days two weeks later. Very often important issues were being discussed in
this Assembly with, obviously, a quorum, but to be honest too small a number of States' Members
to do justice to what was being discussed. So the previous SACC, of which I was not a member,
1475 proposed to move it to three-week meetings with no overspill days, so that people would block
out all of the days at which this Assembly would be meeting.

So if Deputy Brouard is mindful to put an amendment, if he cannot get the hang of this three-
week malarkey and wants to go back to a monthly meeting, I would pray that people then took
that monthly rule in its entirety seriously, which means actually also blocking out and making sure
they were not off Island or with other unavoidable commitments two weeks afterwards.

1480

As for Deputy Gollop and school holidays, yes, it is down to this Assembly, isn't it? If they feel
that nine weeks is the minimum they need off in order to be family-friendly in the summer, I am
not sure that ordinary Islanders, including those with the most family-friendly employers
anywhere in the Bailiwick, would accept that that was absolutely essential, but if Deputy Gollop,
1485 who obviously wants to look after his children or grandchildren ... then that is fine! (*Laughter*)
Then he can always move an amendment.

But I actually think in the old days when we had eight weeks, people used to look askance and
say that was rather long between States' meetings. I would hate, for instance, if Deputy Le Pelley's
Committee was nearly there 'come' a summer recess and we were going to miss it by a week and
then we would have to wait another nine or ten weeks before we could actually debate it.

1490

So I think we need some kind of regular flow and I think six or seven weeks off in the summer
is actually, in most people's books, quite reasonable.

The Deputy Bailiff: Deputy Soulsby.

1495

1500 **Deputy Soulsby:** Sir, I would just like to add to what Deputy Roffey just said, and the
impression given is that we need all that time to have a break over the summer, but it gives the
impression to the public that nothing is happening, and it is far from the case. Certainly in Health
& Social Care we have had several meetings, we were a very active Committee over that period
and I think I was just totting up about 20 meetings from the time since we ceased our last
meeting to now we have reconvened. So I have got no problem in having a shorter break over the
summer.

The Deputy Bailiff: Deputy Brehaut.

1505

Deputy Brehaut: Yes, sir. I will be brief.

I too have concerns regarding the length of summer holidays, but I think the family-friendly
policies that the States are moving to is an absolutely good and positive thing. Even now when
meetings are convened and I am requested to be there, people even suggest times like for

1510 example 7.30 a.m. because who in the world could possibly have young children to get to school?
Who in the world these days marries someone that just might have a full-time job? I mean the
considerations are real and if we are serious about getting the economy moving and we want
everyone to participate, then we have to, as the business community is doing, and this Assembly,
reflect and respond to the very real needs of people if we are moving presumably to this broader
1515 agenda, hopefully, of inclusion more generally.

Thank you.

The Deputy Bailiff: I invite Deputy Fallaize as the President of the States' Assembly &
Constitution Committee to reply to the debate.

1520

Deputy Fallaize: Thank you, sir.

The programme of dates being put forward by the Committee does provide for a shorter break
during the summer but, with the exception, I think, possibly of one day, does protect the principle
– if that is the right word – that the States should not meet during States' school holiday dates.

1525 I accept that Deputy Brouard is finding it difficult to adjust to change – it is not the first time!
(*Laughter*) I think the point is the schedule was changed by the last States because of the
experience of the potential disruption to the schedule of Committee meetings if reserve dates
have to be kept free fortnightly, and also because it tended to produce a very bad flow of
business. Some months the States were faced with five or six days' worth of debate, and the next
1530 month they were faced maybe with a day of debate. Having a slightly shorter break between
meetings and hopefully meeting for fewer days but slightly more often will help his Committee,
the Policy & Resources Committee, in managing the flow of business to the States –

I will happily give way to Deputy Brouard.

1535 **Deputy Brouard:** Thank you very much, Deputy Fallaize.

The point I was really making was that I would prefer to meet once a month but for a longer
period, which would then give the opportunity, that Deputy Roffey was saying would not arise –
you would be less likely to use the reserve dates by possibly starting that week on a Monday or a
Tuesday, as most other people's weeks seem to start.

1540 I just wondered – it was more the point that we meet once a month but for a longer period,
thereby possibly not needing the reserve dates so often.

Thank you, sir.

Deputy Fallaize: Yes, I accept that if the States were to go back to meeting monthly it would
1545 seem sensible to convene on the Monday in order to avoid the problem of having to block out
reserve dates.

I have to say that the experience the previous Committee had was that when the States met for
four days, which happened relatively frequently towards the end of the last term, we were almost
inundated with complaints by States' Members who said that they thought that meeting for four
1550 consecutive days was unhelpful.

I have to say personally I do not feel particularly strongly about the dates on which the States
sit, and if the States wanted to go back to the previous system then the Committee is the servant
of the States, and that is what we would do. But I would just caution Members that the change
was made in the light of the experience not just of the last States but of recent States' terms, and I
1555 would ask Members who are perhaps considering working in concert with Deputy Brouard to take
us back to the old system, if indeed that happens, that they read the policy letter which proposed
the new arrangements, and understand why they were put in place.

I do not think there were any other questions raised, other than I must say I am not sure that
by shortening the summer break we are going to do much to change the public perception that
1560 the States do not do anything in the summer, we will have to see when we get to the summer of
2018 whether it has made much difference to public perception, but it is worth pointing out that

even though the States of Deliberation may not be meeting in August, and previously was not meeting until the last week of September as well, very often Committee meetings are continuing, and it is certainly not true, and States' Members ought not to create the perception (**Several** 1565 **Members:** Hear, hear.) that the States are doing nothing during the summer recess when the States of Deliberation is not meeting.

Thank you, sir.

1570 **The Deputy Bailiff:** Members of the States, there is a single Proposition to agree the Schedule of Dates for the period 1st September 2017 to 31st August 2018. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare that Proposition duly carried.

COMMITTEE FOR HOME AFFAIRS

V. Population Management Regime – Membership of the Population Advisory Panel – Mr Peter Leonard Gillson, Mr John Lawrence David Granger, Mr Antony Victor John Brassell, Mr Timothy John Langlois, Mr Mark Edward Edgar and Mr John Kenrick Brooks elected

Article V.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 1st August, 2016, of the Committee for Home Affairs, they are of the opinion:

1. *To agree that the Population Advisory Panel should be re-named as the Population Employment Advisory Panel.*

2. *To agree that the Mandate of the Panel should be amended to provide that:*

'The Chairman shall serve a four year term of office. The six ordinary members shall also serve a four year term of office, save that the membership shall be staggered such that three of the ordinary members are replaced every two years. As a consequence, three of the original members will be elected for only a two year term of office.'

3. *To elect Mr Peter Leonard Gillson as Chairman of the Panel for a four-year term of office*

4. *To elect as ordinary members of the Panel*

a) *Mr John Lawrence David Granger, Mr Antony Victor John Brassell, and Advocate Elaine Ruth Gray, each for a period of two years, and*

b) *Mr Timothy John Langlois, Mr Mark Edward Edgar and Mr John Kenrick Brooks, each for a period of four years.*

The Deputy Greffier: Committee for Home Affairs – Population Management Regime – Membership of the Population Advisory Panel

1575 **The Deputy Bailiff:** I turn to Deputy Lowe, as the President of the Committee for Home Affairs, to open debate on this item of business.

Deputy Lowe.

Deputy Lowe: Thank you, sir.

1580 This Report here is to put forward the membership of the Population Advisory Panel, which
you have in your Report before you today. The States have already voted on, and improved, the
Panel's constitution and mandate, and the Panel's role is an advisory one.

1585 I cannot emphasise that enough, because so many people seem to think that this Panel will be
the Panel that will make the decision. That is not the case; it will be an advisory one. It is the
Committee, not the Panel, who will develop employment policies, and what is different as well
1590 about this Panel is that it has to be evidence based. It will not be just on hearsay. We will have to
see that evidence produced by the companies concerned: that they require these people in
employment. That is only going to be one part of the information before the Committee; other
evidence taken into account will include information from the Committee for Economic
Development, Skills Guernsey, the Committee for Employment & Social Security, and others as
well, depending on what actually comes before us from the Advisory Panel.

This policy framework under the new Law means that the States' Strategic Policies will be taken
into account, so it includes the population objective to the related policies, and if they are
changed at all, well of course, that would also make a difference on to the population
management of which we have responsibility for.

1595 Now, finally, sir, before I sit down, I just want to say that I wish to thank those that have given
their time to be on this Panel, because they will not be claiming any money at all and they are
doing it all voluntarily, and I thank them for that publicly, sir.

The Deputy Bailiff: I do not see anyone rising to speak in debate. There are four Propositions,
1600 two of which are to elect. I am going to take Propositions 1 and 2 first, because if Proposition 2 is
approved then I am going to do something slightly different for Propositions 3 and 4.
Propositions 1 and 2 then. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare those duly carried.

1605 Because these are elections, rather than appointments now, I take the view that the Rules
require those nominations to be seconded. They are being proposed by Deputy Lowe; is anyone
seconding the nomination of Mr Gillson as Chairman and the six others as ordinary members?

Deputy Graham: Yes, sir, I do.

1610 **The Deputy Bailiff:** Thank you very much, Deputy Graham.

Once again, you have got all the information in relation to them, so I am simply going to put
to you the election of Peter Leonard Gillson as Chairman of the Panel for a four-year term of
office. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare him duly elected.

1615 Finally, to elect the six ordinary members of the Panel, three for a period of two years and
three for a period of four years. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare them duly elected as well.
Thank you.

COMMITTEE FOR HOME AFFAIRS

**VI. Gambling (Betting and Crown and Anchor)
(Amendment) Ordinance 2016 – Approved**

Article VI.

The States are asked to decide:

Whether they are of the opinion to approve the draft Ordinance entitled 'The Gambling (Betting and Crown and Anchor) (Amendment) Ordinance, 2016', and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

1620 **The Deputy Greffier:** The Gambling (Betting and Crown and Anchor) (Amendment) Ordinance 2016.

The Deputy Bailiff: Is there any debate on this draft Ordinance?
Deputy Lowe.

1625 **Deputy Lowe:** I have nothing to add, sir.

The Deputy Bailiff: Well, Members of the States, I put to you the Proposition to approve this draft Ordinance. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare the Proposition duly carried.

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

**VII. Same-Sex Marriage (Guernsey) Law, 2016 –
Debate commenced**

Article VII.

The States are asked to decide:

Whether they are of the opinion to approve the draft Projet de Loi entitled 'The Same-Sex Marriage (Guernsey) Law, 2016', and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

1630 **The Deputy Greffier:** Same-Sex Marriage (Guernsey) Law, 2016.

The Deputy Bailiff: Deputy Le Clerc.

1635 **Deputy Le Clerc:** Thank you, sir.

Sir, the introduction of this legislation in Guernsey will ensure that marriage has the same effect for same-sex couples as it does for opposite sex couples.

As many of you will already be aware, this is a notable and welcome step towards creating a more inclusive society and one which takes equality seriously. With its implementation, there are

1640 anticipated benefits to the Island's reputation internationally, and the increased opportunity for economic benefits from same-sex marriages and the hospitality that will arise.

This piece of legislation also provides a positive legal framework giving recognition to, and providing protection for, same-sex unions. For these reasons, amongst others, I am pleased to bring this legislation before the States on behalf of the Committee for Employment & Social Security, and ask that it is approved by the Assembly.

1645 If all goes well the Law can be expected to come into operation by mid-2017, but we continue to ask that same-sex couples who want to get married in Guernsey await firm news of the legislation coming into effect. We expect it to be mid-2017 all being well before the Law comes.

1650 Sir, I also wish to place down a marker for the future legislative work that we expect will be required in due course. Once this Law is effective, if a couple are willing and able to return to the original jurisdiction where they had their civil partnership ceremony in order to get their partnership converted to a same-sex marriage, that marriage can and will be recognised here. However, it will not be possible to convert civil partnerships here in Guernsey. Further legislation will be required to make such conversion possible, if there is sufficient demand.

1655 Thank you.

The Deputy Bailiff: Deputy Roffey.

Deputy Roffey: Sir, Mr Bailiff.

1660 I rise to support this Projet, not because I think it needs my support to be asked by this Assembly, but because I do not think that this moment should be allowed to pass without reflecting on really the momentous social change that has taken place in this Island over the last few decades.

1665 When I first entered this Assembly in 1982 – which to me does not seem very long ago at all – rather than this Projet being in place, the Projet in place was the Loi relative à la Sodomie, which prescribed for any homosexual acts a lengthy period of imprisonment with hard labour. I do not think the concept of hard labour still existed in 1982, but the legislation insisted that that is what people would receive if convicted.

1670 Then a year or two later the States actually tackled this for the first time, not because they wanted to – there was no appetite here whatsoever – but because the Home Department, who were then responsible for Channel Island affairs, put such great pressure on behind the scenes that Advisory & Finance felt that they had no choice but to bring it forward, and it was a despicable debate. It was an awful debate.

1675 The things that were said – the threats of Aids becoming endemic because of the actions of this Assembly! The comment from an Alderney Representative that Guernsey can do this if they want but, 'Alderney is not going to be known as the Island where the pansies come out early,' and the schoolboy tittering that took place around this Assembly in response to that remark was quite sickening, frankly.

1680 Luckily, we did then legalise homosexual acts for those in private, over 21, who were not members of the Armed Services or the Merchant Navy. I cannot remember how broadly the Merchant Navy was drawn as a concept, but we did that.

There it stood until efforts were brought to bring down the age of consent, and again I was not in this Assembly at the time, but I was a journalist and I remember interviewing a senior States' Member who was quite happy to say into my microphone:

'These people breed you know, not by procreation but by contamination.'

1685 That was the sort of attitude, and he was not actually isolated. He was reflecting quite widely held views, I think, in our community.

I remember actually I was sitting downstairs in the *Radio Guernsey* studio then and your microphone – not yours, your previous Bailiff's microphone – was open, and hearing a conversation between a senior States' Member and the then Lieutenant Governor saying how they

1690 were fortunate not to have shaken the hands of the people from the group Courage that were campaigning because maybe they would have had to wash them afterwards. Honestly, quite horrendous!

1695 Finally, when we got equality in as far as age of consent was concerned, I brought a requête – what, eight or nine years ago before I left the Assembly last time – asking that as soon as practical, as soon as possible, the Policy Council bring back proposals concerning the issue of, not same-sex marriage but civil partnerships. It was never a priority, there were always more important things to do. Frankly, they were just embarrassed, they did not really like the issue and they did not want to bring it back.

1700 Then, sir, finally, I was sitting outside this Assembly – I think I was doing something in my greenhouse listening to the debate where the proposals went through in principle – I was absolutely proud of my Government – I was not a member of it, but as a member of this Island's community I was proud of my Government – on that day, and let us hope to put the seal on it today.

1705 The Island has moved light years – well, the vast majority of this Island has moved light years – over the last few decades. The vast majority of this Assembly have; a few may still struggle with the idea, whether that is their age, whether that is their upbringing or whatever, but I am proud to be a Member of the Assembly that will now ratify marriage equality today, I am quite sure.

The Deputy Bailiff: Deputy Ferbrache, to be followed by Deputy Soulsby.

1710 **Deputy Ferbrache:** Sir, I follow on what Deputy Roffey has said without repeating the history.

1715 I was a Member of this Assembly, or States as we used to call it in those days, in 1994 or whatever it was (*Interjection*) and I am not sure why it cannot be called States now, but I am sure there is a reason why – which I do not know and probably would not accept – but in relation to that we debated abortion, and the tenor of the debate then was very much along the lines of the debates that Deputy Roffey told us about, 'This is a sin against humanity'.

1720 I was on the Castel bench sitting there, top of the poll as I was in those days, and I was sitting by somebody who was second, the then Vice-President of whatever it was, whatever the Committee was anyway, and his fingers if you could have pinged them they would have broken. A religious man said, 'This is contrary to the laws of God'.

Haven't we moved on! It has taken too long to get here and there is still intolerance in our society, and sadly in lots of other societies that are in the world, gay people are persecuted, prosecuted and killed, and that is intolerable.

1725 I overwhelmingly, unreservedly, support this piece of legislation. I am sure we do, and the only reason I stood to speak is because it is too important to just let go without some comment being made.

I do find difficulty not in ... I do find difficulty – take away the 'not' – in Section 6 and 7. I am not saying ... we have got to move forward but I do find difficulty because Section 1 Subsection (1) says:

'Marriage of same-sex couples is lawful.'

1730 Subsection (2) says:

'In the Law of Guernsey whether statutory [etc. etc.] marriage has the same effect in relation to same-sex couples as it has in relation to opposite sex couples.'

And Subsection (3):

'The Law of Guernsey whether statutory customary or otherwise, has effect in accordance with subsection (2).'

I, there, read – and I draw a breath in relation to religious protection under Section 6 and Section 7 – Section 6 is disapplication to ecclesiastical law. Section 6 Subsection (1) says:

'Section 1(2) and (3) do not apply in relation to... any Measures and Canons of the Church of England..., or (b) other ecclesiastical law having effect in the law of Guernsey, Whenever passed or made.'

Subsection (2) of 6 says:

1735

'No Canon of the Church of England having effect in the law of Guernsey is contrary to the Royal Prerogative or the customs, laws or statutes applicable in Guernsey by virtue of its making provision about marriage being the union of one man with one woman.'

The next Section also offends me. I am not going to vote against it because we want to get this forward. I do not understand it in the 21st century and whether you are talking about Christianity or any religion, we talk about humanity, we are talking about the decency of people, and the decency of people should not be saying under Section 7 (1):

'The marriage of a same-sex couple may *not* be solemnised ...'

1740

Not 'cannot be' or 'discretionary', 'may not be':

'... solemnised according to the rites of the Church of England by a member of the clergy of the Church of England.'

And:

'(2) Any ... member of the clergy of the Church of England to solemnise marriages ... is not extended by this Law to marriages of same-sex couples.'

Not going to vote against it. I find those provisions abhorrent, (**Several Members:** Hear, hear.) untenable and unreasonable in the 21st century and they should be got rid of as soon as possible.

1745

A Member: Well said.

The Deputy Bailiff: Deputy Soulsby.

1750

Deputy Soulsby: Sir, I was proud to have been one of those Members who voted overwhelmingly for same-sex marriage in the last term. On that day in December last year we made it possible to make a direct, positive, difference to people's lives. That is why I will not accept that the last States was the worst States ever.

1755

Back then, I have to say, despite that, I did wonder how long it would take to get the legislation drafted. So I am delighted to see it in front of us today, just nine months on, which is fast in drafting terms. But then, having read it, I was struck about how simple it is. Although Deputy Ferbrache is alluding to how much more simple it could actually be, but it is relatively simple, and more often than not we see complex pieces of legislation come before us, which in turn cause greater complexity in our lives. However, here we have a piece of legislation that demonstrates just how the simplest things can make the greatest and most positive difference, and I am therefore delighted to approve the draft Projet de Loi.

1760

The Deputy Bailiff: Deputy Gollop.

1765

Deputy Gollop: This is a good piece of legislation in a good month when perhaps Guernsey has not just seen significant political change, but a change in attitudes; and, like Deputy Roffey and Deputy Ferbrache, I think the strength of the Pride celebrations would have been unthinkable 20 or 30 years ago.

1770

I do remember, too, the tail end of the 1990's being one of the signatories to the then requête calling for an age of consent that was more equal, and that was a difficult debate too, although perhaps less so than the ones Deputy Roffey remembers from an earlier era.

I support the legislation partly because it goes very well within our overall theme of diversity and inclusion, as well as helping everybody to have the same rights of marrying the partner of their choice.

1775 There are three or four things that are anomalous in the legislation. Deputy Ferbrache has referred to one, which I believe we were told and we discussed in Deputy Green's Scrutiny Committee was legal advice, and we also, in Deputy Le Clerc's Employment & Social Security Committee ... it was legal advice because of the – we are getting back to PERRC here – but the established nature of the Church of England within Guernsey Law ... but the Church of England, by its very nature, is not a Guernsey church, and as the Church of England within England does not
1780 have licence for a form of equality of marriage between persons of the same-sex, therefore it was thought unwise for the Church in Guernsey to go against Church of England provision. But, I mean, that is really an issue for Deputy Ferbrache, or anyone else, to take up with the Church of England, rather than the States of Guernsey, and HM Government in London of course.

1785 Other anomalies within it are it turns out that you cannot have a strict law of adultery as a cause in divorce within same-sex marriage, which strikes me as very odd, because it is clearly a description of a relationship rather than the proverbial acts of the private detective in the hotels in Brighton or whatever, or East Grinstead, as it used to be! (*Laughter*) And so that is a curiosity in the Law.

1790 Also I – and I was not alone in this – we were disappointed to see not only would it not come into being immediately, but would come into force in due course, but it was not easily possible within the legal framework of Guernsey for persons who had cemented an equal partnership say in England or Scotland to effectively convert that into a marriage here. There were difficulties in that respect, because the provision whereby they could separate and convert that into a marriage here just was not possible. So I believe the situation is that people who might be in a civil
1795 partnership from a different jurisdiction would not be able to marry here, but would have to marry in England or wherever the original marriage was made. But that would not apply, of course, to persons who had no civil partnership who moved here and were resident in Guernsey.

1800 Whether we can take advantage of becoming more of a wedding destination for persons of all genders and orientations I do not know, but that is also partly a matter for the Greffe to consider upgrading our marriage Laws.

The Deputy Bailiff: Deputy Hansmann Rouxel to make her maiden speech.

Deputy Hansmann Rouxel: Thank you, sir.

1805 Before I begin I would just like to lay to rest any rumours that I might be performing, or delivering my first speech in interpretative dance! Whilst I do feel that there are some concepts that cannot be explained by mere words, I feel that it would be unfair to our radio audience and also to the *Hansard* transposers who may miss the nuance of my argument.

1810 So to begin, I feel honoured to be part of this Assembly bringing this legislation. It gives a clear message to the members of our community who are lesbian, gay, bisexual, transgender and questioning, they are not other, they are not outsiders, it is not us and them. We are saying loud and clear that we are equal members of the same community. We are one community.

1815 In preparing for this speech, I have looked back at the records of the debate in December, and there was an overwhelming acknowledgement of a profound generational shift, like Deputy Roffey alluded to. We had, you could say, entered a time of enlightenment. Our society's views are slowly changing, but as with any change, members of society accept this change emotionally at different speeds. Some Members have recognised the historical inequality and prejudice faced by those members of our society; others have not yet.

1820 Whilst this Government has in the past – *recent* past – acted with firm legislative steps, and through this legislation will continue to act, many in our society have not yet moved through the emotional changes required to fully accept the LGBTQ culture and relationships. In effect, they have not removed their glasses tinted with prejudice, through which they cannot see the

inequality. I can personally understand having had to go through a process of recognising prejudice and inequality of a different sort.

1825 To attempt to explain my view, I will share with you how, growing up in an apartheid South Africa, I experienced first-hand removing a different brand of glasses. I may mention my South African upbringing on a few occasions, almost as much as Deputy Ferbrache mentions his upbringing and the use of outside toilets! (*Laughter and interjections*) Thank you for the comments from the peanut gallery.

1830 For the first 15 years of my life I grew up in a middle class suburb, completely isolated from the reality of my world. I attended the best schools in the country, we had a maid, we had a gardener, and it goes without saying I never did any chores. Now my husband will tell you that I still don't, but neither does he, we train our children well! As the youngest of five, I was not unusually brought up and carried on the back of my family's maid. Many of my peers were brought up the same way, and as such this did not seem strange to me.

1835 It was not until apartheid was in its final gasps and a transitional democracy was established, that children who by accident of birth were classified as non-white were allowed to attend my exclusive school. It was not until I spent time with these peers, who were 'other', who were 'outsiders', who were 'them', that I began to comprehend the unwitting prejudice and privileges I had, and the cost that they had on society as a whole.

1840 At this point of enlightenment, I started to understand that because of the colour of my skin I was standing on top of a vast pyramid which provided me with luxuries and benefits at the expense of many others. I took off my glasses. It was an uncomfortable experience. Almost as uncomfortable as Deputy Brouard when he was at the Hangar Ball and he failed to recognise me without my glasses. It is sad to say though that at that time many of my fellow countrymen did not want to take off their glasses. They liked the benefits and luxuries that they enjoyed and, through the fog of ingrained prejudices, could not see anything wrong with it.

1845 My point of sharing this story with you is to demonstrate that I know what it is like when a society goes through changes in attitudes, that I know what it is like and how difficult it is to accept that you are supporting prejudice and upholding privilege. I know what it is like to be on the wrong side of history.

1850 To understand the prejudice shown against members of our community that identify as LGBTQ, we need to look no further than historical context, which Deputy Roffey has explained in a lot of detail. It was not until 1983, as he said, that Guernsey took that first important step. Given this backdrop, it is easy to understand there are many people today who will view members of our society who identify at LGBTQ through glasses tinted with that prejudiced emotional context. This violent and disturbing history has meant that even today members of our community are amongst the most vulnerable members of our society and are at significant risk of bullying, harassment and hate crime.

1860 But what broadly are the prejudices faced today by members of this community that we in this Assembly can affect with this legislation, and what are the main challenges to this legislation? The review of mainstream social media and discussions with interested parties would suggest that there are two areas of prejudice, and one significant challenge.

1865 I will start by addressing the most important significant challenge that this legislation faces, which, in my view, is the need to protect freedom of religious belief, and something that Deputy Ferbrache spoke of. The protection of a religious freedom is without doubt of equal importance to removing equality barriers. It is the job of Government to ensure that the rights and beliefs of all people in society are considered.

1870 This legislation, albeit clunkily, does carefully ensure that no religion will be prejudiced by this enactment. As such, I can see no reason why any States' Member, regardless of their own personal beliefs, could oppose this legislation. As it states in our own Code of Conduct, it is our duty to act selflessly and in the public interest. If our and other members' views of society's view are being protected, how could we not vote to approve this? I would go further and strongly suggest that if your personal belief impedes the right of another member of our society to be treated equally,

1875 and you allow that belief to inform your decision, heedless of the protection granted to your belief, then you are not fulfilling your duty to this community as a whole.

1880 The first prejudice, of course, is the obvious one, being the lack of equality. This legislation is removing the impediment of our citizens to be treated equally. To me, the current inequality is highlighted in the fact that same-sex couples currently do not have their choices recognised by the State. I am sure you have all heard the old adage, you can choose your friends but you cannot choose your family. I would contend that this is not true: there is one member of your family that you do choose, and it is your life partner. This makes your life partner a special and, importantly, the only chosen member of your family. All people are free to choose who they share the rest of their life with, but only heterosexual couples have this choice recognised by the State. When two
1885 people decide to commit to each other for the rest of their lives they are choosing their family, and this choice should, and must, be recognised by this Assembly. I would call on all Members of the Assembly to recognise this important right.

1890 The second prejudice is a more complex one to grasp but, simply put, it is that many people have not yet acknowledged or understood that without the positive support of Government, members of our society who identify as LGBTQ will continue to be vulnerable to attack from those who hate and want to hurt. To be crystal clear, any Member not supporting this legislation would be emboldening those steeped in prejudice to carry on with that prejudiced behaviour, intimidation and, in the extreme, hate crime.

1895 Guernsey has come a long way on its journey to remove the prejudice against members in our community who identify as LGBTQ. It is only 33 years since homosexuality was decriminalised. The English language is still trying to agree on gender neutral pronouns. Transgender people are still some of the most vulnerable members of our society. Rather than being persuaded by calls from those who have not yet removed their tinted glasses and who erroneously believe that those who identify as lesbian, gay, bisexual, transgender or questioning, have already achieved equality.

1900 I would call on all this Assembly to vote unanimously to pass this legislation. Any vote against this legislation is a platform for those who would spread the seeds of violence and intolerance that nobody in our society would want to see, but every vote for this legislation is a bold and positive step towards ensuring that our society is a positive and inclusive place for people of all walks of life.

1905 Let's be resolute in ensuring that those members of our society that identify as LGBTQ are not considered 'other', they are not labelled as 'outsiders', that this course that we promote is not 'us and them'. I would call on every Member of this Assembly to ensure that all traces of tinted glass are removed from our society and that every Member of this Assembly now votes Pour for Same-Sex Marriage Law, 2016. (*Applause*)

1910 **The Deputy Bailiff:** Deputy St Pier.

Deputy St Pier: Sir, thank you.

I just want to pick up a few of the comments and themes in the debate so far.

1915 Certainly, I would echo the thoughts of others that actually the debate on this issue during the last States was probably one of, if not the best debate of the last four-year term, I think that it was a very good debate and a very good decision.

1920 But, of course, it was not the only one in this area. The decision of the last States to move, and to move quickly, and to move legislation quickly, to provide equality in the rules around adoption for same-sex couples, I think, was of equal significance and of great importance to the individuals who were affected by the previous provisions in the Law.

That draws me to a comment which I received through the website from somebody who has contacted us in relation to the decision of the States around the support of the Pride event last week, and the sentence I wish to read to you is this, saying that:

'That support helps show that the States is committed to helping improved, lived experience of LGBTQ plus Islanders and their families, and vitally helping these lived experiences catch up with legislation. As I am sure you are aware just having equality enshrined in law does not at all mean that discrimination and bullying are gone for ever'

1925 That is a very significant point that I do wish to return to.

Sir, I think this legislation is not in an ideal form; I think Deputy Ferbrache's comments are very pertinent and, of course, that was precisely the reason that Policy Council did look seriously at trying to find an alternative that would have overcome that issue, and hence exploring the idea of the *union civile* to overcome that particular issue, but nonetheless, we have the solution that we currently have.

1930 Deputy Gollop expressed frustration at the delay in this legislation coming into effect. That, of course, is simply driven entirely by the need for Royal Assent, but I think the recognition that came from Deputy Soulsby about the speed with which this legislation has come forward, following the decision of the States in the last term, should be acknowledged, and that was as a result of a positive decision by Policy Council to accelerate it and give it the prioritisation which it deserved; and indeed that was reflected equally in the legislation around adoption, that I have already referred to.

1935 The other provision, again, that I think is far from ideal, that was discussed during the last debate, was in relation to the dissolution of same-sex marriages, and Deputy Gollop touched on this as well. Adultery cannot be a ground for the dissolution of a same-sex marriage except anonymously – sorry, not anonymously, as an anomaly – if an individual performs adultery with somebody of the opposite sex, which clearly is somewhat of a nonsense in the context of this particular piece of legislation.

1940 I think what that raises and what it raised for me during the last debate actually are bigger issues around other provisions for dissolution of marriage more generally, and the fact that we have a system that seeks to assign fault on divorce, rather than simply recognising the breakdown of a relationship. So I strongly hope that we will move to reform the dissolution of all marriages, including same-sex marriages, and that issue is not forgotten in this issue.

1945 Deputy Hansmann Rouxel's maiden speech, I am sure many will agree, was excellent and her emotion and passion, of which I am sure we are going to see a great deal during this term from her, came through very strongly on this issue.

1950 But, for me, I think we should regard this legislation, not at all as being the end of the road, but merely one of the first steps along the road. If we are serious about an agenda of improving equality and inclusion, we still have a great deal more to do. I very much hope that as Policy & Resources brings forward phase 1 of the Policy & Resource Plan for debate in mid-November, and recommends a Programme for Government to this Assembly that the recognition that we as a Government will be seeking to move and develop equality and inclusion further in our Island, will be given the recognition which it deserves.

1955 I think we are living, sir, in an age – as we know from the media, and from many jurisdictions around us – of rising populism and increasing intolerance, and I think it is immensely important that as a Government we stand united in resisting that, and in providing the leadership. I think we have a responsibility to provide the leadership to our community to build an integrated community that reflects the values that we seek to reflect through improving equality and inclusion, of which this legislation today is merely the first step.

1960 So I wish to return finally, sir, to that email and that comment that I received. We have to keep in mind that we are looking to reflect the lived experiences of our Islanders, and ensure that the lived experience catches up with the legislation. We cannot assume that just because a piece of legislation has been passed that that is the end of the matter. We still have a great deal to do.

1965 So today is a day for celebration and, too, for the States to congratulate itself on a good job well done in relatively short order, but that is not the end of the matter, there is a great deal more to do, sir.

The Deputy Bailiff: Deputy Fallaize.

Deputy Fallaize: Thank you, sir.

1975 First of all, I would like to associate myself fully with the comments made by Deputy Ferbrache, and the concerns that he has about certain aspects of this legislation. I think what he was saying was: it is important, if we respect the values of humanity, to live under secular law. Now, I think that must be right, and anything that can be done to advance that cause has my support.

1980 There have been some quite profound speeches and I am going to say something that is rather more prosaic, which is to ... although Deputy Roffey and others are right to say that society has moved on, there has been a great deal of progress in recent years; I do not think it is at all inevitable that the States would by now have approved same-sex marriage just because there has been social progress.

1985 Although on the front of this policy letter is the title of the Committee for Employment & Social Security, we are acting, effectively, as the sponsors of legislation which the previous States directed to be drafted. A lot of credit is due to Deputy Le Tocq, because it was he who in the last States picked up this agenda, formed a working party, prioritised the drafting of this legislation above certain other options in the area of social policy, and it was he who led these proposals through the last States. I want to say thank you to him, though you, sir, because without the leadership and the commitment that he showed on this issue in the last States, it is not inevitable that we would be here today hopefully about to approve this legislation. So I think the States has a great deal – and the community, indeed, has a great deal – to be thankful to him for.

1990 I look forward to Deputy St Pier picking up this baton, as the President of the Policy & Resources Committee, and moving many stages further than we are, hopefully, about to move in a few minutes.

1995 Thank you, sir.

The Deputy Bailiff: Deputy De Lisle.

2000 **Deputy De Lisle:** Sir, thank you.

As Members will be aware, during the debate on this issue earlier I put an amendment before the Assembly supporting civil partnerships but not same-sex marriage. Now, it was my contention then that the introduction of civil partnerships on the England & Wales model would go some way to providing legal recognition of same-sex relationships, which was the remit actually given to the States to investigate civil partnerships, and which Deputy Roffey alluded to his own remit.

2005 But it was my concern that we needed to take one step at a time, as in fact England & Wales have done previously. The introduction of civil partnerships would satisfy the judgement, I claimed then, of the European Court of Human Rights, and it would provide legal recognition of same-sex relationships. But I was concerned with regard to the arguments put forward with respect to the lack of equality that would remain between same-sex and opposite-sex couples with this legislation that we have got before us today – that if same-sex marriage was introduced in Guernsey it would follow legislation currently in place in England & Wales – which is the case, but this would not provide full equality for same-sex couples, as I mentioned at the time, as adultery and non-consummation would not be recognised as grounds for the dissolution of a same-sex marriage.

2010 Now, Policy Council, at the time, suggested that this would be looked at at a later date, although I am not sure that Deputy St Pier actually alluded to that during his speech a few moments ago.

2015 That was my position then and that is my position at the current time. In other words, supporting civil partnerships is probably the way that we should have taken this, giving time actually to iron out all these other issues with respect to what we have in front of us today.

2020 Thank you, sir.

The Deputy Bailiff: Deputy Brehaut.

2025

Deputy Brehaut: You will be pleased to know that my leg is adding to the brevity of my speeches.

2030 I think once Deputy Hansmann Rouxel's speech is in *Hansard* we should take it straight out of there and put it on the national curriculum. It was just a quite brilliant speech. My message fortunately is a bit shorter than that.

2035 Inclusion is not a registered charity, inclusion is not a non-governmental organisation, inclusion is not a lobby group; inclusion is a concept, it is a direction of travel. So, please Members, the next time we are asked to note that and to celebrate that, let's do it. It does not show that you are taking sides, it simply shows that you understand. So the next time when Government is asked to embrace aspects of inclusion, whether it is a flag, whether it is a sticker, whether it is a badge, can we all try and embrace the concept of community inclusion!

Thank you.

2040 **A Member:** Hear, hear.

The Deputy Bailiff: Deputy Graham.

2045 **Deputy Graham:** Mr Deputy Bailiff, I had not proposed to say anything in this debate, principally because I thought probably the enthusiasm that we have for seeing this legislation go through would be reflected by the way that we responded, which would be really to nod it through without really a discussion.

2050 But I do accept that it has been healthy in this forum to touch on some of the issues which have risen around it, and I was prompted to speak mainly because of Deputy David De Lisle's comment about civil partnership, because I want to be honest with Members. Had I been a Deputy 10 months ago when this was debated here, I am pretty certain that my instinct would have been to vote for civil partnerships for same-sex couples rather than marriage.

2055 The difficulty that people like me have is in articulating precisely why, and not least because I am not quite sure we understand ourselves why we do. Sometimes you just feel that something is right and sometimes you feel it is not. I can assure you what it was not based on. It is not sort of some reluctance to take on some ancient shibboleth, or anything like that.

2060 Deputy Roffey has alluded to the fact that it may be partly generational. That may be partly the explanation, but I think it is probably too facile on its own to be interpreted as the real explanation as to why people like me had that view. I can also say it was not religious-based, and it certainly was not; it did not involve really a qualitative assessment of the value of same-sex relations against those of people of opposite sex. That just did not come into it. To be honest, people like me ... I am not remotely interested in other people's sexuality. It is a matter of bemusement to me that anybody else would possibly be interested in mine, and I am certainly not going to encourage any interest in that! But I hope I have explained what it is not.

2065 But I think as a sort of outflow from that there is a point to be made, and that is that I hope that on whichever side of the debate one might have been on civil partnerships against marriage, we should recognise, really, that or we should be slow to make judgments, particularly about characterising those who might not share the same opinion; and if there has been something a little bit sad about it that has been an element in the past, I hope we can shove that away.

2070 But that was then, 10 months ago. We have had an election since. I cannot honestly say, as somebody who knocked on a fair number of doors, that it really raised itself as an issue. I sense that the public at large, to the extent that they were engaged, were either disinterested in the sense that they were indifferent as to what was happening; a minority, I think, were rather reluctantly accepting that this is going to happen, but I think the majority of Islanders, across all the age groups, accepted that this was done and dusted, and let's get on with it and live with it.

2075 So here we are, 10 months on. What are the options for people like me that had this, I hope, healthy instinct to regard civil partnerships as a way ahead? I am not going to vote against this legislation in any way at all, and I am not even tempted to, because I do recognise that to do so

would be against the expectations of the public at large, and I think it would actually cause quite a lot of hurt to several individuals if they were to be disappointed at this stage.

2080 To be honest, there is no point in voting against this policy letter or this legislation if there is not a reasonable prospect of outvoting it, and I detect that there is not and there is no point in doing that.

2085 You could say I could abstain on the basis on being consistent with a view I held 10 months ago, but to be honest I think we ought to reserve – and I will reserve – that option for those issues where there is an *a* and *b* option, where I physically cannot distinguish between the merits of one and the other.

2090 So I am going to vote, enthusiastically, for this legislation and in doing so I hope it demonstrates the fact that I, amongst many people like me, I think, wish those in same-sex relationships the same sort of happiness and good that I wish for all of those in all types of relationships, and I will demonstrate it with my vote.

The Deputy Bailiff: I turn to Deputy Le Clerc to reply to the debate.

Deputy Le Clerc: Thank you, sir.

2095 It is a very special day today, and I do not think that anything that I can say can add to the debate that we have had, and the excellent words of my colleagues and the fine speeches that we have had.

2100 Just picking up on a couple of points from Deputy De Lisle on civil partnerships, we were handed this baton – we are still probably in Olympic mode – from Policy & Resources last year and we, as a Committee, have picked this up. We know that it perhaps is not in the most perfect form that we would want it, but at least we have started on the road, and we know that we will have to come back.

2105 When I look back at the recommendations last year, we were – or Policy & Resources were – to direct the preparation of legislation to give effect to the introduction of same-sex marriage, and that is what we have done. We know there is more work required on the civil partnership, we know there is more work required on perhaps the elements dealing with the religious side of this.

2110 With regard to the adultery, I was given some advice that was saying that this follows the England & Wales position upon which Guernsey matrimonial law is based. So we have followed English law on the matter of adultery. But these are all things that we can pick up in due course. As Deputy St Pier said, this is a piece of work that must be progressed and we must not just put it to one side and pat ourselves on the back and think we have done a fantastic job. There is more that can be done.

I urge you to approve the legislation today, unanimously, and make a real difference to people's lives.

2115 Thank you, sir.

The Deputy Bailiff: There is a single Proposition, Members of the States, whether you are of the opinion –

2120 **Deputy Roffey:** Sir, may we have a recorded vote on it please?

The Deputy Bailiff: Deputy Roffey requests a recorded vote, so of course, we will have one.

There was a recorded vote.

The Deputy Bailiff: Well, Members of the States, we will have the formal record of the vote in a moment, but it was clearly carried, and therefore I declare the Proposition carried.

COMMITTEE FOR HOME AFFAIRS

**VIII. Data Protection Pan-Islands Commissioner
and EU General Data Protection Regulation –
Debate commenced**

2125

Article VIII.

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 15th August, 2016, of the Committee for Home Affairs, they are of the opinion:

1. To approve the re-appointment of Mrs. Emma Martins as Data Protection Commissioner, pursuant to section 6 of the Data Protection (Bailiwick of Guernsey) Law, 2001 until 31st December 2018.

2. To direct the Committee to report back to the Assembly in the first quarter of 2017 with detailed proposals in relation to new data protection legislation.

The Deputy Greffier: Committee for Home Affairs – Data Protection Pan-Islands Commissioner and EU General Data Protection Regulation.

2130

The Deputy Bailiff: I turn to the President of the Committee for Home Affairs, Deputy Lowe, to open debate on this item of business.

Deputy Lowe.

Deputy Lowe: Thank you, sir.

2135

The Committee proposes the re-appointment of Mrs Emma Martins as Data Protection Commissioner to the Bailiwick of Guernsey until 31st December 2018.

The Committee also provides the Assembly with an update on the EU General Data Protection Regulation and its implications for the Bailiwick, and proposes to report back to the Assembly in the first quarter of 2017 with detailed recommendations in relation to the new Data Protection Legislation.

2140

The proposed re-appointment of the current Pan-Island Commissioner will be until such time as the current Data Protection Legislation is updated, and a new regulatory framework comes into force during the first quarter of 2018, if the States are in agreement with the views of the Committee as to timing.

2145

This re-appointment will ensure that the expertise of the office is maintained, and secures continued Pan-Island working to address these important EU changes. This will enable both jurisdictions to safeguard existing businesses, as well as secure new opportunities.

2150

New EU legislation was published in May 2016 and will replace the existing 1995 Data Protection Directive as from May 2018. The legislation consists of two legal instruments: the General Data Protection Regulation and a Directive relating to the processing of personal data and the purposes of the prevention of crime.

2155

Guernsey currently has data protection adequacy recognised by the EU due to the Data Protection (Bailiwick of Guernsey) Law, 2001, which implements locally the 1995 Directive. The General Data Protection Regulation covers personal data related to any EU citizen, regardless of whether it is processed within the EU. As such, these changes will significantly impact upon other jurisdictions, including the Channel Islands. The General Data Protection Regulation restricts the transfer of EU citizens' data to jurisdictions where the EU does not believe adequate standards of data protection are in place. Meaning that jurisdictions that process data on EU citizens must achieve adequacy status.

2160

In order to regain adequacy status, Guernsey will need to obtain an equivalent status under the new General Data Protection Regulation from the EU, and as such will require a new Data Protection legislation, and changes to the current regulatory regime.

2165 The States of Guernsey and the States of Jersey are both committed to maintaining data protection adequacy, and to retaining a pan-Island regulator. As such, the Islands are working together to ready themselves for the new European Data Protection Regime, and will continue to work collaboratively and share information for the benefit of individuals and consumers in both jurisdictions.

Sir, I had to explain a little bit more about why we were actually expanding on this, because it is so important, and it is going to affect everybody here on this Island, and indeed for our business community, and for individuals.

2170 Therefore, sir, I do ask that Members support this Report, that we keep that continuity and we will bring the report in early 2017 of the way forward for the EU Directive.

**Same-Sex Marriage (Guernsey) Law, 2016 –
Proposition carried**

Carried – Pour 33, Contre 5, Ne vote pas 0, Absent 1

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Trott	Deputy Laurie Queripel	None	Deputy Smithies
Deputy Le Pelley	Deputy Paint		
Deputy Merrett	Deputy De Lisle		
Deputy St Pier	Deputy Kuttelwascher		
Deputy Stephens	Deputy Mooney		
Deputy Meerveld			
Deputy Fallaize			
Deputy Lowe			
Deputy Hansmann Rouxel			
Deputy Graham			
Deputy Green			
Deputy Dorey			
Deputy Le Tocq			
Deputy Brouard			
Deputy Dudley-Owen			
Deputy Yerby			
Deputy Langlois			
Deputy Soulsby			
Deputy de Sausmarez			
Deputy Roffey			
Deputy Prow			
Deputy Oliver			
Alderney Rep. Jean			
Alderney Rep. McKinley			
Deputy Ferbrache			
Deputy Tindall			
Deputy Brehaut			
Deputy Tooley			
Deputy Gollop			
Deputy Parkinson			
Deputy Lester Queripel			
Deputy Le Clerc			
Deputy Leadbeater			

The Deputy Bailiff: Before I see if there is anyone who wishes to speak in debate on that matter, let me tell you the voting on the previous item.

2175 The approval of the draft Projet de Loi entitled the Same-Sex Marriage (Guernsey) Law, 2016. There voted in favour 33, there voted against 5. That is why it was duly carried.

**Data Protection Pan-Islands Commissioner
and EU General Data Protection Regulation –
Propositions carried**

The Deputy Bailiff: Deputy Gollop.

2180 **Deputy Gollop:** At the risk of asking the obvious, possibly an unanswerable question in a way, but the *BBC* made light of the fact that we were still adopting, or continuing to have, European Union Legislation at a time when Brexit has gone through on a UK referendum.

2185 Presumably, we will either follow the UK in whichever direction they go in or seek to ensure that we have the best possible Data Protection regulations for ourselves, and that the Home Committee will continue to work with External Affairs and Policy & Resources to ensure that we do not needlessly have European Union regulations if there is a good reason not to have them.

The Deputy Bailiff: Deputy Tindall.

2190 **Deputy Tindall:** Thank you, sir.

I wholeheartedly support these Propositions, not only because it is good for the economy – *essential* in fact for the economy – but it is equally important to enhance the existing rights of the individuals.

2195 However, I note that the extension to the appointment of the Commissioner until December 2018 is accompanied by the establishment of a new interim Commission. I understand that this might be to assist with establishing the legislative framework, but will it also look at the independence of the Commissioner, being currently funded by the States and hence not truly independent? I do not mention this to question the increase in the remuneration of the Commissioner, as it was the subject of an independent review, but to raise a concern voiced to me which resonates.

2200 I would also be grateful for reassurance that we will be working slightly more closely with Jersey than this week, in the future.

Thank you.

2205 **The Deputy Bailiff:** Deputy Soulsby:

Deputy Soulsby: Sir, Yes, I would just like to make a small point in response to what Deputy Gollop was just saying. I think it really reflects the fact that people voted for Brexit and they did not actually know what they were voting for. Such legislation will be needed, if you want to have access to the EU market. So whether you are in or without the EU, if you want to deal with the EU you are going to need to support such legislation.

The Deputy Bailiff: Deputy St Pier.

2215 **Deputy St Pier:** Yes, sir, to add to that point, I mean this legislation is going to be absolutely essential. I think the other thing that is perhaps underestimated is the scale of change which is going to be required in Guernsey, but also for Guernsey businesses to gear up to be prepared to deal with this regulation in a timely manner.

2220 There is a huge amount to do, but it is incredibly important and, again, in the context of where we wish to position ourselves in the world. If one of our objectives is to meet international standards, albeit as they evolve, it is essential that we adopt this legislation. But, again, having passed this particular policy letter, there is a huge amount to do between now and the time that the EU regulation will become effective.

The Deputy Bailiff: Deputy Prow.

2225 **Deputy Prow:** Thank you, sir.

Mention was made of the independent report that the States of Guernsey had received. Both Policy & Resources received this and looked at it, and so have the Home Affairs Committee. It might be worth just outlining what the key findings of the report were:

'That the consequence of regulation is unavoidable for Guernsey; that it will have significant impact on industry and the public sector; the economic consequence of doing nothing are potentially significant, as existing industries are threatened by the loss of Guernsey's current adequacy status; an appropriate response to the regulations could attract new commercial opportunities, industries; maintaining adequacy is essential, and a new regulatory model will be required on the risk based approach, and furthermore, that a Channel Island based regulatory model is likely to remain the most cost effective option.'

I think all those key findings are very relevant to making the decision today.

2230 Thank you, sir.

The Deputy Bailiff: Deputy Lowe to reply to the debate.

Deputy Lowe: Thank you, sir.

2235 I do not think I need to actually add anymore because it has already been said; and I thank Deputy St Pier for reiterating this is a massive amount of work that has to take place for this Island to be able to continue its functioning both in business and indeed for individuals.

We start the public presentations for the business community on Tuesday 11th October, so it is a big programme and we are working very closely with Jersey, and indeed with other Crown Dependencies, to try and make it as smooth as possible.

2240

I just ask Members to support this Report and we will be back to the States in the New Year with further information.

2245 **The Deputy Bailiff:** Members of the States, there are two Propositions. I will put them to you together. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare both Propositions duly carried.

Now, Members of the States, it is as near as possible to 12.30 p.m. but I am tempted to see if it is your wish to conclude the business of this meeting rather than adjourning for lunch. So I will move the motion that we conclude all business of this meeting in this morning's session. Those in favour; those against.

2250

Members voted Pour.

The Deputy Bailiff: Then we will continue. Thank you very much.

POLICY & RESOURCES COMMITTEE

Schedule for Future States' Business – approved

The Deputy Greffier: Policy & Resources Committee – Schedule for Future States' Business.

The Deputy Bailiff: Deputy St Pier, is there anything to add to what is there?

2255

Deputy St Pier: It is self-explanatory. I have nothing to add, sir.

2260 **The Deputy Bailiff:** There have not been any amendments, so I simply put to you the attached schedule for future States' business for the meeting on 12th October, 2016 and subsequent meetings. Those in favour; those against.

Members voted Pour.

The Deputy Bailiff: I declare that duly carried.

Farewell to HM Procureur Howard Roberts

The Deputy Bailiff: Members of the States, this meeting marks the last occasion on which HM Procureur, Howard Roberts, appears as a Member of the States prior to retiring from office at the end of this month.

2265 Mr Procureur, as you wipe away a tear, (*Laughter*) you have been a distinguished and loyal public servant for more than 35 years, the second half of which has been as a Law Officer of the Crown. The depth of knowledge and understanding of Bailiwick matters accumulated over that period has been of immense value to Members, both past and present, for which we are all extremely grateful.

2270 Following a few years as a legal assistant at what was the Ministry of Agriculture, Fisheries & Food, he came to Guernsey in 1983 as a legislative draughtsman. It is fair to say that you have a natural affinity as a draughtsman that some of us can only envy. The pages of our Statute Books from the years that followed are replete with examples of the fruits of your industry.

2275 You had the distinction of being appointed as Guernsey's first Crown Advocate in 1990. In May 1999 you were sworn into office as HM Comptroller, and also as a Member of this Assembly. A decade later you moved on to the offices of Procureur and HM Receiver General.

2280 Your experience as a draughtsman has stood you in good stead to oversee or supervise on behalf of this Legislature the preparation of the many more pages of legislation, to which we have become accustomed of late, often in novel or complex areas, reflecting perhaps the manner in which our society's needs have evolved, and the impact of external pressures and scrutiny has increased.

2285 Over these years – and here I can speak from personal experience – you have been a patient mentor to others, generous with your time in giving assistance and support, and always true to the values of honesty and integrity that we know you hold dear. The way you have undertaken your responsibilities typifies the importance attaching to the independence of the offices of Comptroller and Procureur. The Oath of Office has required you to uphold *la république de cette île* – a term in use for many centuries that encompasses many elements of Guernsey's system of Government, public affairs and the community in its widest sense. Further, as also required, you have been a faithful guardian of the Laws, rights and ancient liberties and customs of this Island.

2290 During your years as a Member of the States, you have witnessed first-hand considerable change. One example is that we now have a *Hansard*, in which what you have had to say in this Chamber is recorded for posterity. It was tempting to unearth some of your pearls of wisdom to quote today, but I found that there are simply too many from which to choose (*Laughter*)

2295 In 1999 the Constitution of the States of Deliberation included Douzaine representatives and Conseillers, offices that some Members here held then, but which have since been abolished. At that time there were presidents of committees and now we have, well, committees and presidents once again! (*Laughter*)

2300 Members come and go, and sometimes come back again – possibly even again! – (*Laughter*) and your longevity is apparent when we realise that there are only two current Members who have served in the States continuously for longer than you have. Throughout all these changes

your unparalleled experience has been of great benefit to all those who have sought your counsel in and around the States.

2305 The range of work that you have been called upon to undertake is extremely broad. In an age where being a specialist rather than a generalist has become prevalent, one of the key attributes that you have demonstrated is nimbleness of mind, switching from one topic to another without hesitation, or for that matter, deviation or repetition. (*Laughter*)

2310 At times you have been called upon to explain and assert Guernsey's legal and constitutional position to those who need to be better informed. Other matters have been far more parochial. Some issues, perhaps best left unsaid, have returned for renewed consideration with a frequency you may have found surprising. Whatever the subject matter upon which you have been called to advise, you have risen to those challenges in your own inimitable style, yet with customary apolitical detachment.

2315 Within this Assembly, debates are generally conducted in a relatively calm manner, but at times heightened emotion, even passion, comes into play and it is on those occasions when the considered advice of a Law Officer can be most welcome and appropriate, even if it is sought on a matter about which no notice has been given and where you have had to think on your feet. Your years of experience have made you most adept at assessing when a timely contribution to debate might be best appreciated.

2320 I am sure therefore that I speak on behalf of all Members, both present and past, in thanking you for the service that you have given to this Assembly, to the various Committees of the States, and also to the Parliaments of the other Islands of the Bailiwick, and we wish you a long, healthy and happy retirement! (*Applause*)

Deputy Lowe is also on her feet.

2325 **Deputy Lowe:** Thank you, sir.

2330 It gives me great pleasure, on behalf of the States, to thank HM Procureur, Howard Roberts, for all the time that he has given to all of us and indeed, as you said, sir, past States' Members. His patience, at times, has always been extremely good, and if he has not been particularly happy with us he has made it clear, but he has always been fair, and it does not matter whether it is at weekends or it is at night-time, or indeed when he has been away emails come through very late at night. Always happy to help, always happy to advise and always happy – most times – to prepare amendments and requêtes (*Laughter*) and reminding us that is probably not necessary but just get in there and make a decision.

2335 I thank him for his wit, and his sense of humour is second to none. We wish you many happy years in retirement, Howard, and we hope you will carry on your singing and Sarnia Cherie will be part of that, but in the meantime *à la perchoine*.

The Procureur: Thank you, Mary.

2340 **The Deputy Bailiff:** Mr Procureur.

The Procureur: I have always advised Members to try to be focused and concise. It would not, therefore, be good for me to be anything else. I say, very genuinely, I will miss all of you, and in a few cases with some sadness! (*Laughter*)

2345 It is lunchtime. That is all from me. (*Applause*)

The Deputy Bailiff: We will now close the meeting, please.

The Assembly adjourned at 12:40 p.m.